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Ford To Settle Fiesta, Focus Class Action With Cash, Credits

By **John Kennedy**

Law360, New York (March 27, 2017, 6:50 PM EDT) -- Ford Motor Co. has agreed to provide "substantial cash payments" and other benefits to the owners of about 1.5 million of its Fiesta and Focus models that had to be repaired due to allegedly malfunctioning transmissions, the proposed class said Friday.

The deal comes after nearly four years of litigation, including a year of settlement negotiations and covers owners and lessees of 2011 to 2016 Ford Fiestas and 2012 to 2016 Ford Focuses, the plaintiffs said in their motion for preliminary approval of the agreement. Ford did not oppose the motion, but has denied any wrongdoing related to the alleged malfunctions, which included vehicles that slipped, bucked, kicked or jerked while the driver attempted to accelerate.

Even though Ford offered customer service programs that included free repairs and warranty extensions for potential class members, many vehicle owners still had to spend time and energy seeking to fix the alleged defect. Some vehicles endured multiple software and hardware repairs and due to backlogs often had to wait weeks or months for the fix, the plaintiffs said.

Under the settlement, class members with three or more visits for the replacement of one of the main transmission parts will receive \$200 for the third visit, plus increasing amounts for any additional repair trips. They could also choose to receive a discount toward the purchase of a new Ford vehicle that would be twice the amount of whatever cash they would've received. In all, these consumers could collect up to \$2,325 in cash or \$4,650 in credit, the settlement says.

Given that Ford ordered about 6 million replacement parts for roughly 1.5 million vehicles, the consumers expect that a substantial amount of the class will qualify for this benefit.

Software repairs were also common, and the consumers said any class members with at least three software repairs will get \$50 for their third visit, plus an additional \$50 for any subsequent repair, up to \$600.

Ford will also provide a private arbitration program through which consumers will be able to get the automaker to repurchase or replace defective vehicles, the plaintiffs said. Resolution of such claims will take one to two months, but the program's rules also authorize repurchase or replacement of any vehicle that has endured four attempts to fix its transmission hardware within five years or 60,000 miles and that still doesn't work.

The program also extends the statute of limitations for claims to six years after the issue arose or six months after the effective date of the settlement, whichever is later. Consumers who prevail in arbitration will be awarded \$6,000 in attorneys' fees, while those who lose will be able to appeal the finding to a second panel. Ford will receive no fees or appeals rights, the deal says.

Class members who believe they've either been improperly charged for repairs or denied repairs that should've been covered under Ford's new vehicle limited warranty can also pursue these claims through a more limited arbitration process. Ford will cover the cost and if the consumer wins, they will receive free repairs or warranty extensions and be reimbursed for out-of-pocket costs, the settlement says.

The plaintiffs are further seeking to appoint 18 class representatives who will each receive between \$1,000 and \$10,000, separate from any benefits they get as part of the settlement class. Capstone Law APC wants to be named lead class counsel, with Berger & Montague PC and Zimmerman Law Offices PC as class counsel. Ford has agreed to pay up to \$8.9 million in attorneys' fees and costs.

Ford could not be reached for comment Monday.

The proposed class is represented by Jordan L. Lurie, Tarek H. Zohdy, Cody R. Padgett and Karen L. Wallace of Capstone Law, Russell D. Paul of Berger & Montague and Thomas A. Zimmerman Jr. of Zimmerman Law.

Ford is represented by Tamara A. Bush, Janet L. Conigliaro, Fred J. Fresard, David M. George, Krista L. Lenart, John Mark Thomas and Stephen C. Borgsdorf of Dykema Gossett LLP.

The case is Omar Vargas, et al., v. Ford Motor Co., case number 2:12-cv-08388, in the U.S. District Court for the Central District of California.

--Editing by Orlando Lorenzo.

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