

CANADA

(CLASS ACTION)
SUPERIOR COURT OF QUEBEC

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No.: 500-06-001297-247

B [REDACTED] B [REDACTED], residing and domiciled at
[REDACTED]
[REDACTED];

Plaintiff

vs.

DOLLAR THRIFTY AUTOMOTIVE GROUP CANADA, a legal person constituted according to the law, having its head office located at 2 Convair Drive Est, Etobicoke, Province of Ontario, M9W 7A1 and having an elected domicile at 725 Ave Calais, in the City of Dorval, District of Montreal, H9P 2Y5;

-and-

HERTZ CANADA LIMITED, a legal person constituted according to the law, having its head office located at 2 Convair Drive Est, Etobicoke, Province of Ontario, M9W 7A1 and having a principal establishment at 975, boulevard Romeo Vachon Nord, in the City of Dorval, District of Montreal, H4Y 1H1;

Defendants

**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION
(Art. 574 C.C.P. and following)**

**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT OF QUEBEC,
SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PLAINTIFF STATES THE
FOLLOWING:**

Introduction

1. Plaintiff wishes to institute a class action on behalf of the following group, of which Plaintiff is a member, namely:

All residents of Canada who rented or reserved a vehicle (including other charged services) since March 8, 2021, using one of Defendants' Canadian websites or mobile applications, including without limitation the thiftycanada.ca and dollarcanada.ca websites, and who were charged in a currency other than Canadian dollars (CAD) (including without limitation those charged in US dollars (USD)), or any other group or sub-groups to be determined by the Court;

(hereinafter referred to as "Plaintiff(s)", the "Class Member(s)", the "Class", the "Group Member(s)", the "Group", or the "Consumer(s)").

2. Defendant DOLLAR THRIFTY AUTOMOTIVE GROUP CANADA (hereinafter "**Dollar Thrifty Canada**") is a legal person having its head office located at 2 Convair Drive Est, Etobicoke, Province of Ontario, M9W 7A1 (hereinafter the "**Etobicoke Location**") and having an elected domicile in the District of Montreal at 725 Ave Calais, in the City of Dorval, District of Montreal, H9P 2Y5 (hereinafter the "**Dorval Location**"), and it operates in the vehicles rental business (the car rental industry), doing business under the well-known brands Thifty Car Rental (the "**Thrifty Brand**") and Dollar Rent a Car (the "**Dollar Brand**") (and/or other variations of the same brands/names), together with its affiliates having locations in many major cities and airports around the world, the whole as more fully appears from the *Registraire des entreprises* report regarding Defendant Dollar Thrifty Automotive Group Canada, communicated herewith as **Exhibit P-1**.
3. As appears from Exhibit R-1, Dollar Thrifty Canada is owned by its parent company THRIFTY RENT-A-CAR SYSTEMS, llc located at 8501 Williams Road, Estero, Florida, 33928 (USA) (hereinafter the "**Estero Location**").

4. Defendant HERTZ CANADA LIMITED (hereinafter “**Hertz Canada**”) is a legal person sharing its head office with Defendant Dollar Thrifty Canada at the same Etobicoke Location and having an elected domicile at the same Estero Location in Florida. It also operates in the vehicles rental business (car rental industry) as well, doing business under the worldwide known brand Hertz Car Rental (and other variations of the same name) (the “**Hertz Brand**”), together with its affiliates having locations in many major cities and airports around the world, the whole as more fully appears from the *Registraire des entreprises* report regarding Defendant Hertz Canada Limited, communicated herewith as **Exhibit P-2**.
5. One of Defendants’ said affiliates is HERTZ CANADA VEHICLES PARTNERSHIP which is a partnership also having its head office located at same Etobicoke Location and having an elected domicile and establishment shared with Defendant Dollar Trifty Canada at the same Dorval Location; the whole as more fully appears from the *Registraire des entreprises* reports regarding Hertz Canada Vehicles Partnership, HC Limited Partnership and Hertz Canada (N.S.) Company, communicated herewith as **Exhibit P-3, en liasse**.
6. As appears from Exhibit P-2, the 3 listed partners of Hertz Canada Vehicles Partnership are:
 - a) Defendant Hertz Canada Limited itself;
 - b) HC Limited Partnership which is domiciled in Quebec; and
 - c) Hertz Canada (N.S.) Company, which is itself also owned by Defendant Hertz Canada Limited.
7. Plaintiff is presently not aware of whether there are other unlisted partners and/or other related companies in this convoluted corporate structure created by Defendants here in Canada, Plaintiff reserving the right to amend in order to add in further defendants included in this Hertz family of companies.

