

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CENTER FOR AUTO SAFETY,)
)
Plaintiff,)
)
v.) Civil Action No. 02-2255 (EGS/JMF)
)
DEPARTMENT OF TRANSPORTATION,)
)
and)
)
NISSAN NORTH AMERICA, INC.,)
)
)
Defendants.)
)

**SETTLEMENT AGREEMENT AND
STIPULATION OF DISMISSAL**

WHEREAS, Nissan North America, Inc. (“Nissan”), on June 24, 2002 and August 9, 2002, supplied certain information to the National Highway Traffic Safety Administration ("NHTSA") in connection with an investigation concerning passenger air bags on certain Model Years 1994 and 1995 Nissan Altima passenger cars;

WHEREAS, Nissan formally requested confidential treatment, pursuant to 49 C.F.R. Part 512, for certain of the information that NHTSA and the parties hereto subsequently identified as Confidential Attachments "III.D," "III.E," "III.F," and "III.G," and which is more particularly described in the court filings submitted by Nissan and NHTSA in connection with Civil Action No. 02-2255 (EGS/JMF), *Center for Auto Safety v. Department of Transportation & Nissan North America, Inc.* ("the litigation" or "this litigation");

WHEREAS, Plaintiff Center for Auto Safety (“CAS”) has challenged NHTSA's decision to withhold Confidential Attachments III.D, III.E, III.F, and III.G, and to redact personal identifiers in documents released to the public under the FOIA;

WHEREAS, Nissan is named as a defendant in this litigation and, on March 27, 2003, Nissan moved to intervene as a defendant in the litigation; and

WHEREAS, the parties wish to settle this litigation to avoid the expenses of further litigation, the parties agree to dismissal of this action with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1), on the following terms and conditions:

1. With the execution of this Settlement Agreement, Nissan, for the sole purpose of settling this litigation, consents to public disclosure by NHTSA of:
 - a. the part names and part numbers distributed with the replacement equipment that Nissan is releasing in its replacement campaign for the passenger air bag for the Model Years 1994 and 1995 Nissan Altima, and
 - b. the test reports in Confidential Attachment III.G numbered K4X01N001, K4X01N002, K4X01N003, and K4X01N004, except for the photographs, data graphs, and internal routing codes incorporated within or attached to such reports, which shall be redacted and withheld from disclosure.
2. Within five businesses days of the execution of this Settlement Agreement, NHTSA shall release the information described in Section 1 to CAS pursuant to the FOIA and place it in the public file for EA01-015.
3. CAS shall not seek, from NHTSA, through the FOIA requests at issue in this litigation or a future FOIA request, disclosure of the portions of the records submitted by Nissan as Confidential Attachments III.D, III.E, III.F, and III.G to which Nissan has not consented to disclosure, except that CAS may seek disclosure of such records if NHTSA reopens EA01-015, the investigation that prompted the submission of these records to NHTSA, or opens another

Preliminary Evaluation or Engineering Analysis investigation concerning an alleged safety-related defect in passenger-side air bags in Nissan Altima passenger cars produced in Model Years 1994 and 1995.

4. This Agreement does not constitute an admission by any party with respect to the merits of any claims, defense, argument or theory set forth in the papers filed in this litigation.

5. The parties shall not in any current or future judicial proceeding use disclosure of the information made pursuant to this Agreement as evidence of Nissan's or the industry's custom or customs of disclosure with respect to such information or as evidence of the competitive value of undisclosed information of the same kind.

6. The parties shall not seek any award of costs or attorneys fees in connection with this litigation.

7. All terms, provisions, conditions, and covenants herein shall be binding and shall inure to the benefit of the respective successors and assigns of the parties. The individuals executing this Settlement Agreement do so as agents or attorneys of their respective entities and covenant and represent that they have complete authority to enter into and execute this Settlement Agreement on behalf of their respective principals.

8. This Settlement Agreement constitutes the entire agreement between the parties and supersedes any prior oral or written agreement between them respecting the subject matter hereof, and there are no representations, understandings, or agreements relating to the subject matter hereof that are not expressed herein.

9. In consideration of the agreements set forth above, the parties stipulate to the dismissal of the claims presented in this litigation with prejudice.

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