C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF LONGUEUIL

S U P E R I O R C O U R T
(Class Action)

N^{O}.: 505-06-000029-228

JEAN VALIQUETTE,

and al.

Plaintiffs

v.

AUDI CANADA INC.,

and al.

Defendants

APPLICATION FOR LEAVE TO ADDUCE RELEVANT EVIDENCE OF THE DEFENDANT AUDI CANADA INC.

(ART. 574 al. 3 CCP)

TO THE HONOURABLE STÉPHANE LACOSTE OF THE SUPERIOR COURT, ACTING AS THE DESIGNATED JUDGE IN THE PRESENT CASE, THE DEFENDANT AUDI CANADA INC. RESPECTFULLY SUBMIT AS FOLLOWS:

I. Introduction

1. The Defendant Audi Canada Inc. ("**AC**") is seeking leave from this Honourable Court to file relevant evidence to be used in the context of the hearing of the *Demande pour autorisation d'exercer une action collective et pour être représentants* (the "**Application for Authorization**"), the whole pursuant to Article 574 and ff. of the *Code of Civil Procedure* (the "**CCP**").

2. More specifically, AC seeks leave to adduce a sworn declaration (and 1 exhibit attached thereto) from Joshua Wood (the "**Declaration**"), Director of Digital Portfolio and Architecture of the Defendant AC, in order to ensure that the Court has the necessary facts to fairly consider the criteria for authorization set out at Article 575 CCP. The Declaration is communicated hereto as **Exhibit A-1,** together with **Exhibit JW-1**.

II. The Application for Authorization

3. By way of the Application for Authorization dated January 17, 2022, Jean Valiquette, Marc Bergeron and Roxane Saulnier (the "**Class Applicants**") seek to initiate a class action proceeding against AC on behalf of the following class:

> "*Tous les consommateurs qui, depuis le 31 juillet 2018, ont payé un montant supérieur à celui initialement annoncé par les défenderesses et/ou se sont fait exiger une somme pour un bien ou un service par les défenderesses sans qu'ils ne l'aient demandé, lors de l'achat ou la location d'un véhicule neuf ou usagé.*" (the "**Proposed Class**");

4. The Class Applicants allege that the defendants have violated sections 219, 223, 224c), 228 and 230a) of the *Consumer Protection Act* (the "**CPA**"), by allegedly charging a higher price for the purchase of vehicles than that advertised.

5. The Class Applicants seek to obtain the following condemnations: (i) the difference between the amount paid and the amount allegedly advertised and (ii) punitive damages of $1,000 per class member.

III. The Usefulness of the Proposed Declaration for the Authorization Assessment

6. The allegations contained in the Application for Authorization only partially depict the factual matrix relevant to the Plaintiffs' proposed cause of action. In particular, the Application for Authorization provides an incomplete and inaccurate depiction of AC's business model and relies on limited portion of AC's website, which are taken out of context. The Application for Authorization's allegations only partially and/or incorrectly depict:

   i. The operations of AC and of its website, in particular the fact that (a) AC does not sell or lease vehicles to consumers through its website or any other medium and (b) does not set the sale or lease price (including any fees related thereto) at which the vehicles are sold or leased to consumers;

   ii. The fact that the authorized retailers are the ones that independently determine the sale or lease price of a vehicle and are the ones completing the sale or lease transaction of Audi branded vehicles with consumers;

   iii. The fact that the screenshots of AC's website selected by the Class Applicants all originate from the "*Models*" module and that they are incomplete and taken out of context; and

   iv. The fact that the "*Models*" module of AC's website is only a tool allowing the consumers to select and design a hypothetical Audi vehicle model and is not intended to provide a selling or lease price.

7. Therefore, the Declaration (Exhibit A-1 to this application) and the Exhibit attached thereto (Exhibit JW-1) will permit to clarify, complete and correct the factual elements and allegations raised in the Application for Authorization with respect to the above-mentioned elements.

8. The Declaration will also enlighten the Court as to the way to navigate through AC's website and what is displayed on the website.

9. All of the elements mentioned above will permit this Honourable Court to determine if the Class Applicants have sufficiently pleaded their personal cause of action against AC.

10. This will further allow this Honourable Court to have all of the necessary facts in its assessment of the criteria provided at Article 575 CCP.

IV. Conclusion

11. In light of the foregoing, AC respectfully submits that the Declaration (Exhibit A-1) and Exhibit attached thereto (Exhibit JW-1) are necessary, useful and reasonable in order for this Honourable Court to take cognizance of relevant facts in order to determine whether the Class Applicants have an "arguable case" and whether the authorization criteria set out at Article 575 CCP are met.

12. Under the circumstances, the present application is proportional and in the interest of justice.

13. Moreover, such evidence will be helpful to determine the appropriate class description and identify the questions to be dealt with collectively, if necessary, as required by Article 576 CCP.

14. This application is well founded in fact and in law.

WHEREFORE, MAY IT PLEASE THE COURT TO:

GRANT the present *Application for Leave to Adduce Relevant Evidence of the Defendant Audi Canada Inc.*;

AUTHORIZE the Defendant, Audi Canada Inc., to submit and file into the Court record the sworn Declaration of Joshua Wood (Exhibit A-1), together with the Exhibit attached thereto (Exhibit JW-1);

THE WHOLE without costs, except in the event of contestation.

MONTREAL, May 20, 2022

McMillan LLP

McMillan LLP
Attorneys for Defendant, Audi Canada Inc.
Me Sidney Elbaz /
Me Yassin Gagnon-Djalo
1000, Sherbrooke West, suite 2700
Montréal (Québec) H3A 3G4
Phone : 514 987-5084 / 514 375-5106
Fax : 514 987-1213
E-mail: sidney.elbaz@mcmillan.ca /
yassin.gagnon-djalo@mcmillan.ca

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ET ALS.

ORIGINAL

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Me Sidney Elbaz / Me Yassin Gagnon-Djalo
sidney.elbaz@mcmillan.ca
yassin.gagnon-djalo@mcmillan.ca
Procureur pour / Attorney for
AUDI CANADA INC..

McMillan S.E.N.C.R.L., s.r.l./LLP
1000 Sherbrooke O./W., #2700, Montréal, Québec,
Canada H3A 3G4
t 514.987.5084 / 514.375.5106 | f 514.987.1213
BM0259