

**SUPERIOR COURT**  
(Class Action)

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

Nº: 500-06-000615-126

DATE: MARCH 4, 2020

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**BY: THE HONOURABLE LOUIS LACOURSIÈRE, J.S.C.**

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**MAXIME BELLEY**

*Plaintiff*

vs.

**TD AUTO FINANCE SERVICES INC. /  
SERVICES DE FINANCEMENT AUTO TD INC.**

*Defendant*

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**JUDGMENT ON AN APPLICATION FOR APPROVAL OF A SETTLEMENT AND  
FOR APPROVAL OF CLASS COUNSEL FEES**

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Introduction

[1] On May 22, 2012, Plaintiff Maxime Belley filed a Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative (the "**Application for Authorization**") against Defendant TD AUTO FINANCE SERVICES INC./SERVICES DE FINANCEMENT AUTO TD INC. (**TD Auto**) pursuant to Articles 1002 and following of the former *Code of Civil Procedure*, now Articles 574 and following of the new *Code of Civil Procedure (C.C.P.)*.

[2] In his proceedings, Plaintiff alleged *inter alia* that TD Auto was at fault and negligent regarding the protection of the Class Members' personal data and information which were stored on an unencrypted data tape which was lost while in transit.

[3] The Court is now seized of the “Application for Approval of a Settlement and for Approval of Class Counsel Fees” (**Application**).

[4] On January 19, 2015, this Court granted the Application for Authorization and authorized the class action on behalf of the following Class:

“all persons in Canada whose personal information was stored or saved on a Data Tape which was lost by TD Auto Finance Services while in transit on or about March 12, 2008”.

(**Class Action**)

[5] Following the February 2016 publication and dissemination of the national notice program, as ordered by this Court, no Class Members opted out of the Class Action. Thereafter, on December 23, 2016, the Representative Plaintiff served his Originating Application to Institute Class Action Proceedings in the context of the Class Action.

[6] On September 3, 2019, the parties and their counsel executed a settlement agreement (**Settlement Agreement** or **Transaction**), subject to Court approval, in full and final settlement of the Class Action. The Settlement Agreement, including its Preamble and Schedules, were filed in support of the Application as Exhibit R-1.

[7] Except as otherwise specified in, or modified by, this Judgment, capitalized terms used herein have the meaning ascribed in the Settlement Agreement.

[8] The parties jointly request that this Court approve the Settlement Agreement.

[9] The Fonds d'aide aux actions collectives (**FAAC**) made no representation at the hearing.

#### Settlement Agreement

[10] The Plaintiff and the Defendant agreed to the terms of the Transaction, the whole subject to the approval of this Court, without any admission of liability whatsoever by the Defendant and for the sole purpose of resolving the dispute between the parties.

[11] The following is a summary of the main terms of the Transaction. In case of any discrepancy, the language of the Transaction prevails.

[12] Pursuant to the Settlement Agreement, TD Auto, or its nominee, will pay to the Claims Administrator a non-reversionary Capped Settlement Fund totaling \$175,000.00, which will be used to acquit claims for Substantiated Losses submitted by Class Members.

[13] Payment to the Class Members will only be made after their claims have been substantiated, verified and approved by the Claims Administrator.

[14] Under this documented claims process, the Capped Settlement Fund shall reimburse all expenses incurred by Class Members as a result of losses and/or expenses actually and directly caused by the Data Tape incident including without limitation identity theft and/or fraud. On presentation of documentation supporting the claim, these

expenses may include the credit card statements, invoices and receipts of out of pocket expenses incurred.

[15] Class Members may also receive payment for Lost Time, calculated at a rate of \$20.00 per hour, for each category of approved Substantiated Loss. These payments are limited to two (2) hours, or \$40.00, for each category of approved Substantiated Loss. These funds are included in the Capped Settlement Fund.

[16] Should the Capped Settlement Fund not be fully utilized to compensate Substantiated Claims, then each verified and approved claim will be proportionately increased up to a maximum of 100% (i.e. the maximum a Class Member can receive is twice the amount of his approved Substantiated Claim).

[17] The Settlement Agreement also provides that in the event the Capped Settlement Fund is insufficient to pay all approved Substantiated Claims, each approved claim will be proportionally reduced.

[18] The Parties state to the Court that they believe that the Settlement Agreement is fair, equitable and reasonable, in the best interests of the Class Members and amounts to an adequate resolution of the Class Action.

[19] Defendant will also pay all publication costs, administration costs, Plaintiff's personal claim and the Class Counsel Fees, the whole as specified in the Settlement Agreement and apart from payments to the Class Members (i.e. over and above the Capped Settlement Fund of \$175,000).

[20] Pursuant to section 11.2 of the Settlement Agreement, Class Counsel agree to reimburse, from the approved Class Counsel Fees, any amount owed to the FAAC relating to this file.

