

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT
(Class Action)

N^o.: 500-06-001188-222

SIMON DEROME

Plaintiff

v.

U-HAUL CO. (CANADA) LTÉE.

Defendant

**APPLICATION FOR LEAVE TO ADDUCE RELEVANT EVIDENCE OF THE
DEFENDANT U-HAUL CO. (CANADA) LTÉE.**

(ART. 574 al. 3 CCP)

**TO THE HONOURABLE DONALD BISSON OF THE SUPERIOR COURT, ACTING AS
THE DESIGNATED JUDGE IN THE PRESENT CASE, DEFENDANT U-HAUL CO.
(CANADA) LTÉE, RESPECTFULLY SUBMITS AS FOLLOWS:**

Introduction

1. The Defendant U-Haul Co. (Canada) Ltée. (“**U-Haul Canada**”) is seeking leave from this Honourable Court to file relevant evidence to be used in the context of the hearing of the *Demande d’autorisation d’exercer une action collective et pour être représentante* (the “**Application for Authorization**”), the whole pursuant to article 574 al. 3 of the *Code of Civil Procedure* (the “**CCP**”).
2. More specifically, U-Haul Canada seeks leave to examine the Class Applicant, Mr. Derome, 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 Application for Authorization

3. By way of the Application for Authorization dated May 24, 2022, Mr. Derome seeks to initiate a class action proceeding against U-Haul Canada on behalf of the following class:

“Tout consommateur ayant conclu un contrat, au Québec, auprès de la défenderesse, pour la location d’un véhicule avec retour dans une localité différente de celle où il a été obtenu (location « interurbaine » / « One Way »), lorsque la réservation a été

effectuée à partir du site web de la défenderesse ou de son application mobile, entre le 27 janvier 2018 et le 31 décembre 2021, et ayant payé des frais libellés « frais environnementaux » (the “**Proposed Class**”).

4. Mr. Derome alleges that U-Haul Canada has violated section 224 of the *Consumer Protection Act* (the “**CPA**”).
5. He alleges that the Defendant has misled consumers in the context of vehicle rentals in order to give consumers the false impression that they have access to some rental prices that would not be, in reality, the charged prices.
6. As a result, Mr. Derome seeks to obtain the following condemnations: (i) a reduction of its obligation and (ii) punitive damages for an amount to be determined.
7. With respect to his personal situation, Mr. Derome alleges at paragraphs 2.19 to 2.21 of the Application for Authorization, that on July 11, 2021, he booked a 20-foot van on U-Haul Canada’s website “www.uhaul.com”, as would appear from Exhibits P-3, P-4, P-5 and P-12 filed in support of the Application for Authorization.
8. He further alleges, at paragraph 2.22 of the Application for Authorization, that he saw the amount charged for the environmental fees at the end of the reservation process on the website.

The Proposed Examination of Class Applicant for Authorization Assessment

9. U-Haul Canada proposes to conduct a short examination, for a period up to 1 hour, on the following limited and relevant topics:
 - i. The remedy sought by Mr. Derome;
 - ii. The online booking process experienced by Mr. Derome with U-Haul’s platform (web/mobile application) and with other competitors;
 - iii. Mr. Derome’s alleged inconvenience, trouble and other prejudice suffered as a result of his online booking experience with U-Haul, if any; and
 - iv. The verifications made by Mr. Derome regarding the Proposed Class, including the efforts made (a) to obtain knowledge on the class members; (b) to ensure that the class members support the Application for Authorization and (c) to verify if the class members suffered similar issues.
10. 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); and
- iii. If the Class Applicant has a viable personal claim with regards to the facts alleged and is in a position to properly represent the class members (575 (4) CCP).

Conclusion

11. In light of the foregoing, U-Haul Canada respectfully submits that the examination of the Class Applicant is necessary, useful and reasonable in order for this Honourable Court to take cognizance of the relevant facts in order to determine whether Mr. Derome has an “arguable case” and whether the authorization criteria set out at article 575 CCP are met.
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. The examination of the Class Applicant should be held out-of-court, prior to the authorization hearing, in order to allow the parties to adequately refer to said examination in their written and oral representations and to prepare their arguments accordingly.
14. Under the circumstances, the present application is proportional and in the interest of justice.
15. 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, U-Haul Co. (Canada) Ltée.*;

AUTHORIZE U-Haul Co. (Canada) Ltée. to examine out-of-court the proposed Class Applicant, Simon Derome, for a period of 1 hour, at least one (1) month prior to the hearing of the *Demande d'autorisation d'exercer une action collective et pour être représentant*;

AUTHORIZE U-Haul Co. (Canada) Ltée. to file as evidence all of the documents referred to (or used) during the examination of the proposed Class Applicant, Simon Derome, in the Court record;

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

MONTREAL, September 29, 2022

McMillan LLP

McMILLAN LLP

Attorneys for the Defendant, U-Haul Co.
(Canada) Ltée.

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SWORN DECLARATION

I, the undersigned, Yassin Gagnon-Djalo, lawyer exercising my profession at McMillan LLP, located at 1000 Sherbrooke Street West, Suite 2700, Montreal, Quebec, H3A 3G4, solemnly declares that:

1. I am one of the attorneys for the Defendant U-Haul Co. (Canada) Ltée.;
2. All the facts alleged in this *Application for leave to adduce relevant evidence of the defendant U-Haul Co. (Canada) Ltée.* are true to the best of my knowledge.

AND I HAVE SIGNED

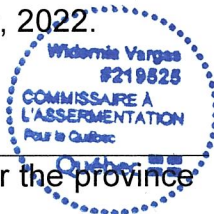


YASSIN GAGNON-DJALO

Solemnly affirmed in Montreal, Québec,
and received in Montreal Québec, on
this 29th day of September, 2022.



Commissioner of Oaths for the province
of Quebec



CANADA

PROVINCE OF QUÉBEC
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SUPERIOR COURT
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N^o.: 500-06-001188-222

SIMON DEROME

Plaintiff

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U-HAUL CO. (CANADA) LTÉE.

Defendant

NOTICE OF PRESENTATION

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TAKE NOTICE that the *Application for leave to adduce relevant evidence of the Defendant, U-Haul Co. (Canada) Ltée (Art. 574, al. 3 C.C.P.)* will be presented for adjudication before the Honourable Donald Bisson, at a time and room to be determined by the Court and by a technological means to be determined and communicated to the parties.

PLEASE GOVERN YOURSELF ACCORDINGLY.

MONTREAL, September 29, 2022

McMillan LLP

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Attorneys for the Defendant, U-Haul Co.
(Canada) Ltée.

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**Me Sidney Elbaz / Me Joséane Chrétien /
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Procureur pour / Attorney for
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