

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class action)

No.: 500-06-001117-213

FRANÇOIS DÉCARY-GILARDEAU

Applicant

v.

GENERAL MOTORS COMPANY OF
CANADA

and

GENERAL MOTORS COMPANY

Respondents

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

TO JUSTICE CHRISTIAN IMMER S.C.J., RESPONDENTS GENERAL MOTORS
COMPANY OF CANADA 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 seek 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 (subsidièrement au Québec) un véhicule GM, de marque Chevrolet, modèle Bolt EV, année 2017, 2018 ou 2019.

(Hereinafter, the "**Group**")

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) (vii) Est-ce que la réduction de la capacité ou l'autonomie des Bolts EV des membres leur donnent le droit de réclamer l'annulation de la vente de leurs Bolt EV?
- (viii) Si oui, est-ce que les membres auraient droit à un remboursement total du prix payé pour leurs Bolt EV?
- (ix) Est-ce que les membres auraient droit de réclamer la correction et/ou réparation les Bolt 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. LEAVE TO EXAMINE APPLICANT

3. 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 examine the Applicant prior to the authorization, for the following reasons;
4. First, 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.
5. Second, the Applicant alleges that the Bolt EVs' batteries suffer from a defect making the capacity of the battery life reduced in the winter, without explaining how the battery life is affected on his own vehicle;

6. Therefore, Respondents are seeking leave to examine Applicant on the following matters, which are overly broad in the Motion for Authorization:
 - (a) The written and oral representations made to him related to the Bolt EV batteries (paragraphs 2.8 of the Motion for Authorization) and the circumstances of the purchase of his vehicle;
 - (b) The use of his vehicle and the alleged lack of autonomy of his vehicle during winter (paragraphs 2.12 and 2.14 of the Motion for Authorization);
7. The examination would not be longer than 90 minutes and would be limited to the above stated matters;
8. 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 Company of Canada and General Motors Company for Leave to Examine the Applicant*;
- B. **ALLOW** Respondents General Motors Company of Canada and General Motors Company to examine Applicant François Décary-Gilardeau;
- C. **RESERVE** General Motors Company of Canada and General Motors Company's right to submit the transcripts of Applicant François Décary-Gilardeau and the exhibits and documents produced during the examination or as undertakings, in whole or in part, as evidence at the authorization hearing;
- D. **THE WHOLE** with legal costs to follow suit.

Montréal, September 2, 2021

Borden Ladner Gervais

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TAKE NOTICE that the foregoing *Application by Respondents General Motors Company of Canada and General Motors Company for Leave to Examine the Applicant* 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 2, 2021



Borden Ladner Gervais LLP
Lawyers for Respondents General Motors
Company of Canada and General Motors
Company

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ORIGINAL

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