[21] Finally, section 5.5 of the Settlement Agreement provides that the remaining balance of the Capped Settlement Fund, if any and subject to the percentage payable to the FAAC in accordance with the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*<sup>1</sup>, will be donated to the charitable organization chosen by Class Counsel. In this regard, at the hearing, Class Counsel confirmed that they had chosen and suggested Chai Lifeline (Canada) Inc., which assists and supports families across Canada who have members diagnosed and dealing with life threatening or chronic illnesses. This suggestion is also supported by Defendant's Counsel. It is acceptable to the Court.

#### Class Notice

[22] On November 25, 2019, this Court approved the Pre-Approval Notices and Notice Plan. Said Pre-Approval Notices were indeed disseminated by the Claims Administrator,

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<sup>1</sup> RLRQ, c. F-3.2.0.1.1, r. 2.

in accordance with the Court-approved Notice Program, the whole as confirmed by the detailed reports filed by the Settlement Administrator (Exhibit R-2 to the Application).

[23] All of the materials disseminated and made available to Class Members, as well as any and all future information to be disseminated, are both in French and in English<sup>2</sup>.

### Settlement Approval

[24] The Court will approve the Transaction. It seems fair, reasonable and in the best interest of the Class Members based on the following factors as set out by the relevant case law, namely:

- the probability of success of the recourse;
- the significance and nature of the evidence adduced;
- the terms and conditions of the settlement;
- the recommendations of counsel and their experience;
- the cost of future expenses and duration of the litigation;
- the recommendation of a neutral third-party, as the case may be;
- the number and nature of any objections to the settlement;
- the good faith of the parties;
- the absence of collusion.<sup>3</sup>

[25] In *Zuckerman vs Target Corporation inc.*, Justice Hamilton, then of the Superior Court, wrote:

These factors ought not be applied in a formulaic manner and not all nine (9) factors need to be satisfied. Instead, the Court should look at the totality of these factors in light of the specific circumstances involved<sup>4</sup>.

[26] In particular, the Court finds that, from the evidence available:

- (i) The benefits offered in the Transaction are fair and worthy of approval;
- (ii) The Transaction was reached by experienced, fully informed counsel after arm's length negotiations;
- (iii) Continued litigation in this Class Action would be complex, lengthy, and expensive, with no guarantee of recovery by any of the Class Members;

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<sup>2</sup> Defendant's Counsel has agreed to have an unofficial translation of this judgment prepared, which will be made available to Class Counsel for Class Members to consult.

<sup>3</sup> See *9085-4886 Québec Inc. c. Visa Canada Corporation*, 2015 QCCS 5921, par. 24.

<sup>4</sup> *Zuckerman vs. Target Corporation*, 2018 QCCS 2276, par. 21.

- (iv) A trial on the merits would entail considerable expense, including many more hours of attorney time and, given the right to appeal, trial would not necessarily end the litigation. Even if the Class Members could recover a larger judgment after a trial, the possible additional delay through the appellate process would introduce yet more risks and would, in light of the time value of money, make future recoveries less valuable than this current recovery;
- (v) Justice is best served with a fair settlement today as opposed to an uncertain future settlement or trial of the action;
- (vi) The lack of objections and the lack of requests for exclusion serve as evidence of the fairness of the Transaction;
- (vii) The commitments of the Parties under the terms of the Transaction constitute fair value and provide reasonable compensation to the eligible Class Members;
- (viii) Class Counsel and the attorneys for Defendant, who have extensive expertise in the area of class actions and who are most closely acquainted with the facts of the underlying litigation, are recommending the Transaction.

#### Class Counsel Fees Approval

[27] The Court approves Class Counsel Lex Group Inc.'s fees and disbursements as fair and reasonable based on its analysis of the factors set out in sections 7, 101, and 102 of the *Code of Professional Conduct of Lawyers*<sup>5</sup>, particularly in view of the objectives of class proceedings (i.e. access to justice, judicial economy, behavior modification) and the risks assumed by Class Counsel<sup>6</sup>.

[28] The Court finds that the amount of Class Counsel Fees provided for in the Transaction is fair and reasonable based on the following:

- No Class Member has objected to either the Settlement or the Class Counsel Fees;
- The amount of Class Counsel Fees is below what was provided for in the Mandate Agreement signed with the Plaintiff (namely the higher of 30% of the total amount recovered or a 4 multiplier of the straight docketed time by Class Counsel, plus disbursements and applicable taxes). This therefore reflects a compromise arrived at by the Parties;
- Class Counsel assumed financial risks associated with initiating, financing, and maintaining the litigation;

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<sup>5</sup> RLRQ, c B-1, r. 3.1.

<sup>6</sup> 9085-4886 *Québec Inc. c. Visa Canada Corporation*, 2015 QCCS 5921.

- Class Counsel invested a substantial amount of time and money to litigate this case without any guarantee of compensation;
- The Class Action involves complex legal issues and, in the absence of a settlement, would involve lengthy proceedings with an uncertain resolution and possible appeals; and
- Class Counsel, the law firm of Lex Group Inc., has proved the ability to adequately and competently litigate the Class Action and the successfully negotiated Transaction will provide fair relief to Class Members who suffered direct losses.

