



Court File No. **VLC-S-S-1912193**

No.  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

DAVID ALAN YAREMKO

Plaintiff

AND:

FORD MOTOR COMPANY and  
FORD MOTOR COMPANY OF CANADA, LIMITED

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

**NOTICE OF CIVIL CLAIM**

**This action has been started by the Plaintiff for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a Response to Civil Claim in Form 2 in the above-named registry of this Court within the time for Response to Civil Claim described below, and
- (b) serve a copy of the filed Response to Civil Claim on the Plaintiff.

If you intend to make a Counterclaim, you or your lawyer must

- (a) file a Response to Civil Claim in Form 2 and a Counterclaim in Form 3 in the above-named registry of this Court within the time for Response to Civil Claim described below, and
- (b) serve a copy of the filed Response to Civil Claim and Counterclaim on the Plaintiff and on any new parties named in the Counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the Response to Civil Claim within the time for Response to Civil Claim described below.

**Time for Response to Civil Claim**

A Response to Civil Claim must be filed and served on the Plaintiff,

- (a) if you were served with the Notice of Civil Claim anywhere in Canada, within 21 days after that service,

- (b) if you were served with the Notice of Civil Claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the Notice of Civil Claim anywhere else, within 49 days after that service, or
- (d) if the time for Response to Civil Claim has been set by order of the Court, within that time.

## CLAIM OF THE PLAINTIFF

### Part 1: STATEMENT OF FACTS

#### A. DEFINED TERMS

1. In this Statement of Claim, in addition to the terms that are defined elsewhere herein, the following terms have the following meanings:
  - (a) “**BPCPA**” means the *Business Practices and Consumer Protection Act*, SBC 2004, c 2;
  - (b) “**Class**” or “**Class Members**” means all persons in Canada, except for **Excluded Persons**, who own, owned, lease or leased one of the **Vehicles**, or such other definition that the court finds favourable;
  - (c) “**Coastdown**” is a test for each specific **Vehicle** model to simulate the level of aerodynamic, tire rolling, and driveline and powertrain mechanical resistance, amongst others, that the **Vehicle** would encounter if operated on the road;
  - (d) “**Competition Act**” means the *Competition Act*, RSC 1985, c C-34;
  - (e) “**CPA**” means the *Class Proceedings Act*, RSBC 1996, c 50, as amended;

- (f) “**EnerGuide**” means the official Government of Canada mark for rating and labelling the energy consumption or energy efficiency of products, including the **Vehicles**;
- (g) “**EPA**” means the United States Environmental Protection Agency;
- (h) “**Equivalent Consumer Protection Statutes**” means the *Consumer Protection Act, 2002*, SO 2002, c 30, Sched A, the *Fair Trading Act*, RSA 2000, c F-2, the *Consumer Protection and Business Practices Act*, SS 2014, c C-30.2, the *Business Practices Act*, CCSM, c B120, the *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1, the *Consumer Protection Act*, RSNS 1989, c 92 and the *Business Practices Act*, RSPEI 1988, c B-7, the *Consumer Protection Act*, CQLR, c P-40.1, all as amended;
- (i) “**Excluded Persons**” means:
- (i) the **Defendants** and their officers and directors;
  - (ii) the authorized motor vehicle dealers of the **Defendants** and the officers and directors of those dealers; and
  - (iii) the heirs, successors and assigns of the persons described in subparagraphs (i) and (ii);
- (j) “**Ford Canada**” means Ford Motor Company of Canada, Limited;
- (k) “**Ford US**” means Ford Motor Company;

- (l) “**Ford**” or “**Defendants**” means **Ford Canada** and **Ford US**, collectively and interchangeably;
- (m) “**Fuel Consumption Guide**” means a guide created annually by **NRC** that gives information about the fuel consumption of vehicles to Canadians in order to enable them to compare different vehicles’ fuel economy;
- (n) “**NRC Search Tool**” means the fuel consumption ratings search tool and its French language equivalent *Outil de recherche pour les cotes de consommation de carburant*, which is **NRC**’s online database intended to help Canadians identify the most fuel-efficient vehicle that meets their everyday needs by comparing the fuel consumption information of different models;
- (o) “**NRC**” means Natural Resources Canada;
- (p) “**Plaintiff**” means David Alan Yaremko;
- (q) “**Representations**” means the representations described at paragraphs 22-26;
- (r) “**Vehicles**” means the following vehicles:

<b>Vehicles</b>	<b>Model Year(s)</b>
Ford Ranger	2019
Ford F-150	2018-2019

## **B. NATURE OF THE ACTION**

2. This is an action by a purchaser of a Ford Vehicle on behalf of himself and other owners and lessees of the Vehicles in Canada.
3. A Vehicle's fuel economy is determined by performing tests on the Vehicle in a laboratory setting and in "real world" road testing. The road tests include performing a Coastdown test, a test that measures a Vehicle's rolling resistance and drag, in order to calculate how much drag, rolling and other resistance to apply to the Vehicle in the laboratory setting to simulate the road and to calculate the Vehicle's fuel economy and emissions.
4. The Defendants in this case misrepresented the Coastdown test results by using inaccurate draft and resistance figures to boost the Vehicles' purported fuel economy.
5. The Defendants misrepresented fuel economy values of the Vehicles to the Plaintiff and the Class. The Vehicles consume more fuel than the Defendants represented. The Defendants' misrepresentations caused the Plaintiff and the Class to overpay for the Vehicles, reduced the market value of the Vehicles and caused the Plaintiff and the Class to pay more in fuel costs than represented.

## **C. THE PLAINTIFF AND THE CLASS**

6. The Plaintiff is an individual residing in Comox, British Columbia. He purchased a Ford F-150 truck from Westview Ford Sales Ltd. on April 19, 2018. The Plaintiff seeks to represent the Class.

#### **D. THE DEFENDANTS**

7. Ford Canada is a company incorporated under the *Business Corporations Act*, RSO 1990, c B.16 with its head office in Oakville, Ontario.
8. Ford Canada is involved with, has responsibilities and provides direction for the research, design, development, engineering, manufacture, regulatory compliance, fuel economy and emissions testing, marketing, distribution, sale, and lease of the Vehicles throughout Canada.
9. At all material times, Ford Canada was the sole distributor of the Vehicles in Canada. It sold the Vehicles through its dealer and retailer network, which was controlled by the Defendants. The dealers and retailers were the Defendants' agents.
10. Ford Canada is a subsidiary of Ford US. Ford US is a corporation incorporated under the laws of the State of Delaware with its head office in Dearborn, Michigan.
11. Ford US, either directly or through its subsidiaries, including Ford Canada, engages in the research, design, development, engineering, manufacture, regulatory compliance, fuel economy and emissions testing, marketing, distribution, sale and lease of the Vehicles. The Vehicles were sold or leased to the public in Canada by authorized Ford dealerships.
12. The Coastdown testing of the Vehicles was facilitated by Ford US and Ford Canada.

13. The business of each of Ford Canada and Ford US is inextricably interwoven with that of the other, and each is the agent of the other for the purposes of the research, design, development, engineering, manufacture, regulatory compliance, fuel economy and emissions testing, marketing, distribution, sale and lease of the Vehicles and for the purposes of the claims described herein.

#### **E. METHODOLOGY FOR FUEL ECONOMY TESTING IN CANADA AND THE UNITED STATES**

14. Canada and the United States have similar fuel economy testing standards. Fuel economy ratings are regulated in the United States pursuant to 40 CFR § 600.115-11 - *Criteria for determining the fuel economy label calculation method*, which requires manufacturers to undertake a 5-cycle testing method for determining fuel economy label values (the “**5-Cycle Test**”). The 5-Cycle Test tests for city and highway conditions as well as operating a vehicle in cold weather, the use of air conditioners, and driving at higher speeds with more rapid acceleration and braking. In Canada, manufacturers use the identical 5-Cycle Test as is used in the United States.
15. The 5-Cycle Test is conducted on a dynamometer (*i.e.*, a treadmill for cars) with certain resistance applied to simulate real road driving conditions. The level of resistance on the dynamometer is adjusted based on the Coastdown testing for each specific vehicle model to simulate the level of resistance that the vehicle would encounter if operated on the road. The Defendants were required to conduct Coastdown tests in accordance with government-approved procedures and standards.

