

# **EXHIBIT C**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF FLORIDA  
Miami Division**

**MDL No. 2599  
Master File No.: 15-MD-02599-MORENO  
S.D. Fla. Case No. 1:14-cv-24009-MORENO**

**IN RE: TAKATA AIRBAG PRODUCT  
LIABILITY LITIGATION**

**THIS DOCUMENT RELATES TO:**

**ECONOMIC LOSS TRACK CASES  
AGAINST VOLKSWAGEN GROUP OF  
AMERICA, INC. AND AUDI OF AMERICA,  
LLC**

**DECLARATION OF KIRK D. KLECKNER**

KIRK D. KLECKNER, of full age, declares as follows:

**1. Valuation Purpose and Scope and Materials Considered**

a. This declaration pertains to the valuation of the benefits provided to Class Members in the Takata Airbag Products Liability Litigation Settlement Agreement, Related to All Economic Loss Actions Against Volkswagen Group of America, Inc. and Audi of America, LLC (Settlement or Settlement Agreement). The Defendants in this matter are Volkswagen Group of America, Inc. and Audi of America, LLC (Defendants) and along with all Plaintiffs are collectively referred to as the Parties.

b. Plaintiffs' Counsel asked me to independently value the Class Member benefits made available from this class action litigation and Settlement related to the Customer Support Program (Warranty Extension)<sup>1</sup>.

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<sup>1</sup> Settlement Agreement Section III G

c. Plaintiffs' Counsel asked me to determine whether the value of the Class Member benefits related to the Enhanced Rental Car/Loaner Program (Loaner Program) made available to Class Members exceeds the 20% credit amount from the Settlement Agreement<sup>2</sup>.

d. In conducting my work and forming my opinions, I was provided and have considered, in addition to my substantial experience in this area, the materials identified in Exhibit B. I believe that the information made available to me, taken as a whole, provided sufficient data from which I could draw valid valuation conclusions, subject to the Valuation Primary Assumptions and Limiting Conditions (See Section 8).

e. Summary of Opinions, Experience and Qualifications, Valuation Approaches, Information Requested, Valuation Methodologies and Valuation Conclusions, Valuation Primary Assumptions and Limiting Conditions, and Certifications and Representations are profiled below.

## **2. Summary of Opinions**

a. Based on the analyses explained below, I have determined within a reasonable degree of professional certainty that the value of the settlement's Warranty Extension exceeds \$13,500,000.

b. Based on the analysis explained below, I have determined within a reasonable degree of professional certainty that the value of the Settlement's Loaner Program exceeds the 20% credit amount from the Settlement Agreement.

## **3. Experience and Qualifications**

a. I am a Certified Public Accountant in the United States with an MBA. I am an Accredited Senior Appraiser (ASA-BV) from the American Society of Appraisers. I have litigation-related experience in valuing economic losses, damages and intangible assets.

b. My experience includes seven years as the Chief Financial Officer for a well-respected Top 50 United States automotive dealership group; 19 years with an accounting firm including roles as shareholder, Chief Operating Officer, and Director of Business Valuation and Litigation Support Services; and performing services for hundreds of companies in a wide array of industries, including but not limited to retail dealerships, property and casualty insurance, warranty insurance, and distribution.

c. As CFO of an automotive dealership group, I worked on service and warranty matters. My duties as CFO included establishing and overseeing extended service contractual relationships, and establishing and overseeing automotive dealer-owned reinsurance entities and structures for extended service warranty contracts and other insurance-related products.

d. My experience as an expert includes numerous warranty extension valuations including the following automotive warranty related class action settlement valuation determinations: 1) Valuation of the nationwide Warranty Extension and other class member

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<sup>2</sup> Settlement Agreement Section III C.1.

benefits provided for by the Volkswagen and Audi Warranty Extension class action settlement agreement (VW/Audi) related to extension of the warranty concerning an alleged engine sludge defect<sup>3</sup>; 2) the valuation of the Customer Support Program related class member benefits provided for class members nationwide by the Toyota-United States class action settlement agreement (Toyota-US) related to the warranty extension concerning an alleged unintended acceleration defect<sup>4</sup>, and the Customer Support Program in the Toyota-Canadian class action settlement agreement (Toyota-Canadian)<sup>5</sup>; and 3) valuation of the Customer Support Programs related class member benefits provided for by each of class action settlement agreements in various vehicle manufacturer Takata Airbag class actions<sup>6</sup>.

e. My *curriculum vitae* is attached as Exhibit A.

