

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

NED SIMERLEIN, JAMES ECKHOFF,
MARICEL LOPEZ, CRAIG KAISER, JOHN
F. PRENDERGAST, RAYMOND and
ROSARIO ALVAREZ, KAREN EASON,
JENNIFER SOWERS, JENNIFER
FRANKLIN, JORDAN AMRANI,
CRYSTAL GILLESPIE, MELISSA
STALKER, DILLEN STEEBY, PAULA
McMILLIN, JOSEPH C. HARP Jr., and
JAMES and MELISSA JUGO TINNEY,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

TOYOTA MOTOR CORPORATION,
TOYOTA MOTOR NORTH AMERICA,
INC., TOYOTA MOTOR SALES, USA,
INC., TOYOTA MOTOR ENGINEERING &
MANUFACTURING NORTH AMERICA,
INC., and TOYOTA MOTOR
MANUFACTURING, INDIANA, INC.,

Defendants.

Case No. 3:17-cv-01091-VAB

**PLAINTIFFS' REPLY IN SUPPORT OF
THEIR MOTIONS FOR FINAL
APPROVAL OF SETTLEMENT AND
FOR ATTORNEYS' FEES, EXPENSES,
AND SERVICE AWARDS TO THE
CLASS REPRESENTATIVES**

Plaintiffs respectfully submit their reply in support of their Motions for Final Approval of Settlement and Certification of Settlement Class (ECF 107) and for Attorneys' Fees, Expenses, and Service Awards to the Class Representatives (ECF 122). Although no opposition has been filed to either Motion, Plaintiffs file this short reply to update the Court on the current status of the two filed objections, the final number of Class Members seeking exclusion, and expert work that has been done to provide a valuation of the proposed Settlement. Each of these developments lend even greater support for final approval of the proposed Settlement and the award of the requested attorneys' fees, expenses, and Class Representative Service Awards.

Objections and Exclusions: Plaintiffs are pleased to report that there may no longer be any objections to the proposed Settlement. One of the objectors, Ms. Shultz, has already withdrawn her objection. ECF 127. The other objector, Ms. Lyons, did not file any opposition to Plaintiffs' Motions and has instead advised Plaintiffs that she has scheduled a repair appointment for her vehicle for May 29, 2019 and intends to withdraw her objection the following day, May 30, assuming the repairs are completed satisfactorily. In the event that Ms. Lyons does not withdraw her objection after that date, Plaintiffs will file a supplemental statement addressing her objection by June 1, three days before the final approval hearing on June 4.

As of May 14, 2019, only 68 requests for exclusion from the Class have been filed.¹ See ECF 128, Declaration of Jeanne Finegan ¶ 3. The extremely low number of exclusions (only 0.0052% percent of approximately 1.3 million Class Members), as well as the potential absence of *any* objections, provides powerful support for final approval of the Settlement. As this Court has previously noted, "One of the factors most courts consider is the reaction of the absent class members, specifically the quality and quantity of any objections and the quantity of class members who opt out." *Edwards v. N. Am. Power & Gas, LLC*, No. 3:14-cv-01714(VAB), 2018 WL 3715273, at *10 (quoting 4 Newberg on Class Actions § 13:54 (5th ed.)).

Settlement Valuation: As part of its evaluation of the proposed Settlement, this Court will compare Plaintiffs' requested attorneys' fees to the benefits that the Class stands to receive under the Settlement. To assist the Court in this task, Plaintiffs have consulted with Gary Olsen at Glass Ratner, who brings more than 20 years of experience in litigation consulting, including valuation

¹ While the deadline for filing exclusions passed on May 3, 2019, Plaintiffs do not contest the validity of any late-filed exclusions.

calculations. Applying very conservative assumptions, Mr. Olsen has estimated the value of the various components of the Settlement as follows:

- Even assuming that less than 150,000 vehicle owners take advantage of the inspection, Mr. Olsen estimates the total value of the inspection component to be **\$7.9 million**. Ex. A, Declaration of Gary Olsen ¶¶ 9-13.
- Based on the market value of extended warranty plans for these vehicles, Mr. Olsen estimates the total value of the extended warranty provided by the proposed Settlement to be **\$22.3 million**. *Id.* ¶¶ 14-15.
- Finally, based on the claims that have already been received, Mr. Olsen estimates that the reimbursement of out-of-pocket expenses will total **\$3.4 million**. *Id.* ¶ 18.
- In total, Mr. Olsen has calculated a valuation for the Settlement of **\$33.6 million**. *Id.* ¶ 20.

“Traditionally, courts in this Circuit and elsewhere have awarded fees in the 20%-50% range in class actions.” *In re Warner Communications Sec. Litig.*, 618 F. Supp. 735, 749 (S.D.N.Y. 1985), *aff’d*, 798 F.2d 35 (2d Cir. 1986). Applying Mr. Olsen’s estimated valuation, Class Counsel’s requested fee of \$6,500,000 represents just 16.2 percent of the total settlement. This places Class Counsel’s request well under the low end of the 20-50 percent range, which strongly supports approval of the request.