**POUR CES MOTIFS, LE TRIBUNAL:**

[29] **ACCUEILLE** la demande pour approbation d'une transaction et pour approbation des honoraires des procureurs du groupe;

[30] **DÉCLARE** que l'Entente de règlement déposée comme pièce R-1 (incluant ses annexes) (« l'Entente de règlement ») constitue une transaction au sens des articles 2631 et suivant du *Code civil du Québec*, et lie toutes les parties et tous les Membres du groupe visé par l'action collective;

[31] **DÉCLARE** que l'Entente de règlement est valide, équitable et raisonnable, et est dans le meilleur intérêt des Membres du groupe visé par l'action collective du demandeur et de la défenderesse;

[32] **APPROUVE** l'Entente de règlement et toutes les annexes jointes s'y rapportant, conformément à l'article 590 du *Code de procédure civile*;

[33] **DÉCLARE** que l'Entente de règlement fait partie intégrante du présent jugement;

**FOR THESE REASONS, THE COURT:**

[29] **GRANTS** the Application for Approval of a Settlement and for Approval of Class Counsel Fees;

[30] **DECLARES** that the Settlement Agreement filed as Exhibit R-1 (including its Schedules) ("Settlement Agreement") constitutes a transaction within the meaning of Articles 2631 and following of the *Civil Code of Québec* and is binding on all parties and all Class Members;

[31] **DECLARES** that the Settlement Agreement is fair, equitable and reasonable and in the best interests of the Class Members, the Plaintiff, and the Defendant;

[32] **APPROVES** the Settlement Agreement and all Schedules thereto in accordance with Article 590 of the *Code of Civil Procedure*;

[33] **DECLARES** that the Settlement Agreement is an integral part of the present judgment;



[34] **ORDONNE** que pour les fins du présent jugement, sauf dans la mesure où elles sont modifiées par le présent jugement, les définitions énoncées dans l'Entente de règlement s'appliquent et sont incorporées par renvoi;

[35] **ORDONNE** aux parties, aux Membres du Groupe et à l'Administrateur des réclamations de se conformer aux termes et conditions de l'Entente de règlement;

[36] **FIXE** la fin de la Période de réclamation au centième jour suivant la date de l'Avis de règlement;

[37] **APPROUVE** la forme et le contenu du formulaire de réclamation essentiellement conforme au formulaire joint à l'Entente de règlement comme Annexe A et qui est annexé au présent jugement;

[38] **APPROUVE** la forme et le contenu de l'Avis d'approbation aux membres qui est essentiellement conforme à l'avis joint à l'Entente de règlement comme Annexe C et qui est annexé au présent jugement;

[39] **ORDONNE** que l'Avis d'approbation aux membres soit publié et diffusé conformément au Plan de diffusion prévu dans l'Entente de règlement;

[40] **APPROUVE ET ORDONNE** le paiement par la défenderesse aux Procureurs du Groupe, Lex Group Inc., des Honoraires des Avocats du Groupe tel que prévu à la clause 11.1 de l'Entente de règlement;

[41] **ORDONNE** à la défenderesse de payer tous les frais, coûts et débours de

[34] **ORDERS** that for the purposes of this judgment, except to the extent that they are modified by this judgment, the definitions contained in the Settlement Agreement shall apply and are incorporated herein by reference;

[35] **ORDERS** the parties, the Class Members and the Claims Administrator to abide by the terms and conditions of the Settlement Agreement;

[36] **SETS** the end of the Claims Period as being the date of the one hundredth day following the date of the Settlement Approval Notice;

[37] **APPROVES** the form and content of the Claim Form substantially in the form attached as Schedule A to the Settlement Agreement and which is annexed to the present judgment;

[38] **APPROVES** the form and content of the Settlement Approval Notice substantially in the form attached as Schedule C to the Settlement Agreement and annexed to the present judgment;

[39] **ORDERS** that the Settlement Approval Notice be published and disseminated in accordance with the Notice Plan detailed in the Settlement Agreement;

[40] **APPROVES AND ORDERS** the payment to Class Counsel, Lex Group Inc., of the Class Counsel's Fees as provided for at Section 11.1 of the Settlement Agreement;

[41] **ORDERS** the Defendant to pay for all fees, costs and disbursements of the

l'Administrateur des réclamations et ceux requis par le Plan de diffusion et conformément aux conditions et aux montants maximaux établis par l'Entente de règlement;

[42] **APPROUVE ET ORDONNE** le paiement de tout reliquat en vertu de la clause 5.5 de l'Entente de règlement au « Chai Lifeline (Canada) Inc. », sujet au prélèvement par le Fonds d'aide aux actions collectives du pourcentage déterminé par le Règlement sur le pourcentage prélevé par le Fonds d'aide aux actions collectives, chapitre F-3.2.0.1.1, r. 2;