#### 4. Valuation Approaches

a. In valuing intangible assets, valuation analysts typically apply one or more of three common approaches: the Income Approach, the Market Approach and the Cost Approach.

b. The Income Approach may be applicable when the intangible asset is income-producing. In this case, the Warranty Extension and Loaner Program do not produce income so this approach is not applicable.

c. The Market Approach estimates a value for the subject intangible asset based on an analysis of prices that similar intangible assets are sold in the marketplace.

i. For this Warranty Extension valuation, the Market Approach is applied since extended service contracts (ESCs)<sup>7</sup> are purchased in the marketplace by vehicle owners and prior courts have subscribed to the belief that market prices are accurate in assessing the value benefits to the class<sup>8</sup>.

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<sup>3</sup> The United States District Court District Of Massachusetts, *In re Volkswagen and Audi Warranty Extension Litigation*, Docket No. 1:07-md-01790

<sup>4</sup> Central District Of California, Southern Division, *In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, United States District Court, Case No. 8:10ML2151 JVS (FMOx)

<sup>5</sup> Canadian Toyota Unintended Acceleration Marketing, Sales Practices, And Products Liability Litigation Settlement Agreement (various courts)

<sup>6</sup> The United States District Court for the Southern District of Florida, *In Re: Takata Airbag Products Liability Litigation*, Case 1:15-Md-02599 (Settlement Agreements for BMW, Mazda, Subaru, Toyota, Honda, Nissan and Ford)

<sup>7</sup> An extended service contract, sometimes called an extended warranty or plan, provides a warranty on certain vehicle parts beyond the coverage of the vehicle's original standard manufacturer warranty. Typical ESC levels of coverage vary from "power train only" up to full "bumper to bumper." The ESC is a contractual agreement between the vehicle owner and the ESC obligor (typically an independent warranty / insurance company or manufacturer affiliated warranty / insurance company). Consumers typically purchase an ESC from a dealer at the point of vehicle purchase.

<sup>8</sup> OPINION AND ORDER, JOSEPH A. O'KEEFE Plaintiff v. MERCEDES-BENZ USA, LLC Defendant, Civil Action No. 01-CV-2902, Civil Action No. 03-CV-1480, 214 F.R.D. 266, 305 (E.D. Pa. April 2, 2003), United States District Court, E.D. Pennsylvania, – "We believe that the benefits to the class are most accurately measured by making an estimation of the Extended Coverage Program's market price. We realize that this figure is difficult to estimate because the Extended Coverage Program—or any similar warranty product—is not on the market. Yet,

ii. For the Loaner Program valuation, the Market Approach is applied since vehicles are rented in the retail marketplace based on daily and weekly rates, and such market prices are readily available.

d. The Cost Approach derives the cost that a developer would incur to create an intangible asset with equivalent utility. The estimate of the retail price that a developer would make the intangible asset available to the marketplace is derived by estimating build-up components that include direct costs, indirect costs and the developer's profit/opportunity cost, which is an expected "return" on all the costs. The Cost Approach is typically not as accurate as the Market Approach since the Cost Approach is an indirect estimate of the intangible asset's retail price versus the Market Approach utilizes prices directly from the retail marketplace. I did not apply the Cost Approach since reliable marketplace price data was available to apply the Market Approach.

## 5. Information Requested

a. I requested the following information:

i. To make the valuation determinations provide the following scope items:

1. Assumed effective date of:

a. Warranty Extension valuation?

b. Enhanced Rental Car/Loaner Program valuation?

2. Copy of settlement agreement (final with exhibits).

3. Provide copies of the applicable Subject Vehicles' Recalls and service campaigns.

ii. To determine the number of Subject Vehicles to receive settlement benefits and number of Warranty Extension coverage years:

1. Provide by Model Year and Model:

a. The number of Subject Vehicles originally sold;

b. The number of inflator locations (driver only, passenger only, both);

c. The scheduled recall date; and

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economists, actuaries, investors and businesspeople must estimate and value risk in all types of market transactions. A warranty is simply the ex ante market price of insuring against a foreseeable risk. Any other measure except the market price would over or underestimate the benefit to the class."

d. The estimated percentage of vehicles with a completed Recall Remedy as of the date of issuance of the Court's preliminary Approval Order.

2. Confirm Subject Vehicles that are excluded under the terms of the Settlement Agreement will be less than one percent of Subject Vehicles originally sold. Excluded vehicles includes 1) inoperable, salvaged, rebuilt or flood-damaged vehicles, 2) Class Members expected to request exclusion, and 3) vehicles owned by excluded parties (VW, Court, Plaintiffs' Counsel, and Automotive Recyclers).

3. Provide an estimate of the percent of vehicles that over a vehicle's life will incur a "normal inflator deployment" where the inflator is then replaced, and the vehicle remains "on the road" after the normal deployment.

