

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
No.: 500-06-000977-195

SUPERIOR COURT
(Class Action)

DENIS GAUTHIER, residing and domiciled at 427 Savard Street, in the City of St-Jean-sur-Richelieu, District of Iberville, Province of Québec, J2W 1Y7

Representative Plaintiff

v.

BOMBARDIER INC., a legal person governed by the *Canada Business Corporations Act*, R.S.C., 1985, c. C-44, having its principal place of business at 400 Côte-Vertu Road West, in the City of Dorval, Province of Québec, H4S 1Y9

-and-

ALAIN BELLEMARE, having an elected domicile at the office of Norton Rose Fulbright LLP, located at 1 Pl. Ville-Marie, Suite 2500, in the City of Montréal, Province of Québec, H3B 1R1

-and-

JOHN DI BERT, having an elected domicile at the office of Norton Rose Fulbright LLP, located at 1 Pl. Ville-Marie, Suite 2500, in the City of Montréal, Province of Québec, H3B 1R1

Defendants

ORIGINATING APPLICATION INSTITUTING A CLASS ACTION
(Articles 583 *et seq.* CCP and 225.2 *et seq.* QSA)

TO THE HONOURABLE JUSTICE MR. SHAUN E. FINN OF THE SUPERIOR COURT OF QUÉBEC, SITTING IN AND FOR THE DISTRICT OF MONTRÉAL, THE REPRESENTATIVE PLAINTIFF RESPECTFULLY SUBMITS THE FOLLOWING:

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I - PREAMBLE

1. On May 24, 2024, a class action was authorized by the Honorable Justice Mr. Christian Immer against the Defendants on behalf of the members of the class defined below, other than the Excluded Persons:

All persons and entities who acquired or purchased Bombardier's securities during the period spanning from August 2, 2018 to November 8, 2018, inclusively, and held all or some of these securities until November 8, 2018, inclusively.

2. Denis Gauthier was ascribed the status of representative of the persons included in the class described above.
3. The authorization judgment identified the principal questions of fact and law to be dealt with collectively as:

- a) During the Class Period, did the Defendants publish documents that contained misrepresentations within the meaning of the Québec *Securities Act*, CQLR C V-1.1 (the “**QSA**”)?
 - b) If so, which document contains which misrepresentations?
 - c) Were the misrepresentations intentional?
 - d) Are any of the Defendants liable to the Class or any of its members under the QSA?
 - e) If so, which Defendant is liable and to whom? and
 - f) What are the Representative Plaintiff's and the Class Members' damages?
4. The conclusions sought in this class action are:

GRANT this class action on behalf of the Class;

GRANT the Representative Plaintiff's action against the Defendants in respect of the rights of action asserted against Defendants under Title VIII, Chapter II, Divisions I and II of the QSA;

CONDEMN the Defendants to pay to the Representative Plaintiff and Class Members compensatory damages for all monetary losses;

ORDER collective recovery in accordance with articles 595 to 598 of the Code of Civil Procedure;

THE WHOLE with interest and additional indemnity provided for in the Civil Code of Québec and with full costs and expenses, including expert fees, notice fees, and fees relating to administering the plan of distribution of the recovery in this action.

II - DEFINITIONS

5. In addition to the terms that are defined elsewhere herein and within the QSA, the following terms have the following meanings:
- a) “**Board**” means the board of directors of Bombardier;
 - b) “**Bombardier**” means the defendant Bombardier Inc. and, as the context may require, its subsidiaries and affiliates;
 - c) “**Class**” and “**Class Members**” are comprised of the following, other than the Excluded Persons:

All persons and entities who acquired or purchased Bombardier's securities during the Class Period and held all or some of these securities until November 8, 2018, inclusively;
 - d) “**Class Period**” means the period spanning from August 2, 2018 to November 8, 2018, inclusively;

