

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
No.: 500-06-000977-195

SUPERIOR COURT
(Class Action)

DENIS GAUTHIER

[...] Plaintiff

v.

BOMBARDIER INC.

-and-

ALAIN BELLEMARE

-and-

JOHN DI BERT

Defendants

**AMENDED MOTION FOR AUTHORIZATION TO BRING AN ACTION
PURSUANT TO SECTION 225.4 OF THE QUÉBEC *SECURITIES ACT* AND
APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION**

**IN SUPPORT OF HIS MOTION FOR AUTHORIZATION PURSUANT TO THE QUÉBEC
SECURITIES ACT AND HIS APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS
ACTION, THE [...] PLAINTIFF RESPECTFULLY SUBMITS AS FOLLOWS:**

I - DEFINITIONS

1. In addition to the terms that are defined elsewhere herein and within the *Securities Act*, the following terms have the following meanings:
 - a) "**Board**" means the board of directors of **Bombardier**;
 - b) "**Bombardier**" means the defendant Bombardier Inc. and, as the context may require, its subsidiaries and affiliates;
 - c) "**Class**" and "**Class Members**" are comprised of the following, other than the **Excluded Persons**:

All persons and entities who acquired or purchased Bombardier's securities during the **Class Period** and held all or some of these securities until November 8, 2018 inclusively;

- d) "**Class Period**" means the period spanning from August 2, 2018 to November 8, 2018, inclusively;
- e) "**CCP**" means the *Code of Civil Procedure*, CQLR c C-25.01;
- f) "**CCQ**" means the *Civil Code of Québec*, CQLR c CCQ-1991;
- g) "**Company**" means Bombardier;
- h) "**Core Documents**" (each being a "Core Document") refers to:
 - i) Bombardier's 2017 Year-End MD&A for the year ended December 31, 2017 ("**2017 Year-End MD&A**"), filed on February 15, 2018, communicated herewith as **Exhibit P-1**;
 - ii) Bombardier's MD&A for the three-month period ended March 31, 2018 ("**2018 Q1 MD&A**"), filed on May 3, 2018, communicated herewith as **Exhibit P-2**;
 - iii) Bombardier's MD&A for the three and six-month periods ended June 30, 2018 ("**2018 Q2 MD&A**"), filed on August 2, 2018, communicated herewith as **Exhibit P-3**;
 - iv) Bombardier's MD&A for the three and nine-month periods ended September 30, 2018 ("**2018 Q3 MD&A**"), filed on November 8, 2018, communicated herewith as **Exhibit P-4**;
- i) "**Corrective Disclosure**" means Bombardier's 2018 Q3 MD&A, [...] Exhibit P-4;
- j) "**Defendants**" means, collectively, Bombardier and the **Individual Defendants**;
- k) "**Excluded Persons**" refers to the Defendants herein, at all material times, members of their immediate families and their legal representatives, heirs, successors and/or assigns and the directors, officers, subsidiaries, and affiliates of Bombardier and its subsidiaries as well as any entity in which Bombardier has or had a controlling interest;
- l) "**FCF**" means Free Cash Flow;
- m) "**FCF Guidance**" means the Company's 2018 FCF Guidance of Breakeven \pm \$150 million;
- n) "**Impugned Documents**" (each being an "Impugned Document") refers to:
 - i) Bombardier's 2018 Q2 MD&A;
 - ii) Bombardier's Forms 52-109F2 *Certification of Interim Filings - Full Certificate* signed by Alain Bellemare (CEO) and John Di Bert (CFO), filed on August 2, 2018, communicated herewith as **Exhibit P-5 en liasse**;
- o) "**Individual Defendants**" (each being an "Individual Defendant") means Alain Bellemare and John Di Bert;
- p) "**MD&A**" means Management's Discussion and Analysis;

- q) "**Plaintiff**" and/or "**Representative Plaintiff**" mean Denis Gauthier;
- r) "**QSA**" means the *Québec Securities Act*, CQLR C V-1.1;
- s) "**Securities Legislation**" means, collectively, the QSA; the *Securities Act*, RSO 1990, c S.5, as amended; the *Securities Act*, RSA 2000, c S-4, as amended; the *Securities Act*, RSBC 1996, c 418, as amended; the *Securities Act*, CCSM c S50, as amended; the *Securities Act*, SNB 2004, c S-5.5, as amended; the *Securities Act*, RSNL 1990, c S-13, as amended; the *Securities Act*, SNWT 2008, c 10, as amended; the *Securities Act*, RSNS 1989, c 418, as amended; the *Securities Act*, S Nu 2008, c 12, as amended; the *Securities Act*, RSPEI 1988, c S-3.1, as amended; the *Securities Act*, 1988, SS 1988-89, c S-42.2, as amended; and the *Securities Act*, SY 2007, c 16, as amended; and
- t) "**SEDAR**" means the system for electronic document analysis and retrieval of the Canadian Securities Administrators;

II - INTRODUCTION

A. Overview of Proposed Class Action

- 2. This securities class action arises out of the Defendants' misrepresentations and failure to make timely disclosure of material facts concerning Bombardier's 2018 FCF Guidance which Bombardier had stated to be: "Breakeven \pm \$150 million";
- 3. FCF (free cash flow) is the difference between the cash flow generated by a company from its operating activities *less* capital expenditures. Bombardier defines "Free Cash Flow (usage)" as: "Cash flows from operating activities less net additions to PP&E [plant, property & equipment] and intangible assets". By making a FCF Guidance of Breakeven \pm \$150 million, Bombardier asserts that after subtracting its net additions to PP&E and intangible assets from the cash flow it will generate from its operating activities, the Company will either report a FCF of zero (\$0.00) or a FCF within a range of \pm \$150 million from zero (\$0.00) for the year 2018;
- 4. As particularized herein, the significant damages suffered by the Representative Plaintiff and Class Members were directly caused by the Defendants' misrepresentations and failure to make timely disclosure of material facts concerning the Company's FCF Guidance;
- 5. Bombardier is a multinational transportation and aerospace company whose headquarters are located in Montréal, the whole as appears from the *Registraire des Entreprises du Québec* print out, communicated herewith as **Exhibit P-6**;
- 6. Bombardier's securities are comprised of both equity and debt securities, including but not limited to:
 - i) Class A shares, Class B subordinate voting shares, Series 2 preferred shares, Series 3 preferred shares and Series 4 preferred shares, all of which trade on the TSX, respectively under the symbols BBD.A, BBD.B, BBD.PR.B, BBD.PR.D and BBD.PR.C. Class B common shares also trade on the OTCQX in the United States under the symbol BDRBF; and

- ii) senior notes which trade on German stock exchanges.
7. In November 2015, [...] the Defendants introduced [...] Bombardier's "Roadmap to 2020", a transformation plan that was allegedly going to allow the Company to, *inter alia*, increase its FCF as well as its revenues and EBITDA/EBIT (i.e. Earnings Before Interest, Tax, Depreciation and Amortization) before special items (the "**Transformation Plan**");
8. [...] The Defendants set out to execute [...] Bombardier's Transformation Plan in 3 phases:
- i) Phase 1: De-Risk from 2015 to 2016 - this phase consisted of securing liquidity, proactively aligning production rates, certifying the C Series jets as well as strengthening its backlog, in-flight testing of the Global 7000 jets and re-financing its debt;
 - ii) Phase 2: Build Through Transformation from 2016 to 2020 ([...] ongoing at the time of the filing of the Motion for Authorization) - this phase consists in establishing a "clear path to earnings and free cash flow growth" by way of an operational transformation (cost reduction and site specialization), re-aligning its portfolio strategy (product development, capital allocation discipline and strategic options) and increasing revenue growth (from the C Series, Global 700, BT and the aftermarket); and
 - iii) Phase 3: De-Leverage from 2019 to 2020 - this last phase seeks to achieve Bombardier's goal of converting earnings into approximately \$750 million to \$1 billion of annual cash by 2020;

as appears from pages 8 to 10 of Bombardier's 2016 Investor Day Presentation, communicated herewith as **Exhibit P-7**;

9. With regard to Phase 2, [...] the Defendants established a "clear path" to attain [...] Bombardier's FCF Guidance, as appears from page 21 of Exhibit P-7;
10. The FCF Guidance is crucial to Bombardier's Transformation Plan since it is the starting point of its objective to achieve a FCF of \$750 million to \$1 billion by 2020, as appears from page 22 of Exhibit P-7;
11. On December 14, 2017, Bombardier held its 2017 Investor Day Presentation. During this presentation, [...] the Defendants indicated that in order to achieve [...] Bombardier's ultimate objective of having a FCF of \$750 million to \$1 billion by 2020, [...] the Company need[ed] to deliver a "turnaround financial performance in 2018" which included attaining a FCF Guidance of Breakeven \pm \$150 million, [...] as appears from pages 11, 14, 19 and 20 of the 2017 Investor Day Presentation, communicated herewith as **Exhibit P-8**;
12. In February 2018, [...] the Defendants published [...] Bombardier's 2017 Year-End MD&A in which the Company reiterated that its 2018 FCF Guidance was to attain Breakeven \pm \$150 million, [...] as appears from pages 6 and 14 of the 2017 Year-End MD&A, [...] Exhibit P-1;
13. In May 2018, [...] the Defendants published [...] Bombardier's 2018 Q1 MD&A in which [...] they reassured investors that the Company was "in line" to achieve its Transformation Plan and attain its 2018 FCF Guidance, as appears from page 5 of Exhibit P-2;

14. As well, in [...] Bombardier's 2018 Q1 MD&A, [...] the Defendants announced a definitive agreement to sell property owned by the Company (the "**Downsview Sale**"), as appears from page 6 of Exhibit P-2;
15. [O]n August 2, 2018, [...] the Defendants published [...] Bombardier's 2018 Q2 MD&A in which [...] they further reassured investors that the Company remained "in line" to attain its 2018 FCF Guidance;
16. Furthermore, [...] the Defendants added that the Company remained "in line" to achieve its FCF Guidance *excluding* the net proceeds from the Downsview Sale, as appears from pages 5, 6, and 7 of Exhibit P-3;
17. [O]n November 8, 2018, [...] the Defendants published [...] Bombardier's 2018 Q3 MD&A [...] which [...] included a "2018 Guidance Update". In this "2018 Guidance Update", [...] the Defendants modified the Company's FCF Guidance which, as explicitly represented in its 2018 Q2 MD&A, was to *exclude* the net proceeds from the Downsview Sale. The update provided that the FCF Guidance would now be Breakeven \pm \$150 million **including** the net proceeds from the Downsview Sale, as appears from page 7 of Exhibit P-4;
18. The about-face in Bombardier's 2018 Q3 MD&A concerning its FCF Guidance corrected the [...] Defendants' misrepresentation and revealed an important earnings shortfall;
19. In the aftermath of the Corrective Disclosure, all of Bombardier's publicly-traded securities plummeted in value. For example, the price of Bombardier's Class B subordinate voting shares (BBD.B) went from \$3.12 to \$2.41 (a drop of 22.75%) in one day on an unusually high trading volume of 53,648,393, the whole as appears from the price history, communicated herewith as **Exhibit P-9**;
20. Contrary to [...] the Defendants' contention, at the time of the release of its 2018 Q2 MD&A, the Company was not "in line" to achieve a FCF Guidance of Breakeven \pm \$150 million;
- 20.1 On August 2, 2018, the Defendants knew or should have known that it was not reasonable to reaffirm Bombardier's FCF Guidance. This is based, first, on an analysis of Bombardier's initial projection for FCF Guidance, compared with its quarterly projections and actuals through 2018, which reveals that, on August 2, 2018, it was utterly improbable that Bombardier would achieve its 2018 FCF Guidance;
- 20.2 Second, independently from the above and in addition thereto, on August 2, 2018, the Defendants should have known that Bombardier's 2018 FCF Guidance would likely not be met for the reasons laid out in Dr. Ramy Elitzur's expert report, communicated herewith as Exhibit P-39, relating to, *inter alia*:
 - i) The Defendants' flawed calculations of Bombardier's FCF;
 - ii) The Company's improper forecasting process;
 - iii) Red flags indicative of earnings management by the Company; and
 - iv) Material weaknesses in Bombardier's internal controls;

- 20.3 Third, in the days following the publication of the Corrective Disclosure, the Defendants explained their about-face by invoking [...], *inter alia*, issues at Bombardier Transportation (“BT”), [...], including: (i) a shift in BT’s product portfolio, (ii) BT production and delivery delays, and (iii) BT customer infrastructure issues (collectively, the “BT Issues”);
21. [...] On August 2, 2018, the Defendants knew or should have known of the BT Issues and of the impact these would have on the FCF Guidance;
- 21.1 Consequently, [...] the Defendants falsely reassured [...] Bombardier’s investors, in its 2018 Q2 MD&A, that the Company was “in line” to attain its FCF Guidance;
22. This is acutely true when Bombardier claimed, in its 2018 Q2 MD&A, that the FCF Guidance would be attained without including the net proceeds of the Downsvievw Sale;
23. Accordingly, at all relevant times during the Class Period, [...] the Defendants intentionally, falsely and misleadingly led investors to believe that [...] Bombardier was “in line” to achiev[e] its FCF Guidance when, in fact, it was not. With the Individual Defendants’ knowledge and approval, Bombardier failed to make timely disclosure of a material fact concerning its FCF Guidance, namely, that this FCF Guidance would likely not be achieved in light of the information that the Defendants had in hand on August 2, 2018 [...];
24. The drop in value of Bombardier’s securities caused significant damages to the Representative Plaintiff and Class Members and are a direct result of the Defendants’ misrepresentations and failure to make timely disclosure of material facts;
25. Bombardier’s internal controls were deficient at all relevant times during the Class Period since they failed to ensure that all material information was disseminated to the investing public and in a timely manner;
26. The Defendants made intentionally false and misleading statements in the Impugned Documents regarding the FCF Guidance. As such, the Defendants breached their legal obligations and duties to disclose all relevant and material information to investors;
27. As a result of the Defendants’ misrepresentations, the price of Bombardier’s securities was artificially inflated at all relevant times during the Class Period;
28. The Representative Plaintiff and Class Members acquired Bombardier securities at artificially inflated prices and suffered damages when the Corrective Disclosure revealed the truth;

B. The Parties

1) The Representative Plaintiff and the Class Sought to be Represented

29. The proposed Class is defined at paragraph 1 c) hereinabove;
30. The Representative Plaintiff resides in Québec;
31. On October 19, 2018, the Representative Plaintiff purchased 1,000 BBD.B shares at a price of CAN \$3.715 per share for a total of CAN \$3,724.95 (including the \$9.95 purchase fee),

the whole as appears from the Representative Plaintiff's Portfolio statement communicated herewith as **Exhibit P-35**;

32. On October 29, 2018, the Representative Plaintiff purchased an additional 3,900 BBD.B shares at a price of CAN \$3.110 per share for a total of CAN \$12,138.95 (including the \$9.95 purchase fee), as appears from Exhibit P-35;
33. The Representative Plaintiff held these shares until after the Corrective Disclosure;
34. The Representative Plaintiff seeks the status of representative of the Class as well as the authorization to bring an action pursuant to s. 225.4 QSA and, if necessary, pursuant to the corresponding provisions in the Securities Legislation;

2) **Bombardier**

35. Founded in the early 1900s, Bombardier has become an international engineering and manufacturing firm;
36. At the relevant time, Bombardier has production and engineering sites in 28 countries across four (4) segments: Aerostructures and Engineering Services, Transportation, Business Aircraft, and Commercial Aircraft;
37. BT is a global mobility solution provider which covers a full spectrum of rail products and services;
38. BT is comprised of three (3) market segments:
 - i) *Rolling Stock* which includes high-speed and very high-speed trains, commuter, regional and intercity trains, light rail vehicles, metros, electric and diesel locomotives, propulsion and controls and bogies¹;
 - ii) *Systems and Signaling* which includes mass transit and airport systems, mainline systems, mass transit signaling, mainline signaling, industrial signaling and *OPTIFLO* - Services solutions for signaling; and
 - iii) *Services* which include material solutions, operations and maintenance of systems, fleet management, asset-life management and component re-engineering and overhaul,

as appears from pages 87 to 91 of Exhibit P-1;

3) **The Individual Defendants**

39. Alain Bellemare ("**Bellemare**") was appointed as President and CEO of Bombardier on February 13, 2015. At the relevant time, [h]e [...] was also a member of Bombardier's Board and the chief architect of the Transformation Plan;
40. At all relevant times during the Class Period, Bellemare was a director and officer of Bombardier within the meaning of the Securities Legislation. In his capacity as CEO,

