

**United States District Court for the Southern District of New York**

**If you are a current or former owner or lessee of a U.S. specification model-year 2004 to 2010 BMW 5 Series (E60 and E61) vehicle, you may be eligible for benefits of a class-action settlement.**

*A court has authorized this notice. You have received this notice because BMW’s records indicate that you are a current or former owner or lessee of a U.S. specification model-year 2004 to 2010 BMW 5 Series (E60 and E61) vehicle. **This is not a solicitation from a lawyer.***

- A nationwide settlement (“Settlement”) has been reached in a class action lawsuit against BMW of North America, LLC (“BMW NA”) and Bayerische Motoren Werke Aktiengesellschaft (“BMW AG”) (“Defendants”). The lawsuit concerns model year 2004 to 2010 U.S. specification BMW 5 Series (E60 and E61) vehicles purchased or leased in the United States or Puerto Rico (“Class Vehicles”). The lawsuit alleges that certain electronic components stored in the spare tire well of the trunk in the Class Vehicles are susceptible to water damage, caused either by clogged sunroof drainage tubes or by some other means of water ingress. Defendants have denied these allegations.
- The Settlement provides an opportunity to be reimbursed for certain past expenses and to obtain a free inspection, relocation, and repair of the affected electronic components.
- Your legal rights are affected whether you act or don’t act, so please read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>		
<b>SUBMIT A CLAIM AND/OR TAKE YOUR CLASS VEHICLE TO AN AUTHORIZED BMW CENTER</b>	Make a claim for relief so that you may be able to receive the valuable benefits available to you under the Settlement and/or take your vehicle to an authorized BMW Center after the Settlement is approved.	Claims must be postmarked or submitted online on or before <b>June 28, 2017</b> . See <i>Question 9, below</i> . You must bring your Class Vehicle to a BMW Center within one year after the Settlement is approved. See <i>Question 7, below</i> .
<b>EXCLUDE YOURSELF</b>	This is the only option that allows you to be part of any other lawsuit, or your own lawsuit, against the Defendants about the legal claims released in this Settlement.	Must be postmarked by <b>May 29, 2017</b> . See <i>Questions 12 and 15, below</i> .
<b>OBJECT</b>	Write to the Court about why you do not like the Settlement.	Must be filed and postmarked by <b>May 29, 2017</b> . See <i>Question 19, below</i> .
<b>GO TO A HEARING</b>	Ask to speak in Court about the Settlement.	The Final Approval Hearing is scheduled for <b>July 28, 2017</b> . See <i>Question 23, below</i> .
<b>DO NOTHING</b>	Give up rights to benefits under the Settlement and to be part of this or any other lawsuit against the Defendants about the legal claims released by the Settlement.	See <i>Question 11, below</i> .

- These rights and options -- **and the deadlines to exercise them** -- are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement, so that the benefits may be provided. Please be patient.

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**BASIC INFORMATION**

**1. Why have I received this notice?**

A Court has authorized this notice because you have a right to know about the proposed settlement of this class action lawsuit, and your options, before the Court decides whether to give "final approval" to the Settlement. This notice explains the lawsuit, the proposed Settlement, and your legal rights. You have received this notice because BMW's records indicate that you are a current or former owner or lessee of a model-year 2004 to 2010 U.S. specification BMW 5 Series (E60 and E61) vehicle purchased or leased in the United States or Puerto Rico.

Judge Katherine B. Forrest of the United States District Court for the Southern District of New York is overseeing this class action lawsuit. The case is known as *Catalano v. BMW of North America, LLC and BMW Aktiengesellschaft*, Civil Action No. 1:15-cv-04889 ("Catalano Action"). The settlement also resolves a class action lawsuit known as *Sharma v. BMW of North America, LLC*, Civil Action No. 3:13-cv-02274-MMC, pending in the United States District Court for the Northern District of California ("*Sharma Action*").

The *Catalano* Action and *Sharma* Action are collectively referred to as the “Actions.” George Catalano and Eric Anderson, two of the people who sued, are called the “Plaintiffs,” and the companies that were sued, BMW NA and BMW AG, are called the “Defendants.”

**2. What is the lawsuit about?**

This lawsuit is about model-year 2004 to 2010 U.S. specification BMW 5 Series (E60 and E61) vehicles (“Class Vehicles”). The lawsuit alleges that certain electronic components located in the spare tire well of the trunk in the Class Vehicles are susceptible to water damage, caused either by clogged sunroof drainage tubes or by some other means of water ingress (the alleged “Defect”). BMW AG, which manufactures BMW vehicles, and BMW NA, which distributes and warrants BMW vehicles in the United States, deny these allegations and stand behind and support their products.

