

APPENDIX "A"
NOTICE

No. S023572
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BARBARA REID

PLAINTIFF

AND:

FORD MOTOR COMPANY
FORD MOTOR COMPANY OF CANADA, LIMITED/FORD
DU CANADA LIMITEE

DEFENDANTS

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*

NOTICE TO CLASS MEMBERS

Introduction

Take notice that a class proceeding has been certified in the Supreme Court of British Columbia concerning allegations by the Plaintiff against the Defendants of negligent design and manufacture of the thick film ignition module ("TFI module") in certain vehicles causing those vehicles to stall unexpectedly, failure to recall those vehicles, failure to warn of an alleged TFI module defect and breach of the *Trade Practice Act* whereby the Plaintiff claims consequential damages against the Defendants.

The common issues to be determined in the class proceeding are as follows:

- (a) Were Ford Motor Company of Canada, Limited / Ford du Canada Limitée ("Ford Canada") and Ford Motor Company ("Ford USA"), through Ford Canada, the only manufacturers of Class Vehicles for sale or lease through Canadian dealerships?
- (b) Were the Class Vehicles originally made commercially available by Ford Canada and Ford USA?

- (c) Prior to the manufacture of the Class Vehicles, and to present, did the Defendants know, or alternatively, should they have known that mounting the TFI modules on the distributor of the Class Vehicles would:
 - (i) subject the TFI modules to temperatures in excess of what are safe operating limits during normal vehicle operation, and
 - (ii) cause the TFI modules to fail?
- (d) Prior to the manufacture of the Class Vehicles, and to present, did the Defendants know, or alternatively, should they have known that the failure of the TFI modules could cause the Class Vehicles to stumble or stall suddenly and without warning during normal operations? Did this place their occupants and others at risk of personal injury and death from loss of vehicle control and collisions?
- (e) Did the Defendants owe a duty of care to the Plaintiff and the Class Members?
- (f) Did the Defendants breach the standard of care in the design, manufacture and placement of the TFI modules?
- (g) Did the Defendants breach the standard of care in failing to recall the Class Vehicles?
- (h) Did the Defendants fail to provide a proper warning about the operation of the TFI modules?
- (i) Were the Defendants “suppliers” to consumer transactions, as that term is defined in the *Trade Practice Act*, R.S.B.C. 1996, c. 457 (the “TPA”)?
- (j) Did the Defendants engage in deceptive acts or practices, within the meaning of Section 3 of the *TPA*, by:
 - (i) failing to disclose the TFI Defect to the class members; and
 - (ii) actively concealing the TFI Defect.
- (k) Are the Defendants liable to pay punitive damages having regard to the nature of the established breaches?

The damages claimed are:

- (a) damages equivalent to the sums the members of the class have paid out of their pockets in attempts to identify and repair the alleged TFI module defect;
- (b) damages equivalent to the costs of rectifying the alleged TFI module defect;
- (c) damages equivalent to the resultant damage to property other than to the TFI module or class members’ vehicles;
- (d) damages for diminution in the value of class members’ vehicles;

- (e) damages pursuant to s. 22 of the *Trade Practice Act*; and
- (f) punitive damages.

The Defendants deny the Plaintiff's allegations and have stated that they will defend the action and will deny any wrongdoing and liability for damages.

This Notice is given to you on the basis that you may be a member of the class whose rights could be affected by this class proceeding. This Notice should not be understood as an expression of any opinion of the Court as to the merits of any claim or defences asserted in the class proceeding. Its sole purpose is to inform you of this class proceeding so that you may decide what steps to take in relation to it.

Who is a Member of the Class Proceeding Lawsuit?

You are a member of the class action lawsuit ("Class Member") if you reside in British Columbia and:

- (a) currently own or lease a 1983 through 1995 model year Ford, Lincoln or Mercury vehicle with a distributor mounted TFI module ("Class Vehicle");
- (b) owned or leased a Class Vehicle and paid or were charged for the cost of replacing or repairing a TFI module in such vehicle; or
- (c) purchased or leased a Class Vehicle when that vehicle was new and paid or were charged for the cost of replacing or repairing a TFI module in such vehicle.

Do You Need to Do Something to Join the Class Proceeding?