¹ A bogie is a chassis or framework that carries a wheelset attached to a vehicle — a modular subassembly of wheels and axles;

Bellemare reviewed the interim financial reports, annual financial statements, interim and annual MD&A, the annual information form ("**AIF**") and all documents and information incorporated by reference in the AIF. Bellemare certified that these documents did not contain any untrue statements of material facts or omitted to state a material fact, as appears from Exhibit P-5 *en liasse*;

41. John Di Bert ("**Di Bert**") was appointed as Senior VP and CFO of Bombardier on August 10, 2015 and was also instrumental in attempting to achieve [...] the goals set forth in the Transformation Plan;
42. At all relevant times during the Class Period, Di Bert was an officer of Bombardier within the meaning of the Securities Legislation. In his capacity as Bombardier's CFO, Di Bert reviewed the interim financial reports, annual financial statements, interim and annual MD&A, the AIF and all documents and information incorporated by reference in the AIF. Di Bert certified that these documents did not contain any untrue statements of material facts or omitted to state a material fact, as appears from Exhibit P-5 *en liasse*;

III - FACTS GIVING RISE TO THE PRESENT ACTION

A. Bombardier's Corporate Filings

43. At all relevant times during the Class Period, Bombardier communicated with the investing public through established market communication channels such as news releases and documents filed on SEDAR;
44. On February 15, 2018, Bombardier published its 2017 Year-End MD&A, [...] Exhibit P-1;
45. Bombardier's 2017 Year-End MD&A informed investors of the following:
 - i) the Company's original 2017 guidance was to achieve a FCF usage of \$750 million to \$1 billion;
 - ii) the latest 2017 guidance aimed for an approximate FCF usage of \$1 billion;
 - iii) the actual 2017 FCF usage was of \$786 million; and
 - iv) the 2018 guidance aimed for a FCF of Breakeven \pm \$150 million;

as appears from pages 6 and 14 of Exhibit P-1;

46. The 2017 Year-End MD&A also contains the following statements:
 - i) "We Positioned the Company to Deliver Growth Towards Our 2020 Plan", as appears from page 7 of Exhibit P-1;
 - ii) "As we near the end of the investment cycle, we continue to see a clear path to a sustainable cash generation target of \$750 million to \$1 billion annually by 2020", as appears from page 11 of Exhibit P-1;
 - iii) "Our strategy to achieve 2018 guidance: (...) Free cash flow generation is expected starting in the second half of 2018, as train project deliveries intensify (...)", as appears from page 15 of Exhibit P-1; and

- iv) "Our strategy to achieve 2018 guidance. We continue to manage our business with prudence and discipline and as such, we anticipate a similar level of revenues and deliveries in 2018 compared to 2017", as appears from page 56 of Exhibit P-1;

47. In a news release published that same day, Bombardier adds:

- i) "«Bombardier closed out the second full year of its five-year turnaround plan with very strong performance», said Alain Bellemare, President and Chief Executive Officer, Bombardier Inc. «Because of this solid performance, we begin 2018 with great momentum. Our operational transformation is in full motion; **our growth programs - including the *Global 7000* - are on track and we have a clear line of sight to our 2020 objectives.**»"; and
- ii) "Free cash flow performance for 2017 was better than guidance by more than \$200 million, with a usage of \$786 million. This over performance allowed Bombardier to end the year with a \$3.1 billion cash balance and **well positioned to achieve cash flow breakeven in 2018, a key objective of the Company's turnaround plan.**";

[Our emphasis]

as appears from page 1 of the news release, communicated herewith as **Exhibit P-10**;

48. On May 3, 2018, Bombardier published its 2018 Q1 MD&A, [...] Exhibit P-2;

49. Bombardier's 2018 Q1 MD&A informed investors that the Company had a FCF usage of \$721 million and that the Company was "in line" with its plan and full year breakeven target, as appears from page 5 of Exhibit P-2 [...];

50. As well, in its 2018 Q1 MD&A, Bombardier announced the Downsview Sale, a definitive agreement to sell a 148-hectare manufacturing site owned by the Company for gross proceeds of approximately \$635 million. Bombardier stated that the transaction was expected to close in the second quarter of 2018, as appears from page 6 of Exhibit P-2 [...];

51. On August 2, 2018, Bombardier published its 2018 Q2 MD&A, [...] Exhibit P-3;

52. Once again, Bombardier reassured investors that it was "in line" to meet its objective of attaining its FCF Guidance:

"We are in line to achieve our 2018 revenue, EBIT before special items and free cash flow guidance (...) Revenues for the year are expected between \$16.5 billion and \$17.0 billion, EBIT before special items between \$900 million and \$1 billion, EBITDA before special items between \$1.25 billion and \$1.35 billion, and free cash flow breakeven plus or minus \$150 million excluding approximately \$600 million net proceeds from the sale of the Downsview Property."

[Our emphasis]

as appears from page 6 of Exhibit P-3;

53. Under the section entitled "2018 Guidance Update", Bombardier provided investors with an updated guidance. With regard to its FCF, Bombardier indicated that the FCF Guidance it

- provided in the 2017 Year-End MD&A (i.e. 2018 FCF Guidance of Breakeven \pm \$150 million) remained "unchanged", as appears from page 7 of Exhibit P-3;
54. Furthermore, Bombardier reassured its investors that the Company was "in line" to achieve its 2018 FCF Guidance **excluding** the net proceeds of approximately \$600 million from the Downview Sale, as appears from pages 5, 6 and 7 of Exhibit P-3;
 55. In its news release published that same day, Bombardier reiterated that it improved its FCF usage thereby "supporting its 2018 breakeven target", as appears from the news release, communicated herewith as **Exhibit P-11**;
 56. However, unbeknownst to the public, and as explained below, Bombardier knew or should have known that it was not "in line" with regard to its FCF Guidance;
 57. On November 8, 2018, Bombardier's:
 - i) Class A shares (BBD.A) opened at CAN \$3.22 on the TSX, [...] as appears from the price history, communicated herewith as **Exhibit P-12**;
 - ii) Class B subordinate voting shares (BBD.B) opened at CAN \$3.12 on the TSX, as appears from Exhibit P-9, and at US \$2.39 on the OTC Markets, [...] as appears from the price history, communicated herewith as **Exhibit P-13**;
 - iii) Series 2 preferred shares (BBD.PR.B) opened at CAN \$13.10 on the TSX, [...] as appears from the price history, communicated herewith as **Exhibit P-14**;
 - iv) Series 3 preferred shares (BBD.PR.D) opened at CAN \$12.72 on the TSX, [...] as appears from the price history, communicated herewith as **Exhibit P-15**; and
 - v) Series 4 preferred shares (BBD.PR.C) opened at CAN \$20.32 on the TSX, [...] as appears from the price history, communicated herewith as **Exhibit P-16**;
 58. That same day, Bombardier published its 2018 Q3 MD&A ("Corrective Disclosure") which disclosed, for the first time, that there would be a \$600M shortfall from its 2018 FCF Guidance [...];
 59. Bombardier's Corrective Disclosure included a "2018 Guidance Update" in which Bombardier modified the Company's FCF Guidance which, as Bombardier previously explicitly represented in its 2018 Q2 MD&A, *excluded* the net proceeds from the Downview Sale. The FCF Guidance was modified as follows: "Breakeven \pm \$150 million **including** the net proceeds of ~\$600 million from the sale of the Downview Property", as appears from page 7 of Exhibit P-4;
 60. According to Bombardier, this reversal was necessary to offset "the shortfall at [Bombardier] Transportation associated with the higher than planned working capital balance in the second half of the year", as appears from page 7 of the Corrective Disclosure, Exhibit P-4;
 61. Bombardier's about-face represents a \$600 million shortfall in its FCF position, which shocked the market and rocked Bombardier's share price;

62. On November 9, 2018, following the publication of the Corrective Disclosure, the value of Bombardier's securities plummeted. That same day, Bombardier's shares opened as follows:
- i) Class A shares (BBD.A) opened at CAN \$2.47, as appears from Exhibit P-12. This represents a 23.3% drop in price;
 - ii) Class B subordinate voting shares (BBD.B) opened at CAN \$2.50 on the TSX, as appears from Exhibit P-9. This represents a 19.9% drop in price. As for the OTC Markets, Class B common shares opened at US \$1.85, representing a 22.6% drop in price, as appears from Exhibit P-13;
 - iii) Series 2 preferred shares (BBD.PR.B) opened at CAN \$12.17 on the TSX, as appears from Exhibit P-14. This represents a 7.1% drop in price;
 - iv) Series 3 preferred shares (BBD.PR.D) opened at CAN \$12.16 on the TSX, as appears from Exhibit P-15. This represents a 4.4% drop in price; and
 - v) Series 4 preferred shares (BBD.PR.C) opened at CAN \$18.77 on the TSX, as appears from Exhibit P-16. This represents a 7.6% drop in price;
63. The value of Bombardier's senior notes also dropped, further to the publication of the Corrective Disclosure;
64. By November 15, 2018, one week following the publication of the Corrective Disclosure, Bombardier's Class B subordinate voting shares (BBD.B) closed at CAN \$2.09 on the TSX, as appears from Exhibit P-9;
65. By the tenth trading day following the publication of the Corrective Disclosure:
- i) Class A shares (BBD.A) opened at CAN \$2.35, as appears from Exhibit P-12. This represents a total drop of 27% from the open on November 8, 2018;
 - ii) Class B subordinate voting shares (BBD.B) opened at CAN \$2.25 on the TSX, as appears from Exhibit P-9. This represents a total drop of 27.9% from the open on November 8, 2018. As for the OTC Markets, Class B common shares opened at US \$1.84, representing a total drop of 23% from the open on November 8, 2018, as appears from Exhibit P-13;
 - iii) Series 2 preferred shares (BBD.PR.B) opened at CAN \$11.80 on the TSX, as appears from Exhibit P-14. This represents a total drop of 9.9% from the open on November 8, 2018;
 - iv) Series 3 preferred shares (BBD.PR.D) opened at CAN \$11.50 on the TSX, as appears from Exhibit P-15. This represents a total drop of 9.6% from the open on November 8, 2018; and
 - v) Series 4 preferred shares (BBD.PR.C) opened at CAN \$17.75 on the TSX, as appears from Exhibit P-16. This represents a total drop of 12.6% from the open on November 8, 2018;

65.1 The misrepresentations described above were made with the knowledge and approval of the Individual Defendants;

B. Misrepresentations Regarding Bombardier's 2018 FCF Guidance

66. In Bombardier's 2018 Q1 MD&A, the Defendants stated that Bombardier was "in line" to attain a FCF Guidance of Breakeven \pm \$150 million. In the 2018 Q2 MD&A, [...] they reassured investors that [...] Bombardier remained "in line" and further stated that [...] the Company's FCF Guidance excluded the net proceeds from the Downsview Sale. However, the foregoing was a misrepresentation as the Defendants knew or should have known that Bombardier [...] would likely not meet its FCF Guidance;

66.1 On August 2, 2018, the Defendants knew or should have known that it was not reasonable to reaffirm Bombardier's FCF Guidance for three distinct reasons;

1) Low Probability of Achieving 2018 FCF Guidance

66.2 An analysis of Bombardier's initial projection for FCF Guidance compared with its quarterly projections and actuals through 2018 reveals that, on August 2, 2018, it was utterly improbable that the Company would achieve its 2018 FCF Guidance;

66.3 Bombardier's internal process prior to affirming or updating its FCF Guidance in its quarterly MD&As involves the preparation of presentations to its Board of Directors. The Defendants' internal projection on December 12, 2017 was to generate \$200M of FCF in 2018, as appears from the 2018 Budget Review Presentation to Bombardier's Board of Directors dated December 12, 2017, communicated herewith as **Exhibit P-43**, at p. 49 (XE-JDB-1). Broken down by quarter, the Defendants' projection was:

Q1 2018 Negative \$550M

Q2 2018 Negative \$220M

Q3 2018 Positive \$445M

Q4 2018 Positive \$525M

66.4 On May 2, 2018, after Q1 2018 financial data was received, the Defendants revised Bombardier's internal quarterly FCF projections as follows:

Q1 2018 Negative \$721M (actual, down \$171M from initial projection)

Q2 2018 Negative \$485M (projected, down \$265M from initial projection)

Q3 2018 Positive \$815M (projected, up \$371M from initial projection)

Q4 2018 Positive \$905M (projected, up \$380M from initial projection)

as appears from the First Quarterly Report Summary and 2018 F1 Forecast Presentation to Bombardier's Board of Directors dated May 2, 2018, communicated herewith as **Exhibit P-44**, at p. 38 (XE-JDB-3);

66.5 On August 1, 2018, after Q2 2018 financial data was received, the Defendants revised Bombardier's internal quarterly projections as follows:

Q1 2018 Negative \$720M (actual, down \$171M from initial projection)

Q2 2018 Negative \$380M (actual, down \$160M from initial projection)

Q3 2018 \$0M (projected, down \$445M from initial projection)

Q4 2018 Positive \$1,101M (projected, up \$575M from initial projection)

as appears from the Second Quarterly Report Summary and 2018 F2 Forecast Presentation to Bombardier's Board of Directors dated August 1, 2018, communicated herewith as Exhibit P-45, at p. 57 (XE-JDB-2);

66.6 As a result, on August 1, 2018, the day before Bombardier's 2018 annual FCF Guidance of Breakeven +/- \$150M was reaffirmed, its actual FCF usage was negative \$1,100M (i.e. (720M) + (380M)), which was down \$331M from initial projections;

66.7 Just as important, the Defendants now projected \$0M of FCF generation for Q3 2018, which is a negative variance of \$445M. Cumulatively, at this point in time, the Defendants' own internal projections were that they would be down \$776M from their own budget for Q1 to Q3 2018;

66.8 It is also at this point in time that the Defendants balloon their Q4 2018 FCF projection to the sum of \$1,101M of FCF in Q4 2018 to break even, a sum that the Company had not generated in the prior 7 years, or any amount close to it, as appears from Dr. Ramy Elitzur's expert report, Exhibit P-39, at p. 24;

66.9 As also appears from Dr. Elitzur's expert report, Exhibit P-39, there was less than a 0.08% chance that Bombardier would generate \$1,101M (or \$1.1B) of FCF in Q4 2018 and less than a 0.35% chance it would generate \$950M in Q4 2018 to meet its 2018 FCF Guidance;

2) Systemic and Structural Flaws

66.10 Second, and independently from the foregoing, on August 2, 2018, the Defendants should have known that it was not reasonable to reaffirm Bombardier's 2018 FCF Guidance for the other reasons set forth in Dr. Elitzur's expert report, Exhibit P-39, relating to, *inter alia*:

- i) The Defendants' flawed calculations of Bombardier's FCF;
- ii) The Company's improper forecasting process;
- iii) Red flags indicative of earnings management by the Company; and
- iv) Material weaknesses in Bombardier's internal controls;

66.11 Individually and together, these elements demonstrate that the Defendants' forecasting and reporting process was flawed, unreliable, and subject to error or misreporting;

66.12 Had the Defendants complied with the applicable standards, they should have known that it was unreasonable to reaffirm the FCF Guidance on August 2, 2018;

3) Knowledge of the BT Issues

66.13 Third, on August 2, 2018, the Defendants knew or should have known that the Company would likely not achieve its FCF Guidance according to [...] their own explanation of the shortfall, [...] including the BT Issues:

