

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-001036-199

DATE: June 4, 2024

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

(JB4644)

DOMENICO LEOPARDI

Petitioner

v.

MERCEDES-BENZ CANADA INC.

Respondent

JUDGMENT (Suspension)

[1] **CONSIDERING** the new *Application by the Petitioner to Extend the Stay of a Class Action*;

[2] **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;

[3] **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");

[4] **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;

[5] **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 rendered¹;

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

- [6] **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;
- [7] **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 rendered²;
- [8] **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 rendered³;
- [9] **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 rendered⁴;
- [10] **CONSIDERING** that on October 17, 2023, this Court granted the suspension for an additional 9 months until July 12, 2024⁵;
- [11] **CONSIDERING** that the Petitioner delivered its certification record to the Respondent in the Ontario Action on June 4, 2021;
- [12] **CONSIDERING** that the Respondent delivered its response record in the Ontario Action, including its affidavits, on December 6, 2021;
- [13] **CONSIDERING** that the Petitioner intend on producing a reply record in the Ontario Action and **CONSIDERING** the delay involved in the production of same;
- [14] **CONSIDERING** that the Petitioner's counsel undertook and undertakes to report back to this Court as to the progress of the Ontario Action after the filing of its reply expert reports;
- [15] **CONSIDERING** that, since October 2023, in the parallel Ontario Action, as part of the Certification Application Materials, the plaintiffs filed 2 expert reports, one from a mechanical and aerospace engineer and one from a professor of chemistry, and the Defendant, as part of their Responding Certification Materials, filed 3 expert reports, one from a mechanical engineer, a second from an industrial hygienist, and a third from an automotive engineer;
- [16] **CONSIDERING** that the plaintiff had set up meetings with its experts in order to prepare expert reply reports, but due to conflicts, the meetings were cancelled, new meetings now having been set up for July and August 2024;
- [17] **CONSIDERING** that a renewal of the stay in Quebec is necessary to finalize the plaintiffs' Reply Certification Materials. At that point, the Parties will have a management conference and set steps leading to a contested certification hearing, such as preliminary motions and cross-examinations of the affiants;

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.

⁵ *Leopardi c. Mercedes-Benz Canada inc.*, 2023 QCCS 3911.

[18] **CONSIDERING** that this Court considers that the Ontario Action is being moved along expeditiously and that an additional 6-month suspension of the present action is appropriate;

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

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

POUR CES MOTIFS, LE TRIBUNAL :

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

[22] **SUSPEND** la présente action collective pour une période additionnelle de six mois, soit jusqu'au 12 janvier 2025;

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

[24] **LE TOUT**, sans frais de justice.

FOR THESE REASONS, THE COURT:

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

[22] **SUSPENDS** the present class action for an additional six months, until January 12, 2025;

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

[24] **THE WHOLE**, without legal costs.



DONALD BISSON, J.S.C.

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Hearing date: May 22, 2024 (on file)