

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

(Class action)
SUPERIOR COURT

No.: 500-06-001117-213

FRANÇOIS DÉCARY-GILARDEAU

Applicant

v.

**GENERAL MOTORS OF CANADA
COMPANY**

and

GENERAL MOTORS COMPANY

and

GENERAL MOTORS LLC.

Respondents

**RESPONDENTS' SECOND APPLICATION TO ADDUCE RELEVANT EVIDENCE
(Art. 574 al 3 C.C.P.)**

TO THE HONORABLE CHRISTIAN IMMER S.C.J., RESPONDENTS GENERAL MOTORS OF CANADA COMPANY, GENERAL MOTORS COMPANY AND GENERAL MOTORS LLC RESPECTFULLY SUBMIT AS FOLLOWS:

I. INTRODUCTION

2. On October 8, 2021, the Applicant filed a *Demande modifiée pour autorisation d'exercer une action collective et pour être représentant*, as appears from the Court record;
3. On November 11, 2021, the Respondents filed their preliminary motions, including an *Amended Application to Adduce Relevant Evidence*, as appears from the Court record;
4. On November 29, 2021, the *Amended Application to Adduce Relevant Evidence* and authorized the Applicant's examination was granted. The Respondents were allowed to file Owner's manual excerpts (Exhibit GM-1.1), warranty information (Exhibit GM-2), marketing material (Exhibits GM-7) and documents about the recall (Exhibits GM-8, GM-9);

5. On February 18, 2022, the Respondents deposed the Applicant on his experience with the recall. As part of his examination, the Applicant confirmed that he received the repair associated with the recall and that there was no outstanding issues with the alleged battery defect;
6. On March 8, 2022, and in response to his deposition, the Applicant filed a new application for leave to modify his application for authorization and a *Demande remodifiée pour autorisation d'exercer une action et pour être représentant*;
7. On March 31, 2022, the Applicant amended – by email – his application for leave to modify his application for authorization and submitted a new version of the *Demande remodifiée pour autorisation d'exercer une action et pour être représentant* (the “**Re-Amended Application for Authorization**”);
8. The Re-Amended Application for Authorization was formally notified on April 8, 2022;

II. THE EVIDENCE THE RESPONDENTS SEEK TO ADDUCE

A. CAUSE OF ACTION PERTAINING TO MISREPRESENTATIONS OF THE BOLTS' RANGE

9. Following his deposition, the Applicant stressed that the range of his vehicle does not reach 383 km. To support his allegations, the Applicant relied on pictures of the battery gauge of his vehicle (Re-Amended Application for Authorization, par. 2.67; Exhibits R-7.8);
10. The Respondents seek to adduce evidence explaining how the gauge mentioned in the allegations and shown in Exhibits R-7.8 functions;
11. As such, the Respondents seek to adduce the following evidence:
 - (a) Exhibit GM-9, Affidavit of Jeremy Short, Vehicle Chief Engineer for the Chevrolet Bolt EV at General Motors LLC;
 - (b) Exhibit GM-10, Excerpt of the Bolt EV 2017 Owner's Manual – Battery Gauge;

B. CAUSE OF ACTION BASED ON ALLEGED MISREPRESENTATIONS REGARDING FAST CHARGING STATIONS

12. Following his latest amendment, the Applicant introduced a new cause of action. He alleges that the Respondents misrepresented the availability of fast charging stations in Quebec (Re-Amended Application for Authorization, par. 2.79-2.81; Exhibits R-7.11);
13. In this context, the Respondents seek to adduce into evidence Exhibit GM-11, Excerpt of the Bolt EV 2017 Owner's Manual – Charging;

14. Exhibit GM-11 describes the process for charging the high voltage battery;
15. The proposed evidence is essential for assessing the authorization criteria and more particularly subsection 575(2) C.p.c.;
16. As such, this Exhibit fills 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;
17. The proposed evidence is non-technical, succinct and is limited to what is necessary and essential for the authorization debate;

FOR THESE REASONS, MAY IT PLEASE THE COURT:

- A. GRANT** the present application;
- B. ALLOW** Respondents General Motors of Canada Company, General Motors Company and General Motors LLC to file into the Court record:
 - a. A signed and sworn version of Exhibit GM-9, Affidavit of Jeremy Short, Vehicle Chief Engineer for the Chevrolet Bolt EV at General Motors LLC;
 - b. Exhibit GM-10, Excerpt of the Bolt EV 2017 Owner's Manual – Battery Gauge
 - c. Exhibit GM-11, Excerpt of the Bolt EV 2017 Owner's Manual – Charging
- C. THE WHOLE** without legal costs.

Montréal, April 29, 2022

Borden Ladner Gervais

Borden Ladner Gervais LLP

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ORIGINAL

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