

**CANADIAN TOSHIBA DLP TELEVISION CLASS ACTION  
NATIONAL SETTLEMENT AGREEMENT**

**TABLE OF CONTENTS**

SECTION 1 - National class action settlement agreement.....	3
SECTION 2 - Recitals .....	3
SECTION 3 - Definitions .....	5
SECTION 4 - Terms of agreement.....	8
4.1 Non-Admission of Liability.....	8
SECTION 5 - Settlement approval .....	8
5.1 Approval by the Courts. ....	8
5.2 Best Efforts of Parties. ....	8
SECTION 6 - Notices to National Settlement Class .....	9
6.1 Notices.....	9
6.2 Dissemination of Notices.....	9
6.3 Best form of notice.....	9
6.4 Costs of notice.....	9
SECTION 7 - Settlement Consideration .....	10
7.1 Extension of Warranty.....	10
7.2 Unit Replacement Instructions Booklet. ....	10
7.3 Non-Remediation Program Models.....	10
7.4 Remediation Program Models.....	10
7.5 Proof of Purchase of television. ....	11
7.6 Claims Submission Period.....	11
7.7 Fonds d'aide aux recours collectifs.....	11
SECTION 8 - Requests for exclusion (OPT-OUT) from National Settlement Class.....	11
8.1 Delay to opt-out.....	11
8.2 Form of opt-out. ....	11
8.3 Opt-out for oneself only.....	12
8.4 Validity of opt-out. ....	12
SECTION 9 - Objections to Settlement .....	12
9.1 Objections to Settlement.....	12
SECTION 10 - Failure of the Courts to Approve this Settlement Agreement.....	12
10.1 Settlement null and void if not approved.....	13
SECTION 11 - Attorneys' Fees and Payment to Elad Ben-Eli.....	13
11.1 Fees and expenses.....	13
11.2 Payment to Elad Ben-Eli. ....	14
11.3 Negotiation of fees and expenses.....	14
11.4 Release.....	14
11.5 Translation.....	14
SECTION 12 - Release, Waiver and Covenant not to Sue.....	14
12.1 Release.....	14
12.2 No further actions.....	15

82  
1.0.

12.3 New Facts covered by settlement.....	15
SECTION 13 - Entire Agreement .....	15
SECTION 14 - Binding, Severable Agreement.....	16
SECTION 15 - Continuing Jurisdiction .....	16
SECTION 16 - Choice of Law .....	16
SECTION 17 - No Assignment.....	16
SECTION 18 - Advice of Counsel .....	16
SECTION 19 - Authority .....	16
SECTION 20 - No Party is Drafter.....	17
SECTION 21 - Notification .....	17
SECTION 22 - Time for Compliance .....	17
SECTION 23 - Language .....	17
23.1 Original in English.....	17
23.2 French translation.....	18

AG. 82

## **SECTION 1 – National class action settlement agreement**

This National Class Action Settlement Agreement and Release (the "**Agreement**") is made and entered into this September 6, 2012, by and between Respondents Toshiba of Canada Limited ("**TCL**") and Toshiba America Information Systems, Inc. ("**TAIS**") and the National Settlement Class (as defined below), acting by and through plaintiffs Elad Ben-Eli and Scott Mackie (collectively, the "**Plaintiffs**" and together with TCL and TAIS, the "**Parties**") and Plaintiffs' counsel Consumer Law Group Inc. / Consumer Law Group Professional Corporation ("**Class Counsel**").

## **SECTION 2 - Recitals**

**WHEREAS** on December 1, 2009, Elad Ben-Eli filed a Motion to Authorize the Bringing of a Class action and to Ascribe the Status of Representative (the "**Motion for Authorization**") on behalf of the following proposed group:

*All residents in Canada who own a 2004 or 2005 model year Toshiba Digital Light Projection ("DLP") television, or any other group to be determined by the Court;*

*Alternatively (or as subclass)*

*All residents in Quebec who own a 2004 or 2005 model year Toshiba Digital Light Projection ("DLP") television, or any other group to be determined by the Court.*

**WHEREAS** the Motion for Authorization alleges, *inter alia*, that TCL and Toshiba America Consumer Products L.L.C. ("**TACP**") "designed, manufactured, distributed and sold DLP televisions with a lamp unit that was defective and/or that did not have as long a life span as was represented, thereby causing their televisions to fail prematurely and require the purchase of a replacement lamp unit";

**WHEREAS** TCL'S head office and principal place of business is located in Markham, Ontario;

**WHEREAS** on February 14, 2011 TACP merged into Toshiba America Information Systems, Inc. and TAIS is now the appropriate legal entity to continue the Motion for Authorization;

**WHEREAS** on June 19, 2012 a Statement of Claim and a Certification Motion were filed by Scott Mackie (the "**Ontario Class Action**") before the Superior Court of Justice of Ontario in the case bearing no. CV-12-456603-00CP, seeking certification of a class action on behalf of the following group:

*All Canadian residents, excluding residents of the Province of Québec eligible to be class members under Québec law, who own*

Handwritten initials and signature in blue ink, located in the bottom right corner of the page.



*a 2004 or 2005 model year Toshiba Digital Light Projection ("DLP") television, or any other group to be determined by the Court;*

**WHEREAS** on July 6, 2012, a Motion for leave to amend the Motion for Authorization was filed to restrict the class to Québec residents, thereby amending the proposed group as follows:

*All physical and moral persons (having less than 50 employees in the year preceding the filing of the Motion for authorization) residing in Québec who own a 2004 or 2005 model year Toshiba Digital Light Projection ("DLP") television or any other group to be determined by the Court.*

**WHEREAS** TCL, TAIS and the other Released Parties, as defined below, deny any wrongdoing whatsoever and, without admitting liability, nevertheless have agreed to enter into this Agreement to avoid further expense, as well as the burdens and risks of litigation;

**WHEREAS** the Plaintiffs have agreed to serve as representatives of the National Settlement Class and have been informed by their counsel of their duties and obligations as representative plaintiffs, are familiar with the Class Actions, as defined below, and the results of the factual investigation undertaken by Class Counsel, and have been fully advised by same counsel as to the terms and effects of this Agreement;

**WHEREAS** in evaluating the settlement set forth in this Agreement, Class Counsel and the Plaintiffs have concluded that the benefits provided to the National Settlement Class under this Agreement make a settlement with TCL and TAIS pursuant to such terms and conditions in the best interests of the National Settlement Class in light of, among other considerations, the benefits afforded to the Settlement Class, the uncertainties and difficulties associated with obtaining class certification or authorization and with succeeding at a trial on the merits, including without limitation, overcoming the legal and factual defences that would have been asserted by TCL and TAIS, the expense and length of time necessary to litigate the proposed class action through to trial, the uncertainty of its outcome, and the fact that resolution of the class claims, whenever and however determined, would likely have been appealed;

**WHEREAS** the Parties have agreed to compromise and to enter into the Agreement in order to fully and finally settle all issues and claims made in the Class Actions or that could have been made under the facts alleged therein, by or on behalf of all persons included in the National Settlement Class;

**WHEREAS**, the Parties, through their respective counsel, have engaged in extensive arm's length negotiations in reaching this Settlement Agreement, including but not limited to, two (2) settlement negotiation meetings held on November 25, 2010 and on May 6, 2011;

*J.O. 82*



**WHEREAS**, in the course of their arm's length negotiations, the Parties, through their respective counsel, have exchanged information, including but not limited to TCL sales data and warranty claims data, which was the result of an extensive investigation by TCL and TAIS with respect to such data;

**WHEREAS**, the Parties and their respective counsel, believe that the terms of the settlement set forth in this Agreement are fair, reasonable and in the best interests of the National Settlement Class;

**WHEREAS** the Parties desire and intend to seek approval by the Québec Superior Court and the Ontario Superior Court of Justice of the settlement as set forth in this Agreement;

**NOW, THEREFORE**, it is agreed that in consideration of the promises and mutual covenants set forth in this Agreement and subject to the approval of the Québec Superior Court and the Ontario Superior Court of Justice, the proposed class action shall be settled and compromised on the terms and conditions set forth below.

