

**SUPERIOR COURT
(CLASS ACTION)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

Nº: **500-06-000868-170**

DATE: December 17, 2019

PRESENT: THE HONOURABLE SYLVAIN LUSSIER, J.S.C.

JULIE TREMBLAY

Plaintiff

vs.

VOLKSWAGEN GROUP CANADA INC.

-and-

THE VOLKSWAGEN GROUP OF AMERICA INC.

-and-

AUDI CANADA INC.

-and-

AUDI OF AMERICA LLC.

Defendants

-and-

FONDS D'AIDE AUX ACTIONS COLLECTIVES

Mis-en-cause

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

- [1] **CONSIDERING** the Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative against the Defendants (the "**Motion**" or the "**Quebec Class Action**") regarding a Timing Chain problem with alleged vehicles filed on or about June 12th, 2017 by the Plaintiff, Ms. Julie Tremblay;
- [2] **CONSIDERING** That other putative class actions based on similar allegations were filed by Shawn Panacci against some of the Defendants in the Superior Court of Ontario, Court File CV-16-559393-00CP, in Ontario ("**Panacci Class Action**") and by Mr. Covill in the Court of Queen's Bench for Saskatchewan, Court File QBG 2749 of 2016, in Saskatchewan ("**Covill Class Action**");
- [3] **CONSIDERING** that, on December 6, 2018, Justice Chantal Lamarche ordered a suspension of the proceedings in this case in favour of the Panacci Class Action, while requiring counsel to inform the Court at reasonable intervals of the progress in the Ontario and Saskatchewan proceedings;
- [4] **CONSIDERING** that the parties undertook arm's length negotiations and have entered into a national settlement agreement pursuant to the Settlement Agreement filed as **EXHIBIT R-1**, and are jointly seeking the approval of the Pre-Approval Motion;
- [5] **CONSIDERING** the Plaintiff seeks:
 - (a) the authorization of the Quebec Class Action for settlement purposes only, in order to define class membership for the purpose of effective notice; and
 - (b) the approval for the publication of a notice (the "**Pre-Approval Notice**") informing the Quebec Settlement Class members of the authorization of the Quebec Class Action, the existence of and the application to have the Settlement Agreement approved and of their rights to opt-out or object in writing to the approval of the Settlement Agreement in accordance with applicable rules and prescribed formalities and time limits;
- [6] **CONSIDERING** the submissions of counsel for the parties;
- [7] **CONSIDERING** that this Court was advised that Epiq Class Action Services Inc. (Services d'actions collectives Epiq Canada) (the "**Administrator**") consents to the requested appointments as described in the Settlement Agreement and its Exhibits;
- [8] **CONSIDERING** that the Administrator shall send the Notices as indicated in the Settlement Agreement;
- [9] **CONSIDERING** that the parties all consent to this judgment;

FOR THESE REASONS, THE COURT:

- [10] **GRANTS** the present Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative;
- [11] **DECLARES** that for the purposes of this Judgment, the definitions set out in the Settlement Agreement (Exhibit R-1) shall apply and are incorporated by reference, except to the extent they are modified by this judgment;
- [12] **DECLARES** that the Settlement Agreement (Exhibit R-1) in its entirety (including its Preamble and its Exhibits) is an integral part of this Judgment;
- [13] **AUTHORIZES** the bringing of a class action, for settlement purposes only against the Defendants and **APPOINTS** the Plaintiff as Class Representative of the Class defined as follows:

All persons in Quebec, except for Excluded Persons, who (a) are registered owners or lessees of, or in the case of Non-VW Dealers, hold title to or hold by bill of sale, an Eligible Vehicle; or (b) were registered owners or lessees of, or in the case of non-VW Dealers, held title to or held by bill of sale, an Eligible Vehicle (the "Quebec Settlement Class").

"Eligible Vehicle" means a Volkswagen- or Audi-brand vehicle equipped with an EA888 engine that is listed by VIN on Exhibit 1 to the Settlement Agreement.

- [14] **IDENTIFIES** for the purposes of settlement only, the common issue as follows:

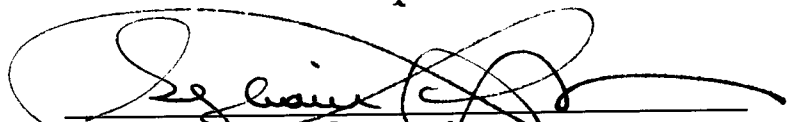
Did the Eligible Vehicles contain timing chain tensioners that were prone to premature failure and did the Quebec Settlement Class Members suffer damages as a result?

