

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

OLYMPIC TREE CARE LTD.

Plaintiff

- and -

GENERAL MOTORS OF CANADA COMPANY, GENERAL MOTORS LLC, ROBERT
BOSCH GMBH, and ROBERT BOSCH LLC

Defendants

Proceeding under the *Class Proceedings Act, 1992*

NOTICE OF ACTION

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the statement of claim served with this notice of action.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this notice of action is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: June 2, 2017

Issued by _____

Local registrar

Address of court office 393 University Ave. -10th Floor
Toronto, ON M5G 1E6

TO: GENERAL MOTORS OF CANADA COMPANY
1908 Colonel Sam Dr.
Oshawa, ON L1H 8P7

AND TO: GENERAL MOTORS LLC
300 Renaissance Ctr L1
Detroit, MI 48243-1403

AND TO: ROBERT BOSCH GMBH
Robert-Bosch-Platz 1
70839 Gerlingen,
Germany

AND TO: ROBERT BOSCH LLC
2800 South 25th Avenue
IL 60155 Broadview
Illinois
USA

CLAIM

1. The Plaintiff claims on behalf of itself and other persons and entities in Canada that purchased and/or leased a Chevrolet Silverado 2500 or 3500 (model years 2011-2016) or GMC Sierra 2500 or 3500 (model years 2011-2016) that were equipped with Duramax diesel engines (the “**Vehicles**”):

- (a) an order certifying this action as a class proceeding and appointing the Plaintiff as the representative plaintiff;
- (b) a declaration that the Defendants conspired with each other to install emissions testing detection software in the Vehicles that caused them to emit less pollutants during emissions testing than in ordinary driving conditions, to import the Vehicles into Canada and to market and sell them unlawfully in Canada, to the detriment of the Plaintiff and Class Members;
- (c) a declaration that the Defendants violated the *Canadian Environmental Protection Act*, 1999, SC 1999, c 33, by importing the Vehicles into Canada;
- (d) a declaration that the Vehicles emitted nitrogen oxides at levels exceeding applicable emissions standards;
- (e) a declaration that the Defendants made certain representations regarding the Vehicles that were false, and that these representations were made negligently;
- (f) a declaration that the Defendants breached the express and implied warranties in relation to the Vehicles;
- (g) a declaration that the Defendants engaged in conduct contrary to Part III of the *Consumer Protection Act*, 2002, SO 2002, c 30, Sched A;
- (h) a declaration that the Defendants engaged in conduct contrary to Part VI of the *Competition Act*, RSC 1985, c C-34;
- (i) general damages for conspiracy, conduct that is contrary to Part III of the *Consumer Protection Act*, 2002, SO 2002, c 30, Sched A, and conduct that is

contrary to Part VI of the *Competition Act*, RSC 1985, c C-34 in the amount of \$50,000,000;

- (j) punitive and exemplary damages in the amount of \$5,000,000;
- (k) costs of the investigation and prosecution of this proceeding pursuant to s. 36 of the *Competition Act*, RSC 1985, c C-34;
- (l) pre-judgment and post-judgment interest, calculated in accordance with sections 128 and 129 of the *Courts of Justice Act*, RSO 1990, c C.43 or as otherwise ordered by the Honourable Court;
- (m) costs of this action on a substantial indemnity basis; and
- (n) such further and other relief as this Honourable Court may deem just.

NATURE OF THE ACTION

2. This action arises from a conspiracy among the Defendants to equip the Vehicles with one or more software devices that detect when the Vehicles are not undergoing emissions testing and trigger the Vehicles to deactivate certain emissions controls. Under ordinary driving conditions, the Vehicles emit more pollutants than are allowed by law. Operation of the full emissions control systems diminishes the performance of the Vehicles.

3. The Defendants failed to disclose the facts described in paragraph (2) above, and instead made false representations as to the environmental and performance specifications of the Vehicles.

THE PARTIES

4. The Plaintiff, Olympic Tree Care Ltd., is a residential and commercial tree care company headquartered in Dorchester, Ontario. The Plaintiff owns a 2011 GMC Sierra 3500 with a Duramax diesel engine.

5. The Defendants, General Motors of Canada Company and General Motors LLC, researched, designed, developed, manufactured, marketed, distributed, sold and/or leased the Vehicles in Canada.

6. The Defendants, Robert Bosch GmbH and Robert Bosch LLC, researched, designed, developed, manufactured, marketed, distributed, and sold the software devices contained in those Vehicles.

STATUTORY PROVISIONS

7. The Plaintiff pleads and relies on the:

- (a) *Consumer Protection Act, 2002*, SO 2002, c 30, Sched A;
- (b) *Competition Act*, RSC 1985, c C-34;
- (c) *Class Proceedings Act, 1992*, SO 1992, c 6;
- (d) *Canadian Environmental Protection Act, 1999*, SC 1999, c 33; and
- (e) *Rules of Civil Procedure*, RRO 1990, Reg 194, s 17.02(g).

8. The Plaintiff proposes that this action be tried at Toronto, Ontario.

June 2, 2017

Siskinds LLP

Barristers & Solicitors
100 Lombard Street, Suite 302
Toronto, ON M5C 1M3

Daniel E. H. Bach (LSUC#: 52087E)

Tel: (416) 594-4376
Fax: (416) 594-4377

680 Waterloo Street
P.O. Box 2520
London, ON N6A 3V8

Emilie Maxwell (LSUC#: 59681W)

Tel: (519) 660-7824
Fax: (519) 672-7825

Lawyers for the Plaintiff

OLYMPIC TREE CARE LTD. GENERAL MOTORS OF CANADA COMPANY, et al.
Plaintiff and Defendants

Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE

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Lawyers for the Plaintiff