

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
JUSTICE BELOBABA

)  
)

THURSDAY, THE 13<sup>TH</sup> DAY  
OF MAY, 2021

B E T W E E N :

**SHERIDAN CHEVROLET CADILLAC LTD.,  
PICKERING AUTO MALL LTD., and FADY SAMAHA**

Plaintiffs

- and -

**TOYO TIRE & RUBBER CO. LTD., TOYO TIRE NORTH AMERICA  
MANUFACTURING INC., TOYO TIRE NORTH AMERICA OE SALES LLC, TOYO  
AUTOMOTIVE PARTS (USA) INC., TOYODA GOSEI CO., LTD., TOYODA GOSEI  
NORTH AMERICA CORPORATION, TG KENTUCKY, LLC, AND TG FLUID  
SYSTEMS USA CORPORATION**

Defendants

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

**ORDER  
- Automotive Constant-Velocity-Joint Boot Products -  
Distribution Protocol Approval**

**THIS MOTION** made by the Plaintiffs for an Order approving *inter alia*, the protocol for the distribution of settlement funds (the "Distribution Protocol"), was heard this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

**ON READING** the materials filed, including the Distribution Protocol attached to this Order as Schedule "A", the Defendants taking no position on this motion;

**ON BEING ADVISED** that RicePoint Administration Inc. ("RicePoint") consents to being appointed as the Claims Administrator and agrees to be bound by this Order, including the terms of the Distribution Protocol;

1. **THIS COURT ORDERS** that, for the purposes of this Order, the definitions set out in the Distribution Protocol apply to and are incorporated into this Order.

**Distribution Protocol**

2. **THIS COURT ORDERS** that the Distribution Protocol is hereby approved and shall be implemented in accordance with its terms.
3. **THIS COURT ORDERS** that the Distribution Protocol shall govern the administration of the Settlement Agreements entered into in the Canadian Automotive Constant-Velocity-Joint Boot Products class action.
4. **THIS COURT ORDERS** that the settlement amounts paid in accordance with the Settlement Agreements shall be distributed by the Claims Administrator in accordance with the Distribution Protocol.
5. **THIS COURT ORDERS** that RicePoint Administration Inc. is hereby appointed as Claims Administrator for the purposes of administering the Distribution Protocol.
6. **THIS COURT ORDERS** that the notice of claims process ("Claims Notice") is hereby approved substantially in the form attached hereto as Schedule "B".
7. **THIS COURT ORDERS** that Claims Administrator shall send the Claims Notice by direct mail to the Automakers.
8. **THIS COURT ORDERS** that the paper claim form is hereby approved substantially in the form attached hereto as Schedule "C".
9. **THIS COURT ORDERS** that all information received from the Automakers collected, used and retained by the Claims Administrator for the purpose of administering the

Distribution Protocol, including evaluating the Settlement Class Member's eligibility status under the Distribution Protocol is protected under the *Personal Information Protection and Electronic Documents Act*, SC 2000 c 5 (*PIPEDA*). The information provided by the Settlement Class Members is strictly private and confidential and will not be disclosed without the express written consent of the relevant Settlement Class Member, except in accordance with the Settlement Agreements, orders of this Court and/or the Distribution Protocol.

### **Honorarium Payments**

10. **THIS COURT ORDERS** that an honorarium payment of \$200.00 is awarded to each of Gazarek Realty Holdings Ltd. (formerly, Sheridan Chevrolet Cadillac Ltd.), 5045320 Ontario Ltd. (formerly, The Pickering Auto Mall Ltd.), and Fady Samaha to be paid from the settlement funds.

**Signed:** Justice Edward P. Belobaba

Notwithstanding Rule 59.05, this Judgment [Order] is effective from the date it is made, and is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal Judgment [Order] need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party to this Judgment [Order] may nonetheless submit a formal Judgment [Order] for original signing, entry and filing when the Court returns to regular operations.