- [15] **ORDERS** that the hearing for the Settlement Approval Motion is to be held on a date and at a time to be determined, in room 2.08 [or any other courtroom, which will be indicted by the posting of a sign outside of room 2.08] at the Montreal Courthouse, at 1 Notre-Dame Street East (the "**Approval Hearing**"), at which time this Court will be asked to decide:
- (a) whether to approve the Settlement Agreement as fair, reasonable and in the best interests of the Quebec Settlement Class Members;
 - (b) whether Class Counsel's application for fees, disbursements and applicable taxes should be granted; and
 - (c) any other matters as the Court deems appropriate;

- [16] **ORDERS** that the Quebec Settlement Class Members who wish to opt-out of the Quebec Class Action must do so by sending a personally signed written objection which includes the information and documentation required at paragraph 9.3 of the Settlement Agreement by email, mail or courier to the Claims Administrator so it is received on or before the Objection Deadline of forty-five (45) days following the Pre-Approval Order becomes effective;
- [17] **ORDERS** that each Class Member who validly opts-out: (a) will not be bound by the Settlement Agreement; (b) will not be entitled to any benefits or compensation under the Settlement Agreement; (c) shall cease to be a putative class member in the class action and any prescription or limitation delays otherwise applicable to said Class Member shall be deemed to recommence running as of the Opt-Out Deadline (d) will not be entitled to appear at any hearing or object to Settlement Agreement;
- [18] **ORDERS** that the deadline for opting out of the Settlement Agreement will be forty-five (45) days after Pre-Approval Order becomes effective;
- [19] **ORDERS** that any Class Member who does not timely and validly opt out of this class action in accordance with the Pre-Approval Order shall be bound by the Settlement Agreement, if approved by this Court, and by all subsequent proceedings, orders and judgments, including, but not limited to, the Release, Approval Judgment, and Settlement Approval Order in this Quebec Class Action, the whole subject to Article 580 of the Code of Civil Procedure of Québec;
- [20] **ORDERS** that Settlement Class Members who wish to object or comment the Settlement Agreement must do so by sending a personally signed objection which includes the information and documentation required at paragraph 9.3 of the Settlement Agreement by email, mail or courier to the Claims Administrator so it is received on or before the Objection Deadline of forty-five (45) days following the Pre-Approval Order becomes effective;
- [21] **APPROVES** Epiq Class Action Services Inc. (*Services d'actions collectives Epiq Canada*) as Claims Administrator to carry out the Notice Program and to receive any opt-out or objections submitted by Settlement Class Members, as well as to carry out the other functions, roles and responsibilities of the Claims Administrator contemplated in the Settlement Agreement, subject always to the terms and conditions of the Settlement Agreement, including the further Orders of this Court, as contemplated therein;
- [22] **APPROVES** the Short Form and Long Form Pre-Approval Notice substantially in the form as set forth within Schedule B and C to the Settlement Agreement (Exhibit R-1);
- [23] **ORDERS** that the Pre-Approval Notice shall be distributed by mailing the Short Form Pre-Approval Notice to all potential Quebec Settlement Class Members: (i) for whom Defendants has only valid mailing address; and, (ii) who have contacted

Class Counsel and provided a mailing address. The Long Form Pre-Approval Notice shall be posted to the settlement website (the "**Settlement Website**") and Class counsel's website, as set forth in the Settlement Agreement (Exhibit R-1);

- [24] **ORDERS** that the date and time of the hearing of the Settlement Approval Motion shall be set forth in the Pre-Approval Notice, but may be subject to adjournment by the Court without further publication notice to the Class Members other than such notice which will be posted on the Settlement Website;
- [25] **DECLARES** that if the Settlement Agreement is terminated in accordance with its terms, then, without restricting the application of the provisions of the Settlement Agreement:
- (a) the Orders included in the present Judgment shall be set aside and be of no further force or effect and without prejudice to any party; and
 - (b) all negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the parties with respect to the Quebec Class Action, and the parties shall be deemed to be restored to their respective positions with respect to the Quebec Class Action existing immediately before the Settlement Agreement was executed, which includes, for the Defendants, the right to contest authorization;
- [26] **THE WHOLE**, without costs.



THE HONOURABLE SYLVAIN LUSSIER, J.S.C.

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