4. Provide for each Model Year and Model the New Passenger Vehicle Limited Warranty coverage (e.g., 4-Year / 50,000 mile) for each of the Covered Repairs (as defined below).

iii. The Warranty Extension valuation will consider the estimated value of the VW new vehicle warranty for U.S. consumers:

1. Provide VW's estimated new vehicle warranty cost rate (%) for the Subject Vehicles (estimated average per vehicle warranty costs divided by the average vehicle sale price to U.S. dealers). Estimated warranty costs include both warranty and goodwill claims expected to be paid by VW to U.S. dealers at dealer warranty reimbursement rates.

iv. To gain an understanding of Warranty Extension's claim dollar exposure and estimated failure occurrence rates for the Subject Component:

1. Provide VW's current or recent U.S. average dealer warranty claim dollars and labor time for each VW Service Code for repairs to be covered under the Warranty Extension (Covered Repairs). List separately warranty claim amounts for each of labor, parts, and other costs.

2. Provide the U.S. average per hour dealer warranty labor reimbursement rate for the most recent annual period available.

v. To assess the consumer value proposition of extended service contracts sold under the VW brand name:

1. For each of the following three pre-owned vehicles provide: 1) the current price that VWFS Protection Services, Inc. would charge a VW dealer for a one year Platinum Volkswagen Drive Easy Vehicle Service Protection Vehicle Service Contract (zero deductible or \$100 deductible if zero is not available) and 2) list any applicable coverage mileage limitations.

- a. Passat MY 2014 with 98,652 miles
  - b. Passat MY 2013 with 110,318 miles
  - c. Passat MY 2012 with 121,599 miles
- vi. To assess the value of the Enhanced Rental Car/Loaner Program:
1. Provide VW's warranty reimbursement rate for loaner vehicles that will apply to the Covered Repairs.
  - b. Although some of the information requested was not available, I believe that the information provided to me, taken as a whole and supplemented by my extensive knowledge of the industry, provided sufficient data from which I could draw valid valuation conclusions.

## **6. Warranty Extension – Valuation Methodology and Valuation Conclusion**

a. I considered relevant sections of the Settlement Agreement to identify Warranty Extension coverage terms, limitations, and conditions (Key Coverage Elements). The following are Settlement Agreement provisions pertinent to my analysis:

i. “If the Court issues the Final Order, as part of the compensation Volkswagen is paying in exchange for a Release of Claims against it in the Action, Volkswagen shall provide Class Members a Customer Support Program, which will be limited to providing prospective coverage for repairs and adjustments (including parts and labor) needed to correct damaged and/or defective materials, if any, and defective workmanship, if any, of replacement driver or passenger inflators installed pursuant to the Takata Airbag Recall in the Subject Vehicles. This benefit will be automatically transferred and will remain with the Subject Vehicle regardless of ownership. The normal deployment of a replacement airbag inflator shall terminate this benefit as to a Subject Vehicle.”

ii. “If the Subject Vehicle has been recalled and the Recall Remedy has been completed as of the date of the issuance of the Court’s Preliminary Approval Order, then the Customer Support Program will last for 10 years measured from the date the Recall Remedy was performed on the Subject Vehicle or 150,000 miles measured from the date the Subject Vehicle was originally sold or leased by a Volkswagen Dealer (“Date of First Use”), whichever comes first. However, each eligible vehicle will receive coverage for at least 75,000 miles measured from the date the Recall Remedy was performed on the Subject Vehicle, or two years measured from the date of the issuance of the Court’s Preliminary Approval Order, whichever is later.”

iii. “If the Subject Vehicle has been or will be recalled and the Recall Remedy has not been completed as of the date of the issuance of the Court’s Preliminary Approval Order, then the Customer Support Program will last for (a) 10 years from the Date of First Use, or, if the Recall Remedy is subsequently performed on the Subject Vehicle, the date the Recall Remedy is performed, or (b) 150,000 miles measured from the Date of

First Use, whichever comes first. However, each eligible vehicle will receive coverage for at least 75,000 miles measured from the date the Recall Remedy was performed on the Subject Vehicle, or two years measured from the date of the issuance of the Court's Preliminary Approval Order (or from the date the Recall Remedy is subsequently performed, if it is), whichever is later."

iv. "Inoperable vehicles and vehicles with a salvaged, rebuilt or flood-damaged title are not eligible for the Customer Support Program."

