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8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO**
10

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|---------------------------------------|---|--------------------------------------|
| 11 LOGAN and ANITA LOCKABEY; |) | CASE NO.: 37-2010-00087755-CU-BT-CTL |
| TOMAS CASTREJON; |) | |
| 12 JOHN TRUE; |) | <u>CLASS ACTION</u> |
| GONZALO M. DELGADO; |) | |
| 13 KEVIN THIEBEN; |) | OBJECTIONS TO PROPOSED |
| RONDA GIBBLE; |) | SETTLEMENT AND DECLARATION OF |
| 14 GARY STOUCH; |) | HEATHER PETERS IN SUPPORT |
| ROY D. SHERRID; and |) | THEREOF |
| 15 BRANKA KRSUL, as Individuals |) | |
| and on Behalf of All Others Similarly |) | I/C Judge: Hon. Timothy B. Taylor |
| 16 Situated, |) | Dept.; 72 |
| |) | |
| 17 Plaintiffs, |) | Complaint Filed: March 15, 2010 |
| |) | |
| 18 vs. |) | Hearing Date: March 16, 2012 |
| |) | Time: 10:00 a.m. |
| 19 AMERICAN HONDA MOTOR CO., INC.; |) | Dept: 72 |
| and DOES 1 through 50, inclusive, |) | |
| 20 |) | |
| Defendants. |) | |
| 21 |) | |

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1 Class members Rob Bleetstein and Diane Kramer object to the settlement for the reasons set
2 forth herein and in their signed objections attached hereto collectively as Exhibit A. Mr.
3 Bleetstein's 2007 HCH also makes him a member of the Subclass.

4
5 I. THIS SETTLEMENT IS UNFAIR, UNREASONABLE, INADEQUATE AND
6 IMPROPERLY BASED ON *TRUE* v. *HONDA* WITH NO ATTENTION PAID
7 TO SERIOUS PUBLIC SAFETY CONCERNS DUE TO THE SOFTWARE
8 UPDATE

9 The unfair, and failed, proposed settlement in *True v. Honda* is not the proper starting place
10 to analyze this proposed settlement. Honda and Class Counsel have cobbled together a meager set
11 of enhancements and have declared them to be adequate compensation as if all that was at issue
12 here were run of the mill false advertising claims. However, intervening events have so
13 significantly strengthened the Plaintiffs' case so as to render those prior evaluations of minimal
14 relevance today.

15 A. Settlement of the *Paduano v. Honda* for \$100,000

16 *Paduano v. Honda* has settled the same false advertising claims at issue here for \$50,000 to
17 Plaintiff and \$50,000 to his counsel, exponentially more than the \$200, plus a coupon and DVD
18 offered here on a claims made basis. (Exhibit B)

19 B. Judgment of \$9,867.19 in *Peters v. Honda*

20 ***More significantly, on February 1, 2012 Judgment was entered after trial on the merits in***
21 ***the amount of \$9,867.19 against Honda and in favor of a former Class and Subclass Member the***
22 ***on the exact same claims false advertising claims at issue in this litigation!*** *Peters v. Honda*, Los
23 Angeles County Small Claims Court Case #11s02156 (Torrance). (Exhibit C) This is compelling
24 evidence that the claims of the class here have been severely undervalued in the proposed
25 settlement. *It is even more compelling because it was achieved with no formal discovery allowed*
26 *under the rules of smalls claims courts in California.*

1 C. EPA Documents Independently Obtained Demonstrate That Honda Knew that
2 the Civic Hybrid did not live up to its MPG claims and Honda Cannot Prevail on
3 its “The EPA Made Us Do It” Defense

4 Despite the lack of formal discovery in Small Claims Court, Peters was able to produce the
5 following evidence at trial from the EPA that significantly strengthens of the claims of the Class
6 here: (Exhibits D&F)