[43] **DÉCLARE ET ORDONNE** que les procureurs du groupe sont expressément libérés de toute responsabilité en ce qui concerne le processus de contrôle judiciaire des demandes rejetées, prévu à la clause 6.7 de l'Entente de règlement;

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

Claims Administrator and concerning the Notice Plan as and when required in accordance with and subject to the terms and capped amounts set forth in the Settlement Agreement;

[42] **APPROVES AND ORDERS** the payment of any balance pursuant to section 5.5 of the Settlement Agreement to the "Chai Lifeline (Canada) Inc.", subject to the percentage payable to the *Fonds d'aide aux actions collectives* in accordance with the Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives, c. F-3.2.0.1.1, r. 2;

[43] **DECLARES AND ORDERS** that Class Counsel is expressly released from any and all liability with respect to the Judicial Review of Denied Claims process detailed at Section 6.7 of the Settlement Agreement;

[44] **THE WHOLE** without legal costs.

  
LOUIS LACOURSIÈRE, J.S.C.

Mtre David Assor  
LEX GROUP INC.  
Attorneys for the Plaintiff

Mtre Laurent Nahmiash  
INF S.E.N.C.R.L./LLP  
Attorneys for the Defendant

Date of hearing: February 27, 2020



**Action collective concernant la perte de bande de données de Services  
Financiers DaimlerChrysler**

**www.ChryslerFinanceDonneesPerdues.ca**

**FORMULAIRE DE RÉCLAMATION (ANNEXE A)**

**Les services d'actions collectives Epiq Canada**  
Action collective concernant la perte de bande de données de Services Financiers DaimlerChrysler  
C.P. 507 Succursale B  
Ottawa ON K1P 5P6  
Courriel : info@ChryslerFinanceDonneesPerdues.ca  
Télécopieur : 1-866-262-0816

**VOTRE INFORMATION**

Prénom		Nom	
Adresse postale (rue, boîte postale, selon le cas)			
Ville	Province	Code postal	
Numéro de téléphone (avec indicatif régional)		Courriel (si fournis, nous communiquerons avec vous par courriel au sujet de votre réclamation)	

**INFORMATION RELATIVE À VOTRE RÉCLAMATION**

Veillez répondre à chacune des questions ci-dessous:

1. Vos renseignements personnels (ou ceux d'une personne physique ou morale au Canada pour lequel vous êtes un représentant dûment autorisé) étaient-ils conservés ou enregistrés sur la bande de données par TD Auto qui a été perdue en transit le ou vers le 12 mars 2008?

Oui  Non

2. Avez-vous subi un ou plusieurs des dommages ou pertes suivants causés par la perte de la bande de données TD Auto? (Sélectionnez TOUTES les cases applicables)

- Frais non autorisés et non remboursés sur votre carte de crédit ou votre carte de débit ou votre compte
- Les honoraires ou frais d'une personne chargée de rétablir votre fiche de crédit
- Taux d'intérêt plus élevé sur de comptes nouveaux ou existants, ou des frais d'intérêts
- La perte d'accès ou accès restreint à vos fonds
- Frais payés sur votre compte (tels les frais de retard, frais d'insuffisance de fonds, frais de découverts, frais de retours de chèques, frais de service à la clientèle, frais d'annulation ou de remplacement de cartes)
- Coûts reliés au crédit (tel que le coût des rapports de crédit, surveillance du crédit, protection contre le vol d'identité, coût pour placer un rapport de gel ou d'alerte ou une diminution de votre cote de crédit)
- Autres coûts ou dépenses non remboursés résultant directement de la perte de la bande de données TD Auto (expliquez ci-dessous)

**Si vous avez répondu NON à la question 1 et si vous n'avez sélectionné aucune des cases sous la question 2, votre réclamation n'est pas éligible en vertu de l'Entente de règlement.**

3. Avez-vous des documents ou d'autres éléments de preuve établissant vos pertes et comment elles ont directement résulté de la perte de la bande de données de TD Auto?

- Oui: Complétez la page 2.
- Non: Si vous n'avez pas de telles preuves, votre demande sera rejetée.

# Action collective concernant la perte de bande de données de Services Financiers DaimlerChrysler

[www.ChryslerFinanceDonneesPerdues.ca](http://www.ChryslerFinanceDonneesPerdues.ca)

## SI VOUS POSSÉDEZ DE LA PREUVE DOCUMENTAIRE

### Partie 1: Preuve documentaire des pertes

Veillez remplir le tableau ci-dessous, en fournissant la date et le montant de vos dommages ; une description de la documentation à l'appui que vous joignez pour prouver ces dommages et pourquoi la documentation établit que ces dommages-intérêts étaient le résultat direct et réel de la bande de données perdue.

