

SUPERIOR COURT

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

No : 500-06-000570-115

DATE : June 9, 2023

BY THE HONOURABLE DONALD BISSON, J.S.C.

(JB4644)

MÉTAL L.M. LANDRY INC.
JEAN-NICOLAS POIRIER
Class Representatives

v.

FORD MOTOR COMPANY OF CANADA, LIMITED
-and-
FORD MOTOR COMPANY
Settled Defendants

CLOSING JUDGMENT / JUGEMENT DE CLÔTURE

[1] On November 15, 2016, this Court approved the settlement agreement entered into between the parties (the "Settlement") that provided for one of either: (i) reimbursement for post-warranty repairs to certain engine components or (ii) partial reimbursement of warranty deductibles; both up to certain specified limits. A copy of the Settlement Agreement is attached hereto as Exhibit R-1.

[2] Notices to Class Members (Conditional Certification and Approval of Settlement Hearing and Class Member Opt-Out Notices) were disseminated from September 30, 2016 to October 3, 2016 in the following manner:

- a) Short Form Notice:

- i) Mailed by the Claims Administrator to all owners and lessors of Class Vehicles¹ who are identified as such in the Customer Knowledge System (CKS) database maintained by Ford Motor Company of Canada, Limited²;
- ii) Published once in the form of a 1/6-page advertisement in the Legal/Business (or equivalent) section of the Saturday edition of the following newspapers, in English or French, as is appropriate for each newspaper:
 - i) The Globe and Mail (National Edition),
 - ii) National Post (National Edition),
 - iii) Vancouver Sun (Vancouver, British Columbia),
 - iv) Edmonton Journal (Edmonton, Alberta),
 - v) Calgary Herald (Calgary, Alberta),
 - vi) Saskatoon Star Phoenix (Saskatoon, Saskatchewan),
 - vii) Winnipeg Free Press (Winnipeg, Manitoba),
 - viii) Toronto Star (Toronto, Ontario),
 - ix) Ottawa Citizen (Ottawa, Ontario),
 - x) Hamilton Spectator (Hamilton, Ontario);
 - xi) Montreal Gazette (English - Montreal, Quebec),
 - xii) Le Journal de Montréal (French - Montreal, Quebec),
 - xiii) La Presse (French - Quebec),
 - xiv) Le Soleil (French- Quebec City, Quebec),
 - xv) Moncton Times-Transcript (Moncton, New Brunswick),
 - xvi) Halifax Chronicle Herald (Halifax, Nova Scotia),
 - xvii) Guardian (Charlottetown, Prince Edward Island),
 - xviii) St. John's Telegram (St. John's, Newfoundland),
 - xix) News (Yukon),
 - xx) News North (North West Territories), and
 - xxi) News North (Nunavut).

¹ "Class Vehicles" means model year 2003-2007 Ford vehicles sold or leased to Persons resident in Canada and equipped with a 6.0L Engine.

² If any Class Notice mailed to any potential Settlement Class Member is returned to the Claims Administrator as undeliverable, then the Claims Administrator shall perform a reasonable search for a more current name and/or address for the potential Class Member and (provided that a more current name and/or address can be found through such a search) re-send the returned Class Notice to the potential Class Member by mail. In the event that any Class Notice mailed to a potential Class Member is returned as undeliverable a second time, then no further mailing shall be required.

- b) Long-Form Notice:
 - i) Posted on Class Counsel's Website, <http://www.clg.org> and Facebook page,
 - ii) Posted on the Settlement Website at www.dieselsettlement.ca,
 - iii) Sent by direct mail to any Class Member who contacted Class Counsel about the Proceedings or are known to Class Counsel or for whom Class Counsel has address information; and
 - iv) Sent by direct mail to anyone requesting a copy.

