

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No.: **500-06-001117-213**

SUPERIOR COURT  
(Class action)

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**FRANÇOIS DÉCARY-GILARDEAU**

Applicant

v.

**GENERAL MOTORS OF CANADA  
COMPANY**

and

**GENERAL MOTORS COMPANY**

Respondents

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**APPLICATION BY RESPONDENTS GENERAL MOTORS OF CANADA  
COMPANY AND GENERAL MOTORS COMPANY FOR LEAVE TO  
ADDUCE RELEVANT EVIDENCE  
(Art. 574, 575, 18 and 19 C.C.P.)**

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**TO JUSTICE CHRISTIAN IMMER S.C.J., RESPONDENTS GENERAL MOTORS OF  
CANADA COMPANY AND GENERAL MOTORS COMPANY RESPECTFULLY  
SUBMITS AS FOLLOWS:**

**I. INTRODUCTION**

1. On January 1, 2021, the Applicant filed his *Demande d'autorisation pour exercer une action collective et pour être représentant*, as appears from the Court record (the "**Application for authorization**");

2. As also appears from the Application for authorization, the Applicant seeks authorization to institute a class action on behalf of the following class:

*Toute personne physique, personne morale de droit privé, société ou association qui a loué et/ou acheté au Canada (subsidairement au Québec) un véhicule GM, de marque Chevrolet, modèle Bolt EV, année 2017, 2018 ou 2019.*

(Hereinafter, the “**Group**”)

3. The Applicant alleges that Respondents misrepresented the autonomy of the batteries of the Chevrolet Bolt EV model year 2017, 2018 and 2019 (the “**Bolt EVs**”). The Applicant alleges these vehicles do not perform as represented in cold weather;
4. The Applicant further alleges that the Bolt EVs’ batteries suffer from a defect making these vehicles a fire hazard;
5. The Applicant suggests the following issues of fact and law to be dealt with collectively for the purposes of the proposed class action, as appears from paragraph 5 of the Application for authorization:
- (i) Les défenderesses ont-elles représenté aux membres que la capacité ou l'autonomie des batteries des Bolts EV se réduisait en hiver?
  - (ii) Est-ce que les Bolts EV des membres posent un danger d'incendie?
  - (iii) Est-ce que les batteries ou une composante reliée aux batteries des Bolts EV sont défectueuses?
  - (iv) Est-ce que le défaut des batteries ou une composante reliée des Bolts EV 2017, 2018 et 2019 est couvert par la garantie du fabricant des défenderesses?
  - (v) Est-ce que les défenderesses ont l'obligation de corriger et/ou réparer le défaut des batteries des Bolts EV 2017, 2018 et 2019?
  - (vi) Est-ce que les défenderesses ont rappelé les Bolts EV des membres afin de faire réduire la capacité ou l'autonomie de leurs batteries de dix pourcent (10%)?
  - (vii) Est-ce que la réduction de la capacité ou l'autonomie des Boltss EV des membres leur donnent le droit de réclamer l'annulation de la vente de leurs Bolts EV?

- (viii) Si oui, est-ce que les membres auraient droit à un remboursement total du prix payé pour leurs Bolts EV?
- (ix) Est-ce que les membres auraient droit de réclamer la correction et/ou réparation des Bolts EV?
- (x) Est-ce que les membres auraient droit à une réduction du prix de vente? Si oui, combien?
- (xi) Est-ce que la responsabilité des défenderesses en dommages-intérêts compensatoires est engagée? Si oui, combien?
- (xii) Est-ce que la responsabilité des défenderesses en dommages-intérêts punitifs est aussi engagée? Si oui, combien?

