

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

S U P E R I O R C O U R T
(Class Action)

N^o.: 500-06-001272-232

YVON MATTE

Plaintiff

v.

HONDA CANADA INC.

and

HONDA CANADA FINANCE INC.

and

LALLIER AUTOMOBILE (P.A.T.) INC.

Defendants

**APPLICATION FOR LEAVE TO ADDUCE RELEVANT EVIDENCE OF THE
DEFENDANT HONDA CANADA FINANCE INC.**

(ART. 574 al. 3 CCP)

**TO THE HONOURABLE FLORENCE LUCAS OF THE SUPERIOR COURT, ACTING
AS THE DESIGNATED JUDGE IN THE PRESENT CASE, THE DEFENDANT,
HONDA CANADA FINANCE INC., RESPECTFULLY SUBMITS AS FOLLOWS:**

I. INTRODUCTION

1. The Defendant Honda Canada Finance Inc. ("**HCFI**") is seeking leave from this Honourable Court to file relevant evidence to be used in the context of the hearing of the *Demande pour autorisation d'exercer une action collective et pour être représentante* ("**Application for Authorization**"), the whole pursuant to article 574 ff. of the *Code of Civil Procedure* ("**CCP**").
2. More specifically, HCFI seeks leave to adduce a solemnly affirmed declaration (and one exhibit attached thereto) from Taketo Mori ("**HCFI's Declaration**"), Assistant Vice President, Treasurer and Compliance Officer of the Defendant HCFI in order to ensure that the Court has the necessary facts to fairly consider the criteria for authorization set out at article 575 CCP. The Declaration is communicated hereto as **Exhibit A-1**, together with **Exhibit HCFI, en liasse** attached thereto.

II. THE APPLICATION FOR AUTHORIZATION

3. By way of the Application for Authorization dated October 3, 2023, Yvon Matte (the “**Class Applicant**”) seeks to initiate a class action proceeding in relation to new Civics and CR-Vs that were delivered to Honda dealerships and ultimately sold or leased in Québec against HCFI and other defendants on behalf of the following members:

Groupe Principal

“Toutes les personnes physiques, personnes morales de droit privé, sociétés ou associations ou autres groupes sans personnalité juridique qui sont ou étaient liés par un contrat de vente à tempérament ou par un contrat de location d’un véhicule automobile de marque Honda neuf fabriqué au Canada de l’un des modèles suivants :

- *Honda Civic*
- *Honda CR-V*

et qui ont dû payer des Frais de Transport et de Préparation, sous quelque forme que ce soit, fixés et exigés par les Défenderesses, en vertu de tout tel contrat, et ce, pour la période allant du 29 septembre 2020 jusqu’à la date du jugement final au mérite à intervenir en l’instance »

Groupe Consommateur

« Toutes les personnes physiques au Québec qui sont ou étaient liés par un contrat de vente à tempérament ou par un contrat de location d’un véhicule automobile de marque Honda neuf fabriqué au Canada de l’un des modèles suivants :

- *Honda Civic*
- *Honda CR-V*

et qui ont dû payer des Frais de Transport et de Préparation, sous quelque forme que ce soit, fixés et exigés par les Défenderesses, en vertu de tout tel contrat, et ce, pour la période allant du 3 octobre 2020 jusqu’à la date du jugement final au mérite à intervenir en l’instance »

4. The Class Applicant alleges that defendants have violated section 8 of the *Consumer Protection Act* and 1437 of the *Civil Code of Québec*.

5. More specifically, Class Applicant alleges that defendants set and demanded grossly disproportionate and objectively lesionary fees for the transportation, preparation, delivery and inspection, also known as PDI, for the sale or long-term lease of new Honda CR-V and Honda Civic vehicles delivered to Honda retailers in Québec and sold and leased in Québec.
6. The Application for Authorization seeks to obtain the following condemnations: (i) an amount equivalent to the alleged excess of the actual cost incurred to transport and prepare the vehicles and (ii) punitive damages of \$500 per class member.