- e) “**CCP**” means the *Code of Civil Procedure*, CQLR c C-25.01;
- f) “**CCQ**” means the *Civil Code of Québec*, CQLR c CCQ-1991;
- g) “**Company**” means Bombardier;
- h) “**Core Documents**” (each being a “Core Document”) refers to:
 - i) Bombardier’s 2017 Year-End MD&A for the year ended December 31, 2017 (“**2017 Year-End MD&A**”), filed on February 15, 2018, communicated herewith as **Exhibit P-1**;
 - ii) Bombardier’s MD&A for the three-month period ended March 31, 2018 (“**2018 Q1 MD&A**”), filed on May 3, 2018, communicated herewith as **Exhibit P-2**;
 - iii) Bombardier’s MD&A for the three and six-month periods ended June 30, 2018 (“**2018 Q2 MD&A**”), filed on August 2, 2018, communicated herewith as **Exhibit P-3**;
 - iv) Bombardier’s MD&A for the three and nine-month periods ended September 30, 2018 (“**2018 Q3 MD&A**”), filed on November 8, 2018, communicated herewith as **Exhibit P-4**;
- i) “**Defendants**” means, collectively, Bombardier and the Individual Defendants;
- j) “**Excluded Persons**” refers to the Defendants, at all material times, members of their immediate families and their legal representatives, heirs, successors and/or assigns and the directors, officers, subsidiaries, and affiliates of Bombardier and its subsidiaries as well as any entity in which Bombardier has or had a controlling interest;
- k) “**FCF**” means free cash flow;
- l) “**FCF Guidance**” means the Company’s 2018 FCF guidance of breakeven $\pm$ \$150 million¹;
- m) “**Impugned Documents**” (each being an “Impugned Document”) refers to:
 - i) Bombardier’s 2018 Q2 MD&A, Exhibit P-3;
 - ii) Bombardier’s Forms 52-109F2 *Certification of Interim Filings - Full Certificate* signed by Alain Bellemare (CEO) and John Di Bert (CFO), filed on August 2, 2018, communicated herewith as **Exhibit P-5 en liasse**;
- n) “**Individual Defendants**” (each being an “Individual Defendant”) means Alain Bellemare and John Di Bert;
- o) “**MD&A**” means Management’s Discussion and Analysis (*rapport de gestion*). Management Discussion and Analyses are a narrative explanation of how a company performed during the period covered by the financial statements, and of a company’s financial condition and future prospects. They must enable readers to assess material

¹ All amounts herein are expressed in U.S. dollars, unless otherwise specified.

information relating to the financial condition and operating results of a company and discuss important trends and risks that have affected the financial statements, as well as trends and risks that are reasonably likely to affect them in future;

- p) “**Plaintiff**” or “**Representative Plaintiff**” means Denis Gauthier;
- q) “**Public Correction**” means Bombardier's 2018 Q3 MD&A, Exhibit P-4;
- r) “**QSA**” means the Québec *Securities Act*, CQLR C V-1.1;
- s) “**SEDAR**” means the system for electronic document analysis and retrieval of the Canadian Securities Administrators, and includes SEDAR+; and
- t) “**TSX**” means the Toronto Stock Exchange.

III - INTRODUCTION

A. Overview of the Proposed Class Action

- 6. This securities class action arises out of the Defendants' misrepresentations and failure to make adequate disclosure of material facts concerning Bombardier's 2018 FCF Guidance.
- 7. The misrepresentation at the center of this case is that, on August 2, 2018, the Defendants stated that Bombardier was in line to achieve its 2018 FCF Guidance of breakeven $\pm$ \$150 million, excluding the net proceeds from the sale of a property called Downsview.
- 8. However, at that point in time, the Company was not “in line” to achieve this guidance or, at the very least, the Defendants did not adequately inform the market of the risks, factors, or assumptions relating to this guidance.
- 9. FCF (free cash flow) is the difference between the cash flow generated by a company from its operating activities less capital expenditures. Bombardier defines “Free Cash Flow (usage)” as: “Cash flows from operating activities less net additions to PP&E [plant, property & equipment] and intangible assets”. It measures the Company's generation of liquidities after taking into consideration cash outflows that support its operations and maintain its capital assets.
- 10. By guiding FCF at breakeven $\pm$ \$150 million, Bombardier asserts that after subtracting its net additions to PP&E and intangible assets from the cash flow it will generate from its operating activities, the Company will either report a FCF of zero (\$0.00) or a FCF within a range of $\pm$ \$150 million from zero (\$0.00) for the year 2018.
- 11. On November 8, 2018, three months after reaffirming Bombardier's 2018 FCF Guidance, the Defendants finally admitted that they expected a \$600,000,000 (just shy of CDN\$1 billion) shortfall in Bombardier's FCF position.
- 12. More specifically, the Defendants revised Bombardier's 2018 FCF Guidance as being breakeven $\pm$ \$150 million, with the inclusion of \$600,000,000 in net proceeds resulting from the sale of a property in Ontario referred to as “Downsview”.