For all of these reasons, as well as those stated in Plaintiffs’ opening Motions, Plaintiffs’ Motions for Final Approval of Settlement and Certification of Settlement Class and for Attorneys’ Fees, Expenses, and Service Awards to the Class Representatives should both be granted.

Dated: May 24, 2019

Respectfully submitted,

PLAINTIFFS

By: /s/ David A. Slossberg

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& KNUFF, LLC**

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CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2019, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF system.

/s/ David A. Slossberg

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

IN RE: Toyota Sienna Door Settlement

CASE No. 3:17 –cv-01091-VAB

DECLARATION OF GARY OLSEN, CPA/ABV

1. My name is Gary Olsen and I am a Senior Managing Director at GlassRatner Advisory and Capital Group, LLC (“GlassRatner”), a multi-office specialty financial advisory services firm headquartered in Atlanta, Georgia, U.S.A. that provides services primarily relating to: forensic accounting and litigation support; bankruptcy and restructuring; business valuation; and mergers and acquisitions. I am a resident of Los Angeles County, California, U.S.A., and I am over twenty-one years of age. I have personal knowledge of the facts stated herein unless otherwise stated.

2. I have been engaged on various types of litigation consulting matters including, but not limited to, valuation, forensic accounting, intellectual property, breach of contract, and other similar disputes. For more than 20 years, I have directed and performed valuation calculations, forensic accounting analyses and estimates of economic harm in the context of litigation. I have investigated allegations of employee embezzlement, asset misappropriation, and financial reporting fraud in the aerospace, banking, construction, education, healthcare, hospitality, real estate, retail, security, and telecommunications industries

3. I hold a Master of Accountancy degree and Bachelor of Science degree in Accounting from Brigham Young University. In addition to my education and experience, I am also a Certified Public Accountant, licensed by the state of California, and accredited by the AICPA (American Institute of Certified Public Accountants) in business valuation (ABV). My

curriculum vitae and a list of the testimony I have provided are attached as **Appendix A** and **Appendix B**.

4. I have testified as an economic damages expert on several occasions in State and Federal courts, mediations and arbitrations. For my work as an expert in this litigation, I am being compensated in the amount of \$450.00 per hour.

Background

5. I understand that the parties have agreed to a proposed settlement related to claims that the sliding doors in certain Sienna vehicles are defective.¹ Toyota Sienna vehicles from model years 2011 to 2018 are included in this proposed settlement. The claimed defects pertain to six sliding-door parts, including (collectively, the “Sienna Door Parts”):²

1. Sliding Door Cable Sub-Assembly
2. Sliding Door Center Hinge Assembly
3. Fuel Door Pin and Fuel Door Hinge
4. Sliding Door Front Lock Assembly
5. Sliding Door Rear Lock Assembly
6. G04 Recall Remedy Kit

6. As part of the proposed settlement, the Toyota defendants have offered several potential benefits to class members, including the following:

1. **Sienna Sliding Door Functional Inspection**—within one year from the Final Order, customers can have Toyota perform a five-step inspection to determine if any of the Sienna Door Parts need to be repaired or replaced;
2. **Extended Warranty on the Sienna Door Parts**—Toyota will extend the warranty on the Sienna Door Parts up to 10 years from the vehicles first date of use;
3. **Loaner Vehicle**—for any repairs requiring more than four hours, Toyota will provide a loaner vehicle; and
4. **Expense Reimbursement**—for customers that paid to repair or replace any of the covered Sienna Door Parts, customers may submit a claim for reimbursement for any expenses incurred prior to March 31, 2019.

¹ Draft Long Form Notice.pdf

² Ibid.

Scope of GlassRatner's Review and Examination

7. GlassRatner was retained in May 2019 by Counsel for Plaintiffs on behalf of the Classes to value the benefits offered to the Class as part of the proposed settlement. Based on information provided by Toyota and publicly available information, we have developed a financial model that calculates the value of each of the four benefits offered to the Class. I discuss each valuation calculation in detail below.

Sienna Sliding Door Inspection

8. I understand that customers have one year from the date of the Final Order to bring their vehicle in to a Toyota dealership, who will perform a five-step inspection to determine if any of the Sienna Door Parts will require repair or replacement.

9. Valuing this benefit involves several steps, including (1) determining the labor required by Toyota to perform an inspection, (2) determining the materials required by Toyota to perform the inspection, (3) estimating the number of vehicles likely to participate in the inspection, and (4) estimating the number of inspections resulting in repairs to or replacements of any of the six Sienna Door Parts.

10. Toyota has provided the total labor needed to perform the inspection. According to Toyota, it will require \$54.50 in labor to perform the inspection. Thus, the value of each inspection is approximately \$54.50.