### **SECTION 3 - Definitions**

In addition to any definitions set forth above or elsewhere in this Agreement, the following terms, as used in the Agreement, shall have the meanings set forth below:

- A. **2004 Model Television** shall refer to the following Toshiba brand DLP television models: 44HM84, 46HM84, 52HM84, 52HMX84, 62HM84, 62HMX84, 62HMX94.
- B. **2005 Model Television** shall refer to the following Toshiba brand DLP television models: 46HMX85, 52HM85, 52HMX85, 56HM195, 62HM85, 62HMX85, 62MX195, 72MX195, 44HM85, 62HM95 and 62HMX95.
- C. **Covered Models** shall refer to the 2004 Model Televisions and the 2005 Model Televisions sold in Canada.
- D. **Non-Covered Models** shall refer to all other DLP televisions sold by TCL at any time.
- E. **Class counsel** shall refer to Consumer Law Group Inc. / Consumer Law Group Professional Corporation representing the National Settlement Class Members, as defined below.
- F. **Claims Submission Period** shall mean the period beginning seven (7) days after publication of notice of settlement approval and ending ninety (90) days thereafter.

- G. **Québec Class Action** shall refer collectively to Motion for Authorization filed on December 1, 2009 and the *Amended Motion for Authorization and to Ascertain the Status of Representative*, filed on July 6, 2012, 500-06-000491-098.
- H. **Ontario Class Action** shall refer to the Statement of Claim and the Certification Motion, filed by Scott Mackie on June 19, 2012, CV-12-456603-00CP.
- I. **Class Actions** shall refer collectively to the Québec Class Action and the Ontario Class Action.
- J. **Québec Court** shall refer to the Québec Superior Court, district of Montreal.
- K. **Ontario Court** shall refer to the Superior Court of Justice of Ontario, in Toronto.
- L. **The Courts** shall refer collectively to the Ontario Court and the Québec Court.
- M. **Persons** shall refer to persons and entities, including, without limitation, any individuals, sole proprietorships, associations, companies, partnerships, joint ventures, corporations, trusts, estates, or any other persons or entities.
- N. **Released Parties** shall refer individually and collectively, as appropriate, to TCL and TAIS and to all of their predecessors and successors-in-interest, as well as all of their respective past and present parents, subsidiaries, joint ventures, partnerships, related companies, affiliates, controlled entities, assignees, distributors, retailers, unincorporated entities, divisions, groups, present or former directors, officers, members, agents, employees, representatives, administrators, insurers, indemnitors, and attorneys.
- O. **Released Claims** shall refer to any and all claims, damages, suits, demands, liabilities, judgments, losses, and causes of action relating to the performance or useful life of the lamp assembly, including its component lamp and bulb or of the Covered Models themselves, for the period from January 1, 2004 through the date of Settlement Approval Judgments, seeking damages or losses of any kind or character, whether known or unknown, matured or unmatured, sounding in law or equity, or any other relief (including attorneys' fees), that are now recognized by law or that may be created or recognized in the future by statute, regulation, judicial decision, or in any other manner, based upon any federal or provincial statutory or common law, including but not limited to, claims under the *Québec Civil Code*, in tort, in contract, under the *Canadian Competition Act* or the consumer protection or sales of goods laws of any Canadian Province or Territory, and all claims, damages, suits, demands, liabilities, judgments, losses, or causes of action which have been, might have been, are now, or could be asserted by any Plaintiffs or any

82

40.

National Settlement Class Members in an individual or representative capacity arising out of, based upon, or related to, in whole or in part, the facts and circumstances underlying the claims and causes of action set forth in the Class Actions. The phrase "Released Claims" does not include any claims for personal injury or for property damage, nor does it include any claims relating to any component part of a Toshiba brand DLP television, other than for property damage to the lamps, bulbs or lamp assemblies themselves, or for property damage to any component thereof.

- P. **Settlement Approval Judgment** shall refer to either of the Final judgments or orders by the Ontario Court (the "Ontario Settlement Approval Judgment") or the Québec Court (the "Québec Settlement Approval Judgment") granting approval of the terms and conditions set forth in this Agreement and declaring it binding upon the National Settlement Class and, in the case of the Ontario Class Action, a further order dismissing the claims asserted therein.
- Q. **Settlement Approval Judgments** shall refer collectively to the Ontario and Québec Settlement Approval Judgments.
- R. **Québec Settlement Class** shall refer to all physical and moral persons (having less than 50 employees in the year preceding the filing of the Motion for authorization) residing in Québec who, at any time from January 1, 2004 through the date of the Settlement Approval Judgments, purchased a Covered Model and shall include the class members as described in the Québec Class Action.
- S. **Ontario Settlement Class** shall refer to all Canadian residents, excluding the Québec Settlement Class, who, at any time from January 1, 2004 through the date of the Settlement Approval Judgments, purchased a Covered Model in Canada and shall include the class members as described in the Ontario Class Action.
- T. **National Settlement Class** shall refer collectively to the Ontario and Québec Settlement Class.
- U. **National Settlement Class Member** shall refer to any Person included within the National Settlement Class who does not timely exercise his or her right to opt out of the National Settlement Class pursuant to Section 8 herein.
- V. **Settlement Effective Date** shall mean the date upon which all appeals from the two (2) Settlement Approval Judgments have been finally concluded and exhausted or the dates upon which all delays to appeal have expired.
- W. **Remediation Program** shall refer to the voluntary program initiated by TCL in May 2006 by which owners of certain 2005 Model Televisions included in a specific serial number range posted on [www.toshiba.ca](http://www.toshiba.ca) received a one-year

40-8



extension of warranty on the originally installed lamp (thus providing two years of coverage for the lamp and its bulb).

- X. **Best Efforts** shall mean the efforts that a reasonable person in the position of the Party would use to fulfill an obligation as diligently and expeditiously as possible under the circumstances.
- Y. **Claims Administrator** shall refer to Garden City Group, an independent service provider whose function shall be the administration of the claims process set forth in this Agreement, including without limitation, the analysis and processing of hard copy claims by National Settlement Class Members, and the implementation of a process by which National Settlement Class Members may submit claims electronically.

#### SECTION 4 - Terms of agreement

- 4.1 **Non-Admission of Liability.** This Agreement is made for settlement purposes only, and neither the fact of, nor any specific provision contained in, this Agreement nor any action taken hereunder shall constitute, or be construed as, any admission of the validity of any claim or any fact alleged by Plaintiffs in the Class Actions or by any other Person included within the National Settlement Class of any wrongdoing, fault, violation of law, or liability of any kind on the part of TCL and TAIS. This Agreement constitutes a transaction pursuant to Article 2631 of the Civil Code of Québec. It shall not be offered or be admissible, either in whole or in part, as evidence against TCL or TAIS, except in any action or proceeding to enforce its terms.