## II. THE EVIDENCE THE RESPONDENTS SEEK LEAVE TO ADDUCE

- 6. In order to allow this Court to make a determination as to whether the Applicant has an arguable case as required by section 575, paras (2) and (4) CCP and whether the claims of the Class members raise identical similar or related issues of law or fact, as required by section 575 (1) CCP, Respondents are seeking leave to adduce relevant evidence, for the following reasons;
- 7. Applicant alleges that Respondents misrepresented the autonomy of the batteries of the Chevrolet Bolt EV model year 2017, 2018 and 2019 (the “**Bolt EVs**”) and that these vehicles do not perform as represented in cold weather, without providing nor explaining the representations he personally received at time of purchase;
- 8. The allegations of the Applicant in relation to the alleged battery capacity limitation, found at paragraphs 2.12 to 2.15 of the Application for authorization, are not only incomplete, but also misleading;
- 9. Therefore, Respondents are seeking to adduce into evidence for the authorization hearing the following documents:
  - (a) 2017 Bolt EV Owner’s Manual, as **Exhibit GM-1** (English and French versions);
  - (b) 2017 Canadian Limited Warranty and Owner Assistance Information, as **Exhibit GM-2** (English and French versions);
  - (c) 2018 Bolt EV Owner’s Manual, as **Exhibit GM-3** (English and French versions);
  - (d) 2018 Canadian Limited Warranty and Owner Assistance Information, as **Exhibit GM-4** (English and French versions);

- (e) 2019 Bolt EV Owner's Manual, as **Exhibit GM-5** (English and French versions);
  - (f) 2019 Canadian Limited Warranty and Owner Assistance Information, as **Exhibit GM-6** (English and French versions);
10. These Exhibits will provide valuable information to the Court and demonstrate that Applicant's allegations pertaining to Respondents' representations as to the autonomy of the 2017 Bolt EV are implausible or manifestly incorrect;
  11. As such, these Exhibits fill a factual gap left by the Application for authorization, will assist the Court in having a better understanding of the factual context in the present matter, and will be useful for the authorization debate;
  12. The present Application is well founded in fact and in law.

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

- A.** **GRANT** the present *Application by Respondents General Motors of Canada Company and General Motors Company for Leave to Adduce Relevant Evidence*;
- B.** **ALLOW** Respondents General Motors of Canada Company and General Motors Company to file the following Exhibits into the Court record:
  - a. **GM-1:** 2017 Bolt EV Owner's Manual (English and French)
  - b. **GM-2:** 2017 Canadian Limited Warranty and Owner Assistance Information (English and French)
  - c. **GM-3:** 2018 Bolt EV Owner's Manual, (English and French versions);
  - d. **GM-4:** 2018 Canadian Limited Warranty and Owner Assistance Information, (English and French versions);
  - e. **GM-5:** 2019 Bolt EV Owner's Manual, (English and French versions);
  - f. **GM-6:** 2019 Canadian Limited Warranty and Owner Assistance Information, (English and French versions);

C. **THE WHOLE** with legal costs to follow suit.

Montréal, September 24, 2021

*Borden Ladner Gervais*

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**Borden Ladner Gervais LLP**

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## NOTICE OF PRESENTATION

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**TAKE NOTICE** that the foregoing *Application by Respondents General Motors of Canada Company and General Motors Company for Leave to Adduce Relevant Evidence* will be presented for hearing and adjudication before the Honorable Justice Christian Immer of the Superior Court, at a date and time to be determined by the Court.

**PLEASE GOVERN YOURSELVES ACCORDINGLY.**

Montréal, September 24, 2021



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**Borden Ladner Gervais LLP**  
Lawyers for Respondents General Motors  
of Canada Company and General Motors  
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**LIST OF THE EXHIBITS**

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- |             |   |
|-------------|---|
| <b>GM-1</b> | 2017 Bolt EV Owner's Manual (English and French)  |
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| <b>GM-4</b> | 2018 Canadian Limited Warranty and Owner Assistance Information, (English and French versions); |
| <b>GM-5</b> | 2019 Bolt EV Owner's Manual, (English and French versions)                                      |

**GM-6**

2019 Canadian Limited Warranty and Owner Assistance Information,  
(English and French versions)

Montréal, September 24, 2021

*Borden Ladner Gervais*

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EXHIBITS GM-1 TO GM-6**

ORIGINAL

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