

Business & Law



HOT CARS: Among the models that were the subjects of the suit was the 2004 Honda CR-V, which allegedly had defective compressors that were prone to breaking down and damaging other air-conditioning system components.

Honda Will Pay \$38M To Settle Suits Alleging A.C. Malfunction

By David Gialanella

Plaintiffs claiming defective air-conditioning systems in Honda and Acura vehicles have settled their class-action suit with the car maker for \$38.5 million.

The company agrees to reimburse owners and lessees for past and future

repairs to as many as a million vehicles and to pay an additional \$2.52 million in attorney fees.

The settlement in *Alin v. Honda Motor Co.*, 08-cv-4825, which U.S. District Judge Katharine Hayden in Newark approved on April 13, took effect Monday.

The suit was filed on Sept. 26,

2008, alleging that Honda and its Acura division made vehicles with poorly designed or malfunctioning air-conditioning units.

The plaintiffs claimed breach of express and implied warranty, breach of the duty of good faith and fair dealing, negligent misrepresentation, unjust enrichment and statutory and common-law fraud, and sought injunctive relief.

Hayden granted Honda's motion to dismiss the breach-of-implied-warranty and unjust-enrichment counts, but allowed the other causes of action to continue.

The suit was consolidated with a similar case in the North District of California, and the plaintiffs sought class certification for purchasers and lessees of at least 15 Honda and Acura models.

The class was reduced to include those who bought or leased the model year 2005 to 2007 Honda Odyssey, the 2002 to 2004 Honda CR-V and the 2004 Acura TSX. A second amended complaint assigned a lead plaintiff to a subclass for each vehicle.

The Odyssey allegedly had condensers that were susceptible to damage from road debris kicked up during travel, while the CR-V and TSX allegedly had defective compressors prone to breaking down and damaging other air-conditioning system components.

During discovery, the parties entered mediation and reached a deal, which Hayden preliminarily approved last September.

Honda agreed to reimburse the Odyssey subclass for out-of-pocket costs of repairing condensers damaged by road debris if the repairs were performed within the three-year/36,000-mile warranty period. Honda also will make available a protective screen for the condensers, and partially reimburse subclass members for the cost of its installation — up to \$55 per modification, which costs an estimated \$94.

For the CR-V and TSX subclass members, Honda agreed to fully reimburse out-of-pocket compressor repair costs incurred within the warranty period, and to partially reimburse repair costs incurred outside that period.

The settlement includes a graduated scale ranging from an 80 percent reimbursement for repairs within the four-year/48,000-mile range to a 15 percent reimbursement for repairs within the eight-year/96,000-mile range.

Honda also must pay the lead plaintiff, Jon Alin, a \$12,500 incentive award, and a \$2,500 incentive award each to two other named plaintiffs.

As for attorney fees, Honda agreed to an award of up to \$2.52 million.

The company also absorbed administrative costs of about \$2 million, expended in searching its databases, generating notification lists, sending 2.47 million individual mailings, and establishing toll-free hotlines and a website.

Hayden gave final approval on April 13, awarding class counsel \$2.42

million in fees and \$101,477 in costs.

She rejected claims by objector Andrew Kaye, an Odyssey subclass member who called Alin an insufficient representative because he did not represent the interests of the owners and lessees who performed off-warranty repairs. Those subclass members, unlike off-warranty CR-V and TSX owners, received no partial reimbursement, Kaye asserted.

But the variation in benefits among the subclasses “is not, as Kaye argues, automatically indicative of disparate treatment” but rather “a reflection of the reality that the subclasses are alleged to contain different types of defects,” Hayden wrote.

Hayden also struck down Kaye’s challenges to the adequacy of notice, the estimated value of the settlement and Alin’s incentive award.

The roughly 1,600 requests for exclusion and 105 objections accounted for about .07 percent of the class, she pointed out.

Unsuccessful with Hayden, Kaye filed one of two appeals to the U.S. Court of Appeals for the Third Circuit. The other was filed pro se by Robert and Melodi Sigler.

Gary Sibley, whose Dallas firm represents Kaye, says the ruling was “pretty much expected.”

On Tuesday, plaintiffs counsel, Matthew Mendelsohn and David Mazie of Mazie Slater Katz & Freeman in Roseland, moved to compel the objectors to post a \$25,000 appeal bond and submit to depositions.

In their brief, the lawyers called the appeals meritless and filed by “professional objectors.”

As for the settlement itself, Mendelsohn says that from what he has seen in auto-defect litigation, “this is one of the better results.”

As of Monday, 19,100 reimbursement claims had been filed, already more than the 11,000 claims used in computing the estimated settlement value, he adds.

The plaintiffs also were represented by Crowley Norman in Houston.

Honda’s lead counsel, Michael Andolina of Sidley Austin in Chicago, did not return a call. ■