16. The manufacturer conducts a Coastdown test by driving a Vehicle on the road up to a certain speed, typically around 128 kilometres per hour, after which the Vehicle is put into neutral and allowed to “coast” until its speed drops below 14 kilometres per hour. Special devices in the Vehicle measure environmental conditions (ambient temperature, humidity and barometric pressure), performance data, and speed and distance travelled during the Vehicle’s deceleration. These figures are used to determine the appropriate resistance levels (also referred to as “road load”) for laboratory testing of a given Vehicle model on a dynamometer.
17. Once the Coastdown tests are complete, the road load is used to configure the dynamometer for a given Vehicle model to measure the Vehicle’s fuel consumption values.
18. Ford used the same Coastdown and dynamometer tests in both the United States and Canada to estimate the Vehicles’ fuel economy and emissions.

#### **F. FORD’S FALSIFIED COASTDOWN AND FUEL ECONOMY TESTING**

19. The Defendants conducted the 5-Cycle Tests on the Vehicles to determine their fuel economy. During this process, the Defendants deliberately misrepresented the Coastdown tests used to calculate road load in order to misrepresent the Vehicles’ fuel consumption values.
20. Road load measures the forces acting against the Vehicles during real-world driving. Accurate road load measures are thus critical to the laboratory simulation of real-world driving conditions using a dynamometer.



21. Ford's internal lab tests misrepresented road load forces. Consequently, the Defendants' fuel economy testing on the Vehicles showed better, but entirely inaccurate, fuel economy results. A corollary of the better fuel economy for the Vehicles represented by the Defendants was that the Vehicles emitted less pollutants than they did in reality.

#### **G. INACCURATE FUEL ECONOMY RATINGS MISREPRESENTED TO CANADIANS**

22. The Defendants directly and/or indirectly through their dealer network made, approved or authorized a number of consistent, common and uniform representations in, among other things, their written warranties, Vehicle manuals, media releases, and television, radio, internet, social media and print media advertising, including website(s), sales brochures, posters, dealership displays and other marketing materials in relation to the Vehicles. The Defendants specifically represented that the Vehicles met specified fuel economy ratings.
23. The Defendants used fuel economy as an incentive to attract Class Members to purchase the Vehicles. For example, the Defendants touted the Ford F-150's "Best-In-Class ... EPA-estimated highway fuel economy rating", "optimized performance and fuel efficiency", and "best-in-class fuel efficiency". The Defendants promoted the 2019 Ford Ranger as having "the best-in-class EPA-estimated city fuel economy rating of any gasoline-powered four-wheel-drive midsize pickup and it is an unsurpassed EPA estimated combined fuel economy rating".

24. In addition, the Defendants communicated and misrepresented the inaccurate fuel economy ratings to the Class by disclosing the fuel economy on the Canadian government-sponsored website of NRC, including the EnerGuide, NRC Search Tool and the NRC Consumption Guide, as well as on the Government of Canada's EnerGuide label for rating energy consumption and fuel efficiency affixed to new Vehicles.
25. The Defendants promoted understated fuel consumption ratings compared to the results that the Vehicles would have achieved if the Coastdown tests were accurately performed.
26. The Defendants failed to disclose material facts regarding the nature of the represented fuel consumption ratings, omitting that such ratings were based on inaccurate Coastdown testing and road load calculations, and, as a result, produced fuel consumption ratings that were misleading and lower than the fuel consumption ratings correctly calculated.
27. One of the purposes of fuel consumption ratings is to permit purchasers to compare fuel efficiency of different vehicles as part of the purchasing process. In making the Representations, the Defendants prevented the Plaintiff and the Class from making accurate comparisons.
28. As a result of the Defendants' misrepresentations, all Class Members pay between 10-15% more in fuel costs than they would if the reported fuel mileage figures were true.

