

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE )  
JUSTICE BELOBABA )  
MONDAY THE 14TH DAY  
OF FEBRUARY, 2022

B E T W E E N:

**YOGESH KALRA**

Plaintiff

- and -

**MERCEDES-BENZ CANADA INC., DAIMLER AG, MERCEDES-BENZ USA, LLC and  
MERCEDES-BENZ FINANCIAL SERVICES CANADA CORPORATION**

Defendants

*Proceeding under the Class Proceedings Act 1992*

**ORDER  
(SETTLEMENT APPROVAL)**

**THIS MOTION**, made by the Plaintiff, for an Order approving the Settlement Agreement between the Parties dated December 7, 2021 as amended by the Settlement Amending Agreement dated February 6, 2022 (the “**Settlement Agreement**”) (attached as Schedule “**A**”) and dismissing this Action, was heard this day by videoconference at the Court House, 330 University Avenue, Toronto, Ontario.

**ON READING** the materials filed and on hearing the submissions of Class Counsel, counsel for the Defendants, and certain Settlement Class Members who filed objections;

**AND ON BEING ADVISED** that the deadline for objecting to the Settlement Agreement has passed and there have been 24 written objections to the Settlement Agreement;

1. **THIS COURT DECLARES** that the definitions in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class.

3. **THIS COURT ORDERS** that all provisions of the Settlement Agreement form part of this Order and are binding upon the Defendants, the Class Representative and all members of the Settlement Class, including those persons who are minors or mentally incapable, and the requirements of rules 7.04(1) and 7.08(4) of the Rules of Civil Procedure are waived.

4. **THIS COURT ORDERS** that the Settlement Agreement, which is expressly incorporated by reference into this Order, be and hereby is approved and shall be implemented in accordance with this Order and further orders of this Court.

5. **THIS COURT ORDERS** that the Release is approved and shall take effect upon the Effective Date.

6. **THIS COURT ORDERS AND DECLARES** that the Released Parties include, without limitation: (1) Mercedes-Benz Group AG (formerly known as Daimler AG), MBUSA, MBC, MBFSC and any former, present, and future owners, shareholders (direct or indirect), members (direct or indirect), directors, officers, members of management or supervisory boards,

employees, counsel, affiliates, parent companies (direct or indirect), subsidiaries (direct or indirect), predecessors, and successors of any of the foregoing (the “**Entities**”); (2) any and all contractors, subcontractors, joint venture partners, consultants, auditors, dealers, distributors, and suppliers of the Entities; (3) any and all persons and entities indemnified by any Entity with respect to the Action or the BlueTEC Diesel Matter; (4) any and all other persons and entities involved in the design, research, development, manufacture, assembly, testing, sale, leasing, repair, warranting, marketing, advertising, public relations, promotion, or distribution of any Eligible Vehicle, even if such persons are not specifically named in Section 9.2 of the Settlement Agreement; (5) lenders, creditors, financial institutions, or any other parties that financed any purchase or lease of an Eligible Vehicle; (6) for each of the foregoing, their respective former, present, and future affiliates, parent companies, subsidiaries, predecessors, successors, shareholders, indemnitors, subrogees, spouses, joint venturers, general or limited partners, counsel, assigns, principals, officers, directors, members of management or supervisory boards, employees, members, agents, representatives, trustees, insurers, reinsurers, heirs, beneficiaries, wards, estates, executors, administrators, receivers, conservators, personal representatives, divisions, dealers, and suppliers; and (7) any other person or entity that is or could be alleged to be responsible or liable in any way whatsoever, whether directly or indirectly, for the BlueTEC Diesel Matter.

7. **THIS COURT ORDERS** that, for consideration set forth in the Settlement Agreement, the Settlement Class Members, on behalf of themselves and their agents, heirs, executors and administrators, successors, assigns, insurers, counsel (including any counsel engaged by Settlement Class Members who is not Class Counsel), representatives, shareholders,

owners associations, and any other Persons who may claim by, through, or under them (the “**Releasing Parties**”), fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle and acquit any and all claims, demands, actions, or causes of action of any kind or nature whatsoever, whether in law or in equity, contractual, quasi-contractual or statutory, known or unknown, direct, indirect or consequential, liquidated or unliquidated, past, present or future, foreseen or unforeseen, developed or undeveloped, contingent or non-contingent, suspected or unsuspected, whether or not concealed or hidden, arising from, in whole or in part, or in any way related to the BlueTEC Diesel Matter, including without limitation (1) any claims or allegations that are, were, or could have been asserted in the Action; (2) any claims for fines, penalties, economic damages, punitive damages, exemplary damages, statutory damages, liens, injunctive relief, counsel fees (except as provided in Section 11 of the Settlement Agreement), expert, consultant, or other litigation fees or costs; or (3) any other liabilities that were or could have been asserted in any civil, administrative, or other proceeding, including arbitration (the “**Released Claims**”). The Released Claims include, without limitation, any and all such claims, demands, actions, or causes of action regardless of the legal or equitable theory or nature under which they are based or advanced including, without limitation, legal and/or equitable theories under any federal, territorial, provincial, local, tribal, administrative or international law, or statute, ordinance, code, rule, regulation, contract, common law, equity, or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, breach of contract, fraud, or any other legal or equitable theory, whether existing under the laws of Canada, a province or territory of Canada or of any other foreign or domestic state, territory, county, city, or municipality, or any other legal or governmental body, whether existing now or arising in the future, that arise from, in whole or in part, or in any way

relate to the BlueTEC Diesel Matter. Notwithstanding the foregoing, this Release does not release any claims for wrongful death or personal injury.

