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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

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Mark R Ciabattari, and all other persons
similarly situated,

) Case No. C-05-04289 SC

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Plaintiffs,

) **FINAL JUDGMENT**

11

vs.

) Honorable Samuel Conti

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Toyota Motor Sales, U.S.A., Inc., a California
corporation; Toyota Motor North America, Inc.,
a Delaware corporation; Goodyear Dunlop Tires
North America, LTD, LLC, an Ohio limited
liability corporation; and Bridgestone Firestone
North American Tire, LLC, a Delaware limited
liability company,

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Defendants.

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This Final Judgment is entered upon motion for approval of a settlement presented in this proceeding ("Settlement") as stated in the Settlement Agreement filed in this action on June 23, 2006 ("Settlement Agreement") and the attachments to the Settlement Agreement, by Lead Counsel for the Class (as defined below), acting on behalf of and with full authority from counsel for all plaintiffs in the litigation, after hearing on notice.

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1. For purposes of this Final Judgment, the following terms shall have the meaning set

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forth below:

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- 1 a. "Related Cases" means the cases listed on Exhibit A to this Final Judgment;
- 2 b. "Defendants" shall mean Toyota Motor Sales, U.S.A., Inc., a California
- 3 corporation; Toyota Motor North America, Inc., a Delaware corporation;
- 4 Goodyear Dunlop Tires North America, LTD, LLC, an Ohio limited liability
- 5 corporation; and Bridgestone Firestone North American Tire, LLC, a Delaware
- 6 limited liability company;
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- 8 c. "Bridgestone Related Parties" means Bridgestone Firestone North American
- 9 Tire, LLC, Bridgestone Corporation and Bridgestone Americas Holding, Inc.
- 10 and each of their present or former officers, directors, employees, agents,
- 11 attorneys, administrators, successors, suppliers, distributors, reorganized
- 12 successors, spin-offs, assignees, holding companies, subsidiaries, affiliates,
- 13 parents, joint venturers, partners, members, divisions, and predecessors, and
- 14 authorized dealers.
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- 16 d. "GDTNA Related Parties" means Goodyear Dunlop Tires North America,
- 17 LTD., Sumitomo Rubber Industries, Ltd. and The Goodyear Tire and Rubber
- 18 Company and each of their present or former officers, directors, employees,
- 19 agents, attorneys, administrators, successors, suppliers, distributors, reorganized
- 20 successors, spin-offs, assignees, holding companies, subsidiaries, affiliates,
- 21 parents, joint venturers, partners, members, divisions, and predecessors, and
- 22 authorized dealers.
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- 24 e. "Toyota Related Parties" means Toyota Motor Sales, U.S.A., Inc., Toyota North
- 25 America, Inc., Servco Pacific, Inc., and Toyota Motor Corporation and each of
- 26 their present or former officers, directors, employees, agents, attorneys,
- 27 administrators, successors, suppliers, distributors, reorganized successors, spin-
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1 offs, assignees, holding companies, subsidiaries, affiliates, parents, joint
2 venturers, partners, members, divisions, and predecessors, and authorized
3 dealers.

4 f. “Class Vehicles” means Toyota Sienna vehicles, model years 2004, 2005, and
5 2006, produced on or before September 17, 2005, that came factory equipped
6 with Run-Flat Tires, as defined below.

7 g. “Released Claims” means any and all claims (including demands, rights,
8 liabilities and causes of action) of every nature and description that were or
9 could have been asserted in any of the Related Actions by any Plaintiffs or Class
10 Member, or any of their predecessors, successors, representatives, parent
11 companies, subsidiaries, affiliates, heirs, executors, administrators, attorneys,
12 successors, and assignees, relating to Run Flat Tires and/or the design, operation
13 and/or functionality of the tire pressure warning system or the Class Vehicle’s
14 lack of spare tire or spare tire storage space. This shall include, but not limited
15 to, any and all claims relating to or alleging breach of express or implied
16 warranty, state “lemon” laws, consumer fraud, deceptive or unfair business
17 practices, false or misleading advertising, intentional or negligent
18 misrepresentation, negligence, concealment, omission, unfair competition, unjust
19 enrichment, and any and all claims or causes of action arising under or based
20 upon any federal or state statute, act, ordinance, or regulation governing or
21 applying to business practices generally, including, but not limited to, any and all
22 claims relating to or alleging violation of the California Business and Professions
23 Code §§ 17200-17209, or California Business and Professions Code § 17500.