## **H. FORD'S ADMISSIONS AND U.S. DEPARTMENT OF JUSTICE INVESTIGATION**

29. Ford publicly admitted that in September of 2018 several of its employees acted in a whistle-blowing capacity to question and raise concerns about inaccuracies used to determine fuel economy ratings, arising out of inaccurate Coastdown tests and road load calculations. In February 2019, Ford disclosed the results of this investigation to the EPA and the California Air Resources Board. Ford also announced on February 21, 2019, that it would investigate its process for certifying vehicles to meet fuel economy standards.
30. Subsequently, Ford US disclosed in its quarterly report Form 10-Q dated March 31, 2019 that the U.S. Department of Justice had opened a criminal investigation into Ford's fuel-efficiency testing.

### **Part 2: RELIEF SOUGHT**

31. The Plaintiff, on his own behalf and on behalf of all Class Members, seeks:
- (a) an order pursuant to the *CPA* certifying this action as a class proceeding and appointing the Plaintiff as the representative plaintiff;
  - (b) a declaration that the Defendants are in breach of section 52 of the *Competition Act*;
  - (c) damages pursuant to section 36 of the *Competition Act*;
  - (d) investigation costs pursuant to section 36 of the *Competition Act*;

- (e) a declaration pursuant to section 172(1)(a) of the *BPCPA* and the equivalent parts and provisions in the Equivalent Consumer Protection Statutes that the Defendants' Representations are deceptive acts or practices;
- (f) damages pursuant to section 171 of the *BPCPA* and equivalent provisions in the Equivalent Consumer Protection Statutes;
- (g) an order pursuant to section 172(3)(a) of the *BPCPA* and equivalent provisions in the Equivalent Consumer Protection Statutes directing the Defendants to restore to the Plaintiff and Class Members all money acquired as a result of the contravention of the *BPCPA* and Equivalent Consumer Protection Statutes;
- (h) an order rescinding the purchases of the Vehicles and any financing, lease or other agreements related to the Vehicles pursuant to any of the Equivalent Consumer Protection Statutes that provide for rescission;
- (i) a declaration that it is not in the interests of justice to require that notice be given pursuant to section 18(15) of Ontario's *Consumer Protection Act, 2002*, SO 2002, c 30, Sched A, and pursuant to any parallel provisions of the balance of the Equivalent Consumer Protection Statutes, and waiving any such notice requirements;
- (j) restitution and disgorgement of profits as a result of the Defendants' unjust enrichment in an amount equivalent to the purchase price of the Vehicles;

- (k) general damages for negligent misrepresentation and conduct contrary to the governing statutes pleaded herein in the amount of \$400,000,000;
- (l) punitive damages and/or aggravated damages in the amount of \$20,000,000;
- (m) a reference to decide any issues not decided at the trial of the common issues;
- (n) the costs of administering and distributing a damage award;
- (o) interest pursuant to the *Court Order Interest Act*, RSBC 1996, c 79; and
- (p) such further and other relief as this Honourable Court may deem just.

### **Part 3: LEGAL BASIS**

#### **A. STATUTORY RIGHTS OF ACTION**

##### **a. *COMPETITION ACT***

32. The Defendants knowingly or recklessly made the Representations to the public and in so doing breached section 52 of the *Competition Act* because the Representations:
- (a) were made for the purpose of promoting the supply or use of the Vehicles for the business interests of the Defendants;
  - (b) were made to the public; and
  - (c) were false and misleading in a material respect.