Type de pertes ou dommages	Date(s) des pertes	Montant	Temps perdu (heures)	Description de la preuve documentaire (Indiquez de ce que vous joignez et pourquoi)
<b>J'ai encouru des dépenses non remboursées en raison de la bande de données perdues de Services Financier DaimlerChrysler/ TD Auto :</b>				
Frais non autorisés sur mon compte		\$		(Exemple: Relevé de compte avec les frais non autorisés payés en surbrillance et d'autres documents établissant pourquoi ces frais non autorisés provenaient directement de la bande de données perdue).
Embaucher quelqu'un pour aider à corriger mon dossier de crédit		\$		(Exemple: Facture du fournisseur de services avec la date et les frais en surbrillance et d'autres documents établissant pourquoi ces frais non autorisés provenaient directement de la bande de données perdue).
<b>Mon compte bancaire a été affecté en raison de la bande de données perdues de Services Financier DaimlerChrysler/ TD Auto :</b>				
Taux d'intérêt plus élevé sur des comptes nouveaux ou existants, ou des frais d'intérêts		\$		(Exemple : Accord de prêt ou relevé bancaire avec intérêts supplémentaires payés en surbrillance et d'autres documents établissant pourquoi ces frais non autorisés provenaient directement de la bande de données perdue).
Frais de retard, frais de paiement refusés, frais de découverts, frais de chèque retournés, frais de fonds insuffisants, frais de service à la clientèle, frais d'annulation ou de remplacement de cartes		\$		(Exemple : Relevé bancaire avec date et montant des frais payés en surbrillance et d'autres documents établissant pourquoi ces frais non autorisés provenaient directement de la bande de données perdue).
Autres coûts causés par la perte d'accès ou l'accès restreint aux fonds		\$		(Exemple : Facture avec la date et le montant des coûts payés en surbrillance et d'autres documents établissant pourquoi ces frais non autorisés provenaient directement de la bande de données perdue).
<b>Afin de protéger mes comptes ou mes informations personnelles après avoir entendu parler de la bande de données perdue de Services Financier DaimlerChrysler/ TD Auto, j'ai déboursé des sommes pour :</b>				
Surveillance du crédit, assurance-crédit et/ou la protection contre le vol d'identité		\$		(Exemple : Relevé de carte de crédit, relevé bancaire ou facture du fournisseur de services avec la date et les coûts payés en surbrillance et d'autres documents établissant pourquoi ces frais non autorisés provenaient directement de la bande de données perdue).
Coûts des rapports de crédit ou coût pour gel ou installation d'alerte sur une fiche de crédit		\$		(Exemple : relevé de carte de crédit, relevé bancaire ou facture de l'agence d'évaluation du crédit avec la date et les coûts payés en surbrillance et d'autres documents établissant pourquoi ces frais non autorisés provenaient directement de la bande de données perdue).
<b>J'ai encouru des dommages, dépenses et/ou frais non remboursés et non énumérés ci-dessus en raison de la bande de données perdue de Services Financier DaimlerChrysler/ TD Auto :</b>				
Descriptions		\$		
		\$		
		\$		

**Action collective concernant la perte de bande de données de Services  
Financiers DaimlerChrysler**

**[www.ChryslerFinanceDonneesPerdues.ca](http://www.ChryslerFinanceDonneesPerdues.ca)**

**DÉCLARATION**

En soumettant ce formulaire de réclamation, je certifie que je suis un membre du groupe, que je suis admissible à soumettre une réclamation dans le cadre de ce règlement, et que les renseignements que je fournis dans ce formulaire de réclamation sont exacts et véridiques. Je comprends que je ne peux pas réclamer des montants qui m'ont été autrement remboursés ou que j'ai déjà réclamés. Je comprends que ma réclamation peut faire l'objet d'une vérification, et d'une révision judiciaire.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Nom

\_\_\_\_\_  
Date

**RAPPELS QUANT À LA RÉCLAMATION:**

Votre formulaire de réclamation dûment rempli doit être soumis **au plus tard le jour mois année.**

- Remplir, dater et signer un formulaire de réclamation en ligne au [www.ChryslerFinanceDonneesPerdues.ca](http://www.ChryslerFinanceDonneesPerdues.ca) ; ou
- Remplir, dater, signer et soumettre ce formulaire de réclamation en format papier et envoyez-le par courriel ou par la poste au gestionnaire des réclamations (timbré **au plus tard le jour mois année**) :

**Le gestionnaire des réclamations  
Les services d'actions collectives Epiq Canada**  
Action collective concernant la perte de bande de données de Services Financiers DaimlerChrysler  
C.P. 507 Succursale B  
Ottawa ON K1P 5P6  
Courriel : [info@ChryslerFinanceDonneesPerdues.ca](mailto:info@ChryslerFinanceDonneesPerdues.ca)  
Télécopieur : 1-866-262-0816

- Vous devez soumettre des documents à l'appui de votre demande
- Veuillez conserver une copie de votre formulaire de réclamation et de votre documentation.