- 7 1. In January of 2006 the United States Environmental Protection Agency issued a
8 “Draft Technical Support Document” titled “Fuel Economy Labeling of Motor
9 Vehicles: Revisions to Improve Calculation of Fuel Economy Estimates.” This 178
10 page report compared the actual fuel consumption to EPA estimates for hybrid
11 vehicles, including the Honda Civic Hybrid. Testing demonstrated that the Civic
12 Hybrid was known to achieve lower fuel economy than advertised and experienced
13 greater variances than its competitors. The report also confirmed that hybrids in
14 general, and the Civic Hybrid in specific, have a greater sensitivity “to operating
15 conditions which can either take full advantage of the hybrid technology **or**
16 **essentially nullify it.**” (Emphasis added.)
- 17 2. On April 3, 2006 Honda publically commented on this draft report via a letter
18 written by William R. Willen, Honda’s Managing Counsel, Product Regulatory
19 Office praising it.
- 20 3. Excerpts of a deposition taken of a Honda employee in the *True* case that confirms
21 that Mr. Willen was also responsible for approving all national advertising involving
22 fuel efficiency claims, such as the false statement contained in Peters’ brochure that
23 exclaimed: “just enjoy driving the Civic Hybrid like you would a conventional
24 gasoline-engine vehicle.”
- 25 4. Public records obtained from the EPA dating from 1981 through 2008 that confirm
26 that contrary to Honda’s assertions, Honda and all car manufacturers had the full
27 discretion to advertise lower fuel economy numbers.
- 28 5. An EPA spokesperson directly refuted Honda’s testimony in the *Peters* case by

1 commenting to MSNBC “federal mileage testing provides only the maximum
2 number a maker may quote. If a vehicle is more likely to deliver 35 in real-world
3 conditions an automaker has the right to go with that figure, though sticking with an
4 EPA-sanctioned 40 MPG is more likely to catch a consumer’s eye.” (Exhibit D.)

5 D. Warranty Extension Is Worthless if Honda Continues to Refuse to Honor it

6 The proposed warranty extension is only valuable if Honda actually honors it. Honda’s long
7 history of refusing to honor the initial warranties on IMA batteries is a strong indication that they
8 will continue to act in bad faith and refuse to replace batteries under any extended warranty as well.
9 Any warranty extension should include explicit language setting forth the conditions under which
10 Honda will be compelled to replace batteries.

11 E. There is a Public Uproar in Opposition to this Proposed Settlement

12 Attached hereto as Exhibit F are over 300 comments regarding dissatisfaction with the
13 performance and safety of the Honda Civic Hybrid affixed to a Petition circulated online that was
14 signed by over 1,300 people representing all 50 States and the District of Columbia who strongly
15 urged rejection of the proposed settlement as unfair. Given the flaws in the Notice discussed
16 below, it is not surprising that these voices may not have translated into legally recognizable
17 objections, but they are loud and they are numerous.

18 II. MINOR IMPROVEMENTS OVER FAILED TRUE V. HONDA SETTLEMENT
19 PROPOSAL COMPLETELY FAIL TO ADDRESS SERIOUS PUBLIC SAFETY
20 ISSUES CREATED BY SOFTWARE UPDATE

21 The *True* case involved mainly false advertising claims and the original proposed settlement
22 was declared insufficient to address even those simple claims after 26 State Attorneys General
23 objected. The current proposed settlement appears to attempt to sweeten the pot of the *True*
24 settlement just enough to satisfy prior objectors. **However, *Lockabey* is an entirely different case**
25 **which has been amended to add much more serious allegations of intentional wrongdoing in**
26 **connection with the software update that Honda unleashed after the *True* settlement was**
27 **rejected.**

1 Accordingly the proper point to begin analysis of the current proposed settlement is with the
2 IMA Battery claims. The current proposed settlement is not even fair, reasonable or adequate to
3 settle the *True* false advertising claims given the settlement amount in *Paduano* and the Judicial
4 Award of \$9,86719 in *Peters*, and yet Honda now seeks to release its liability far more broadly
5 without providing any meaningful additional compensation to the class members.

