

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE)
) FRIDAY, THIS 8TH DAY OF
)
MR. JUSTICE C. MacLEOD) JUNE, 2018

B E T W E E N:

DEVIN FORBES, STEVEN LAGACÉ, MICHAEL EVELAND
and JOSEPH EDWARD PAUL RATZ

Plaintiffs

-and-

TOYOTA CANADA INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

ORDER

(Certification and Notice Approval)

THIS MOTION by the Plaintiffs for an Order certifying this action as a class proceeding for settlement purposes as against the Defendant and approving the notices of settlement approval hearings and the method of dissemination of such notices was read this day at the Court House at 161 Elgin Street, 2nd Floor, Ottawa, Ontario.

ON READING the materials filed, including the National Settlement Agreement attached to this Order as Appendix “A” (the “Settlement Agreement”), as well as, the Consent of the parties filed.

1. **THIS COURT ORDERS** that except to the extent they are modified by this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that this action is hereby certified as a class proceeding for settlement purposes only on behalf of the following National Class:

“All persons, entities, or organizations resident in Canada (including the Territories), excluding the members of the Quebec Class, who, at any time as of the entry of the Pre-Approval Order, own or owned, purchase(d), or lease(d) any of the Subject Vehicles distributed for sale or lease in Canada. Excluded from the Class are: (a) Toyota, its officers, directors, and employees; its affiliates and affiliates’ officers, directors, and employees; its distributors and distributors’ officers, directors and employees; and Toyota Dealers and Toyota Dealers’ officers and directors; (b) Class Counsel; (c) judicial officers and their immediate family members and associated court staff assigned to this case; and (d) persons or entities who or which timely and properly exclude themselves from the Class as provided in this Settlement Agreement.”
3. **THIS COURT ORDERS** that plaintiffs Devin Forbes, Steve Lagacé, Joseph Edward Paul Ratz, and Michael Eveland are hereby appointed as the Class Representatives for the National Class.
4. **THIS COURT ORDERS** that this action is hereby certified as a class proceeding on the basis of the following issue:

“Are the Subject Vehicles subject to excessive, premature rust corrosion in the course of their normal use?”
5. **THIS COURT ORDERS** that the form and content of the Short-Form and the Long-Form Notices, substantially in the form attached as Appendix “B” (short-form) and Appendix “C” (long-form) (collectively, the “Pre-Approval Notice”) are hereby approved.
6. **THIS COURT ORDERS** that the Pre-approval Notice shall be published and disseminated in accordance with the Declaration of the Settlement Notice and Claims Administrator (the “Notice Program”), which shall be substantially completed by no July 15, 2018.

7. **THIS COURT ORDERS** that Crawford & Company (Canada), Inc., doing business as GCG Canada, is hereby appointed as Settlement Notice and Claims Administrator for the settlement (the “Administrator”) for the coordination of the Pre-Approval Notice and the administration of objections and related tasks and to oversee and administer the Settlement and Claims Process;
8. **THIS COURT ORDERS** that in order to effectuate the Notice Program, the Administrator is hereby permitted to verify the name and address of current and former registered owners (“Ownership Information”) of the following Toyota vehicles: Tacoma (2005-2010), Tundra (2007-2008) and Sequoia (2005-2008) (“Subject Vehicles”) by Vehicle Identification Number (“VIN”) from one or more third-party entities and/or agencies, including but not limited to:
- Société de l’assurance automobile du Québec
 - Access Nova Scotia
 - Access Prince Edward Island (Access PEI)
 - Alberta Registrar of Motor Vehicle Services
 - Government of Yukon
 - Insurance Corporation of British Columbia (ICBC)
 - Manitoba Public Insurance
 - Ministry of Transportation of Ontario
 - Prince Edward Island – Motor Vehicle Registration
 - Saskatchewan Government Insurance (SGI)
 - Service Alberta
 - Service Alberta - AMVIR and Data Access
 - Service Alberta - Drivers and Motor Vehicles
 - Service New Brunswick
 - Service New Brunswick – Department of Justice and Public Safety
 - Service Newfoundland (Service NL)
 - Service Nova Scotia