#### SECTION 5 - Settlement approval

- 5.1 **Approval by the Courts.** Plaintiffs shall file motions before the Ontario and Québec Courts, each motion seeking a Settlement Approval Judgment on behalf of the Ontario Settlement Class and the Québec Settlement Class. Subject to the terms and conditions of this Agreement, the Parties agree not to oppose any efforts to obtain the Settlement Approval Judgments. Any Settlement Approval Judgment rendered pursuant to this Section shall not constitute, in this or any other proceeding, an admission, finding or evidence that any requirement for class authorization or certification is otherwise satisfied, except for the expressly enumerated purposes in this Agreement.
- 5.2 **Best Efforts of Parties.** The Parties agree to undertake their respective Best Efforts to implement the settlement described in this Agreement. The Parties shall encourage the Courts to approve the Agreement, and shall not encourage Persons included within the National Settlement Class to object to the Court's approval of the Agreement. The Parties further represent, agree and acknowledge that the Settlement is a fair resolution of these claims for the

4.0  
82

Parties and the National Settlement Class Members. Neither the Parties nor their respective counsel shall make any statements suggesting the contrary, either before or after the Court's approval of the Settlement and this Agreement.

## **SECTION 6 - Notices to National Settlement Class**

6.1 **Notices.** The parties undertake to give notice, in English and in French, to the National Settlement Class of:

- a) the time and place of the hearings at which each of the Courts will be asked to approve the Settlement Agreement and to render a Settlement Approval Judgment and Orders (the "**Notice of Settlement Approval Hearing**"); and
- b) the outcome of the hearing (the "**Notice of Settlement Approval**") and the claims procedure;

substantially in the forms attached in **Schedules 1 and 2** hereto. The Parties acknowledge that the notices and the plan for distribution and dissemination of the notices must be approved by each of the Courts. No notices shall be disseminated anywhere until such time that they are approved by the Courts.

6.2 **Dissemination of Notices.** The notices referred to in Section 6.1 above will be disseminated in the following manner:

- a) Through publication of a settlement website, which shall be made available through a link on [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com) and shall contain a copy of the notices in a form substantially similar to that set forth in Schedules 1 and 2 hereto.
- b) In addition, TCL and TAIS shall publish each of the two (2) notices referred to in Section 6.1 above as follows: once in the Globe & Mail, once in La Presse, once in the National Post and once in the Montreal Gazette.

6.3 **Best form of notice.** The Parties agree that the methods of notice set forth in this Section constitute the best form of notice to the National Settlement Class that is practicable under the circumstances.

6.4 **Costs of notice.** TCL and TAIS shall pay all costs and expenses associated with Notices and their dissemination, which shall be in addition to and not deducted from the settlement consideration described in Section 7 below or the amount of attorneys' fees and expenses described in Section 11 below. The Parties and their respective counsel will refer inquiries from the press and all third parties other than individual consumers to the settlement documents. Although the Parties and their respective counsel may acknowledge their participation in the

4.0. 8



Class Actions and the publicly available settlement, they will decline to comment further.

## SECTION 7 - Settlement Consideration

In consideration for the Releases granted under the terms of this Agreement, the Parties agree as follows:

- 7.1 **Extension of Warranty.** Within twenty (20) days of the Settlement Effective Date, TCL will extend the warranty on all replacement bulbs purchased by National Settlement Class Members in Canada, or received by National Settlement Class Members pursuant to warranty, from a period of six (6) months from date of purchase (or mailing by TCL in the instance of bulbs provided pursuant to warranty) to a period of twelve (12) months from date of purchase (or mailing by TCL in the instance of bulbs provided pursuant to warranty). National Settlement Class Members who will make a claim under this extended replacement bulb warranty after the Settlement Effective Date will receive a free replacement bulb.
- 7.2 **Unit Replacement Instructions Booklet.** Within ninety (90) days of the Settlement Effective date, TCL will modify the written Canadian replacement bulb warranty (located in the Lamp Unit Replacement Instructions booklet enclosed with each replacement bulb) to conform to the extension of the warranty from one hundred and eighty (180) days to twelve (12) months for National Settlement Class Members as described in 7.1 above.
- 7.3 **Non-Remediation Program Models.** National Settlement Class Members who own a Covered Model that does not fall within the serial number range of televisions covered by the Remediation Program and who experienced a single bulb failure outside of the warranty period, but within eighteen (18) months from the date of purchase of the television, shall be eligible to receive reimbursement for monies expended to purchase a replacement bulb. National Settlement Class Members who own a Covered Model that does not fall within the serial number range of televisions covered by the Remediation Program and who experienced two (2) or more bulb failures outside the warranty period, but within twenty-four (24) months from the date of purchase of the television, shall be eligible to receive reimbursement for monies expended to purchase the replacement bulbs.
- 7.4 **Remediation Program Models.** National Settlement Class Members who own a 2005 Model Television that falls within the serial number range of televisions covered by the Remediation Program and who purchased one or more replacement bulbs outside the warranty period, but within twenty-four (24) months from the date of purchase of the television, shall be eligible to receive reimbursement for monies expended to purchase the replacement bulb or bulbs.

AD. 8



- 7.5 **Proof of Purchase of television.** TCL and TAIS shall only be obligated to pay claims pursuant to the terms of this Agreement, upon the submission by the National Settlement Class Member to the Claims Administrator of:
- a) A Settlement Claim Form, substantially in the form set out in **Schedule 3 hereto**. Claims submitted in any other form will be considered null and void; and
  - b) A proof of purchase of the Covered Model. A list of retailers who may provide proof of purchase to National Settlement Class Members for claims purposes will be made available on [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com); and
  - c) A proof of purchase of the requisite number of bulbs. For the purpose of this Section, proof of purchase shall include any document emanating from a third party retailer that includes the date, amount paid for each bulb and the serial number or part number for each bulb. In the case where such a proof of purchase is not available, a sworn affidavit containing the cost, the date or period of purchase of the bulbs and the place thereof shall be provided.
- 7.6 **Claims Submission Period.** National Settlement Class Members must submit their claim form to the Claims Administrator within the Claims Submission Period as defined herein.
- 7.7 **Fonds d'aide aux recours collectifs.** The percentage payable to the Fonds d'aide aux recours collectifs shall be withheld by the Claims Administrator from any amount payable to Québec residents under Section 7 herein and shall be remitted by the Claims Administrator to the Fonds d'aide aux recours collectifs.

#### **SECTION 8 - Requests for exclusion (OPT-OUT) from National Settlement Class**

- 8.1 **Delay to opt-out.** Any person included within the Proposed National Settlement class who wishes to be excluded from the Proposed National Settlement Class must do so in writing by mailing a written request for exclusion from the settlement to Class Counsel at the address set forth in Section 21 below or in the case of Québec Class Members to the Clerk of the Superior Court. Such request shall be postmarked no later than thirty (30) days following the publication of the Notice of Settlement Approval referred to in Section 6.1. b) above.
- 8.2 **Form of opt-out.** The request must (a) be signed by the National Settlement Class Member, (b) identify the DLP television purchased by the National Settlement Class Member (by serial and model number), the date or approximate date of the National Settlement Class Member's purchase of the DLP television, the Province in which the DLP television was purchased, and the approximate total dollar amount of such purchase, (c) clearly express the National Settlement

10. 8

Class Member's desire to be excluded (or to "opt out") from the National Settlement Class, and (d) include the National Settlement Class Member's name, address and telephone number, and, if represented by counsel, counsel's name, address and telephone number. Attached as **Schedule 4** is the proposed Opt-Out Form.

