

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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IN RE DELPHI CORPORATION	:	MDL No. 1725
SECURITIES, DERIVATIVE & "ERISA"	:	Master Case No. 05-md-1725
LITIGATION	:	Hon. Gerald E. Rosen
	:	
	:	This Document Relates to:
	:	<i>In re Delphi Corp. ERISA Litigation,</i>
	:	Nos. 05-CV-70882, 05-70940,
	:	05-71030, 05-71200, 05-71249,
	:	05-71291, 05-71339, 05-71396,
	:	05-71397, 05-71398, 05-71437,
	:	05-71508, 05-71620, 05-71897,
	:	05-72198
	:	
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**AMENDED ORDER FOR NOTICE AND HEARING**

Presented to the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure is the Modification to Amended Stipulation and Agreement of Settlement – ERISA Actions, dated July 10, 2009 (the “Modification”), in the above-captioned actions (the “Delphi ERISA Action”) by and between Named Plaintiffs, on behalf of themselves and the Class, and Delphi, ASEC Manufacturing General Partnership (sued as “ASEC Manufacturing”), Delphi Mechatronic Systems, Inc. (sued as “Delphi Mechatronic Systems”), the Delphi Corporation Board of Directors Executive Committee and its members, the Investment Policy Committee and its members, and the Delphi Officer and Director Defendants.<sup>1</sup>

WHEREAS, in an Order and Final Judgment dated January 23, 2008, the Court certified the Class for settlement purposes only and approved the terms of the Settlement set forth in the

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Amended Stipulation, as modified by the Modification.

Stipulation and Agreement of Settlement With Certain Defendants – ERISA Actions, dated August 31, 2007 (the “Stipulation”), as amended by the parties thereto on October 31, 2007 (the “Amended Stipulation”); and

WHEREAS, in light of intervening developments following the Court’s approval, the parties to the Stipulation and Amended Stipulation have agreed to modify the terms of the Settlement set forth therein, and now present the Modification for preliminary approval by the Court, and for approval of the form and manner of providing notice of the Modification to the Class, and for the scheduling of a fairness hearing; and

NOW, upon consent of Named Plaintiffs and Settling Defendants, after review and consideration of the Modification and the exhibits annexed thereto, and after due deliberation,

IT IS HEREBY ORDERED that:

1. Pursuant to Federal Rule of Civil Procedure 23(e), a hearing (the “Fairness Hearing”) shall be held on **Monday, November 16, 2009, at 1:00 p.m.**, in the United States District Court for the Eastern District of Michigan, Southern Division, the Honorable Gerald E. Rosen, Chief Judge, presiding, to

a. determine whether the Modification should be approved by the Court as fair, reasonable, adequate, and in the best interests of the Class;

b. determine whether Judgment should be entered pursuant to the Modification; and

c. rule on such other matters as the Court may deem appropriate.

2. The Court reserves the right to adjourn the Fairness Hearing or any adjournment thereof, without further notice of any kind to Class Members.

3. The Court reserves the right to approve the Modification at or after the Fairness Hearing with such modification as may be consented to by Named Plaintiffs and Settling Defendants and without further notice to the Class.

4. Lead Counsel shall mail the Notice, substantially in the form of Exhibit B to ERISA Plaintiffs' September 16, 2009 Motion for Order Preliminarily Approving Settlement Modification, by postcard by United States mail, postage pre-paid, to all Class Members to whom notice of the Stipulation was mailed. Such mailing shall occur within fifteen (15) calendar days of entry of this Order.

5. Lead Counsel shall file with the Court and serve upon Settling Defendants' counsel no later than seven (7) days prior to the Fairness Hearing an affidavit or declaration describing the efforts taken to comply with this order and stating that the mailings have been completed in accordance with the terms of this order.

6. Within fifteen (15) calendar days of the entry of this Order, Lead Counsel shall cause to be published the Publication Notice, substantially in the form of Exhibit D ERISA Plaintiffs' September 16, 2009 Motion for Order Preliminarily Approving Settlement Modification, once in the national edition of *USA Today* and once in *The Detroit Free Press*. Lead Counsel shall file with the Court and serve upon Settling Defendants' counsel no later than seven (7) days prior to the Fairness Hearing an affidavit or declaration stating that the Publication Notice has been published in accordance with the terms of this Order.