**3. What Vehicles are included in the Settlement?**

The Settlement includes all model-year 2004 to 2010 U.S. specification BMW 5 Series (E60 and E61) vehicles purchased or leased in the United States or Puerto Rico.

**4. Why is there a class action?**

In a class action, one or more people called “Class Representatives” assert claims on behalf of people who have similar claims. All of these people are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who timely exclude themselves from the Class. The Class Representatives in these Actions are Plaintiffs George Catalano and Eric Anderson.

**5. Why is there a Settlement?**

All parties have agreed to a Settlement to avoid the cost and risk of a trial, and so that the people affected can get benefits, in exchange for releasing the Defendants from liability for the claims that were raised or could have been raised involving the Class Vehicle Defect. The Settlement does not mean that the Defendants broke any laws, or otherwise did anything wrong, because Judge Forrest did not decide which side was right. The Class Representatives and the lawyers representing them think the Settlement is best for all Class Members.

**WHO IS IN THE SETTLEMENT**

**6. How do I know if I am a Class Member?**

The Settlement Class includes all persons or entities in the United States and Puerto Rico who currently own or lease, or previously owned or leased, a model-year 2004 to 2010 U.S. specification BMW 5 Series (E60 and E61) vehicle purchased or leased in the United States or Puerto Rico.

BMW’s records indicate that you have or had a Class Vehicle. If you’re not sure whether you are included in the Settlement Class, you may call (toll-free) 1-844-531-5014 with questions.

**THE BENEFITS: WHAT YOU GET**

**7. What are the benefits of the Settlement?**

The benefits include:

Free Inspection, Relocation, and Repair or Replacement of Affected Electronic Modules:

After Judge Forrest grants final approval of the Settlement and the Settlement becomes effective (the “Effective Date”), you will be able to make an appointment with an authorized U.S. BMW Center (dealer) for an inspection of your Class Vehicle, which will include relocation of all modules located in the spare tire well of the trunk, specifically the RDC, PDC, MPM, TCU, LOGIC-7, and SDARS modules. In addition, if an authorized BMW Center determines that any of the modules have suffered water damage, subject to certain exclusions, they will be repaired and replaced. This inspection, relocation, and any necessary repair or replacement will be provided to the Class Member free of charge. During the appointment, warning label PN 71 24 6 777 721, which informs owners and lessees of the Class Vehicles against spilling liquids in the trunk compartment of the Vehicles, will be affixed to the trunk of the Class Vehicle. Any replacement parts installed during the appointment are covered by

BMW NA's standard 2-year/unlimited mileage replacement-parts warranty. *You do not need to submit a Claim Form to obtain these benefits – they will be available to you for one year after the Effective Date of the Settlement.*

The inspection, relocation, and any necessary repair or replacement is only available to model-year 2007 to model-year 2010 Class Vehicles that have been in service for less than 120,000 miles. The inspection, relocation, and any necessary repair or replacement is only available to Class Vehicles that have not previously undergone repair under BMW's Technical Service Bulletin SI B61 13 06 at a BMW Center that was covered under the New Vehicle Limited Warranty or as a goodwill repair. Finally, Class Vehicles where the Defect resulted from operator misuse (i.e., (1) failing to comply with any state's applicable traffic laws, ordinances or regulations; (2) transporting any hazardous materials including, but not limited to, chemical, biological and medical materials); or (3) using the Class Vehicle in any competitive event that may have caused damage to the Vehicle), or by an improper taillight repair, such as after a motor vehicle accident, are excluded from any relief.

Reimbursement for Past Expenses:

If you previously incurred eligible out-of-pocket expenses at an authorized BMW Center or third-party repair shop for relocation, repair, or replacement of the RDC, PDC, MPM, TCU, LOGIC-7, and SDARS modules due to water incursion, you may be entitled to reimbursement up to \$1,500.

