

Ford to pay millions to Focus, Fiesta owners in transmission settlement

Phoebe Wall Howard, Detroit Free Press Published 1:31 a.m. ET Jan. 25, 2020 | Updated 2:32 p.m. ET Jan. 25, 2020

Ford Motor Co. has agreed to settle a class-action lawsuit with nearly 2 million owners and former owners of Focus and Fiesta vehicles with bad dual-clutch transmissions known as the DPS6, according to court documents filed late Friday.

A lawyer who helped broker the deal on behalf of consumers said the Ford payout could exceed \$100 million.

"There's no cap. The truth is, Ford is going to have to pay out claims until they're exhausted," said Tarek Zohdy of Capstone Law in Los Angeles. "In my opinion, Ford will have to deal with these vehicles until people are done filing their claims."

He explained, "This settlement is entirely reliant on the consumers' decision to file a claim. ... It's up to the consumer whether they want to let Ford keep their money. ... They created a defective transmission and I wanted to help people get their money back."

Ford lawyers have worked with class-action attorneys to resolve the case, which was filed in 2012.

"Ford believes the settlement is fair and reasonable, and we anticipate it will be approved by the court following the hearing next month," Ford spokesman T.R. Reid said late Friday.

The proposed agreement in U.S. District Court for the Central District of California improves on an earlier version that an appeals court declined to accept in September. Improvements include:

- A guaranteed commitment from Ford of \$30 million in cash reimbursement to consumers who have a record of multiple failed transmission repairs within five years of buying their cars or 60,000 miles
- An easier process for former owners and people who leased the cars to get compensated
- Simplifying a buyback program for defective vehicles

Entry-level Fiesta and Focus vehicles, built over the last decade, have a history of costly repairs for failing transmissions and other problems. A Detroit Free Press investigation, "Out of Gear," revealed in July for the first time internal Ford documents and emails showing the company knew the transmissions were defective from the start but continued building and selling them anyway.



Ford Focus vehicles are seen on a storage lot in Ypsilanti. (Photo: Carlos Osorio, Associated Press)

The lawsuit alleged Ford lied to unload cars with faulty transmissions on unsuspecting buyers and then blamed the drivers for problems they experienced.

Ford customers claimed in legal filings their 2012-16 Focus and 2011-16 Fiesta compact cars were built with transmissions prone to “shuddering, slipping, bucking, jerking, hesitation while changing gears, premature internal wear, delays in downshifting and, in some cases, sudden or delayed acceleration.”

\$47M in buybacks already

For the first time, Ford revealed on Friday the dollar amount the company has already spent repurchasing defective Focus and Fiesta vehicles through its voluntary arbitration program conducted during the legal appeal.

G. Keith Barron, reacquired program vehicle manager at Ford, said in a court document that between October 2017 and the end of 2019, Ford bought back 2,666 vehicles for approximately \$47,477,327.



Carrie Armstrong of Hendersonville, Tennessee, finally gave up on endless repairs and traded her defective 2015 Ford Focus for a Honda in December 2019, starting a whole new car loan. (Photo: Carrie Armstrong)

Hoping for money

Carrie Armstrong, 42, of Hendersonville, Tennessee, said in July she had taken her 2015 Ford Focus for repair 10 times.

“When I am on the interstate and almost get hit by a diesel truck just because my car will not accelerate and get into gear?” she said. “I put my life in danger every day I get behind the wheel of this car just to go to work.”

Armstrong’s repeated repairs are not uncommon: [Ford’s internal 2016 DPS6 update \(https://www.freep.com/in-depth/money/cars/ford/2019/07/11/ford-focus-fiesta-transmission-defect/1671198001/\)](https://www.freep.com/in-depth/money/cars/ford/2019/07/11/ford-focus-fiesta-transmission-defect/1671198001/), marked “SECRET” on each page, noted that 350,000 of the cars “have already reached 3+ repairs in US.”

She said Friday she “had no choice” but to give up on Ford after the 11th repair and trade the vehicle on Dec. 13 for a 2018 Honda Civic. She said she hopes to recover some of her loss.

“The car had been fixed five times before 60,000 miles. The first time was two months after it was purchased and I was the only owner of the vehicle,” Armstrong said. “The transmission had gotten worse. ... And (they) looked at it two times with them saying there was no need to replace the part. ...

“I will never get a Ford vehicle again.”

Eight is enough

Elaine and Hershel Cecil went to Bradley Ford Lincoln in Lake Havasu City, Arizona, on Friday. Their 2013 Focus was in the shop for its eighth repair. The longtime Ford customers said they purchased a Ford to support a company that never took government bailout money. But their loyalty has fizzled.

“We thought we’d be supportive. But after the last repair, the car didn’t even go half a block without clutch problems. We don’t trust it’ll get us home



Elaine and Hershel Cecil went to their Ford dealership in Lake Havasu City, Arizona, on Friday. Their 2013 Ford Focus had its clutch fixed again. The longtime Ford buyers say they've had enough after eight transmission repairs. (Photo: Hershel Cecil)

anymore. They just tell us to keep driving and the car will learn to adapt. We finally took it back to the Ford dealer and left it. They had to replace the clutch again," said Hershel Cecil, 75, a retired general contractor. "The local Ford dealer has been great. ... It's all about Ford's product and the company itself."