13. The market reacted swiftly and violently to this announcement, and the price and value of Bombardier's securities plummeted. For instance, BBD.B common shares immediately lost almost 25% of their value on the TSX.
14. Class Members in Québec, and throughout the world, are entitled to be compensated for the hundreds of millions of dollars in damages they suffered due to the Defendants' misrepresentations.

B. Broader Context

15. At the relevant time, Bombardier was a multinational transportation and aerospace company, as appears from an extract from the *Registraire des Entreprises du Québec* from 2019, communicated herewith as **Exhibit P-6**.
16. Bombardier was a reporting issuer in Québec under section 68 of the QSA, as appears from an extract of the *Autorité des Marchés Financiers'* Reporting Issuers List, communicated herewith as **Exhibit P-7**.
17. Bombardier's securities were issued, purchased, and traded in Québec and throughout the world.
18. They were comprised of both equity and debt securities, including but not limited to:
 - a) Class A multiple voting common shares, Class B subordinate voting common shares, Series 2 preferred shares, Series 3 preferred shares, and Series 4 preferred shares, all of which traded on the TSX, respectively under the symbols BBD.A, BBD.B, BBD.PR.B, BBD.PR.D, and BBD.PR.C. Bombardier's Class A and Class B common shares also traded in the U.S., with some additional trading in Germany and the U.K.; and
 - b) At least 19 distinct debt securities that were publicly traded in Canada.
19. In November 2015, the Defendants introduced Bombardier's "Roadmap to 2020", a transformation plan that was allegedly going to allow the Company to, *inter alia*, increase its FCF as well as its revenues and EBITDA/EBIT (i.e. Earnings Before Interest, Tax, Depreciation, and Amortization) before special items (the "**Transformation Plan**").
20. The Defendants set out to execute Bombardier's Transformation Plan in three phases:
 - a) Phase 1: De-Risk from 2015 to 2016 - this phase consisted of securing liquidity, proactively aligning production rates, certifying the C Series jets as well as strengthening its backlog, in-flight testing of the Global 7000 jets, and re-financing Bombardier's debt;
 - b) Phase 2: Build Through Transformation from 2016 to 2020 - this phase consisted of establishing a "clear path to earnings and free cash flow growth" by way of an operational transformation (cost reduction and site specialization), re-aligning Bombardier's portfolio strategy (product development, capital allocation discipline, and strategic options), and increasing revenue growth (from the C Series, Global 700, BT, and the aftermarket); and

- c) Phase 3: De-Leverage from 2019 to 2020 - this last phase sought to achieve Bombardier's goal of converting earnings into approximately \$750 million to \$1 billion of annual cash by 2020;

as appears from pages 8 to 10 of Bombardier's 2016 Investor Day Presentation, communicated herewith as **Exhibit P-8**.

