

4 Automakers Agree to Pay \$553M on Takata Air Bag Claims

Celia Ampel, Daily Business Review

Toyota, Subaru, Mazda and BMW agreed to pay \$553 million to settle consumer claims over recalled Takata air bags in multidistrict litigation consolidated in Miami federal court, plaintiffs counsel announced Thursday.

"This agreement achieves our goals of educating consumers about the urgent need to have their recall remedies completed while providing them compensation for their economic losses," said lead plaintiffs lawyer Peter Prieto of Podhurst Orseck in Miami.

Takata air bags were subject to the largest automotive recall in U.S. history, affecting more than 42 million vehicles. According to the class action complaint, the air bags can rupture when they deploy, expelling shrapnel into a car that can maim or kill people inside.

The proposed settlement covers 9.2 million Toyota, 2.6 million Subaru, 2.3 million BMW and 1.7 million Mazda vehicles. It aims to help speed up repairs and compensate class members who claimed the recalls cost them money by lowering the resale values of their cars, forcing them to miss work for repairs and otherwise inconveniencing them.

The settlement agreement provides for an independent outreach program whose goal is to encourage class members to get a mechanic to fix the problem, which involves replacing an air bag inflator that uses the unstable compound ammonium nitrate. The program will use direct mail, phone calls, email, internet ads and social media to make sure drivers know about the settlement.

The money will also reimburse class members for "reasonable out-of-pocket expenses" and might pay them up to \$500 each, according to a statement from plaintiffs counsel. The "most at-risk" class members will receive rental cars while they wait for car repairs and will have access to a customer support program for repairs and adjustments on the replacement inflators, including an extended warranty.

"The settlement is driven by the automakers' desire to support its customers by helping to increase recall remedy completion rates among their customers, among other actions," a Mazda spokesman said in a statement.

Subaru, whose vehicles do not use driver-side Takata air bags, said in a statement it was "pleased to have agreed a path that encourages more affected customers people to have their vehicle repaired." A BMW spokesman did not immediately respond to a request for comment.

Toyota, which has agreed to pay the bulk of the settlement funds at \$278.5 million, said the settlement was consistent with the company's focus on its customers' safety and security.

"Resolving this litigation will allow us to focus even more resources on addressing the needs of our customers affected by this unprecedented, industry-wide recall," a Toyota spokesman said in a statement. "We are proud this agreement reflects our commitment to putting our customers first and will help improve safety on U.S. roads."

The settlement amount is more than half of what the plaintiffs class believes it could have won at trial if damages were calculated based on how much the automakers paid for and marked up Takata air bags, according to court documents.

The parties agreed the settlement administrator should be Patrick Juneau of Juneau David in Lafayette, Louisiana. Juneau also served as special administrator in the BP oil spill case. Each automaker agreed not to oppose plaintiffs class counsel attorney fees of up to 30 percent of the settlement amount.

The multidistrict litigation continues against Takata, Ford, Honda, Mitsubishi and Nissan. U.S. District Judge Federico Moreno

of Miami presides over the case, which includes separate personal injury claims.

Earlier this year, Takata [pleaded guilty](#) to fraud and agreed to pay \$1 billion for concealing the air bag defect.

Along with Podhurst Orseck, the firms on the plaintiffs steering committee in the civil case are Colson Hicks Eidson, Boies Schiller Flexner, Power Rogers & Smith, Lief Cabraser Heimann & Bernstein, Carella Byrne Cecchi Olstein Brody & Agnello, and Baron & Budd.

Toyota is represented by firms Dykema Gossett, Shook Hardy & Bacon, Wheeler Trigg O'Donnell, Bowman and Brooke, and Morgan Lewis & Bockius. Subaru is represented by Herzfeld & Rubin and Kenny Nachwalter. Mazda is represented by Alston & Bird and Akerman. BMW is represented by Lewis Brisbois Bisgaard and Smith and Buchanan Ingersoll & Rooney.