6 The software update has created a serious threat to public safety which needs to be publicly
7 explored before any settlement can be approved. Attached collectively hereto as Exhibit G are **37**
8 ***Declarations by Civic Hybrid owners obtained in less than 24 hours after sending an e-mail blast***
9 ***yesterday asking if people's Civic Hybrids were dangerous.*** These Declarations detail numerous
10 instances of IMA battery malfunctions that endangered the driver's lives and the lives of those
11 around them including, but not limited to, the following:

- 12 • “While accelerating from a complete stop, there is a serious hesitation even when
13 the gas pedal is completely floored.... this has resulted in several instances of
14 dangerous situations where cars come around the corner behind me and I'm
15 struggling to get my car to accelerate to avoid a rear-end collision.” *Michael A.*
16 *Backlund*
- 17 • “Fails to appropriately accelerate when the gas pedal is pressed resulting in an
18 inability to get out of the way quickly if needed or even cross an intersection at an
19 appropriate speed, especially when starting from a dead stop.” *Cindy Miles*
- 20 • “It is very dangerous to make left turns in front of traffic or trying to enter highways.
21 You can't depend on the Civic to accelerate quickly in any traffic situations.”
22 *Brenda Larkin*
- 23 • “I don't have the ability to accelerate out of a dangerous situation. I no longer allow
24 other drivers (younger daughter) to drive the car, nor does she feel safe driving it.”
25 *Dave Maxfield*
- 26 • “I am now anxious every time I try to pull into traffic or cross a busy intersection, as
27 I can't be sure how the car will respond.” *Kathy Wood*

- 1 • “Sometimes the car will not use the extra 20HP from the electric motor and I would
2 not have the necessary speed to cross the 4 lane highway without close calls.”
3 *Ulysses Hammen*
- 4 • “My car had barely enough power to climb the hill and by the middle of the climb,
5 lost all power and luckily there were no cars behind me and I was able to steer to
6 the curb and applied the emergency brake.” *Rob Bleetstein*
- 7 • “Occasionally the car will surge forward when stopped and the motor assist comes
8 on suddenly. More than once I thought I had been rear-ended because of the surge
9 was so forceful. I often remind myself to keep the brake pedal firmly depressed at
10 stops so I don't lurch into the car ahead of me. Very unpredictable.” *Brian A.*
11 *Wadell*
- 12 • “The first day I owned it, it died on the off ramp of the freeway.... my family and I
13 were in the middle of traffic with a dead car.” *Christine Griffith*
- 14 • “When you go to accelerate after a stop the car will appear to be moving forward
15 and then it just kind of gets stuck for a brief few seconds and then lurches you
16 forward at a high speed. It's dangerous if you're making it turn into traffic or
17 merging into traffic.” *Joann Flick*
- 18 • “Car is dangerous to drive when the IMA is not completely charged or low on bars. I
19 have to be very careful pulling into traffic now because it feels like it's going to just
20 all out and DIE right in the middle of the road.” *John Guisinger III*
- 21 • “The car would roll backwards, even if I push the pedal to the floor the car. I would
22 have no way of controlling the car except to coast it backwards down the hill. This
23 is very dangerous because my car could have slipped into the ravine off the
24 driveway.” *Lydia Koehler*
- 25 • “To say the least I fear for my life when driving this car.” *Aaron McLaughlin*

26 Despite constant reports like these, Honda repeatedly contends that the vehicles are
27 “performing as designed” and that the software update has enhanced the value of the vehicles by
28 extending the battery life. The meager amount of cash offered to the Subclass cannot begin to

1 compensate Members for the above, but more importantly Honda should not be allowed to buy its
2 way out of something that is the subject of an ongoing safety investigation by NHTSA.

3 Also attached as part of Exhibit G is a Declaration by a former Honda employee
4 responsible for participating in the collection and analysis of customer, dealer and staff complaint
5 data for the Civic Hybrid. He confirms that Honda knew that complaints of 10-20 MPG lower than
6 advertised were prevalent and states:

7 “During numerous communications with American Honda Motor Company
8 management; I was pressured and intimidated into suppressing knowledge about
9 negative issues with the vehicles. I was subjected to backlash ... when
10 communicating about unfavorable and/or misrepresented information advertised
11 about the vehicles and I experienced increasing tension and negative treatment
12 in my work environment.”

13 Class Counsel has failed to present evidence such as this tip received over the
14 internet. Either they have not obtained such evidence, or it is being withheld from
15 consideration by the Court and Class Members due to the overly broad confidentiality
16 order that they signed. Either way, it is further evidence that the proposed settlement is
17 unfair, premature and should be rejected.