Defendants do not warrant or guarantee any repairs performed at third-party repair shops and, should any such repairs fail, you will not be entitled to submit an additional claim. Defendants will not reimburse any work performed at third-party repair shops after the Effective Date of the Settlement. Reimbursement is only available when the repair to the Class Vehicles occurred within ten (10) years of service or when it had less than 120,000 miles, whichever comes first. Finally, Class Vehicles where the Defect resulted from operator misuse (i.e., (1) failing to comply with any state's applicable traffic laws, ordinances or regulations; (2) transporting any hazardous materials including, but not limited to, chemical, biological and medical materials; or (3) using the Class Vehicle in any competitive event that may have caused damage to the Vehicle), or by an improper taillight repair, such as after a motor vehicle accident, are excluded from any reimbursement.

In order to obtain reimbursement for eligible past expenses, you must submit a Claim Form and include all of the following: (a) documentation that identifies the Class Vehicle's Vehicle Identification Number ("VIN"), (b) a dated repair order/invoice that includes a description of the repair, cause of the failure, parts used, labor time and costs, and mileage at the time of repair, and (c) proof of payment for the repair.

*To seek reimbursement for these reimbursement benefits, please complete and submit a Claim Form, as set forth in Answer 9, below.*

\* \* \*

As part of the claims confirmation process, a claim for reimbursement will be rejected if: (1) the vehicle's warranty was voided because (a) the VIN has been altered and cannot be read or otherwise determined, (b) the odometer has been replaced or altered and the true mileage cannot be determined, (c) the vehicle has been declared a total loss or sold for salvage purposes (for reasons unrelated to the Defect), or (d) the vehicle has been used in any competitive event that may have caused damage to the Vehicle; (2) the VIN number associated with the claim does not match the Settlement Class Member's Vehicle's VIN number; (3) the Settlement Class Member has received "goodwill" or other pricing adjustment, coupon, reimbursement, or refund from BMW NA, an authorized BMW Center, or any person or entity, equal to the amount of the claim submitted; (4) the claim for reimbursement is for an item or service that is not covered under this Settlement Agreement; or (5) the claim is fraudulently submitted.

**This is just a summary of the Settlement terms. More details and specific information are available in a document called the Settlement Agreement, which is available at [www.E6061WaterIngressSettlement.com](http://www.E6061WaterIngressSettlement.com).**

**8. What am I giving up in exchange for the Settlement benefits?**

If the Settlement becomes final, Class Members will be releasing Defendants and related people and entities from all of the claims described and identified in Section VII.A of the Settlement Agreement. In essence, the claims released by Class Members are all claims (except for personal injury or damage to property other than the Class

Vehicle) that could arise based on water damage to the affected electronic modules in Class Vehicles. The Settlement Agreement is available at [www.E6061WaterIngressSettlement.com](http://www.E6061WaterIngressSettlement.com). The Settlement Agreement describes the released claims with specific descriptions, in necessarily accurate legal terminology, so read it carefully.

Judge Forrest has appointed specific attorneys to represent you in this lawsuit and Settlement. You can talk to one of the lawyers listed below free of charge if you have questions about the released claims or what they mean. You can also speak with your own attorney, should you have one, about this Settlement.

## HOW TO GET BENEFITS

### 9. How do I get the benefits of the Settlement?

If you are a Class Member and would like to obtain Settlement benefits in the form of free inspection, relocation, and repair or replacement of affected electronic modules in your Class Vehicle, you can do so after the Effective Date of the Settlement by making an appointment for this service with an authorized BMW Center in your area. Judge Forrest will hold a hearing on **July 28, 2017 at 10:00 a.m.** to decide whether to give final approval to the Settlement. Check the settlement website, [www.E6061WaterIngressSettlement.com](http://www.E6061WaterIngressSettlement.com), after that date to find out if the Settlement was given final approval and the deadline to take advantage of this benefit.

If you are a Class Member and would like to obtain reimbursement benefits, you need to complete the Claim Form that accompanies this Notice and submit it online through the settlement website or mail it to the mailing address provided on the Claim Form, with all the required proofs. Additional copies of Claim Forms are available at [www.E6061WaterIngressSettlement.com](http://www.E6061WaterIngressSettlement.com). Claims must be postmarked or submitted online on or before **June 28, 2017**.

These benefits are also subject to limitations, including based on the model year and mileage of your Vehicle, which are discussed in Question 7.

If you have any questions on how to complete the Claim Form or what information is needed, you can call the following toll-free number: **1-844-531-5014**.