- 8.3 **Opt-out for oneself only.** Any Person within the National Settlement Class who wishes to be excluded from the National Settlement Class can only opt out for himself or herself and, except for minors, cannot opt out for any other Person. Nor can any Person within the National Settlement Class authorize any other Person to opt out on his or her behalf.
- 8.4 **Validity of opt-out.** Any request for exclusion that fails to satisfy the requirements of this Section, or that has not been timely sent, may be deemed ineffective, and any Person included within the National Settlement Class who does not properly and timely submit a request for exclusion shall be deemed by the Parties to have waived all rights to opt out, and shall be deemed a National Settlement Class Member for all purposes under this Agreement.

#### **SECTION 9 - Objections to Settlement**

- 9.1 **Objections to Settlement.** Any National Settlement Class Member may object to the fairness, reasonableness or adequacy of the proposed Settlement. Each National Settlement Class Member who wishes to object to any term of this Agreement must do so in writing and mailing it to the Parties' respective counsel at the addresses set forth in Section 21 below. Any such objection must be received by the Parties' respective counsel no later than ten (10) days prior to the date for the approval hearing. Any such objection must (a) identify the DLP television purchased by the National Settlement Class Member (by serial and model number), the date or approximate date of the National Settlement Class Member's purchase of the DLP television, the Province in which the DLP television was purchased, and the approximate total dollar amount of such purchase, (b) attach copies of any materials that will be submitted to the Court or presented at the approval hearing, (c) be signed by the National Settlement Class Member, and (d) clearly state in detail (i) the legal and factual ground(s) for the objection, (ii) the National Settlement Class Member's name, address and telephone number, and (iii) if represented by counsel, such counsel's name, address and telephone number. Any objection that fails to satisfy the requirements of this Section, or that is not properly and timely submitted, may be deemed ineffective. Any member of the Proposed National Settlement Class who wishes to object to any term of the Settlement Agreement may also appear at the settlement approval hearing before the Court at the time provided for in the notice of approval herein.

#### **SECTION 10 - Failure of the Courts to Approve this Settlement Agreement**

82  
J.D.



- 10.1 **Settlement null and void if not approved.** If (a) the Courts or one of the Courts do not render a Settlement Approval Judgment; or (b) the Settlement Approval Judgments or one of the Settlement Approval Judgments; or (c) any objector appeals from the Court's entry of the Settlement Approval Judgment and such order or judgment is reversed in whole or in part by a final decision of an appellate court (in the event of a partial reversal, the Parties shall have the right to elect to be bound by this Agreement as modified by the appellate court), and if either Party provides written notice to the other within twenty (20) business days of one of the occurrences described in sub-sections (a) through (c) above, then this Agreement shall be null and void, shall have no further force and effect with respect to any Party, and shall not be offered in evidence or used in the Class Actions (or in any other matter) for any purpose, including that relating to the existence, authorization, certification or maintenance of any purported class of plaintiffs. In such event, this Agreement and all negotiations, proceedings, documents prepared, and statements made in connection herewith shall be without prejudice to the Parties or the National Settlement Class Members, shall not be deemed or construed to be an admission or confession by any Party of any fact, matter or proposition of law, and shall not be used in any matter for any purpose, and all Parties shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Courts. In such event, any Party may request that the Courts vacate any and all orders or judgments rendered by the Courts pursuant to the provisions of this Agreement, and no Party shall object thereto. To the extent feasible, the Parties shall be returned to their respective positions prior to the execution of this Agreement. The Class Actions shall then proceed in all material respects as if this Agreement and any related orders had never been executed. A modification or reversal on appeal of the resolution of any dispute relating to the claim of anyone claiming to be a National Settlement Class Member shall not be deemed a material modification of this Agreement.

#### **SECTION 11 - Attorneys' Fees and Payment to Elad Ben-Eli**

- 11.1 **Fees and expenses.** TCL and TAIS will pay a total of **SEVENTY FOUR THOUSAND FIVE HUNDRED DOLLARS** (\$74,500.00), in attorney's fees to Class Counsel, and **FIVE THOUSAND DOLLARS** (\$5,000.00) in expenses, exclusive of taxes. TCL and TAIS agree not to oppose an award by the Courts of the aggregate amount of **SEVENTY NINE THOUSAND FIVE HUNDRED DOLLARS** (\$79,500.00) in attorneys' fees and expenses. Class Counsel shall seek approval of the Attorneys' fees and expenses at the Settlement Approval Hearing. For clarity, the attorney's fees and expenses referred to in this Section are paid in connection with both of the Class Actions and constitute compensation for work performed and to be performed by Class Counsel in both Québec and in Ontario. TCL and TAIS will pay the Attorneys' Fees herein no later than ten (10) business days from the Settlement Effective Date.

1.0 - 82



- 11.2 **Payment to Elad Ben-Eli.** TCL and TAIS will pay a total of **FIVE HUNDRED DOLLARS** (\$500.00), to the Québec Plaintiff Elad Ben-Eli in compensation for his work as representative plaintiff. TCL and TAIS agree not to oppose an award by the Québec Superior Court of the **FIVE HUNDRED DOLLARS** (\$500.00). Class Counsel shall seek approval of the payment at the Québec Settlement Approval Hearing. TCL and TAIS will effect payment no later than ten (10) business days from the Settlement Effective Date.
- 11.3 **Negotiation of fees and expenses.** The Parties' negotiation of and agreement to the foregoing attorneys' fees, expenses and incentive payment to Mr. Ben-Eli did not occur until after the substantive terms of this Agreement had been negotiated and agreed upon. If this Agreement is terminated pursuant to any of its provisions or for any other reason, TCL's and TAIS's obligations under this Section, including the obligation to pay any amount of attorneys' fees, expenses or incentive payment, shall likewise be terminated.
- 11.4 **Release.** Payment by TCL and TAIS of the attorneys' fees and expenses, and the incentive payment to Elad Ben-Eli, pursuant to this Section and as approved by the Court, will completely satisfy any and all obligations on their part or on the part of the other Released Parties to such fees, expenses and payments under this Agreement. The Released Parties shall have no responsibility or liability whatsoever regarding the payment of attorneys' fees, costs and expenses or regarding any incentive payment other than as set forth in this Section.
- 11.5 **Translation.** Counsel for TAIS and TCL will undertake the drafting of all documents associated with the translation and implementation of the Settlement and the provision of notices to the National Settlement Class.

## **SECTION 12 - Release, Waiver and Covenant not to Sue**

- 12.1 **Release.** Effective as of the Settlement Effective Date, and in consideration of this Agreement and the benefits extended to the National Settlement Class, Plaintiffs, on behalf of themselves and the National Settlement Class Members, and each National Settlement Class Member, on behalf of himself, herself or itself and his or her respective past, present, and future parents, subsidiaries, joint ventures, partnerships, related companies, affiliates, unincorporated entities, divisions, groups, directors, officers, shareholders, employees, agents, representatives, servants, partners, executors, administrators, assigns, predecessors, successors, descendants, family law claimants, dependents, and heirs, fully release and forever discharge the Released Parties from the Released Claims. Without limiting any other provisions herein, each National Settlement Class Member, whether or not he or she submits a claim or otherwise receives an award, will be deemed completely and unconditionally to have released and forever discharged the Released Parties from the Released Claims, including all claims, actions, causes of action, suits, debts, duties, accounts,

AD &

bonds, covenants, contracts and demands whatsoever, whether known or unknown, that were asserted or could have been asserted in the Class Actions that are the subject of this Settlement Agreement.

