

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

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MONDAY THE 16TH

JUSTICE PERELL

DAY OF JULY, 2018

BETWEEN:

**MATTHEW ROBERT QUENNEVILLE, LUCIANO TAURO,
MICHAEL JOSEPH PARE, THERESE H. GADOURY,
AMY FITZGERALD, RENEE JAMES, AL-NOOR WISSANJI,
JACK MASTROMATTEI, JAY MACDONALD, and JUDITH ANNE BECKETT**

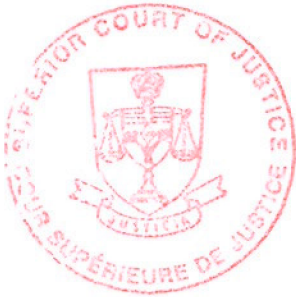
Plaintiffs

- and -

ROBERT BOSCH GMBH and ROBERT BOSCH LLC

Defendants

Proceeding under the *Class Proceedings Act, 1992*



ORDER

THIS MOTION, made by the Plaintiffs for the certification of this matter as a class proceeding, was heard on this day;

ON READING the motion record of the Plaintiffs, and on hearing the submissions of the lawyer(s) for the Parties;

AND ON BEING ADVISED that the parties consent to the form and content of this order;

1. **THIS COURT ORDERS** that this action is hereby certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992 c. 6.
2. **THIS COURT ORDERS THAT** the Class is defined as:

All persons in Canada, except for the Excluded Persons, who own, owned, lease or leased one of the Vehicles.

"**Vehicles**" means the following diesel powered vehicles:

(a) on September 18, 2015:

MODEL	MODEL YEARS: INCLUSIVE:
Volkswagen Jetta	2009-2015
Volkswagen Jetta Wagon	2009
Volkswagen Golf	2010-2013, 2015
Volkswagen Passat	2012-2015
Volkswagen Beetle	2013-2015
Volkswagen Golf Wagon	2010-2014
Volkswagen Golf Sportswagon	2015
Audi A3	2010-2013, 2015

and,

(b) on November 2, 2015;

MODEL	MODEL YEARS INCLUSIVE
Audi A6, A7, A8, A8L and Q5	2016
Porsche Cayenne	2015
Volkswagen Touareg	2014

and,

(c) on November 19, 2015:

MODEL	MODEL YEARS INCLUSIVE
Audi A6, A7, A8, A8L, Q5, Q7	2009-2015
Porsche Cayenne	2013-2014, 2016
VW Touareg	2009-2013, 2015-2016

"Excluded Persons" means:

- i) the Defendants and their officers and directors;
- ii) the defendants in *Quenneville v. Volkswagen*, Court File No. CV-15-537029-CP and their officers and directors;
- iii) Audi, VW and Porsche authorized motor vehicle dealers and the officers and directors of those dealers; and,
- iv) the heirs, successors and assigns of the persons described in subparagraphs (i) and (ii); and,
- v) putative class members in the parallel Quebec action against the Defendants styled *Equiterre c. Robert Bosch LLC et Robert Bosch GMBH* bearing Quebec Superior Court File No 500-06-000840-179.

3. **THIS COURT ORDERS AND DECLARES** that the causes of action asserted against the Defendants are predominant purpose conspiracy, unlawful means conspiracy and waiver of tort.

4. **THIS COURT ORDERS AND DECLARES** that the common issues be and are hereby certified as:

- (a) Do some or all of the Vehicles contain a Defeat Device? If so, which ones?

(b) Did the defendants conspire with Volkswagen in connection with the alleged Defeat Devices, either:

- (i) for the predominant purpose of injuring class members; or
- (ii) to act unlawfully in a manner directed towards class members, in circumstances where the defendants knew or ought to have known that injury to class members was likely to result?

(c) If the answer to question (b) is yes, over what period of time did the conspiracy take place?

(d) Does the defendants' conduct merit an award of punitive damages?

(e) If one or more of the above common issues are answered affirmatively, can the amount of damages payable by the defendants be determined on an aggregate basis?

(f) What is the defendants' several proportion of liability to class members?

(g) To what extent have members of the class already been compensated in respect of the several liability of the defendants, through the settlement of the parallel class action against Volkswagen?

(h) By virtue of waiver of tort, are Class Members entitled to claim an accounting and/or a disgorgement of revenues on a restitutionary basis from the defendants?

5. **THIS COURT ORDERS AND DECLARES** that if the answer to common issue (d) is "yes", the question of whether an award of punitive damages should be made against the defendants and, if so, in what amount, shall be considered after the Court's determination of the individual issues;

6. **THIS COURT ORDERS AND DECLARES** that if the answer to common issue (h) is "yes", the question of in what amount and for whose benefit is such an

accounting and/or disgorgement to be made, shall be considered after the Court's determination of the common issues;

7. **THIS COURT ORDERS AND DECLARES** that Matthew Robert Quenneville, Luciano Tauro, Michael Joseph Pare, Therese H. Gadoury, Amy Fitzgerald, Renee James, Al-Noor Wissanji, Jack Mastromattei, Jay MacDonald and Judith Anne Beckett are hereby appointed as the representative plaintiffs for the Class.

8. **THIS COURT ORDERS AND DECLARES** that Koskie Minsky LLP, Siskinds LLP, Camp Fiorante Mogerman LLP, Branch McMaster LLP, McKenzie Lake LLP, Strosberg, Sutts, Sasso LLP, Roy O'Connor LLP and Rochon Genova LLP are hereby appointed as class counsel ("**Class Counsel**").

9. **THIS COURT ORDERS** that the provision of notice to Class Members that this proceeding has been certified as a class proceeding and who shall bear the costs of such notice shall be dealt with by a future order of this Court.

10. **THIS COURT ORDERS** that no other proceeding may be commenced in Ontario in respect of the subject matter of this action as against the Defendants Robert Bosch LLC and Robert Bosch GMBH without leave of this court.

11. **THIS COURT ORDERS** that Robert Bosch LLC is hereby added as a defendant to this class proceeding and style of cause is hereby amended as follows:

MATTHEW ROBERT QUENNEVILLE, LUCIANO TAURO,
MICHAEL JOSEPH PARE, THERESE H. GADOURY,
AMY FITZGERALD, RENEE JAMES, AL-NOOR WISSANJI,
JACK MASTROMATTEI, JAY MACDONALD, and JUDITH ANNE BECKETT

Plaintiffs

- and -

ROBERT BOSCH GMBH and ROBERT BOSCH LLC

Defendants

12. **THIS COURT ORDERS** that the issue of costs of the certification motion shall be dealt with by further order of the court.

Paul J.

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

JUL 16 2018

PER / PAR:



ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER

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