- i) a shift in [...] Bombardier's product portfolio;
- ii) production and delivery delays; and
- iii) customer infrastructure issues;

as appears [...], *inter alia*, [...] from page 2 of the transcript of the November 13, 2018 Scotiabank Transportation & Industrials Conference, communicated herewith as Exhibit P-40 (JDB-13); pages 6, 13, 14, 26, and 27 of the transcript of Bombardier's 2018 Investor Day Presentation, communicated herewith as Exhibit P-41 (JDB-6); page 42 of the power point presentation shown during Bombardier's 2018 Investor Day, communicated herewith as Exhibit P-17; and a copy of the video of that Investor Day Presentation, communicated herewith as [...] Exhibit P-36;

i. Shift in BT's Product Portfolio

- 67. On November 13, 2018, Bombardier attended the *Scotiabank Transportation & Industrials Conference* in Toronto, as appears from **Exhibit P-18**, and from a copy of the transcript of this presentation, Exhibit P-40;
- 68. During this conference, Di Bert provided investors with an explanation for the \$600 million shortfall in Bombardier's FCF Guidance revealed in the 2018 Q3 MD&A;
- 69. Di Bert informed investors that [...] approximately \$200 million of the \$600 million shortfall was due to a shift in BT's product portfolio/order book (Exhibit P-40, p. 2). According to this shift, BT would acquire more contracts which generated **less** upfront payments at the beginning of projects (e.g. signaling and services contracts). This type of order book stood in contrast with contracts which generated large upfront advances and milestone payments (e.g. new innovation/engineering projects in relation to Bombardier's rolling stock contracts). Di Bert stated that this portfolio shift was "by design";
- 70. Indeed, the Defendants already knew that BT would be undergoing a shift in its product portfolio before Bombardier published its 2018 Q2 MD&A. The shift in Bombardier's product portfolio was not *new information* which came to light after Bombardier's 2018 Q2 MD&A [...] such that it is not an acceptable explanation for the Company's reversal between the FCF Guidance in its 2018 Q2 MD&A and its 2018 Q3 MD&A;
- 71. In its 2016 Investor Day Presentation, Bombardier informed the investing public that one of BT's targets was to generate 50% of its revenues from signaling and services by 2020 and that it would put a "higher focus" on signaling and services, the whole as appears from pages 40 and 44 of the 2016 Investor Day Presentation, [...] Exhibit P-7;
- 72. Further, in its 2017 Year-End MD&A, under the heading "Positive outlook for the railway industry", Bombardier indicates that its services market segment is expected to grow, as appears from pages 92 and 93 of Exhibit P-1;

73. The 2017 Year-End MD&A also states that:
- i) "Sizable signalling and service agreements were granted in Italy, the U.K. and France", as appears from page 94 of Exhibit P-1;
 - ii) "In the upcoming years, significant tenders are projected in the signalling segment in Spain and Norway and in the services segment in the U.K. and Germany", as appears from page 9[4] of Exhibit P-1; and
 - iii) "Significant signalling orders were secured in Australia and Thailand as well as many mid-sized services agreements in Australia and Malaysia", as appears from page 95 of Exhibit P-1;
74. In May 2018, [...] the Defendants informed investors that [...] Bombardier had obtained numerous large signaling contracts in Europe and that various services and signaling contracts were anticipated across the USA and Canada, as appears from page 33 of Exhibit P-2;
75. Bombardier's "Analysis of Results" segment indicates that the signaling market segment generated revenues of \$211 million, which represents a \$13 million increase from the first quarter of the previous year (2017) or a 7% year-to-year change, as appears from page 34 of Exhibit P-2;
76. As for the services market segment, it generated \$537 million in revenues, which represents a \$103 million increase from the first quarter of the previous year (2017) or a 24% year-to-year change, as appears from page 34 of Exhibit P-2;
77. In August 2018, [...] the Defendants indicated that the signaling market segment generated revenues of \$262 million, which represents a \$67 million increase from the second quarter of the previous year (2017) or a 34% year-to-year change, as appears from page 42 of Exhibit P-3;
78. The 2018 Q2 MD&A also indicated that Bombardier's services market segment increased by \$63 million compared to the second quarter of the previous year (2017) to generate \$522 million in revenues, as appears from page 42 of Exhibit P-3. This represents a year-to-year increase of 14%;
79. Bombardier's 2018 Q2 MD&A states that the Company's revenue increase is mainly due to, *inter alia*, "higher activities in signalling mainly in Europe and Asia-Pacific (\$58 million) and higher activities in services mainly in Europe (\$41 million)", as appears from page 42 of Exhibit P-3;
80. In comparison, the Q2 year-to-year revenues for Bombardier's rolling stock market segment increased by a mere 7%, as appears from page 42 of Exhibit P-3;
81. In Bombardier's 2018 Investor Day Presentation webcast video located at https://www.youtube.com/watch?v=7qoxfl_W2g as well as at Exhibit P-36, Laurent Troger, President of BT, stated that the shift was, "(...) **in line with our strategy**, more signaling, more services, more reuse or options, but typically when you go into this business you have lower advances (...)" [Emphasis added], as also appears from page 13 of the transcript of Bombardier's 2018 Investor Day Presentation, Exhibit P-41;

82. As demonstrated by the foregoing, the Defendants knew of the shift in BT's product portfolio/order book towards executing more services and signaling contracts and less rolling stock contracts way before the release of the 2018 Q3 MD&A and more specifically, when the 2018 Q2 MD&A was released;

ii. Production and Delivery Delays

83. [...] The Defendants alleg[e] that another portion of [...] Bombardier's \$600 million shortfall was caused by production and delivery delays, as appears, *inter alia*, from page 2 of the transcript of the November 13, 2018 Scotiabank Transportation & Industrials Conference, Exhibit P-40, and from the exhibits relating to Bombardier's 2018 Investor Day Presentation (Exhibit P-41, p. 6 and 13; Exhibit P-17, p. 42; and Exhibit P-36);
- 83.1 The Defendants identified the "key contracts" that "impacted [Bombardier] for around \$400 million of working capital this year [2018]" (Exhibit P-41, p. 6, 13 and 26). Of those "key contracts", according to the Defendants, two were significant in explaining the shortfall attributable to production and delivery delays: [...] the Metropolitan Transportation Authority of New York City ("MTA NYC") and Transport for London ("TfL") contracts, as appears from Exhibits P-17, p. 42, and P-36;
84. Bombardier's contract with the MTA NYC relates to an original order of 300 R179 series subway cars for the New York City Transit for approximately US \$599 million, the whole as appears from the news release, communicated herewith as **Exhibit P-19**. All 300 subway cars were scheduled for delivery between mid-2015 and early 2017;
85. The Defendants knew or should have known of the delays in production with regard to the MTA NYC contract [...] on August 2, 2018 or earlier, as appears, *inter alia*, from pages 28 and 30 of the July 2014 MTA Capital Program Oversight Committee Meeting report, communicated herewith as **Exhibit P-20**, as well as from pages 33-3[5] and 43 of the January 2017 MTA Capital Program Oversight Committee Meeting report, communicated herewith as **Exhibit P-21**;
86. The delays in the MTA NYC contract originally relate to welding issues (hot cracking) discovered on Bombardier's R179 prototype cars. A July 29, 2014 news article in the New York Daily states:

Riders on the C train, who endure the oldest and most battered subway cars in the entire system, will have to continue to do so for longer than planned.

The manufacturer of a new model of subway car that was picked to replace those on the C line has encountered problems with its prototypes. Bombardier discovered cracks in the prototype's steel undercarriage and walls, Metropolitan Transportation Authority officials said Monday.

The MTA had expected all 300 of the new R179 cars to be delivered by January 2017. That date could now be pushed back between six months and 11 months, officials said. (...) [...]

as more fully appears from the article communicated herewith as **Exhibit P-22**;

87. Moreover, it is due to these past delays that Bombardier was shut out of a US \$3.2 billion contract to supply 1175 to 1700 subway cars in NYC in August of 2017, the whole as appears from a CBC News article, communicated herewith as **Exhibit P-23**;

88. Further, in an internal memo authored on August 23, 2017 by Benoît Brossoit, president of BT Americas from April 11, 2016 to November 19, 2018, Mr. Brossoit writes:

"[...] notre mauvaise performance et les retards importants que nous avons encourus sur le projet R179 ont scellé le sort de notre offre. Nos actions ont exacerbé un environnement de mobilité déjà difficile dans la ville de New York, et la décision de notre client démontre que le marché n'est plus disposé à accepter des retards dans la performance et à subir l'impact de nos manquements. Cet avertissement est un sérieux coup de semonce et nous devons y répondre en respectant nos promesses de livraison, en temps et sans excuse.

[...] as appears from a copy of the internal memo, communicated herewith as **Exhibit P-24**;

89. Bombardier confirmed the authenticity of the internal memo, adding that the Company was "extremely disappointed", as appears from a news article communicated herewith as **Exhibit P-25**;

90. As at December 6, 2018, Bombardier had only delivered 142 of 314 subway cars to the New York City Transit, [...] as appears from page 42 of the 2018 Investor Day Presentation, [...] Exhibit P-17;

91. Furthermore, during Bombardier's December 6, 2018 Investor Day Presentation, Laurent [...] Troger stated the following:

"So, I pushed the team **this year** to significantly increase the capacity by more than 20% for this project and where we have planned to build one car a day [i.e. 7 cars per week]. **We were producing 2 cars [...] per week, we moved to [...] forecast and we are getting [...] to the 5 car now, but we [...] have been a bit late.** [...]" (1:20:40)

[Our emphasis]

[...] as appears from Bombardier's December 2018 Investor Day Presentation webcast video [...], Exhibit P-36, and from page 13 of the transcript of this presentation, Exhibit P-41;

92. The Defendants were acutely aware of these delays in production when they prepared, reviewed and published Bombardier's 2018 Q2 MD&A;

93. As for TfL, Bombardier signed two (2) contracts to build and maintain 45 four-car new Electric Multiple Units². The first contract covers the design, manufacture commissioning and entry into service of the units and the second is a 35-year train services agreement for

² An Electric Multiple Unit or EMU is a multiple-unit train consisting of self-propelled carriages using electricity as the motive power. A separate locomotive is not required because the traction drive and control system are contained under various cars in the train.

the maintenance of the units, [...] as appears from a July 3, 2015 news release, communicated herewith as **Exhibit P-26**;

94. Both contracts are valued at approximately £358 million;
95. On June 25, 2018, an article by *Forestgatedotnet* states that Bombardier was unable to obtain the approval of Network Rail (the authority which owns and operates the railway infrastructure in England, Wales and Scotland) to operate its trains, [...] as appears from the *Forestgatedotnet* article, communicated herewith as **Exhibit P-27**;
96. Although the first production line was delivered to the Network Rail test center in December of 2017 (Bombardier's objective was to deliver all trains in January of 2018), Bombardier ran into a software problem in the train management system, as appears from Exhibit P-27;
97. As a result of this issue, Bombardier had to slow down production since it was running out of space to store the new trains, as appears from Exhibit P-27;
98. As at November 15, 2018, Bombardier's trains had not yet been deployed since they required "further software development", the whole as appears from the Barking and Dagenham Post article, communicated herewith as **Exhibit P-28**. As at December 6, 2018, Bombardier had only built 136 of 222 units, as appears from page 42 of Exhibit P-17;
99. During the December 6, 2018 Investor Day Presentation, Mr. T[ro]get confirmed that Bombardier had not yet obtained the necessary authorization from the relevant authorities;
100. As demonstrated by the foregoing, the Defendants were aware of BT's production and delivery delays long before the release of the 2018 Q3 MD&A and more specifically, when the 2018 Q2 MD&A was released;

iii. Customer Infrastructure Issues

- 100.1 The Defendants further explained part of the \$600M miss to achieve FCF Guidance by issues "working with customer" and "infrastructure delay[s]", as appears from page 42 of the power point shown by the Defendants at Bombardier's 2018 Investor Day Presentation, Exhibit P-17, and from the transcript and video of this presentation, Exhibits P-41, p. 14, and P-36;
- 100.2 The Defendants stated that the Crossrail project was a "key contract" that exemplified why Bombardier failed to achieve its 2018 FCF Guidance;
101. On or around May 15, 2009, Crossrail Ltd. began construction on a new railway that would run through central London as well as certain surrounding counties (the "Crossrail Project"). Crossrail Ltd. is a wholly owned subsidiary of TfL and is jointly sponsored by TfL and the Department for Transport, the government department responsible for the English transport network;
102. The Crossrail project is a 118km-long railway that will stretch from Reading and Heathrow in the West, through central tunnels in London and across to Shenfield and Abbey Wood in the East. The new railway will stop at 41 accessible stations, 10 newly-built and 30 newly-upgraded, and is expected to serve approximately 200 million people each year, increasing

central London's rail capacity by 10%, the whole as more fully appears from an extract of the Crossrail Project's website, communicated herewith as **Exhibit P-29**;

103. The Crossrail project is the biggest construction project in Europe and is one of the largest single infrastructure investments undertaken in the UK, as appears from Exhibit P-29;
104. On February 19, 2014, Bombardier announced that it had signed a contract to provide TfL with the trains that would run on the Crossrail project's railway. The contract includes [...] 65 nine-car Electric Multiple Units as well as the construction of a new maintenance depot for the trains. The contract is valued at approximately £1.3 billion, the whole as appears from Bombardier's news release, communicated herewith as **Exhibit P-30**;
105. The project was due to open in December 2018. However, in August of 2018, it was announced that the opening would be postponed until autumn 2019 "to complete building work and allow for extensive testing to ensure it opened as a safe and reliable railway", the whole as appears from an article from The Guardian, communicated herewith as **Exhibit P-31**;
106. Tom Edwards, a BBC London transport correspondent stated:

"I have lost count of the times that Crossrail executives said to me the project would be delivered "on time and on budget".

Today that disappeared in a puff of smoke, and there is no doubt this is a blow for Crossrail.

I'm told it wasn't one specific problem. There were issues with three different signaling systems and also delays to the station fit outs.

They simply ran out of time. This will also hit TfL's finances which was relying on Crossrail to increase its fare take.

This flagship project - the biggest construction project in Europe - just lost some of its lustre.

as appears from an article from the BBC, communicated herewith as **Exhibit P-32**;

107. The completion of the Crossrail Project includes the testing of the new Bombardier trains and infrastructure across the railway. This testing has been, and is currently, underway. At Bombardier's 2018 Investor Day presentation, BT's president, Laurent Troger [...] discussed the delays the Company is facing in testing its trains on the Crossrail Project in light of the construction delays. He stated:

"[The] Crossrail Project (...) is one of the most complex and largest infrastructure projects. (...) We have built 483 cars, we have delivered 269. (...) We have already started commercial service on the East and West part of London but the central section of London has not been opened. We have not been able to complete our integrated test there and we are now working with the customer how (*sic*) to continue this project. You are aware that they have announced a delay on the infrastructure until next year and we are trying to find a way to complete this program with our customers."

as appears from Bombardier's December 2018 Investor Day Presentation webcast video located at https://www.youtube.com/watch?v=7qoxfl_W2g as well as at **Exhibit P-36**, and from page 14 of the transcript of this presentation, Exhibit P-41;

108. Given the immensity and importance of the Crossrail Project, the largest European infrastructure project, and considering the complexities involved in its timely development and scheduling, BT and TfL were in constant and regular communication, exchanged numerous project updates and reports and discussed delays at length;
109. With an order for 630 train cars, 483 of which were built and 269 delivered, and considering the Crossrail Project's original projected completion of December 2018, the phase of the project concerning the testing of the cars on the railway was the subject of a detailed and specific timeline and schedule. Accordingly, BT was aware of any potential delays in the testing phase of its new trains and/or the postponement of the opening of the project prior to the announcement of the delay in the media in August 2018;
110. The delays concerning the Crossrail Project and the testing of BT's trains was not *new information* for BT which came to light after Bombardier's 2018 Q2 MD&A and it could not be presented as such in order to justify or explain the shortfall in the Company's FCF Guidance and its reversal between the FCF Guidance in its 2018 Q2 MD&A and its 2018 Q3 MD&A;
111. The Defendants were or should have been aware of the customer infrastructure issues which could affect BT, and consequently the FCF Guidance, long before the release of the 2018 Q3 MD&A, and more specifically, when the 2018 Q2 MD&A was released;
112. In summary, all of the BT Issues Bombardier claimed to have been the cause of its FCF Guidance reversal and the \$600 million shortfall in its FCF Guidance were known or should have been known by Bombardier when the 2018 Q2 MD&A was released. Accordingly, the Defendants misrepresented that the Company was "in line" with regard to its FCF Guidance in the 2018 Q2 MD&A. Furthermore, the Defendants misrepresented that the Company remained "in line" with the FCF Guidance even if it were to *exclude* the net proceeds from the Downview Sale. Bombardier failed to make timely disclosure of a material fact concerning its FCF Guidance and the Company's actual FCF Guidance position was only revealed through the Corrective Disclosure;

C. Individual Defendants

113. As required by the AMF, Bellemare and Di Bert certified all interim and annual financial statements and MD&As filed ("**Filings**") during the Class Period attesting to the veracity and fair representation of all material facts presented in the Filings, as appears from Exhibit P-5 en liasse;
114. Accordingly, at all relevant times, both Bellemare and Di Bert certified that:
 - i) they reviewed the Filings;
 - ii) the Filings did not contain any untrue statements of material facts or omitted to state a material fact required to be stated or that was necessary to make a non-misleading statement in light of the circumstances under which it was made;