24 Released Claims include all such claims against the Toyota Related Parties, the
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1 GDTNA Related Parties and/or the Bridgestone Related Parties, whether known
2 or unknown (even if concealed or hidden), matured or unmatured, liquidated or
3 unliquidated, at law or in equity, before any local, state or federal court, tribunal,
4 administrative agency or commission, that were available under any federal,
5 state or local law or administrative rule or regulation, that actually were asserted
6 or potentially arise out of or are related to the subject matter of the Related
7 Actions. Notwithstanding the language in this paragraph, "Released Claims" do
8 *not* include any claims of personal injury or wrongful death or property damage
9 other than damage to the Run-Flat Tire itself.

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11 h. "Class" means all persons or entities who purchased, leased, and/or acquired a
12 Toyota Sienna vehicle, model years 2004, 2005, or 2006, produced on or before
13 September 17, 2005, that came factory equipped with Run-Flat Tires (as defined
14 below) anywhere within the United States. Excluded from the Class are officer
15 and directors of any of the Defendants or their Related Parties and any judge or
16 justice assigned to hear any aspect of this litigation and all persons or entities
17 who have properly excluded themselves from the Class.

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19 i. "Plaintiffs" means and includes all plaintiffs and class representatives in the
20 Related Actions, who are Mark Ciabattari, Jess Collinson, Scott Pollack,
21 Thomas Hunt, Kyle Bressler, Tom Pear, Stanley Monk, Patricia Beard and
22 Michael Beard and Michael Pollock.

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24 j. "Lead Counsel" means the Kemnitzer, Anderson, Barron & Ogilvie LLP;
25 Shepherd, Finkelman, Miller & Shah, LLC; and Bernstein Nackman &
26 Feinberg;

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1 k. "Run-Flat Tires" means the Dunlop SP Sport 4000 DSST P225/60R17 and
2 Bridgestone B380 P225/60R17.

3 2. The Court finds that notice was sent to known class members by first-class mail after
4 steps were taken to secure the best address available for each recipient. Notice was
5 further published using a special website. In addition a special 1-800 number was
6 created to answer class member questions. The class notice program resulted in notice to
7 98.4% of the Class.

8 3. All Cases are dismissed with prejudice.

9 4. By this Final Judgment, Defendants, Bridgestone Related Parties, GDTNA Related
10 Parties, and Toyota Related Parties are expressly and irrevocably, full and finally,
11 released and forever discharged from Released Claims by members of the Class as
12 provided in the released contained in ¶ 22 of the Settlement Agreement. The release is
13 attached to this Final Judgment as Exhibit B.

14 5. All counsel of record in the Related Cases, and all members of the Class, as well as all
15 those acting in concert with them, are permanently barred and enjoined from instituting,
16 maintaining, prosecuting, or enforcing, either directly or indirectly, all claims, demands,
17 actions, suits and causes of action against Defendants and their Related Parties and/or
18 their directors, officers, employees, attorneys, insurers or agents, whether known or
19 unknown, asserted or unasserted, that are released under ¶ 3 above.

20 6. Each party to the Settlement Agreement shall bear its own costs and the fees and
21 expenses of its counsel, except as directed in this Court's Order Approving Class Action
22 Settlement & Award of Attorney's Fees, Expenses and Incentive Awards, dated
23 November ____, 2006. Lead Counsel on behalf of the Class on behalf of counsel for all
24 plaintiffs in this litigation, are awarded fees, costs and expenses of litigation in the
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1 amount of \$945,000 in fees, costs and expenses. Lead Counsel is responsible for
2 allocating payment of the fees, costs and expenses among plaintiffs' counsel.