12.2 **No further actions.** Upon issuance of each of the Settlement Approval Judgments, Plaintiffs shall have, and each and every National Settlement Class Member shall be deemed to have, on their own and on behalf of the National Settlement Class Member's, as applicable, respective past, present, and future parents, subsidiaries, joint venturers, partnerships, related companies, affiliates, unincorporated entities, divisions, groups, directors, officers, shareholders, employees, agents, representatives, servants, partners, executors, administrators, assigns, predecessors, successors, descendants, dependents, and heirs, covenanted and agreed to:

- a) forever refrain from instituting, maintaining, or proceeding in any action against the Released Parties with respect to any Released Claims;
- b) release and forever discharge the Released Parties from each and every such Released Claim;
- c) indemnify and hold harmless the Released Parties from all liability and expenses (including attorneys' fees) incurred by the Released Parties as the result of a breach of this covenant-not-to-sue by a National Settlement Class Member. Liability for this indemnification shall be limited solely to the National Settlement Class Member(s) responsible for breaching the covenant-not-to-sue.

12.3 **New Facts covered by settlement.** Plaintiffs, on behalf of themselves and the National Settlement Class Members, fully understand that if any fact relating to any matter covered by this Agreement is later found to be other than or different from the facts now believed by Plaintiffs to be true, Plaintiffs, on behalf of themselves and the National Settlement Class Members, expressly accept and assume the risk of such possible differences in fact and agree and acknowledge that this Agreement shall nevertheless remain fully binding and effective.

### **SECTION 13 - Entire Agreement**

This Agreement shall constitute the entire agreement between TCL and TAIS and the Plaintiffs, on behalf of themselves and the National Settlement Class, and supersedes and replaces any prior agreements and understandings, whether oral or written, between and among them, with respect to such Class actions. This Agreement shall not be subject to any change, modification, amendment, or addition, without the express written consent of all Parties, and may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

J.D.  
8



**SECTION 14 - Binding, Severable Agreement**

This Agreement shall benefit and bind the Parties, as well as their representatives, heirs and successors, and shall be construed as a whole, according to its plain meaning. If for any reason any provision of this Agreement other than Sections 7 (Settlement Consideration) or 12 (Release, Waiver and Covenant not to Sue) shall be determined by a court of competent jurisdiction to be invalid, inoperative, illegal, unenforceable, or void, the validity and effect of the other provisions shall not be affected thereby, and this Agreement shall continue in full force and effect without said provision.

**SECTION 15 - Continuing Jurisdiction**

Jurisdiction Following the issuance of the Settlement Approval Judgments, the Ontario Court and the Québec Court shall each retain their respective continuing and exclusive jurisdiction over the Parties, including the National Settlement Class Members, over the administration and enforcement of the Settlement and this Agreement, and over the distribution of benefits to the National Settlement Class.

**SECTION 16 - Choice of Law**

The validity, construction, interpretation, performance, and enforcement of this Agreement and any disputes arising therefrom shall be governed by the internal, substantive laws of the Province of Québec for the Québec class and by the internal, substantive laws of the Province of Ontario for the Ontario class.

**SECTION 17 - No Assignment**

The Parties each represent and warrant that they have not assigned, transferred or purported to assign or transfer, in whole or in part, any interest in any of the rights and claims that are the subject of this Agreement.

**SECTION 18 - Advice of Counsel**

Each of the Parties has had the benefit of the advice of counsel in the negotiation, drafting and execution of this Agreement, and the language in all parts of this Agreement is the product of the efforts of such counsel.

**SECTION 19 - Authority**

The Parties each represent and warrant that they have authority to enter into this Agreement, subject to certification of the National Settlement Class and approval of this Agreement by the Court.

*J.O. - 8*



## **SECTION 20 - No Party is Drafter**

None of the Parties to this Agreement shall be considered to be the primary drafter of this Agreement, or of any of its provisions, for the purpose of any rule of interpretation or construction that might cause any provision to be construed against the drafter.

## **SECTION 21 - Notification**

Except as otherwise described in the Notices referred to in Section 6, all notices and other communications referenced in this Agreement shall be in writing and shall be served by overnight mail or by registered or certified mail, return receipt requested, addressed to the Parties' counsel at their respective addresses as set forth below:

### Notices to Plaintiffs or the National Settlement Class Members

Jeff Orenstein  
Consumer Law Group Inc. /  
Consumer Law Group Professional Corporation  
4150 Ste.-Catherine St. West, Suite 330  
Montreal, Quebec, Canada, H3Z 2Y5

### Notices to TCL and TAIS

Robert E. Charbonneau/Suzanne Courchesne  
Borden Ladner Gervais LLP  
1000 de la Gauchetière Street West, Suite 900  
Montreal, Quebec, Canada, H3B 5H4

## **SECTION 22 - Time for Compliance**

If the date for performance of any act required by or under this Agreement to be performed on a particular day or within a specified period of time falls on a Saturday, Sunday or legal or Court holiday, such act may be performed upon the next business day, with the same effect as if it had been performed on the day or within the period of time specified by or under this Agreement.

## **SECTION 23 - Language**

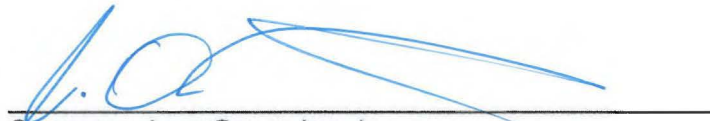
- 23.1 **Original in English.** The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English. *Les Parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.*

J.P. J.C.

23.2 **French translation.** A French translation of this Agreement, all Schedules attached hereto and all Notices pursuant to this Settlement Agreement shall be prepared by counsel for TAIS and TACP and made available to Class Members. In case of any inconsistency between this Settlement Agreement and its French translation, the former original English Settlement Agreement shall prevail.

**IN WITNESS WHEREOF**, the Parties have signed this Agreement on the date set forth below.

Executed in MONTREAL, made as of the 6<sup>th</sup> day of September, 2012



---

Consumer Law Group Inc. /  
Consumer Law Group Professional Corporation  
*Attorneys for Petitioners and National  
Settlement Class Members*



---

Borden Ladner Gervais, LLP  
*Attorneys for Respondents Toshiba of Canada Limited  
And Toshiba America Information Systems Inc.*

Schedule 1

Short-Form Notice of Settlement Approval Hearing

NOTICE OF HEARING FOR APPROVAL OF PROPOSED NATIONAL SETTLEMENT  
OF THE CANADIAN TOSHIBA DLP TELEVISIONS CLASS ACTIONS

TO PROPOSED CLASS MEMBERS:

All physical and moral persons (having less than 50 employees in the year preceding the filing of the Motion for authorization) residing in Quebec who purchased a 2004 or 2005 model year Toshiba Digital Light Projection ("DLP") television or any other group to be determined by the Court.

(collectively the "Proposed Québec Class")

All Canadian residents, excluding residents of Province of Québec eligible to be class members under Québec law, who purchased a 2004 or 2005 model year Toshiba Digital Light Projection ("DLP") television, or any other group to be determined by the Court.

(collectively the "Proposed Ontario Class")

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.

A Motion for authorization to institute a Class Action ("**Class Action**"), bearing Superior Court file number 500-06-000491-098, has been filed against Toshiba of Canada Limited and Toshiba America Information Systems Inc. ("**Toshiba**") alleging that Toshiba misstated the average useful life of the bulbs contained in the lamps of its 2004 and 2005 model DLP televisions.

