

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**IN RE AUTOMOTIVE PARTS ANTITRUST  
LITIGATION**

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**IN RE: OXYGEN SENSORS**

**IN RE: SPARK PLUGS**

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**THIS RELATES TO:  
ALL DIRECT PURCHASER ACTIONS**

**Case No. 12-MD-02311  
Honorable Sean F. Cox**

**2:15-cv-03101-SFC-RSW  
2:15-cv-12918-SFC-RSW**

**2:15-cv-03001-SFC-RSW  
2:15-cv-11774-SFC-RSW**

**ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL  
OF PROPOSED SETTLEMENTS WITH NGK, FOR PROVISIONAL  
CERTIFICATION OF NGK DIRECT PURCHASER SETTLEMENT  
CLASSES, AND FOR AUTHORIZATION TO DISSEMINATE NOTICE TO THE  
DENSO AND NGK DIRECT PURCHASER SETTLEMENT CLASSES**

Upon consideration of the Direct Purchaser Plaintiffs’ Motion for Preliminary Approval of Proposed Settlements with NGK, for Provisional Certification of NGK Direct Purchaser Settlement Classes, and for Authorization to Disseminate Notice to the DENSO and NGK Direct Purchaser Settlement Classes in the *Oxygen Sensors* and *Spark Plugs* cases, and supporting memorandum (the “Notice Memorandum”), it is hereby ORDERED as follows:

1. The Motion is hereby **GRANTED**.
2. Terms used in this Order that are defined in the NGK Oxygen Sensors Settlement Agreement and the NGK Spark Plugs Settlement Agreement (the “NGK Settlement Agreements”), are, unless otherwise defined herein, used as defined in the Settlement Agreements.

Preliminary Approval of NGK Settlement Agreements

3. The terms of the NGK Settlement Agreements in the *Oxygen Sensors* and *Spark Plugs* cases are hereby preliminarily approved as being fair, reasonable, and adequate to the NGK Settlement Classes, subject to fairness hearings. In preliminarily approving the NGK Settlement Agreements, the Court makes the following findings:

- a. The proposed class representatives and Co-Lead Settlement Class Counsel have adequately represented the NGK Settlement Classes;
- b. The NGK Settlement Agreements were entered into at arm's length by experienced counsel and are sufficiently within the range of reasonableness that notice of the NGK Settlement Agreements should be given to members of the proposed NGK Settlement Classes;
- c. The relief provided for the NGK Settlement Classes is adequate; and
- d. The NGK Settlement Agreements treat members of the NGK Settlement Classes equitably relative to each other.

Class Certification

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure and in light of the proposed settlement in the *Oxygen Sensors* case, the Court hereby finds that the prerequisites for a class action have been met, and provisionally certifies the following class for settlement purposes (the "NGK Oxygen Sensors Settlement Class"):

All individuals and entities who purchased Oxygen Sensors in the United States directly from one or more of the Defendants (or any of their controlled subsidiaries, affiliates, or joint ventures) between January 1, 2000, and February 4, 2019. Excluded from the Settlement Class are Defendants and their present and former parent companies, subsidiaries, and affiliates; federal governmental entities and instrumentalities of

the federal government; and states and their subdivisions, agencies and instrumentalities.

5. For purposes of the Proposed NGK Oxygen Sensors Settlement Class, the following entities are Defendants: DENSO Corporation; DENSO International America Inc.; DENSO Products & Services Americas, Inc.; Hitachi, Ltd.; NGK Spark Plug Co., Ltd.; NGK Spark Plugs (U.S.A.) Holding, Inc.; NGK Spark Plugs (U.S.A.), Inc.; NTK Technologies, Inc.; Robert Bosch GmbH; Robert Bosch LLC; and their respective subsidiaries, affiliates, and joint ventures.

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure and in light of the proposed settlement in the *Spark Plugs* case, the Court hereby finds that the prerequisites for a class action have been met, and provisionally certifies the following class for settlement purposes (the “NGK Spark Plugs Settlement Class”):

All individuals and entities who purchased Spark Plugs in the United States directly from one or more of the Defendants (or any of their controlled subsidiaries, affiliates, or joint ventures) between January 1, 2000, and February 4, 2019. Excluded from the Settlement Class are Defendants and their present and former parent companies, subsidiaries, and affiliates; federal governmental entities and instrumentalities of the federal government; and states and their subdivisions, agencies and instrumentalities.

7. For purposes of the Proposed NGK Spark Plugs Settlement Class, the following entities are Defendants: DENSO Corporation; DENSO International America Inc.; DENSO Products & Services Americas, Inc.; NGK Spark Plug Co., Ltd.; NGK Spark Plugs (U.S.A.) Holding, Inc.; NGK Spark Plugs (U.S.A.), Inc.; NTK Technologies, Inc.; Robert Bosch GmbH; Robert Bosch LLC; and their respective subsidiaries, affiliates, and joint ventures.