- 21. With regard to Phase 2, the Defendants represented having established a "clear path" to attain Bombardier's 2018 FCF Guidance, as appears from page 21 of Exhibit P-8.
- 22. This FCF Guidance was crucial to Bombardier's Transformation Plan, because it was the starting point of its objective to achieve a FCF of \$750 million to \$1 billion by 2020, as appears from page 22 of Exhibit P-8.
- 23. Furthermore, and critically important to investors, with a FCF of zero (\$0.00) or more, Bombardier would no longer need external funding to finance its working capital, because its operations would provide sufficient liquidities to that end.
- 24. On December 14, 2017, Bombardier held its 2017 Investor Day Presentation. During this presentation, the Defendants indicated that in order to achieve Bombardier's ultimate objective of having a FCF of \$750 million to \$1 billion by 2020, the Company needed to deliver a "turnaround financial performance in 2018" which included attaining a FCF Guidance of breakeven $\pm$ \$150 million, as appears from pages 11, 14, 19, and 20 of the 2017 Investor Day Presentation, communicated herewith as **Exhibit P-9**.
- 25. In February 2018, the Defendants published Bombardier's 2017 Year-End MD&A in which the Company reiterated that its 2018 FCF Guidance was to attain breakeven $\pm$ \$150 million, as appears from pages 6 and 14 of the 2017 Year-End MD&A, Exhibit P-1.
- 26. In May 2018, the Defendants published Bombardier's 2018 Q1 MD&A in which they reassured investors that the Company was "in line" to achieve its Transformation Plan and attain its 2018 FCF Guidance, as appears from page 5 of Exhibit P-2.
- 27. Also, in Bombardier's 2018 Q1 MD&A, the Defendants announced a definitive agreement to sell property owned by the Company (the "**Downsview Sale**"), as appears from page 6 of Exhibit P-2.
- 28. On August 2, 2018, the Defendants published Bombardier's 2018 Q2 MD&A, Exhibit P-3, in which they further reassured investors that the Company remained "in line" to attain its 2018 FCF Guidance.
- 29. The Defendants added that the Company remained "in line" to achieve its FCF Guidance **excluding** the net proceeds from the Downsview Sale, as appears from pages 5, 6, and 7 of Exhibit P-3.
- 30. On November 8, 2018, the Defendants published Bombardier's 2018 Q3 MD&A, Exhibit P-4, which included a "2018 Guidance Update". In this "2018 Guidance Update", the Defendants modified the Company's FCF Guidance which, as explicitly represented in its 2018 Q2 MD&A, was to *exclude* the net proceeds from the Downsview Sale. The update

provided that the FCF Guidance was now breakeven $\pm$ \$150 million **including** the net proceeds from the Downsview Sale, as appears from page 7 of Exhibit P-4.

31. The about-face in Bombardier's 2018 Q3 MD&A concerning its FCF Guidance corrected the Defendants' Q2 misrepresentation and revealed a significant shortfall in Bombardier's forecasted FCF generation of approximately \$600 million (nearly CDN\$1 billion).
32. In the aftermath of this Public Correction, Bombardier's publicly traded securities plummeted in value. For example, on November 8, 2018, the price of Bombardier's Class B subordinate voting shares (BBD.B) went from CDN\$ 78.00 to CDN\$ 60.25 (a drop of 24.45%) on the TSX in one day on an unusually high trading volume of 53,648,393, as appears from the trading price history of BBD.B shares on the TSX between August and November 2018 (as published on the TMX Money website on July 24, 2024), communicated herewith as **Exhibit P-10**².
33. Contrary to the Defendants' contention, at the time of the release of Bombardier's 2018 Q2 MD&A, Exhibit P-3, the Company was not "in line" to achieve a FCF Guidance of breakeven $\pm$ \$150 million or, at the very least, the Defendants did not adequately inform the market of the risks, factors, or assumptions associated with their representation.
34. There are three ways of reaching this conclusion.
35. First, an analysis of Bombardier's initial projection for FCF Guidance, compared with its quarterly projections and actuals through 2018, reveals that, on August 2, 2018, it was utterly improbable that Bombardier would achieve its 2018 FCF Guidance.
36. Second, and independently from the foregoing, on August 2, 2018, it was not reasonable for the Defendants to reaffirm Bombardier's 2018 FCF Guidance, because that representation was based on partially inadequate information due to, *inter alia*:
 - a) The Defendants' improper forecasting process;
 - b) The Defendants' flawed calculations of Bombardier's FCF;
 - c) Material weaknesses in Bombardier's internal controls; and
 - d) The Defendants' aspirational assessment of extant facts.
37. The Defendants knew or should have known of the risks and factors associated with reaffirming Bombardier's 2018 FCF Guidance and should have informed the public accordingly, which they failed to do.
38. Third, on August 2, 2018, the Defendants knew or should have known that the Company would likely not achieve its FCF Guidance according to their own explanation of the shortfall,