8. That being said, Exhibits P-1 and P-2 adequately demonstrate, establish and evidence the solidarity between the Defendants and their related companies both in Canada and in Florida, and that Defendants maintain multiple locations and even have partners domiciled here in Quebec, coupled with their huge enterprise, commercial activities and online presence exercised across the country, the whole justifying a national class herein.
9. Aside from at their various physical car rental locations and offices in Quebec, in the rest of Canada and in other countries, the Defendants also market to and interact and transact with Class Members virtually through their online presence, namely through their various websites (including without limitation thiftycanada.ca, dollarcanada.ca and hertz.ca) and/or through their various Hertz, Dollar and Thrifty mobile applications.
10. Plaintiff files as **Exhibit P-4** the Corporate Profile page appearing on the global hertz.com website, which lists the Hertz, Dollar and Thrifty Brands as all belonging to the global “Hertz Companies and Divisions”.
11. Plaintiff files as **Exhibit P-5**, *en liasse*, extracts from the ICANN Lookup website confirming that the 3 above-listed thiftycanada.ca, dollarcanada.ca and hertz.ca domains are all registered to Defendant Hertz Canada Limited, at the Etobicoke Location, care of Laura Gibbons who has a hertz.com email address.
12. Hertz Global Holdings (formerly The Hertz Corporation), known worldwide as Hertz, is an American car rental company based at the Estero Location in Florida (USA). The company operates its namesake Hertz brand, along with the brands Dollar Rent A Car, Firefly Car Rental and Thrifty Car Rental. It is one of the three big rental car holding companies in the United States, holding a 36% market share, placing it ahead of both Enterprise Holdings (“**Enterprise**”) and the Avis Budget Group (“**Avis**”). As one of the largest worldwide vehicle rental companies by sales, locations, and fleet size, Hertz operates in 160 countries in North America, Europe, Latin America, Africa, Asia, Australia, the Caribbean, the Middle East and New Zealand.

13. In November 2012, Hertz Global Holdings Chairman and CEO Mark P. Frissora announced the company's purchase of Dollar Thrifty Automotive Group, a U.S.-based car rental brand with headquarters in Tulsa, Oklahoma, for USD \$2.3 billion.
14. The Dollar Thrifty Automotive Group was separated into two subsidiaries, Thrifty Car Rental and Dollar Rent A Car, all remaining under the umbrella and management of the Hertz Corporation. Each operates with its own sales, marketing, rental fleets, and franchise locations from Hertz's headquarters in the Estero Location in Florida (USA).
15. Defendants operate the Canadian arms of the Thrifty Brand, the Dollar Brand and the Hertz Brand, are therefore directly or indirectly owned and operated by the Hertz Corporation.
16. In additions, Defendants usually share vehicles, locations, employees, etc., in Canada and worldwide, and as mentioned, Defendant Hertz Canada is the registered owner of the Canadian domain names used by all of the Defendants' various brands, evidencing that Defendants are clearly operating the same enterprise and clearly solidarily liable herein.
17. Defendants' 3 above-listed Canadian websites (thiftycanada.ca, dollarcanada.ca and hertz.ca) all have a "Privacy Policy" link at the bottom of the homepage sending all users to the very same URL (<https://privacy-central.eu.securiti.ai/#/notices/5533146d-b7a4-4a12-aac2-e09f12dc687a>), namely "The Hertz Corporation Privacy Policy", a copy of which is filed in both English and French as **Exhibit P-6**, further evidencing how intertwined the Defendants' various operations and brands really are.
18. Plaintiff files as **Exhibit P-7** the English and French versions of the Terms and Conditions found on the **dollarcanada.ca** website, which sometimes refers to amounts and fees simply with a generic dollar sign (\$), other times refers to certain amounts in CAD, and finally referring to other amounts in either USD or US\$, evidencing that Defendants are well aware of the existence of and difference between a USD dollar and a CAD dollar. Exhibit P-7 does not contain the word "currency".

19. Plaintiff also files as **Exhibit P-8** the quasi-identical English and French versions of the Terms and Conditions found this time on the **thriftycanada.ca** website, which similarly evidencing once again that Defendants are well aware of the existence of and difference between a USD dollar and a CAD dollar.
20. Plaintiff files as **Exhibit P-9**, various screenshots of the home page of the **dollarcanada.ca** website, which permits on the top right to choose your language between English or French but which defaults all users to “Canada” for the “Country/Region”, evidencing that Defendants know very well that the users of this Canadian website are located in Canada (and in fact Defendants default the Country/Region to “Canada” and do not permit any other choice).
21. Plaintiff files as **Exhibit P-10**, various screenshots of the home page of the **thriftycanada.ca** website, which also permits on the top right to choose your language between English or French but which also defaults all users to “Canada” for the “Country/Region”, evidencing once again that Defendants know very well that the users of this Canadian website are located in Canada (and in fact Defendants default the Country/Region to “Canada” and do not permit any other choice).
22. Finally, Plaintiff files as **Exhibit P-11**, various screenshots of the home page of the **hertz.ca** website, which also permits on the top right to choose your language between English or French, when in the “Canada” region, although this website permits the users to change the country option, which then unlocks the languages available for that particular country (for example, if one chooses United States as country, this unlocks the English and Spanish language options, as appears from Exhibit P-11).

The situation

23. The Consumer Protection Act CQLR, c. P-40.1 (“**CPA**”) provides for the following at Section 54.4 (h) and *in fine* and at Section 224 (c) and *in fine*:

54.4. Before a distance contract is entered into, the merchant must disclose the following information to the consumer:

(...)

(h) the currency in which amounts owing under the contract are payable if not Canadian dollars;

(...)

The merchant must present the information prominently and in a comprehensible manner and bring it expressly to the consumer’s attention; in the case of a written offer, the merchant must present the information in a manner that ensures that the consumer is able to easily retain it and print it.

2006, c. 56, s. 5; 2018, c. 14, s. 11.

224. No merchant, manufacturer or advertiser may, by any means whatever,

(...)