8. **THIS COURT ORDERS** that the Release and this Order are, and may be raised as, a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, the Release. Settlement Class Members shall not now or hereafter institute, maintain, prosecute, assert, and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action, and/or other proceeding against the Released Parties with respect to the claims, causes of action, and/or any other matters subject to this Release. To the extent that they have initiated, or caused to be initiated, any suit, action, or proceeding not already encompassed by the Action, Settlement Class Members shall promptly cause their claims in any such suit, action, or proceeding to be dismissed with prejudice. If a Settlement Class Member commences, files, initiates, or institutes any legal action or other proceeding for any Released Claim against any Released Party in any court, arbitral tribunal, or administrative or other forum, (1) such legal action or other proceeding shall be dismissed with prejudice and with costs, and at that Settlement Class Member's expense; (2) any refusal or failure to immediately dismiss such claims shall provide a basis for any Released Party to seek an injunction, sanctions, or other appropriate relief; and (3) the respective Released Party shall be entitled to recover any and all reasonable related costs and disbursements from that Settlement Class Member arising as a result of that Settlement Class Member's breach of their obligations under this Release.

9. **THIS COURT ORDERS** that the Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members, regardless of whether those Settlement

Class Members ultimately submit a Claim or receive a Settlement Class Member Payment under the Settlement Agreement.

10. **THIS COURT ORDERS** that any of the Released Parties may file the Settlement Agreement and/or this Order in any action that may be brought against them in order to support any defence or counterclaim, including without limitation those based on principles of res judicata, collateral estoppel, issue estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion, or similar defence or counterclaim.

11. **THIS COURT ORDERS** that for purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Plaintiff, Settlement Class Members and the Defendants attorn to the jurisdiction of this Court solely for the purpose of implementing, administering, enforcing, and interpreting the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.

12. **THIS COURT DECLARES** that the Parties may by written agreement effect such amendments, modifications or expansions of the Settlement Agreement and its implementing documents (including all exhibits thereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with this Order and do not limit the rights of Settlement Class Members under the Settlement Agreement.

13. **THIS COURT ORDERS** that Class Counsel fees and disbursements payable to Class Counsel will be submitted to the Court for approval.

14. **THIS COURT ORDERS** that the Honorarium for the Class Representative will be submitted to the Court for approval.

15. **THIS COURT ORDERS** that the Class Proceedings Fund shall be paid its levy in accordance with O. Reg. 771/92 (the “**Levy**”) out of the Settlement Class Member Payments to which Settlement Class Members are entitled pursuant to the Settlement Agreement, and that no part of the Levy shall be paid by the Defendants.

16. **THIS COURT ORDERS** that the terms of this Order and the approval of the Settlement hereby do not determine, and are and shall be without prejudice to, the proper interpretation and application of Ontario Regulation 771/92 and any position that the Law Foundation of Ontario may take in any other case in that regard.

17. **THIS COURT ORDERS** that in the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be declared null and void on subsequent motion made on notice.

18. **THIS COURT ORDERS** that, upon the Effective Date, the Action be and hereby is dismissed, without costs and with prejudice.

**Signed:** *Justice Edward Belobaba*

Notwithstanding Rule 59.05, this Judgment [Order] is effective and binding from the date it is made and is enforceable without any need for entry and filing. Any party to this Judgment [Order] may submit a formal Judgment [Order] for original signing, entry and filing when the Court returns to regular operations.

YOGESH KALRA

-and-  
Plaintiff

MERCEDES-BENZ CANADA INC. et al.

Defendants

Court File No. CV-16-550271-00CP

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**Proceeding commenced at  
Toronto**

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**ORDER  
(SETTLEMENT APPROVAL)**

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**KOSKIE MINSKY LLP**  
Barristers and Solicitors  
900-20 Queen Street West  
Toronto, ON M5H 3R3

**Kirk M. Baert (LSO: 309420)**  
kmbaert@kmlaw.ca  
Tel: 416 595 2092

**James Sayce (LSO: 58730M)**  
jsayce@kmlaw.ca  
Tel: 416 542 6298

**LENCZNER SLAGHT LLP**  
Barristers and Solicitors  
2600-130 Adelaide Street West  
Toronto, ON M5H 3P5

**Peter Griffin (LSO: 19527Q)**  
pgriffin@litigate.com  
Tel: 416 865 2921

**Brian Kolenda (LSO: 60153N)**  
bkolenda@litigate.com  
Tel: 416 865 2897