# DaimlerChrysler Financial Lost Data Tape Class Action Settlement

[www.ChryslerFinancialLostDataTape.ca](http://www.ChryslerFinancialLostDataTape.ca)

## CLAIM FORM (SCHEDULE A)

Epiq Class Action Services Canada Inc.  
DaimlerChrysler Financial Lost Data Tape  
Class Action Settlement  
P.O. Box 507 STN B  
Ottawa ON K1P 5P6  
1-833-414-8040

### YOUR INFORMATION

First Name		Last Name	
Mailing Address (Street, P.O. Box, as applicable)			
City	Province	Postal Code	
Telephone Number (with area code)	Email Address (if provided, we will communicate primarily by email about your claim)		

### CLAIM INFORMATION

Please complete each question below:

1. Was your personal information (or that of a physical or moral person in Canada for which/whom you are a duly authorized representative, whose personal information was) stored or saved on a DaimlerChrysler Financial Services Canada Inc. Data Tape which was lost in transit on or about March 12, 2008?  
 Yes  No
2. Did you suffer one or more of the following damages or losses caused by the loss of the DaimlerChrysler Financial Services Canada Inc. Data Tape? (Check ALL Applicable Boxes)
  - Unauthorized, unreimbursed charges on your credit card or debit card or your account
  - Costs to hire someone to help correct your credit
  - Higher interest rate on an account or higher interest fees that you paid
  - Loss of access or restricted access to funds
  - Fees paid on your account (i.e. late fees, declined payment fees, overdrafts, returned checks, customer service, card cancellation or replacement)
  - Credit related costs (i.e. buying credit reports, credit monitoring or identity theft protection or insurance, costs to place a freeze or alert report or a drop in your credit score)
  - Other costs or unreimbursed expenses as a direct result of the loss of the DaimlerChrysler Financial Services Canada Inc. Data Tape (explain below)

***If you were unable to answer YES to question 1 and if you were unable to check any of the boxes under question 2, you are not eligible to submit a Claim under the Settlement.***

3. Do you have documentation or other evidence establishing your losses and how they directly resulted from the loss of the DaimlerChrysler Financial Services Canada Inc. Data Tape?
  - Yes: Complete Page 2.
  - No: If you have no such evidence your claim will be denied.



# DaimlerChrysler Financial Lost Data Tape Class Action Settlement

## www.ChryslerFinancialLostDataTape.ca

### IF YOU HAVE SUPPORTING DOCUMENTATION

#### Part 1: Document Your Losses

Please complete the table below, providing the date and amount of your damages; a description of the supporting documentation you are attaching to prove these damages and why the documentation establishes that these damages were an actual and direct result of the lost Data Tape.

Loss Type	Date(s) of Loss	Amount	Lost Time (hours)	Description of Supporting Documentation (Identify what you are attaching and why)
<b><i>I have unreimbursed expenses or losses because of the lost DaimlerChrysler Financial Services Canada Inc. Data Tape:</i></b>				
Unauthorized charges on my account		\$		(Example: Bank statement with unauthorized charges paid highlighted and other documents establishing why these unauthorized charges directly resulted from the lost Data Tape)
Hiring someone to help correct my credit report		\$		(Example Invoice from service provider with date and charges highlighted and other documents establishing why these damages directly resulted from the lost Data Tape)
<b><i>My bank account was affected as follows because of the lost DaimlerChrysler Financial Services Canada Inc. Data Tape:</i></b>				
Higher interest rate on new or existing account, or interest fees		\$		(Example: Loan agreement or bank statement with additional interest paid highlighted and other documents establishing why these damages directly resulted from the lost Data Tape)
Late fees, declined payment fees, overdrafts, returned check fees, insufficient funds fees, bank fees, customer service fees, card cancellation or replacement fees		\$		(Example: Bank statement with date and amount of fees paid highlighted and other documents establishing why these damages directly resulted from the lost Data Tape)
Other costs caused by loss of access or restricted access to funds		\$		(Example: Bill with date and amount of costs paid highlighted and other documents establishing why these damages directly resulted from the lost Data Tape)
<b><i>In order to protect my accounts or personal information after hearing about the lost DaimlerChrysler Financial Services Canada Inc. Data Tape, I paid for:</i></b>				
Credit monitoring, credit insurance, and/or identity theft protection		\$		(Example: Credit card statement, bank statement, or invoice from service provider with date and costs paid highlighted and other documents establishing why these damages directly resulted from the lost Data Tape)
Credit reports or placing freeze or alert on credit report		\$		(Example: Credit card statement, bank statement, or invoice from credit reporting agency with date and amount paid highlighted and other documents establishing why these damages directly resulted from the lost Data Tape)
<b><i>I have some other costs, losses and/or unreimbursed expenses not listed because of the lost DaimlerChrysler Financial Services Canada Inc. Data Tape:</i></b>				
Description		\$		
		\$		
		\$		



**DaimlerChrysler Financial Lost Data Tape Class Action Settlement**  
**www.ChryslerFinancialLostDataTape.ca**

**DECLARATION**

By completing this claim form, I am certifying that I am a Class Member and am eligible to submit a claim in this settlement and that the information I am providing in this claim form is complete, true and correct. I understand that I may not claim amounts that have been otherwise reimbursed to me or that I have already claimed. I understand that my claim may be subject to audit, verification, and Court review.