- iii) the Filings fairly presented in all material respects the financial condition, performance and cash flows of Bombardier;
 - iv) they were responsible for establishing and maintaining disclosure controls and procedures as well as internal control over financial reporting;
 - v) they have designed, or caused to be designed under their supervision, disclosure controls and procedures to provide reasonable assurance that all material information relating to Bombardier is made known to them and that information required to be disclosed by Bombardier in its Filings or any other document submitted under a securities legislation is recorded, processed, summarized, and reported;
 - vi) they have designed, or caused to be designed under their supervision, internal control over financial reporting, to provide reasonable assurance regarding the reliability of financial reporting and the preparation specified in securities legislation; and
 - vii) they have evaluated, or caused to be evaluated under their supervision, the effectiveness of Bombardier's disclosure controls and procedures as well as internal control over financial reporting at the financial year-end and that Bombardier has disclosed their conclusions regarding effectiveness in its annual MD&A;
115. The Individual Defendants oversaw the preparation and reporting of all Filings, other financial documents and disclosure to the public and knew or ought to have known of the alleged misrepresentations;
116. The Individual Defendants also authorized, permitted or consented to the release and publication of the Impugned Documents, during the Class Period, which contained misrepresentations;

IV - RIGHTS OF ACTION

A. Statutory Right of Action for Misrepresentation in a Secondary Market Claim

117. The Defendants' statements and omissions were materially false and misleading since they failed to disclose material adverse information and misrepresented the truth about Bombardier's business, operations, revenues, and FCF. Further, Bombardier failed to make timely disclosure of material facts concerning its FCF Guidance;
118. As a result of these misrepresentations, the Representative Plaintiff asserts a right of action under s. 225.8 of the QSA and, if necessary, the concordant provisions of other Securities Legislation, on behalf of all Class Members against the Defendants;
119. Bombardier is registered to do business in Québec, as appears from Exhibit P-6;
120. Bombardier is a reporting issuer in Québec under s. 68 of the QSA, [...] as appears from an extract of the *Autorité des Marchés Financiers'* Reporting Issuers List, communicated herewith as **Exhibit P-33**;

121. Bombardier's securities were distributed in Québec and throughout the world;
122. The Secondary Market Claim against the Defendants is asserted in respect of all Impugned Documents, documents and public statements which contained the misrepresentations alleged herein;
123. In an effort to demonstrate that Bombardier was "in line" with its FCF Guidance, at all relevant times during the Class Period, the Defendants intentionally made or caused to be made a series of materially-false and misleading statements about the Company's FCF Guidance which led to an artificially-inflated assessment of Bombardier's financial status, causing an overvaluation of the price of its securities;
124. The Defendants knew or should have known, at the time of the release of Bombardier's 2018 Q2 MD&A, that the Company was not "in line" to achieve a FCF Guidance of Breakeven \pm \$150 million and, further, the Defendants misrepresented that the Company remained "in line" with the FCF Guidance even if it were to *exclude* the net proceeds from the Downview Sale. As such, Bombardier's Impugned Documents and public statements contained false and misleading information;
125. The Defendants knew that the Impugned Documents would be reviewed by analysts, capital markets and the general public who would rely on these documents to make informed financial decisions;
126. The monetary damages suffered by the Representative Plaintiff and Class Members are a direct result of the misrepresentations by the Defendants which artificially-inflated the price of Bombardier's securities;
127. The Defendants knowingly authorized, permitted or acquiesced to the dissemination of false and misleading information, thus violating the QSA and concordant provisions of other Securities Legislation;
128. The Individual Defendants were officers and directors of Bombardier during the release and publication of the Impugned Documents and, as such, were privy to Bombardier's internal budgets, plans, projections and reports as well as the Company's finances, operations and prospects and all documents filed in accordance with the applicable Securities Legislation;
129. At all relevant times during the Class Period, the Individual Defendants authorized, permitted or acquiesced to the release and publication of the Impugned Documents which they knew or ought to have known contained false and misleading information;

B. Article 1457 of the CCQ

130. The Representative Plaintiff asserts a civil right of action under art. 1457 of the CCQ, on behalf of [...] himself and all Class Members, against the Defendants for breach of the general duty of diligence owed to all Class Members;
131. The Defendants did not fulfill the legal obligations warranted by their relationship with the Class Members as required by law;
132. The Representative Plaintiff and Class Members relied on the Defendants' Impugned Documents and public statements;

133. The Representative Plaintiff would not have purchased Bombardier's securities or would not have purchased them at inflated prices had he been aware of the Defendants' misrepresentations regarding Bombardier's FCF Guidance. The same is true of the Class as Bombardier's misrepresentations and omissions of fact were material;
134. The Representative Plaintiff and Class Members purchased Bombardier's securities at artificially inflated prices during the Class Period, held those securities until after the Corrective Disclosure and suffered damages as a direct and immediate result of the drop in the price of Bombardier's securities, which was caused by the Defendants' misrepresentations;

C. No Safe Harbor

135. The statutory defence provided for by s. 225.22 and 225.23 of the QSA regarding forward-looking information in a document does not apply to any false and misleading statements alleged in the present claim since these statements related to then-existing facts and conditions;
136. Should the false and misleading statements fall within the scope of forward-looking information, the statutory defence nonetheless does not apply since these statements were not identified as being forward-looking statements when they were made;

V - THE CRITERIA OF ARTICLE 575 CCP

A. The Facts Alleged Appear to Justify the Conclusions Sought (art. 575 (2) CCP)

137. The Impugned Documents published on SEDAR contain misrepresentations of material facts;
138. At all relevant times during the Class Period, the Defendants intentionally misrepresented material facts and breached their obligation to make timely disclosure and accurately inform the public of Bombardier's current and future prospects in accordance with the QSA, Securities Legislation and financial reporting standards;
139. The Defendants also breached their duties and legal obligations towards the Class Members;
140. The Individual Defendants prepared or oversaw the preparation of the Impugned Documents in which they specifically stated that Bombardier was "in line" to achieve its FCF Guidance of Breakeven \pm \$150 million and, further, that it could do so while *excluding* the net proceeds of the Downsview Sale of approximately \$600 million;
141. The Representative Plaintiff and Class Members bought Bombardier's securities at artificially inflated prices and suffered damages following the publication of the Corrective Disclosure;
142. The faults committed by the Defendants were the direct and immediate cause of the Representative Plaintiff and Class Members' damages;
143. In light of the above, the Defendants are liable to the Representative Plaintiff and Class Members;

B. The Class Members' Claims Raise Identical, Similar or Related Issues of Law or Fact (art. 575 (1) CCP)

144. The QSA, the Securities Legislation, national instruments including NI 51-102, NI 52-109, NI 52-110, all informed the Defendants of their obligations;
145. The Defendants also owed the Class Members the duties imposed under art. 1457 CCQ;
146. The Defendants breached their duties and obligations by making the alleged misrepresentations particularized herein and as such, committed faults against the Class Members;
147. The Individual Defendants oversaw the preparation of all filings and news releases, including the Impugned Documents, to the public and knew or ought to have known of the alleged misrepresentations;
148. Consequently, not only is Bombardier directly liable towards the Class Members for its own faults, but it is also liable for the faults committed by the Individual Defendants or any other officer, director, partner or employee;
149. In light of the Defendants' misrepresentations, Bombardier's securities traded at artificially inflated prices and did not reflect their true value at all relevant times during the Class Period;
150. Once the misrepresentations were corrected, the price of Bombardier's securities plummeted causing important damages to the Representative Plaintiff and Class Members;
151. The Representative Plaintiff asks this Honorable Court to certify the following questions of fact and law to be dealt with collectively:
 - a) During the Class Period, did the Defendants publish Documents that contained misrepresentations within the meaning of the QSA and, if necessary, other Securities Legislation?
 - b) If so, which document contains which misrepresentations?
 - c) Were the misrepresentations intentional?
 - d) Are any of the Defendants liable to the Class or any of its Members under the QSA, and if necessary, any concordant provisions of the other Securities Legislation and/or under art. 1457 of the CCQ?
 - e) If so, which Defendant is liable and to whom? and
 - f) What are the Representative Plaintiff's and the Class Members' damages?

C. The Composition of the Class Makes It Difficult or Impracticable to Apply the Rules for Mandates to Take Part in Judicial Proceedings on Behalf of Others or for Consolidation of Proceedings (art. 575 (3) CCP)

152. Bombardier is a multinational company whose outstanding share capital consisted of 313,898,549 Class A shares and 1,932,782,764 Class B subordinate voting shares as at

December 31, 2017, as more fully appears from the Company's 2017 Annual Information Form, communicated herewith as **Exhibit P-34**;

153. Bombardier's securities trade actively on the TSX as well as on other exchanges around the world such as on the OTCQX in the United States under the symbol BDRBF and senior notes which trade on German stock exchanges;
154. There are thousands of investors that are members of the putative Class in Québec and throughout the world such that it would be difficult or impracticable to apply the rules for mandates to take part in judicial proceedings;

D. The Class Member Appointed as the Representative Plaintiff is in a Position to Properly Represent the Class Members (art. 575 (4) CCP)

155. The Representative Plaintiff is a Québec resident who has investment experience;
156. As a result of the Defendants' misrepresentations, the Representative Plaintiff purchased 4,900 BBD.B shares for a total of \$15,863.00, as appears from Exhibit P-35;
157. After the misrepresentations were revealed by the Corrective Disclosure, the value of the Representative Plaintiff's shares plummeted and he suffered damages as a result;
158. The Representative Plaintiff contacted attorneys to discuss the best means of asserting his rights and the nature of a potential action;
159. The Representative Plaintiff shares common interests with the Class Members and has instituted the present claim in good faith;
160. The Representative Plaintiff has the resources, knowledge, time and dedication required to act as the representative plaintiff of the Class and to advance the case on behalf of the Class;
161. The Representative Plaintiff has no conflict of interest with other Class Members and is represented by counsel that are experienced at litigating shareholders' claims in class actions against multinational corporations that list their securities on multiple exchanges;

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

AUTHORIZE the Class, including as described herein:

All persons and entities who acquired or purchased Bombardier's securities during the [...] period spanning from August 2, 2018 to November 8, 2018, inclusively, and held all or some of these securities until November 8, 2018 inclusively;

NAME Denis Gauthier the Class Representative;

DECLARE that the following questions of fact and law are to be dealt with collectively:

- a) During the Class Period, did the Defendants publish Documents that contained misrepresentations within the meaning of the QSA and, if necessary, other Securities Legislation?

- b) If so, which document contains which misrepresentations?
- c) Were the misrepresentations intentional?
- d) Are any of the Defendants liable to the Class or any of its Members under the QSA, and if necessary, any concordant provisions of the other Securities Legislation and/or under art. 1457 of the CCQ?
- e) If so, which Defendant is liable and to whom? and
- f) What are the Representative Plaintiff's and the Class Members' damages?

AUTHORIZE the class action proceedings to seek the following conclusions:

GRANT this class action on behalf of the Class;

GRANT the Representative Plaintiff's action against the Defendants in respect of the rights of action asserted against Defendants under Title VIII, Chapter II, Divisions I and II of the QSA and, if necessary, the concordant provisions of the other Securities Legislation, and article 1457 of the *Civil Code of Québec*;

CONDEMN the Defendants to pay to the Representative Plaintiff and Class Members compensatory damages for all monetary losses;

ORDER collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Québec* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

AUTHORIZE these class action proceedings under section 225.4 of the QSA;

APPROVE the notice to the members of the Class in the form submitted to the Court;

ORDER the publication of the notice to the members of the Class no later than thirty (30) days after the date of the judgment authorizing the class proceedings;

ORDER that the deadline for a member of the Class to exclude themselves from the class action proceedings shall be sixty (60) days from the publication of the notice to the members of the Class.

THE WHOLE WITH COSTS including all costs related to the publication of the notices to class members.

MONTREAL, this 7th day of December, 2022

(S) Faguy & Co.

FAGUY & CO. BARRISTERS & SOLICITORS INC.
Attorneys for the Plaintiff

(BM-1125)

M^{re} Shawn K. Faguy (sfaguy@faguyco.com)

M^{re} Elizabeth Meloche (emeloche@faguyco.com)

329 de la Commune Street West, Suite 200

Montréal, Québec, H2Y 2E1, Canada

Telephone: (514) 285-8100

Fax: (514) 285-8050

Our File: 10229-001

SCHEDULE A: DRAFT ORIGINATING APPLICATION

CANADA
PROVINCE OF QUÉBEC

DISTRICT OF MONTRÉAL
No.: 500-06-000977-195

SUPERIOR COURT
(Class Action)

DENIS GAUTHIER, residing and domiciled at 427 Savard, in the city of St-Jean-sur-Richelieu, District of Iberville, Province of Quebec, J2W 1Y7

Representative Plaintiff

v.

BOMBARDIER INC., a legal person incorporated pursuant to the Canada Business Corporations Act, having its principal place of business at 800, boul. René-Lévesque West, 29th floor, in the city of Montreal, province of Québec, H3B 1Y8

-and-

ALAIN BELLEMARE, having his place of business at 800, boul. René-Lévesque West, 29th floor, in the city of Montreal, province of Québec, H3B 1Y8

-and-

JOHN DI BERT, having his place of business at 800, boul. René-Lévesque West, 29th floor, in the city of Montreal, province of Québec, H3B 1Y8

Defendants

(DRAFT) ORIGINATING APPLICATION
(Articles 583 *et seq.* CCP and art. 225.4 QSA)

TO THE HONORABLE CHRISTIAN IMMER OF THE SUPERIOR COURT OF QUÉBEC, ACTING AS CASE MANAGEMENT JUDGE, IN SUPPORT OF HIS ORIGINATING APPLICATION, THE REPRESENTATIVE PLAINTIFF RESPECTFULLY SUBMITS THE FOLLOWING:

PREAMBLE

1. On ●, this class action was authorized by the Honorable Christian Immer, S.C.J., against the Defendants on behalf of the members of the class defined below, other than the “Excluded Persons”:

All persons and entities who acquired or purchased Bombardier's securities during the period spanning from August 2, 2018 to November 8, 2018, inclusively, and held all or some of these securities until November 8, 2018 inclusively;

2. Denis Gauthier was ascribed the status of representative of the persons included in the class described above;
3. The issues to be dealt with collectively were ordered to be:
 - a) During the Class Period, did the Defendants publish Documents that contained misrepresentations within the meaning of the QSA and, if necessary, other Securities Legislation?
 - b) If so, which document contains which misrepresentations?
 - c) Were the misrepresentations intentional?
 - d) Are any of the Defendants liable to the Class or any of its Members under the QSA, and if necessary, any concordant provisions of the other Securities Legislation and/or under art. 1457 of the CCQ?
 - e) If so, which Defendant is liable and to whom? and
 - f) What are the Representative Plaintiff's and the Class Members' damages?
4. The conclusions sought by the class action were identified as follows:

GRANT this class action on behalf of the Class;

GRANT the Representative Plaintiff's action against the Defendants in respect of the rights of action asserted against Defendants under Title VIII, Chapter II, Divisions I and II of the QSA and, if necessary, the concordant provisions of the other Securities Legislation, and article 1457 of the *Civil Code of Québec*;

CONDEMN the Defendants to pay to the Representative Plaintiff and Class Members compensatory damages for all monetary losses;

ORDER collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Québec* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

I- DEFINITIONS

5. In addition to the terms that are defined elsewhere herein and within the Québec *Securities Act*, CQLR c. V-1.1, the following terms have the following meanings:

- a) "**Board**" means the board of directors of **Bombardier**;
- b) "**Bombardier**" means the defendant Bombardier Inc. and, as the context may require, its subsidiaries and affiliates;
- c) "**Class**" and "**Class Members**" are comprised of the following, other than the **Excluded Persons**:

All persons and entities who acquired or purchased Bombardier's securities during the **Class Period** and held all or some of these securities until November 8, 2018 inclusively;