33. As a result of the Representations, the Plaintiff and the Class Members paid a higher price for the purchase or lease of their Vehicles than they would have if the Defendants had accurately disclosed the Vehicles' fuel economy. The Plaintiff and the Class Members would not have purchased or leased the Vehicles, or would not have paid as high a price for their purchase or lease, without the Representations made in breach of section 52.
34. The Plaintiff and the Class Members relied upon or should be deemed to have relied upon the Representations to their detriment. The Plaintiff claims that such reliance should be implied.
35. The Defendants' breach of section 52 of the *Competition Act* caused loss to the Plaintiff and the Class Members. Pursuant to section 36 of the *Competition Act*, the Defendants are liable to pay these damages plus investigative costs resulting from the breach.
36. The Defendants are jointly and severally liable together with their authorized Ford dealerships to the Plaintiff and the Class Members.

**b. BPCPA AND EQUIVALENT CONSUMER PROTECTION STATUTES**

37. The Defendants were and continue to be suppliers as that term is defined in the *BPCPA* and the Equivalent Consumer Protection Statutes. The Plaintiff and the Class were consumers as that term is defined in the *BPCPA* and the Equivalent Consumer Protection Statutes.

38. The Defendants' marketing, promotion, labelling and sale of the Vehicles constituted and continue to constitute a consumer transaction as that term is defined in the *BPCPA* and the Equivalent Consumer Protection Statutes.
39. The Representations were false, misleading or deceptive under section 4 of the *BPCPA*, and unfair, unconscionable and/or otherwise prohibited practices under section 8 of the *BPCPA*, and the Equivalent Consumer Protection Statutes, given that, among other things, the Defendants knew, or ought to have known, that:
- (d) the Representations were false, misleading, and deceptive;
  - (e) the Vehicles did not have the fuel economy, performance characteristics, uses, benefits or qualities set out in the Representations;
  - (f) the Vehicles were not of the particular standard, quality or grade set out in the Representations;
  - (g) the Vehicles did not provide the specific price advantage set out in the Representations;
  - (h) the Representations used exaggeration, innuendo and/or ambiguity as to a material fact and failed to state a material fact in respect of the Vehicles;
  - (i) the price for the Vehicles grossly exceeded the price at which similar goods or services were readily available to like consumers;
  - (j) the Class Members were unable to receive all expected benefits from the Vehicles;

- (k) the consumer transactions were excessively one-sided in favour of the Defendants;
  - (l) the terms of the consumer transactions were so adverse to the Class Members as to be inequitable;
  - (m) because of such further conduct concealed by the Defendants and unknown to the Plaintiff; and/or
  - (n) such other ways as will be proven at trial.
40. The Representations were made on or before the Plaintiff and other Class Members entered into the agreements to purchase or lease the Vehicles.
41. These are unfair practices, and as a result, the Plaintiff and other Class Members have suffered damages and are entitled to recovery pursuant to section 171 of the *BPCPA* and similar provisions in the Equivalent Consumer Protection Statutes.
42. Further or alternatively, the Plaintiff and other Class Members are entitled to an order pursuant to section 172(3)(a) of the *BPCPA* and similar provisions in the Equivalent Consumer Protection Statutes requiring the Defendants to restore them money acquired as a result of the contravention of the *BPCPA* and Equivalent Consumer Protection Statutes.
43. Also further or alternatively, the Class Members in some or all of the provinces/territories are entitled to rescission of the purchase, lease or other related agreements pursuant to section 18 of Ontario's *Consumer Protection Act*



and equivalent provisions of the balance of the Equivalent Consumer Protection Statutes. The Class Members are entitled, to the extent necessary, to a waiver of any notice requirements under the applicable provisions of the Equivalent Consumer Protection Statutes, particularly as the Defendants concealed the actual state of affairs from the Class Members.

44. The Defendants are jointly and severally liable together with their authorized Ford dealerships to the Plaintiff and the Class Members.

#### **B. NEGLIGENT MISREPRESENTATION**

45. The Defendants were in a proximate and special relationship with the Plaintiff and the Class Members by virtue of, among other things:

- (o) their design and manufacture of the Vehicles and their testing of the Vehicles for fuel economy and emissions;
- (p) their skill, experience and expertise in the design and manufacturing of Vehicles; and
- (q) the fact that Class Members had no means of conducting their own Coastdown or road load tests to confirm the accuracy of the fuel economy ratings.

