

Jonathan J. Foreman | Partner

Tel: 519.914.1175 ext. 102

Email: jforeman@foremancompany.com

Anni Barry | Senior Law Clerk

Tel: 519.914.1175 ext. 107

Email: abarry@foremancompany.com

October 20, 2020

VIA E-MAIL

Adair Goldblatt Bieber ^{LLP}
Attn: Simon Bieber
95 Wellington Street West
Suite 1830
Toronto, ON M5J 2N7
Email: SBieber@agblp.com

Dear Mr. Bieber,

Re: John Devries v. Espar Inc., et al., Court File No. 534/15 CP (the “Ontario Action”)
Dumas Trucking Ltd. v. Webasto SE, BCSC Action No. S175623 (the “BC Action”)

I write on behalf of counsel in the Ontario and BC parking heaters class actions (listed above) to confirm that an agreement has been reached between your client, Volker Hohensee, and the plaintiffs in our respective actions to amend the settlement agreement entered into between the parties on December 6, 2017 (the “**Settlement Agreement**”) and to confirm the approach for the pending Motion for Certification for Settlement Purposes and Notice Approval (the “**Motion for Certification for Settlement Purposes**”) and the Motion for Settlement Approval.

Since entering the Settlement Agreement, the plaintiffs in the Ontario and BC Actions have come to an agreement with the remaining Non-Settling Defendants to certify the Ontario Action, on a consent basis, on behalf of an amended class inclusive of all class members in Canada, excluding Québec (the “**Consent Certification Motion**”).

The plaintiffs in the Ontario and BC Actions and the Non-Settling Defendants have further agreed that the BC Action will be permanently stayed and not revived unless the Ontario Court declines to adjudicate the claims of BC class members as parties to the Ontario Action.

The Settlement Agreement currently defines the Settlement Classes as follows:

The Ontario Settlement Class:

All persons or entities in Canada who directly or indirectly purchased a Parking Heater for use in a commercial vehicle during the Class Period, other than (1) members of the Quebec Class and (2) members of the BC Settlement Class.

The BC Settlement Class:

All persons or entities in British Columbia who directly or indirectly purchased a Parking Heater for use in a commercial vehicle during the Class Period.

The Amended Class definition agreed to between the plaintiffs and the Non-Settling Defendants for the Consent Certification Motion is as follows:

All Direct Purchasers and/or Indirect Purchasers of a Parking Heater other than all Direct Purchasers and Indirect Purchasers of a Parking Heater in Québec.

“Parking Heater” means a parking heater, including the heater itself, accessories and parts sold for use with heaters, packages containing heaters, and accessories and/or parts for parking heaters (parking heater ‘kits’), which was manufactured or sold by the Defendants for use in a commercial vehicle between September 13, 2001 and December 31, 2012.

“Direct Purchasers” means all persons or entities in Canada who purchased a Parking Heater directly.

“Indirect Purchasers” means all persons or entities in Canada who purchased a Parking Heater from someone other than a Defendant including any person or entity who purchased, leased and sub-leased a commercial vehicle containing a Parking Heater.

The plaintiffs in the Ontario and BC Actions have proposed, and your client has agreed, to amend the process contemplated in the Settlement Agreement by way of this letter to incorporate the Amended Class definition and to seek approval of the Settlement Agreement before the Ontario Court only.

To implement the amended Settlement Agreement, the plaintiffs and your client agree to the following steps:

1. The Consent Certification Motion between the plaintiff in Ontario Action and the Non-Settling Defendants will proceed immediately before the Motion for Certification for Settlement Purposes;
2. The plaintiff in the Ontario Action will issue an amended Statement of Claim which includes the broader Amended Class;
3. The Motion for Certification for Settlement Purposes will be heard immediately following the Consent Certification Motion. A parallel hearing will not be required in the BC Action;
4. A joint notice program advising the Amended Class of the consent certification as against the Non-Settling Defendants, certification for settlement purposes as against Mr. Hohensee, the opt-out period, and the upcoming Settlement Approval Hearing will occur pursuant to a court-approved plan of dissemination; and

5. Following the conclusion of the opt-out period, the Motion for Settlement Approval will take place in Ontario only. The Motion for Settlement Approval will seek a release for Mr. Hohensee on behalf of the Amended Class. A parallel hearing will not be required in the BC Action.

The parties agree that the Settlement Agreement is amended only to the extent necessary to give effect to this amending agreement and that all other unaltered provisions remain in force and the parties shall continue to be governed by their obligations under the Settlement Agreement as executed.

Please acknowledge your agreement with the foregoing by signing and returning a copy of this letter.

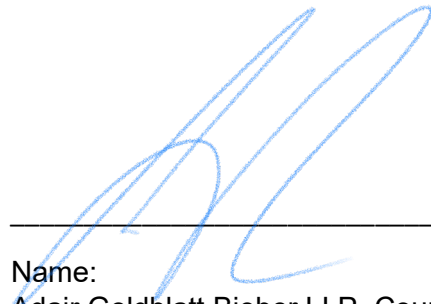
Yours very truly,
Foreman & Company



Jonathan J. Foreman
JJF/ast

October 20, 2020

Date:



Name:
Adair Goldblatt Bieber LLP, Counsel
for Mr. Volker Hohensee