

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

(Class action)
SUPERIOR COURT

No.: 500-06-001170-212

KARINE PEILLON

Applicant

v.

AUDI CANADA INC.

and

VOLKSWAGEN GROUP CANADA INC.

Respondents

**APPLICATION BY RESPONDENTS AUDI CANADA INC. AND
VOLKSWAGEN GROUP CANADA INC. TO STAY THE PROCEEDINGS
(Art. 49, 158(5), 18 and 19 C.C.P.)**

**TO THE HONORABLE CHRISTIAN IMMER S.C.J., RESPONDENTS AUDI CANADA
INC. AND VOLKSWAGEN GROUP CANADA INC. RESPECTFULLY SUBMIT AS
FOLLOWS:**

1. On November 23, 2021, the Applicant filed her *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*, as appears from the Court record, (the “**Application for authorization**”);
2. The main object of the Application for authorization is to obtain a remedy for vehicle owners of various Audi vehicles. The Passenger Occupancy Detection System (PODS) is allegedly defective;
3. The Respondents have deployed significant efforts to address the alleged problem and provide a satisfactory solution to all vehicle owners under recalls 69-BY (Audi Canada Inc.) and 2021-169 (Transport Canada);
4. On or around December 16, 2021, the Respondents notified dealers that the final repair was available and provided instructions on how to perform said repair, as it appears from Audi Dealer Communication – Repair Available – Safety Recall 69BY, communicated in support thereof as **Exhibit R-1**;

5. The vehicle population for which the repair is available is the same as the one targeted by the proposed class action, as it appears from the Application for authorization at paragraph 1 and **Exhibit P-10**;
6. Respondents are therefore deploying a recall campaign and contacting vehicles owners to notify them that their vehicle is eligible for repairs, as it appears from Audi Canada – Important Safety Recall Template Letter, communicated in support thereof as **Exhibit R-2**;
7. Until the recall is completed, the Court will not be in a position to fully determine the relevant time period, available remedies, relevant evidence and class description;
8. Consequently, a stay of proceedings is hereby requested to allow the Respondents to complete the deployment of the recall and to allow the Court to rely on all the necessary elements needed to properly assess the authorization criteria, rule on the group description, the questions of law and facts and the conclusions to be authorized, as the case may be, if in fact the case is to be authorized, which is not admitted and in fact contested;
9. At the very least, the hearing on the Application for authorization should not proceed before the Applicant receives the repair;
10. It is in fact in the interest of justice, of all parties, and the Court, to have a better understanding and knowledge of how the issue raised in the Application for authorization is resolved;
11. Ordering a stay is coherent with the proportionality principle, and will save judicial resources as well as costs for the parties;
12. Respondents ask this Honorable Court for a stay of proceedings until September 30, 2022 or until notice from the Respondents that the recall is completed, at the earliest of the after-mentioned dates;
13. 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 Audi Canada Inc. and Volkswagen Group Canada Inc. to Stay the Proceedings*;
- B. **STAY** the present proceedings until September 30, 2022 or until notice from the Respondents that the recall is completed, at the earliest of the after-mentioned dates;

C. **THE WHOLE** without legal costs.

Montréal, February 25, 2022

Borden Ladner Gervais

Borden Ladner Gervais LLP

Lawyers for Respondents Audi Canada
Inc. and Volkswagen Group Canada Inc.

Mtre. Stéphane Pitre

Mtre. Anne Merminod

Mtre. Alexis Leray

1000 De La Gauchetière Street West
Suite 900

Montréal (Québec) H3B 5H4

Tel.: 514.954.3147 (SP);

514.954.2529 (AM);

514.954.2508 (AL)

Fax: 514.954.1905

Email: spitre@blg.com;

amerminod@blg.com;

aleray@blg.com

Notification: notification@blg.com

O/File: 289824.000423

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ORIGINAL

BLG 1000, De La Gauchetière Street West
Suite 900
Montréal, QC, Canada H3B 5H4
Tel.: 514.879.1212
Fax: 514.954.1905
spitre@blg.com;
amerminod@blg.com;
aleray@blg.com

Borden Ladner Gervais
B.M. 2545

Mtre. Stéphane Pitre
Mtre. Anne Merminod
Mtre. Alexis Leray
File: 289824.000423