

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

United States of America,

No. 16-cr-20641

Plaintiff,

Hon. Gershwin A. Drain

v.

Honorable R. Steven Whalen

D-1 Futoshi Higashida,

Defendant.

**Joint Motion to Consolidate the Plea and Sentencing Hearings
and Waive a Presentence Investigation and Report**

The United States of America, by its undersigned attorneys, and Defendant Futoshi Higashida, by his undersigned attorney (collectively, “the parties”), respectfully move this court to consolidate the plea and sentencing hearings and waive a presentence investigation and report. Counsel for the Defendant has notified the government that the Defendant intends to plead guilty pursuant to a Rule 11(c)(1)(C) plea agreement. The parties request that the Court consolidate the plea and sentencing hearings into one proceeding and hold the consolidated proceeding on Thursday, February 2, 2017, at 3:00 p.m.

In prior cases arising out of related antitrust investigations in the automobile parts industry, the Eastern District of Michigan has consolidated plea and

sentencing hearings for all of the other individual defendants who have pled guilty. *See, e.g., United States v. Fujitani*, No. 14-20087 (E.D. Mich. 2014); *United States v. Suzuki*, No. 13-20382 (E.D. Mich. 2013); *United States v. Kashimoto*, No. 12-20382 (E.D. Mich. 2012); *United States v. Sudo*, No. 12-20548 (E.D. Mich. 2012). As with the Defendant, those cases involved foreign nationals who pled guilty and accepted a term of incarceration pursuant to a Rule 11(c)(1)(C) plea agreement.

The parties also request that the court waive a presentence investigation and report. In advance of the consolidated proceeding requested above, the parties will file a Joint Sentencing Memorandum that, along with the information to be proffered by the parties at sentencing, will contain information that will satisfy the requirements of Rule 32(c)(1)(A)(ii) and is sufficient to enable the Court to meaningfully exercise its sentencing discretion under 18 U.S.C. § 3553(a) without the aid of a presentence investigation and report. *See United States v. Brown*, 557 F.3d 297, 299 (6th Cir. 2009) (“Presentence reports, while often an important resource, are not a mandatory part of the sentencing process. Both the Federal Rules of Criminal Procedure and the Sentencing Guidelines expressly provide that a district judge may sentence a defendant without a presentence report ‘[if] the court finds that the information in the record enables it to meaningfully exercise its sentencing authority under 18 U.S.C. § 3553, and the court explains its finding on

the record.’ Fed. R. Crim. P. 32(c)(1)(A)(ii); U.S.S.G. § 6A1.1(a)(2).”) (brackets in original).

WHEREFORE, the parties respectfully request that the Court consolidate the plea and sentencing hearings into one proceeding to be held on Thursday, February 2, 2017, at 3:00 p.m., and waive a presentence investigation and report, pursuant to Fed. R. Crim. P. 32(c)(1)(A)(ii) and U.S.S.G. § 6A1.1(a)(2).

Respectfully Submitted,

December 20, 2016

Date

/s/ Andre M. Geverola

Andre M. Geverola
Assistant Chief
L. Heidi Manschreck
Matthew McCrobie
Jesse L. Reising
Chester C. Choi
Trial Attorneys
Antitrust Division
U.S. Department of Justice
Chicago Office
209 S. LaSalle Street, Suite 600
Chicago, Illinois 60604
Tel: 312-984-7200

/s/ Niall E. Lynch

Niall E. Lynch
LATHAM & WATKINS LLP
505 Montgomery Street
Suite 2000
San Francisco, CA 94111-6538
Tel: 415-395-8162
Counsel for Futoshi Higashida

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

United States of America,

No. 16-cr-20641

Plaintiff,

Hon. Gershwin A. Drain

v.

D-1 Futoshi Higashida,

Defendant.

Order Granting the Joint Motion to Consolidate the Plea and Sentencing Hearings and Waive a Presentence Investigation and Report

This matter is before the Court upon the parties' Joint Motion to Consolidate the Plea and Sentencing Hearings and Waive a Presentence Investigation and Report. The Court having considered the motion, having reviewed the record, and being otherwise sufficiently advised;

IT IS HEREBY ORDERED that the motion is **GRANTED**. The consolidated plea and sentencing hearing is scheduled for Thursday, February 2, 2017, at 3:00 p.m., at the United States District Courthouse in Detroit, Michigan. A presentence investigation and report for the Defendant's hearing is **WAIVED**.

DATED this ____ day of _____.

THE HONORABLE GERSHWIN A. DRAIN
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2016, I electronically filed the foregoing documents to the Clerk of Court using the ECF System, which will send notification of such filing to counsel for Defendant.

/s/ Chester C. Choi
Chester C. Choi
Trial Attorney
U.S. Department of Justice
Antitrust Division