(c) charge, for goods or services, a higher price than that advertised.

(...)

For the purposes of subparagraph c of the first paragraph, the price advertised must include the total amount the consumer must pay for the goods or services. However, the price advertised need not include the Québec sales tax or the Goods and Services Tax. More emphasis must be put on the price advertised than on the amounts of which the price is made up.

1978, c. 9, s. 224; 2009, c. 51, s. 12; 2017, c. 24, s. 50.

24. The Competition Act (R.S.C., 1985, c. C-34) provides for the following at both Section 52 (1.3) and Section 74.01 (1.1):

For greater certainty, the making of a representation of a price that is not attainable due to fixed obligatory charges or fees constitutes a false or misleading representation, unless the obligatory charges or fees represent only an amount imposed by or under an Act of Parliament or the legislature of a province.

25. In addition, Plaintiff also relies upon and invokes the following legal provisions:

- a) Sections 17, 218, 219, 228 and 272 of the CPA;
- b) Articles 1384, 1399-1408, 1419, 1432, 1442, 1458, 1525, 1590, 1604 and following, 1621, 3148 and 3149 of the Civil Code of Quebec, LRQ, c C-1991; and
- c) Sections 36, 52 and 74.01 of the Competition Act (R.S.C., 1985, c. C-34).

26. Plaintiff files as **Exhibit P-12**, *en liasse*, car rental quotes for the same period of time out of the Pierre Elliott Trudeau International Airport (YUL) in Montreal, Canada. As can be seen from Exhibit P-12, the hertz.ca website, the dollarcanada.ca website and the thriftycanada.ca website all properly provide the price quotes in CAD.

27. Plaintiff files as **Exhibit P-13**, *en liasse*, car rental quotes for the same period of time out of the Charles de Gaulle Airport (CDG) in Paris, France. As can be seen from Exhibit P-13, the hertz.ca website, the dollarcanada.ca website and the thriftycanada.ca website all properly provide the “Pay Now” price quotes in CAD (indicating “CAD” without the “\$” symbol). However, for the “Pay Later” or “Pay at Location” option, only the hertz.ca website provides the CAD equivalent amount whereas the thriftycanada.ca and dollarcanada.ca websites only display the “€” symbol. This last situation violates the law and the hertz.ca website evidences the fact that Defendants are well aware of the issue and are capable of doing it properly,

although choose not to do so for the thriftycanada.ca and dollarcanada.ca websites.

28. Plaintiff files as **Exhibit P-14**, *en liasse*, car rental quotes for the same period of time out of the London Heathrow Airport (LHR) in London, England. As can be seen from Exhibit P-14, the hertz.ca website properly provides all price options and quotes in CAD (indicating “CAD” without the “\$” symbol). However, the thriftycanada.ca and dollarcanada.ca websites only display the “£” symbol. This last situation violates the law and the hertz.ca website evidences the fact that Defendants are well aware of the issue and are capable of doing it properly, although choose not to do so for the thriftycanada.ca and dollarcanada.ca websites.

29. Finally, Plaintiff files as **Exhibit P-15**, *en liasse*, car rental quotes for the same period of time out of the three (3) USA airports (FLL, LAX and JFK). As can be seen from Exhibit P-15, the hertz.ca website properly provides all price options and quotes in CAD (indicating “CAD” without the “\$” symbol). However, the thriftycanada.ca and dollarcanada.ca websites this time only display the “\$” symbol, knowing very well that this is the same symbol is used for both CAD and USD (and although the Defendants are clearly capable of displaying CAD as appears from the previous exhibits for the same websites).

30. Defendants’ Canadian websites and apps clearly have the capability of knowing and tracking the location of the users visiting and using Defendants’ platforms. In addition, Defendants in fact assume that users of their .ca websites are in Canada, namely since the thriftycanada.ca and dollarcanada.ca websites automatically default the country and region to “Canada” and they do not permit a change of location option.

31. This last situation clearly violates the law and has caused the Plaintiff and other Class Members to book a vehicle rental reservation rightfully assuming that they would be charged in CAD while on a Canadian website, whereas, as mentioned below, the Defendants ultimately charge them in USD (or other currencies) causing them significant damages.

32. Indeed, Defendants’ thriftycanada.ca and dollarcanada.ca websites charge Canadian

Class Members in USD, for all vehicle rentals reserved with a pick-up at a USA location, without ever indicating the CAD equivalent amount to be charged. Defendants are clearly able to do it properly as is evidenced by the hertz.ca quotes included in Exhibit P-15.

33. As can be seen from Exhibit P-15, the hertz.ca website properly provides all price options and quotes in CAD (indicating “CAD” without the “\$” symbol). However, the thriftycanada.ca and dollarcanada.ca websites this time only display the “\$” symbol, knowing very well that this is the same symbol is used for both CAD and USD (and although the Defendants are clearly capable of displaying CAD as appears from the previous exhibits for the same websites).

34. It should be noted that as far as Plaintiff is presently aware, if a Canadian wishes to reserve a car rental from one of Defendants’ Hertz, Thrifty or Dollar very same USA locations, using a third party re-seller website such as Expedia.ca, the resellers proper advertise and charge the Canadians in CAD, as appears from extracts from the Expedia.ca website showing quotes for Hertz, Thrifty and Dollar car rentals out of the Fort Lauderdale / Hollywood International Airport (FLL), communicated herewith as **Exhibit P-16**.

