

SUPERIOR COURT

(Class Action)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-000876-173

DATE: February 22, 2024

BY THE HONOURABLE PIERRE NOLLET, J.S.C.

NICK BOUNTOUNIS

and

IDAN ALON

Plaintiffs/Class Representatives

v.

VOLKSWAGEN GROUP CANADA INC.

and

VOLKSWAGEN GROUP OF AMERICA INC

and

VOLKSWAGEN AG

and

BMW CANADA INC. / BMW GROUP CANADA

and

BMW OF NORTH AMERICA, LLC

and

BMW MANUFACTURING CO., LLC

and

BAYERISCHE MOTOREN WERKE AG

and

DAIMLER AG

and

DAIMLER TRUCKS CANADA LTD

and

DAIMLER TRUCKS NORTH AMERICA LLC

Defendants

DISCONTINUANCE

[1] **WHEREAS** on July 25, 2017, the Applicant Mr. Bountounis filed an Application to Authorize the Bringing of Class Action and to Appoint the Status of Representative Plaintiff (the “Application”) against the Defendants, on behalf of the following proposed class:

All persons, entities, partnerships or organizations resident in Canada who purchased and/or leased one or more of the Defendants’ Vehicles that were part of the German Car Cartel, or any other group to be determined by the Court;

[2] **WHEREAS** the Application was amended to include the Applicant Mr. Alon;

[3] **WHEREAS** the Applicants’ cause of action is alleging a potential collusion from German car manufacturers with respect clean emission technology;

[4] **WHEREAS** on November 23, 2020, the Honourable Suzanne Courchesne, J.S.C., authorized the Applicants to amend the class description by limiting it to Quebec residents and to temporarily stay the class action until the European Commission (Competition) releases its report in case no. AT.40178;

[5] **WHEREAS** the European Commission investigated the allegations for new diesel passengers cars and found that Daimler, BMW and VW Group breached EU antitrust rules by colluding on technical development in the area of nitrogen oxide cleaning¹;

[6] **WHEREAS** this investigation is separate and distinct from other investigations, including those by public prosecutors and other authorities into car manufacturers and the use of illegal defeat devices to cheat regulatory testing;

[7] **WHEREAS** the European Commission’s investigation and decision related to new diesel passengers cars within the European Economic Area only²;

[8] **WHEREAS** the European Commission’s findings concerned only new diesel passengers cars and as it decided not to pursue particulate matter filters (Otto-Partikel-filter - ‘OPF’) for passenger cars with petrol engine;

¹ European Commission decision of July 8, 2021 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement; case AT.40178 - Car Emissions.

² *Id.* page 4, par. 2 and 5.

[9] **WHEREAS**, the parallel class actions in Ontario have been discontinued, as it appears from three judgments of the Ontario Superior Court of Justice rendered on November 30, 2023³;

[10] **WHEREAS** the Applicants and their attorneys have concluded that it would not be proportional to incur costs on all sides, including costs on the justice system, and decided to not pursue the present class action;

[11] **WHEREAS** this case is still at the pre-authorization stage (the class action has not yet been authorized nor has any date been fixed);

[12] **WHEREAS** putative class members will not be prejudiced by the granting of the discontinuance as no release is being given to Defendants in exchange for the discontinuance by any of the putative class members.

[13] **WHEREAS** judicial resources will be better allocated if this proposed class action is not pursued;

[14] **WHEREAS** no request for funding was made to the *Fonds d'aide aux actions collectives*;

[15] **WHEREAS** class counsel and Applicants both declared not receiving any payment whatsoever in-relation to this case or its discontinuance;

[16] **WHEREAS** the Applicants agree to file a public notice of the discontinuance by posting it to the Class Action Registry and on class counsels' respective dedicated webpages for this class action (<https://pclex.com/german-car-cartel-class-action/> and <https://www.renvath.com/en/german-car-cartel-class-action>), for a period of six months;

[17] **WHEREAS** the Court has no reason to believe that the Applicants' decision to discontinue may undermine the integrity of the justice system or the interests of the putative members⁴;

FOR THESE REASONS, THE COURT:

[18] **AUTORISE** les demandeurs à se **AUTHORIZES** the Applicants to discontinue désister de leurs procédures contre les their proceedings against the Defendants. défenderesses;

[19] **PREND ACTE** du désistement **PRAISES ACT** of the discontinuance déposé par les demandeurs filed by the Applicants;

³ R-2

⁴ *Ecole Communautaire Belz c. Bernard*, 2021 QCCA 905.

[20] **ORDONNE** aux Demandeurs de **ORDERS** the Applicants to ensure that a
veiller à ce qu'une copie du désistement copy of the discontinuance be published on
soit publiée au Registre des recours the Class Action Registry and on class
collectifs et sur les pages Web dédiées des counsels' dedicated webpages
avocats du groupe. ([https://lpclex.com/german-car-
cartel-class-action/](https://lpclex.com/german-car-cartel-class-action/) and [https://www.renvath.com/en/german-car-
cartel-class-action/](https://www.renvath.com/en/german-car-cartel-class-action/)), pour une période de six months;
six mois;

[21] **LE TOUT**, sans frais de justice. **THE WHOLE** without legal costs.

PIERRE NOLLET, J.S.C.

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Hearing date : (Paper process only)