18 III. THE ADR PROCESS IN THE PROPOSED SETTLEMENT IS DEEPLY
19 FLAWED AND UNFAIR TO CLASS MEMBERS

20 Honda and Class Council have creatively attempted to address the issue of lack of
21 commonality in damages amongst Subclass Members by creating an ADR mechanism in the
22 proposed settlement, however, this does not sufficiently compensate the members of the Subclass
23 and creates another ambiguous deadline. ***First, the ADR process requires a non-refundable***
24 ***upfront payment by a class member of \$250 just to participate!*** This greatly exceeds the filing
25 fees charged by small claims courts (\$30-75 in California), which are recoverable should the
26 claimant prevailed. Additionally, Class Members will be significantly disadvantaged in such a
27 forum. Honda will be allowed to be represented by counsel (not allowed in small claims courts in
28 California) who presumably will be devoting all or substantially all of their time to defeating class

1 members claims, while class members will either be disadvantaged by appearing in pro per, or by
2 incurring additional expenses to hire counsel to represent them in the proceeding. Furthermore,
3 presumably the ADR process would utilize the services of the same arbitrators over and over who
4 could be predisposed to rule against class members after having listened to Honda's high priced
5 lawyers (who are their primary source of compensation) attempt to destroy the claims of one
6 average consumer after another. The ADR process, unlike small claims court or other courts in
7 California, does not allow for peremptory challenges to the arbitrator. Additionally ADR
8 proceedings take place in private and class members will be unable to familiarize themselves with
9 the process and with the arbitrator by sitting in to observe other cases as they would be able to do in
10 open court. Finally, the proposed ADR process is in effect an unfair, ex post facto imposition of an
11 arbitration clause. If there is enough variance between Class Member's claims to require ADR,
12 then perhaps this entire action is inappropriate to be maintained as a class action and should be
13 dismissed in favor of more narrowly drawn mechanisms for resolution.

14 IV. THE SETTLEMENT NOTICE DID NOT ADEQUATELY APPRISE CLASS
15 MEMBERS OF THEIR RIGHTS AND ESTABLISHED UNDUELY
16 BURDENSOME PROCEDURES FOR EXERCISING THEM

17 The content and execution of notice to class members was unfair and lacked due process.
18 The notice was not reasonably calculated under the circumstances to apprise settlement class
19 members of their rights, instead it set up a confusing and cumbersome process for them to exercise
20 their rights and was not reasonable, adequate or sufficient to justify approving the settlement at this
21 time.

22 The notice was misleading in that it prematurely included a Claim Form prior to the
23 approval of the settlement with a confusing reference to a filing deadline yet to be determined.
24 Furthermore the title of the notice "CLASS ACTION SETTLEMENT NOTICE" was deceptive in
25 that it did not use the word "PROPOSED", "PRELIMINARY" in the title. Accordingly, the first
26 impression that a Class Member received was that they were being asked to complete a Claim
27 Form for class action that had already been settled. The confusion was further exacerbated by the
28 manner in which the notice was mailed. The claim form and the settlement notice were separately

1 folded and stacked one on top of the other so a reader could quickly shuffle through and read just
2 the titles without paging through from one document to the next. Furthermore, the Class Members’
3 names and addresses were printed on the front of the Claim Form which was the stuffed in the
4 envelope stacked on top so as to be the first document to be read when opening an envelope. Due to
5 the folding of the documents and the misleading titles, a member could easily be induced to
6 complete and mail the Claim Form without even reading the body of the Settlement Notice which
7 gave no indication in its title of the lack of finality. Further confusing matters, just below the title of
8 the Settlement Notice there appears a text box referencing the *True* case with the word
9 “supersedes” underlined along with a confusing reference the says “please disregard the prior
10 notice.” A reasonable class member could be confused by that reference into believing that current
11 settlement was a final resolution of the prior matter and must be fair since this was the second
12 notice.

13 Furthermore, the mechanisms for making a claim were clearly favored over the mechanisms
14 for opting out or objecting. All one needed to do to make a claim was fill out the clearly marked
15 claim form at the top of the stack with your name and address pre-printed on it. Short of providing
16 a postage pre-paid return envelope, it could not possibly have been easier for a Class Member to
17 submit a claim. In sharp contrast however, there was no form provided for one to elect to opt-out
18 or object and the procedure for objecting was unnecessarily complicated by requiring the Class
19 Member’s signature even if represented by counsel and by requiring filing with the Court and
20 serving on five different lawyers, a complicated, unfamiliar and unfair process for your average
21 consumer. These options were buried in confusing narrative in paragraph 9 of 11 on the last two
22 pages of a lengthy document. Accordingly, it is not a surprise that a number of Class Members
23 quickly filled out the Claim Form and later regretted it after reading news about the *Peters* victory.
24 The Notice did not include clear instructions on how to change and election, or even if that was
25 possible.