**DISTRIBUTION PROTOCOL OF THE CANADIAN AUTOMOTIVE CONSTANT-  
VELOCITY-JOINT BOOT PRODUCTS PRICE-FIXING CLASS ACTION  
SETTLEMENT FUNDS**

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## GENERAL PRINCIPLES

1. The procedures set forth herein are intended to govern the administration of the settlement agreements entered into in the Automotive Constant-Velocity-Joint Boot Products price-fixing class action (the “Settlement Agreements”).
2. The administration shall implement and conform to the Settlement Agreements, orders of the Court and this Distribution Protocol.

## DEFINITIONS

3. For the purpose of this Distribution Protocol, the following definitions apply:
  - (a) ***Claim*** means the paper form that an Automaker must complete and submit before the Claims Filing Deadline in order to be considered for settlement benefits under this Distribution Protocol.
  - (b) ***Claims Administrator*** means the firm proposed by Class Counsel and appointed by the Court to administer the distribution of the Net Settlement Funds in accordance with the provisions of this Distribution Protocol and any related Court orders.
  - (c) ***Claims Filing Deadline*** means the date by which Claims (and any required supporting documentation) must be postmarked in order for Automakers to be considered for settlement benefits under this Distribution Protocol, which date shall be four (4) months after the first publication of the notice advising Automakers of the claims process.
  - (d) ***Court*** means the Ontario Superior Court of Justice.

(e) ***Automakers*** means:

- (i) Fiat Chrysler Canada Inc.;
- (ii) Ford of Canada Ltd.;
- (iii) General Motors of Canada Ltd.;
- (iv) Honda Canada Inc.; and
- (v) Toyota Motor Manufacturing Canada

(f) ***Net Settlement Funds*** means the aggregate of the Settlement Amounts recovered pursuant to the Settlement Agreements, plus accrued interest, less:

- (i) Class Counsel Fees as approved by the Court;
- (ii) Administration Expenses (which includes the fees of the Claims Administrator in administering this Distribution Protocol);
- (iii) taxes accruable with respect to the income earned on the settlement funds prior to distribution (including interest and penalties); and
- (iv) any other deductions approved by the Court.

(g) ***Settlement Agreements*** has the meaning attributed to it in paragraph 1.

## **DISTRIBUTION OF SETTLEMENT FUNDS**

### **Distribution**

4. The Net Settlement Funds from the Automotive Constant-Velocity-Joint Boot Products action will be allocated for payment to Automakers who purchased at least \$100,000 in

Automotive Constant-Velocity-Joint Boot Products directly from GKN plc or one of its subsidiaries between January 1, 2006 and October 1, 2014. The Net Settlement Funds shall be distributed in equal portions to qualifying Automakers.

5. If there are no qualifying Automakers, further directions shall be sought from the Court regarding the distribution of the Net Settlement Funds.
6. To the extent that the full Net Settlement Funds are not paid out due to uncashed cheques, residual interest or otherwise, if the aggregate amount is less than \$10,000, the funds will be distributed *cy pres* to the Automobile Protection Association. If the aggregate amount is \$10,000 or more, the funds shall be held in trust for the benefit of the Automakers, pending further order of the Court.

**Accounting for Other Compensation and/or Release of Claims**

7. Subject to paragraph 8, Automakers seeking compensation must disclose any compensation received and/or release granted through other proceedings or private out-of-class settlements in relation to their purchases of Automotive Constant-Velocity-Joint Boot Products.
8. Automakers may elect to forego participation in the distribution of settlement funds on a per defendant basis. If the Automaker so elects, the Automaker does not need to comply with paragraph 7 above in respect of the relevant defendant.
9. If the Automaker's claim was released against all Defendants, the Automaker shall be deemed ineligible for compensation.
10. If an Automaker provided a release in respect of a subset of Defendants, the Automaker shall not be permitted to participate in the distribution of any settlement funds attributable

to that subset of Defendants. For example, if the settlement funds total \$10 million and the subset of Defendants released by the Automaker settled the class action for \$7 million, the Automaker would be eligible to participate in the distribution of 3/10 of the Net Settlement Funds.