7. Within fifteen (15) calendar days of the entry of this Order, Lead Counsel shall cause the Website Notice substantially in the form of Exhibit C ERISA Plaintiffs' September 16, 2009 Motion for Order Preliminarily Approving Settlement Modification to be posted on the website identified in the Notice and maintained until the Effective Date. The form and content of the Notice, the Publication Notice and the Website Notice, and the method set forth herein of

notifying the Class of the Settlement and the Modification and their terms and conditions, meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled thereto.

8. Any Class Member may object to the Modification in the manner prescribed in the Website Notice, and any Class Member who fails to do so shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the proposed Modification or the Order and Final Judgment to be entered herein.

9. Any member of the Class who timely and properly objects to the Modification may appear in person or by his, her, or its attorney, at his, her, or its own expense, at the Fairness Hearing and present evidence or argument that may be proper or relevant; *provided, however*, that no person other than the parties and their counsel shall be heard, and no papers, briefs, pleadings, or other documents submitted by any person shall be considered by the Court unless on or before fourteen (14) days before the Fairness Hearing, such person files with the Court and serves upon counsel listed below: (1) a statement of such person's objections to any matters before the Court concerning this Modification; (2) the grounds therefor or the reasons that such person desires to appear and be heard, as well as all documents or writings such person desires the Court to consider; and (3) whether that person intends to present any witnesses. Such filings shall be served upon the Court and the following counsel:

***Lead Counsel:***

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Gary A. Gotto, Esq.

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*Counsel for certain of the Settling Defendants:*

**SHEARMAN & STERLING LLP**

Brian H. Polovoy, Esq.  
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10. Neither the Modification nor any provisions contained therein, nor any negotiations, statements, or proceedings in connection therewith, nor any action undertaken pursuant thereto shall be construed as, or deemed to be evidence of, an admission or concession on the part of any Settling Defendant or any other person of any liability or wrongdoing by them, or any of them, and shall not be offered or received in evidence in any action or proceeding, or be used in any way as an admission, concession, or evidence of any liability or wrongdoing of any nature, and shall not be construed as, or deemed to be evidence of, an admission or concession that Named Plaintiffs, any member of the Class, or any other person, has or has not suffered any damage.

11. Any party making submissions to the Court in support of approval of the Modification shall do so by seven (7) calendar days before the date scheduled for the Fairness Hearing.

12. The Court authorizes payment out of the Gross Settlement Fund of notice and administration expenses in accordance with the Amended Stipulation, as modified by the Modification.

13. The Court may, for good cause, extend any of the deadlines set forth in this order without further notice to Class Members.

SIGNED this 25th day of September, 2009.

s/Gerald E. Rosen

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**GERALD E. ROSEN**  
**CHIEF UNITED STATES DISTRICT JUDGE**

## Mollee Johnston

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**From:** cmecfadmin@mied.uscourts.gov  
**Sent:** Friday, September 25, 2009 1:40 PM  
**To:** cmecfadmin@mied.uscourts.gov  
**Subject:** Activity in Case 2:05-md-01725-GER Delphi Corporation Securities, Derivative and "Erisa" Litigation Order

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U.S. District Court  
Eastern District of Michigan

### Notice of Electronic Filing

The following transaction was entered on 9/25/2009 4:39 PM EDT and filed on 9/25/2009

Case Name: Delphi Corporation Securities, Derivative and "Erisa"  
Litigation

Case Number: 2:05-md-1725 <https://ecf.mied.uscourts.gov/cgi-bin/DktRpt.pl?207399>

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### Docket Text:

AMENDED ORDER FOR NOTICE AND HEARING re: ERISA litigation. ( <font color=red><b>Fairness Hearing set for 11/16/2009 01:00 PM before District Judge Gerald E Rosen</b></font>)

Signed by District Judge Gerald E Rosen. (RBri)

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