35. Plaintiff files as **Exhibit P-17**, extracts and car rental quotes from one of Defendants’ major competitor, Avis Canada, on its Canadian avis.ca website, evidencing that Avis properly quotes Canadians on its Canadian website in CAD for a car rental out of the Fort Lauderdale / Hollywood International Airport (FLL).

36. Plaintiff files as **Exhibit P-18**, extracts and car rental quotes from one of Defendants’ major competitor, Budget Canada, on its Canadian budget.ca website, evidencing that Budget also properly quotes Canadians on its Canadian website in CAD for a car rental out of the Fort Lauderdale / Hollywood International Airport (FLL).

37. Plaintiff files as **Exhibit P-19**, extracts and car rental quotes from one of Defendants’ major competitor, Enterprise, on its Canadian enterprise.ca website, evidencing that Enterprise also properly quotes Canadians on its Canadian website in CAD for a car

rental out of the Fort Lauderdale / Hollywood International Airport (FLL).

38. Defendants therefore contract with Class Members (physical persons and legal persons located in Quebec and the rest of Canada), by advertising and displaying a price on their websites and mobile applications that do not indicate the currency in American dollars (USD), for vehicle rentals (and/or other services) to be picked up in locations in the United States of America (USA), and then Defendants proceed to charge the Class in USD instead of in Canadian dollars (CAD).
39. Defendants do the same in other countries with other currencies as well.
40. Defendants mislead the Class Members by giving them the general impression that they are contracting in CAD on Canadian websites and applications, but then charge them in USD or other currencies instead.
41. Defendants are clearly capable of indicating other currencies payable on their Canadian websites and applications, but Defendants choose not to do so and instead abusively charge the Class Members in USD or other currencies, and/or mislead the Class Members by only displaying the "\$" symbol instead of indicating USD or CAD, causing the Class Members significant damages and losses.
42. In addition, as detailed above, it seems that the Defendant Hertz Canada is clearly capable and able to indicating the CAD currency prices on its hertz.ca Canadian website for vehicle rentals from USA locations, confirming that the Hertz family of companies are well aware of their obligations to indicate the CAD currency prices on their Canadian websites but that Defendants simply choose not to do so for the thriftycanada.ca and dollarcanada.ca websites in Canada.
43. Since the beginning of the Class Period, namely three years prior to the institution of the present proceedings, the American dollar (USD) was worth on average approximately 31% more than the Canadian Dollar (CAD), Plaintiff communicating as **Exhibit P-20**, charts obtained from the Bank of Canada Website containing the historical data for the USD/CAD exchange rates during the Class Period. As appears

from said exhibit, at its highest level, the USD was 38.75% higher than the CAD.

44. In addition, when paying by way of a CAD credit card, debit card or other payment method online, the card or payment companies will charge the cardholder an additional approximate 2% to 4% for foreign exchange conversion fees or commissions. This means that when a Class Members reserve a vehicle rental on one of Defendants' Canadian websites, they are being duped by Defendants into thinking that the transaction is in CAD whereas it is ultimately charged in USD or another currency, aside from the additional percentage charged by the credit card or payment company for the currency conversion (making the differential charged to the Class Members even greater than the simple currency exchange rates detailed in Exhibit P-20).
45. The Class Members are therefore entitled to claim the full amount of the difference between the total amount charged by Defendants if it was indeed charged in CAD, as compared to the actual amount which was ultimately charged on the Class Member's credit card or other payment card statement.
46. The damages to Class Members are therefore at least equal to 31% of Defendants' sales to Canadian Class Members for rentals charged in USD, plus other conversion fees or charges paid, plus the claim for punitive damages.
47. It is safe to assume that the Defendants generated sales in the tens of millions of dollars to Class Members during the class period.
48. Defendants therefore charged a higher price than that advertised, displayed and indicated at the initial review stage of the transaction (aside from applicable GST/HST and PST), violating the law.
49. By not prominently advertising and displaying the "all-in" price (aside from applicable GST/HST and PST) and the proper currency, Defendants contravened *inter alia* the legal provisions mentioned above, engaged in prohibited practices, and made false and misleading representations to the Class Members.

50. Defendants' conduct is intentional considering all the allegations and exhibits mentioned above, which *inter alia* evidence how Defendants' own hertz.ca website can properly charge in CAD, as well as how Defendants' other major competitors and resellers also properly charge in CAD, to Defendants' knowledge.

51. Defendants simply choose to dupe and mislead the Class Members.

52. Defendants' overall conduct before and during the violation is therefore illegal, careless, abusive, and ignores the Class Members' rights and clearly applicable law.

FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PLAINTIFF

53. Plaintiff reiterates the above allegations in the present section.

54. On November 19, 2023, Plaintiff, while in Montreal, Quebec (Canada), visited the Defendants' Canadian thriftycanada.ca website and booked a car rental out of the Fort Lauderdale / Hollywood International Airport (FLL), from December 24, 2023 to January 9, 2024, for a total cost of \$1,400.93. For all the reasons detailed above, Plaintiff clearly thought, believed and had the impression at the time of visiting the said Canadian website that the displayed prices were in CAD and that he had booked the rental in CAD. The website did not mention any charges in USD and only displayed the "\$" symbol, as already explained above. It did not mention currencies.