² Note that the share prices that appear in Exhibit P-10 differ from the prices shown on the equivalent exhibit used at authorization (P-9 at authorization), printed out in 2019. That is because Exhibit P-10 takes into account a recent reverse split (consolidation) of Bombardier's shares. That said, the percentage of variation of the share prices remains identical before and after the reverse stock split, such that the relevant information is aligned between Exhibit P-10 and its authorization counterpart.

including the following issues they identified at Bombardier Transportation (“**BT**”): i) a shift in BT’s product portfolio, (ii) BT’s production, ramp up, and delivery-related delays, and (iii) delays due to customer infrastructure and homologation issues at BT (collectively, the “**BT Issues**”). The Defendants should have informed the market accordingly.

- 39. Instead, in Bombardier’s 2018 Q2 MD&A, Exhibit P-3, the Defendants falsely reassured investors that the Company was “in line” to attain its FCF Guidance and/or omitted to adequately inform them of the risks, factors, or assumptions relating to this reassurance.
- 40. As a result of the Defendants’ misrepresentations, the price of Bombardier’s securities was artificially inflated at all relevant times during the Class Period and dropped significantly upon the Public Correction, causing significant damages to the Representative Plaintiff and Class Members.
- 41. Bombardier’s internal controls were deficient at all relevant times during the Class Period and failed to ensure that all material information was disseminated to the investing public in a timely manner.

C. Parties

1) Representative Plaintiff and Class

- 42. The proposed Class is defined at paragraph 5 c) hereinabove.
- 43. The Representative Plaintiff resides in Québec.
- 44. During the Class Period, on October 19, 2018, the Representative Plaintiff purchased 1,000 BBD.B shares at a price of CDN \$3.715 per share for a total of CDN \$3,724.95 (including the CDN \$9.95 purchase fee), as appears from Mr. Gauthier’s portfolio statement, communicated herewith as **Exhibit P-11**³.
- 45. On October 29, 2018, the Representative Plaintiff purchased an additional 3,900 BBD.B shares at a price of CDN \$3.11 per share for a total of CDN \$12,138.95 (including the CDN \$9.95 purchase fee), as appears from Exhibit P-11.
- 46. The Representative Plaintiff held these shares until after the Public Correction.

2) Bombardier

- 47. Founded in the early 1900s, at the time of the Class Period, Bombardier was an international engineering and manufacturing firm.
- 48. It had production and engineering sites in 28 countries across four segments: (1) Aerostructures and Engineering Services (BAES), (2) Transportation (BT), (3) Business Aircraft (BBA), and (4) Commercial Aircraft (BCA).
- 49. Bombardier Transportation (BT) was a global mobility solution provider which covered a full spectrum of rail products and services.

³ The amounts were paid by Mr. Gauthier prior to the consolidation of Bombardier’s shares, which explains the discrepancy between the share prices in Exhibit P-11 and those in Exhibit P-10.

50. BT was comprised of three market segments:

- a) *Rolling Stock*, which included high-speed and very high-speed trains, commuter, regional and intercity trains, light rail vehicles, metros, electric and diesel locomotives, propulsion and controls, and bogies⁴;
- b) *Systems and Signaling*, which included mass transit and airport systems, mainline systems, mass transit signaling, mainline signaling, industrial signaling, and *OPTIFLO* - Services solutions for signaling; and
- c) *Services*, which included material solutions, operations and maintenance of systems, fleet management, asset-life management and component re-engineering, and overhaul;

as appears from pages 87 to 91 of Bombardier's 2017 Year-End MD&A, Exhibit P-1.