A Statement of Claim and a Certification Motion were filed against Toshiba (the "Ontario Class Action") before the Superior Court of Justice of Ontario in the case bearing no. CV-12-456603-00CP.

An agreement (the terms of which are set out in detail in the "**Settlement Agreement**") has been reached in the Class Actions and, in order to become effective, the Settlement Agreement must be approved by the Superior Court of Quebec and the Superior Court of Justice of Ontario.

The Settlement provides *inter alia* for the extension of warranty on certain bulbs and the reimbursement of the purchase price of certain replacement bulbs.

JO · S



THE HEARING BEFORE THE SUPERIOR COURT OF QUEBEC ON THE APPROVAL OF THE PROPOSED SETTLEMENT WILL TAKE PLACE ON \_\_\_\_\_, 2013 AT 9:30 A.M., IN ROOM \_\_\_\_\_ OF THE MONTREAL COURTHOUSE LOCATED AT 1 NOTRE DAME STREET EAST, MONTREAL.

THE HEARING BEFORE THE SUPERIOR COURT OF JUSTICE OF ONTARIO ON THE APPROVAL OF THE PROPOSED SETTLEMENT WILL TAKE PLACE ON \_\_\_\_\_, 2013 AT ●● A.M., IN ROOM \_\_\_\_\_ OF THE TORONTO COURTHOUSE LOCATED AT ●●●.

A copy of the proposed Settlement Agreement, the Schedules thereto and the long form Notice to Class Members can be found on [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com) and [www.clq.org](http://www.clq.org).

Members of the Proposed Classes are entitled to object to the Settlement Agreement and have the right to appear at the hearing. The detailed procedure to be followed by Members of the Proposed Class to submit an objection can be found on [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com) and [www.clq.org](http://www.clq.org).

COUNSEL FOR MEMBERS OF THE PROPOSED CLASSES

Jeff Orenstein  
CONSUMER LAW GROUP INC./ CONSUMER  
LAW GROUP PROFESSIONAL CORPORATION  
4150 Ste.-Catherine St. West, Suite 330  
Montreal, Quebec, H3Z 2Y5

Counsel FOR TOSHIBA  
Robert E. Charbonneau/Suzanne  
Courchesne  
BORDEN LADNER GERVAIS S.E.N.C.R.L./LLP  
1000 de la Gauchetière Street West,  
Suite 900  
Montreal, Quebec, H3B 5H4

Barry Glaspell  
BORDEN LADNER GERVAIS LLP  
SCOTIA PLAZA  
40, KING STREET WEST, 44TH FLOOR

*Handwritten signature and initials in blue ink.*

TORONTO, ONTARIO, M5H 3Y4

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE SUPERIOR COURT OF QUEBEC  
AND THE SUPERIOR COURT OF JUSTICE OF ONTARIO

AD. &

**Long-Form Notice of Settlement Approval Hearing**

**NOTICE OF HEARING FOR APPROVAL OF PROPOSED NATIONAL SETTLEMENT  
OF THE CANADIAN TOSHIBA DLP TELEVISIONS CLASS ACTIONS**

**TO PROPOSED CLASS MEMBERS:**

All physical and moral persons (having less than 50 employees in the year preceding the filing of the Motion for authorization) residing in Quebec who purchased a 2004 or 2005 model year Toshiba Digital Light Projection ("DLP") television or any other group to be determined by the Court.

(collectively the "Proposed Quebec Class")

All Canadian residents, excluding residents of Province of Québec eligible to be class members under Québec law, who purchased a 2004 or 2005 model year Toshiba Digital Light Projection ("DLP") television, or any other group to be determined by the Court.

(collectively the "Proposed Ontario Class")

**PLEASE NOTE THAT:**

- **2004 Model Television** shall refer to the following Toshiba brand DLP television models: 44NHM84, 46HM84, 52HM84, 52HMX84, 62HM84, 62HMX84, 62HMX94.
- **2005 Model Television** shall refer to the following Toshiba brand DLP television models: 46HMX85, 52HM85, 52HMX85, 56HM195, 62HM85, 62HMX85, 62MX195, 72MX195, 44HM85, 62HM95 and 62HMX95.

**PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.**

**THE LEGAL PROCEEDINGS**

A Motion for authorization to institute a Class Action ("**Class Action**"), bearing Superior Court file number 500-06-000491-098, has been filed in Quebec by Ben-Eli (the "**Petitioner**") against Toshiba of Canada Limited and Toshiba America Information Systems Inc. ("**Toshiba**") alleging that Toshiba misstated the average useful life of the bulbs contained in the lamps of its 2004 and 2005 model DLP televisions.

10. 82



A Statement of Claim and a Certification Motion were filed by Mackie against Toshiba (the "Ontario Class Action") before the Superior Court of Justice of Ontario in the case bearing no. CV-12-456603-00CP.

An agreement (the terms of which are set out in detail in the "**Settlement Agreement**") has been reached between the Petitioner and Toshiba in the Class Actions. In order for the Settlement Agreement to become effective, it must be approved by the Superior Court of Quebec and the Superior Court of Justice of Ontario (the "**Courts**").

#### **SETTLEMENT APPROVAL HEARING**

THE HEARING BEFORE THE SUPERIOR COURT OF QUEBEC ON THE APPROVAL OF THE PROPOSED SETTLEMENT WILL TAKE PLACE ON \_\_\_\_\_, 2013 AT 9:30 A.M., IN ROOM \_\_\_\_\_ OF THE MONTREAL COURTHOUSE LOCATED AT 1 NOTRE DAME STREET EAST, MONTREAL.

THE HEARING BEFORE THE SUPERIOR COURT OF JUSTICE OF ONTARIO ON THE APPROVAL OF THE PROPOSED SETTLEMENT WILL TAKE PLACE ON \_\_\_\_\_, 2013 AT •• A.M., IN ROOM \_\_\_\_\_ OF THE TORONTO COURTHOUSE LOCATED AT •••.

#### **CONTENT OF THE PROPOSED SETTLEMENT**

Subject to Courts' approval and without any admission of fault or liability on the part of Toshiba, the proposed Settlement Agreement provides that Toshiba will grant an extension of the warranty on replacement bulbs purchased or received under warranty for 2004 and 2005 model Toshiba DLP televisions from its present period of six months, for an additional six months, or a total of 12 months from the date of purchase of the replacement bulb. Owners of 2004 and 2005 model Toshiba DLP televisions who will make a claim under this extended replacement bulb warranty after the Settlement Effective Date and within that warranty period will receive a free replacement bulb.

Furthermore, a voluntary program was initiated by Toshiba in May 2006 ("*Remediation Program*") by which owners of certain 2005 Model Televisions included in a specific serial number range posted on [www.toshiba.ca](http://www.toshiba.ca) received a one-year extension of warranty on the originally installed lamp (thus providing two years of coverage for the lamp and its bulb).

Members of the Proposed Classes who own a Covered Model that does not fall within the serial number range of televisions covered by the Remediation Program and:

- (a) who experienced a single bulb failure outside of the warranty period, but within eighteen (18) months from the date of purchase of the television; or

10- 82

- (b) who experienced two (2) or more bulb failures outside the warranty period, but within twenty-four (24) months from the date of purchase of the television;

shall be eligible to receive reimbursement for monies expended to purchase the replacement bulb or bulbs.

