

24th JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON**STATE OF LOUISIANA****NO. 583-318****DIVISION "O"****SARAH AND JEFF MECKSTROTH, ET AL.
INDIVIDUALLY AND AS REPRESENTATIVES OF THE
CLASS OF PERSONS SIMILARLY SITUATED****VERSUS****TOYOTA MOTOR SALES, U.S.A., INC. AND
CLIFTON LEBLANC LEXUS OF NEW ORLEANS****FILED:** __________
DEPUTY CLERK**ORDER**

Considering the foregoing Amended Joint Motion for Preliminary Approval of Proposed Settlement and Partial Stay of Proceedings (the "Joint Motion") seeking conditional certification of the Settlement Class for settlement purposes only and preliminary approval of the proposed settlement of the Litigation, the evidence submitted in support, and the recommendations of counsel, the Court determines, upon preliminary review, that: (1) the Court has jurisdiction over the subject matter and parties to this proceeding; (2) venue is proper in this Court, (3) the proposed settlement is the result of arms-length negotiations between the parties; (4) the proposed settlement is not the result of collusion or inequitable treatment of particular class members; (5) there is a probable relationship to the exposure and risk of the settling parties; (6) the requisites of Louisiana Code of Civil Procedure Articles 591-597 for the certification of the Class may be met so as to allow the Court to certify the Settlement Class and hold a certification hearing on the date of the fairness hearing; and (7) the proposed settlement is within the range of possible judicial approval and is preliminarily approved as fair, reasonable, equitable.

Further, at this juncture the Court is exercising its discretion and conditionally certifying the Settlement Class for settlement purposes only and has not determined whether the Litigation could properly be maintained on behalf of a class for purposes of trial. The Court recognizes that the Defendants have preserved all of their defenses and objections against and rights to oppose certification of a class if the proposed settlement is not finally approved by the Court following the fairness hearing.

Accordingly:

IT IS ORDERED, ADJUDGED AND DECREED that:

1. This Court has jurisdiction over the subject matter and parties to this proceeding;

2. Venue is proper in this Court;
3. The following class (referred to in the Settlement Agreement as the "Settlement Class") is conditionally certified for settlement purposes only pursuant to the Settlement Agreement and Louisiana Code of Civil Procedure Articles 591-597:

Settlement Class means all Persons (i) who claimed to have suffered damage due to Oil Gel in an Eligible Vehicle and who were previously denied relief in Arbitration (ii) who originally purchased or leased, or currently own or lease, an Eligible Vehicle, and/or (iii) to whom Toyota sent letters in 2002 announcing the availability of benefits under the CSP/SPA. Excluded from the Settlement Class are (i) Toyota, any entity in which Toyota has a controlling interest or which has a controlling interest in Toyota, and Toyota's legal representatives, assigns, and successors; (ii) the judge and staff to whom the Action is assigned, any special master or mediator in the Action, any person who serves as Third Party Evaluator as specified in Section II, 37, and any member(s) of the immediate family of any of the foregoing; (iii) all Persons who, in accordance with the terms of this Agreement, properly execute and timely file a Request for Exclusion; (iv) all claims that do not meet the definition of a Settled Claim.

4. The nomination by Plaintiffs' Counsel of the following persons to serve as representatives for the Settlement Class is hereby approved: Sarah Meckstroth and Jeff Meckstroth, or such other persons as may be subsequently designated by Plaintiffs' Counsel and approved by the Court.
5. The following are hereby approved as Class Counsel: Gary J. Gambel, with Murphy, Rogers, Sloss & Gambel, One Shell Square, Suite 400, 701 Poydras Street, New Orleans, LA 70139; S. Ault Hootsell III, with Phelps Dunbar LLP, 365 Canal Street, Suite 2000, New Orleans, LA 70130 and Joseph M Bruno, with Bruno & Bruno, 855 Baronne Street, New Orleans, LA 70113.
6. The Settlement Agreement (attached to the Joint Motion as Exhibit "1") and the settlement set forth therein, and all exhibits attached thereto and to the Joint Motion, are preliminarily approved by the Court as being fair, reasonable, and adequate, entered into in good faith, free of collusion to the detriment of the Settlement Class, and within the range of possible judicial approval, such that the terms and conditions thereof shall be considered by the Settlement Class. The form and content of the notice attached to the Joint Motion as Exhibit "3" are hereby approved. Such notice is fair and reasonable and shall be disseminated by first class mail to each Settlement Class Members' last known address. Such mailing shall be performed by Hilsoft Notifications at Defendants' expense and shall be completed by no later than six (6) weeks from the date of this Order. The final day of said six (6) week period is the "Notice Date". The form and content of the summary of Settlement attached to the Joint Motion as

Exhibit "4" are hereby approved. Such summary shall be posted at the Clerk of Court or the Courthouse for the 24th Judicial District Court of Jefferson Parish. The Court finds that the form and method of the Notice set forth in Exhibit "3" and the summary set forth in Exhibit "4" and in this Order meet the requirements of due process and constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all Settlement Class Members.