*Inspections cannot be scheduled, and claim forms will not be processed nor will payments be issued, until after the Effective Date, which is thirty (30) days after Judge Forrest gives final approval of the Settlement, unless an appeal is filed, in which case it may be longer. Please be patient, and feel free to check the website or call the phone number listed above for current status.*

### 10. What if my claim is denied?

There is a process in the Settlement to resolve disagreements between you and Defendants over your claim. During this process, the court-appointed attorneys listed below will represent you in any dispute regarding relief under the terms of the Settlement, and the dispute will be handled in accordance with the procedures set forth in the Settlement Agreement. You may have the right to appeal any denied claim to a Special Master. If you have questions regarding this process, visit [www.E6061WaterIngressSettlement.com](http://www.E6061WaterIngressSettlement.com) to see a copy of the Settlement Agreement, or contact Class Counsel below.

### 11. What if I do nothing?

If you do nothing, you will give up the right to be part of any other lawsuit against Defendants about the legal claims released by the Settlement. You will be entitled to take your Class Vehicle to a BMW Center for an inspection, relocation, and repair or replacement of the electronic modules. However, you will not receive any of the reimbursement benefits offered by this Settlement unless you timely submit a Claim Form.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 12. Can I exclude myself from this Settlement?

Yes. If you want to keep the right to sue or continue to sue Defendants over the legal issues in this case, then you must take steps to get out of this Settlement. This is called asking to be excluded from – sometimes called “opting out” of – the Class.

**13. If I exclude myself, can I get anything from this Settlement?**

No. If you ask to be excluded, you cannot object to the Settlement and you will not receive any of the benefits of the Settlement. But you may sue, continue to sue, or be part of a different lawsuit against Defendants in the future, including for claims that this Settlement resolves. You will not be bound by anything that happens in this lawsuit.

**14. If I don't exclude myself, can I sue later?**

No. Unless you exclude yourself, you give up the right to sue Defendants for the claims that this Settlement resolves.

**15. How do I exclude myself from the Settlement?**

To exclude yourself from the Settlement, you must send a letter by mail saying that you want to be excluded from *Catalano v. BMW of North America, LLC and BMW Aktiengesellschaft*, Civil Action No. 1:15-cv-04889. Be sure to include: (1) your full name and current address; (2) the model year and VIN of your Class Vehicle(s) and the date(s) of purchase/lease; (3) specifically and clearly state your desire to be excluded from the Settlement and from the Settlement Class; and (4) your signature. You cannot ask to be excluded over the phone or via the internet. You must mail your request to be excluded, postmarked no later than **May 29, 2017**, to the Settlement Administrator at the address below:

KCC  
*Catalano Settlement*  
PO Box 43470  
Providence, RI 02940-3470

Failure to comply with any of these requirements for excluding yourself may result in you being bound by this Settlement.

**THE LAWYERS REPRESENTING YOU**

**16. Do I have a lawyer in the case?**

The Plaintiffs and you have been represented by a number of lawyers and several law firms that have prosecuted this case together. Judge Forrest has appointed the following lawyers to represent you and other Class Members as "Class Counsel":

<p>William A. Kershaw Ian J. Barlow Kershaw, Cook &amp; Talley PC 401 Watt Avenue Sacramento, California 95864</p> <p>Robert L. Starr The Law Offices of Robert L. Starr 23277 Ventura Boulevard Woodland Hills, California 91364</p>	<p>Edward A. Wallace Wexler Wallace LLP 55 West Monroe Street, Suite 3300 Chicago, Illinois 60603</p> <p>Stephen M. Harris The Law Offices of Stephen M. Harris, P.C. 6320 Canoga Avenue, Suite 1500 Woodland Hills, California 91367</p>
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You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

**17. Proposed Service Awards to Class Representatives.**

Class Counsel has requested a payment to the Class Representatives George Catalano and Eric Anderson, not to exceed \$3,500.00 each. Defendants have agreed not to oppose this request. This payment will not reduce any benefits recoverable by members of the Settlement Class.

**18. How will the lawyers be paid?**

As part of the resolution of the Actions, Class Counsel and Defendants have agreed Class Counsel may apply for an award of attorneys' fees, costs, and expenses not to exceed \$1,787,500.00. The Parties have further agreed that Class Counsel will not seek payment of any amount in excess of \$1,787,500.00 if awarded by Judge Forrest. The Class Counsel Fees and Expenses will be paid separate and apart from any relief provided to the Class. Judge Forrest will determine the amount of attorneys' fees, costs, and expenses. Defendants have agreed not to oppose this request. These payments will not reduce the value of the benefits distributed to Class Members. Defendants will also separately pay the costs to administer the Settlement.