Members of the Proposed Class who own a 2005 Model Television that falls within the serial number range of televisions covered by the Remediation Program and who purchased one or more replacement bulbs outside the warranty period, but within twenty-four (24) months from the date of purchase of the television, shall be eligible to receive reimbursement for monies expended to purchase the replacement bulb or bulbs.

### **CLAIMS SUBMISSION PROCESS**

Subject to Courts' approval, the Settlement Agreement provides that Toshiba shall only be obligated to pay claims pursuant to the terms of the Settlement Agreement, upon the submission by a Member of the Proposed Class to the Claims Administrator of:

- (a) A Settlement Claim Form, substantially in the form set out in Schedule 3 of the Settlement Agreement. Claims submitted in any other form will be considered null and void; and
- (b) A proof of purchase of the Covered Model. A list of retailers who may provide proof of purchase to Members of the Proposed Class for claims purposes will be made available on [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com); and
- (c) A proof of purchase of the requisite number of bulbs. Proof of purchase shall include any document emanating from a third party retailer that includes the date, amount paid for each bulb and the serial number or part number for each bulb. In the case where such a proof of purchase is not available, a sworn affidavit containing the cost, the date or period of purchase of the bulbs and the place thereof shall be provided.

A copy of the proposed Settlement Agreement, including the Claims Submission Process, the Claim Forms and the Schedules can be found on [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com) and [www.clg.org](http://www.clg.org).

The period for submitting claims shall begin seven (7) days after publication of the Notice advising of the approval of the Settlement Agreement by the Quebec Superior Court and by the Superior Court of Justice of Ontario and expire ninety (90) days thereafter.

N.O. &

### **CLASS COUNSEL RECOMMENDATIONS**

Members of the Proposed Classes are represented by Class Counsel Consumer Law Group Inc. / Consumer Law Group Professional Corporation, who are highly experienced in class action litigation and recommend the Settlement.

### **CLASS MEMBER'S RIGHT TO OBJECT**

Members of the Proposed Classes who do not oppose the Settlement Agreement need not appear at the hearing or take any other action at this time to indicate their desire to participate in the Settlement.

Members of the Proposed Classes are entitled to object to the Settlement Agreement and have the right to appear at the hearing, in person or through a lawyer.

Any Member of the Proposed Classes who wishes to object to any term of the Settlement Agreement must do so in writing by filing a written objection and mailing it to the Parties' respective counsel at the addresses set forth below. Any such objection must be received by the Parties' respective counsel **no later than ten (10) days prior to the date for the approval hearing**. Any such objection must:

- (a) identify the DLP television purchased by the Member of the Proposed Class (by serial and model number), the date or approximate date of the purchase of the DLP television, the Province in which the DLP television was purchased, and the approximate total dollar amount of such purchase;
- (b) attach copies of any materials that will be submitted to the Court or presented at the approval hearing;
- (c) be signed by the Member of the Proposed Classes; and
- (d) clearly state in detail:
  - (i) the legal and factual ground(s) for the objection;
  - (ii) the Member's name, address and telephone number; and
  - (iii) if represented by counsel, such counsel's name, address and telephone number.

Any objection that fails to satisfy the above-mentioned requirements or that is not properly and timely submitted may be deemed ineffective.

COUNSEL FOR MEMBERS OF THE PROPOSED  
CLASSES

f.o. 82



Jeff Orenstein  
CONSUMER LAW GROUP INC./ CONSUMER  
LAW GROUP PROFESSIONAL CORPORATION  
4150 Ste.-Catherine St. West, Suite 330  
Montreal, Quebec, H3Z 2Y5

COUNSEL FOR TOSHIBA  
Robert E. Charbonneau/Suzanne  
Courchesne  
BORDEN LADNER GERVAIS S.E.N.C.R.L./LLP  
1000 de la Gauchetière Street West,  
Suite 900  
Montreal, Quebec, H3B 5H4

Barry Glaspell  
BORDEN LADNER GERVAIS LLP  
Scotia Plaza  
40, King Street West, 44th Floor  
Toronto, Ontario , M5H 3Y4

#### **INTERPRETATION**

This notice is intended as a summary only. Should there be any conflict between the provisions of this Notice and the Settlement Agreement and any of its Schedules, the terms of the Settlement Agreement shall prevail.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE SUPERIOR COURT OF QUEBEC AND THE SUPERIOR COURT OF JUSTICE OF ONTARIO.

*Handwritten initials:* J.O. and S.C.

Schedule 2

Notice of Settlement Approval

**IF YOU PURCHASED A TOSHIBA DLP TELEVISION,  
YOU MAY BE ELIGIBLE TO RECEIVE BENEFITS  
FROM A CLASS ACTION SETTLEMENT**

Please read this notice carefully as it may affect your rights.

**WHO IS INCLUDED?**

All Canadian residents who own a 2004 or 2005 model year Toshiba Digital Light Projection ("DLP") television.

**WHAT IS THIS CASE ABOUT?**

This lawsuit claims that Toshiba knowingly misrepresented the life span of bulbs and lamps contained in the lamp assembly component in 2004 and 2005 DLP television models breaching expressed and implied warranties to purchasers and in contravention of various provincial consumer protection legislation. Toshiba denies any wrongdoing in connection with the sale, distribution or marketing of DLP televisions. The Court did not decide which side was right. Instead, the parties have decided to settle.

**WHAT BENEFITS DOES THE SETTLEMENT PROVIDE?**

Class Members will receive a six-month warranty extension for replacement bulbs. They are also eligible to submit a claim for a cash refund for certain purchases of replacement bulbs. Eligibility will be determined based on the following: (1) For all 2004 models and certain 2005 models that do not fall within a range of serial numbers (listed on the settlement website at [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com)) covered by a prior Toshiba Remediation Program, persons who experienced a single bulb failure between 12 and 18 months from the date of television purchase; (2) for all 2004 and 2005 models, persons who experienced two or more bulb failures between 12 and 24 months from date of television purchase; or (3) for owners of certain 2005 models that fall within a range of serial numbers (listed on the settlement website at [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com)) covered by the Remediation Program, persons who purchased one or more replacement bulbs between 12 and 24 months from the date of television purchase.

Toshiba is also agreeing to separately pay attorneys' fees, an award to the Representative Plaintiff and the costs of settlement administration. A full copy of the Settlement Agreement and a list of all eligible DLP models may be obtained on the settlement website at [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com).

**HOW DO YOU ASK FOR A PAYMENT?**

To get money, eligible Class Members must submit a Claim Form by mail postmarked no later than **Month xx, 2013**. The Claim Form is available on the settlement website at

A.D. Sc

[www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com) or Class Counsel's website at [www.clg.org](http://www.clg.org). The Claim Form must be sent by mail to: Toshiba DLP Television Settlement Canada at street, city, province, postal code.

#### WHAT ARE YOUR OPTIONS?

If you are a Class Member, you may:

1. Send in a Claim Form and request one or more cash refunds for past purchases of replacement bulbs;
2. Do nothing. If you do nothing, you will not get a cash refund and you give up rights. You will, however, be able to take advantage of the extension of the warranty for replacement bulbs;
3. Exclude yourself. If you opt out of the settlement, you can't get a payment, but you can sue Toshiba for these claims; you will not be bound by the Settlement Agreement and cannot file a claim. You will, however, be able to take advantage of the extension of the warranty for replacement bulbs.

#### HOW DO I EXCLUDE MYSELF?

If you wish to opt out, you must no later than **Month xx, 2013**: i) complete and submit by mail the Opt Out Form; ii) the Opt Out Form is available on the settlement website at [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com) or Class Counsel's website at [www.clg.org](http://www.clg.org). Class Members who want to opt out and who are residents of Quebec must IN ADDITION give notice to the Clerk of the Superior Court of Quebec.