7. Pursuant to and in furtherance of the Settlement Agreement, the Court hereby (i) conditionally dismisses defendant, Clifton LeBlanc Lexus of New Orleans, without prejudice; provided however, (a) that such dismissal shall be deemed effective only as of the occurrence of the "Effective Date of Settlement" (as that term is defined in the Settlement Agreement), and (b) without further order of this Court, the dismissal shall be null and void *nunc pro tunc* and shall be deemed stricken from the record and with no effect upon the termination of the Settlement Agreement (pursuant to Section XIII thereof), and thereafter (ii) grants Plaintiffs leave of Court to file against defendant, Toyota Motor Sales, U.S.A., Inc., the Third Amended Petition into the record, a copy of which is attached as Exhibit "2" to the Joint Motion, for the purposes of conforming the Settlement Class definition to that stated in the Agreement; provided however, that, without further order of the Court, upon the termination of the Settlement Agreement (pursuant to Section XIII thereof) Plaintiffs' Third Amended Petition and Toyota's Answer thereto shall be null and void *nunc pro tunc* to the respective date(s) of filing of each pleading, and shall be deemed stricken from the record and with no effect.

8. The Court hereby approves the Opt Out ("Request for Exclusion") Form attached to the Joint Motion as Exhibit "5." Any Class Members who wishes not to participate in or be bound by the Settlement Agreement shall be required to opt out of (file a "Request for Exclusion" from) this Settlement Class by completing the form set forth in Exhibit "5" and post marked no later than forty-five (45) days after the Notice Date to the address below:

Oil Gel Exclusions
P.O. Box 6336
Portland, OR 97228-6336

Attn: Meckstroth, v. Toyota Motor Sales U.S.A., No. 583-318

9. The Court will hold a fairness hearing in the 24th Judicial District Court, Courthouse, Division "O", in Judge Ross P. LaDart's court, 200 Derbigny Street, Gretna, Louisiana, which hearing shall commence on the 30th day of January 2006 at 9:00 a.m./p.m., and shall continue thereafter until concluded, to consider the following:

- a. whether the Settlement Class should be finally certified as a class pursuant to Louisiana Code of Civil Procedure Articles 591-597;

- b. whether the proposed Settlement Agreement should be given final approval as fair, reasonable and adequate;
- c. whether the Final Order and Judgment (as that term is defined in the Settlement Agreement) should be entered.

10. Objections to the matters set forth above will be considered only if made in writing, stating reasons for the objection, and post marked not later than forty-five (45) days after the Notice Date to the four addresses below:

Clerk of Court
24th Judicial District Court
Jefferson Parish
P.O. Box 10
Gretna, Louisiana 70054

Gary J. Gambel, Esq.
Murphy, Rogers, Sloss & Gambel
Suite 400, One Shell Square
701 Poydras Street
New Orleans, LA 70139

Gary M. Zwain
Duplass, Zwain, Bourgeois, Morton, Pfister & Weinstock
3838 N. Causeway Blvd.,
Suite 2900
Metairie, LA 70002

J. Robert Ates
Ates Law Firm
13726 River Rd,
Suite A
Destrehan, LA 70047

Attn: Meckstroth v. Toyota Motor Sales U.S.A., No. 583-318

Absent good cause shown, to be heard, objectors must be present and appear before the Court at the commencement of the fairness hearing. The objection and opt-out deadlines, and other relevant dates, set forth in the Notice, the summary and the Opt-Out ("Request for Exclusion") Form attached to the Joint Motion as Exhibits "3", "4" and "5", respectively, shall be modified to conform with this Order.

11. Counsel for the Settlement Class and counsel for Defendants should be prepared to respond to objections by Class Members and to provide other information, as appropriate, bearing on whether or not the Settlement Class should be finally certified, whether or not the settlement should be approved and whether the class action should be dismissed on the merits, with prejudice and without costs.

12. All notices or entries of appearance by counsel for any Class Member, other than current plaintiffs' counsel of record, shall be filed with Clerk of Court no later than twenty (20) days prior to the fairness hearing set forth in Paragraph (9) above.

THUS DONE, READ AND SIGNED at Gretna, Louisiana, on this 29th day of September, 2006.



JUDGE, 24th JUDICIAL DISTRICT COURT