26 Additionally, conspicuously absent from the Notice were the e-mail addresses and
27 telephone numbers for the five law firms that stand to share \$8.474M in fees even though
28 paragraph 9c instructs Class Members to contact them with questions about objections. This put an

1 unreasonable burden on the Class Members to either find a way to locate telephone numbers for
2 lawyers scattered about the United States, or take the time and effort necessary to actually mail a
3 letter.

4 This inadequate notice in and of itself constitutes grounds for denial of approval of the
5 proposed settlement. If there is another proposed settlement in the future, the Court should direct
6 counsel to vet the proposed notice before a focus group of consumers before submitting it to the
7 Court for pre-approval.

8 V. THE RELEASE OF CLAIMS FOR FUTURE DAMAGES IS PREMATURE
9 AND OVERBROAD IN NOT EXEMPTING PROPERTY DAMAGE CLAIMS

10 The proposed release is vague, ambiguous and overly broad even if adequate compensation
11 had been offered, which it has not. As detailed above, the software update has created a significant
12 public safety hazard for all cars that receive it. Accordingly it is reasonably foreseeable that class
13 members will incur property damage losses in the future and will be exposed to liability for
14 property damage that could be caused by the failure of their IMA batteries to properly function.
15 While the proposed release does exempt bodily damage and personal injury, it does not exempt
16 these property damage claims. This could result in a significant windfall to Honda and a
17 corresponding significant detriment to class members as these cars continue to age and batteries
18 continue to deteriorate thus, exacerbating the public safety concerns that are already very serious.

19 As discussed above, there is a significant chance that some of these cars with experience
20 battery malfunctions which leave them with insufficient power to avoid serious collisions. What if
21 a Class Member experiences an IMA malfunction in 70 mile per hour traffic on a busy freeway that
22 causes an enormous pile up and everyone sues the class member? Will Honda claim that it has
23 been released from liability to indemnify? What if a Class Member's IMA battery malfunctions
24 and causes damage to other parts of the car that are no longer covered under warranty? Or burns
25 down her house? Will Honda argue that it is not responsible for the damages?

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1 VI. CLASS MEMBERS DO NOT HAVE ENOUGH INFORMATION TO
2 EVALUATE THE VALUE OF THEIR CLAIMS & THE OVERBROAD
3 CONFIDENTIALITY ORDER PREVENTS THEM FROM LEARNING MORE

4 Class Members simply do not have enough information to judge the true value of their
5 claims and the most recently available information seems to indicate that they are worth more than
6 Class Counsel thinks or asserts. Class counsel has failed to adequately represent the interests of the
7 class in entering into an overly broad and unduly restrictive confidentiality order in the *True* case.
8 Class counsel has refused to provide a log of discovery designated confidential under that order,
9 and has refused to produce non-confidential materials such as Honda's public advertising under a
10 claim of attorney work product. Class counsel has refused to provide a log of which non-
11 confidential discovery is subject to the claimed work product privilege without a court order
12 compelling them to do so. (Exhibit H.)

13 Class Counsel has either neglected to bring the evidence attached to these objections to light
14 for proper consideration by this Court and by members of the class, or Class Counsel is willing as
15 to compromise the claims of class members down to such a minimal value, in fear of the fact that
16 the class might not maintain certification throughout the litigation. If either of these two things are
17 true, they both would dictate that approval of the proposed settlement is inappropriate.

18 VII. THE ATTORNEYS' FEES CLAIMED APPEAR TO BE UNREASONABLE IN
19 COMPARISON TO THE COMPENSATION OFFERED TO THE CLASS

20 The attorneys fees requested appear to be unreasonable and greatly disproportional to the
21 compensation awarded to the Class Members. They are also not adequately explained in sufficient
22 detail to allow class members to make an informed assessment of their reasonableness. For
23 example, how did they nearly triple from \$3M in 2009 to \$8.474M today? This issue has been
24 articulately briefed by Class Member Curtis Sahakian in his Objections to the Proposed Settlement.
25 Accordingly, Objectors Diane Kramer and Rob Bleetstein hereby join in Mr. Sahakian's objections
26 to attorneys' fees and incorporate his brief herein by this reference.