3) Individual Defendants

- 51. Alain Bellemare ("**Bellemare**") was appointed as President and CEO of Bombardier on February 13, 2015. At the relevant time, he was also a member of Bombardier's Board and the chief architect of the Transformation Plan.
- 52. Bellemare was a director and officer of Bombardier within the meaning of the QSA. In his capacity as CEO, Bellemare reviewed the interim financial reports, annual financial statements, interim and annual MD&A, the annual information form ("**AIF**"), and all documents and information incorporated by reference in the AIF. Bellemare certified that these documents did not contain any untrue statements of material facts or omitted to state a material fact, as appears from the certificates of interim filings that he signed, Exhibit P-5 *en liasse*.
- 53. John Di Bert ("**Di Bert**") was appointed as Senior VP and CFO of Bombardier on August 10, 2015 and was also instrumental in attempting to achieve the goals set forth in the Transformation Plan.
- 54. During the Class Period, Di Bert was an officer of Bombardier within the meaning of the QSA. In his capacity as Bombardier's CFO, he reviewed the interim financial reports, annual financial statements, interim and annual MD&A, the AIF, and all documents and information incorporated by reference in the AIF. Di Bert certified that these documents did not contain any untrue statements of material facts or omitted to state a material fact, as appears from the certificates of interim filings that he signed, Exhibit P-5 *en liasse*.

⁴ A bogie is a chassis or framework that carries a wheelset attached to a vehicle — a modular subassembly of wheels and axles.

IV - FACTS GIVING RISE TO THE PRESENT ACTION

A. Bombardier's Corporate Filings

55. At all relevant times during the Class Period, Bombardier communicated with the investing public through established market communication channels such as news releases and documents filed on SEDAR.
56. On February 15, 2018, the Defendants published Bombardier's 2017 Year-End MD&A, Exhibit P-1, which informed investors that:
- a) the Company's original 2017 guidance was to achieve a FCF usage of \$750 million to \$1 billion;
 - b) the latest 2017 guidance projected an approximate FCF usage of \$1 billion;
 - c) the actual 2017 FCF usage was of \$786 million; and
 - d) the 2018 guidance projected a FCF of breakeven $\pm$ \$150 million;
- as appears from pages 6 and 14 of Exhibit P-1.
57. The 2017 Year-End MD&A also contains the following statements:
- a) "We Positioned the Company to Deliver Growth Towards Our 2020 Plan", as appears from page 7 of Exhibit P-1;
 - b) "As we near the end of the investment cycle, we continue to see a clear path to a sustainable cash generation target of \$750 million to \$1 billion annually by 2020", as appears from page 11 of Exhibit P-1;
 - c) Under the heading "Our strategy to achieve 2018 guidance": "Free cash flow generation is expected starting in the second half of 2018, as train project deliveries intensify (...)", as appears from page 15 of Exhibit P-1; and
 - d) Under the heading "Our strategy to achieve 2018 guidance": "We continue to manage our business with prudence and discipline and as such, we anticipate a similar level of revenues and deliveries in 2018 compared to 2017", as appears from page 56 of Exhibit P-1.
58. In a news release published that same day, the Defendants add:
- a) "«Bombardier closed out the second full year of its five-year turnaround plan with very strong performance», said Alain Bellemare, President and Chief Executive Officer, Bombardier Inc. «Because of this solid performance, we begin 2018 with great momentum. Our operational transformation is in full motion; **our growth programs - including the *Global 7000* - are on track and we have a clear line of sight to our 2020 objectives.**»"; and
 - b) "Free cash flow performance for 2017 was better than guidance by more than \$200 million, with a usage of \$786 million. This over performance allowed Bombardier to

end the year with a \$3.1 billion cash balance and **well positioned to achieve cash flow breakeven in 2018, a key objective of the Company's turnaround plan.**;

[Emphasis added]

as appears from page 1 of Bombardier's news release dated February 15, 2018 titled "Bombardier Reports Fourth Quarter and Full Year 2017 Results", communicated herewith as **Exhibit P-12**.