11. If the Automaker received compensation from one or more Defendants, but did not release its claim against the applicable Defendants in its entirety, the Automaker must give credit for the compensation received. For example, if the Automaker's prorata distribution of the Net Settlement Funds is \$50,000, but it received compensation in the amount of \$30,000, its entitlement under this Distribution Protocol would be \$20,000.

## **THE CLAIMS PROCESS**

### **The Claim**

12. The Claim shall require the following:
  - (a) The Automaker's contact information;
  - (b) Documentary proof that the Automaker purchased at least \$100,000 in Automotive Constant-Velocity-Joint Boots Products directly from GKN plc or its subsidiaries between January 1, 2006 and October 1, 2014. Documentary proof of purchase may be in the form of invoices, receipts, original purchase records, or historical accounting records. Documentary proof of purchase does not need to confirm the total amount of purchases during the relevant period, but rather that at least \$100,000 in purchases were made during the period;



- (c) disclosure regarding whether the Automaker has provided a release and/or received compensation through other proceedings or private out-of-class settlements in relation to its purchases of Automotive Constant-Velocity-Joint Boots Products;
- (d) authorization to the Claims Administrator to contact the Automaker or its representative, as the Claims Administrator deems appropriate, for more information; and
- (e) a declaration that the information submitted in the Claim is true and correct.

13. Claims must be postmarked no later than the Claims Filing Deadline.

**Adjustments to Claims Process**

14. To ensure a fair and efficient administration of the Net Settlement Funds, the Claims Administrator and Class Counsel may agree to adjust the claims process.

**Claims Administrator's Decision**

- 15. In respect of each Automaker who has filed a Claim, the Claims Administrator shall decide whether the Automaker is eligible to receive settlement benefits in accordance with this Distribution Protocol and any related Court orders.
- 16. At its sole discretion, the Claims Administrator can reject a Claim where, in the Claims Administrator's view, the Automaker has submitted insufficient or false information or has otherwise engaged in fraudulent conduct. Subject to the discretion of the Claims Administrator, there will be no deficiency process.

17. The Claims Administrator shall send to the Automaker a decision as to the approval or rejection of the Claim. Where the Claims Administrator has rejected the Claim, the Claims Administrator shall include its grounds for doing so.
18. The Claims Administrator's decision will be final and binding.

#### **Payment of Claims**

19. As soon as practicable after the claims evaluations are completed, the Claims Administrator shall:
  - (a) report to Class Counsel the particulars of the proposed distribution to each eligible Automaker; and
  - (b) pay approved Claims.
20. Automakers will be paid by cheque or, at the Claims Administrator's discretion, wire transfer.

#### **Reissuance of Payment**

21. The Claims Administrator shall have the discretion, but is not required, to reissue payments to an Automaker returned as undeliverable under such policies and procedures as the Claims Administrator deems appropriate. Any costs associated with locating current address information for the Automaker and/or reissuing payment shall be deducted from that Automaker's settlement benefits.

### **THE CLAIMS ADMINISTRATOR'S DUTIES AND RESPONSIBILITIES**

#### **Supervisory Powers of the Court**

22. The Claims Administrator shall administer this Distribution Protocol under the ongoing authority and supervision of the Court.

### **Investment of Settlement Funds**

23. The settlement funds shall be held in a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, SC 1991, c 46), held at a Canadian financial institution.

### **Communication, Languages and Translation**

24. The Claims Administrator shall dedicate sufficient personnel to respond to Automaker's inquiries in English or French, as the Automaker elects.
25. All written communications from the Claims Administrator to an Automaker shall be transmitted via email if an email address has been provided, or if an email address has not been provided, by regular mail.

### **Undeliverable Mail**

26. The Claims Administrator shall have no responsibility for locating Automakers for any mailing returned to the Claims Administrator as undeliverable. Where a mailing has been returned as undeliverable, the Claims Administrator will not send any further correspondence, including payments, to that address.

