

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

**Case Number: 17-21087-CIV-MORENO**

GEORGE TERSHAKOVEC, DIANA  
TERSHAKOVEC, JACQUES RIMOKH,  
HERBERT ALLEY, MICHAEL DELAGARZA,  
ATTILA GONDAN, ERIC KAMPERMAN,  
GREG ROBERTS, RICHARD KOWALCHIK,  
TRAVIS MCRAE, MICHAEL MCCURRY,  
MARK HOCHSPRUNG, JOHN AUBREY, JOSE  
CRUZ, ERIC EVANS, BYRON HARPER, and  
TODD NEWTON, individually and on behalf of  
all others similarly situated,

Plaintiffs,

vs.

FORD MOTOR COMPANY,

Defendant.

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**ORDER GRANTING IN PART PLAINTIFFS' MOTION FOR RECONSIDERATION**

THIS CAUSE came before the Court upon Plaintiff's Motion for Reconsideration (**D.E. 238**), filed on **July 14, 2021**.

THE COURT has considered the motion, the response, the reply, pertinent portions of the record, and being otherwise fully advised in the premises, it is

**ADJUDGED** that the motion is GRANTED IN PART.

The Court amends its class certification order to reflect a class cut-off date of **April 27, 2016**. The Plaintiffs originally requested an open-ended class, but now “concede a closed class is more appropriate.” A closed class is indeed more appropriate because as time goes on, potential purchasers become increasingly likely to discover the truth about the class vehicles’ defect—thereby defeating their fraud claims. But there is no magic date when the information became widely available, so the Plaintiffs offer a few concrete dates from which to choose.

These choices are detailed in a handy chart found on page 2 of the Plaintiffs' motion, but the condensed version is as follows: April 27, 2016—the date Ford sends a service bulletin regarding the defect to its dealers; September 30, 2016—the day by which the “vast majority” (86%) of class vehicles had been delivered; and March 27, 2017—the day Plaintiffs filed their initial complaint. Plaintiffs do not provide a good reason for choosing September 30, other than the fact that date would include the “vast majority” of class members. Similarly, March 27, 2017 is too late—surely many class members had to know of the defect *before* the complaint was filed. Thus, the Court settles on April 27, 2016, the date Ford notified dealers of the Limp Mode defect. According to Plaintiffs, 53% of class vehicle owners would be included in the class at this point.

DONE AND ORDERED in Chambers at Miami, Florida, this 20<sup>th</sup> of August 2021.

  
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FEDERICO A. MORENO  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record