- d) "**Class Period**" means the period spanning from August 2, 2018 to November 8, 2018, inclusively;
- e) "**CCP**" means the *Code of Civil Procedure*, CQLR c C-25.01;
- f) "**CCQ**" means the *Civil Code of Québec*, CQLR c CCQ-1991;
- g) "**Company**" means Bombardier;
- h) "**Core Documents**" (each being a "**Core Document**") refers to:
 - i) Bombardier's 2017 Year-End MD&A for the year ended December 31, 2017 ("**2017 Year-End MD&A**"), filed on February 15, 2018, communicated herewith as **Exhibit P-1**;
 - ii) Bombardier's MD&A for the three-month period ended March 31, 2018 ("**2018 Q1 MD&A**"), filed on May 3, 2018, communicated herewith as **Exhibit P-2**;
 - iii) Bombardier's MD&A for the three and six-month periods ended June 30, 2018 ("**2018 Q2 MD&A**"), filed on August 2, 2018, communicated herewith as **Exhibit P-3**;
 - iv) Bombardier's MD&A for the three and nine-month periods ended September 30, 2018 ("**2018 Q3 MD&A**"), filed on November 8, 2018, communicated herewith as **Exhibit P-4**;
- i) "**Corrective Disclosure**" means Bombardier's 2018 Q3 MD&A, Exhibit P-4;
- j) "**Defendants**" means, collectively, Bombardier and the **Individual Defendants**;
- k) "**Excluded Persons**" refers to the Defendants herein, at all material times, members of their immediate families and their legal representatives, heirs, successors and/or assigns and the directors, officers, subsidiaries, and affiliates of Bombardier and its subsidiaries as well as any entity in which Bombardier has or had a controlling interest;
- l) "**FCF**" means Free Cash Flow;

- m) "**FCF Guidance**" means the Company's 2018 FCF Guidance of Breakeven \pm \$150 million;
- n) "**Impugned Documents**" (each being an "Impugned Document") refers to:
 - i) Bombardier's 2018 Q2 MD&A;
 - ii) Bombardier's Forms 52-109F2 *Certification of Interim Filings - Full Certificate* signed by Alain Bellemare (CEO) and John Di Bert (CFO), filed on August 2, 2018, communicated herewith as **Exhibit P-5 en liasse**;
- o) "**Individual Defendants**" (each being an "Individual Defendant") means Alain Bellemare and John Di Bert;
- p) "**MD&A**" means Management's Discussion and Analysis;
- q) "**Plaintiff**" and/or "**Representative Plaintiff**" mean Denis Gauthier;
- r) "**QSA**" means the *Québec Securities Act*, CQLR C V-1.1;
- s) "**Securities Legislation**" means, collectively, the QSA; the *Securities Act*, RSO 1990, c S.5, as amended; the *Securities Act*, RSA 2000, c S-4, as amended; the *Securities Act*, RSBC 1996, c 418, as amended; the *Securities Act*, CCSM c S50, as amended; the *Securities Act*, SNB 2004, c S-5.5, as amended; the *Securities Act*, RSNL 1990, c S-13, as amended; the *Securities Act*, SNWT 2008, c 10, as amended; the *Securities Act*, RSNS 1989, c 418, as amended; the *Securities Act*, S Nu 2008, c 12, as amended; the *Securities Act*, RSPEI 1988, c S-3.1, as amended; the *Securities Act*, 1988, SS 1988-89, c S-42.2, as amended; and the *Securities Act*, SY 2007, c 16, as amended; and
- t) "**SEDAR**" means the system for electronic document analysis and retrieval of the Canadian Securities Administrators;

II- INTRODUCTION

A. Overview of Proposed Class Action

- 6. This securities class action arises out of the Defendants' misrepresentations and failure to make timely disclosure of material facts concerning Bombardier's 2018 FCF Guidance which Bombardier had stated to be: "Breakeven \pm \$150 million";
- 7. FCF (free cash flow) is the difference between the cash flow generated by a company from its operating activities less capital expenditures. Bombardier defines "Free Cash Flow (usage)" as: "Cash flows from operating activities less net additions to PP&E [plant, property & equipment] and intangible assets". By making a FCF Guidance of Breakeven \pm \$150 million, Bombardier asserts that after subtracting its net additions to PP&E and intangible assets from the cash flow it will generate from its operating activities, the Company will either report a FCF of zero (\$0.00) or a FCF within a range of \pm \$150 million from zero (\$0.00) for the year 2018;

8. As particularized herein, the significant damages suffered by the Representative Plaintiff and Class Members were directly caused by the Defendants' misrepresentations and failure to make timely disclosure of material facts concerning the Company's FCF Guidance;
9. Bombardier is a multinational transportation and aerospace company whose headquarters are located in Montréal, the whole as appears from the *Registraire des Entreprises du Québec* print out, communicated herewith as **Exhibit P-6**;
10. Bombardier's securities are comprised of both equity and debt securities, including but not limited to:
 - i) Class A shares, Class B subordinate voting shares, Series 2 preferred shares, Series 3 preferred shares and Series 4 preferred shares, all of which trade on the TSX, respectively under the symbols BBD.A, BBD.B, BBD.PR.B, BBD.PR.D and BBD.PR.C. Class B common shares also trade on the OTCQX in the United States under the symbol BDRBF; and
 - ii) senior notes which trade on German stock exchanges.
11. In November 2015, the Defendants introduced Bombardier's "Roadmap to 2020", a transformation plan that was allegedly going to allow the Company to, *inter alia*, increase its FCF as well as its revenues and EBITDA/EBIT (i.e. Earnings Before Interest, Tax, Depreciation and Amortization) before special items (the "**Transformation Plan**");
12. The Defendants set out to execute Bombardier's Transformation Plan in 3 phases:
 - i) Phase 1: De-Risk from 2015 to 2016 - this phase consisted of securing liquidity, pro-actively aligning production rates, certifying the C Series jets as well as strengthening its backlog, in-flight testing of the Global 7000 jets and re-financing its debt;
 - ii) Phase 2: Build Through Transformation from 2016 to 2020 (ongoing at the time of the filing of the Motion for Authorization) - this phase consists in establishing a "clear path to earnings and free cash flow growth" by way of an operational transformation (cost reduction and site specialization), re-aligning its portfolio strategy (product development, capital allocation discipline and strategic options) and increasing revenue growth (from the C Series, Global 700, BT and the aftermarket); and
 - iii) Phase 3: De-Leverage from 2019 to 2020 - this last phase seeks to achieve Bombardier's goal of converting earnings into approximately \$750 million to \$1 billion of annual cash by 2020;as appears from pages 8 to 10 of Bombardier's 2016 Investor Day Presentation, communicated herewith as **Exhibit P-7**;
13. With regard to Phase 2, the Defendants established a "clear path" to attain Bombardier's FCF Guidance, as appears from page 21 of Exhibit P-7;

14. The FCF Guidance is crucial to Bombardier's Transformation Plan since it is the starting point of its objective to achieve a FCF of \$750 million to \$1 billion by 2020, as appears from page 22 of Exhibit P-7;
15. On December 14, 2017, Bombardier held its 2017 Investor Day Presentation. During this presentation, the Defendants indicated that in order to achieve Bombardier's ultimate objective of having a FCF of \$750 million to \$1 billion by 2020, the Company needed to deliver a "turnaround financial performance in 2018" which included attaining a FCF Guidance of Breakeven \pm \$150 million, as appears from pages 11, 14, 19 and 20 of the 2017 Investor Day Presentation, communicated herewith as **Exhibit P-8**;
16. In February 2018, the Defendants published Bombardier's 2017 Year-End MD&A in which the Company reiterated that its 2018 FCF Guidance was to attain Breakeven \pm \$150 million, as appears from pages 6 and 14 of the 2017 Year-End MD&A, Exhibit P-1;
17. In May 2018, the Defendants published Bombardier's 2018 Q1 MD&A in which they reassured investors that the Company was "in line" to achieve its Transformation Plan and attain its 2018 FCF Guidance, as appears from page 5 of Exhibit P-2;
18. As well, in Bombardier's 2018 Q1 MD&A, the Defendants announced a definitive agreement to sell property owned by the Company (the "**Downsview Sale**"), as appears from page 6 of Exhibit P-2;
19. On August 2, 2018, the Defendants published Bombardier's 2018 Q2 MD&A in which they further reassured investors that the Company remained "in line" to attain its 2018 FCF Guidance;
20. Furthermore, the Defendants added that the Company remained "in line" to achieve its FCF Guidance *excluding* the net proceeds from the Downsview Sale, as appears from pages 5, 6, and 7 of Exhibit P-3;
21. On November 8, 2018, the Defendants published Bombardier's 2018 Q3 MD&A which included a "2018 Guidance Update". In this "2018 Guidance Update", the Defendants modified the Company's FCF Guidance which, as explicitly represented in its 2018 Q2 MD&A, was to *exclude* the net proceeds from the Downsview Sale. The update provided that the FCF Guidance would now be Breakeven \pm \$150 million **including** the net proceeds from the Downsview Sale, as appears from page 7 of Exhibit P-4;
22. The about-face in Bombardier's 2018 Q3 MD&A concerning its FCF Guidance corrected the Defendants' misrepresentation and revealed an important earnings shortfall;
23. In the aftermath of the Corrective Disclosure, all of Bombardier's publicly-traded securities plummeted in value. For example, the price of Bombardier's Class B subordinate voting shares (BBD.B) went from \$3.12 to \$2.41 (a drop of 22.75%) in one day on an unusually high trading volume of 53,648,393, the whole as appears from the price history, communicated herewith as **Exhibit P-9**;
24. Contrary to the Defendants' contention, at the time of the release of its 2018 Q2 MD&A, the Company was not "in line" to achieve a FCF Guidance of Breakeven \pm \$150 million;

25. On August 2, 2018, the Defendants knew or should have known that it was not reasonable to reaffirm Bombardier's FCF Guidance. This is based, first, on an analysis of Bombardier's initial projection for FCF Guidance, compared with its quarterly projections and actuals through 2018, which reveals that, on August 2, 2018, it was utterly improbable that Bombardier would achieve its 2018 FCF Guidance;
26. Second, independently from the above and in addition thereto, on August 2, 2018, the Defendants should have known that Bombardier's 2018 FCF Guidance would likely not be met for the reasons laid out in Dr. Ramy Elitzur's expert report, communicated herewith as **Exhibit P-39**, relating to, *inter alia*:
 - i) The Defendants' flawed calculations of Bombardier's FCF;
 - ii) The Company's improper forecasting process;
 - iii) Red flags indicative of earnings management by the Company; and
 - iv) Material weaknesses in Bombardier's internal controls;
27. Third, in the days following the publication of the Corrective Disclosure, the Defendants explained their about-face by invoking, *inter alia*, issues at Bombardier Transportation ("**BT**"), including: (i) a shift in BT's product portfolio, (ii) BT production and delivery delays, and (iii) BT customer infrastructure issues (collectively, the "**BT Issues**");
28. On August 2, 2018, the Defendants knew or should have known of the BT Issues and of the impact these would have on the FCF Guidance;
29. Consequently, the Defendants falsely reassured Bombardier's investors, in its 2018 Q2 MD&A, that the Company was "in line" to attain its FCF Guidance;
30. This is acutely true when Bombardier claimed, in its 2018 Q2 MD&A, that the FCF Guidance would be attained without including the net proceeds of the Downview Sale;
31. Accordingly, at all relevant times during the Class Period, the Defendants intentionally, falsely and misleadingly led investors to believe that Bombardier was "in line" to achieve its FCF Guidance when, in fact, it was not. With the Individual Defendants' knowledge and approval, Bombardier failed to make timely disclosure of a material fact concerning its FCF Guidance, namely, that this FCF Guidance would likely not be achieved in light of the information that the Defendants had in hand on August 2, 2018;
32. The drop in value of Bombardier's securities caused significant damages to the Representative Plaintiff and Class Members and are a direct result of the Defendants' misrepresentations and failure to make timely disclosure of material facts;
33. Bombardier's internal controls were deficient at all relevant times during the Class Period since they failed to ensure that all material information was disseminated to the investing public and in a timely manner;

34. The Defendants made intentionally false and misleading statements in the Impugned Documents regarding the FCF Guidance. As such, the Defendants breached their legal obligations and duties to disclose all relevant and material information to investors;
35. As a result of the Defendants' misrepresentations, the price of Bombardier's securities was artificially inflated at all relevant times during the Class Period;
36. The Representative Plaintiff and Class Members acquired Bombardier securities at artificially inflated prices and suffered damages when the Corrective Disclosure revealed the truth;

B. The Parties

1) The Representative Plaintiff and the Class Sought to be Represented

37. The proposed Class is defined at paragraph 1 c) hereinabove;
38. The Representative Plaintiff resides in Québec;
39. On October 19, 2018, the Representative Plaintiff purchased 1,000 BBD.B shares at a price of CAN \$3.715 per share for a total of CAN \$3,724.95 (including the \$9.95 purchase fee), the whole as appears from the Representative Plaintiff's Portfolio statement communicated herewith as **Exhibit P-35**;
40. On October 29, 2018, the Representative Plaintiff purchased an additional 3,900 BBD.B shares at a price of CAN \$3.110 per share for a total of CAN \$12,138.95 (including the \$9.95 purchase fee), as appears from Exhibit P-35;
41. The Representative Plaintiff held these shares until after the Corrective Disclosure;
42. The Representative Plaintiff seeks the status of representative of the Class as well as the authorization to bring an action pursuant to s. 225.4 QSA and, if necessary, pursuant to the corresponding provisions in the Securities Legislation;

2) Bombardier

43. Founded in the early 1900s, Bombardier has become an international engineering and manufacturing firm;
44. At the relevant time, Bombardier has production and engineering sites in 28 countries across four (4) segments: Aerostructures and Engineering Services, Transportation, Business Aircraft, and Commercial Aircraft;
45. BT is a global mobility solution provider which covers a full spectrum of rail products and services;
46. BT is comprised of three (3) market segments:

- i) *Rolling Stock* which includes high-speed and very high-speed trains, commuter, regional and intercity trains, light rail vehicles, metros, electric and diesel locomotives, propulsion and controls and bogies³;
- ii) *Systems and Signaling* which includes mass transit and airport systems, mainline systems, mass transit signaling, mainline signaling, industrial signaling and *OPTIFLO* - Services solutions for signaling; and
- iii) *Services* which include material solutions, operations and maintenance of systems, fleet management, asset-life management and component re-engineering and overhaul,

as appears from pages 87 to 91 of Exhibit P-1;

3) The Individual Defendants

- 47. Alain Bellemare ("**Bellemare**") was appointed as President and CEO of Bombardier on February 13, 2015. At the relevant time, he was also a member of Bombardier's Board and the chief architect of the Transformation Plan;
- 48. At all relevant times during the Class Period, Bellemare was a director and officer of Bombardier within the meaning of the Securities Legislation. In his capacity as CEO, Bellemare reviewed the interim financial reports, annual financial statements, interim and annual MD&A, the annual information form ("**AIF**") and all documents and information incorporated by reference in the AIF. Bellemare certified that these documents did not contain any untrue statements of material facts or omitted to state a material fact, as appears from Exhibit P-5 *en liasse*;
- 49. John Di Bert ("**Di Bert**") was appointed as Senior VP and CFO of Bombardier on August 10, 2015 and was also instrumental in attempting to achieve the goals set forth in the Transformation Plan;
- 50. At all relevant times during the Class Period, Di Bert was an officer of Bombardier within the meaning of the Securities Legislation. In his capacity as Bombardier's CFO, Di Bert reviewed the interim financial reports, annual financial statements, interim and annual MD&A, the AIF and all documents and information incorporated by reference in the AIF. Di Bert certified that these documents did not contain any untrue statements of material facts or omitted to state a material fact, as appears from Exhibit P-5 *en liasse*;

III- FACTS GIVING RISE TO THE PRESENT ACTION

A. Bombardier's Corporate Filings

- 51. At all relevant times during the Class Period, Bombardier communicated with the investing public through established market communication channels such as news releases and documents filed on SEDAR;
- 52. On February 15, 2018, Bombardier published its 2017 Year-End MD&A, Exhibit P-1;

³ A bogie is a chassis or framework that carries a wheelset attached to a vehicle — a modular subassembly of wheels and axles;

53. Bombardier's 2017 Year-End MD&A informed investors of the following:

- i) the Company's original 2017 guidance was to achieve a FCF usage of \$750 million to \$1 billion;
- ii) the latest 2017 guidance aimed for an approximate FCF usage of \$1 billion;
- iii) the actual 2017 FCF usage was of \$786 million; and
- iv) the 2018 guidance aimed for a FCF of Breakeven \pm \$150 million;

as appears from pages 6 and 14 of Exhibit P-1;