11. Prior to this proposed settlement, approximately 495,000 customers brought their Sienna vehicle into a Toyota dealership for the G04 Recall.³ This is out of a population of 744,000 vehicles for model years 2011 through 2016. For the 220,000 customers that did not participate in the G04 Recall, it is unreasonable to assume that they would now participate in

³ National Highway Traffic Safety Administration Recall Quarterly Report #6 16V-858, Toyota Motor Engineering & Manufacturing.

this inspection. Accordingly, I have excluded those vehicles from the inspection valuation. In addition to the 2011 to 2016 model year vehicles, there are 111,500 2017 model year vehicles and 88,700 2018 model year vehicles subject to the Settlement.⁴

12. For the 2017 and 2018 model year vehicles, I have applied the overall G04 Recall participation rate during the first year of the recall. During the first year of the G04 Recall, approximately 433,000 customers out of a relevant recall population of 720,000 participated in the recall—or approximately 60%.⁵ Therefore, I have assumed that 60% of the 2017 and 2018 model year vehicles would participate in the Sienna Sliding Door Inspection.

13. For the 2011 to 2016 model years that did participate in the G04 Recall (approximately 495,000 vehicles), the question becomes how many of these customers will bring their vehicles back a second time. I understand that there is an overall recall fatigue in the auto industry, which indicates a low percentage of these customers are likely to bring their vehicle back that has already received a replacement part.⁶ If one assumes a rate of 15% for those G04 Recall participants, then an additional 25,000 customers will bring in their vehicles for the Sienna Sliding Door Inspection. In total I have estimated that 144,667 customers will bring in their vehicles for the Sienna Sliding Door Inspection. At a value of \$54.50 per inspection, the total inspection value is \$7.9 million (see **Schedule 3**).

Extended Warranty

14. As discussed above, Toyota has offered to extend the warranty on the Sienna Door Parts up to 10 years total from the date of first use of the vehicle. The actual warranty

⁴ Toyota U.S. Sales Summaries 2011 through 2018 - Manufacturers, ANDC.

⁵ National Highway Traffic Safety Administration Recall Quarterly Report 16V-858 Toyota Motor Engineering & Manufacturing.

⁶ <https://www.motortrend.com/news/recall-fatigue-dirty-secret-affecting-millions-cars-reference-mark/>

extension varies by part and by model year of the Sienna vehicle, as shown in the following table:

Table 1

Sienna Door Part	Warranty Extension	Model Years
Sliding Door Cable Sub-Assembly	Extended to 10 years	2011-2018
Sliding Door Center Hinge Assembly	Extended to 10 years	2011-2018
Fuel Door Pin and Fuel Door Hinge	Extended to 10 years	2011-2018
Sliding Door Front Lock Assembly	Extended 1 additional year Extended to 10 years	2011-2016 2017-2018
Sliding Door Rear Lock Assembly	Extended 1 additional year Extended to 10 years	2011-2015 2016-2018
G04 Recall Remedy Kit	Extended one additional year	2011-2016

15. Toyota routinely offers extended warranty options on its vehicles that extends the life of the warranty for parts similar to the Sienna Door Parts as part of its Toyota Platinum Protection plan.⁷ This plan is offered over a variety of terms and covers approximately 114 different components, including sliding-door systems. Upgrading an extended warranty plan on a new vehicle over the Gold or Powertrain plans is approximately \$100 per year.⁸ Thus, the consumer cost per component is approximately \$0.88 per year. By applying this rate to the six Sienna Door Parts, it is possible to calculate the total warranty value provided to the Class by Toyota, which is \$22.3 million as shown in the following table (see **Schedule 4**):

Table 2

Sienna Door Part	Model Years
Sliding Door Cable Sub-Assembly	\$5,748,713
Sliding Door Center Hinge Assembly	\$5,748,713
Fuel Door Pin and Fuel Door Hinge	\$5,748,713
Sliding Door Front Lock Assembly	\$1,869,461
Sliding Door Rear Lock Assembly	\$2,542,045
G04 Recall Remedy Kit	\$646,542
Total	\$22,304,187

⁷ https://www.toyotafinancial.com/us/en/vehicle_protection_plan/vehicle_service_agreements.html. (accessed May 22, 2019).

⁸ Based on information provided by local Toyota dealers.

Loaner Vehicle

16. As part of the proposed settlement, Toyota has offered a loaner vehicle to any customer requiring service on any of the Sienna Door Parts that lasts more than four hours. Valuing this benefit involves several steps, including (1) determining the number of customers that will require repairs involving the Sienna Door Parts that will take more than 4 hours, (2) applying an appropriate rental rate, and (3) estimating the number of instances that require more than one day.

17. Based on the G04 Recall, Toyota estimated that it took between 2.5 to 3 hours to perform the recall service, which included two for the six Sienna Door Parts.⁹ Using the low end of this estimate, Toyota will require 1.25 hours per part for repairs or replacements. Thus, to exceed a total of four hours, a customer would require an inspection result that found at least three defective parts (including the inspection time). In the G04 Recall, I understand that a \$35 per day loaner vehicle fee was used.¹⁰ Even if one assumes an anticipated default rate of 5%, it is unlikely that many customers will require a repair of at least three parts that would last more than four hours. Thus, I have concluded that the value of this benefit is immaterial (see **Schedule 5**).