#### WHEN SHOULD I MAKE A CLAIM?

Because of the deadline, you must act without delay. Your completed Claim Form must be postmarked on or before **Month xx, 2013**.

#### WHEN DO I GET PAID?

Cheques will only begin to be mailed to eligible Class Members for cash refunds at the earliest starting on **Month xx, 2013**.

#### HOW CAN YOU GET MORE INFORMATION?

For further details, you may call the Claims Administrator at **1-800-xxx-xxxx**. A complete copy of the Settlement Agreement, detailed information on how to obtain or file a Claim Form or Opt Out Form are available on the settlement website at [www.CanadianDLPsettlement.com](http://www.CanadianDLPsettlement.com) or Class Counsel's website at [www.clg.org](http://www.clg.org).

#### WHO REPRESENTS ME?

The Class Counsel, or law firm representing the plaintiffs, is the following:

Jeff Orenstein  
**Consumer Law Group Inc.**  
4150, Sainte-Catherine St. West, Suite 330  
Montreal, Quebec, H3Z 2Y5

Q.O. &



- 29 -

Phone:  
1-888-909-7863 Toll Free  
514-266-7863 Montreal  
416-479-4493 Toronto  
613- 627-4894 Ottawa  
Email: [jorenstein@clg.org](mailto:jorenstein@clg.org)  
Website: [www.clg.org](http://www.clg.org)

Class Members are not liable for any legal fees. Class members may, but are not obliged to, retain their own lawyers to assist them in making individual claims under the Settlement Agreement but they may not find it necessary to do so. Submitting a Claim under the Settlement Agreement is considerably less complex and less expensive than pursuing an individual lawsuit. In the event that Class Members feel they require the assistance of a lawyer in making their Claim, they will be responsible to pay the legal fees of any lawyer they retain to prepare their claim.

This notice has been approved by the Quebec Superior Court  
and the Superior Court of Justice of Ontario.

10. 8

**Schedule 3**

**CANADIAN TOSHIBA DLP TELEVISIONS CLASS ACTION  
SETTLEMENT CLAIM FORM**

**1 - Personal Information**

- Your name: \_\_\_\_\_
- Your address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Your telephone number: \_\_\_\_\_
- Your email address (optional): \_\_\_\_\_

**2 - Toshiba DLP Television Model**

- The model you own:

- 2004:**     44HM84             62HM84  
              46HM84             62HMX84  
              52HM84             62HMX94  
              52HMX84
- 2005:**     44HM85             56HM195             62HMX95  
              46HMX85             62HM85             62MX195  
              52HM85             62HMX85             72MX195  
              52HMX85             62HM95

- Serial number of your television: \_\_\_\_\_
- Date of purchase of your television: \_\_\_\_\_

A proof of purchase of your television is required.

*g.o. sc*

**3 - Replacement Lamp Bulb(s)**

- Date(s) of lamp unit failure(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A proof of replacement lamp bulb(s) purchase is required. If you do not have this, the sworn affidavit below must be completed.

(Proof of purchase includes any document emanating from a retailer that includes the date of purchase, the amount paid for each bulb and the serial number or part number for each bulb)

**IN THE CASE WHERE A PROOF OF PURCHASE OF THE BULB(S) IS NOT AVAILABLE, THE FOLLOWING SWORN AFFIDAVIT SHALL BE PROVIDED:**

I, the undersigned, \_\_\_\_\_, solemnly declare having purchased at  
(name)  
\_\_\_\_\_, on or about \_\_\_\_\_  
(place of purchase) (date or period of purchase)  
\_\_\_\_\_ replacement lamp bulb(s), at the cost of \_\_\_\_\_  
(number of bulbs) (cost)

**AND I HAVE SIGNED**

\_\_\_\_\_  
(signature)

**DECLARED SOLEMNLY** before me,

at \_\_\_\_\_  
(city)

on \_\_\_\_\_  
(date)

\_\_\_\_\_  
Commissioner of oaths or notary public

10- 82



4 - Certification

I declare that the information contained in the present claim form is true and accurate.

\_\_\_\_\_  
Signature Date

This claim form, once completed and signed, must be sent by mail, together with the required proofs of purchase, to the following address, by no later than \_\_\_\_\_:

CLAIMS ADMINISTRATOR:  
Address

10. 82

**Schedule 4**

**Opt-Out Form**

---

**TOSHIBA DLP TELEVISION CLASS ACTION SETTLEMENT  
OPT OUT FORM**

---

Class Members are bound by the terms of the Settlement Agreement, unless they opt out of the class action.

If you opt out, you will not be entitled to make a claim or to receive any cash refunds. If you opt out, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your claim. By opting out, you will take full responsibility for taking all necessary legal steps to protect your claim.

If you wish to opt out, you must no later than **Month xx, 2013**, complete and submit by mail the present Opt-Out Form to the following address: **Claims Administrator, street, city, province, postal code**;

Class Members who want to opt out and who are residents of Quebec must IN ADDITION give notice to the Clerk of the Superior Court of Quebec at:

Clerk of the Superior Court of Quebec  
Palais de Justice  
1, Notre-Dame Street East  
Montreal (Quebec) H2Y 1B6  
Court file no. 500-06-000491-098

**THIS IS NOT A REGISTRATION FORM OR A CLAIM FORM.  
IT EXCLUDES YOU FROM MAKING A CLAIM IN THE SETTLEMENT.  
DO NOT USE THIS FORM IF YOU WANT TO RECEIVE BENEFITS UNDER THE  
SETTLEMENT.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: (optional) \_\_\_\_\_

10-8

IF YOU ARE BEING REPRESENTED BY COUNSEL, PLEASE ALSO FILL IN BELOW:

Name of attorney: \_\_\_\_\_

Address of attorney: \_\_\_\_\_

Telephone number of attorney: \_\_\_\_\_

Email of attorney: (optional) \_\_\_\_\_

Identification of the Toshiba DLP television (please check):

• The model I own:

- 2004:  44HM84       62HM84  
 46HM84       62HMX84  
 52HM84       62HMX94  
 52HMX84

- 2005:  44HM85       56HM195       62HMX95  
 46HMX85       62HM85       62MX195  
 52HM85       62HMX85       72MX195  
 52HMX85       62HM95

- Serial number of my television: \_\_\_\_\_
- Date of purchase of my television: \_\_\_\_\_
- Province in which the DLP television was purchased: \_\_\_\_\_
- Total dollar amount for the purchase of my television: \_\_\_\_\_

I am signing this Opt Out Form to EXCLUDE myself from entitlement to benefits under the Toshiba DLP television Settlement Agreement.

Purpose of Opting Out (check only one):

- My current intention is to begin individual litigation against Toshiba to seek to recover damages related to my Toshiba DLP television.
- I am opting out of the class action for a reason other than to begin individual litigation against Toshiba to seek to recover damages related to my Toshiba DLP television.

AD. 



**I UNDERSTAND THAT BY OPTING OUT I WILL NEVER BE ELIGIBLE TO RECEIVE ANY CASH REFUNDS PURSUANT TO THE TOSHIBA DLP TELEVISION CLASS ACTION SETTLEMENT AGREEMENT**

I wish to opt out of the Toshiba DLP television Settlement Program in Canada.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Name of Class Member

\_\_\_\_\_  
Signature of Class Member

10. 82