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Court approves \$42M Takata airbag settlement

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A federal judge approved a \$42 million settlement with automakers Volkswagen Group of America Inc. and Audi of America LLC to resolve litigation over alleged use of defective Takata Corp. airbags.

Chicago attorney Todd A. Smith of Smith LaCien LLP is co-lead counsel for economic loss in the multidistrict litigation, alongside David Boies of Boies Schiller Flexner LLP in New York.

The settlement involves a class of more than 1 million members across the nation and covers 1.35 million vehicles. Final approval of the settlement, as well as a \$12.6 million attorney fee award from the total, was granted April 4.

The multidistrict litigation was assigned to Miami-based U.S. District Judge Federico A. Moreno of the Southern District of Florida. It involves 11 automakers, including Honda and Toyota, that installed air bags

from Japanese automotive parts company Takata in their cars.

The automakers have recalled an estimated 50 million vehicles for defective air bag inflators that explode with too much force. Metal canisters that are meant to contain a small chemical explosion during a crash have ruptured on impact due to the ammonium nitrate propellant being used, sending shrapnel into the car and causing injury and even death.

The first death reported in the U.S. was in May 2009 when Ashley Parham, 18, of Oklahoma was killed in what appeared to be a minor wreck in the parking lot of Carl Albert High School. Her Honda Accord's airbag exploded, sending metal fragments into her body.

Cases have been filed across the country since 2014 and were eventually merged into multidistrict litigation and divided based on personal injury and economic loss.

All but three automakers

have resolved the disputes through settlement. Litigation against Chrysler, Mercedes-Benz and General Motors is ongoing.

Smith praised Moreno's ruling.

"It's exactly what should have happened," Smith said. "It's been a long run of these cases. ... This started back in 2014. But they [defendants] are entitled to test whether the case is substantial enough, and I think we demonstrated that the case was clearly very justified, very substantial and warranted the kind of damages that the settlement represents."

Smith said about 10 to 15% of the outcome of the settlement will go to Illinois consumers of vehicles involved in the recall.

Smith was also a co-lead counsel on a 2018 case against Nissan and Honda that resulted in a class settlement of \$702 million, compensating millions of vehicle owners for money they lost due to the Takata airbag recall.



Todd A. Smith

Smith's firm also sued Toyota, Mazda, Subaru, BMW, Honda, Nissan and Ford in 2014. Moreno approved a \$550 million settlement against four of the companies.

Volkswagen and Audi were represented by Volkswagen general counsel Antony Klapper in Washington and Robert J. Giuffra Jr. of Sullivan & Cromwell LLP in New York.

The case is *In re: Takata Airbag Products Liability Litigation*, No. 15-md-02599-FAM in the U.S. District Court for the Southern District of Florida.