55. Defendants immediately confirmed Plaintiff's car rental booking at a "Total Cost" of "\$1 400.93", the whole as more fully appears from the confirmation email from Thrifty to Plaintiff dated November 19, 2023, communicated herewith as **Exhibit P-21**. The P-21 email does not mention the currency of the booking and Plaintiff continued to believe that he would be charged in CAD.

56. On December 24, 2023, Plaintiff indeed flew to the FLL airport for his family vacation

and took possession of the Thrifty rental car.

57. It was only after Plaintiff took possession of the car that Defendants sent to Plaintiff a December 24, 2023 email confirming the new “Total Estimated Charge” of “\$ 1 371.05” and providing the “Thrifty Rental Car Agreement”, which once again does not specify the currency, the whole as more fully appears from the email from Thrifty to Plaintiff dated December 24, 2023, communicated herewith as **Exhibit P-22**.

58. A few days into his vacation, Plaintiff checked his credit card online and noticed a larger amount as “pending” for the Thrifty rental. Plaintiff called the Thrifty customer service telephone number and the Thrifty agent checked the Plaintiff’s booking file and confirmed to Plaintiff that since he had booked the rental the Canadian Thrifty website, the charges would indeed be charged in CAD, that Plaintiff did not have to worry, and that it would all be adjusted at the end of the rental once the vehicle had been returned. Plaintiff believed the Thrifty agent since this was in line with the general impression he had of transacting in CAD while on the Canadian website.

59. Plaintiff used the rental car as expected until January 9, 2024 when he returned the rental car to the FLL airport, rushed to catch his flight, and flew back home to Montreal, Quebec (Canada).

60. After returning the rental car to Defendants’ location at the FLL airport, Defendants sent to Plaintiff a January 9, 2024 email with the so-called “updated Thrifty Rental Car Receipt” for a “Total Amount Due” of “\$ 1400.93”. The said email and receipt do not mention USD or currency, the whole as more fully appears from the email from Thrifty to Plaintiff dated January 9, 2024 at 6:36 PM, communicated herewith as **Exhibit P-23**.

61. Later that same day, namely at 7:02 PM, Defendants sent a further email to Plaintiff with a further “receipt” document, which for the very first time in the entire transaction mentioned USD as being the currency of the charge which had already been charged to Plaintiff’s CAD credit card, the whole as more fully appears from the email from Thrifty to Plaintiff dated January 9, 2024 at 7:02 PM together with attached “receipt”,

communicated herewith as **Exhibit P-24**.

62. Defendants clearly know that people returning rental cars at the airport have to rush to catch their flights and that they will then be in the air for several hours, not looking at emails and receipts sent by Defendants.

63. Plaintiff's credit card was therefore abusively charged by Defendants the total amount of USD \$1,400.93, which turned out charging Plaintiff's credit card the total of amount of CAD \$1,924.75, the whole as more fully appears from Plaintiff's relevant credit card screenshot evidencing the Thrifty charge of CAD \$1,924.75 on January 9, 2024, communicated herewith as **Exhibit P-25**.

64. Plaintiff was therefore duped, misled and overcharged a total of \$523.82, which amount he claims from Defendants solidarily herein, plus his claim for punitive damages.

65. Plaintiff noticed the said overcharge on his credit card and immediately contacted Thrifty to complain and ask for a reimbursement of the price difference, Plaintiff calling the Thrifty customer service telephone number and submitting a complaint via the Thrifty website (Plaintiff did not receive a copy of the message sent).

66. In response, Plaintiff received an email dated January 12, 2024 from Mary L., Customer Correspondence Administrator at **Hertz** Customer Services, which simply dismissed Plaintiff's concerns and complaints by saying: "We regret the misunderstanding about the charge. Since you pick up within the United States of America, the currency should be the U.S. dollar", the whole as more fully appears from the email from customer-relations@hertz.com to Plaintiff dated January 12, 2024, communicated herewith as **Exhibit P-26**.

67. Aside from being rude and dismissive, Defendants' P-26 email to Plaintiff is also misleading and tries to once again dupe Plaintiff into thinking that what Thrifty had charged in USD was permitted in law, which is not the case and which is not how the rest of the car rental industry operates in any case, as detailed above (and not how

Defendants' own hertz.ca website operates either).

68. We do note that it is Hertz responding to Plaintiff's complaints and concerns in relation to a thriftycanada.ca booking, showing once again the interrelationship and global enterprise being conducted by Defendants and related entities.
69. The next day, on January 13, 2023, Plaintiff sent a response to Mary L. complaining once again, explaining that prices on the Canadian website should be in CAD, and also asking Defendants to cancel his other Thrifty car rental booking for the following February 2024, the whole as more fully appears from Plaintiff's January 14, 2024 response to Hertz, communicated herewith as **Exhibit P-27**.
70. The next day, on January 14, 2024, Plaintiff received a further email, this time from Kent Bryan R., **Thrifty** Customer Support (at thrifty.com), once again dismissing Plaintiff and attempting to mislead Plaintiff into believe that the USD charges were correct, the whole as more fully appears from the email from Thrifty to Plaintiff dated January 14, 2024, communicated herewith as **Exhibit P-28**.
71. Plaintiff has suffered a clear loss as a result of Defendants' misconduct and intentional failure to comply with the Law.
72. Plaintiff trusted and relied upon Defendants' misrepresentations regarding the prices and was misled by Defendants' failure to disclose the actual amount that would be charged on Plaintiff's credit card, in the proper CAD currency.
73. Plaintiff and Class Members when using the Defendants' Canadian websites were not aware that Defendants' would abusively charge them in a currency other than CAD.
74. Plaintiff and the Class Members were justified in assuming that Defendants would respect their legal obligations under the Law.
75. Furthermore, and for all of the above allegations and exhibits, Plaintiff respectfully submits that Defendants' ongoing violations are intentional and that their conduct