54. The 2017 Year-End MD&A also contains the following statements:

- i) "We Positioned the Company to Deliver Growth Towards Our 2020 Plan", as appears from page 7 of Exhibit P-1;
- ii) "As we near the end of the investment cycle, we continue to see a clear path to a sustainable cash generation target of \$750 million to \$1 billion annually by 2020", as appears from page 11 of Exhibit P-1;
- iii) "Our strategy to achieve 2018 guidance: (...) Free cash flow generation is expected starting in the second half of 2018, as train project deliveries intensify (...)", as appears from page 15 of Exhibit P-1; and
- iv) "Our strategy to achieve 2018 guidance. We continue to manage our business with prudence and discipline and as such, we anticipate a similar level of revenues and deliveries in 2018 compared to 2017", as appears from page 56 of Exhibit P-1;

55. In a news release published that same day, Bombardier adds:

- i) "«Bombardier closed out the second full year of its five-year turnaround plan with very strong performance», said Alain Bellemare, President and Chief Executive Officer, Bombardier Inc. «Because of this solid performance, we begin 2018 with great momentum. Our operational transformation is in full motion; **our growth programs - including the Global 7000 - are on track and we have a clear line of sight to our 2020 objectives.**»"; and
- ii) "Free cash flow performance for 2017 was better than guidance by more than \$200 million, with a usage of \$786 million. This over performance allowed Bombardier to end the year with a \$3.1 billion cash balance and **well positioned to achieve cash flow breakeven in 2018, a key objective of the Company's turnaround plan.**";

[Our emphasis]

as appears from page 1 of the news release, communicated herewith as **Exhibit P-10**;

56. On May 3, 2018, Bombardier published its 2018 Q1 MD&A, Exhibit P-2;

57. Bombardier's 2018 Q1 MD&A informed investors that the Company had a FCF usage of \$721 million and that the Company was "in line" with its plan and full year breakeven target, as appears from page 5 of Exhibit P-2;
58. As well, in its 2018 Q1 MD&A, Bombardier announced the Downview Sale, a definitive agreement to sell a 148-hectare manufacturing site owned by the Company for gross proceeds of approximately \$635 million. Bombardier stated that the transaction was expected to close in the second quarter of 2018, as appears from page 6 of Exhibit P-2;
59. On August 2, 2018, Bombardier published its 2018 Q2 MD&A, Exhibit P-3;
60. Once again, Bombardier reassured investors that it was "in line" to meet its objective of attaining its FCF Guidance:

"We are in line to achieve our 2018 revenue, EBIT before special items and free cash flow guidance (...) Revenues for the year are expected between \$16.5 billion and \$17.0 billion, EBIT before special items between \$900 million and \$1 billion, EBITDA before special items between \$1.25 billion and \$1.35 billion, **and free cash flow breakeven plus or minus \$150 million excluding approximately \$600 million net proceeds from the sale of the Downview Property."**

[Our emphasis]

as appears from page 6 of Exhibit P-3;

61. Under the section entitled "2018 Guidance Update", Bombardier provided investors with an updated guidance. With regard to its FCF, Bombardier indicated that the FCF Guidance it provided in the 2017 Year-End MD&A (i.e. 2018 FCF Guidance of Breakeven \pm \$150 million) remained "unchanged", as appears from page 7 of Exhibit P-3;
62. Furthermore, Bombardier reassured its investors that the Company was "in line" to achieve its 2018 FCF Guidance **excluding** the net proceeds of approximately \$600 million from the Downview Sale, as appears from pages 5, 6 and 7 of Exhibit P-3;
63. In its news release published that same day, Bombardier reiterated that it improved its FCF usage thereby "supporting its 2018 breakeven target", as appears from the news release, communicated herewith as **Exhibit P-11**;
64. However, unbeknownst to the public, and as explained below, Bombardier knew or should have known that it was not "in line" with regard to its FCF Guidance;
65. On November 8, 2018, Bombardier's:
 - i) Class A shares (BBD.A) opened at CAN \$3.22 on the TSX, as appears from the price history, communicated herewith as **Exhibit P-12**;
 - ii) Class B subordinate voting shares (BBD.B) opened at CAN \$3.12 on the TSX, as appears from Exhibit P-9, and at US \$2.39 on the OTC Markets, as appears from the price history, communicated herewith as **Exhibit P-13**;

- iii) Series 2 preferred shares (BBD.PR.B) opened at CAN \$13.10 on the TSX, as appears from the price history, communicated herewith as **Exhibit P-14**;
 - iv) Series 3 preferred shares (BBD.PR.D) opened at CAN \$12.72 on the TSX, as appears from the price history, communicated herewith as **Exhibit P-15**; and
 - v) Series 4 preferred shares (BBD.PR.C) opened at CAN \$20.32 on the TSX, as appears from the price history, communicated herewith as **Exhibit P-16**;
66. That same day, Bombardier published its 2018 Q3 MD&A ("Corrective Disclosure") which disclosed, for the first time, that there would be a \$600M shortfall from its 2018 FCF Guidance;
67. Bombardier's Corrective Disclosure included a "2018 Guidance Update" in which Bombardier modified the Company's FCF Guidance which, as Bombardier previously explicitly represented in its 2018 Q2 MD&A, *excluded* the net proceeds from the Downsview Sale. The FCF Guidance was modified as follows: "Breakeven \pm \$150 million **including** the net proceeds of ~\$600 million from the sale of the Downsview Property", as appears from page 7 of Exhibit P-4;
68. According to Bombardier, this reversal was necessary to offset "the shortfall at [Bombardier] Transportation associated with the higher than planned working capital balance in the second half of the year", as appears from page 7 of the Corrective Disclosure, Exhibit P-4;
69. Bombardier's about-face represents a \$600 million shortfall in its FCF position, which shocked the market and rocked Bombardier's share price;
70. On November 9, 2018, following the publication of the Corrective Disclosure, the value of Bombardier's securities plummeted. That same day, Bombardier's shares opened as follows:
- i) Class A shares (BBD.A) opened at CAN \$2.47, as appears from Exhibit P-12. This represents a 23.3% drop in price;
 - ii) Class B subordinate voting shares (BBD.B) opened at CAN \$2.50 on the TSX, as appears from Exhibit P-9. This represents a 19.9% drop in price. As for the OTC Markets, Class B common shares opened at US \$1.85, representing a 22.6% drop in price, as appears from Exhibit P-13;
 - iii) Series 2 preferred shares (BBD.PR.B) opened at CAN \$12.17 on the TSX, as appears from Exhibit P-14. This represents a 7.1% drop in price;
 - iv) Series 3 preferred shares (BBD.PR.D) opened at CAN \$12.16 on the TSX, as appears from Exhibit P-15. This represents a 4.4% drop in price; and
 - v) Series 4 preferred shares (BBD.PR.C) opened at CAN \$18.77 on the TSX, as appears from Exhibit P-16. This represents a 7.6% drop in price;
71. The value of Bombardier's senior notes also dropped, further to the publication of the Corrective Disclosure;

72. By November 15, 2018, one week following the publication of the Corrective Disclosure, Bombardier's Class B subordinate voting shares (BBD.B) closed at CAN \$2.09 on the TSX, as appears from Exhibit P-9;
73. By the tenth trading day following the publication of the Corrective Disclosure:
- i) Class A shares (BBD.A) opened at CAN \$2.35, as appears from Exhibit P-12. This represents a total drop of 27% from the open on November 8, 2018;
 - ii) Class B subordinate voting shares (BBD.B) opened at CAN \$2.25 on the TSX, as appears from Exhibit P-9. This represents a total drop of 27.9% from the open on November 8, 2018. As for the OTC Markets, Class B common shares opened at US \$1.84, representing a total drop of 23% from the open on November 8, 2018, as appears from Exhibit P-13;
 - iii) Series 2 preferred shares (BBD.PR.B) opened at CAN \$11.80 on the TSX, as appears from Exhibit P-14. This represents a total drop of 9.9% from the open on November 8, 2018;
 - iv) Series 3 preferred shares (BBD.PR.D) opened at CAN \$11.50 on the TSX, as appears from Exhibit P-15. This represents a total drop of 9.6% from the open on November 8, 2018; and
 - v) Series 4 preferred shares (BBD.PR.C) opened at CAN \$17.75 on the TSX, as appears from Exhibit P-16. This represents a total drop of 12.6% from the open on November 8, 2018;
74. The misrepresentations described above were made with the knowledge and approval of the Individual Defendants;

B. Misrepresentations Regarding Bombardier's 2018 FCF Guidance

75. In Bombardier's 2018 Q1 MD&A, the Defendants stated that Bombardier was "in line" to attain a FCF Guidance of Breakeven \pm \$150 million. In the 2018 Q2 MD&A, they reassured investors that Bombardier remained "in line" and further stated that the Company's FCF Guidance *excluded* the net proceeds from the Downsvue Sale. However, the foregoing was a misrepresentation as the Defendants knew or should have known that Bombardier would likely not meet its FCF Guidance;
76. On August 2, 2018, the Defendants knew or should have known that it was not reasonable to reaffirm Bombardier's FCF Guidance for three distinct reasons;
- 1) Low Probability of Achieving 2018 FCF Guidance**
77. An analysis of Bombardier's initial projection for FCF Guidance compared with its quarterly projections and actuals through 2018 reveals that, on August 2, 2018, it was utterly improbable that the Company would achieve its 2018 FCF Guidance;
78. Bombardier's internal process prior to affirming or updating its FCF Guidance in its quarterly MD&As involves the preparation of presentations to its Board of Directors. The Defendants' internal projection on December 12, 2017 was to generate \$200M of FCF in 2018, as

appears from the 2018 Budget Review Presentation to Bombardier's Board of Directors dated December 12, 2017, communicated herewith as **Exhibit P-43**, at p. 49 (XE-JDB-1). Broken down by quarter, the Defendants' projection was:

Q1 2018 Negative \$550M

Q2 2018 Negative \$220M

Q3 2018 Positive \$445M

Q4 2018 Positive \$525M

79. On May 2, 2018, after Q1 2018 financial data was received, the Defendants revised Bombardier's internal quarterly FCF projections as follows:

Q1 2018 Negative \$721M (actual, down \$171M from initial projection)

Q2 2018 Negative \$485M (projected, down \$265M from initial projection)

Q3 2018 Positive \$815M (projected, up \$371M from initial projection)

Q4 2018 Positive \$905M (projected, up \$380M from initial projection)

as appears from the First Quarterly Report Summary and 2018 F1 Forecast Presentation to Bombardier's Board of Directors dated May 2, 2018, communicated herewith as **Exhibit P-44**, at p. 38 (XE-JDB-3);

80. On August 1, 2018, after Q2 2018 financial data was received, the Defendants revised Bombardier's internal quarterly projections as follows:

Q1 2018 Negative \$720M (actual, down \$171M from initial projection)

Q2 2018 Negative \$380M (actual, down \$160M from initial projection)

Q3 2018 \$0M (projected, down \$445M from initial projection)

Q4 2018 Positive \$1,101M (projected, up \$575M from initial projection)

as appears from the Second Quarterly Report Summary and 2018 F2 Forecast Presentation to Bombardier's Board of Directors dated August 1, 2018, communicated herewith as **Exhibit P-45**, at p. 57 (XE-JDB-2);

81. As a result, on August 1, 2018, the day before Bombardier's 2018 annual FCF Guidance of Breakeven +/- \$150M was reaffirmed, its actual FCF usage was negative \$1,100M (i.e. (720M) + (380M)), which was down \$331M from initial projections;
82. Just as important, the Defendants now projected \$0M of FCF generation for Q3 2018, which is a negative variance of \$445M. Cumulatively, at this point in time, the Defendants' own internal projections were that they would be down \$776M from their own budget for Q1 to Q3 2018;

83. It is also at this point in time that the Defendants balloon their Q4 2018 FCF projection to the sum of \$1,101M of FCF in Q4 2018 to break even, a sum that the Company had not generated in the prior 7 years, or any amount close to it, as appears from Dr. Ramy Elitzur's expert report, Exhibit P-39, at p. 24;
84. As also appears from Dr. Elitzur's expert report, Exhibit P-39, there was less than a 0.08% chance that Bombardier would generate \$1,101M (or \$1.1B) of FCF in Q4 2018 and less than a 0.35% chance it would generate \$950M in Q4 2018 to meet its 2018 FCF Guidance;

2) Systemic and Structural Flaws

85. Second, and independently from the foregoing, on August 2, 2018, the Defendants should have known that it was not reasonable to reaffirm Bombardier's 2018 FCF Guidance for the other reasons set forth in Dr. Elitzur's expert report, Exhibit P-39, relating to, *inter alia*:
 - i) The Defendants' flawed calculations of Bombardier's FCF;
 - ii) The Company's improper forecasting process;
 - iii) Red flags indicative of earnings management by the Company; and
 - iv) Material weaknesses in Bombardier's internal controls;
86. Individually and together, these elements demonstrate that the Defendants' forecasting and reporting process was flawed, unreliable, and subject to error or misreporting;
87. Had the Defendants complied with the applicable standards, they should have known that it was unreasonable to reaffirm the FCF Guidance on August 2, 2018;

3) Knowledge of the BT Issues

88. Third, on August 2, 2018, the Defendants knew or should have known that the Company would likely not achieve its FCF Guidance according to their own explanation of the shortfall, including the BT Issues:
 - iv) a shift in Bombardier's product portfolio;
 - v) production and delivery delays; and
 - vi) customer infrastructure issues;

as appears, *inter alia*, from page 2 of the transcript of the November 13, 2018 *Scotiabank Transportation & Industrials Conference*, communicated herewith as **Exhibit P-40** (JDB-13); pages 6, 13, 14, 26, and 27 of the transcript of Bombardier's 2018 Investor Day Presentation, communicated herewith as **Exhibit P-41** (JDB-6); page 42 of the power point presentation shown during Bombardier's 2018 Investor Day, communicated herewith as **Exhibit P-17**; and a copy of the video of that Investor Day Presentation, communicated herewith as **Exhibit P-36**;

i. Shift in BT's Product Portfolio

89. On November 13, 2018, Bombardier attended the *Scotiabank Transportation & Industrials Conference* in Toronto, as appears from **Exhibit P-18**, and from a copy of the transcript of this presentation, Exhibit P-40;
90. During this conference, Di Bert provided investors with an explanation for the \$600 million shortfall in Bombardier's FCF Guidance revealed in the 2018 Q3 MD&A;
91. Di Bert informed investors that approximately \$200 million of the \$600 million shortfall was due to a shift in BT's product portfolio/order book (Exhibit P-40, p. 2). According to this shift, BT would acquire more contracts which generated **less** upfront payments at the beginning of projects (e.g. signaling and services contracts). This type of order book stood in contrast with contracts which generated large upfront advances and milestone payments (e.g. new innovation/engineering projects in relation to Bombardier's rolling stock contracts). Di Bert stated that this portfolio shift was "by design";
92. Indeed, the Defendants already knew that BT would be undergoing a shift in its product portfolio before Bombardier published its 2018 Q2 MD&A. The shift in Bombardier's product portfolio was not *new information* which came to light after Bombardier's 2018 Q2 MD&A such that it is not an acceptable explanation for the Company's reversal between the FCF Guidance in its 2018 Q2 MD&A and its 2018 Q3 MD&A;
93. In its 2016 Investor Day Presentation, Bombardier informed the investing public that one of BT's targets was to generate 50% of its revenues from signaling and services by 2020 and that it would put a "higher focus" on signaling and services, the whole as appears from pages 40 and 44 of the 2016 Investor Day Presentation, Exhibit P-7;
94. Further, in its 2017 Year-End MD&A, under the heading "Positive outlook for the railway industry", Bombardier indicates that its services market segment is expected to grow, as appears from pages 92 and 93 of Exhibit P-1;
95. The 2017 Year-End MD&A also states that:
 - i) "Sizable signalling and service agreements were granted in Italy, the U.K. and France", as appears from page 94 of Exhibit P-1;
 - ii) "In the upcoming years, significant tenders are projected in the signalling segment in Spain and Norway and in the services segment in the U.K. and Germany", as appears from page 94 of Exhibit P-1; and
 - iii) "Significant signalling orders were secured in Australia and Thailand as well as many mid-sized services agreements in Australia and Malaysia", as appears from page 95 of Exhibit P-1;
96. In May 2018, the Defendants informed investors that Bombardier had obtained numerous large signaling contracts in Europe and that various services and signaling contracts were anticipated across the USA and Canada, as appears from page 33 of Exhibit P-2;
97. Bombardier's "Analysis of Results" segment indicates that the signaling market segment generated revenues of \$211 million, which represents a \$13 million increase from the first quarter of the previous year (2017) or a 7% year-to-year change, as appears from page 34 of Exhibit P-2;