b. I considered market retail prices that vehicle owners pay for ESCs. I utilized such market price data to estimate what Class Members would pay to purchase a Hypothetical Extended Service Contract (Hypothetical ESC) that is equivalent to the financial protection resulting from the existence of the Warranty Extension. This approach has been accepted by many courts and was incorporated in my valuations—upon which the courts and parties relied—in the VW/Audi, Toyota-US, Toyota-Canadian and Takata Airbag related class actions mentioned in Section 3 above. Thus, I employed methods and analyses of a type reasonably relied upon by courts and experts in my field in forming opinions or inferences on the subject.

i. In developing the market (or retail) prices of the Hypothetical ESCs, my determinations included the following:

1. Defining the Warranty Extension's Covered Components.
2. Deriving the consumer's current expected Retail Repair Cost to replace the Covered Components if the Warranty Extension did not exist.
3. Considering the magnitude of the current Retail Repair Cost when deriving the retail price of a one-year Hypothetical ESC that is equivalent to the Warranty Extension.
4. Deriving a reasonable estimate of the retail price of a one-year, zero-deductible, transferrable, extended service contract (ESC) coverage by considering the following market-based price data sets:
  - a. Summary claim information provided by the Defendants enabling the determination of 'per year' retail costs consumers would have paid for repair work if not for the existence of applicable new vehicle warranties, as a percentage of the average retail prices paid for the underlying new vehicles.
  - b. Pricing information from major national third-party warranty companies, enabling the derivation of retail prices paid for ESCs as a percentage of the retail prices paid for the underlying pre-owned vehicles.
  - c. Pricing information provided by vehicle manufacturers enabling the analysis of the retail prices of manufacturer-



branded ESCs as a percentage of the retail prices paid for the underlying pre-owned vehicles.

c. I determined the number of estimated Covered Vehicles for each model year by adjusting the number of Class Vehicles originally sold that could benefit from the Settlement for the declining number on the road over time by utilizing vehicle survivability data from the National Highway Traffic Safety Administration (NHTSA).

d. I derived the number of Warranty Extension coverage years (Coverage Years) for each model year by applying U.S. average annual vehicle mileage to the in-service year and mileage limits and other Key Coverage Elements as provided for in the Settlement Agreement and summarized in Section 6.a.i above.

e. Exhibit D provides the Warranty Extension Valuation Summary and Conclusion, displaying the results from my underlying calculations:

i. Estimated Covered Vehicles: The estimated number of Covered Vehicles (B) that will benefit from the Warranty Extension was derived by considering NHTSA vehicle survivability data (see Section 6.c).

ii. Estimated Coverage Years: The Coverage Years (D) is calculated as the number of Estimated Covered Vehicles by model year (B) multiplied by the number of Estimated Coverage Years that the Warranty Extension would cover for each model year (C) (see Section 6.d).

iii. Estimated Value of Benefits: The Estimated Value of Benefits by Model Year (F) is calculated as the Estimated Coverage Years (D) multiplied by the Estimated Per Year Hypothetical ESC Market Price (E) (see Section 6.b).

f. My Valuation Conclusion for the Warranty Extension:

i. I have determined within a reasonable degree of professional certainty that the value of the Settlement's Warranty Extension exceeds \$13,500,000.

## **7. Enhanced Rental Car/Loaner Program (Loaner Program) – Valuation Methodology and Conclusion**

a. I considered relevant sections of the Settlement Agreement to identify Loaner Program coverage terms, limitations, and conditions (Key Coverage Elements). The following Settlement Agreement provisions are pertinent to my analysis:

i. "... it will be Volkswagen's policy to provide a loaner/rental car free of charge to owners and lessees who request a vehicle. As part of this Settlement, Volkswagen shall adopt and implement a policy related to the provision of loaner or rental cars to Class Members to comport with the Enhanced Rental Car/Loaner Program set forth herein."

ii. “Pursuant to the Enhanced Rental Car/Loaner Program, Volkswagen shall provide a rental/loaner vehicle to every owner or lessee who (i) brings a Subject Vehicle that has been recalled (i.e., there is an open and active NHTSA recall campaign covering the Subject Vehicle’s inflators), to a Volkswagen Dealers for completion of the Recall Remedy and (ii) requests a rental/loaner vehicle while awaiting the Recall Remedy, while the Recall Remedy is in progress, or if there is a delay in performing the Recall Remedy on the recalled Subject Vehicle.”

iii. “But in no event shall Volkswagen’s obligation to pay rental costs or provide a loaner under this paragraph persist for more than 7 days after notification that the Recall Remedy has been performed on the Subject Vehicle.”

iv. “Volkswagen shall institute the Enhanced Rental Car/Loaner Program no later than 30 calendar days following the date of issuance of the Preliminary Approval Order, and shall continue it until one year following the Year Four Payment.”

