

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-001036-199

DATE: October 17, 2023

BY THE HONOURABLE DONALD BISSON, J.S.C.

(JB4644)

DOMENICO LEOPARDI

Petitioner

v.

MERCEDES-BENZ CANADA INC.

Respondent

JUDGMENT RECTIFIED

(Suspension)

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- [1] **CONSIDERING** that on December 23, 2019, the Petitioner filed an Application to Authorize the Bringing of a Class Action claiming damages arising from the alleged malfunction or design defect in the heating, ventilation, and air-conditioning systems (HVAC) in certain Mercedes vehicles that were leased and sold by the Respondent;
- [2] **CONSIDERING** that on May 29, 2020, a parallel class action was filed in Ontario in *Goering v. Mercedes-Benz Canada Inc.*, Court No. CV-20-00083647-00CP on essentially the same subject matter (the "Ontario Action");
- [3] **CONSIDERING** that on October 16, 2020, the Petitioner filed an Application for a Temporary Suspension of the present action, so as to first advance the Ontario Action;
- [4] **CONSIDERING** that on November 11, 2020, this Court granted the suspension for 6 months, with a possibility of renewal within 5 months of judgment being rendered;¹
- [5] **CONSIDERING** that on April 12, 2021, the Petitioner filed a second Application for a Temporary Suspension of the present action, to continue advancing the Ontario Action;

¹ *Leopardi c. Mercedes-Benz Canada inc.*, 2020 QCCS 3713.

[6] **CONSIDERING** that on May 12, 2021, this Court granted the suspension for an additional 6 months, with a possibility of renewal within 5 months of judgment being rendered;²

[7] **CONSIDERING** that on October 13, 2021, this Court granted the suspension for an additional 7 months, with a possibility of renewal within 6 months of judgment being rendered;³

[8] **CONSIDERING** that on April 19, 2022, this Court granted the suspension for an additional 7 months, with a possibility of renewal within 6 months of judgment being rendered;⁴

[9] **CONSIDERING** that the Plaintiffs delivered their certification record to the Defendant in the Ontario Action on June 4, 2021;

[10] **CONSIDERING** that the Defendant delivered its response record in the Ontario Action, including its affidavits, on December 6, 2021;

[11] **CONSIDERING** that the Plaintiffs intend on producing a reply record in the Ontario Action and **CONSIDERING** the delay involved in the production of same;

[12] **CONSIDERING** that the Plaintiffs are still in the process of preparing reply expert reports;

[13] **CONSIDERING** that the Plaintiffs' counsel undertakes to report back to this Court as to the progress of the Ontario Action after the filing of its reply expert reports;

[14] **CONSIDERING** that this Court considers that the Ontario Action is being moved along expeditiously and that an additional 9-month suspension of the present action is appropriate;

[15] **CONSIDERING** the interests of class members and the interests of justice;

[16] **CONSIDERING** that the Respondent consents to this judgment;

POUR CES MOTIFS, LE TRIBUNAL:

FOR THESE REASONS, THE COURT:

[17] **ACCORDE** la présente demande de suspension temporaire;

[17] **GRANTS** the present Application for a temporary suspension;

[18] **SUSPEND** la présente action collective pour une période additionnelle de neuf mois, soit jusqu'au 12 juillet 2024;

[18] **SUSPENDS** the present class action for an additional nine months, until July 12, 2024;

[19] Si les parties entendent demander la prolongation de la suspension, **ORDONNE** au

[19] If the parties intend to request an extension of the suspension, **ORDERS** the

² *Leopardi c. Mercedes-Benz Canada inc.*, 2021 QCCS 1975

³ *Leopardi c. Mercedes-Benz Canada inc.*, 2021 QCCS 4226.

⁴ *Leopardi c. Mercedes-Benz Canada inc.*, 2022 QCCS 1341.

demandeur de produire une demande de prolongation au plus tard dans les six mois du présent jugement;

Petitioner to file an application for an extension no later than six months from this judgment;

[20] **MAINTIENT** toutes les autres conclusions telles qu'énoncées dans le jugement de cette Cour en date du 11 novembre 2020;

[20] **MAINTAINS** all other conclusions as stated in this Court's judgment dated November 11, 2020;

[21] **LE TOUT** sans frais de justice.

[21] **THE WHOLE** without legal costs.



DONALD BISSON, J.S.C.

M^e Jeff Orenstein
M^e Andrea Grass
CONSUMER LAW GROUP INC.
Attorneys for the Petitioner

M^e Ariane Bisailon
M^e Claude Marseille
BLAKE, CASSELS & GRAYDON LLP
Attorneys for the Respondent

Hearing date: September 27, 2023 (On file)