

## NAVISTAR MAXXFORCE ENGINE CLASS ACTION AND PROPOSED SETTLEMENT

Pour lire cet avis en français: [www.reglementmaxxforce.ca](http://www.reglementmaxxforce.ca)

### Your legal rights may be affected whether you act or don't act. Read this notice carefully.

If you live in Quebec and purchased or leased a 2011-2014 model year Navistar vehicle equipped with a MaxxForce 11-, 13-, or 15-litre engine, you could be a Class Member able to participate in the Class Action and potential Settlement.

If the Settlement is approved, depending on your months of ownership or lease, you may be entitled to up to \$2,500 cash per Class Vehicle, up to a \$10,000 rebate for a new heavy duty truck, or up to \$15,000 as reimbursement for certain proven costs.

A Class Action has been authorized to proceed against Navistar Canada ULC, Navistar, Inc., and Navistar International Corporation (the "Defendants"). The lawsuit claims that the Defendants sold or leased vehicles equipped with a defective EGR emissions system. The Defendants deny these allegations but have agreed to a Settlement. The Settlement must be approved by the Superior Court of Quebec.

You have three options:

1. **Do Nothing (Participate):** If you are eligible to be a Class Member, you will be included in the Class if you do nothing. You will also be included in the Settlement if it is approved by the Court. If the Settlement is approved, you will be notified with instructions on how to make a claim.
2. **Exclude Yourself:** You may exclude yourself from the Class by filling out and mailing the Exclusion Form to the Clerk of the Court by **October 1, 2021**. If you do not exclude yourself by **October 1, 2021**, you will be bound by the outcome of the Class Action, including the Settlement (if approved). If you exclude yourself, the lawsuit and the Settlement will not affect you.
3. **Object:** If you want to remain in the Class but don't like the Settlement, you may object to any part of it. The Court will consider your objection when deciding whether to approve the Settlement. You may object to the Settlement by providing notice of your objection to the Court, the Defendants' lawyers, and Class Counsel by **October 1, 2021**.

This notice explains these options and how to exercise them.

### BASIC INFORMATION

#### Why did I receive a notice?

You may be a Class Member. If you are a Class Member and do not exclude yourself, the outcome of the Class Action will affect you.

This notice and the Short Form Notice have been approved by the Superior Court of Quebec to notify potential Class Members of their rights.

#### What is this lawsuit about?

The lawsuit claimed that Defendants sold or leased vehicles equipped with a 2011-2014 model year MaxxForce 11-, 13-, and 15-litre diesel engine equipped with a defective EGR emissions system. Defendants deny all of the allegations in the lawsuit and that they did anything wrong. The lawsuit seeks damages (money) for the Class.

The lawsuit is referred to as *4037308 Canada Inc. v. Navistar Canada Inc.*, Quebec Superior Court file no. 500-06-00720-140.

#### What is a Class Action?

In a Class Action lawsuit, one or more people called Representative Plaintiff sue on behalf of other people who have similar claims. The people together are a Class or Class Members. The companies they sued are called the Defendants. One court resolves legal issues common to everyone in the Class, except for those people who choose to exclude themselves from, or opt out of, the Class.

4037308 Canada Inc. is the Representative Plaintiff in this Class Action.

Class Actions resolve legal issues common to everyone in the Class; the Court's judgment binds all Class Members even if they do not participate. The common issue in this case is whether the Defendants breached their obligations to Class Members.

## **Why is there a Settlement?**

The Court did not decide in favor of the Representative Plaintiff or the Defendants. Instead, both sides agreed to a Settlement. That way, they avoid the risk and cost of a trial, and the people affected will get compensation. The Representative Plaintiff and Class Counsel believe the proposed Settlement confers substantial benefits on the Class and have determined that the Settlement is in the best interest of the Class and represents a fair, reasonable, and adequate resolution of the lawsuit.

The Defendants deny the claims in the lawsuit; deny all allegations of wrongdoing, fault, liability, or damage to the Representative Plaintiff and the Class; and deny that they acted improperly or wrongfully in any way. The Defendants nevertheless recognize the expense and time that would be required to defend the lawsuit through trial and have taken this into account in agreeing to this Settlement.

## **Do I have to pay for a lawyer?**

Class Members are represented by Class Counsel. You do not need to pay Class Counsel. If you want to be represented by your own lawyer, you must hire one at your own expense. If the Settlement is approved, Class Counsel will ask for fees of up to 25% of the Settlement value to be paid from the Settlement Cash Fund.

## **WHO IS IN THE CLASS?**

This notice and the lawsuit affect you only if you are part of the Class.