III. THE USEFULNESS OF THE PROPOSED DECLARATION FOR THE AUTHORIZATION ASSESSMENT

7. The allegations contained in the Application for Authorization only partially depict the factual matrix relevant to the Plaintiff's proposed cause of action. In particular, the Application for Authorization provides an incomplete and inaccurate depiction of HCFI's contractual and commercial framework.
8. The Plaintiff essentially alleges that:
 - a. Honda Canada inc. ("**Honda Canada**") pays for the transportation and delivery of its vehicles from its Ontario plants to Québec retailers (para. 34 and 103 of the Application for Authorization);
 - b. Honda Canada would impose these fees on retailers, increasing them substantially over the amount initially paid (para. 35 and 48 of the Application for the Authorization);
 - c. Québec retailers would in turn charge these transportation fees, at the amount established by Honda Canada, to proposed class members (para. 36 of the Application for Authorization);
 - d. Honda Canada would force the retailers to charge these transportation fees to proposed class members (para. 105 of the Application for Authorization);
 - e. These fees are non-negotiable by the retailers or the proposed class members (para. 37 of the Application for Authorization)
 - f. When an instalment sale contract or a lease contract is signed, the retailer simultaneously assigns it to HCFI (para. 41 of the Application for Authorization);
 - g. As assignee, HCFI would charge the same transportation fees as those imposed by Honda Canada (para. 118 of the Application for Authorization);
 - h. The defendants are charging a disproportionate and unreasonable amount for a specific service that actually costs much less (para. 124 of the Application for Authorization);

- i. The defendants would have members believe that transportation and PDI are billed at cost (para. 137 of the Application for Authorization).
9. However, this information is incomplete and does not adequately describe the relevant contractual framework pertaining to HCFI, including the timing and content of the proposed members' financing application.
10. For this reason, it is imperative that HCFI be authorized to complete the contractual and business framework outlined by the Application for Authorization by explaining the sequence of events leading up to the conclusion of an instalment sales contract or a long-term leasing contract and the role played by each of the players involved.
11. Therefore, HCFI's Declaration (Exhibit A-1 to this application) and the exhibit attached thereto (Exhibit HCFI) will permit to clarify, complete and correct the factual elements and allegations raised in the Application for Authorization with respect to the above-mentioned elements.
12. HCFI's Declaration will specifically address:
 - The relationship between the parties in the litigation;
 - The sequence of transactions in a financing or leasing application related to instalment sales or leases at issue, as well as the relevant credit application form completed by the proposed members;
 - HCFI's lack of involvement in the establishment of transport fees and PDI;
13. In support of the HCFI's Declaration, HCFI wishes to file the standard consumer credit application, in English and French, which is used in connection with a credit application by a customer seeking financing for the purchase or long-term lease of his or her vehicle (**Exhibit HCFI**).
14. These clarifications are essential at the authorization stage, since the court needs to know the sequence of events and the role played by HCFI in order to determine whether the criteria for authorization have been met.
15. All of the elements mentioned above will permit this Honourable Court to determine if the Class Applicant has sufficiently pleaded his personal cause of action against HCFI.
16. This will further allow this Honourable Court to have all of the necessary facts in its assessment of the criteria provided at Article 575 CCP.

IV. CONCLUSION

17. In light of the foregoing, HCFI respectfully submits that the HCFI's Declaration (Exhibit A-1) and Exhibit attached thereto (Exhibit HCFI) are necessary, useful and reasonable in order for this Honourable Court to take cognizance of the relevant

facts in order to determine whether the Class Applicant has an “*arguable case*” and whether the authorization criteria set out at article 575 CCP are met.

18. Under the circumstances, this application is proportional and in the interest of justice.
19. Moreover, such evidence will be helpful to determine the appropriate class description and identify the questions to be dealt with collectively, if necessary, as required by article 576 CCP.
20. This application is well founded in fact and in law.

WHEREFORE, MAY IT PLEASE THE COURT TO:

GRANT the present *Application for Leave to Adduce Relevant Evidence of the Defendant Honda Canada Finance Inc.*;

AUTHORIZE the Defendant, Honda Canada Finance Inc., to submit and file into the Court record the Declaration of Taketo Mori (Exhibit A-1), together with the Exhibit HCFI;

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

MONTREAL, May 10, 2024

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CANADA

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NOTICE OF PRESENTATION

TAKE NOTICE that the *Application for Leave to Adduce Relevant Evidence of the Defendant Honda Canada Finance Inc. (Art. 574 (3) C.C.P.)* will be presented for adjudication before the Honourable Florence Lucas, at a time and room to be determined by the Court and by a technological means to be determined and communicated to the parties.

PLEASE GOVERN YOURSELF ACCORDINGLY.

MONTREAL, May 10, 2024

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LIST OF EXHIBITS

Exhibit A-1 : Solemnly affirmed declaration of Taketo Mori along with Exhibit HCFI
(en liasse)

MONTREAL, May 10, 2024

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ORIGINAL

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