98. As for the services market segment, it generated \$537 million in revenues, which represents a \$103 million increase from the first quarter of the previous year (2017) or a 24% year-to-year change, as appears from page 34 of Exhibit P-2;
99. In August 2018, the Defendants indicated that the signaling market segment generated revenues of \$262 million, which represents a \$67 million increase from the second quarter of the previous year (2017) or a 34% year-to-year change, as appears from page 42 of Exhibit P-3;
100. The 2018 Q2 MD&A also indicated that Bombardier's services market segment increased by \$63 million compared to the second quarter of the previous year (2017) to generate \$522 million in revenues, as appears from page 42 of Exhibit P-3. This represents a year-to-year increase of 14%;
101. Bombardier's 2018 Q2 MD&A states that the Company's revenue increase is mainly due to, *inter alia*, "higher activities in signalling mainly in Europe and Asia-Pacific (\$58 million) and higher activities in services mainly in Europe (\$41 million)", as appears from page 42 of Exhibit P-3;
102. In comparison, the Q2 year-to-year revenues for Bombardier's rolling stock market segment increased by a mere 7%, as appears from page 42 of Exhibit P-3;
103. In Bombardier's 2018 Investor Day Presentation webcast video located at https://www.youtube.com/watch?v=_7qoxfl_W2g as well as at Exhibit P-36, Laurent Troger, President of BT, stated that the shift was, "(...) **in line with our strategy**, more signaling, more services, more reuse or options, but typically when you go into this business you have lower advances (...)" [Emphasis added], as also appears from page 13 of the transcript of Bombardier's 2018 Investor Day Presentation, Exhibit P-41;
104. As demonstrated by the foregoing, the Defendants knew of the shift in BT's product portfolio/order book towards executing more services and signaling contracts and less rolling stock contracts way before the release of the 2018 Q3 MD&A and more specifically, when the 2018 Q2 MD&A was released;

ii. Production and Delivery Delays

105. The Defendants allege that another portion of Bombardier's \$600 million shortfall was caused by production and delivery delays, as appears, *inter alia*, from page 2 of the transcript of the November 13, 2018 *Scotiabank Transportation & Industrials Conference*, Exhibit P-40, and from the exhibits relating to Bombardier's 2018 Investor Day Presentation (Exhibit P-41, p. 6 and 13; Exhibit P-17, p. 42; and Exhibit P-36);
106. 83.1 The Defendants identified the "key contracts" that "impacted [Bombardier] for around \$400 million of working capital this year [2018]" (Exhibit P-41, p. 6, 13 and 26). Of those "key contracts", according to the Defendants, two were significant in explaining the shortfall attributable to production and delivery delays: the Metropolitan Transportation Authority of New York City ("**MTA NYC**") and Transport for London ("**TfL**") contracts, as appears from Exhibits P-17, p. 42, and P-36;
107. Bombardier's contract with the MTA NYC relates to an original order of 300 R179 series subway cars for the New York City Transit for approximately US \$599 million, the whole as

appears from the news release, communicated herewith as **Exhibit P-19**. All 300 subway cars were scheduled for delivery between mid-2015 and early 2017;

108. The Defendants knew or should have known of the delays in production with regard to the MTA NYC contract on August 2, 2018 or earlier, as appears, *inter alia*, from pages 28 and 30 of the July 2014 *MTA Capital Program Oversight Committee Meeting* report, communicated herewith as **Exhibit P-20**, as well as from pages 33-35 and 43 of the January 2017 *MTA Capital Program Oversight Committee Meeting* report, communicated herewith as **Exhibit P-21**;

109. The delays in the MTA NYC contract originally relate to welding issues (hot cracking) discovered on Bombardier's R179 prototype cars. A July 29, 2014 news article in the New York Daily states:

Riders on the C train, who endure the oldest and most battered subway cars in the entire system, will have to continue to do so for longer than planned.

The manufacturer of a new model of subway car that was picked to replace those on the C line has encountered problems with its prototypes. Bombardier discovered cracks in the prototype's steel undercarriage and walls, Metropolitan Transportation Authority officials said Monday.

The MTA had expected all 300 of the new R179 cars to be delivered by January 2017. That date could now be pushed back between six months and 11 months, officials said. (...)

as more fully appears from the article communicated herewith as **Exhibit P-22**;

110. Moreover, it is due to these past delays that Bombardier was shut out of a US \$3.2 billion contract to supply 1175 to 1700 subway cars in NYC in August of 2017, the whole as appears from a CBC News article, communicated herewith as **Exhibit P-23**;

111. Further, in an internal memo authored on August 23, 2017 by Benoît Brossoit, president of BT Americas from April 11, 2016 to November 19, 2018, Mr. Brossoit writes:

"[...] notre mauvaise performance et les retards importants que nous avons encourus sur le projet R179 ont scellé le sort de notre offre. Nos actions ont exacerbé un environnement de mobilité déjà difficile dans la ville de New York, et la décision de notre client démontre que le marché n'est plus disposé à accepter des retards dans la performance et à subir l'impact de nos manquements. Cet avertissement est un sérieux coup de semonce et nous devons y répondre en respectant nos promesses de livraison, en temps et sans excuse.

as appears from a copy of the internal memo, communicated herewith as **Exhibit P-24**;

112. Bombardier confirmed the authenticity of the internal memo, adding that the Company was "extremely disappointed", as appears from a news article communicated herewith as **Exhibit P-25**;

113. As at December 6, 2018, Bombardier had only delivered 142 of 314 subway cars to the New York City Transit, as appears from page 42 of the 2018 Investor Day Presentation, Exhibit P-17;
114. Furthermore, during Bombardier's December 6, 2018 Investor Day Presentation, Laurent Troger stated the following:
- "So, I pushed the team **this year** to significantly increase the capacity by more than 20% for this project and where we have planned to build one car a day [i.e. 7 cars per week]. **We were producing 2 cars per week, we moved to forecast and we are getting to the 5 car now, but we have been a bit late.** [...]" (1:20:40)
- [Our emphasis]
- as appears from Bombardier's December 2018 Investor Day Presentation webcast video, Exhibit P-36, and from page 13 of the transcript of this presentation, Exhibit P-41;
115. The Defendants were acutely aware of these delays in production when they prepared, reviewed and published Bombardier's 2018 Q2 MD&A;
116. As for TfL, Bombardier signed two (2) contracts to build and maintain 45 four-car new Electric Multiple Units⁴. The first contract covers the design, manufacture commissioning and entry into service of the units and the second is a 35-year train services agreement for the maintenance of the units, as appears from a July 3, 2015 news release, communicated herewith as **Exhibit P-26**;
117. Both contracts are valued at approximately £358 million;
118. On June 25, 2018, an article by *Forestgatedotnet* states that Bombardier was unable to obtain the approval of Network Rail (the authority which owns and operates the railway infrastructure in England, Wales and Scotland) to operate its trains, as appears from the *Forestgatedotnet* article, communicated herewith as **Exhibit P-27**;
119. Although the first production line was delivered to the Network Rail test center in December of 2017 (Bombardier's objective was to deliver all trains in January of 2018), Bombardier ran into a software problem in the train management system, as appears from Exhibit P-27;
120. As a result of this issue, Bombardier had to slow down production since it was running out of space to store the new trains, as appears from Exhibit P-27;
121. As at November 15, 2018, Bombardier's trains had not yet been deployed since they required "further software development", the whole as appears from the Barking and Dagenham Post article, communicated herewith as **Exhibit P-28**. As at December 6, 2018, Bombardier had only built 136 of 222 units, as appears from page 42 of Exhibit P-17;
122. During the December 6, 2018 Investor Day Presentation, Mr. Troget confirmed that Bombardier had not yet obtained the necessary authorization from the relevant authorities;

⁴ An Electric Multiple Unit or EMU is a multiple-unit train consisting of self-propelled carriages using electricity as the motive power. A separate locomotive is not required because the traction drive and control system are contained under various cars in the train.

123. As demonstrated by the foregoing, the Defendants were aware of BT's production and delivery delays long before the release of the 2018 Q3 MD&A and more specifically, when the 2018 Q2 MD&A was released;

iii. Customer Infrastructure Issues

124. The Defendants further explained part of the \$600M miss to achieve FCF Guidance by issues "working with customer" and "infrastructure delay[s]", as appears from page 42 of the power point shown by the Defendants at Bombardier's 2018 Investor Day Presentation, Exhibit P-17, and from the transcript and video of this presentation, Exhibits P-41, p. 14, and P-36;
125. The Defendants stated that the Crossrail project was a "key contract" that exemplified why Bombardier failed to achieve its 2018 FCF Guidance;
126. On or around May 15, 2009, Crossrail Ltd. began construction on a new railway that would run through central London as well as certain surrounding counties (the "Crossrail Project"). Crossrail Ltd. is a wholly owned subsidiary of TfL and is jointly sponsored by TfL and the Department for Transport, the government department responsible for the English transport network;
127. The Crossrail project is a 118km-long railway that will stretch from Reading and Heathrow in the West, through central tunnels in London and across to Shenfield and Abbey Wood in the East. The new railway will stop at 41 accessible stations, 10 newly-built and 30 newly-upgraded, and is expected to serve approximately 200 million people each year, increasing central London's rail capacity by 10%, the whole as more fully appears from an extract of the Crossrail Project's website, communicated herewith as **Exhibit P-29**;
128. The Crossrail project is the biggest construction project in Europe and is one of the largest single infrastructure investments undertaken in the UK, as appears from Exhibit P-29;
129. On February 19, 2014, Bombardier announced that it had signed a contract to provide TfL with the trains that would run on the Crossrail project's railway. The contract includes 65 nine-car Electric Multiple Units as well as the construction of a new maintenance depot for the trains. The contract is valued at approximately £1.3 billion, the whole as appears from Bombardier's news release, communicated herewith as **Exhibit P-30**;
130. The project was due to open in December 2018. However, in August of 2018, it was announced that the opening would be postponed until autumn 2019 "to complete building work and allow for extensive testing to ensure it opened as a safe and reliable railway", the whole as appears from an article from The Guardian, communicated herewith as **Exhibit P-31**;
131. Tom Edwards, a BBC London transport correspondent stated:
- "I have lost count of the times that Crossrail executives said to me the project would be delivered "on time and on budget".
- Today that disappeared in a puff of smoke, and there is no doubt this is a blow for Crossrail.

I'm told it wasn't one specific problem. There were issues with three different signaling systems and also delays to the station fit outs.

They simply ran out of time. This will also hit TfL's finances which was relying on Crossrail to increase its fare take.

This flagship project - the biggest construction project in Europe - just lost some of its lustre.

as appears from an article from the BBC, communicated herewith as **Exhibit P-32**;

132. The completion of the Crossrail Project includes the testing of the new Bombardier trains and infrastructure across the railway. This testing has been, and is currently, underway. At Bombardier's 2018 Investor Day presentation, BT's president, Laurent Troger discussed the delays the Company is facing in testing its trains on the Crossrail Project in light of the construction delays. He stated:

"[The] Crossrail Project (...) is one of the most complex and largest infrastructure projects. (...) We have built 483 cars, we have delivered 269. (...) We have already started commercial service on the East and West part of London but the central section of London has not been opened. We have not been able to complete our integrated test there and we are now working with the customer how (*sic*) to continue this project. You are aware that they have announced a delay on the infrastructure until next year and we are trying to find a way to complete this program with our customers."

as appears from Bombardier's December 2018 Investor Day Presentation webcast video located at https://www.youtube.com/watch?v=_7qoxfl_W2g as well as at **Exhibit P-36**, and from page 14 of the transcript of this presentation, Exhibit P-41;

133. Given the immensity and importance of the Crossrail Project, the largest European infrastructure project, and considering the complexities involved in its timely development and scheduling, BT and TfL were in constant and regular communication, exchanged numerous project updates and reports and discussed delays at length;
134. With an order for 630 train cars, 483 of which were built and 269 delivered, and considering the Crossrail Project's original projected completion of December 2018, the phase of the project concerning the testing of the cars on the railway was the subject of a detailed and specific timeline and schedule. Accordingly, BT was aware of any potential delays in the testing phase of its new trains and/or the postponement of the opening of the project prior to the announcement of the delay in the media in August 2018;
135. The delays concerning the Crossrail Project and the testing of BT's trains was not *new information* for BT which came to light after Bombardier's 2018 Q2 MD&A and it could not be presented as such in order to justify or explain the shortfall in the Company's FCF Guidance and its reversal between the FCF Guidance in its 2018 Q2 MD&A and its 2018 Q3 MD&A;
136. The Defendants were or should have been aware of the customer infrastructure issues which could affect BT, and consequently the FCF Guidance, long before the release of the 2018 Q3 MD&A, and more specifically, when the 2018 Q2 MD&A was released;

137. In summary, all of the BT Issues Bombardier claimed to have been the cause of its FCF Guidance reversal and the \$600 million shortfall in its FCF Guidance were known or should have been known by Bombardier when the 2018 Q2 MD&A was released. Accordingly, the Defendants misrepresented that the Company was “in line” with regard to its FCF Guidance in the 2018 Q2 MD&A. Furthermore, the Defendants misrepresented that the Company remained “in line” with the FCF Guidance even if it were to *exclude* the net proceeds from the Downsvie Sale. Bombardier failed to make timely disclosure of a material fact concerning its FCF Guidance and the Company’s actual FCF Guidance position was only revealed through the Corrective Disclosure;

C. Individual Defendants

138. As required by the AMF, Bellemare and Di Bert certified all interim and annual financial statements and MD&As filed ("**Filings**") during the Class Period attesting to the veracity and fair representation of all material facts presented in the Filings, as appears from Exhibit P-5 *en liasse*;

139. Accordingly, at all relevant times, both Bellemare and Di Bert certified that:

- i) they reviewed the Filings;
- ii) the Filings did not contain any untrue statements of material facts or omitted to state a material fact required to be stated or that was necessary to make a non-misleading statement in light of the circumstances under which it was made;
- iii) the Filings fairly presented in all material respects the financial condition, performance and cash flows of Bombardier;
- iv) they were responsible for establishing and maintaining disclosure controls and procedures as well as internal control over financial reporting;
- v) they have designed, or caused to be designed under their supervision, disclosure controls and procedures to provide reasonable assurance that all material information relating to Bombardier is made known to them and that information required to be disclosed by Bombardier in its Filings or any other document submitted under a securities legislation is recorded, processed, summarized, and reported;
- vi) they have designed, or caused to be designed under their supervision, internal control over financial reporting, to provide reasonable assurance regarding the reliability of financial reporting and the preparation specified in securities legislation; and
- vii) they have evaluated, or caused to be evaluated under their supervision, the effectiveness of Bombardier's disclosure controls and procedures as well as internal control over financial reporting at the financial year-end and that Bombardier has disclosed their conclusions regarding effectiveness in its annual MD&A;

140. The Individual Defendants oversaw the preparation and reporting of all Filings, other financial documents and disclosure to the public and knew or ought to have known of the alleged misrepresentations;
141. The Individual Defendants also authorized, permitted or consented to the release and publication of the Impugned Documents, during the Class Period, which contained misrepresentations;

VI - RIGHTS OF ACTION

A. Statutory Right of Action for Misrepresentation in a Secondary Market Claim

142. The Defendants' statements and omissions were materially false and misleading since they failed to disclose material adverse information and misrepresented the truth about Bombardier's business, operations, revenues, and FCF. Further, Bombardier failed to make timely disclosure of material facts concerning its FCF Guidance;
143. As a result of these misrepresentations, the Representative Plaintiff asserts a right of action under s. 225.8 of the QSA and, if necessary, the concordant provisions of other Securities Legislation, on behalf of all Class Members against the Defendants;
144. Bombardier is registered to do business in Québec, as appears from Exhibit P-6;
145. Bombardier is a reporting issuer in Québec under s. 68 of the QSA, as appears from an extract of the *Autorité des Marchés Financiers'* Reporting Issuers List, communicated herewith as **Exhibit P-33**;
146. Bombardier's securities were distributed in Québec and throughout the world;
147. The Secondary Market Claim against the Defendants is asserted in respect of all Impugned Documents, documents and public statements which contained the misrepresentations alleged herein;
148. In an effort to demonstrate that Bombardier was "in line" with its FCF Guidance, at all relevant times during the Class Period, the Defendants intentionally made or caused to be made a series of materially-false and misleading statements about the Company's FCF Guidance which led to an artificially-inflated assessment of Bombardier's financial status, causing an overvaluation of the price of its securities;
149. The Defendants knew or should have known, at the time of the release of Bombardier's 2018 Q2 MD&A, that the Company was not "in line" to achieve a FCF Guidance of Breakeven \pm \$150 million and, further, the Defendants misrepresented that the Company remained "in line" with the FCF Guidance even if it were to *exclude* the net proceeds from the Downview Sale. As such, Bombardier's Impugned Documents and public statements contained false and misleading information;
150. The Defendants knew that the Impugned Documents would be reviewed by analysts, capital markets and the general public who would rely on these documents to make informed financial decisions;