[3] Notices to Class Members (Approval Notices) were again disseminated from March 15, 2018 to August 13, 2018 in the following manner:

- a) The Approval Notice was sent by the Claims Administrator by email to Class Members whose email addresses were known;
- b) The Approval Notice was also:
 - i) Published once in the form of an approximately 1/4-page advertisement in the Legal/Business (or equivalent) section of the Saturday edition of the following newspapers: The Globe & Mail, the National Post, the Toronto Star, and La Presse;
 - ii) Posted on Canadian Newswire (CNW) News Release;
 - iii) Posted on the Settlement Website at www.dieselsettlement.ca;
 - iv) Posted on Class Counsel's Website at www.clg.org and Facebook page³.

[4] The Claim Period ended on May 26, 2017.

[5] The Claims Administrator's report dated September 20, 2022 (the "Renkim Report") is attached hereto as Exhibit R-2.

[6] Regarding the claims process, the Renkim Report (Exhibit R-2) states the following:

- a) The Claims Administrator received a total of 619 claim submissions by residents of Quebec;
- b) Of these claims,
 - 34 were approved (totalling payments in the aggregate amount of \$34,330.88);
 - 36 were partially approved (totalling payments in the aggregate amount of \$22,225.00);
 - 491 were denied; and

³ The CLG Facebook page had 24,409 "likes" as of October 16, 2016.

- 75 were rejected on the basis that they did not include all the required information and documentation (the "Deficient Quebec Claims").

c) 41 of the Deficient Quebec Claims were resubmitted to the Claims Administrator within the 30-day deadline provided for in the Settlement:

- 22 were approved (totalling payments in the aggregate amount of \$27,950.00);

- 3 were partially approved (totalling payments in the aggregate amount of \$2,900.00); and

- 16 were denied.

d) 17 claims were appealed (the "Disputed Quebec Claims"). In accordance with section IV of the Settlement, class counsel and counsel for the Settled Defendants met, conferred, and resolved that:

- 16 Disputed Quebec Claims were properly rejected; and

- 1 Disputed Quebec Claim was improperly rejected, resulting in a payment of \$625.00.

[7] The number of class members was estimated at 90,564.

[8] In addition to the above settlement benefits, the Settled Defendants paid all administration expenses and notices costs in the amount of \$163,373.68, detailed as follows:

a) Notice costs: \$91,646 (including \$81,650 for postage costs);

b) Claims Administrator's costs: \$71,727.68.

[9] The Class Representatives received honorariums of \$5,000 each.

[10] The Settled Defendants paid Class Counsel fees and disbursements of \$750,000.00 inclusive of all fees, disbursements, HST and all other applicable taxes thereon.

[11] The total amount distributed to class members was \$88,030.88.

[12] The amount levied by the *Fonds d'aide aux actions collectives* pursuant to the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c F-3.2.0.1.1, r.2 was \$2,394.79, which was accepted by the *Fonds d'aide aux actions collectives*.

[13] No request was made to the *Fonds d'aide aux actions collectives* for funding.

[14] The Class Representatives and the Settled Defendants filed a joint application to obtain a closing judgment.

[15] The Settlement Agreement has been duly implemented and enforced by the Parties in accordance with the contents of the Settlement Agreement and the judgment approving it.

POUR CES MOTIFS, LE TRIBUNAL :

FOR THESE REASONS, THE COURT:

[16] **ACCUEILLE** la demande conjointe pour l'émission d'un jugement de clôture;

GRANTS the joint application to obtain a closing judgment;

[17] **APPROUVE** le rapport de l'Administrateur des réclamations;

APPROVES the Claims Administrator's report;

[18] **DÉCLARE** que les Parties et l'Administrateur des réclamations ont rempli leurs obligations en vertu de la Convention de règlement ainsi que leur obligation de faire rapport à la Cour;

DECLARES that the Parties and the Claims Administrator have fulfilled their obligations under the Settlement Agreement as well as their obligation to report to the Court;

[19] **PREND ACTE** du paiement de 2 394,79\$ reçu par le Fonds d'aide aux actions collectives;

PRAYS ACT of the payment of \$2,394.79 received by the *Fonds d'aide aux actions collectives*;

[20] **PRONONCE** la clôture du dossier;

PRONOUNCES the closing of the file;

[21] **LE TOUT** sans frais de justice.

THE WHOLE without legal costs.



DONALD BISSON, J.S.C.

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Date of hearing: June 8, 2023