

**SUPERIOR COURT  
(CLASS ACTION)**

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

N°: 500-06-000825-162

DATE: June 8, 2018

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**PRESENT: THE HONOURABLE PIERRE-C. GAGNON, J.S.C.**

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**THIERRY MURATON**

*Plaintiff*

vs.

**TOYOTA CANADA INC.**

*Defendant*

-and-

**CRAWFORD & COMPANY (CANADA), INC. (D.B.A. GCG CANADA)**

*Mise en cause*

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JUDGMENT ON AN  
APPLICATION FOR PRE-APPROVAL NOTICE ORDERS AND FOR THE AUTHORIZATION OF THE CLASS  
ACTION FOR SETTLEMENT PURPOSES

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- [1] **CONSIDERING** the Application for Preliminary Orders for the Approval of a Settlement Agreement;
- [2] **CONSIDERING** the submissions of counsel for the Parties;

- [3] **CONSIDERING** that this Court was advised that Crawford & Company (Canada), Inc., doing business as GCG Canada (the "Administrator") consents to the requested appointments;
- [4] **CONSIDERING** that this Court understands that the Parties and the Administrator must 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 parties before distribution of the Notices. The Administrator shall send the Notices in substantially the form attached to the Affidavit of Shandarese Garr as Exhibits F, G, and H, by Canada Post Mail, proper postage prepaid to current and former registered owners of Subject Vehicles, as identified by data to be forwarded to the Administrator. The mailings of the Notices to the persons and entities identified shall be substantially completed by July 15, 2018;
- [5] **CONSIDERING** that the Parties all consent to this judgment;

**FOR THESE REASONS, THE COURT:**

- [6] **GRANTS** the Application for Pre-Approval Notice Orders and for Authorization of the Class Action for Settlement Purposes;
- [7] **DECLARES** that, except to the extent they are modified by this judgment, the definitions set out in the Settlement Agreement apply to and are incorporated into this judgment;
- [8] **AUTHORIZES** the bringing of a class action in relation to the claims of the Québec Class, for settlement purposes only against the Defendant;
- [9] **APPOINTS** Thierry Muraton as Class Representative of the persons included in the Québec Class described as:

"All persons, entities, or organizations resident in Quebec who, at any time as of the entry of this 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."

- [10] **IDENTIFIES** the following Common Issue to be dealt with collectively:

Are the Subject Vehicles subject to excessive, premature rust corrosion in the course of their normal use?"

- [11] **APPROVES** the form and content of the Pre-Approval Notice, substantially in the form attached to this judgment, as Appendix 1;
- [12] **ORDERS** that Pre-Approval Notice shall be disseminated in accordance with the Notice Program and **APPROVES** said Notice Program which is attached to this judgment, as Appendix 2;
- [13] **APPOINTS** Crawford & Company (Canada), Inc. (doing business as GCG Canada) as Settlement Notice and Claims Administrator (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;
- [14] **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

**AND 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;

- [15] **ORDERS** that the Opt Out Deadline shall be October 22, 2018 and that no Québec Class Member may opt out of this class action after the Opt-Out Deadline has passed;
- [16] **APPROVES** the form and content of the Opt Out Form, substantially in the form attached to this judgment, as Appendix 3;
- [17] **ORDERS** that any Québec 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, and must also send a copy of said Opt-Out Form to the Clerk of the Superior Court of Québec at the following address: Superior Court of Québec, Class Action Division, Montréal Courthouse, 1 Notre-Dame Street East, Montréal, Québec, H2Y 1B6;
- [18] **DECLARES** that any Québec Class Member who elects to opt out of this class action in accordance with the provisions of the Judgment may not also object to or comment on the Settlement Agreement and any such objection or comments received therefrom shall be deemed withdrawn;
- [19] **ORDERS** that any Québec Class Member who timely and validly opts out of this class action in accordance with the provisions of this judgment 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 prescription delays otherwise applicable to said Class Member shall be deemed to recommence running as of the Opt Out Deadline;
- [20] **ORDERS** that any Québec Class Member who does not file a timely written request for exclusion as provided in this judgment is bound by all subsequent

proceedings, orders and judgments, including, but not limited to, the Release, Final Judgments, and Final Orders in the Actions, the whole subject to Article 580 of the Code of Civil Procedure of Québec;

- [21] **ORDERS** that any Québec 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 **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;
- [22] **APPROVES** the form and content of the Frame Replacement Reimbursement Claim Form, substantially in the form attached to this judgment, as Appendix 4;
- [23] **ORDERS** that the Administrator and Québec Class counsel post on their respective websites as well as the websites:


- [www.toyotaframesettlement.ca](http://www.toyotaframesettlement.ca)
- [www.reglementchassistoyota.ca](http://www.reglementchassistoyota.ca)

beginning no later than ten days after the date of this judgment:

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

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

- [24] **DECLARES** that the hearing to consider approval of the Settlement Agreement in this class action shall take place at the Montréal Courthouse, room 2.08, on September 5, 2018, at 9:30 AM;
- [25] **DECLARES** that this judgment shall not be effective unless and until a Pre-Approval Notice Order and Certification Order for Settlement Purposes, generally on the same terms as this judgment, is issued by the Ontario Superior Court of Justice in the action titled Forbes and Lagacé vs. Toyota Canada Inc. with Court File No. CV-16-70667-CP (Ottawa, Ontario);
- [26] **ORDERS** that all costs of the Settlement Notice and Claims 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 Defendant;
- [27] **THE WHOLE** without legal costs.



THE HONOURABLE PIERRE-C. GAGNON, J.S.C.

Mtre David Assor  
LEX GROUP INC.  
Attorneys for the Plaintiff

Mtre Sylvie Rodrigue  
TORYS LLP  
Attorneys for the Defendant

Date of hearing: None. Application processed through an exchange of emails.

Appendix 1: Pre-Approval Notice

Appendix 2: Notice Program

Appendix 3: Opt Out Form

Appendix 4: Frame Replacement Reimbursement Claim Form