59. On May 3, 2018, the Defendants published Bombardier's 2018 Q1 MD&A, Exhibit P-2, which informed investors that the Company had a FCF usage of \$721 million and that the Company was "in line" with its plan and full year breakeven target, as appears from page 5 of Exhibit P-2.
60. Also, in the 2018 Q1 MD&A, the Defendants announced the Downsview Sale, a definitive agreement to sell a 148-hectare manufacturing site owned by the Company for gross proceeds of approximately \$635 million. They stated that the transaction was expected to close in the second quarter of 2018, as appears from page 6 of Exhibit P-2.
61. On August 2, 2018, the Defendants published Bombardier's 2018 Q2 MD&A, Exhibit P-3.
62. Once again, they reassured investors that Bombardier was "in line" to meet its objective of attaining its FCF Guidance:

We are in line to achieve our 2018 revenue, EBIT before special items and free cash flow guidance (...) Revenues for the year are expected between \$16.5 billion and \$17.0 billion, EBIT before special items between \$900 million and \$1 billion, EBITDA before special items between \$1.25 billion and \$1.35 billion, and **free cash flow breakeven plus or minus \$150 million excluding approximately \$600 million net proceeds from the sale of the Downsview Property.**

[Emphasis added]

as appears from page 6 of Exhibit P-3.

63. Under the section entitled "2018 Guidance Update", the Defendants provided investors with an updated guidance. Regarding Bombardier's FCF, they indicated that the FCF Guidance provided in the 2017 Year-End MD&A (i.e. 2018 FCF Guidance of breakeven $\pm$ \$150 million) remained "unchanged", as appears from page 7 of Exhibit P-3.
64. Furthermore, they reassured investors that Bombardier was "in line" to achieve its 2018 FCF Guidance **excluding** the net proceeds of approximately \$600 million from the Downsview Sale, as appears from pages 5, 6 and 7 of Exhibit P-3.
65. In a news release published that same day, the Defendants reiterated that Bombardier improved its FCF usage thereby "supporting its 2018 breakeven target", as appears from the news release titled "Bombardier Reports Second Quarter 2018 Results", communicated herewith as **Exhibit P-13**.
66. However, unbeknownst to the public, and as explained below, it was unreasonable for the Defendants to state that Bombardier was "in line" to meet its FCF Guidance at that time, or,

at the very least, the Defendants did not adequately inform the market of the risks, factors, or assumptions relevant to that representation.

67. Prior to the publication of the Public Correction on November 8, 2018, Bombardier's:
- a) Class A shares (BBD.A) opened at CDN \$80.50 on the TSX, as appears from the trading price history of BBD.A shares between August and November 2018 (as published on the TMX Money website on July 24, 2024), communicated herewith as **Exhibit P-14**;
 - b) Class B subordinate voting shares (BBD.B) opened at CDN \$78 on the TSX, as appears from the relevant trading price history, Exhibit P-10;
 - c) Series 2 preferred shares (BBD.PR.B) opened at CDN \$13.10 on the TSX, as appears from the relevant trading price history, communicated herewith as **Exhibit P-15**;
 - d) Series 3 preferred shares (BBD.PR.D) opened at CDN \$12.72 on the TSX, as appears from the relevant trading price history, communicated herewith as **Exhibit P-16**; and
 - e) Series 4 preferred shares (BBD.PR.C) opened at CDN \$20.32 on the TSX, as appears from the relevant trading price history, communicated herewith as **Exhibit P-17**.
68. That same day, the Defendants published Bombardier's 2018 Q3 MD&A, Exhibit P-4 (the Public Correction), which disclosed, for the first time, that their 2018 FCF Guidance was changed to reflect a \$600M shortfall in FCF forecast.
69. The Public Correction included a "2018 Guidance Update" which modified the Company's FCF Guidance which, as the Defendants previously explicitly represented in Bombardier's 2018 Q2 MD&A, Exhibit P-3, had until then *excluded* the net proceeds from the Downsview Sale. The FCF Guidance was modified as follows: "Breakeven $\pm$ \$150 million **including** the net proceeds of ~\$600 million from the sale of the Downsview Property", as appears from page 7 of Bombardier's 2018 Q3 MD&A, Exhibit P-4.
70. According to the Defendants, this reversal was necessary to offset "the shortfall at [Bombardier] Transportation associated with the higher than planned working capital balance in the second half of the year", as appears from page 7 of the Public Correction, Exhibit P-4.
71. The Defendants' about-face shocked the market and rocked the Company's share price.
72. On November 9, 2018, the day following the publication of the Public Correction, the value of Bombardier's securities plummeted. For example, on the TSX:
- a) Class A shares (BBD.A) opened at CDN \$61.75, as appears from Exhibit P-14. This represents a 23.3% drop in price since the previous day's Public Correction;
 - b) Class B subordinate voting shares (BBD.B) opened at CDN \$62.50, representing a 19.9% drop in price, as appears from Exhibit P-10;
 - c) Series 2 preferred shares (BBD.PR.B) opened at CDN \$12.17, representing a 7.1% drop in price, as appears from Exhibit P-15;