151. The monetary damages suffered by the Representative Plaintiff and Class Members are a direct result of the misrepresentations by the Defendants which artificially-inflated the price of Bombardier's securities;
152. The Defendants knowingly authorized, permitted or acquiesced to the dissemination of false and misleading information, thus violating the QSA and concordant provisions of other Securities Legislation;
153. The Individual Defendants were officers and directors of Bombardier during the release and publication of the Impugned Documents and, as such, were privy to Bombardier's internal budgets, plans, projections and reports as well as the Company's finances, operations and prospects and all documents filed in accordance with the applicable Securities Legislation;
154. At all relevant times during the Class Period, the Individual Defendants authorized, permitted or acquiesced to the release and publication of the Impugned Documents which they knew or ought to have known contained false and misleading information;

B. Article 1457 of the CCQ

155. The Representative Plaintiff asserts a civil right of action under art. 1457 of the CCQ, on behalf of himself and all Class Members, against the Defendants for breach of the general duty of diligence owed to all Class Members;
156. The Defendants did not fulfill the legal obligations warranted by their relationship with the Class Members as required by law;
157. The Representative Plaintiff and Class Members relied on the Defendants' Impugned Documents and public statements;
158. The Representative Plaintiff would not have purchased Bombardier's securities or would not have purchased them at inflated prices had he been aware of the Defendants' misrepresentations regarding Bombardier's FCF Guidance. The same is true of the Class as Bombardier's misrepresentations and omissions of fact were material;
159. The Representative Plaintiff and Class Members purchased Bombardier's securities at artificially inflated prices during the Class Period, held those securities until after the Corrective Disclosure and suffered damages as a direct and immediate result of the drop in the price of Bombardier's securities, which was caused by the Defendants' misrepresentations;

C. No Safe Harbor

160. The statutory defence provided for by s. 225.22 and 225.23 of the QSA regarding forward-looking information in a document does not apply to any false and misleading statements alleged in the present claim since these statements related to then-existing facts and conditions;
161. Should the false and misleading statements fall within the scope of forward-looking information, the statutory defence nonetheless does not apply since these statements were not identified as being forward-looking statements when they were made;

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT this class action on behalf of the Class;

GRANT the Representative Plaintiff's action against the Defendants in respect of the rights of action asserted against Defendants under Title VIII, Chapter II, Divisions I and II of the QSA and, if necessary, the concordant provisions of the other Securities Legislation, and article 1457 of the *Civil Code of Québec*;

CONDEMN the Defendants to pay to the Representative Plaintiff and Class Members compensatory damages for all monetary losses;

ORDER collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Québec* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

APPROVE the notice to the members of the Class in the form submitted to the Court;

ORDER the publication of the notice to the members of the Class no later than thirty (30) days after the date of the judgment authorizing the class proceedings;

ORDER that the deadline for a member of the Class to exclude themselves from the class action proceedings shall be sixty (60) days from the publication of the notice to the members of the Class.

THE WHOLE WITH COSTS including all costs related to the publication of the notices to class members.

MONTREAL, this X day of X, X

(S) Faguy & Co.

FAGUY & CO. BARRISTERS & SOLICITORS INC.

Attorneys for the Representative Plaintiff

(BM-1125)

M^{re} Shawn K. Faguy (sfaguy@faguyco.com)

M^{re} Elizabeth Meloche (emeloche@faguyco.com)

329 de la Commune Street West, Suite 200

Montréal, Québec, H2Y 2E1, Canada

Telephone: (514) 285-8100

Fax: (514) 285-8050

Our File: 10229-001

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
No.: 500-06-000977-195

SUPERIOR COURT
(Class Action)

DENIS GAUTHIER

Plaintiff

v.

BOMBARDIER INC. *et al.*

Defendants

**REDACTED LIST OF EXHIBITS
IN SUPPORT OF THE AMENDED MOTION FOR AUTHORIZATION**

Exhibits supporting the application

In support of the originating application, Representative Plaintiff intends to use the following exhibits:

- Exhibit P-1:** Bombardier's 2017 Year-End MD&A for the year ended December 31, 2017;
- Exhibit P-2:** Bombardier's 2018 Q1 MD&A for the three-month period ended March 31, 2018;
- Exhibit P-3:** Bombardier's 2018 Q2 MD&A for the three and six-month periods ended June 30, 2018;
- Exhibit P-4:** Bombardier's 2018 Q3 MD&A for the three and nine-month periods ended September 30, 2018;
- Exhibit P-5:** (*en liasse*) Bombardier's Forms 52-109F2 Certification of Interim Filings - Full Certificate signed by Alain Bellemare (CEO) and John Di Bert (CFO);
- Exhibit P-6:** Bombardier's *Registraire des Entreprises du Québec* print out;
- Exhibit P-7:** Bombardier's 2016 Investor Day Presentation;
- Exhibit P-8:** Bombardier's 2017 Investor Day Presentation;
- Exhibit P-9:** Bombardier's BBD.B November 2018 price history table;
- Exhibit P-10:** Bombardier's February 15, 2018 news release;

- Exhibit P-11:** Bombardier's August 2, 2018 news release;
- Exhibit P-12:** Bombardier's BBD.A November 2018 price history table;
- Exhibit P-13:** Bombardier's BDRBF November 2018 price history table;
- Exhibit P-14:** Bombardier's BBD.PR.B November 2018 price history table;
- Exhibit P-15:** Bombardier's BBD.PR.D November 2018 price history table;
- Exhibit P-16:** Bombardier's BBD.PR.C November 2018 price history table;
- Exhibit P-17:** Bombardier's 2018 Investor Day Presentation;
- Exhibit P-18:** Bombardier's November 13, 2018 Event Calendar;
- Exhibit P-19:** Bombardier's June 4, 2012 news release;
- Exhibit P-20:** July 2014 *MTA Capital Program Oversight Committee Meeting* document;
- Exhibit P-21:** January 2017 *MTA Capital Program Oversight Committee Meeting* document;
- Exhibit P-22:** July 29, 2014 news article in the New York Daily;
- Exhibit P-23:** August 29, 2017 CBC news article;
- Exhibit P-24:** August 23, 2017 internal memo by Benoît Brossoit;
- Exhibit P-25:** Confirmation of authenticity;
- Exhibit P-26:** Bombardier's July 3, 2015 news release;
- Exhibit P-27:** June 25, 2018, news article by *Forestgatedotnet*;
- Exhibit P-28:** November 15, 2018 Barking and Dagenham Post article;
- Exhibit P-29:** Extract of the Crossrail Project's website;
- Exhibit P-30:** Bombardier's February 19, 2014 news release;
- Exhibit P-31:** August 31, 2018 article from The Guardian;
- Exhibit P-32:** August 31, 2018 article from The BBC;
- Exhibit P-33:** Extract of the *Autorité des Marchés Financiers'* Reporting Issuers List;
- Exhibit P-34:** Bombardier's 2017 Annual Information Form;
- Exhibit P-35:** Redacted copy of the Representative Plaintiff's Portfolio statement;
- Exhibit P-36:** Bombardier's 2018 Investor Day Presentation Video;

- Exhibit P-37:** Déclaration sous serment de Denis Gauthier dated March 29, 2019;
- Exhibit P-38:** Expert report of Dr. Craig J. McCann dated May 23, 2019;
- Exhibit P-39:** Expert report of Dr. Ramy Elitzur dated January 15, 2022;
- Exhibit P-40:** Transcript of the Scotiabank Transportation & Industrials Conference dated November 13, 2018 (JDB-13);
- Exhibit P-41:** Transcript of Bombardier's 2018 Investor Day Presentation (JDB-6);
- Exhibit P-42:** Transcript of the deposition of John Di Bert dated January 18, 2021;
- Exhibit P-43:** 2018 Budget Review Presentation to Bombardier's Board of Directors dated December 12, 2017 (XE-JDB-1);
- Exhibit P-44:** First Quarterly Report Summary and 2018 F1 Forecast Presentation to Bombardier's Board of Directors dated May 2, 2018 (XE-JDB-3);
- Exhibit P-45:** Second Quarterly Report Summary and 2018 F2 Forecast Presentation to Bombardier's Board of Directors dated August 1, 2018 (XE-JDB-2);
- Exhibit P-46:** Third Quarterly Report Summary and 2018 F3 Forecast Presentation to Bombardier's Board of Directors dated November 7, 2018 (XE-JDB-4);
- Exhibit P-47:** 5c.01 Q2 2018 Profit Assurance Plan dated May 8, 2018 (XE-JDB-5);
- Exhibit P-48:** 5f.01 BT Business Review Presentation dated September 27, 2018 (XE-JDB-6);
- Exhibit P-49:** (en liasse) John Di Bert's answers to undertakings further to his deposition of January 18, 2021, and an unofficial English translation of his table of answers to undertakings;
- Exhibit P-50:** [REDACTED]
- Exhibit P-51:** [REDACTED]
- Exhibit P-52:** [REDACTED]
- Exhibit P-53:** Bombardier's MD&A - Q1 2011, released on June 1, 2011;
- Exhibit P-54:** Bombardier's MD&A – Q2 2011, released on August 31, 2011
- Exhibit P-55:** Bombardier's MD&A – Q3 2011, released on December 1, 2011;
- Exhibit P-56:** Bombardier's MD&A -Fourth quarter and fiscal year ended December 31, 2011, released on March 1, 2012;

- Exhibit P-57:** Bombardier's Financial Statements – Fiscal Year ended December 31, 2011, released on March 1, 2012;
- Exhibit P-58:** Bombardier's Quarterly Report - Q1 2012, released on May 10, 2012;
- Exhibit P-59:** Bombardier's Quarterly Report – Q2 2012, released on August 9, 2012;
- Exhibit P-60:** Bombardier's Quarterly Report – Q3 2012, released on November 7, 2012;
- Exhibit P-61:** Bombardier's MD&A -Fiscal year ended December 31, 2012, released on February 21, 2013;
- Exhibit P-62:** Bombardier's Financial Statements (including Notes) - Fiscal year ended December 31, 2012, released on February 21, 2013;
- Exhibit P-63:** Bombardier's Quarterly Report - Q1 2013, released on May 9, 2013;
- Exhibit P-64:** Bombardier's Quarterly Report – Q2 2013, released on August 1, 2013;
- Exhibit P-65:** Bombardier's Quarterly Report – Q3 2013, released on October 31, 2013;
- Exhibit P-66:** Bombardier's MD&A -Fiscal year ended December 31, 2013, released on February 13, 2014;
- Exhibit P-67:** Bombardier's Financial Statements (including Notes) - Fiscal year ended December 31, 2013, released on February 13, 2014;
- Exhibit P-68:** Bombardier's Quarterly Report - Q1 2014, released on May 1, 2014;
- Exhibit P-69:** Bombardier's Quarterly Report – Q2 2014, released on July 31, 2014;
- Exhibit P-70:** Bombardier's Quarterly Report – Q3 2014, released on October 30, 2014;
- Exhibit P-71:** Bombardier's Financial Report- Fiscal year ended December 31, 2014, released on February 12, 2015;
- Exhibit P-72:** Bombardier's MD&A -Fiscal year ended December 31, 2014, released on February 12, 2015;
- Exhibit P-73:** Bombardier's Quarterly Report - Q1 2015, released on May 7, 2015;
- Exhibit P-74:** Bombardier's Quarterly Report – Q2 2015, released on July 30, 2015;
- Exhibit P-75:** Bombardier's Quarterly Report – Q3 2015, released on October 29, 2015;
- Exhibit P-76:** Bombardier's Financial Report- Fiscal year ended December 31, 2015, released on February 17, 2016;
- Exhibit P-77:** Bombardier's Quarterly Report - Q1 2016, released on April 28, 2016;
- Exhibit P-78:** Bombardier's Quarterly Report – Q2 2016, released on August 5, 2016;

- Exhibit P-79:** Bombardier's Quarterly Report – Q3 2016, released on November 10, 2016;
- Exhibit P-80:** Bombardier's Financial Report- year ended December 31, 2016, released on February 16, 2017;
- Exhibit P-81:** Bombardier's Quarterly Report - Q1 2017, released on May 11, 2017;
- Exhibit P-82:** Bombardier's Quarterly Report - Q2 2017, released on July 28, 2017;
- Exhibit P-83:** Bombardier's Quarterly Report - Q3 2017, released on November 2, 2017;
- Exhibit P-84:** Bombardier's Financial Report- year ended December 31, 2017, released on February 15, 2018;
- Exhibit P-85:** Bombardier's Quarterly Report - Q1 2018, released on May 3, 2018;
- Exhibit P-86:** Bombardier's Quarterly Report - Q2 2018, released on August 2, 2018;
- Exhibit P-87:** Bombardier's Quarterly Report - Q3 2018, released on November 8, 2018;
- Exhibit P-88:** Bombardier's Financial Report- year ended December 31, 2018, released on February 14, 2019;
- Exhibit P-89:** Press report entitled "Bombardier Reports the Impact of the Adoption of International Financial Reporting Standards (IFRS)", January 18, 2011. Available at <https://bombardier.com/en/media/news/bombardier-reports-impact-adoption-international-financial-reporting-standards-ifs>;
- Exhibit P-90:** Extract from the National Government of South Africa website. N.D. Special Investigating Unit (SIU). Available at <https://nationalgovernment.co.za/units/view/186/special-investigating-unit-siu>;
- Exhibit P-91:** Press report by Timmons, H. (January 7, 2009) entitled "Financial Scandal at Outsourcing Company Rattles a Developing Country". New York Times. Available at <http://www.nytimes.com/2009/01/08/business/worldbusiness/08outsour.html>;
- Exhibit P-92:** Press report entitled "Transnet and SIU Launch Review Application on 1 064 Locomotive Transaction" dated March 09 2021. Available at <https://www.transnet.net/Media/Press%20Release%20Office/TRANSNET%20LAUNCHES%20REVIEW%20APPLICATION%20ON%201064%20CONTRACT.pdf>;
- Exhibit P-93:** Press report by York, Geoffrey entitled "South African probe urges suspension of controversial US\$1.2-billion Bombardier locomotive deal". The Globe and Mail. May 22, 2018. Available at <https://www.theglobeandmail.com/world/article-south-african-investigative-report-suggests-suspending-controversial/>; and

Exhibit P-94: Press report by York, Geoffrey entitled “South Africa seeks to cancel ‘unlawful’ Bombardier contract.” The Globe and Mail. March 9, 2021. Available at <https://www.theglobeandmail.com/business/article-south-africa-seeks-to-cancel-unlawful-bombardier-contract/>.

These exhibits are available on request.

Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

MONTREAL, this 7th day of December, 2022

(S) Faguy & Co.

FAGUY & CO. BARRISTERS & SOLICITORS INC.

Attorneys for the Plaintiff

(BM-1125)

M^{re} Shawn K. Faguy (sfaguy@faguyco.com)

M^{re} Elizabeth Meloche (emeloche@faguyco.com)

329 de la Commune Street West, Suite 200

Montréal, Québec, H2Y 2E1, Canada

Telephone: (514) 285-8100

Fax: (514) 285-8050

Our File: 10229-001

SUPERIOR COURT
(Class Action)
Province of Québec
District of Montréal
N°: 500-06-000977-195

DENIS GAUTHIER

Plaintiff

v.

BOMBARDIER INC.

-et-

ALAIN BELLEMARE

-et-

JOHN DI BERT

Defendants

**AMENDED MOTION FOR AUTHORIZATION TO
BRING AN ACTION PURSUANT TO SECTION 225.4
OF THE QUÉBEC *SECURITIES ACT* AND
APPLICATION FOR AUTHORIZATION TO INSTITUTE
A CLASS ACTION**

ORIGINAL

FAGUY & Co.
BARRISTERS & SOLICITORS INC.

Mtre Elizabeth Meloche

emeloche@faguyco.com

Mtre Shawn K. Faguy

sfaguy@faguyco.com

Our File : 10229-001

329 De la Commune West, Suite 200
Montréal, Québec H2Y 2E1 Canada
Telephone: (514) 285-8100
Telecopier : (514) 285-8050
BM-1125