## **How do I know if I am part of the Class?**

The Court decided that everyone who meets the following definition is a Class Member: All persons, entities, or organizations resident in Quebec who, on or before April 30, 2021, purchased, other than for resale, or leased for more than 30 days, any Navistar vehicle equipped with MaxxForce 11-, 13-, or 15-litre engines certified to comply with the 2010 EPA standards, without the use of selective catalytic reduction technology. The Class Vehicles are 2011-2014 model year vehicles.

Excluded from the Class are: (1) all entities and natural persons that have litigated claims involving Class Vehicles' allegedly defective EGR emissions system against the Defendants to final, nonappealable judgment (with respect to those vehicles only); (2) all entities and natural persons who, via a Settlement or otherwise, delivered to Navistar releases of their claims involving Class Vehicles' allegedly defective EGR emissions system (with respect to those vehicles only); (3) the Defendants' employees, officers, directors, agents, and representatives, and their family members; (4) any Authorized Navistar Dealer of new or used vehicles; (5) any person or entity that purchased a Class Vehicle solely for the purposes of resale (with respect to those vehicles only); (6) any person or entity that was a lessee of a Class Vehicle for fewer than 30 days (with respect to those vehicles only); and (7) Idealease and Navistar Leasing Co. (lessees of Class Vehicles from these entities are part of the Class).

## **Which vehicles are included?**

Class Vehicles are all Navistar vehicles equipped with MaxxForce 11-, 13-, or 15-litre engines certified to comply with the 2010 EPA standards, without the use of selective catalytic reduction technology. The Class Vehicles' model years are 2011-2014.

## **I'm still not sure if I'm included**

If you are still unsure whether you are included in the Class, you can email or call the Settlement Administrator at [maxxforcesettlement@ricepoint.com](mailto:maxxforcesettlement@ricepoint.com) or 1-888-876-0851.

## **EXCLUDING YOURSELF FROM THE CLASS (OPTING OUT)**

If you are a Class Member but don't want to be bound by the Class Action or the Settlement (if approved), you must take steps to exclude yourself by October 1, 2021. This is called opting out of the Class. If you take no steps by the deadline, you will be part of the Class.

## **How do I get out of the Class?**

Any Class Member who wants to be excluded from the Class and become an opt-out must fill out and mail the Exclusion Form to the Court at the address provided below. If you wish to exclude yourself, you must request exclusion for all Class Vehicles you own(ed) or lease(d). You may not exclude yourself from the Class for one or more Class Vehicles while also seeking benefits of the Class Action for other Class Vehicles.

Your Exclusion Form must be postmarked on or before **October 1, 2021** and must include: (1) the Class Member's full name, address, and telephone number; (2) the model, model year, and VIN of the Class Member's Class Vehicle(s); (3) an explicit and unambiguous statement of the Class Member's desire to opt out of the Class; and (4) the Class Member's signature. To get the Exclusion Form, please visit [www.maxxforgesettlement.ca](http://www.maxxforgesettlement.ca).

If the Class Member is an entity and not an individual, the request must be signed by an officer or director of the entity and include a statement that attests to that person's ability to act on behalf of the entity. Requests for exclusion signed only by Counsel or another representative will not be permitted.

Registry (Greffé) of the Superior Court of Québec  
Palais de Justice de Montréal  
Dossier No. 500-06-000720-140  
1 rue Notre-Dame Est, Salle 1.120  
Montréal, QC H2Y 1B6

**If I don't exclude myself, can I sue the Defendants for the same thing later?**

No. Unless you exclude yourself, you will be bound by the result of the Class Action. If the Settlement is approved, it will release any legal claims by Class Members against the Defendants relating to the claims in the lawsuit. You must exclude yourself from this Class to continue your own lawsuit.

**If I exclude myself, can I get money from the Settlement?**

No. Only Class Members can participate in the Settlement and receive compensation (if it is approved by the Court).

**If I exclude myself, can I object to the Settlement?**

No. If you opt out, the Settlement no longer affects you and you have no basis to object.

**What am I giving up to stay in the Class?**

Unless you exclude yourself, you are staying in the Class. That means that you can't sue, continue to sue or be part of any other lawsuit against the Defendants about the legal issues in this case.

It also means that all of the Court's orders will apply to you and legally bind you. If the Settlement is approved, it will release any legal claims by Class Members against the Defendants relating to the claims in the lawsuit.

If the Settlement is approved, it will bind all Class Members who have not excluded themselves and end the lawsuit.