Expense Reimbursement

18. I understand that some customers have paid for repairs or services related to the Sienna Door Parts and that Toyota has offered to reimburse these expenses incurred prior to March 31, 2019.¹¹ Given that nearly 500,000 customers have participated in the G04 Recall and that the 2017 and 2018 models should still be under warranty, it is likely that only a small portion of the remaining 220,000 vehicles would have incurred such expenses, which is

⁹ Toyota Safety Recall G04 (Interim G14) - D, p. 14.

¹⁰ Toyota Motor North America Safety Recall G04 (Interim G14) – D, p. 2.

¹¹ Draft Long Form Notice.pdf.

consistent with the number of claims received to date. I have assumed that only the remaining population of approximately 220,000 were candidates for these out-of-warranty repairs.

19. Based on claims received to date and the remaining period available to submit claims, I have assumed that only 0.6% of these vehicles might have incurred these repair expenses.¹² Using the part values obtained from Toyota, the labor required for each part repair (\$136.25 total), and the estimated claim submission rate (0.6%), I was able to calculate an estimated value of expense reimbursements, which would be approximately \$3.4 million (see **Schedule 6**).

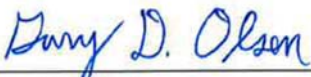
Total Value of the Proposed Settlement

20. Combining all of the calculations for each of the four proposed Class benefits results in a total value of approximately \$33.6 million (see **Schedule 1**).

Table 3

Description	Estimated Value
Inspection Value	\$7,884,357
Warranty Value	22,304,187
Loaner Vehicle Value	665
Expense Reimbursement Value	3,412,890
Total Estimated Value	\$33,602,099

21. I declare under penalty of perjury that the foregoing is true and correct. Executed on the 24th Day of May, 2019.



 Gary D. Olsen

¹² To date, 652 claims have been submitted per Toyota over a period of approximately two months. It is possible during the remaining two month period Toyota could receive a similar number of additional claims. Thus, I have assumed the rate of 0.6% (1,300 claims divided by a population of 224,611).

Appendix A

Gary Olsen Curriculum Vitae

GARY D. OLSEN, CPA/ABV, CPVA

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For more than 20 years Mr. Olsen has worked on lost profits damages matters, general damages disputes, intellectual property, forensic accounting, corporate investigations, and valuation disagreements. He has qualified and been designated as an expert on breach of contract, intellectual property, and other damages matters. He has testified at trial (Federal and State Courts), deposition, arbitration and presented testimony at mediation in the context of intellectual property, forensic accounting, breach of contract and investigations matters. Mr. Olsen has presented findings to corporate executives, legal counsel, boards of directors, and government entities.

RANGE OF EXPERIENCE

- *Intellectual Property Matters:*
 - Provided rebuttal reports on design patent damages on behalf of a consumer products company (2017).
 - Provided testimony (2016 Deposition) on patent infringement damages on behalf of an apparel company.
 - Provided testimony (2016 Deposition) on trade secrets damages on behalf of a stop-loss medical insurance underwriter.
 - Provided testimony (2014 Deposition, 2015 Trial) on patent infringement damages on behalf of a medical device manufacturer.
 - Provided testimony (2014 International Arbitration) in a technology license dispute involving out-of-territory sales made by a licensee of industrial wire saws.
 - Issued report on reasonable royalty damages (2015) against a Smartphone manufacturer on behalf of a plaintiff that owned multiple patents covering certain Smartphone features.
 - Provided declaration on purported economic value of trade secrets allegedly misappropriated by a former employee.
 - Retained as an expert to value a telecommunications patent related to the disputed ownership of the patent.
 - Estimated damages resulting from lost profits, unjust enrichment, and lost royalties.
 - Calculated damages in patent, copyright, and trade secret cases in the consumer products, technology, medical devices, computer, entertainment and automotive industries.
 - Analyzed causation, apportionment, licensing, profitability, and design-around issues.
 - Representative engagements:
 - Calculated lost profits and reasonable royalty damages in a defendant-side patent infringement matter in the computer hardware.
 - Calculated lost profits and reasonable royalty damages in a defendant-side patent infringement matter in the medical devices industry.
 - Developed rebuttal opinions for lost profits damages in a patent infringement and anti-trust dispute in the computer hardware industry.