displays ignorance and carelessness with respect to their clear legal obligations under the Law. In that event, Plaintiff is justified in claiming punitive damages for a breach of the CPA and other legal provisions, on his behalf and on behalf of the Class Members.

76. Indeed, Defendants' said actions show a malicious, oppressive and high-handed conduct that represents a marked departure from ordinary standards of decency when dealing with their Customers. In that event, punitive damages should be awarded to the Plaintiff and the Class Members.

FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP

77. Plaintiff reiterates the above allegations in the present section.

78. Each Class Member has used the Defendants' Canadian (.ca) platforms, apps and/or websites in order to complete a car rental transaction, while residing in Canada.

79. Every Class Member paid a higher price than that initially displayed and advertised by Defendants, namely getting charged in a currency other than CAD.

80. Every Class Member trusted and relied upon Defendants' representations of the total price for the rental charges and were ultimately misled by Defendants' failure to disclose the currency and actual cost to be charged to the Class Members.

81. Every Class Member was not displayed the actual amount in CAD to be charged before confirming the booking and proceeding to taking possession of the vehicle rental.

82. They were therefore deprived of important facts to make an informed decision before agreeing to the car rental agreement.

83. Furthermore, Defendants' violations are intentional, and their conduct displays ignorance and carelessness with respect to their legal obligations. In that event,

punitive damages should be awarded to the Class Members and the Plaintiff.

CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

84. The composition of the Group makes it difficult or impracticable to apply the rules for mandates to sue on behalf of others or for consolidation of proceedings (Article 575 (3) C.C.P.) for the following reasons.
85. Plaintiff is unaware of the specific number of persons who have completed a transaction on the Defendants' Canadian mobile apps or websites and ultimately charged in a currency other than CAD. However, Plaintiff estimates that tens of thousands of people are included in the putative Class.
86. Class Members are numerous and are scattered across the entire province and country.
87. In addition, given the costs and risks inherent in an action before the courts, many people will hesitate to institute an individual action against the Defendants. Even if the Class Members themselves could afford such individual litigation, the Court system could not as it would be overloaded. Further, individual litigation of the factual and legal issues raised by the conduct of the Defendants would increase delay and expense to all parties and to the court system.
88. Moreover, a multitude of actions instituted risks leading to contradictory judgments on questions of fact and law that are similar or related to all Class Members.
89. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class Member to obtain mandates and to join them in one action.
90. In these circumstances, a class action is the only appropriate procedure for all of the Class Members to effectively pursue their respective rights and have access to

justice.

91. The damages sustained by the Class Members flow, in each instance, from a common nucleus of operative facts, namely Defendants' misconduct and false advertising.
92. The claims of the Class Members raise identical, similar or related issues of law and fact (Article 575 (1) C.C.P.), namely:
 - a) Did Defendants violate Section 54.4 (h), 219, 224 and/or 228 of the Consumer Protection Act?
 - b) Did Defendants violate the Competition Act?
 - c) Did Defendants violate the Civil Code of Quebec?
 - d) If there has been a violation of one or more of these provisions, can the Class Members claim compensatory and/or punitive damages from Defendants? If so, in what amounts?
 - e) Are Defendants solidarily liable?
 - f) Should injunctive relief be ordered to prohibit the Defendants from continuing to perpetrate their unfair, false, misleading, and/or deceptive conduct?
93. The majority of the issues to be dealt with are issues common to every Class Member.
94. The interests of justice favor that this Application be granted in accordance with its conclusions.

NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

95. The action that the Plaintiff wishes to institute for the benefit of the Class Members is an action in damages, consumer protection, reimbursement / restitution / reduction of obligations.
96. The facts alleged herein appear to justify the conclusions sought by the Plaintiff (Article 575 (2) C.C.P.), namely the following conclusions that Plaintiff wishes to introduce by way of an Originating Application:

GRANT the Representative Plaintiff's action against Defendants on behalf of all the Class Members;

CONDEMN the Defendants solidarily to pay to the Representative Plaintiff \$523.82;

CONDEMN the Defendants solidarily to pay the Class Members compensatory damages in the aggregate overcharged amount being at least 31% of Defendants' gross sales to Class Members;

ORDER the collective recovery of all damages owed to the Class Members for the amounts overcharged by the Defendants;

CONDEMN the Defendants solidarily to pay to the Representative Plaintiff and each Class Member the sum of \$100.00 *sauf à parfaire*, per transaction, on account of punitive damages, or any other amount determined by the Court, and **ORDER** collective recovery of these sums;

CONDEMN the Defendants solidarily to pay interest and the additional indemnity on the above sums according to law from the date of service of the original Application to Authorize a Class Action;

ORDER the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest, additional indemnity, and costs;

ORDER that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendants to bear the costs of the present action at all levels, including the cost of all exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

ORDER Defendants to cease from continuing their unfair, false, misleading, and/or deceptive conduct concerning the display of the currency payable and charging Canadians in a currency other than CAD;

RENDER any other order that this Honourable Court shall determine;

THE WHOLE with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fee and publication fees to advise members.

