

FC 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.

VOLKSWAGEN GROUP CANADA INC.,

and al.

Defendants

**APPLICATION FOR LEAVE TO EXAMINE ROXANE SAULNIER OF THE
DEFENDANTS VOLKSWAGEN GROUP CANADA INC., HYUNDAI AUTO CANADA
CORP., KIA CANADA INC., AUTOMOBILES VOLVO CANADA LTÉE, MAZDA
CANADA INC., JAGUAR AND LAND ROVER CANADA ULC, BMW CANADA INC.,
AUDI CANADA INC., HARLEY DAVIDSON MOTOR COMPANY AND
AUTOMOBILES PORSCHE CANADA LTÉE**

(ART. 574 al. 3 CCP)

**TO THE HONOURABLE STÉPHANE LACOSTE OF THE SUPERIOR COURT, ACTING
AS THE DESIGNATED JUDGE IN THE PRESENT CASE, THE DEFENDANTS,
VOLKSWAGEN GROUP CANADA INC., HYUNDAI AUTO CANADA CORP., KIA
CANADA INC., AUTOMOBILES VOLVO CANADA LTÉE, MAZDA CANADA INC.,
JAGUAR AND LAND ROVER CANADA ULC, BMW CANADA INC., AUDI CANADA
INC., HARLEY DAVIDSON MOTOR COMPANY AND AUTOMOBILES PORSCHE
CANADA LTÉE RESPECTFULLY SUBMIT AS FOLLOWS:**

I. Introduction

1. The Defendants Volkswagen Group Canada Inc. (“**VGC**”), Hyundai Auto Canada Corp., Kia Canada Inc., Automobiles Volvo Canada Ltée, Mazda Canada Inc., Jaguar and Land Rover Canada ULC, BMW Canada Inc., Audi Canada Inc., Harley Davidson Motor Company and Automobiles Porsche Canada Ltée (notably referred to in the Application for Authorization as the vehicles’ manufacturers, the “**OEMs Defendants**”) are seeking leave from this Honourable Court to examine Roxane Saulnier in order to ensure that the Court has the necessary facts to fairly consider the criteria for authorization set out at Article 575 of the *Code of Civil Procedure* (the “**CCP**”), 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 CCP and ff.

II. The Application for Authorization

2. 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 the defendants 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**”);

3. 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.
4. 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.
5. With respect to her personal situation, Ms. Saulnier, one of the Class Applicants, alleges that she visited VGC's website for an ID.4 (paragraphs 244-245 of the Application for Authorization and Exhibit P-94).
6. Ms. Saulnier claims that she contacted the Volkswagen Haut-Richelieu dealership (paragraph 247 of the Application for Authorization) and the Alma Volkswagen dealership (paragraphs 248-267 of the Application for Authorization) in order to purchase the ID.4 vehicle.
7. Ms. Saulnier alleges that she was unable to acquire the vehicle she was looking for at the first price allegedly advertised (paragraph 269 of the Application for Authorization) and she is claiming a reduction of her obligation equivalent to the amount allegedly paid in excess of the advertised price, namely in the amount of \$2,549, plus taxes, as well as punitive damages (paragraph 271 of the Application for Authorization).

III. The Usefulness of the Proposed Examination of Ms. Saulnier for the Authorization Assessment

8. The examination of Ms. Saulnier, for a period up to 2 hours, will be useful to assess if the authorization criteria are met, and more particularly to determine and better assess:

- i. The specific functions and modules consulted by Ms. Saulnier when navigating through VGC's website and Ms. Saulnier's understanding of the different types of functions and modules accessible through VGC's website;
 - ii. Ms. Saulnier's purchase process, including:
 - a. The factors considered by Ms. Saulnier when proceeding with the purchase of a vehicle and the circumstances regarding such; and
 - b. Ms. Saulnier interactions with the dealerships.
 - iii. The verifications made by Ms. Saulnier with regards to the Proposed Class, including (a) the efforts made to obtain knowledge on the putative class members; (b) to ensure that the putative class members were in support of the Application for Authorization and (c) to verify if other putative class members suffered similar issues; and
 - iv. The circumstances in which she has accepted to act as Class Applicant and her qualifications to act as such.
9. The answers to be provided concerning these circumscribed subjects are necessary for this Honourable Court to assess:
 - i. If the claims of the class members raise identical, similar or related issues of law or fact (Art. 575 (1) CCP);
 - ii. If the facts alleged appear to justify the conclusions sought (Art. 575 (2) CCP);
 - iii. If Ms. Saulnier and the other Class Applicants have a viable personal claim with regards to the facts alleged in the Application for Authorization and if they are in a position to properly represent the class members (Art. 575 (4) CCP); and
 - iv. The scope and the definition of the proposed class.

IV. Conclusion

10. In light of the foregoing, the OEMs Defendants respectfully submit that the examination of Ms. Roxane Saulnier is necessary, useful and reasonable in order for this Honourable Court to take cognizance of relevant facts in order to determine whether Ms. Saulnier and the other Class Applicants have an "arguable case" and whether the authorization criteria set out at Article 575 CCP are met.
11. Under the circumstances, the present application is proportional and in the interest of justice.
12. 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.

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

WHEREFORE, MAY PLEASE THE COURT TO:

GRANT the present *Application for Leave to Examine Roxane Saulnier of the Defendant Volkswagen Group Canada Inc., Hyundai Auto Canada Corp., Kia Canada Inc., Automobiles Volvo Canada Ltée, Mazda Canada Inc., Jaguar and Land Rover Canada ULC, BMW Canada Inc., Audi Canada Inc., Harley Davidson Motor Company and Automobiles Porsche Canada Ltée;*

AUTHORIZE Volkswagen Group Canada Inc., Hyundai Auto Canada Corp., Kia Canada inc., Automobiles Volvo Canada Ltée, Mazda Canada inc., Jaguar and Land Rover Canada ULC, BMW Canada Inc., Audi Canada Inc., Harley Davidson Motor Company and Automobiles Porsche Canada Ltée, to examine one of the proposed Class Applicants, Roxane Saulnier, for a period of 2 hours before the hearing of the *Demande pour autorisation d'exercer une action collective et pour être représentants;*

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

MONTREAL, May 20, 2022

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(ART. 574 al. 3 CCP)**

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