46. The Defendants owed a duty of care to the Plaintiff and the Class Members.

47. The Defendants' Representations allowed the Defendants to charge a higher price for the purchase or lease of the Vehicles than they could have charged if they had disclosed accurate fuel economy information.
48. Further or in the alternative, the Defendants intended that the Plaintiff and the Class rely on the Representations. It was reasonably foreseeable that the Class Members would rely, to their detriment, upon the Representations when purchasing or leasing the Vehicles and would suffer loss. The Plaintiff and Class Members reasonably relied on the Representations in deciding whether to purchase or lease the Vehicles.
49. Had the Representations not been made, the Class Members would not have made the purchase or lease and would not have paid the higher price charged for Vehicles marketed for their fuel efficiency.
50. The Representations were false and were made negligently.
51. The Plaintiff and the Class Members suffered loss as a result of the Representations. The Defendants are liable to pay damages to the Plaintiff and the Class.
52. The Defendants are jointly and severally liable together with their authorized Ford dealerships to the Plaintiff and the Class Members.

### **C. UNJUST ENRICHMENT**

53. The Defendants caused the Class Members to pay money for a product, which contrary to the *Competition Act*, the *BPCPA* and Equivalent Consumer Protection

Statutes, the Class Members should not have paid for or, in the alternative, for which they should have paid less than they did.

54. As a result of this conduct, the Defendants were enriched by the payment or overpayment.
55. The Class Members suffered a deprivation corresponding to the Defendants' enrichment.
56. There is no juristic reason for the Defendants' enrichment and the Class Members' corresponding deprivation. The Class Members are entitled to restitution and/or a disgorgement of profits as a result of the Defendants' unjust enrichment.

#### **D. DAMAGES**

57. As a result of the conduct pleaded above, the Plaintiff and Class Members have suffered loss corresponding to the added fuel costs of the Vehicles. During its life span, each of the Vehicles will cost the Class Members approximately 10-15% more in fuel costs than represented by the Defendants.
58. In addition, the Plaintiff and Class Members paid more for their Vehicles than they should have if the Defendants had properly represented the true fuel economy of the Vehicles. The Defendants' misrepresentations also caused a reduction in the resale value of the Vehicles.
59. Due to the egregious nature of the Defendants' conduct, including, without limiting the generality of the foregoing, secretly deceiving the marketplace as to the fuel efficiency and environmental friendliness of the Defendants and their Vehicles, the

Plaintiff and Class Members are entitled to recover aggravated, punitive and exemplary damages. The Defendants' conduct offends the moral standards of the community and warrants the condemnation of this Court.

#### **E. WAIVER OF TORT**

60. In the alternative to damages, the Plaintiff claims waiver of tort and thereby an accounting or such other restitutionary remedy for disgorgement of the revenues generated by the Defendants as a result of their unlawful conduct.

61. This remedy is appropriate for the following reasons, among others:

- (a) revenue was acquired in such a manner that the Defendants cannot in good conscience retain it;
- (b) the integrity of the marketplace would be undermined if an accounting was not required; and
- (c) absent the Defendants' tortious conduct the Vehicles could not have been marketed at their prices nor would the Defendants have received the same revenue for them in Canada.

#### **F. STATUTES RELIED UPON**

62. The Plaintiff and class plead and rely upon the following statutes:

- (d) *Business Practices Act*, CCSM c B120, as amended, sections 2, 3, 4, 5, 6, 8, and 23, and the regulations thereto;