b. To estimate the value of the Loaner Program, my valuation approach was based on first determining how many Subject Vehicles still require the Recall Remedy and therefore would benefit from the Loaner Program, and then calculating the estimated value of the Loaner Program benefit for these vehicles at retail prices of loaner vehicles. This aggregate amount of the available benefit was then compared to the credit of 20% of the overall Settlement Amount for providing the Loaner Program.

c. I estimated the number of Subject Vehicles qualifying for the Loaner Program based on information provided by the Defendant.

i. The Defendant provided the number of Subject Vehicles originally sold and the estimated number of Subject Vehicles still needing the Recall Remedy to be completed.

ii. The number of Subject Vehicles originally sold was adjusted for the declining number on the road over time by utilizing vehicle survivability data from the National Highway Traffic Safety Administration (NHTSA) to derive the Estimated Number of Remaining Vehicles Requiring the Recall Remedy.

d. I assumed the number of rental days per vehicle would be only one day per repair which is conservative since there will inevitably be some multiple day loaner situations.

e. Based on the Defendant’s representation that their dealer claim loaner vehicle reimbursement rates will be at or above \$48 per day for the Loaner Program, I utilized this rate as a conservative estimate of the average per day retail rental rate in the United States.

f. Exhibit E provides the Loaner Program Valuation and Credit Comparison Summary, displaying the results from my underlying calculations:

i. The Estimated Value of Benefit Made Available for the Loaner Program is calculated as the Estimated Number of Remaining Vehicles Requiring the Recall Remedy

multiplied by the Estimated Number of Rental Days multiplied by the Estimated Average Per Day Retail Rental Rate.

ii. I compared the Estimated Value of Benefit Made Available for the Loaner Program to the 20% Credit Amount from the Settlement Agreement.

g. My Valuation Conclusion for the Loaner Program:

i. I have determined that the Estimated Value of Benefit Made Available through the Loaner Program in the Settlement exceeds the amount of the 20% Credit Amount from the Settlement Agreement.

## **8. Valuation Primary Assumptions and Limiting Conditions**

a. My analyses, opinions, and conclusions are limited only by the Valuation Primary Assumptions and Limiting Conditions outlined in Exhibit C, which include, among others:

i. My calculations assume a Valuation Effective Dates of:

1. Warranty Extension as of April 15, 2022
2. Loan Program as of December 10, 2021

b. Information provided by the Defendant and the Plaintiffs' Counsel is accurate and responsive to the information request. I did not audit or verify such information. Accordingly, I provide no warrant as to the accuracy or completeness of such information.

## **9. Certifications and Representations**

a. The statements of fact in this declaration are true and correct.

b. These are my personal, impartial, and unbiased professional analyses, opinions, and conclusions, all of which are stated to a reasonable degree of professional certainty.

c. I do not have any bias, present interest, or prospective interest with respect to this matter, or any bias or personal interest with respect to the parties involved with this assignment.

d. My engagement in this assignment and the compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or any direction in value, the amount of the value opinions, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this valuation. For my work in this matter, I was compensated at my typical hourly rate of \$350.

I declare under penalty of perjury that the foregoing is true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment. Executed this 20<sup>th</sup> day of January, 2022, at Lakewood Ranch, Florida.

A handwritten signature in black ink that reads "Kirk Kleckner". The signature is written in a cursive style with a large initial 'K' and a long, sweeping tail.

KIRK D. KLECKNER

## EXHIBIT A – Curriculum Vitae of Kirk D. Kleckner CPA MBA ASA-BV

Kirk is currently:

- President of ValuationUSA - a valuation, succession planning and litigation support firm serving closely held businesses and their owners [www.valuationusa.com](http://www.valuationusa.com)

Kirk's experience includes:

- Seven years as Chief Financial Officer for a well-respected Top 50 dealership group known for its world class customer experiences and business processes
- Nineteen years with an accounting firm including roles as shareholder, Chief Operating Officer, and Director of Business Valuation and Litigation Support Services. Kirk provided consulting work for hundreds of companies in an array of industries including but not limited to retail dealership, casualty insurance, distribution, manufacturing, construction, insurance, reinsurance, service, non-profit, bank, retail, tool and die, technology, trucking and warehouse

Kirk is a CPA, MBA and is an Accredited Senior Appraiser in Business Valuation (ASA-BV) from the American Society of Appraisers.

Kirk's expertise leverages both his professional and hands-on industry experience as a Chief Financial Officer for a \$500 million-dollar business. Kirk's expertise and experience includes buying, selling and integrating of businesses; managing businesses; succession planning, business and intangible asset valuation for strategic transactions; income, gift and estate tax; owner transactions and litigation purposes.

