

Automotive News

Toyota deal: Here comes the sludge judge

Mark Rechtin | |

Automotive News | 1:00 am, January 8, 2007

LOS ANGELES -- Toyota Motor Sales U.S.A. Inc. has quietly settled a class-action lawsuit that covers about 3.5 million Toyota and Lexus vehicles that may have been damaged by engine oil sludge.

Details of the settlement, which allows for third-party mediation of sludge claims rejected by Toyota, have been mailed to 7.5 million current and previous owners.

Critics contend Toyota has told customers and dealers too little about sludge issues. They say some customers took vehicles with dead engines to dealers who had little or no knowledge of the problem and often assumed it was the owners' fault.

Unhappy customers had no remedy other than hiring a lawyer to go after Toyota.

Under the agreement, owners whose claims have been denied by Toyota may submit them to a third-party mediator at no cost for binding arbitration.

"This settlement breathes life into claims that have been dead for years," said Gary Gambel, a lawyer for plaintiffs who sued Toyota. "This is not a settlement that gives a few dollars to everyone. The relief is exactly tied to the problems and damages that someone might have."

The lawsuit, filed in a Louisiana district court, is expected to be approved by the court in early February.

Toyotas at risk

About 3.3 million Toyota vehicles are susceptible to oil sludge, which can cause thousands of dollars in damage and require replacement of the engine. Here are the vehicles included in the settlement.

VEHICLE MODEL YEARS

Camry 4 cyl. 1997-2001

Camry 6 cyl. 1997-2002

Camry Solara 4 cyl. 1999-2001

Camry Solara 6 cyl. 1999-2002

Sienna 6 cyl. 1998-2002

Avalon 6 cyl. 1997-2002

Celica 4 cyl. 1997-1999

Highlander 6 cyl. 2001-2002

Lexus ES 300 1997-2002

Lexus RX 300 1999-2002

Chink in the armor?

Sludge is gelled oil that fails to lubricate engine parts. It can lead to damage, often requiring a new engine at a cost that can exceed \$10,000. Complaints about sludged engines have plagued several carmakers, but Toyota's troubles have been especially controversial in light of its reputation for vehicle quality.

The issue highlights a possible chink in the company's armor. Executives fear Toyota is growing too fast for its engineering

Advertisement

resources. That could lead to quality snags and a tarnished reputation.

When a customer takes a sludge-caked engine to a dealership, there is usually a "clean-out" procedure. The head is pulled and a service technician tries to steam out the sludge. If that doesn't work, the engine must be replaced.

Sludge can result from poor engine design; overly tight tolerances between moving parts; improper cooling; and poor maintenance by consumers.

Toyota insists the problem arises mainly when owners fail to change their oil frequently enough.

The agreement does not find Toyota at fault.

"The settlement doesn't mean that Toyota or Lexus vehicles are predisposed to develop oil gel," according to the notice.

"The court did not decide which side was right."

After Toyota had received 3,400 sludge complaints by 2002 it extended its vehicle warranty to eight years and unlimited miles. The program was offered to owners of 1997-2002 Toyota and Lexus vehicles equipped with 3.0-liter V-6 or 2.2-liter four-cylinder engines. The company declined to give an updated number of complaints.

The terms

Under terms of the settlement:

- Owners of damaged vehicles have eight years plus 120 days from the original purchase date to file a complaint.
- If Toyota denies the claim, owners can appeal to a judge-appointed third-party administrator: J. Robert Ates, a New Orleans lawyer.
- Customers who have already made repairs may be able to recover the costs.
- Only those who elect not to participate in the settlement can sue Toyota individually. The deadline for that choice was Dec. 31, 2006.
- The settlement is transferable to future vehicle owners.
- The car only needs to show evidence of oil sludge. It is not necessary for the owner to have made repairs during the claim period.
- Damages that can be recovered include loss in value of the vehicle and incidental costs, such as rental cars. Past lawyers' fees, mental anguish and bodily injuries are not covered.

A Toyota spokesman said the agreement is not a defeat for the automaker.

"The settlement validates the customer support program we implemented four years ago," Xavier Dominicis said.

"The terms of the program remain unchanged. There always was a way for customers to appeal our decision."

Plaintiff lawyers disagree. They say Toyota failed to communicate the extent of the problem to its dealers and customers. Toyota's appeal process also meant hiring a lawyer, which many consumers could not afford. It costs nothing to file an appeal with Ates.

"The consumer only needs to show reasonable maintenance in terms of oil changes," Gambel said. "You don't need to prove where the sludge came from, or explain your driving habits. If you have oil sludge, Toyota pays" the consumer.

Consumers can get more information by calling 888-279-4405 or at www.oilgelsettlement.com.



You may e-mail Mark Rechtin at mrechtin@crain.com

PRINTED FROM: [http://www.autonews.com/apps/pbcs.dll/article?
AID=/20070108/SUB/70106011/1078/SUB&refsect=DEALERS&template=printart](http://www.autonews.com/apps/pbcs.dll/article?AID=/20070108/SUB/70106011/1078/SUB&refsect=DEALERS&template=printart)

Entire contents ©2007 [Crain Communications, Inc.](#)