### **Taxes**

27. The Claims Administrator shall take all reasonable steps to minimize the imposition of taxes upon the Net Settlement Funds while held in trust and shall pay any taxes imposed on such monies while held in trust out of the Net Settlement Funds. Automakers shall be responsible for any taxes payable by them as a result of the receipt of any settlement funds.

### **Reporting**

28. The Claims Administrator shall provide regular reports to Class Counsel regarding the administration.
29. The Claims Administrator shall provide any reports requested by the Court.

### **Assistance to the Claims Administrator**

30. The Claims Administrator shall have the discretion to enter into such contracts and obtain financial, accounting, and other expert assistance as are reasonably necessary in the implementation of this Distribution Protocol.

## **AUTOMAKER INFORMATION**

### **Confidentiality**

31. All information received from the Automakers collected, used, and retained by the Claims Administrator for the purposes of administering this Distribution Protocol is protected under the *Personal Information Protection and Electronic Documents Act*, SC 2000 c 5. The information provided by Automakers is strictly private and confidential and will not be disclosed without the express written consent of the relevant Automaker, except in accordance with this Distribution Protocol and any related Court orders. Prior to implementing the Distribution Protocol, the Claims Administrator shall execute an undertaking that confirms its commitment to abide by the obligations set out in this paragraph.

### **Disposition of Claim Submissions**

32. The Claims Administrator shall preserve, in hard copy or electronic form, as the Claims Administrator deems appropriate, the submissions relating to a Claim, until two years after the distribution of the Net Settlement Funds is complete.

< National Brand >  
< Address >  
< City, Province Postal Code >

Dear < National Brand >,

**Re: *Canadian Automotive Constant-Velocity-Joint Boot Products Price-Fixing Class Action***

You are receiving this letter because you may be entitled to compensation in the above-noted class action. As you may be aware, class proceedings were commenced in Canada alleging that the Defendants conspired to fix the prices of Automotive Constant-Velocity-Joint Boot Products. Settlements were reached with all Defendants. The Defendants are: Toyoda Gosei Co., Ltd., Toyoda Gosei North America Corporation, TG Kentucky, LLC, TG Fluid Systems USA Corporation, Toyo Tire & Rubber Co., Ltd., Toyo Tire North America Manufacturing Inc., Toyo Tire North America OE Sales LLC, and Toyo Automotive Parts (USA), Inc. By settling the claims, the Defendants do not admit liability.

The aggregate settlement amounts (\$x), plus interest and less court-approved legal fees and deductions, are available for distribution. The settlement funds will be distributed in equal amounts to qualifying claimants. To qualify for payment, you must provide proof of purchase that you purchased at least CDN\$100,000 worth of Automotive Constant-Velocity-Joint Boot Products directly from GKN plc or its subsidiaries between January 1, 2006 and October 1, 2014.

Enclosed is a copy of the claim form. Completed claim forms must be postmarked no later than ●.

A copy of the Court-approved Distribution Protocol is available at [www.autopartsettlement.ca](http://www.autopartsettlement.ca).

Should you have any questions, please contact our office at: 1-866-474-4331 or ●@ricepoint.com.

**Who are the lawyers working on this class action?**

The following Canadian law firms are counsel in the class action: Siskinds LLP (London and Toronto), Sotos LLP (Toronto); CFM Lawyers (Vancouver), and Siskinds Desmeules (Montreal and Quebec City).

**CANADIAN CONSTANT-VELOCITY-JOINT BOOT PRODUCTS  
PRICE-FIXING CLASS ACTIONS**

**CLAIM FORM**

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**All completed Claim Forms must be mailed to the Claims Administrator postmarked on or before ●, at the following address:**

Canadian Constant Velocity-Joint-Boot Products Price-Fixing Class Actions  
P.O. Box 4454, Toronto Station A,  
25 The Esplanade  
Toronto, ON M5W 4B1

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**Instructions**

Please complete all applicable sections below. Please type or print in black or blue ink. Do not use red ink or pencil.