3 Defendants shall have no further obligation to pay attorney's fees, costs or expenses of
4 this litigation to counsel for any plaintiffs; however, Defendants shall be obligated to
5 continue to pay the reasonable costs of settlement administration.
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7 7. Each of the nine (9) named plaintiffs is awarded incentive payments of \$5,000 each for a
8 total of \$45,000.

9 8. The terms of the Settlement Agreement are not merged into this Final Judgment and
10 remain binding upon the parties to the Settlement Agreement, who are directed to
11 implement its provisions.

12 9. The Court retains jurisdiction over the parties to enforce the terms of this Final
13 Judgment and the terms of the Settlement Agreement, including all proceedings before
14 and after this Final Judgment is no longer subject to appeal. However, there being no
15 just reason for delay, this Final Judgment is final and appealable.
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17 Dated: November 17, 2006.

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20 Judge of the U.S. District Court
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Exhibit "A"—Related Actions

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(a) *Mark R. Ciabattari v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. C05-04289 BZ, U.S. District Court of California, Northern District ("*Ciabattari*");

(b) *Stanley Monk v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. 05 CV 10562 (B.S.J.), U.S. District Court of New York, Southern District ("*Monk*");

(c) *Kyle Bressler, M.D. v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. 2:05-cv-544-FtM-29DNF, U.S. District Court of Florida, Middle District ("*Bressler*");

(d) *Thomas F. Pear v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. 3:05-cv-01778-JBA, U.S. District Court of Connecticut ("*Pear*");

(e) *Jeff Collinson, Scott M. Pollack, and Thomas Hun, v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. 2:05-cv-05471-HAA-MF, U.S. District Court of New Jersey ("*Collinson*");

(f) *Patricia and Michael Beaird v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. 06C 0466, U.S. District Court of Illinois, Northern District of Illinois ("*Beaird*"); and

(g) *David Pollack v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. 1:06-cv-01157-PAG, U.S. District Court of Ohio, Northern District

Exhibit "B"—Release

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2 Plaintiffs and Class Members, and each of them, forever release, discharge, and covenant
3 not to sue the Toyota Related Parties, the GDTNA Related Parties and the Bridgestone Related
4 Parties regarding any of the Released Claims, as that term is defined in Paragraph 10 of the
5 Settlement Agreement. This release shall be understood to include all such claims which Plaintiff
6 and Class Members do not know of or suspect to exist in their favor at the time of this release
7 and that, if known by them, might have affected their settlement and release of Toyota Related
8 Parties, the GDTNA Related Parties and the Bridgestone Related Parties, or might have affected
9 their decision not to object to this Agreement. With respect to all Released Claims, and without
10 assuming that the Released Claims are a general release, Plaintiffs and Class Members expressly
11 waive and relinquish to the fullest extent permitted by law, (a) the rights conferred by section
12 1542 of the California Civil Code, which provides:
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15 A general release does not extend to claims which the creditor does
16 not know or suspect to exist in his favor at the time of executing
17 the release which if known by him must have materially affected
18 his settlement with the debtor.

19 and (b) any law of any state or territory of the United States, federal law or principle of common
20 law or equity, or of international or foreign law, which is comparable to section 1542 of the
21 California Civil Code. Plaintiffs and Class Members recognize that even if they may later
22 discover facts in addition to or different from those which they now know or believe to be true,
23 they nonetheless agree that upon the entry of the Final Approval Order and Final Judgment,
24 Plaintiffs and Class Members fully, finally, and forever settle and release any and all of the
25 Released Claims. The Parties acknowledge that the foregoing waiver was bargained for and is a
26 material element of the Agreement.
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