

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) THURSDAY, THE
)
JUSTICE BELOBABA) 9TH DAY OF DECEMBER, 2021

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 NOTICE APPROVAL AND DISCONTINUANCE)**

THIS MOTION made by the Plaintiff for an Order appointing JND Legal Administration as Settlement Administrator; approving the Short Form Notice and the Long Form Notice (collectively, the “**Settlement Notices**”) and the program for distributing information about the Settlement Agreement to the Settlement Class (the “**Notice Program**”); setting the objection deadline; and discontinuing without costs the claims of members of the class certified pursuant to the Certification Order in this Action dated June 29, 2017 (the “**Certification Order**”) who are current or former owners or lessees of model year 2007-2009 E320 Mercedes-Benz BlueTEC I

vehicles, and approving the notice of discontinuance in connection with those claims (the “**Notice of Discontinuance**”), was heard by videoconference in Toronto, Ontario, on December 9, 2021.

ON READING the materials filed and on hearing the submissions of Class Counsel and counsel for the Defendants;

AND ON BEING ADVISED that the Parties have entered into a settlement agreement dated as of December 7, 2021 (the “**Settlement Agreement**”), attached hereto as Schedule “**A**”, which is subject to the approval of this Court, in respect of the following Mercedes-Benz BlueTEC II vehicles:

E250 BlueTEC	2014-2016
E350 BlueTEC	2011-2013
GL320 BlueTEC	2009
GL350 BlueTEC	2010-2016
GLE350d	2016
GLK250 BlueTEC	2013-2015
ML320 BlueTEC	2009
ML350 BlueTEC	2010-2015
R320 BlueTEC	2009
R350 BlueTEC	2010-2013
S350 BlueTEC	2012-2013
Sprinter (4-cylinder)	2014-2016
Sprinter (6-cylinder)	2010-2016

AND ON BEING ADVISED that JND Legal Administration consents to the requested appointment;

AND ON BEING ADVISED that the Parties consent to this Order;

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

2. **THIS COURT ORDERS** that the Class Definition in this matter is hereby amended to the Settlement Class, as defined at section 2.67 of the Settlement Agreement.

3. **THIS COURT ORDERS** that any opt-out requirements and, except as provided for herein, notice requirements with respect to the Settlement Class are hereby dispensed with.

4. **THIS COURT ORDERS** that JND Legal Administration is hereby appointed the Settlement Administrator to implement and oversee the Notice Program, the Claims Program, the Honorarium Payment to the Class Representative, and the payment of the Levy to the Class Proceedings Fund.

5. **THIS COURT ORDERS** that any Settlement Class Member who wishes to object to the Settlement Agreement must do so by sending a written objection, which includes the information and documentation required by paragraph 6 herein, by email or mail to the Settlement Administrator at email: info@bluetecsettlement.ca or

by mail:
PO Box 8111
Vancouver Main
Vancouver, BC V6B 4E2

so that it is received on or before the Objection Deadline of February 2, 2022, in accordance with Section 8 of the Settlement Agreement and the Settlement Notices.

6. **THIS COURT ORDERS** that all written objections to the Settlement Agreement shall be personally signed by the Settlement Class Member and shall include the following:

- (a) the Settlement Class Member's name, mailing address, telephone number, and e-mail address (if available);

- (b) the make, model, model year, and VIN of the Eligible Vehicle;
- (c) a brief statement of the nature of and reason for the objection to the Settlement Agreement;
- (d) whether the Settlement Class Member intends to appear in person or by counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

7. **THIS COURT ORDERS** that, if the Settlement Class Member is deceased, a minor, or otherwise incapable of making their own written objection to the Settlement Agreement, the information required by Paragraph 6 herein must be provided along with the contact information of the person acting on behalf of the Settlement Class Member, together with a copy of the power of attorney, court order, or other authorization serving as the proposed basis for permitting such person to represent the Settlement Class Member. A power of attorney will not be recognized as valid by the Settlement Administrator in the place of a signature of a potential member of the Settlement Class, except where the individual is deceased, a minor or otherwise incapable of making his/her own personal objection to the Settlement Agreement.

8. **THIS COURT ORDERS** that the Settlement Approval Hearing shall take place by videoconference on February 9, 2022.

9. **THIS COURT ORDERS** that the Settlement Notices are hereby approved substantially in the form attached hereto as Schedules “B” and “C”.

10. **THIS COURT ORDERS** that the Notice Program is hereby approved substantially in the form attached hereto as Schedule “D”.

11. **THIS COURT ORDERS** that the Notice of Discontinuance is hereby approved substantially in the form attached hereto as Schedule “E”.

12. **THIS COURT ORDERS** that the Settlement Notices shall be disseminated within 30 days of this Order, in accordance with the Notice Program.

13. **THIS COURT ORDERS** that:

- (a) on the Effective Date of the Settlement Agreement this Action is hereby discontinued without costs on behalf of members of the class certified pursuant to the Certification Order who are current or former owners or lessees of model year 2007-2009 E320 Mercedes-Benz BlueTEC I vehicles, without prejudice to any existing rights of these class members to commence another action.
- (b) within five (5) days of the Effective Date of the Settlement Agreement, the Notice of Discontinuance shall be (a) sent by email to the last known e-mail addresses of persons affected by the discontinuance for whom the Defendants have a valid e-mail address, or who have contacted Class Counsel and provided an e-mail address; and (b) posted on the Class Counsel website.

The Honourable Justice Belobaba

YOGESH KALRA

Plaintiff

-and- MERCEDES-BENZ CANADA INC. et al.

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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**Proceeding commenced at
Toronto**

ORDER

**(SETTLEMENT NOTICE APPROVAL
AND DISCONTINUANCE)**

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