For the purposes of this Claim Form, the following definitions apply:

- *Automakers* means Fiat Chrysler Canada Inc., Ford of Canada Ltd., General Motors of Canada Ltd., Honda Canada Inc., and Toyota Motor Manufacturing Canada.
- *Automotive Constant-Velocity-Joint Boot Products* means rubber or plastic covers that are used to cover and protect the constant-velocity-joints of Automotive Vehicles from contaminants.
- *Defendants* mean Toyoda Gosei Co., Ltd., Toyoda Gosei North America Corporation, TG Kentucky, LLC, TG Fluid Systems USA Corporation, Toyo Tire & Rubber Co., Ltd., Toyo Tire North America Manufacturing Inc., Toyo Tire North America OE Sales LLC, and Toyo Automotive Parts (USA), Inc.

Please contact the Claims Administrator if you have questions regarding the Claim Form. More information about the settlements and the calculation of settlement benefits can be found at [www.autopartsettlements.ca](http://www.autopartsettlements.ca).

The Claims Administrator might contact you for additional information. Please keep copies of all relevant records.

**Privacy Statement:** All information provided as part of this Claim Form is collected, used, and retained by the Claims Administrator, Class Counsel and their agents pursuant to the *Personal Information Protection and Electronic Documents Act*, SC 2000 c 5, for the purposes of administering the Canadian Automotive Parts Price-Fixing Class Actions, including evaluating your eligibility status under the Settlement Agreements and Distribution Protocol. The information provided is strictly private and confidential and will not be disclosed without your express written consent, except in accordance with the Settlement Agreements, the Distribution Protocol and/or orders of the Court.

### SECTION I: CLAIMANT INFORMATION

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address Continued

\_\_\_\_\_  
City

\_\_\_\_\_  
Province

\_\_\_\_\_  
Postal Code

\_\_\_\_\_  
Area code

- \_\_\_\_\_ -  
Telephone Number

\_\_\_\_\_  
Email

\_\_\_\_\_  
Company Contact Name

\_\_\_\_\_  
Company Contact Title

### SECTION II: PURCHASE INFORMATION

You must provide documentary proof of purchase of at least CAD\$100,000 worth of Automotive Constant-Velocity-Joint Boot Products purchases directly from GKN plc or its subsidiaries between January 1, 2006 and October 1, 2014.

Proof of purchase may be in the form of invoices, receipts, original purchase records, or historical accounting records.

### SECTION III: RELEASE OF CLAIMS OR PRIVATE SETTLEMENTS

Have you received compensation and/or provided a release in respect of the alleged price-fixing of Automotive Constant-Velocity-Joint Boot Products? For example, have you entered into a private settlement with any Defendants and/or received compensation in respect of your Canadian purchases through any U.S. class action settlements?

☐ Yes ☐ No

If yes, please describe the other proceedings or private out-of-class settlements in which you previously provided a release. In addition, please include copies of the legal documents from those proceedings / settlements. Alternatively, you may elect to forego participation in the distribution of settlement funds on a per Defendant basis.

Details of claims released and compensation received or defendants in which you are forgoing participation in the distribution:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### SECTION IV: VERIFICATION

By signing this Claim Form:

- I understand that by submitting this claim, I am authorizing the Claims Administrator to contact me as the Claims Administrator deems appropriate for more information and/or to audit this Claim.
- I verify that all of the information in this Claim Form is true and correct and that I am authorized to sign on behalf of the Claimant.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ in \_\_\_\_\_.  
(Month, Year) (City, Province, Country)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Position/Title

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.  
THANK YOU FOR YOUR PATIENCE.**

#### Reminder Checklist:

1. Complete all sections, enclose proof of purchase, and sign the verification.
2. Keep a copy of your Claim Form and all supporting documentation for your records.
3. Advise the Claims Administrator of any change of contact information.



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

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**  
**- Automotive Constant-Velocity-Joint Boot Products -**  
**Distribution Protocol Approval**

**Sotos LLP**

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