GARY D. OLSEN
SENIOR MANAGING DIRECTOR

- Assessed lost profits and unjust enrichment damages related to trade secret, breach of contract and unfair competition claims related to the failed acquisition of a television home-shopping channel.
 - Determined reasonable royalties for a digital music service provider involved in a licensing dispute with sound recording performance right holders in the sound recording and distribution industries.
- *Corporate Investigations and Forensic Services:*
 - Testified at arbitration (2018) on behalf of defendants involving the allocation of environmental clean-up costs related to a Superfund site. I provided rebuttal testimony involving cost allocation claims made by the plaintiff's expert.
 - Testified in a real-estate foreclosure matter involving claims of disputed ownership by the Department of Justice (2017 and 2018 Deposition). My analysis involved numerous inter-party and related-party transactions related to the subject property.
 - Retained as a consulting and damages expert related to an investigation of health care billing fraud involving surgery centers accused of over billing and performing unnecessary pain management procedures.
 - Presented findings at mediation (2012) and filed a report as a neutral third-party forensic accounting expert to investigate cash receipts that were allegedly withheld from the joint venture between of a major metropolitan area and its ambulance provider.
 - Performed investigations into malfeasance, embezzlement and securities fraud perpetrated by various corporate officers, management, accounting personnel and federal grant recipients.
 - Performed investigations across numerous industries that included aerospace, government & not-for-profit, entertainment, telecommunications, software, e-business, higher education and high-tech manufacturing.
 - Representative engagements:
 - Retained as a consulting expert to investigate claims of underpayment in the credit card processing industry. I performed a forensic reconciliation of the customer's and the client's data.
 - Directed the forensic reconciliation of all amounts billed, owed, and paid for a multi-billion dollar commercial construction project stemming from a large payment dispute between the general contractor and project owner.
 - Assisted a large bank respond to an SEC investigation involving mortgage-backed securities, which involved analyzing millions of loan transactions and assessing the bank's repurchase obligations based on the receipt of settlement funds from loan originators.
 - *Breach of Contract, Lost Profits, and Other Damages Matters:*
 - Provided testimony (2017 Deposition) on a breach of contract and breach of fiduciary duty matter involving investor returns stemming from the construction of a luxury hotel on behalf of plaintiff investors.
 - Provided testimony (2014 Deposition, 2015 Trial) on breach of fiduciary duty damages involving disgorgement and lost profits on behalf of a medical device manufacturer.
 - Provided rebuttal testimony (2014 Deposition) on behalf of an apparel manufacturer regarding lost profits as a result of alleged misappropriated trade secrets and breaches of several contracts.

GARY D. OLSEN
SENIOR MANAGING DIRECTOR

- Provided testimony (2013 Deposition and Arbitration) regarding lost profits suffered by radiology lab that lost a capitated customer due to a disruption caused by a former minority partner.
- Testified (2013 Arbitration) about the validity and completeness of data used by an opposing expert to calculate damages in a breach of contract matter.
- Managed, directed and performed the economic and financial analysis of liability and damages issues arising in complex commercial litigation with an emphasis on breach of contract litigation.
- Retained as an expert on breach of contract matter in the construction industry. I filed declarations (2013) regarding the adequacy of accounting data provided by the plaintiff.
- Representative engagements:
 - Identified lost profits resulting from lost stadium seats for a professional football team due to government mandated refurbishments.
 - Determined lost profits damages for multiple plaintiffs against a payroll service provider that cancelled software licenses for a payroll program that was used as the basis for regional payroll service providers.
 - Calculated hourly profits earned over a multi-year period on sales of excess electricity capacity by a public utility in association with the alleged breach of a profit sharing agreement.
- *Valuation and Merger & Acquisition Matters:*
 - Provided testimony at trial and deposition (2018 Trial) on behalf of the seller of a business process outsourcing firm regarding the value received for the company and benefits received by key personnel.
 - Valued businesses in the context of litigation within the entertainment, professional services, pharmaceuticals, real estate, and health care industries.
 - Led the economic and financial analysis on large mergers and acquisitions disputes covering the areas of deal terms and conditions, transaction structure, material adverse event clauses, adequacy of consideration, fairness of premiums received by different classes of shareholders, compensation received by related parties, and duties of the board of directors.
 - Representative engagements:
 - Recalculated the value of a recently acquired auto-parts manufacturer based on fraudulently withheld information.
 - Valued a pet pharmaceutical business to determine if built-in gains existed for tax purposes as a result of a previous S-corporation election.
 - Determined whether shareholders received adequate value for the sale of a social media website to a third-party investor.
 - Researched dual-class company acquisitions to determine if premiums received by certain shareholders were warranted.

GARY D. OLSEN
SENIOR MANAGING DIRECTOR

PROFESSIONAL EXPERIENCE

3/15 – Present	GlassRatner Advisory & Capital Group LLC <i>Senior Managing Director</i>	Los Angeles, California
9/02 – 3/15	Cornerstone Research, Inc. <i>Senior Manager</i>	Los Angeles, California
1998 – 2002	PricewaterhouseCoopers <i>Senior Associate</i>	Los Angeles, California

ACADEMIC BACKGROUND

1996 – 1997	Brigham Young University <i>Master of Accountancy</i>	Provo, Utah
1993 – 1997	Brigham Young University <i>B.S., Accounting</i> <ul style="list-style-type: none">• BYU Honors Graduate	Provo, Utah

LICENSES AND ACCREDITATIONS

Certified Public Accountant, California
Accredited in Business Valuation: from AICPA
Certified Patent Valuation Analyst

CONFERENCE PARTICIPATION

SUSPECT: An Introduction to Forensic Accounting Recurring Instructor, Los Angeles, California, Dallas, Texas, Washington D.C.	1999 – 2001
Instructor: Associate Training Recurring Instructor on Cost Accounting and Intellectual Property, San Francisco	2003 – 2008

OTHER ACTIVITIES

Certified by John Reid & Associates in Advanced Interviewing and Interrogations
Trained in Data Mining and Recovery
Voluntary Representative for the *Church of Jesus Christ of Latter Day Saints*,
Copenhagen, Denmark

1991 – 1993

PERSONAL

U.S. Citizen. Married with two children.