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VIII. CONCLUSION

In conclusion, Honda and Class Counsel have failed to meet their burden of proving that the Proposed Settlement is fair, reasonable or adequate and have failed to meet their burden of ensuring that the notice is given to class members to adequately apprise them of their rights and allow them reasonable means of exercising them. Accordingly the Motion to Approve the Settlement and request for attorneys' fees should be denied.

DATED: February 10, 2010

By: _____
HEATHER PETERS, ESQ.
Counsel to Objectors Kramer and Bleetstein

1 DECLARATION OF HEATHER PETERS

2 I, Heather Peters, hereby declare:

3 1. I am an attorney duly licensed to practice before the courts of the State of
4 California, and attorney of record herein for Objectors Diane Kramer and Rob Bleetstein. I make
5 this declaration of my own personal knowledge and if called as a witness I could competently
6 testify as to the truth of the matters set forth herein.

7 2. Attached hereto as Exhibit A are the signed objections to the Proposed Settlement
8 of my clients, Class Members Diane Kramer and Rob Bleetstein. Mr. Bleetstein is also a Subclass
9 Member.

10 3. Attached hereto as Exhibit B are true and correct copies of *Paduano v. American*
11 *Honda Motor Co., Inc.* alleging the same false advertising claims at issue here approximately a
12 year before Defendant made substantially similar claims in connection with the sale of my car on
13 April 23, 2006. Also attached as Exhibit B is a true and correct copy of the settlement agreement in
14 *Paduano* wherein Defendant agreed to *Paduano* \$50,000 and his attorney another \$50,000.

15 4. Attached hereto as Exhibit C is a true and correct copy of the \$9,867.19 Judgment
16 entered by the Court in my personal case against Defendant arising out of the same facts and claims
17 at issue here related to my 2006 Honda Civic Hybrid. *Peters v. American Honda Motor Co., Inc.*,
18 Los Angeles Superior Court, Small Claims Case #11s02156.

19 5. I am aware of at least three other small claims cases that have been filed against
20 Defendant that are set for trial before March 16, 2012.

21 6. Attached hereto as Exhibit D are true and correct copies of various public records
22 obtained from the EPA (not from Class Counsel) dated from 1981 through 2008 that confirm,
23 contrary to Defendant’s assertions, that Defendant had the full discretion to advertise lower fuel
24 economy numbers. These documents also include Defendant’s public comment praising a draft
25 EPA Technical Support Document which confirmed greater sensitivity of hybrids in general, and
26 the Civic Hybrid in specific, “to operating conditions which can either take full advantage of the
27 hybrid technology **or essentially nullify it.**” (Emphasis added.) Defendant’s public comment was
28

1 made via letter dated April 3, 2006, signed by William R. Willen, Managing Counsel, Product
2 Regulatory Office.

3 7. Attached hereto as Exhibit E is a true and correct copy of excerpts of a deposition
4 taken of a Honda employee in the *True* case that confirms that Mr. Willen was also responsible for
5 approving all national advertising involving fuel efficiency claims, such as the false statement
6 contained in my brochure that exclaimed: “just enjoy driving the Civic Hybrid like you would a
7 conventional gasoline-engine vehicle.” This deposition was not provided to me by Class Counsel,
8 nor did Class Counsel even tell me that it was taken! I was only able to discover it myself through
9 an exhaustive review of voluminous court records in *True v. Honda*.

10 8. Attached hereto collectively as Exhibit F are true and correct copies of over 300
11 comments regarding dissatisfaction with the performance and safety of the Honda Civic Hybrid
12 affixed to a Petition that I circulated online that was signed by over 1,300 people representing all
13 50 States and the District of Columbia who urged rejection of the proposed settlement as unfair.

