

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**THE HONOURABLE MADAM  
JUSTICE CONWAY**

) **WEDNESDAY, THE 18<sup>TH</sup>**  
)  
) **DAY OF SEPTEMBER, 2013**



**SCOTT MACKIE**

Plaintiff

- and -

**TOSHIBA OF CANADA LTD. AND  
TOSHIBA AMERICA INFORMATION SYSTEMS INC.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, c.6

**ORDER**  
**(CERTIFICATION AND SETTLEMENT APPROVAL)**

**THIS MOTION** made by the Plaintiff for an order that the action be certified as a class proceeding for settlement purposes, and for an order approving the settlement on behalf of the Class, was heard this day at Courtroom 6, Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

**ON READING** the Notice of Motion dated April 18, 2013, the Affidavit of Miriam Kalin sworn April 16, 2013, the Affidavit of Miriam Kalin sworn August 8, 2012, the Affidavit

of Andrea Grass sworn September 4, 2013 and the Affidavit of Scott Mackie sworn April 15, 2013, and on hearing the submissions of the lawyers for all parties,

1. **THIS COURT ORDERS** that the within action be certified as a class proceeding for settlement purposes pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c.6.

2. **THIS COURT ORDERS** the class ("Class") be defined as:

All persons resident in Canada who purchased a 2004 or 2005 model year Toshiba Digital Light Projection (DLP) television but excluding all natural persons residing in the Province of Quebec and all legal persons residing in the Province of Quebec having fewer than 50 employees.

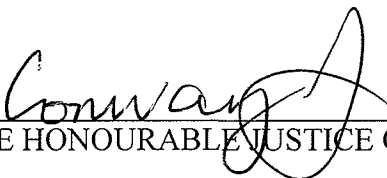
3. **THIS COURT ORDERS** that the within proceeding be certified on the basis of the following common issues:

- (a) Are the lamps in the 2004 and 2005 model year Toshiba DLP TVs defective?
- (b) Did Toshiba make any misrepresentation, false promise and/or omit any material fact regarding the life span of the lamps in the 2004 and 2005 model year Toshiba DLP TVs?
- (c) Did Toshiba know or should Toshiba have known that the lamps in the 2004 and 2005 model year Toshiba DLP TVs were defective?
- (d) Did Toshiba know or should Toshiba have known of the reduced life span of the lamps in the 2004 and 2005 model year Toshiba DLP TVs?
- (e) Did Toshiba fail to adequately disclose to Class Members that the lamps in the 2004 and 2005 model year Toshiba DLP TVs were defective and/or did not last as long as was represented?

4. **THIS COURT ORDERS** that Scott Mackie be appointed as the representative plaintiff for the Class.

5. **THIS COURT ORDERS** that the settlement agreement dated September 6, 2012, as amended on September 10, 2013 (the "Settlement Agreement"), is fair, reasonable and in the best interests of the Class Members.
6. **THIS COURT ORDERS** that the Settlement Agreement be approved pursuant to Section 29 of the *Class Proceedings Act, 1992* and implemented in accordance with its terms.
7. **THIS COURT ORDERS** that Garden City Group be appointed as the Claims Administrator and orders that the Claims Administrator shall execute the obligations as set out in the Settlement Agreement.
8. **THIS COURT ORDERS** the Defendants to deliver to the Plaintiff through Class Counsel, by September 25, 2013, an affidavit listing to the best of the Defendants' knowledge, information and belief, the name, last known address and telephone number for each member of the Class known to the Defendants.
9. **THIS COURT ORDERS** that notice of certification and of approval of the settlement of the class proceeding in the form attached hereto as Exhibit "A" shall be, on or before October 9, 2013, disseminated to Class Members in accordance with Section 6.2 of the Settlement Agreement and sent, by mail, to the Class Members known to the Defendants pursuant to the affidavit referred to in paragraph 8 of this Order.
10. **THIS COURT ORDERS** that the Defendants shall be responsible for all costs associated with publishing and mailing the notice of certification and settlement approval.

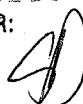
11. **THIS COURT ORDERS** that the deadline for Class Members to opt out of the Settlement shall be November 11, 2013, and that after that date Class Members who have not timely and properly opted out shall be bound by the Settlement Agreement.
12. **THIS COURT ORDERS** that the Class Members who elect to opt out of the class proceeding must do so by filing an opt-out form in the form attached as Schedule 4 to the Settlement Agreement.
13. **THIS COURT ORDERS** that the deadline for Class Members to file a claim under the Settlement Agreement shall be January 10, 2014, and that to submit a valid claim Class Members must fill out the claim form attached as Schedule 3 to the Settlement Agreement.
14. **THIS COURT ORDERS** that the Defendants shall pay to Class Counsel Fees and disbursements in the amount of \$79,500.00 plus applicable taxes.
15. **THIS COURT ORDERS** that the parties and the Claims Administrator report to the Court on the administration and execution of the settlement when the latter is completed.
16. **THIS COURT ORDERS** that this proceeding shall be dismissed without costs and with prejudice.

  
\_\_\_\_\_  
THE HONOURABLE JUSTICE CONWAY

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

SEP 18 2013

AS DOCUMENT NO.:  
À TITRE DE DOCUMENT NO.:  
PER / PAR:



**Exhibit "A"**

**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 purchased 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 warranty extension from 6 to 12 months for all replacement bulbs purchased after October 9, 2013. They are also eligible to submit a claim for a cash refund for certain past 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 such 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, 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 legal fees, an award to the Quebec 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 **January 10, 2014**. The Claim Form is available on the settlement website at

**www.CanadianDLPsettlement.com** or Class Counsel's website at **www.clg.org**. The Claim Form must be sent by mail to: **Toshiba Canadian DLP Television Settlement**  
**c/o Crawford (GCG)**  
**3, 505 - 133 Weber St. N.**  
**Waterloo, ON**  
**N2J 3G9**

### **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 **November 11, 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** or Class Counsel's website at **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 **January 10, 2014**.

### **WHEN DO I GET PAID?**

Cheques will only begin to be mailed to eligible Class Members for cash refunds at the earliest starting on **February 10, 2014**.

### **HOW CAN YOU GET MORE INFORMATION?**

For further details, you may call the Claims Administrator at **(888) 885-9694**. 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** or Class Counsel's website at **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

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.

**SCOTT MACKIE**  
Plaintiff

**TOSHIBA OF CANADA LTD. et al.**  
Defendants

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**PROCEEDING COMMENCED IN TORONTO**

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**

**CONSUMER LAW GROUP**  
**PROFESSIONAL CORPORATION**  
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Lawyers for the Plaintiff