8. The Court finds that provisional certification of the NGK Settlement Classes is warranted in light of the NGK Settlement Agreements because: (a) the NGK Settlement Classes are so numerous that joinder is impracticable; (b) the Direct Purchaser Plaintiff Class Representatives' claims present common issues and are typical of the NGK Settlement Classes; (c) the Direct Purchaser Plaintiff Class Representatives and Co-Lead Settlement Class Counsel (identified below) will fairly and adequately represent the NGK Settlement Classes; and (d) common issues predominate over any individual issues affecting the members of the NGK Settlement Classes. The Court further finds that the Direct Purchaser Plaintiff Class Representatives' interests are aligned with the interests of all other members of the NGK Settlement Classes. The Court also finds that settlement of the *Oxygen Sensors* and *Spark Plugs* actions on a class basis is superior to other means of resolving the matters.

Appointment of Class Representatives and Co-Lead Settlement Class Counsel

9. The Court hereby appoints the following Direct Purchaser Plaintiffs to serve as Class Representatives for the NGK Settlement Classes as follows:

- a. KMB/CT, Inc. d/b/a KMB Warehouse Distributors Inc. ("KMB Warehouse") and Hopkins Auto Supply, Inc. d/b/a Thrifty Auto Supply ("Thrifty Auto Supply") are appointed as the Class Representatives for the NGK Oxygen Sensors Settlement Class; and
- b. Thrifty Auto Supply and Dyke, Inc. are appointed as the Class Representatives for the NGK Spark Plugs Settlement Class.

10. The Court hereby appoints the law firms of Freed Kanner London & Millen LLC; Kohn, Swift & Graf, P.C.; Preti, Flaherty, Beliveau & Pachios LLP; and Spector Roseman &

Kodroff, P.C. to serve as Co-Lead Settlement Class Counsel for the Settlement Classes having determined that the requirements of Rule 23(g) are fully satisfied by these appointments.

Notice to Potential DENSO and NGK Settlement Class Members

11. By Order dated April 24, 2019, as amended May 23, 2019 (2:15-cv-03101, Doc. No. 82 (Oxygen Sensors); 2:15-cv-03001, Doc. No. 78 (Spark Plugs)), this Court preliminarily approved Settlement Agreements between the Direct Purchaser Plaintiffs and DENSO Corporation, DENSO International America, Inc., DENSO Korea Corporation (f/k/a separately as DENSO International Korea Corporation and DENSO Korea Automotive Corporation), DENSO Automotive Deutschland GmbH, DENSO Products & Services Americas, Inc., ASMO Co., Ltd., ASMO North America, LLC, ASMO Greenville of North Carolina, Inc., and ASMO Manufacturing, Inc. (collectively, “DENSO” or the “DENSO Defendants”), and certified for purposes of the settlements a DENSO Oxygen Sensors Settlement Class and a DENSO Spark Plugs Settlement Class.

12. The DENSO and NGK Oxygen Sensors and Spark Plugs Settlement Classes shall receive notice in accordance with the terms of this Order.

13. The Court approves the form and content of: (a) the Notice of Proposed Settlements of Direct Purchaser Class Action with DENSO and NGK Defendants, and Hearing on Settlement Approval and Related Matters, and Claim Form (the “Notice”), attached as Exhibit 3 to the Notice Memorandum; (b) the Summary Notice of Proposed Settlements of Direct Purchaser Class Action with DENSO and NGK Defendants and Hearing on Settlement Approval and Related Matters (“Summary Notice”), attached as Exhibit 4 to the Notice Memorandum; and (c) the Informational Press Release (the “Press Release”), attached as Exhibit 5 to the Notice Memorandum.

14. The Court finds that the mailing of the Notice and publication of the Summary Notice and Press Release, in the manner set forth herein constitutes the best notice that is practicable under the circumstances and is valid, due and sufficient notice to all persons entitled thereto and complies fully with the requirements of Federal Rule of Civil Procedure 23 and the due process requirements of the Constitution of the United States.

15. On or before June 20, 2022, the Notice, in substantially the same form as Exhibit 3 to the Notice Memorandum, shall be mailed by first class mail, postage prepaid, to all potential members of the DENSO and NGK Settlement Classes identified by Defendants. The Notice shall also be provided to all persons who request it in response to the Summary Notice or Press Release. In addition, a copy of the Notice shall be posted on the Internet at [www.AutoPartsAntitrustLitigation.com](http://www.AutoPartsAntitrustLitigation.com), the website dedicated to this litigation.

16. On or before June 27, 2022, Co-Lead Settlement Class Counsel shall cause the Summary Notice, in substantially the same form as Exhibit 4 to the Notice Memorandum, to be published in one edition of *Automotive News*. To supplement the notice program further, the Press Release, in substantially the same form as Exhibit 5 to the Notice Memorandum, will be issued nationwide via PR Newswire's "Auto Wire," which targets auto industry trade publications.