9. **THIS COURT ORDERS** that such third-party entities and/or agencies shall provide this Ownership Information to the Administrator, who shall keep this Ownership Information secure and safe;
10. **THIS COURT ORDERS** that the Opt Out Deadline shall be October 22, 2018 and no National Class Member may opt out of this class action after the Opt-Out Deadline has passed;
11. **THIS COURT ORDERS** that the form and content of the Opt Out Form, substantially in the form attached as Appendix “D”, is hereby approved.
12. **THIS COURT ORDERS** that any National Class Member who wishes to be excluded from the Class must mail a notice of exclusion, using the Opt-Out Form, to the Settlement Notice and Claims Administrator, postmarked on or before October 22, 2018, specifying that he or she wants to be excluded.
13. **THIS COURT ORDERS** that any National Class Member who elects to opt out of this class action in accordance with the provisions of this Order may not also object to or comment on the Settlement Agreement and any such objection or comments received therefrom shall be deemed withdrawn.
14. **THIS COURT ORDERS** that any National Class Member who timely and validly opts out of this class action in accordance with the provisions of this Order shall not be bound by the Settlement Agreement, shall not be entitled to receive any benefits or compensation in connection with the Settlement Agreement, shall cease to be a putative class member in this action and any limitation periods otherwise applicable to said class member shall be deemed to re-commence running as of the Opt Out Deadline.
15. **THIS COURT ORDERS** that any National Class Member who does not file a timely written request for exclusion as provided in this Order is bound by all subsequent proceedings, orders and judgments, including, but not limited to the Release, Final Judgments, and Final Orders in the action.

16. **THIS COURT ORDERS** that any National Class Member who wishes to submit an objection or comment regarding the fairness, reasonableness, or adequacy of the Settlement Agreement, must file with this Court, postmarked on or before August 29, 2018, on their own or through lawyer retained at their own expense, a written submission that must include: (a) a heading which refers to the present action; (b) the commenter's full name, telephone number, email address (if any), and address (the commenter's actual residential address must be included); (c) if represented by counsel, the full name, telephone number, and address of all counsel; (d) all of the reasons for his or her comments; (e) whether the commenter intends to appear at the Approval Hearing(s) on his or her own behalf or through counsel; (f) a statement that the commenter is a Class Member, including the make, model, year, and VIN(s) of the Subject Vehicle(s); and (g) the commenter's dated, handwritten signature (an electronic signature or lawyer's signature are not sufficient), **AND THIS COURT ORDERS** that any documents supporting the objection or comments must be attached to the written submission and if any testimony is proposed to be given in support of the objection or comment at the Approval Hearing(s), the names of all persons who will testify must be set forth in written submission.
17. **THIS COURT ORDERS** that the form and content of the Frame Replacement Reimbursement Claim Form, substantially in the form attached as Appendix "E", is hereby approved.
18. **THIS COURT ORDERS** that the Administrator and Class Counsel shall post on their respective websites, as well as the websites:
- www.toyotaframesettlement.ca
 - www.reglementchassistoyota.ca

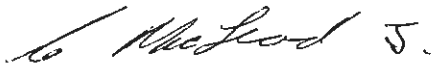
beginning no later than 10 days after the date of this Order:

- this Order as well as its unofficial French translation;
- all the Appendices of this Order;
- the Settlement Agreement as well as its unofficial French translation;

so that every document is accessible in both English and French.

19. **THIS COURT ORDERS** that the motion for settlement approval for this action shall be heard on September 7, 2018 at 10:00 a.m. at the Court House at 161 Elgin Street, Ottawa, Ontario (the “Settlement Approval Hearing”).
20. **THIS COURT ORDERS** that the date and time of the motion for settlement approval shall be set forth in the Pre-Approval Notice but may be subject to adjournment by the Court without further publication of notice to Class Members, other than notice of such adjournment which shall be posted on the settlement website (the “Settlement Website”).
21. **THIS COURT ORDERS** that the Pre-Approval Notice and the Notice Program constitutes fair and reasonable notice to the Class of the Settlement Approval Hearing and of the right of Class Members to object to the Settlement and satisfies the requirements of sections 19 and 29 of the *Class Proceedings Act, 1992*.
22. **THIS COURT ORDERS** that this Order shall not be effective unless and until a Pre-Approval Notice Judgment and Authorization Judgment for Settlement Purposes, generally on the same terms as this Order, is issued by the Superior Court of Quebec in the action titled Muraton vs. Toyota Canada Inc., filed in the District of Montreal, under Court File No. S.C.M. 500-06-000825-162;
23. **AND THIS COURT FURTHER ORDERS** that all costs of the Administrator and all costs of the Notice Program, including the Pre-Approval Notice to Class Members and the costs of publicizing the Notice, shall be paid by the Defendant.
24. There will be no costs of this motion.

ENTERED AT OTTAWA INSCRIT A OTTAWA
ON/LE JUN 14 2018 JUN
DOCUMENT # <u>0411</u>
IN BOOK NO. 73-13
AU REGISTRE NO. 73-13


Justice C. MacLeod

**DEVIN FORBES, STEVEN LAGACÉ, MICHAEL -and-
EVELAND and JOSEPH EDWARD PAUL RATZ**
Plaintiffs

TOYOTA CANADA INC.
Defendant

Court File No. 16-70667-CP

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT OTTAWA
Proceeding under the Class Proceedings Act, 1992

ORDER
(Certification and Notice Approval)

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