Kirk is a qualified expert witness with experience in complex business litigation, economic damages calculations, business and intangible asset valuation, owner disputes and lost profits. Kirk has testified as an expert and served as a valuation expert in many matters with damage awards exceeding \$100,000,000.

Kirk is known nationally for his expertise in the automotive industry. Representative matters include: In re Volkswagen & Audi Warranty Extension Litigation (MDL 1790); In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation (No. 8:10ML2151 JVS); Canadian Toyota Unintended Acceleration Marketing, Sales Practices, And Products Liability Litigation Settlement Agreement (various courts); and In Re: Takata Airbag Products Liability Litigation, Case 1:15-Md-02599 (Settlement Agreements for BMW, Mazda, Subaru, Toyota, Honda, Nissan and Ford).



Academic and Professional Credentials

**ASA-BV** - Accredited Senior Appraiser-Business Valuation, American Society of Appraisers

**MBA** - Master of Business Administration, Concentration Finance, University of Minnesota

**CPA** - Certified Public Accountant, State of Minnesota and Iowa

Bachelor of Arts, Accounting and Business Administration, Wartburg College

Positions and Experience

**Principal – ValuationUSA (2008)** – Professional services consulting firm specializing in the following areas:

- succession planning, owner wealth accumulation, preservation and transfer planning
- business and intangible asset valuation
- gift and estate tax
- strategic acquisition and divestiture transactions
- value enhancement
- expert opinions – litigation, economic loss / damage analysis and independent opinions / expert testimony

**President – Automotive Development Group Capital and Consulting, LLC (2009)** – Business specializing in helping dealership groups and their owners with profit and valuation enhancement, valuation, expert witness and business succession planning.

**Executive Vice President and Chief Financial Officer - Walser Automotive Group, Minneapolis, MN (2000–2007)** - Automobile dealership group with related leasing, collision repair, reinsurance and real estate operations (\$500 million of revenues, fourteen locations and 750 employees)

**Chief Operating Officer, Director of Valuation and Consulting Department, and Shareholder - Wilkerson, Guthmann + Johnson, Ltd., St. Paul, MN (1981 – 2000)** - Public accounting firm with 40 members and offices in St. Paul, Blaine and Minneapolis. *Industries Served:* Auto dealership, casualty insurance, manufacturing, construction, insurance, service, non-profit, bank, retail, trucking and warehouse.

Professional Affiliations

*American Society of Appraisers*, a Member and an Accredited Senior Appraiser- Business Valuation (ASA-BV) - ASA is an organization of appraisal professionals. The ASA promotes the exchange of ideas and experiences among its members; maintains the Principles of Appraisal Practice and

Code of Ethics for the guidance of its members; maintains universal recognition that members of the Society are objective, unbiased appraisers and consultants, and awards professional designations to qualified members.

*Minnesota Society of Certified Public Accountants*, a Member

*Twin Cities Estate Planning Council*, a Member

#### Select Presentations

- *Business Value: What Leads to a High-Performance Manufacturing Business?*, 2016 Minnesota Manufacturing Executives, Minneapolis, MN
- *Eight Characteristics of High Value Dealerships*, 2014 Michigan Automotive Dealers Conference, Livonia, MI
- *Eminent Domain Asset Identification, Classification and Valuation*, Eminent Domain 2011: Essential Updates and Issues, Hennepin County Bar Association, Minneapolis, MN
- *Eight Characteristics of High Value Dealerships (And Why Dealers Should Care About Them)*, 2010 AICPA Auto Dealership Conference, Phoenix, AZ
- *AICPA / ASA Business Conference Review*, American Society of Appraisers, Minneapolis, MN
- *Fourteen Evolving Dealership Strategies*, Chicago Automobile Trade Association / Compli, Chicago; Dealer Driving Force Group, Charlotte, NC
- *Integrating Business Value Creation and Tax Planning*, 2010 Management & Business Advisers Conference, MN Society of CPAs, Minneapolis, MN
- *Tax Reduction Strategies for Today's Business Environment*, M&I Bank
- *What Leads to Dealership High Performance*, The New Dealership Era Symposium Sponsored by Compli and Wells Fargo, Bloomington, MN
- *Business and Real Estate Valuation Timely Opportunities*, Thrivent Financial Annual Meeting, Roseville, MN
- *Business Valuation for Attorneys*, Various
- *Understanding Financial Statements for Attorneys*, Various

#### Select Appraisal and Litigation Support Education

- Advanced Topics in Business Valuation, 2019
- AICPA Global Manufacturers and Controllers Conference, 2019
- Confessions of Two Reluctant Expert Witnesses, 2019
- Economic Damages - Reasonable Certainty, Lost Profits and Intellectual Property 2019
- Valuation for M&A, 2019
- AICPA National Dealership Conference, 2018, 2016, 2010, 2002
- Appraising Real Estate Centered Entities by Business Appraiser, 2018
- Valuing Small Businesses Worth Less Than \$10 Million, 2018

