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**File No. 291735/113**

**April 18, 2019**

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**Re: *Bickert v. Whirlpool Corporation et al.***  
**S.C.B.C. Vancouver Registry Action No.: S-136688**

**and Kristina Essa as Representative Plaintiff v. Whirlpool Corporation, Sears Holdings Management Corporation, Sears Roebuck and Co. Inc., Sears Canada Inc., Whirlpool Canada Co. and Whirlpool Canada LP, Action No. 1603 10241**

As counsel for and on behalf of the defendants, we write to propose amendments to the Agreement made July 10, 2018, as amended by letter agreement dated November 6, 2018 (the "Settlement Agreement"). These proposed amendments are required to address errors in Appendix B (Class Dishwashers – Model Numbers and Serial Number Ranges) and in Appendix D (Non-Class Dishwashers – Model Numbers and Serial Number Ranges), and to provide for supplemental notice and an extended opt out period for those Settlement Class Members affected. If the amendments are acceptable, please execute and return executed counterparts by email as soon as possible.

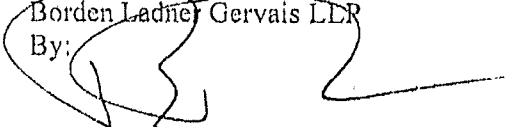
- 1) Defined terms used in this letter agreement have the meaning given to those terms in the Settlement Agreement, unless otherwise specified, and all terms of the Settlement Agreement remain in force with the necessary changes, as amended or supplemented by the following provisions of this letter agreement.
- 2) Appendix B (Class Dishwashers – Model Numbers and Serial Number Ranges) and Appendix D (Non-Class Dishwashers – Model Numbers and Serial Number Ranges) to the Settlement Agreement are amended as shown in, and replaced by, the attached

Revised Appendix B (Class Dishwashers – Model Numbers and Serial Number Ranges) and Revised Appendix D (Non-Class Dishwashers – Model Numbers and Serial Number Ranges), highlighting new models or expanded serial number ranges added.

- 3) Application will be made by the Plaintiff Essa to the Court for, and the Defendants will consent to, an Order (the “Preliminary Approval – Supplemental Order”) granting preliminary approval of the amendments to the Settlement Agreement made in this letter agreement and for approval of the Supplemental Notice Plan and the Supplemental Opt Out Period for Settlement Class Members who own or owned Class Dishwashers highlighted as new models or within expanded serial number ranges on Revised Appendix B, and to provide for extension of the time for receipt of objections to the approval of the Settlement Agreement or Class Counsel Fees and Disbursements no later than the end of the Supplemental Opt Out Period.
- 4) “Supplemental Notice Date” means 30 days after the grant of the Preliminary Approval – Supplemental Order.
- 5) “Supplemental Notice Plan” means a notice program as follows:
  - a. English and French internet banners (targeting 1,940,000 English-language and 525,000 French-language impressions) will be purchased, commencing within 30 days of the grant of the Preliminary Approval – Supplemental Order and continuing over a one-month period on a variety of websites and on the social media site Facebook, to give notice of the amendments to the Settlement Agreement by reference to an embedded link to the Settlement Website, in such manner and form as may be agreed by Class Counsel and the Defendants or subject to further direction of the Court;
  - b. the Settlement Website will be updated, within 30 days of the grant of the Preliminary Approval – Supplemental Order, to include this letter agreement, including a French-language translation, replacement of Appendix B and Appendix D by, respectively, Revised Appendix B and Revised Appendix D, the Preliminary Approval – Supplemental Order and such other appropriate notices as may be agreed by Class Counsel and the Defendants or subject to further direction of the Court; and
  - c. notice by mail and email will be provided, within 30 days of the grant of the Preliminary Approval – Supplemental Order and as otherwise prescribed in the Settlement Agreement, to any Settlement Class Members who own or owned Class Dishwashers highlighted as new models on Revised Appendix B.
- 6) The Defendants will cause the Settlement Administrator to implement the Supplemental Notice Plan and the Defendants will pay all costs associated with the Supplemental Notice Plan.
- 7) “Supplemental Opt Out Period” means the 60 day period following the Supplemental Notice Date.
- 8) Any Settlement Class Members who own or owned Class Dishwashers highlighted as new models or within expanded serial number ranges on Revised Appendix B may opt out of

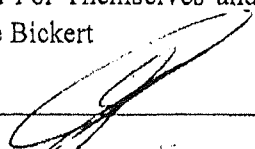
the Settlement Agreement by delivering to the Settlement Administrator an executed Opt Out Form within the Supplemental Opt Out Period.

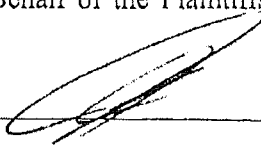
- 9) To be valid, the Opt Out Form submitted by such Settlement Class Members must be postmarked no later than the last day of the Supplemental Opt Out Period.
- 10) The Defendants will cause the Settlement Administrator to provide to Class Counsel and to the Defendants, within 10 business days after the expiry of the Supplemental Opt Out Period, copies of all Opt Out Forms received.
- 11) The Defendants will cause the Settlement Administrator to send the notices prescribed in the Settlement Agreement by mail and by email to any NewGen and Raptor Owners who own or owned Dishwashers highlighted as new models on Revised Appendix D, and who are identified in accordance with the Settlement Agreement as having experienced an Overheating Event within 12 years after Purchase.
- 12) The Notice Date is replaced by the Supplemental Notice Date for purposes of the definitions of "Past Overheating Subclass" and "Future Overheating Subclass", for purposes of the determination of eligibility for compensation of Past Overheating Subclass Members, Future Overheating Subclass Members, and NewGen and Raptor Owners for past or future Overheating Events.
- 13) "Claims Deadline" for all purposes of the Settlement Agreement, except future claims for Overheating Events, is amended to mean 180 days after the Supplemental Notice Date, and for future claims for Overheating Events means the deadline to submit a claim as set out in the Settlement Agreement, subject only to replacement of the Notice Date by the Supplemental Notice Date.
- 14) This letter agreement shall be effective when executed by Class Counsel and may be executed electronically and in counterparts.


Yours truly,  
Borden Ladner Gervais LLP  
By: 

Brad W. Dixon  
BWD/lbg  
encl

Agreed For Themselves and as Counsel For and On Behalf of the Plaintiffs, Kristina Essa and Natalie Bickert

By:   
Richard J. Mallett

By:   
Clint Docken, Q.C.

By:   
David A. Klein