

# LEGAL NOTICE AUTHORIZED BY THE ONTARIO SUPERIOR COURT OF JUSTICE

## CANADIAN PARKING HEATERS CLASS ACTION

**Did you purchase a parking heater, or purchase, lease or sub-lease a vehicle containing a parking heater, between September 13, 2001 and December 31, 2012? If so, your legal rights could be affected.**

### What is this Class Action about?

A class action was initiated in Ontario against Espar<sup>1</sup> and Webasto<sup>2</sup>, who are manufacturers of Parking Heaters. The case was initiated on behalf of all Canadians, excluding Québec residents (a separate lawsuit was commenced in Québec on behalf of Québec residents), who purchased parking heaters, or purchased, leased or subleased a vehicle containing a parking heater, between September 13, 2001 and December 31, 2012 (the "Class Period") (the "Class Members").

A "Parking Heater" means a parking heater, accessories and parts sold for use with heaters, packages containing heaters and accessories and/or parts for parking heaters which were manufactured or sold by the Defendants for use in a commercial vehicle during the Class Period.

The lawsuit alleges that the defendants participated in an unlawful conspiracy to fix, raise, maintain or stabilize the price of Parking Heaters in Canada, amongst other allegations (the "Class Action"). •

### Certification

The Ontario Court has "certified" the Class Action meaning the Court has agreed that the lawsuit is suitable to proceed to trial as a class action.

Certification is not a ruling on the merits of the case, and the Court has not yet made a decision on the allegations made in the Class Action.

### What happens next?

The parties will now engage in a process known as discovery where they exchange relevant documents and examine representative witnesses for each side.

The matter will then proceed to trial. At trial a judge will decide whether or not the claims will be successful and whether remedies should be ordered in favour of Class Members.

### Settlement reached with Volker Hohensee

A settlement has been reached with the individual defendant Volker Hohensee, a former executive of the defendant Espar, in which Mr. Hohensee has agreed to provide the plaintiff with early cooperation and evidence in respect of the alleged conspiracy by the defendants. In exchange, Mr. Hohensee will be provided with a release of the claims against him in the Class Action. The settlement must be approved by the court before it becomes effective.

A settlement approval hearing will take place before the Ontario Superior Court of Justice on April 29, 2021 at 9:00 a.m. to determine if the settlement is fair, reasonable and in the best interest of Class Members. The settlement approval hearing is presently expected to be conducted by Zoom and can be accessed through: <https://zoom.us/j/91972027948> or (Tel): 647.374.4685; Meeting ID: 919 7202 7948. Please visit [www.foremancompany.com/parking-heaters-price-fixing](http://www.foremancompany.com/parking-heaters-price-fixing) for more information.

**If you do not oppose the proposed settlement agreement, you do not need to appear at the hearing or take any other action at this time.** If you want to tell the court what you think about the proposed

settlement, you must send a written submission to Class Counsel by April 19, 2021.

### Does this cost me anything?

You do not have to pay the lawyers working on the Class Action any money. The lawyers only get paid if the Class Action is successful, and if so, they are paid out of any recovery that is achieved on behalf of the Class Members.

The lawyers working on the Class Action will seek a legal fee of up to 30% of the value of the results obtained, plus out of pocket case expenses and applicable taxes. Lawyers' fees and expenses, if any, are subject to Court approval.

### Participating in the Class Action

If you want to be included in this Class Action, you do not need to do anything at this time.

You will be automatically included in the Class Action and may eventually receive money or other benefits from the Class Action.

If you participate in the Class Action, you will not be able to pursue your own case against the defendants regarding the claims at issue. You will be bound by the results of the Class Action, win or lose.

### Opting-Out of the Class Action

Class Members have the right to exclude themselves from the Class Action by opting-out.

• If you opt-out, you will not be eligible to participate in or receive any money or other remedies from the Class Action.

You may be able to start or continue your own case regarding the claims at issue at your own obligation and expense. If you wish to pursue your claims on an individual basis, you should consider consulting with a lawyer to discuss your options and any applicable deadlines for commencing your action.

If you do not want to be a Class Member in the Class Action, your opt-out must be received **by April 5, 2021 at the latest.** Completed opt-outs can be sent to Class Counsel at the contact particulars below. For complete instructions on how to opt-out, please view the long-form notice on the website listed below or contact Class Counsel.

### More Information

A copy of the complete certification order, settlement agreement, long-form notice and other important documents can be viewed at: [www.foremancompany.com/parking-heaters-price-fixing](http://www.foremancompany.com/parking-heaters-price-fixing)

### Class Counsel

*Foreman & Company, Attn: Jonathan Foreman*  
4 Covent Market Place, London, ON N6A 1E2  
Tel: 1.855.814.4575 ext. 107, Fax: 1.226.884.5340 or  
E-mail: [classactions@foremancompany.com](mailto:classactions@foremancompany.com)

*Camp Fiorante Matthews Mogerma LLP: Attn: Aisling Slevin*  
Suite 400, 856 Homer Street, Vancouver, BC V6B 2W5  
Tel: 1.800.686.2322, Fax: 1.604.698.7554 or  
E-mail: [info@cfmlawyers.ca](mailto:info@cfmlawyers.ca)

<sup>1</sup> **Espar means:** Espar Inc., Espar Products Inc., Eberspaecher Climate Control Systems International Beteiligungs-GMBH, Eberspaecher Climate Control Systems GMBH & Co. KG (formerly known as J. Eberspaecher GMBH and Co.

KG), Eberspaecher Gruppe GMBH and Co. KG.

<sup>2</sup> **Webasto means:** Webasto Thermo and Comfort North America Inc., Webasto SE and Webasto Thermo & Comfort SE