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Signature

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Print Name

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Date

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**CLAIM SUBMISSION REMINDERS**

Your duly completed Claim Form must be submitted **no later than Month Day Year**.

- Complete, date and sign a Claim Form online at [www.ChryslerFinancialLostDataTape.ca](http://www.ChryslerFinancialLostDataTape.ca); or
- Complete, date and sign the present Claim Form in paper format and send it by email or by mail to the Claims Administrator (postmarked by **no later than Month Day Year**):

Court appointed Claims Administrator  
Epiq Class Action Services Canada Inc.  
DaimlerChrysler Financial Lost Data Tape Class Action Settlement  
P.O. Box 507 STN B  
Ottawa ON K1P 5P6  
Email: [info@ChryslerFinancialLostDataTape.ca](mailto:info@ChryslerFinancialLostDataTape.ca)  
Fax: 1-866-262-0816

- You must submit documentation to support of your claim.
- Please keep a copy of your Claim Form and documentation.

## Annexe C

### AVIS D'APPROBATION AUX MEMBRES DU GROUPE ENTENTE DE RÈGLEMENT APPROUVÉE

SERVICES FINANCIERS DAIMLERCHRYSLER CANADA INC. (AUSSI CONNU SOUS LE NOM DE SERVICES FINANCIERS TD AUTO) ACTION COLLECTIVE POUR PERTE DE BANDE DE DONNÉES

500-06-000615-126

#### PROCÉDURES

Le 19 janvier 2015, l'Honorable Louis Lacoursière de la Cour supérieure du Québec a autorisé une action collective intentée par le demandeur Maxime Belley au nom de « toutes les personnes au Canada dont les informations ont été stockées ou sauvegardées sur la bande de données de Services Financiers DaimlerChrysler Canada Inc., qui a été perdu en transit le ou vers le 12 mars 2008 ».

Une Entente de règlement a été conclue et approuvée par la Cour supérieure du Québec le 4 mars 2020.

#### ENTENTE DE RÈGLEMENT

Le règlement prévoit que Services Financiers DaimlerChrysler Canada Inc., maintenant connue sous le nom de Services Financiers TD Auto («**TD Auto**»), sans admission de responsabilité, paiera un montant maximal plafonné de 175 000 \$ qui servira à payer les membres du groupe qui ont subi une perte directe et réelle causée par la perte de la bande de données. Le règlement prévoit en outre le paiement d'une indemnité aux membres du groupe pour le temps passé à traiter de tout type de perte corroborée et qui soumettent une réclamation corroborée vérifiée et approuvée jusqu'à un maximum de deux heures de Temps Perdu, calculé à un taux de 20 \$ l'heure, pour chaque catégorie de réclamation fondée approuvée.

De plus, TD Auto paiera : 1) les frais du gestionnaire des réclamations jusqu'à concurrence d'un plafond total maximal de 75 000 \$; 2) le coût lié à l'avis envoyé aux membres du groupe, jusqu'à concurrence d'un plafond maximal de 75 000 \$; 3) les honoraires, les frais et les dépenses des avocats du demandeur, d'un montant de 150 000 \$ plus taxes, ainsi que les frais du demandeur du groupe d'un montant de 5 000 \$. Aucun de ces montants n'affectera ou ne réduira le montant payable aux membres du groupe pour les réclamations corroborées.

**Une copie de l'Entente de règlement, ainsi que les autres documents connexes peuvent être consultés en ligne au [www.ChryslerFinanceDonnéesPerdues.ca](http://www.ChryslerFinanceDonnéesPerdues.ca)**

#### SUIS-JE UN MEMBRE DU GROUPE?

Vous êtes un membre du groupe si vous êtes un résident du Canada dont les renseignements personnels ont été stockés ou enregistrés sur la bande de données perdue quand elle était en transit le ou vers le 12 mars 2008. Vous avez peut-être été avisé de cet incident par écrit le ou vers le 27 mars 2008 ou en février 2016.

## COMMENT FAIRE UNE RÉCLAMATION?

Pour faire une réclamation, vous devez, au plus tard le 2020 (100 jours après la date de l'avis d'approbation de règlement):

- Remplir un formulaire de réclamation en ligne à [www.ChryslerFinanceDonnéesPerdues.ca](http://www.ChryslerFinanceDonnéesPerdues.ca); **ou**
- Obtenir un formulaire en format papier auprès du gestionnaire des réclamations ou de l'avocat du groupe, le remplir et l'envoyer par courriel ou par la poste au gestionnaire des réclamations.