- The Role of IRS Revenue Rulings and Tax Court Cases in Business Valuation, 2018
- The Impact of TCIA on Cost of Capital, 2018
- Key Tax Law Changes That Impact Business Valuation, 2018
- Valuing Non-Controlling Interests in S-Corps For Federal Tax Purposes, 2017
- Best Income Tax, Estate Tax and Financial Planning Ideas, 2017, 2013
- Fairness and Solvency Opinions Advanced Issues and Best Practices, 2017, 2010
- Valuing Undivided Interests in Real Estate, 2016
- A Detailed Look at Terminal Value Estimation, 2016
- Complying With USPAP in the Litigation Setting, 2016
- MNCPA Business Valuation Conference, 2016, 2015, 2013, 2009, 2008
- MNCPA Annual Tax Conference, 2015, 2009, 2005, 2001, 1999
- ASA Advanced Business Valuation Conference, 2015, 2008
- Discounts for Lack of Marketability, 2015, 2008
- ASAMN Annual Business Valuation Conference, 2015, 2014, 2008
- Price and Value: Discerning the Difference, 2015
- USPAP for Business Valuation, 2014, 1996
- Michigan CPA Automobile Dealers Conference, 2014
- Buying and Selling a Privately-Owned Business, 2014
- Valuing Early Stage Companies, 2013
- Special Topics in the Valuation of Intangible Assets, 2012
- Using Market Data to Support Real Estate Partnership Discounts, 2012
- Reasonable Compensation, 2011, 2010, 2008
- AICPA National Business Valuation Conference, 2011, 2008
- 20<sup>th</sup> Annual National Expert Witness Conference, 2011
- Pluris Discount for Lack of Marketability Study Results, 2010
- Valuation Issues in Estate and Gift Tax, 2010
- Reconciling the Lack of Marketability Discount Theories, 2009
- Cost of Capital, 2008
- Multi-Dealership CFO Conference, 2003, 2002

Publications Authored by the Witness Within the Preceding Ten Years

- None

Cases in Which the Witness Has Testified as An Expert at Trial or By Deposition Within the Preceding Four Years

- Puklich v. Puklich, North Dakota South Central Judicial District, Dealership Damages, Owner Breach of Fiduciary Duty, Deposition – 10/2/2017, Trial – 11/27/2017.
- Puklich v. Puklich, North Dakota South Central Judicial District, Post Buyout Distributions, Breach of Fiduciary Duty, Deposition – 10/29/2020, Trial – 5/6/2021.



## EXHIBIT B – Primary Materials and Information Considered

- Plaintiffs’ Unopposed Motion for Preliminary Approval of Volkswagen Class Settlement, Preliminary Certification of Settlement Class, and Approval of Class Notice and Incorporated Memorandum of Law, September 1, 2021
- Exhibit A, Settlement Agreement, November 3, 2015
- United States Department of Transportation National Highway Traffic Safety Administration, Agreement, May 5, 2020
- United States Department of Transportation National Highway Traffic Safety Administration, Fifth Amendment to the November 3, 2015 Coordinated Remedy Order, May 5, 2020
- Takata Recalled Vehicles – Base Warranties for Volkswagen and Audi
- Volkswagen Loaner/Rental Reimbursement Rates
- New Vehicle Warranty Cost Range Estimates for Volkswagen and Audi
- Excel Workbook with class vehicles by VIN for Volkswagen and Audi
- Campaign Sheet, Campaign Code 69M90099 1R with Cost Estimate, April 20, 2017
- Volkswagen Drive Easy, Vehicle Service Protection, Term Protection, and CPO Vehicle Service Protection Brochure, VWVSTCCPBR Rev 1/17
- NHTSA <https://www.nhtsa.gov/>
- Results of research regarding U.S. inoperable vehicles and vehicles with salvaged, rebuilt or flood-damaged titles
- Results of research regarding U.S. vehicle survivability, age and miles driven
- Results of research regarding U.S. vehicles that incur a “normal inflator deployment”
- *Vehicle Survivability and Travel Mileage Schedules*, January 2006. National Highway Traffic Safety Administration
- Various interviews with extended service contract professionals familiar with the U.S. markets
- Various interviews with parts and service professionals familiar with the U.S. vehicle service department pricing, operations and warranty versus retail pricing rates
- Various analyses of retail market price relationships between pre-owned vehicle purchase prices and extended service contract purchase prices
- Various analyses of retail market price relationship between new vehicle purchase prices and vehicle manufacturer new vehicle warranty costs
- New vehicle warranty terms and conditions for various manufacturers
- Allstate vehicle service agreements and prices
- C.N.A. National Warranty Corporation vehicle service agreements and prices