97. Plaintiff suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:

- a. Many Class Members, including Plaintiff, are domiciled in the District of Montreal and completed their car rental transaction in the District of Montreal;
- b. As detailed above, and as per Exhibits P-1 and P-2, Defendants maintain multiple locations and even have partners domiciled in the District of Montreal, Province of Quebec, coupled with their huge enterprise, commercial activities and online presence exercised across the country, the whole justifying a national class being authorized from the District of Montreal.
- c. The Plaintiff's legal counsel practice in the District of Montreal;

98. Plaintiff, who is requesting to be appointed as Representative Plaintiff, is in a position to properly represent the Class Members (Article 575 (4) C.C.P.) since Plaintiff;
- a. is a member of the Class who completed a transaction on the thirtycanada.ca website thinking that the price was in CAD for a car rental in Florida (USA) and who was ultimately charged in USD, as detailed above;
 - b. understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Class Members;
 - c. is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class Counsel in this regard;
 - d. is ready and available to manage and direct the present action in the interest of the Class Members and is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class Members;
 - e. does not have interests that are antagonistic to those of other Class Members;
 - f. has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intends to keep informed of all developments;
 - g. has given the mandate to the undersigned attorneys to post the present matter on their firm website in order to keep the Class Members informed of the progress of these proceedings and in order to more easily be contacted or consulted by said Class Members;
 - h. is, with the assistance of the undersigned attorneys, ready and available to

dedicate the time necessary for this action and to collaborate with other Class Members and to keep them informed;

99. The present application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present Application;

AUTHORIZE the institution of a class action in the form of an originating application in damages, consumer protection, reimbursement / restitution / reduction of obligations;

APPOINT the Plaintiff as the Representative Plaintiff representing all persons included in the Class herein described as:

All residents of Canada who rented or reserved a vehicle (including other charged services) since March 8, 2021, using one of Defendants' Canadian websites or mobile applications, including without limitation the thiftycanada.ca and dollarcanada.ca websites, and who were charged in a currency other than Canadian dollars (CAD) (including without limitation those charged in US dollars (USD)), or any other group or sub-groups to be determined by the Court;

IDENTIFY the principle issues of law and fact to be treated collectively as the following:

- a) Did Defendants violate Section 54.4 (h), 219, 224 and/or 228 of the Consumer Protection Act?
- b) Did Defendants violate the Competition Act?
- c) Did Defendants violate the Civil Code of Quebec?

- d) If there has been a violation of one or more of these provisions, can the Class Members claim compensatory and/or punitive damages from Defendants? If so, in what amounts?
- e) Are Defendants solidarily liable?
- f) Should injunctive relief be ordered to prohibit the Defendants from continuing to perpetrate their unfair, false, misleading, and/or deceptive conduct?

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

GRANT the Representative Plaintiff's action against Defendants on behalf of all the Class Members;

CONDEMN the Defendants solidarily to pay to the Representative Plaintiff \$523.82;

CONDEMN the Defendants solidarily to pay the Class Members compensatory damages in the aggregate overcharged amount being at least 31% of Defendants' gross sales to Class Members;

ORDER the collective recovery of all damages owed to the Class Members for the amounts overcharged by the Defendants;

CONDEMN the Defendants solidarily to pay to the Representative Plaintiff and each Class Member the sum of \$100.00 *sauf à parfaire*, per transaction, on account of punitive damages, or any other amount determined by the Court, and **ORDER** collective recovery of these sums;

CONDEMN the Defendants solidarily to pay interest and the additional indemnity on the above sums according to law from the date of service of the original Application to Authorize a Class Action;

ORDER the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest, additional indemnity, and costs;

ORDER that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendants to bear the costs of the present action at all levels, including the cost of all exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

ORDER Defendants to cease from continuing their unfair, false, misleading, and/or deceptive conduct concerning the display of the currency payable and charging Canadians in a currency other than CAD;

RENDER any other order that this Honourable Court shall determine;

THE WHOLE with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fee and publication fees to advise members.

DECLARE that all Class Members who have not requested their exclusion from the Group in the prescribed delay to be bound by any judgment to be rendered on the class action to be instituted;

FIX the time limit for opting out of the class at thirty (30) days from the date of the publication or notification of the notice to the Class Members;

ORDER the publication and notification of a notice to the Class Members in accordance with Article 579 C.C.P., pursuant to a further order of the Court and **ORDER** Defendants solidarily to pay for all said publication costs;

ORDER that said notice be available on the Defendants' Canadian websites and mobile applications, their Facebook page(s), their Instagram pages, and their X (formerly Twitter) account(s), with a link to the notices to be ordered by the Court;

THE WHOLE with costs including the Court filing fees herein and all costs related to the preparation, publication and dissemination of the notices to the Class Members.

MONTREAL, MARCH 8, 2024

LEX GROUP INC.

Lex Group Inc.

