

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class action)

No.: 500-06-001117-213

FRANÇOIS DÉCARY-GILARDEAU

Applicant

v.

GENERAL MOTORS OF CANADA
COMPANY

and

GENERAL MOTORS COMPANY

Respondents

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

TO THE HONORABLE CHRISTIAN IMMER S.C.J., RESPONDENTS GENERAL
MOTORS OF CANADA COMPANY AND GENERAL MOTORS COMPANY
RESPECTFULLY SUBMIT 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, which was amended on October 8, 2021 (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, as amended on October 8, 2021:

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, 2019, 2020, 2021 ou 2022, ou modèle Bolt EUV 2022.

(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 et Bolts EUV se réduisait en hiver?
- (ii) Est-ce que les Bolts EV et Bolts EUV des membres sont défectueuses ou posent un danger d'incendie?
- (iii) Est-ce que la batterie des Bolts EV et Bolts EUV ou une de ses composantes est défectueuses?
- (iv) Est-ce que le défaut des batteries ou une composante reliée des Bolts EV 2017, 2018, 2019, 2020, 2021 et 2022, et Bolt EUV est couvert par la garantie du fabricant offerte par les défenderesses?
- (v) Est-ce que les défenderesses ont une obligation de diligence et une responsabilité en tant que fabricant ? Dans l'affirmative, les défenderesses ont-elles l'obligation de corriger et/ou réparer le défaut des batteries des Bolts EV 2017, 2018, 2019, 2020, 2021 et 2022, et Bolts EUV?
- (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%) ont demandé aux membres de réduire la capacité ou l'autonomie de leurs batteries de dix pourcent (10%) et ont demandé aux membres d'éviter d'épuiser la batterie à moins de 113 km?
- (vii) Est-ce que le défaut dans la batterie et la réduction de la capacité ou l'autonomie des Boltss EV et Bolts EUV des membres leur cause préjudice et leur donne le droit de réclamer l'annulation de la vente de leurs Bolts EV et Bolt EUV?
- (viii) Si oui, est-ce que les membres auraient droit à un remboursement total du prix payé pour leurs Bolts EV et Bolt EUV?
- (ix) Est-ce que les membres auraient droit de réclamer la correction et/ou réparation des Bolts EV et Bolt EUV?
- (x) Est-ce que les membres auraient droit à une réduction du prix de vente, des dommages-intérêts ou une indemnité? Si oui, combien?
- (xi) Est-ce que la responsabilité des défenderesses en dommages-intérêts compensatoires est engagée? Si oui, pour combien?
- (xii) Est-ce que la responsabilité des défenderesses en dommages-intérêts punitifs est aussi engagée? Si oui, pour 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, (...) 2019, 2020, 2021 and 2022 (the "**Bolt EVs**") and the Bolt EUV (collectively the "**Bolts**") 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 Bolts' batteries suffer from an alleged defect making the capacity of the battery life reduced in the winter, without explaining how the battery life is affected on his own vehicle;
- 5.1 Third, the Applicant further alleges that the Bolts' batteries suffer from an alleged defect making these vehicles a fire hazard. However, Applicant fails to mention that the Respondents are executing a recall which provides a permanent fix to the alleged defect;
- 5.2 The permanent fix to the alleged defect is at the heart of this class action;
6. Therefore, Respondents are seeking leave to examine Applicant on the following matters, which are overly broad in the (...) Application for authorization:
 - (a) The written and oral representations made to him related to the Bolt EV batteries (paragraph 2.8 of the (...) Application 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 (...) Application for authorization);
 - (c) The recall deployed by the Respondents and its impact on Applicant's vehicle (paragraphs 2.39 and 2.64 of the Application 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 *Amended Application by Respondents General Motors of Canada Company and General Motors Company for Leave to Examine the Applicant*;

- B. **ALLOW** Respondents General Motors of Canada Company and General Motors Company to examine Applicant François Décary-Gilardeau;
- C. **RESERVE** General Motors of Canada Company and General Motors Company's right to submit (...) the exhibits and documents produced during the examination Applicant Francois Décary-Gilardeau or as undertakings, in whole or in part, as evidence at the authorization hearing;
- D. **THE WHOLE** without legal costs.

Montréal, November 3, 2021

Borden Ladner Gervais

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TAKE NOTICE that the foregoing *Amended Application by Respondents General Motors of Canada Company 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, November 3, 2021

Borden Ladner Gervais

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Lawyers for Respondents General Motors
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