- Protective vehicle service agreements and prices
- Various warranty insurance company state filings showing rate filings and rate manual guidelines
- Extended service contract information for various vehicle manufacturer programs

### **Exhibit C – Valuation Primary Significant Assumptions and Limiting Conditions**

- My calculations assume Valuation Effective Dates of April 15, 2022, for the Warranty Extension and December 10, 2021, for the Loaner Program; if the timing of the final approval date of the Settlement Agreement occurs as expected during the first half of 2022, my valuation conclusions will be materially accurate. The calculations reflect facts and conditions existing at the Effective Dates. Subsequent events were not considered, and I have no obligation to update this affidavit for such events and conditions.
- Information provided by the Defendant and the Plaintiffs' Counsel is accurate and responsive to the information request. I did not audit or verify such information. Accordingly, I provide no warrant as to the accuracy or completeness of such information.
- I have assumed that the Defendant and its dealership network will honor the intent and terms of the Warranty Extension.
- The number of inflator locations data was provided for Audi but the VW data was incomplete, I have conservatively assumed that all VW vehicles have only one inflator per vehicle.
- The estimated percentage of vehicles with a completed Recall Remedy was provided for VW vehicles. Since data was not provided for Audi, I have assumed the same estimated percentage of vehicles with a completed Recall Remedy as of the date of issuance of the Court's preliminary Approval Order for Audi as was provided for VW. This served as a reasonable estimate in my calculations.
- I have assumed that the percentage of vehicles that over a vehicle's life will incur a "normal inflator deployment" where the inflator is then replaced, and the vehicle remains "on the road" after the normal deployment will not have a material impact on the Warranty Extension Valuation Conclusion.
- While I believe my valuation conclusions are valid, I reserve the right to submit a revised valuation to consider new information and/or to correct any inadvertent errors or omissions given the complexity of this valuation.
- Possession of this declaration, or a copy thereof, does not carry with it the right of publication of all or part of it, nor may it be used for any purpose by anyone without the previous written consent of VUSA. This valuation is valid only for the purpose specified herein.

## Exhibit D - Warranty Extension Valuation Summary and Conclusion

Estimated Covered Vehicles		Estimated Coverage Years		Valuation Summary	
Model Year	Number of Vehicles	Average Coverage Years by Model Year	Coverage Years	Estimated Per Year Hypothetical ESC Market Price	Estimated Value of Benefits By Model Year
(A)	(B)	(C)	(D) (B X C = D)	(E)	(F) (D X E = F)
2005	24,999	2.548	63,700	\$3.18	\$ 203,000
2006	89,704	2.769	248,354	\$3.18	\$ 790,000
2007	88,589	2.469	218,697	\$3.18	\$ 695,000
2008	69,019	2.628	181,400	\$3.18	\$ 577,000
2009	34,436	2.172	74,800	\$3.18	\$ 238,000
2010	84,187	2.113	177,900	\$3.18	\$ 566,000
2011	64,061	2.348	150,400	\$3.18	\$ 478,000
2012	212,277	2.739	581,500	\$3.18	\$ 1,849,000
2013	219,097	3.533	774,000	\$3.18	\$ 2,461,000
2014	144,687	4.293	621,200	\$3.18	\$ 1,975,000
2015	122,527	5.177	634,300	\$3.18	\$ 2,017,000
2016	24,361	6.038	147,100	\$3.18	\$ 468,000
2017	20,897	7.039	147,100	\$3.18	\$ 468,000
2018	13,277	6.779	90,000	\$3.18	\$ 286,000
2019	19,261	6.781	130,600	\$3.18	\$ 415,000
	<u>1,231,379</u>		<u>4,241,051</u>		<u>\$ 13,486,000</u>
<b>Valuation Conclusion</b>					<b>\$ 13,500,000</b>

## Exhibit E - Loaner Program Valuation and Credit Comparison Summary

Estimated Number of Remaining Vehicles Requiring the Recall Remedy	274,000
Estimated Number of Rental Days	1.0
Estimated Average Per Day Retail Rental Rate	\$48
<b>Estimated Value of Benefits Made Available</b>	<b>\$ 13,150,000</b>
<b>20% Credit Amount from the Settlement Agreement</b>	<b>\$ 8,400,000</b>
<b>Value of the Available Class Member Benefits Exceeding the 20% Credit</b>	<b>\$ 4,750,000</b>