**What can I get if the Settlement is approved?**

If the Settlement is approved, you may choose only one of the following three options for compensation for each Class Vehicle you own(ed) or lease(d):

**Cash Option:** the Cash Option provides a payment based on months of ownership or lease of up to \$2,500 per Class Vehicle. Each demonstrated month of ownership or lease is eligible for the following amounts, subject to certain limitations:

<b>Class Vehicle Model Year</b>	<b>Monetary Amount</b>
2011	\$21.01/month
2012	\$23.36/month
2013	\$26.32/month
2014	\$30.12/month

**Rebate Option:** The rebate option provides a rebate based on months of ownership or lease worth up to \$10,000 for each Class Vehicle owned or leased towards the purchase of a new Navistar Class 8 heavy duty truck. The rebates are deducted from the best negotiated retail purchase price (not including sales tax or delivery fees) and in addition to any other applicable promotion, rebate, or discount in effect at the time of purchase and for which both the purchase and the purchaser would otherwise qualify. The rebates are not transferable and not stackable, and no Class Member will be issued more than ten rebates. Each demonstrated month of ownership or lease is eligible for the following amounts, subject to certain limitations:

<b>Class Vehicle Model Year</b>	<b>Monetary Amount</b>
2011	\$84.03/month
2012	\$93.46/month
2013	\$105.26/month
2014	\$120.48/month

**Individual Prove-Up Option:** The individual prove-up option provides the option for a Class Member to prove up to \$15,000 of “Covered Costs” per Class Vehicle. Any Class Member who initially selects the individual prove-up option may instead switch to the Cash Option at any time prior to the final determination of their award. “Covered Costs” are defined in the Settlement Agreement, available at [www.maxxforsettlement.ca](http://www.maxxforsettlement.ca).

The amounts received by Class Members under any option may be reduced *pro rata* based on the number of claims. Some limitations apply, particularly if one Class Member leased a truck to another Class Member. To see the full Settlement Agreement, please visit [www.maxxforsettlement.ca](http://www.maxxforsettlement.ca). You may contact Class Counsel to discuss the Settlement Agreement.

**When would I get a Settlement payment?**

The Court is holding a hearing to determine whether to approve the Settlement on **October 20, 2021 at 9:30 a.m.** After that hearing, the Court will set a schedule for Class Members to make claims. You will receive another notice with instructions on how to make a claim if the Settlement is approved.

**How much money will Class Counsel and the Representative Plaintiff receive?**

Class Counsel’s fees must be approved by the Court. Class Counsel will ask the Court to approve fees and disbursements of up to \$689,961.50 plus applicable taxes. This amount is equal to 25% of the total Settlement value.

Class Counsel may ask the Court to approve an award of \$500 to the Representative Plaintiff to compensate it for the disbursements incurred as a result of its participation in the Proceeding. The Representative Plaintiff is also entitled to participate in the Settlement like other Class Members.

The amounts paid to Class Counsel and the Representative Plaintiff will be deducted from the Settlement funds contributed by the Defendants.

**When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Hearing to decide whether to approve the Settlement on **October 20, 2021 at 9:30 a.m.** If there are objections, the Court will consider them at the Hearing. The Court may also decide how much to pay to Class Counsel and the Representative Plaintiff. The Court may decide whether to approve the Settlement immediately after the Hearing or may take some time to consider it.

The Hearing will likely be held by video conference because of the COVID-19 pandemic. Please visit [www.maxxforsettlement.ca](http://www.maxxforsettlement.ca) for details on how to attend the Settlement Approval Hearing.

**Do I have to come to the hearing?**

No. Class Counsel will tell the Court why the Settlement should be approved at the Hearing. If you object to the Settlement, you don’t have to come to Court to talk about it (but you may).

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you don’t like the Settlement or some part of it. The Court will consider any objections it receives when deciding whether to approve the Settlement.

**What’s the difference between objecting and excluding?**

Objecting is telling the Court that you don’t like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don’t want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**If I object to the Settlement but the Settlement is approved, can I still claim compensation?**

Yes.

**Do I need a lawyer to object to the Settlement?**

No. If you wish to be represented by a lawyer, you may hire one at your own expense. Class Counsel will not object to the Settlement for you.

**How do I object to the Settlement?**

If you are a Class Member, you can object to the Settlement if you don't like any part of it. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different Settlement; the Court can only approve or reject the Settlement. If the Court does not approve the Settlement, no Settlement payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you may object. Please note that you cannot both object to the Settlement and opt out of it.

Any objection to the proposed Settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Hearing where the Court will decide whether to approve the Settlement, either in person or through your own lawyer. If you appear through your own lawyer, you are responsible for hiring and paying that attorney. All written objections and supporting papers must be filed with the Court, and copies must be sent to Class Counsel and Defendants' Counsel at the addresses provided below. Your objection must be filed on or before **October 1, 2021**, or it will not be considered.