**OBJECTING TO THE SETTLEMENT**

**19. How do I tell the Court if I don't like the Settlement?**

You can object to the Settlement if you don't like some part of it. You can give reasons why you think Judge Forrest should not approve it. To object, send a letter saying that you object to the Settlement in *Catalano v. BMW of North America, LLC and BMW Aktiengesellschaft*, Civil Action No. 1:15-cv-04889. You must include: (1) your full name and current address and the name of your attorney and your attorney's address if you are represented by an attorney; (2) the model year and VIN of your Vehicle(s) and the date(s) of purchase or lease; (3) the reasons why you object and the factual and legal reasons for your objection (including all relevant documents that pertain to your objection); (4) state that you have reviewed the Settlement Class definition and understand that you are a Settlement Class Member, and you have not opted out of the Settlement Class; (5) a detailed list of any other objections to any class action settlements you submitted to any court, whether State, Federal, or otherwise, in the United States in the previous five (5) years; (6) a Notice of Intention to Appear at the Final Approval Hearing if you intend to appear in person at the hearing; and (7) your signature. The objection must be filed with the Court on or before **May 29, 2017** and mailed to the Claims Administrator, Class Counsel, and Defendants' Counsel. The mailed copies must be postmarked on or before **May 29, 2017**:

COURT	Clerk of Court United States District Court Southern District of New York Daniel P. Moynihan US Courthouse 500 Pearl Street New York, New York 10007-1312	
CLAIMS ADMINISTRATOR	KCC <i>Catalano Settlement</i> PO Box 43470 Providence, RI 02940-3470	
CLASS COUNSEL	William A. Kershaw Ian J. Barlow Kershaw, Cook & Talley PC 401 Watt Avenue Sacramento, California 95864	Edward A. Wallace Wexler Wallace LLP 55 West Monroe Street, Suite 3300 Chicago, Illinois 60603
DEEFENDANTS' COUNSEL	Christopher J. Dalton Buchanan Ingersoll & Rooney PC 550 Broad Street, Suite 810 Newark, New Jersey 07102-4582	

**20. What's the difference between objecting and excluding myself?**

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

## THE COURT'S FINAL APPROVAL HEARING

### 21. When and where will Judge Forrest decide whether to approve the Settlement?

Judge Forrest will hold a hearing to decide whether to approve the Settlement. If you have filed an objection on time, you may attend and ask to speak, but you don't have to. Judge Forrest will hold a Final Approval Hearing on **July 28, 2017 at 10:00 a.m.**, at the United States District Court for the Southern District of New York, Daniel P. Moynihan US Courthouse, Courtroom 23B, 500 Pearl Street, New York, NY 10007. At this hearing, Judge Forrest will consider whether the Settlement is fair, adequate, and reasonable. If there are objections, Judge Forrest will consider them. Judge Forrest will only listen to people who have asked to speak at the hearing (*See* Question 23 below). Judge Forrest will also decide how much to pay the lawyers representing Class Members and the Class Representatives. After the hearing, Judge Forrest will decide whether to approve the Settlement. We do not know how long these decisions will take. You should monitor [www.E6061WaterIngressSettlement.com](http://www.E6061WaterIngressSettlement.com) to find out if any dates have changed and to learn if Judge Forrest has approved the Settlement.

### 22. Do I have to come to the hearing?

No. Class Counsel will answer any questions Judge Forrest may have, but you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you file and mail your valid written objection on time, Judge Forrest will consider it. You may also pay another lawyer to attend, but it's not required.

### 23. May I speak at the hearing?

You may ask Judge Forrest for permission to speak at the Final Approval Hearing. To do so, you must file a "Notice of Intent to Appear" in *Catalano v. BMW of North America, LLC and BMW Aktiengesellschaft*, Civil Action No. 1:15-cv-04889. Be sure to include your name, address, telephone number, signature, and other requirements outlined in Question 19. You must file your Notice of Intent to Appear no later than **May 29, 2017**, and simultaneously mail it to the addresses listed in Question 19. You cannot speak at the hearing if you exclude or have excluded yourself from the Class.

## GETTING MORE INFORMATION

### 24. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get copies of the Settlement Agreement and related documents at [www.E6061WaterIngressSettlement.com](http://www.E6061WaterIngressSettlement.com). You may also write with questions to P. O. Box 43470 Providence, RI 02940-3470. You can also call the toll-free number, 1-844-531-5014.