Appendix B

Gary Olsen Prior Testimony

Reports and Testimony of Gary D. Olsen, CPA/ABV

Chemtronics, Inc. v. Northrop Grumman Systems Corporation (American Arbitration Association, Case No. 01-17-0007-1884). Report submitted on behalf of Defendant in rebuttal to plaintiff's opinions on costs allocated to past owners of an environmental cleanup site on August 24, 2018. Testimony provided at arbitration on November 15, 2018.

Robert C. Baral v. David Schnitt (Superior Court of the State of California, County of Los Angeles, Case No. BC475350). Deposition provided on behalf of Defendant regarding the valuation received for a business process outsourcing company and the benefits received by the parties involved in the acquisition on October 5, 2018. Trial testimony provided on November 8, 2018.

United States of America v. Ronald Talmage et al. (United States District Court, District of Utah, Northern Division, No. 1:16-cv-00019-EJF). Deposition provided on behalf of Plaintiff regarding inter-company and related-party transfers related to the subject real estate on September 15, 2017. Supplemental deposition testimony provided on October 10, 2018.

4 Corners Holdings, LLC v. Sam Nazarian et al. (Superior Court of the State of California, No. BC579079). Deposition provided on behalf of Plaintiff regarding damages to minority investor on January 9, 2017. Declaration regarding effect of new testimony on models submitted on July 21, 2017.

Linco, Inc. v. Top Lighting Corporation (United States District Court, Central District of California, No. 5:15-cv-01589-JVS-KKx). Rebuttal report submitted on behalf of Top Lighting regarding damages claimed relating to a design patent on December 23, 2016.

Bragel International, Inc. v. Styles for Less, Inc., et al. (USDC, Central District of California, No. 8:15-cv-01756-R (FFMx)). Reports submitted on behalf of Plaintiff regarding lost profits and reasonable royalty damages resulting from patent infringement. Deposition provided on September 13, 2016.

HCC Insurance Holdings, Inc. v. Valda Flowers et al (USDC, Northern District of Georgia, No. 1:15-cv-03262-WSD). Rebuttal report submitted on behalf of Defendants regarding the damages claimed from the alleged misappropriation of trade secrets in the stop-loss medical insurance industry. Deposition provided on June 10, 2016.

Tactile Feedback Technology, LLC v. Samsung Electronics America, Inc. (USDC, Eastern District of Texas – 2:14-cv-940). Report on patent infringement damages submitted on behalf of Tactile, dated November 2, 2015.

AngioScore, Inc. v. TriReme Medical, Inc. (USDC, Northern District of California – C 12-03393 YGR). Trial testimony provided on April 16, 2015 and September 17, 2015. Deposition on December 9 and December 16, 2014. Second Supplemental Report filed November 15, 2014 and Supplemental Report filed August 15 2014 on breach of fiduciary duty damages and Report on patent infringement damages submitted on behalf of AngioScore, dated February 7, 2014.

Global Trim Sales, Inc. v. Checkpoint Systems Ltd. (USDC, Central District of California – SACV 12-01314 JST). Rebuttal report submitted on behalf of Checkpoint Systems regarding trade secrets damages. Deposition on rebuttal opinions provided June 9, 2014.

Applied Materials Switzerland Sarl v. Toyo Advanced Technologies Co., Ltd. (Arbitration – No. 17922/FM/MHM/EMT). Report submitted on behalf of Applied Materials regarding the breach of a trade secret license agreement. Testimony on damages provided on January 15, 2014.

MMurphy Design, LLC v. New Generation Ideas, LLC (Arbitration). Report submitted on behalf of New Generation Ideas, LLC, dated October 11, 2013 regarding excess project costs incurred.

Festus B. Dada v. KM Strategic Management (Arbitration – JAMS Case No. 1220043 943). Testimony given on behalf of KM Strategic Management regarding lost profits stemming from a breach of contract. Deposition testimony given on September 12, 2013.

Net-com Services, Inc. v. Eupen Cable USA, Inc. et al (USDC, Central District of California). Declaration on behalf of Eupen Cable USA, Inc. regarding the sufficiency of accounting information for purposes of calculating lost profits in a breach of contract matter, dated September 24, 2013. Declaration on behalf of Eupen Cable USA, Inc. regarding the sufficiency of accounting information for purposes of calculating lost profits in a breach of contract matter, dated June 25, 2013. Declaration on behalf of Eupen Cable USA, Inc. regarding the sufficiency of accounting information for purposes of calculating lost profits in a breach of contract matter, dated October 23, 2012.