Any objection must be personally signed by the Class Member submitting it. If the Class Member is an entity and not an individual, the objection must be signed by an officer or director of the entity and include a statement that attests to that person's ability to act on behalf of that entity. If the Class Member is represented by a lawyer, the objection must also be signed by such Counsel. Any objection must also include the following:

1. the objecting Class Member's full name, address, and telephone number or email address;
2. the model, model year, and VIN of the objecting Class Member's Class Vehicle(s), along with proof of Membership in the Class;
3. a written statement of all grounds for the objection, accompanied by any legal support for the objection;
4. copies of any papers, briefs, or other documents upon which the objection is based;
5. the name, address, email address, and telephone number of every attorney representing or assisting the objecting Class Member; and
6. a statement indicating whether the objector and/or his or her Counsel intends to appear at the Settlement Approval Hearing and, if so, the evidence that person intends to rely on in support of the objection.

Objection materials must be filed with the Court at the following address:

Registrar of the Superior Court of Québec  
 MONTRÉAL COURTHOUSE  
 1, Notre-Dame Est Street, Room 1.120  
 Montréal, Québec, H2Y IB6  
 Reference: *4037308 Canada Inc. v. Navistar Canada Inc., et al.*  
 Class Action – 500-06-00720-140

Objection materials must also be sent to Class Counsel and the Defendants' Counsel at the following addresses:

<p><b>To Class Counsel:</b>          Consumer Law Group Inc.          1030 rue Berri, Suite 102          Montréal, QC H2L 4C3  <b>Attention Jeff Orenstein and Andrea Grass</b>          Email: <a href="mailto:jorenstein@clg.org">jorenstein@clg.org</a> and <a href="mailto:agrass@clg.org">agrass@clg.org</a></p>	<p><b>To the Defendants' Counsel:</b>          McCarthy Tétrault LLP          1000 De La Gauchetière Street West          Suite 2500          Montréal, QC H3B 0A2  <b>Attention: Jean Lortie and Samuel Lepage</b>          Email: <a href="mailto:jlortie@mccarthy.ca">jlortie@mccarthy.ca</a> and <a href="mailto:slepage@mccarthy.ca">slepage@mccarthy.ca</a></p>
---	---

If you do not comply with these requirements, you may not object to the Settlement.

## MORE INFORMATION

### I want more information, including more details about the Settlement

This notice summarizes the key parts of the proposed Settlement. You can read the entire Settlement Agreement and other important documents at [www.maxxforgesettlement.ca](http://www.maxxforgesettlement.ca). You may discuss the Settlement with Class Counsel. You should check the website regularly for updates on the case.

You may contact the Settlement Administrator at [maxxforgesettlement@ricepoint.com](mailto:maxxforgesettlement@ricepoint.com) and 1-888-876-0851.

### I want to contact Class Counsel

Class Counsel can be contacted at:

Consumer Law Group Inc.

1030 rue Berri, Suite 102

Montréal, QC H2L 4C3

**Attention Jeff Orenstein and Andrea Grass**

Phone: (514) 266-7863

Email: [jorenstein@clg.org](mailto:jorenstein@clg.org) and [agrass@clg.org](mailto:agrass@clg.org)

## OTHER PROVINCES AND TERRITORIES

### What about other provinces and territories?

This Class Action is only for residents of Quebec.

There are other similar proposed Class Actions in several other provinces. The British Columbia action is certified as a Class Action; others are not. No settlements have been reached in the other Actions. If you exclude yourself from this Class Action, you may be able to join one of the other actions if you meet any Class definitions certified in those Classes. If you stay in this Class Action, you will not be eligible for others.

The other Actions are as follows:

1. **British Columbia (Certified):** *N&C Transportation Ltd. v. Navistar International Corporation*, Supreme Court of British Columbia File No. S 144960, Vancouver Registry.
2. **Alberta (Not Certified):** *Andes Transportation Inc. v. Navistar Canada, Inc.*, Alberta Court of Queen's Bench File No. 1403-16425, Edmonton Registry.
3. **Manitoba (Not Certified):** *Vern Brown v. Navistar International Corporation*, Manitoba Court of Queen's Bench File No. CI 14-01-90962, Winnipeg Registry.
4. **Ontario (Not Certified):** *Raymond Bruhm v. Navistar Canada, Inc.*, Ontario Superior Court File CV-14-513403-00CP, Toronto Registry.
5. **Ontario (Not Certified):** *R&A Transcorp v. Navistar Canada, Inc.*, Ontario Superior Court File No. 15-63387, Ottawa Registry.
6. **Ontario (Not Certified):** *Stayura Well Services Ltd. v. Navistar Canada, Inc.*, Ontario Superior Court File No. 4771-14, Milton Registry.
7. **Ontario (Not Certified):** *Stayura Well Services Ltd. v. Navistar Canada, Inc.*, Ontario Superior Court File No. CV 17 579285 CP00, Toronto Registry.