17. On or before July 18, 2022, Co-Lead Settlement Class Counsel shall file with the Court their motion or motions for: final approval of the proposed settlements with the DENSO and NGK Defendants in the *Oxygen Sensors* and *Spark Plugs* cases; and approval of proposed plans of distribution of the settlement funds, awards of attorneys' fees and expenses, and service awards to the Class Representatives for each case.

18. All requests for exclusion from any of the DENSO or NGK Settlement Classes must be in writing, postmarked no later than August 8, 2022, and must otherwise comply with the

requirements set forth in the Notice. Requests for exclusion must be sent to Co-Lead Settlement Class Counsel, counsel for the DENSO and/or NGK Defendants, and to an address specific to the Oxygen Sensors and Spark Plugs Direct Purchaser Antitrust Litigation. The address for each recipient is listed in the Notice.

19. Any objection by any member of the DENSO or NGK Oxygen Sensors or Spark Plugs Settlement Classes to any of those proposed settlements, or to the proposed plans of distribution, the requests for attorneys' fees and expenses, or to service awards for the Class Representatives, must be in writing, must be filed with the Clerk of Court and postmarked no later than August 8, 2022, and must otherwise comply with the instructions set forth in the Notice. Objections must be sent to the Clerk of the Court, Co-Lead Settlement Class Counsel, and counsel for the DENSO or NGK Defendants. The address for each recipient is listed in the Notice.

20. At least ten (10) days before the date fixed by this Court for the Fairness Hearing, Co-Lead Settlement Class Counsel shall file with the Court affidavits or declarations of the person under whose general direction the mailing and posting of the Notice, and publication of the Summary Notice and Press Release, were made, showing that mailing, posting and publication were made in accordance with this Order.

21. The Court will hold a Fairness Hearing on **September 15, 2022, at 2:00 p.m.**, at the Theodore Levin U.S. Courthouse, 231 West Lafayette Blvd., Detroit, MI, 48226, Courtroom 817 (or such other courtroom as may be assigned for the hearing), to determine whether to approve: (1) the proposed DENSO and NGK Oxygen Sensors and Spark Plugs settlements; (2) the proposed plans of distribution of settlement proceeds from the settlements with the NGK and DENSO Defendants in the *Oxygen Sensors* and *Spark Plugs* cases; (3) Co-Lead Settlement Class Counsel's requests for an award of attorneys' fees and litigation costs and expenses in each case; and (4) the

requests for service awards for the Class Representatives in each case. Any Settlement Class member who follows the procedure set forth in the Notice may appear and be heard at this hearing. If the Court believes that it is appropriate, the hearing may be conducted remotely by telephone or other electronic means. If the Court determines to hold the hearing remotely, Co-Lead Settlement Class Counsel shall post that information on the website devoted to the direct purchaser litigation ([www.autopartsantitrustlitigation.com](http://www.autopartsantitrustlitigation.com)) and provide any Settlement Class member that has informed the Court that it intends to participate the information required to do so remotely. The Fairness Hearing may be rescheduled, adjourned or continued, and the courtroom assigned for the hearing may be changed, without further notice to the Settlement Classes.

22. Any Settlement Class member who wishes to participate in the distribution of the DENSO and NGK settlement funds in the *Oxygen Sensors* or *Spark Plugs* case must submit a Claim Form in accordance with the instructions therein, postmarked on or before September 30, 2022.

#### Other Provisions

23. In the event that either or both of the NGK Settlement Agreements is terminated in accordance with its provisions, that Settlement Agreement(s) and all proceedings had in connection therewith shall be null and void, except insofar as expressly provided to the contrary in that Settlement Agreement(s), and without prejudice to the status quo and rights of Plaintiffs, the NGK Defendants, and the members of that NGK Settlement Class.

24. The Court's provisional certification of the NGK Settlement Classes as provided herein is without prejudice to, or waiver of, the rights of any Defendant to contest certification of any other class proposed in these coordinated actions. The Court's findings in this Order shall have no effect on the Court's ruling on any motion to certify any class in these actions or on the Court's



rulings concerning any Defendant's motion, and no party may cite or refer to the Court's approval of the NGK Settlement Classes as persuasive or binding authority with respect to any motion to certify any such class or any Defendant's motion.

25. The Court approves the escrow accounts referenced in the NGK Settlement Agreements as qualified settlement funds ("QSFs") pursuant to Internal Revenue Code 468B and the Treasury Regulations promulgated thereunder and retains continuing jurisdiction as to any issue that may arise in connection with the formation or administration of the QSFs. Co-Lead Settlement Class Counsel are authorized to use funds from the QSFs in accordance with the NGK Settlement Agreements, including to pay costs of notice, taxes, tax expenses, and costs of maintaining and administering the Oxygen Sensors and Spark Plugs Settlement Funds.

26. The Direct Purchaser Class litigation against the NGK Defendants is stayed except to the extent necessary to effectuate the NGK Settlement Agreements.

**IT IS SO ORDERED.**

Dated: May 24, 2022

s/Sean F. Cox

Sean F. Cox

U. S. District Judge