Grant/Seebeck International, LLC v. First Data Merchant Services Corporation (Arbitration – AAA Case No. 13 199 0244 01). Testimony provided March 2013. Report submitted on behalf of Grant/Seebeck, dated December 7, 2012 regarding the reliability of data used in a breach of contract matter.

Guru Denim, Inc. v. ARE Inc. Report submitted on behalf of Guru Denim regarding lost profits related to a malicious prosecution matter. Declarations regarding the content of the expert report, dated October 4, 2012 and November 5, 2012.

Simerlein, et al., v. Toyota Motor Corporation, et al.**Estimated Value Summary**

Description	Estimated Value
[a] Inspection Value	\$7,884,357
[b] Warranty Value	22,304,187
[c] Loaner Vehicle Value	665
[d] Expense Reimbursement Value	3,412,890
Total Estimated Value	\$33,602,099

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- [a] Schedule 3.
 - [b] Schedule 4.
 - [c] Schedule 5.
 - [d] Schedule 6.

Simerlein, et al., v. Toyota Motor Corporation, et al.**Estimated Inspection Participation Rate**

Description	2011 - 2016	2017	2018	Total
[a] Total Number of Subject Vehicles Sold		111,489	87,672	
[b] Subject Vehicles That Received G04 Recall Service	495,793			
[c] Estimated Recall Participation Rate	5%	60%	60%	
[d] Estimated Number of Recall Participant Vehicles	24,790	67,107	52,771	144,667

[a] See Toyota U.S. Sales Summaries 2011 through 2018 - Manufacturers, ANDC.

[b] See National Highway Traffic Safety Administration Recall Quarterly Report #6 16V-858, Toyota Motor Engineering & Manufacturing.

[c] 2011 - 2016 **Estimated**. 2017 and 2018 calculated by first taking the sum of total Recall Population, less Total Unreachable, less Total Removed = Relevant Recall Population. Second, taking the Total Remedied / Relevant Recall Population = subject Vehicles That Received G04 Recall Service. See National Highway Traffic Safety Administration Recall Quarterly Report #6 16V-858, Toyota Motor Engineering & Manufacturing.

[d] Number of Subject Vehicles * Recall Participation Rate.

Simerlein, et al., v. Toyota Motor Corporation, et al.**Estimated Inspection Value**

Description	Value
[a] Estimated Value of Inspection per Relevant Participant	\$54.50
[b] Estimated Number of Relevant Recall Participants	144,667
[c] Estimated Inspection Value	<u>\$7,884,357</u>

[a] Provided by Toyota.

[b] See Schedule 2.

[c] = [a] * [b].

Simerlein, et al., v. Toyota Motor Corporation, et al.

Estimated Warranty Value

		Warranty Values by Year							Total		
		2011	2012	2013	2014	2015	2016	2017	2018		
[1]	Vehicle Model Year Number of Vehicles Sold	[a]	111,429	114,722	121,117	124,502	137,497	127,791	111,489	87,672	
[2]	Estimated Cost per Part	[b]	\$0.88	\$0.88	\$0.88	\$0.88	\$0.88	\$0.88	\$0.88	\$0.88	
Sliding Door Cable Sub-Assembly											
	Additional Warranty Years	[c]	7	7	7	7	7	7	7	7	
	Additional Warranty Value	[d] = [a] * [b] * [c]	\$684,213	\$704,433	\$743,701	\$764,486	\$844,280	\$784,682	\$684,582	\$538,337	\$5,748,713
Sliding Door Center Hinge Assembly											
[3]	Additional Warranty Years	[e]	7	7	7	7	7	7	7	7	
	Additional Warranty Value	[f] = [a] * [b] * [e]	\$684,213	\$704,433	\$743,701	\$764,486	\$844,280	\$784,682	\$684,582	\$538,337	\$5,748,713
Fuel Door Pin and Fuel Door Hinge											
[3]	Additional Warranty Years	[g]	7	7	7	7	7	7	7	7	
	Additional Warranty Value	[h] = [a] * [b] * [g]	\$684,213	\$704,433	\$743,701	\$764,486	\$844,280	\$784,682	\$684,582	\$538,337	\$5,748,713
Sliding Door Front Lock Assembly											
[3]	Additional Warranty Years	[i]	1	1	1	1	1	1	7	7	
	Additional Warranty Value	[j] = [a] * [b] * [i]	\$97,745	\$100,633	\$106,243	\$109,212	\$120,611	\$112,097	\$684,582	\$538,337	\$1,869,461
Sliding Door Rear Lock Assembly											
[3]	Additional Warranty Years	[k]	1	1	1	1	1	7	7	7	
	Additional Warranty Value	[l] = [a] * [b] * [k]	\$97,745	\$100,633	\$106,243	\$109,212	\$120,611	\$784,682	\$684,582	\$538,337	\$2,542,045
G04 Recall Remedy Kit											
[3]	Additional Warranty Years	[m]	1	1	1	1	1	1	0	0	
	Additional Warranty Value	[n] = [a] * [b] * [m]	\$97,745	\$100,633	\$106,243	\$109,212	\$120,611	\$112,097	\$0	\$0	\$646,542
	Total Warranty Values by Year	[o] = [d] + [f] + [h] + [j] + [l] + [n]	\$2,345,874	\$2,415,200	\$2,549,832	\$2,621,095	\$2,894,674	\$3,362,921	\$3,422,908	\$2,691,684	\$22,304,187
	Total Warranty Value										

[1] Number of Vehicles sold per Toyota U.S. Sales Summaries 2011 through 2018 - Manufacturers, ANDC.