- (e) *Business Practices Act*, RSPEI 1988, c B-7, as amended, sections 1, 2, 3 and 4, and the regulations thereto;
- (f) *Business Practices and Consumer Protection Act*, SBC 2004, c 2, as amended, sections 4, 5, 8, 9, 10, 171, and 172, and the regulations thereto;
- (g) *Civil Code of Québec*, CQLR c CCQ-1991, as amended, and the regulations thereto;
- (h) *Class Proceedings Act*, RSBC 1996, c 50, as amended;
- (i) *Competition Act*, RSC 1985, c C-34, as amended, sections 36(1) and 52(1), and the regulations thereto;
- (j) *Consumer Protection Act, 2002*, SO 2002, c 30, Sched A, as amended, sections 2, 5, 9(1), 9(2), 14, 15, 16, 17, 18, and 19, and the regulations thereto;
- (k) *Consumer Protection Act*, CQLR c P-40.1, as amended, sections 215, 218, 219, 220, 221, 222, 228, 239, 252, 253, 271, and 272, and the regulations thereto;
- (l) *Consumer Protection Act*, RSNS 1989, c 92, as amended, section 28, and the regulations thereto;
- (m) *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1, as amended, sections 7, 8, 9, and 10, and the regulations thereto;

- (n) *Consumer Protection and Business Practices Act*, SS 2014, c C-30.2, sections 2, 4, 6-16, 19-22, 24-33, 36, 37, 39, 91 and 93, and the regulations thereto;
- (o) *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28, as amended;
- (p) *Court Order Interest Act*, RSBC 1996, c 79, as amended;
- (q) *Energy Efficiency Act*, SC 1992, c 36, as amended, and the regulations thereto; and
- (r) *Fair Trading Act*, RSA 2000, c F-2, as amended, sections 5, 6, 7, 7.2, 7.3, and 13, and the regulations thereto.

Plaintiff's address for service: **Sotos LLP**  
 180 Dundas Street West  
 Suite 1200  
 Toronto ON M5G 1Z8

Fax number address for service (if any): 416-977-0717

E-mail address for service (if any): dsterns@sotosllp.com

Place of trial: Vancouver Law Courts

The address of the registry is: 800 Smithe Street  
 Vancouver, BC V6Z 2E1

Date: Oct. 29, 2019



Signature of  Plaintiff  
 Lawyer for Plaintiff

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION  
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

63. The Plaintiff claims the right to serve this pleading/petition on the Defendants outside British Columbia on the grounds that there is a real and substantial connection between British Columbia and the facts alleged in this proceeding. The Plaintiff and members of the Class plead and rely upon the *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28 (“**CJPTA**”) in respect of the Defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to sections 10 (e) - (h) of the *CJPTA* because this proceeding:

- (a) concerns contractual obligations that, to a substantial extent, were to be performed in British Columbia;
- (b) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (c) concerns a tort committed in British Columbia; and
- (d) concerns a business carried on in British Columbia.

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the Court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a List of Documents in Form 22 that lists

- (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
  - (ii) all other documents to which the party intends to refer at trial, and
- (b) serve the list on all parties of record.



## APPENDIX

### **Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

This action arises from the Defendants' misrepresentation of the fuel economy of 2019 Ford Ranger and 2018-2019 Ford F-150 trucks.

A Vehicle's fuel economy is determined in laboratory and "real world" road testing. The road tests provide measures of a Vehicle's rolling resistance and drag, in order to configure laboratory simulations accurately. The Defendants used inaccurate road load figures to boost the Vehicles' purported fuel economy.

As a result, the Defendants misrepresented the fuel economy of the Vehicles and reaped substantial benefits from the marketing and sale of the Vehicles to the Plaintiff and the Class. The Plaintiff and the Class suffered losses caused by the Defendants' conduct.

This case seeks to represent all persons in Canada who purchased or leased any of the following vehicles: 2019 Ford Rangers or 2018-2019 Ford F-150s.

### **Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites

- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:**

- Builders Lien Act
- Divorce Act
- Family Relations Act
- Insurance (Motor Vehicle) Act
- Insurance (Vehicle) Act
- Motor Vehicle Act
- Occupiers Liability Act

Supreme Court Act

Wills Variation Act

OR

1. *Business Practices and Consumer Protection Act*, SBC 2004, c 2;
2. *Class Proceedings Act*, RSBC 1996, c 50; and
3. *Competition Act*, RSC 1985, c C-34.