14 9. When I requested replacement of my IMA battery, the service manager at Honda of
15 Hollywood informed me that Honda insists that the cars are “performing as designed” and has a
16 corporate policy of refusing to replace the IMA batteries until the battery light on the dashboard
17 comes on and they are severely deteriorated. In fact, Honda has taken a hard line with its service
18 shops and will not reimburse them for unauthorized IMA battery replacements. She also informed
19 me that the software update is irreversible as long as Honda refuses to provide the dealers with
20 access to the original version of the software.

21 10. Attached hereto collectively as Exhibit G are 37 Declarations under penalty of
22 perjury by Civic Hybrid drivers detailing numerous instances of IMA battery malfunctions that
23 endangered their lives and the lives of others. Also attached is a Declaration of a Honda
24 whistleblower. These signatures were affixed electronically using the DocuSign service in full
25 compliance with the Electronic Signatures in Global and National Commerce Act (“ESIGN”), Pub.
26 L. No. 106-229, 114 Stat. 464 (2000) (codified at 15 U.S.C. § 7001 *et seq.*) It took less than 24
27 hours for me to produce these declarations by simply sending a blast e-mail from my spare
28 bedroom asking people if their Civic Hybrids are dangerous. If I could accomplish this without

1 the benefit of formal discovery, then Class Counsel is likely sitting on a treasure trove of evidence
2 that is being withheld from the Court and Class Members under the unduly broad confidentiality
3 order in *True v. Honda*. NHTSA has confirmed that they have an open safety investigation into the
4 Honda Civic Hybrid IMA Battery issues and I have provided copies of some of these Declarations
5 to assist.

6 11. I was confused when I received the Notice of Settlement partly because of the
7 manner in which it was mailed. The claim form and the settlement notice were separately folded
8 and stacked one on top of the other so a reader could quickly shuffle through and read just the titles
9 without paging through from one document to the next. Furthermore, the my name and address
10 was pre-printed on the front of the Claim Form which was the stuffed in the envelope stacked on
11 top so as to be the first document to be read when opening the envelope. Due to the folding of the
12 documents and the misleading titles if I had not been a lawyer, I could have been easily be induced
13 to complete and mail the Claim Form without even reading the body of the Settlement Notice
14 which gave no indication in its title of the lack of finality. Further confusing matters, just below the
15 title of the Settlement Notice there appears a text box referencing the *True* case with the word
16 “supersedes” underlined along with a confusing reference the says “please disregard the prior
17 notice.” Even as a lawyer I still had to read this box more than once to understand its legal
18 implications. A reasonable class member could be confused by that reference into believing that
19 current settlement was a final resolution of the prior matter and must be fair since this was the
20 second notice.

21 12. Attached hereto as Exhibit H is a true and correct copy of my personal letter
22 advising the Settlement Administrator in this case that I wished to opt-out of this case. The e-mails
23 attached thereto are true and correct copies of correspondence that I exchanged with Class Counsel
24 wherein I requested, and was refused, access to discovery that had been conducted in my name as a
25 member of the class. As reflected therein, I offered to take vacation time to drive to local counsel’s
26 office to view the discovery at their convenience, but was refused. I requested access to non-
27 confidential discovery such as public advertising by Defendant, but was refused due to a claim of
28 work product. I requested a log of discovery that was marked confidential pursuant to court order

1 to be able to make an independent assessment of at least the quantity and type of discovery
2 conducted, but was told that no such log would be produced unless I obtained a court order
3 compelling it. I reviewed the True Confidentiality Order and found it to be grossly overbroad,
4 unnecessarily protecting information that had no valid basis to be shielded from Class Members. I
5 felt that my interests were not being adequately or appropriately protected by Class Counsel. I was
6 unable to make an informed decision as to the appropriateness of the proposed settlement given the
7 meager amount of substantive information provided by Class Counsel in support of the motion for
8 approval of the proposed settlement. Accordingly, I opted-out and pursued my small claims case.
9 Given the very successful outcome of that case without the benefit of any formal discovery (which
10 is not allowed in that forum), I find it difficult to understand why Class Counsel has agreed to such
11 an insignificant amount of compensation for the Class Members.

12 I declare under penalty of perjury and in accordance with the laws of the State of California
13 that the foregoing is true and correct and of my own personal knowledge and that this declaration
14 was executed on February 10, 2012.

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16 HEATHER PETERS
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