Hard fought

Lawyers on both sides met with a mediator in Boston on Dec. 9.

With the latest agreement, Ford is faced with a minimum cash payment of \$30 million. Any unused balance would be divided up among the people who already filed for damages.

In the earlier agreement, Ford's payout was estimated at \$35 million, with no minimum required payout. The appeals court said the calculation was based on total payments to every eligible vehicle owner, while the actual claims rate was expected to be much lower. That would have resulted in a smaller payment by Ford.

The earlier agreement required car owners to give the company a final chance to repair vehicles before going to arbitration. That prerequisite is eliminated with the new settlement.

The deal also extends the statute of limitations for financial recovery — to either six years after delivery of the vehicle to the first purchaser or six months after the court grants final approval of the agreement.

U.S. District Judge Andre Birotte Jr., is scheduled to hear the case Feb. 28 for final approval.



A transmission malfunction message is displayed in a 2012 Ford Fiesta at the home of Michelle Hughes of Flint on June 26, 2019. (Photo: Ryan Garza, Detroit Free Press)

Why now

Settlements control the risk for vulnerable companies and prevent thousands of individual lawsuits, which can be much more costly.

The U.S. Court of Appeals questioned the earlier settlement brokered between Ford and Capstone Law as unfair to consumers and overly generous to the lawyers.

The judges sent back for further analysis the earlier agreement after Michael Kirkpatrick of Public Citizen, a nonprofit consumer advocacy group, challenged how much money would be awarded to consumers and the fact that the vast majority of the car owners would have received nothing.

The 2-1 appeals court decision also suggested the class-action lawyers didn't sufficiently represent consumers but rather pushed through the settlement based on their own financial interests. The agreement called for them to get nearly \$9 million in fees.

Capstone lawyers would receive the same amount under the new deal. Zohdy pointed out Friday that his team has worked on the case for eight years and the fees are comparable to other cases. Fees are separately negotiated and paid by Ford, not consumers, he said.

More: [Out of Gear: Follow the full Ford investigation \(https://www.freep.com/in-depth/news/2019/10/28/ford-investigation-out-of-gear/2166912001/\)](https://www.freep.com/in-depth/news/2019/10/28/ford-investigation-out-of-gear/2166912001/)

More: [Lawsuit: Ford hid Focus, Fiesta transmission problems — then blamed customers \(/story/money/cars/ford/2019/05/09/ford-focus-fiesta-transmission-lawsuit/1119773001/\)](https://www.freep.com/story/money/cars/ford/2019/05/09/ford-focus-fiesta-transmission-lawsuit/1119773001/)

More: [Ford: Court of Appeals orders review of Focus, Fiesta class-action deal \(/story/money/cars/ford/2019/09/13/ford-focus-fiesta-transmission-class-action-stalled-dps-6/2312926001/\)](https://www.freep.com/story/money/cars/ford/2019/09/13/ford-focus-fiesta-transmission-class-action-stalled-dps-6/2312926001/)

Ford shareholders warned

Ford warned its shareholders in April of legal exposure related to the DPS6 transmission in a Securities and Exchange Commission filing under the subhead, "Consumer Matters."

Ryan Wu, lead counsel of Capstone, argued in early 2019 that without a settlement, Ford faced a potential \$4 billion liability.

Ford repairs

Ford has tried, repeatedly, to repair the vehicles. In 2014, it extended the warranties on transmission-related parts to seven years and 100,000 miles on Focuses and Fiestas built before mid-2013.

A month after Free Press publication of "Out of Gear," the automaker extended the warranty for 2014-16 Focuses and 2014-15 Fiestas built after that.

Federal safety regulators have reviewed the transmission troubles — once in 2014 and again in 2019, and found no "unreasonable" safety risk, the legal standard that triggers a recall. The agency received at least 4,377 consumer complaints about the cars that include reports of 50 injuries, a 2019 Free Press analysis found.

Who gets money?

The mediation agreement says Ford will issue cash payments for:

- Car owners with three or more service visits for transmission hardware replacements
- Car owners with three or more software updates
- Car owners who did not have a documented service visit and were turned away by a Ford dealer after complaining about a transmission problem. This part provides \$20 to those owners — if they submit a form under penalty of perjury.

Relief

Zohdy, speaking late Friday, sounded relieved to be near a resolution in the long-running case he filed so many years ago after riding in his friend's "lurching" and "jerking" Ford Fiesta through Beverly Hills, California.

"Ford is a historic company. My first vehicle was a Mustang. I love Ford vehicles," he said. "They made a mistake here and I'm happy that they're doing something to correct their mistake."

More info

The websites below offer consumer information that includes how to file a claim:

<http://fordtransmissionsettlement.com/submit-a-claim.aspx>

[Fordpowershiftlawsuit.com](http://fordpowershiftlawsuit.com)

Contact Phoebe Wall Howard: 313-222-6512 or phoward@freepress.com (<mailto:phoward@freepress.com>). Follow her on Twitter [@phoebesaid](https://twitter.com/phoebesaid) (<https://twitter.com/phoebesaid>). She monitors the DPS6 transmission case. Read more on Ford (<https://www.freep.com/autos/>) and sign up for our [autos newsletter \(https://profile.freep.com/newsletters/automotive-news-headlines/\)](https://profile.freep.com/newsletters/automotive-news-headlines/).

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