[2] Schedule 7.

[3] See Draft Long Form Notice.

Simerlein, et al., v. Toyota Motor Corporation, et al.**Estimated Loaner Vehicle Value****Provided for Subject Vehicles Undergoing Repairs That Exceed Four Hours**

Number of Parts Requiring Repair	Number of Inspected Vehicles	Vehicles Requiring Repair	Repair Time per Part	Cumulative Repair Time
[a]	[b]	[c]	[d]	
Inspection	144,667			
1		7,233	1.25	1.25
2		362	1.25	2.50
3		18	1.25	3.75
4		1	1.25	5.00
5		0	1.25	6.25
[e] Number of Subject Vehicles Exceeding Four Hours of Repairs			19	
[f] Daily Rental Rate			\$35.00	
[g] Average Number of Rental Days			<u>1</u>	
[h] Estimated Rental Value			\$35.00	
[i] Total Estimated Loaner Vehicle Value			\$665	

[a] See Draft Long Form Notice.

[b] See Schedule 2.

[c] Calculated taking the % of Estimate of Parts Found that Needed Repair or Replacement * Number of Inspected Vehicles = Vehicles Requiring Repair for 1 Part. Subsequent calculations take the prior count of Vehicles Requiring Repair and * % of Estimate Parts Found that Needed Repair or Replacement.

[d] Repair Time per Part estimated labor of 1.25 based on 2.5 hour time allotment for two components per Toyota Safety Recall G04 (Interim G14) - D, p. 14.

[e] Sum of Vehicles Requiring Repair for Parts 3 (169), 4 (17) and 5 (2).

[f] See toyota Motor North America Safety Recall G04 (Interim G14) - D, p. 3.

[g] Estimate.

[h] = [f] * [g]

[i] = [e] * [h]

Simerlein, et al., v. Toyota Motor Corporation, et al.**Estimated Expense Reimbursement Value**

Part Description	Repair Rate Out of	Non-Recall	Labor	Total Labor	Total Material	Total Repair	
[a]	Part Value	Warranty Vehicles	Vehicles	Value	Value	Value	
	[b]	[c]	[d]	[e]	[f]	[g]	
						[h]	
Sliding Door Cable Sub-Assembly	\$301	0.6%	224,611	136.25	\$177,125	\$391,690	\$568,815
Sliding Door Center Hinge Assembly	301	0.6%	224,611	136.25	\$177,125	391,690	568,815
Fuel Door Pin and Fuel Door Hinge	301	0.6%	224,611	136.25	\$177,125	391,690	568,815
Sliding Door Front Lock Assembly	301	0.6%	224,611	136.25	\$177,125	391,690	568,815
Sliding Door Rear Lock Assembly	301	0.6%	224,611	136.25	\$177,125	391,690	568,815
G04 Recall Remedy Kit	301	0.6%	224,611	136.25	\$177,125	391,690	568,815
Total Repair Parts Retail Value	\$1,808						\$3,412,890

[a] See Draft Long Form Notice.

[b] The average value per part provided by Toyota.

[c] Based on information from Toyota that approximately 1,300 claims have been received divided by 224,611 possible vehicles.

[d] Calculated as Relevant Recall Population (720,404), less (495,793) Subject Vehicles That Received G04 Recall Service = 224,611.

[e] Labor value provided by Toyota.

[f] = [c] * [d] * [e]

[g] = [b] * [c] * [d]

[h] = [f] + [g]

Simerlein, et al., v. Toyota Motor Corporation, et al.**Estimated Cost Per Part Per Year with Extended Warranty**

Covered Components [1]	Number of Components by PI			Difference	
	Platinum	Gold			
Air Conditioning/Heating	25	21		4	
Automatic Transmission	9	9		0	
Axle Assembly	14	14		0	
Brakes	15	10		5	
Computer & Electronics	31	17		14	
Cooling System	14	10		4	
Electrical	62	33		29	
Engine	51	33		18	
Fuel System	14	12		2	
Hybrid/ Alternative Fuel	29	29		0	
Manual Transmission	14	9		5	
Steering	17	15		2	
Suspension	18	10		8	
Additional Components	23	0		23	
Total Components:	336	222		114	[a]
Approximate Incremental Platinum Warranty Cost per Year [2]				\$100.00	[b]
Incremental Cost per Part				\$0.88	[c] = [b] / [a]

[1] Per Toyota's Comparison of Offered Vehicle Service Agreements.

[2] Based on queries to multiple Toyota dealers on May 22, 2019.