## COMMENT OBTENIR PLUS D'INFORMATION?

Pour de plus amples renseignements, veuillez communiquer avec :

<p>Gestionnaire des réclamations <b>Epiq Systems Inc.</b> 220 Laurier Avenue West Suite 400, Ottawa ON K1P 5Z9 1-866-262-0006 -ou- 1-613-562-3646 <a href="mailto:info@ChryslerFinanceDonnéesPerdues.ca">info@ChryslerFinanceDonnéesPerdues.ca</a> <a href="http://www.ChryslerFinanceDonnéesPerdues.ca">www.ChryslerFinanceDonnéesPerdues.ca</a></p>	<p>Avocats du demandeur et du groupe <b>Lex Group Inc.</b> 4101 rue Sherbrooke Ouest Montréal, QC H3Z 1A7 514-451-5500 /<a href="mailto:info@lexgroup.ca">info@lexgroup.ca</a> <a href="http://www.lexgroup.ca">www.lexgroup.ca</a></p>
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*Veuillez noter qu'en cas de différence entre les termes du présent avis et l'Entente de règlement, les termes de l'Entente de règlement prévaudront. Tout terme non défini dans le présent avis de préapprobation doit avoir le sens inscrit dans l'Entente de règlement.*

**La publication de cet avis a été ordonnée par la Cour supérieure du Québec.**

## Schedule C

### SETTLEMENT APPROVAL NOTICE TO CLASS MEMBERS APPROVED SETTLEMENT AGREEMENT

DAIMLERCHRYSLER FINANCIAL SERVICES CANADA INC. (NOW KNOWN AS TD AUTO FINANCE SERVICES)

LOST DATA BREACH CLASS ACTION

500-06-000615-126

#### PROCEEDINGS

On January 19, 2015, the Honourable Louis Lacoursière of the Superior Court of Quebec authorized a class action brought by the Plaintiff on behalf of “all persons in Canada whose personal information was stored or saved on a DaimlerChrysler Financial Services Canada Inc. Data Tape which was lost while in transit on or about March 12, 2008”.

A Settlement Agreement has been reached and was approved by the Superior Court of Québec on March 4, 2020.

#### SETTLEMENT AGREEMENT

The settlement provides that DaimlerChrysler Financial Services Canada Inc., now known as TD Auto Finance Services (“**TD Auto**”), without admission of liability, will pay a maximum capped amount of \$175,000 which will be used to pay those Class Members who suffered an actual and direct loss caused by the loss of the Data Tape. The settlement further provides for the payment of an indemnity to Class Members for time spent dealing with any type of Substantiated Loss and who submit a verified and approved Substantiated Claim up to a maximum of two hours of Lost Time, calculated at a rate of \$20 per hour, for each category of approved Substantiated Claim.

In addition, TD Auto will pay: 1) the fees of the Claims Administrator up to a maximum total cap of \$75,000; 2) the cost related to the notices sent to Class Members up to a maximum cap of \$75,000; 3) Class Counsel’s fees, costs and expenses, in the amount of \$150,000 plus taxes, as well as the Class Plaintiff’s claim in the amount of \$5,000. None of these amounts will affect or reduce the amount payable to Class Members for Substantiated Claims.

**A copy of the Settlement Agreement, the Settlement Approval Order, the Claim Form, and other related documentation is available online at [www.ChryslerFinancialLostDataTape.ca](http://www.ChryslerFinancialLostDataTape.ca)**

#### AM I A CLASS MEMBER?

You are a Class Member if you are a resident of Canada whose personal information was stored or saved on the Data Tape that was lost while in transit on or about March 12, 2008. You may have been notified of this incident in writing on or about March 27, 2008, or in February of 2016.

## HOW DO I MAKE A CLAIM?

To make a claim, you must, no later than ●, 2020 (100 days following the date of the Settlement Approval Notice):

- Complete a Claim Form online at [www.ChryslerFinancialLostDataTape.ca](http://www.ChryslerFinancialLostDataTape.ca); **or**
- Obtain a Claim Form in paper format from the Claims Administrator or Class Counsel, complete it and send it by email or by mail to the Claims Administrator.

## HOW DO I OBTAIN MORE INFORMATION?

For more information, please contact:

<p>Claims Administrator <b>Epiq Systems Inc.</b> 220 Laurier Avenue West Suite 400, Ottawa ON K1P 5Z9 1-866-262-0006 <b>-or-</b> 1-613-562-3646 <a href="mailto:info@ChryslerFinancialLostDataTape.ca">info@ChryslerFinancialLostDataTape.ca</a> <a href="http://www.ChryslerFinancialLostDataTape.ca">www.ChryslerFinancialLostDataTape.ca</a></p>	<p>Class Counsel <b>Lex Group Inc.</b> 4101 Sherbrooke Street West Westmount, QC H3Z 1A7 514-451-5500 <a href="mailto:info@lexgroup.ca">/info@lexgroup.ca</a> <a href="http://www.lexgroup.ca">www.lexgroup.ca</a></p>
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*Please note that in case of any discrepancy between the terms of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail. Any term not defined in this Settlement Approval Notice shall have the meaning ascribed in the Settlement Agreement.*

**The publication of this Notice has been ordered by the Superior Court of Quebec.**