If you meet the definition of a Class Member you are automatically a member in the class proceeding lawsuit unless you "*opt out*" on or before June 15, 2004. You may opt out by completing the attached "Opt Out" form and returning it either by e-mail to cfast@branmac.com or by mail, courier or facsimile to Branch MacMaster, Attention: Carol Fast, 1210 – 777 Hornby Street, Vancouver, B.C., V6Z 1L4, Phone: 604-654-2999, Telefax: 604-684-3429. If you do not opt out by the deadline, it means that you want to stay in the class proceeding lawsuit and will be bound by its results.

Stages of the Class Proceeding

The class proceeding has two stages.

The first stage is a trial of the issues which are shared by all Class Members. The common issues which will be resolved at this trial are set out above.

All members of the class are bound by the judgment of the Court on the common issues unless they have opted out of the class proceeding. No monetary award will be made at the first stage. If the common issues are determined in favour of the class then the proceeding will move to the second stage. If the common issues are determined against the class, then the class proceeding will be concluded.

The second stage of the class proceeding will deal with issues individual to each Class Member. In this stage, each Class Member must show that they are a Class Member, that the alleged negligence or breach of statutory duty of the Defendants to properly design and manufacture the TFI module or failure to recall or warn of its alleged inherent danger caused the Class Member to suffer injury, loss or damage and the amount of compensation to be awarded, if any, for their claim.

Financial Consequences

As a Class Member, you will be bound by any ruling on the common issues. If the class proceeding is not successful, you will not be responsible for any of the costs of the action. Once the Court has determined the common issues at Stage One, it may be necessary that each Class Member participate in individual proceedings to determine issues which are not common to the class in order to establish their own entitlement to damages. If a Class Member is successful in establishing damages at Stage 2, the Class Member will have to pay for legal services provided to them by their lawyers. This will include both the lawyer for the class and any individual lawyer you may retain. These fees may be paid out of an individual's award of damages. If a Class Member is not successful in recovering damages in Stage 2, they could be liable to pay a portion of the Defendant's expenses incurred with respect to such individual proceedings.

Any fee paid to lawyers for the class is subject to approval of the Court. The representative Plaintiff has entered into a retainer agreement with the lawyers for the class that provides for the lawyers to be paid 30% of any amounts received by way of settlement, judgment, voluntary payment or execution or any other benefit derived from the class action. If and when this occurs, the lawyers for the class will apply to Court for approval of a fee that is consistent with the terms of this agreement, or some lesser amount. The Court will decide what amount is fair. If the class loses the case on the common issues, Class Members are not responsible for the fees of any of the lawyers for the class involved in this case.

The representative Plaintiff has also agreed with the lawyers for the class that all reasonable, proper, and necessary disbursements incurred by the lawyers for the class in the class proceeding, as well as interest on these expenses at the rate set from time to time by the relevant authorities, will be paid from the amounts recovered by way of settlement, judgment, voluntary payment or execution or any other benefit derived from the class action. The amount payable in

relation to disbursements will also be subject to approval by the Court. If the class loses the case on the common issues, Class Members will not be responsible for paying these disbursements.

The Effect on Your Right to Sue and the Right to Opt Out of the Class Proceeding

Any judgment in the class proceeding, whether favourable or not, will decide the common issues for all Class Members. In other words, unless you opt out by June 15, 2004, you will not be allowed to bring your own lawsuit in relation to the common issues.

If you wish to opt out of the class you must complete the attached form and e-mail, mail, courier or fax it to Branch MacMaster, Attention: Carol Fast, 1210 – 777 Hornby Street, Vancouver, B.C., V6Z 1L4, Phone: 604-654-2999, Telefax: 604-684-3429, E-mail: cfast@branmac.com so that it is received no later than June 15, 2004. If you opt out, you will not be entitled to share in any amount which may be recovered in the class proceeding.

Independent Legal Advice

Before you decide whether to stay in the class proceeding or opt out, it is recommended you obtain legal advice about your legal rights and options.

The Lawyers for the Class Members

Branch MacMaster
Barristers & Solicitors
1210 – 777 Hornby Street
Vancouver, B.C.
V6Z 1L4

Camp Fiorante Matthews
Barristers & Solicitors
400 - 555 West Georgia Street
Vancouver, B.C.
V6B 1Z6

The contact lawyer at Camp Fiorante Matthews is: Sharon D. Matthews

The contact lawyer at Branch MacMaster is: Ward Branch

If you have any questions regarding this notice, please see Branch MacMaster's website at www.branmac.com/pages/ford.html or contact Camp Fiorante Matthews at (604) 689-7555 or e-mail to: smatthews@cfmlawyers.ca