Per: David Assor

Class Counsel / Attorneys for Plaintiff

4101 Sherbrooke St. West

Westmount, (Québec), H3Z 1A7

Telephone: 514.451.5500 ext. 101

Fax: 514.940.1605

SUMMONS

(Articles 145 and following C.C.P.)

Filing of a judicial application

Take notice that the Plaintiff(s) has filed this application in the office of the Superior Court of Quebec in the judicial district of Montreal.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal, situated at 1, Notre-Dame Est, Montréal, Québec within 15 days of service of the application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Plaintiff's lawyer or, if the Plaintiff is not represented, to the Plaintiff.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgment may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the Plaintiff in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Change of judicial district

You may ask the court to refer the originating application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the Plaintiff.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

Transfer of application to Small Claims Division

If you qualify to act as a Plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the Plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

Calling to a case management conference

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

Exhibits supporting the application

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

- Exhibit P-1:** *Registraire des entreprises* report regarding Defendant Dollar Thrifty Automotive Group Canada;
- Exhibit P-2:** *Registraire des entreprises* report regarding Defendant Hertz Canada Limited;
- Exhibit P-3:** *Registraire des entreprises* report regarding Hertz Canada Vehicles Partnership, HC Limited Partnership and Hertz Canada (N.S.) Company, *en liasse*;
- Exhibit P-4:** Corporate Profile page appearing on the global hertz.com website;
- Exhibit P-5:** Extracts from the ICANN Lookup website *en liasse*;

- Exhibit P-6:** Screenshots from Defendants’ website and the “The Hertz Corporation Privacy Policy”;
- Exhibit P-7:** English and French versions of the Terms and Conditions found on the dollarcanada.ca website;
- Exhibit P-8:** English and French versions of the Terms and Conditions found on the thriftycanada.ca website;
- Exhibit P-9:** Various screenshots of the home page of the dollarcanada.ca website;
- Exhibit P-10:** Various screenshots of the home page of the thriftycanada.ca website;
- Exhibit P-11:** Various screenshots of the home page of the hertz.ca website;
- Exhibit P-12:** Car rental quotes for the same period of time out of the Pierre Elliott Trudeau International Airport (YUL) in Montreal, Canada, from Defendants’ websites, *en liasse*;
- Exhibit P-13:** Car rental quotes for the same period of time out of the Charles de Gaulle Airport (CDG) in Paris, France, from Defendants’ websites, *en liasse*;
- Exhibit P-14:** Car rental quotes for the same period of time out of the London Heathrow Airport (LHR) in London, England, from Defendants’ websites, *en liasse*;
- Exhibit P-15:** Car rental quotes for the same period of time out of three (3) USA airports (FLL, LAX and JFK), from Defendants’ websites, *en liasse*;
- Exhibit P-16:** Extracts from the Expedia.ca website showing quotes for Hertz, Thrifty and Dollar car rentals out of the Fort Lauderdale / Hollywood International Airport (FLL);
- Exhibit P-17:** Extracts from the Avis.ca website;
- Exhibit P-18:** Extracts from the Budget.ca website;
- Exhibit P-19:** Extracts from the Enterprise.ca website;
- Exhibit P-20:** Charts obtained from the Bank of Canada Website containing the historical data for the USD/CAD exchange rates during the Class Period;
- Exhibit P-21:** Confirmation email from Thrifty to Plaintiff dated November 19, 2023;
- Exhibit P-22:** Email from Thrifty to Plaintiff dated December 24, 2023;
- Exhibit P-23:** Email from Thrifty to Plaintiff dated January 9, 2024 at 6:36 PM;

Exhibit P-24: Email from Thrifty to Plaintiff dated January 9, 2024 at 7:02 PM, together with receipt;

Exhibit P-25: Plaintiff's relevant credit card screenshot evidencing the Thrifty charge of CAD \$1,924.75 on January 9, 2024;

Exhibit P-26: Email from customer-relations@hertz.com to Plaintiff dated January 12, 2024;

Exhibit P-27: Plaintiff's January 14, 2024 response to Hertz;

Exhibit P-28: Email from Thrifty to Plaintiff dated January 14, 2024;

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.

DO GOVERN YOURSELF ACCORDINGLY.

MONTREAL, MARCH 8, 2024

Lex Group Inc.

Lex Group Inc.
Per: David Assor
Class Counsel / Attorneys for Plaintiff

NOTICE OF PRESENTATION
(Articles 146 and 574 (2) C.P.C.)

TO:

DOLLAR THRIFTY AUTOMOTIVE GROUP CANADA, a legal person constituted according to the law, having its head office located at 2 Convair Drive Est, Etobicoke, Province of Ontario, M9W 7A1 and having an elected domicile at 725 Ave Calais, in the City of Dorval, District of Montreal, H9P 2Y5;

-and-

HERTZ CANADA LIMITED, a legal person constituted according to the law, having its head office located at 2 Convair Drive Est, Etobicoke, Province of Ontario, M9W 7A1 and having a principal establishment at 975, boulevard Romeo Vachon Nord, in the City of Dorval, District of Montreal, H4Y 1H1;

Defendants

TAKE NOTICE that Applicant's *APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION* will be presented before the Superior Court at **1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6**, on the date set by the coordinator of the Class Action chamber.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, MARCH 8, 2024

Lex Group Inc.

Lex Group Inc.
Per: David Assor
Class Counsel / Attorneys for Plaintiff