- d) Series 3 preferred shares (BBD.PR.D) opened at CDN \$12.16, representing a 4.4% drop in price, as appears from Exhibit P-16; and
 - e) Series 4 preferred shares (BBD.PR.C) opened at CDN \$18.77, representing a 7.6% drop in price, as appears from Exhibit P-17.
73. The value of Bombardier's debt securities also dropped significantly further to the publication of the Public Correction.
74. By the tenth trading day following the publication of the Public Correction, on November 22, 2018, on the TSX, for example:
- a) Class A shares (BBD.A) opened at CDN \$58.75, as appears from Exhibit P-14. This represents a total drop of 27% from the price at the opening of the market on November 8, 2018;
 - b) Class B subordinate voting shares (BBD.B) opened at CDN \$56.25, as appears from Exhibit P-10. This represents a total drop of 27.9% from the open on November 8, 2018;
 - c) Series 2 preferred shares (BBD.PR.B) opened at CDN \$11.80, as appears from Exhibit P-15. This represents a total drop of 9.9% from the open on November 8, 2018;
 - d) Series 3 preferred shares (BBD.PR.D) opened at CDN \$11.50, as appears from Exhibit P-16. This represents a total drop of 9.6% from the open on November 8, 2018; and
 - e) Series 4 preferred shares (BBD.PR.C) opened at CDN \$17.75, as appears from Exhibit P-17. This represents a total drop of 12.6% from the open on November 8, 2018.
75. The misrepresentations in the above-mentioned core and non-core documents emanating from Bombardier were made with the authorization, permission, or acquiescence of the Individual Defendants.

B. Misrepresentations Regarding Bombardier's 2018 FCF Guidance

76. In Bombardier's 2018 Q1 MD&A, Exhibit P-2, the Defendants stated that Bombardier was "in line" to attain a FCF Guidance of breakeven $\pm$ \$150 million.
77. In its 2018 Q2 MD&A, Exhibit P-3, they reassured investors that Bombardier remained "in line" and further stated that the Company's FCF Guidance *excluded* the net proceeds from the Downsview Sale.
78. The foregoing was a misrepresentation. When the Defendants published Bombardier's 2018 Q2 MD&A on August 2, 2018, the Company was not "in line" to meet its FCF Guidance or, at the very least, the Defendants failed to adequately inform investors of the risks, factors, or assumptions relating to their reaffirmation of the 2018 FCF Guidance.
79. On August 2, 2018, it was not reasonable for the Defendants to simply reaffirm Bombardier's FCF Guidance, without laying out the relevant risks, factors, or assumptions, which include, *inter alia*, the following three categories.

1) Low Probability of Achieving 2018 FCF Guidance

80. An analysis of Bombardier's initial projection for FCF Guidance compared with its quarterly projections and actuals through 2018 reveals that, on August 2, 2018, it was utterly improbable that the Company would achieve its 2018 FCF Guidance.

81. Bombardier's internal process prior to affirming or updating its FCF Guidance in its quarterly MD&As involves the preparation of presentations to its Board of Directors. The Defendants' internal projection on December 12, 2017 was to generate \$200M of FCF in 2018, as appears from the 2018 Budget Review Presentation to Bombardier's Board dated December 12, 2017, communicated herewith as **Exhibit P-18**, at p. 49. Broken down by quarter, the Defendants' projection was:

Q1 2018 Negative \$550M

Q2 2018 Negative \$220M

Q3 2018 Positive \$445M

Q4 2018 Positive \$525M

82. On May 2, 2018, after Q1 2018 financial data was received, the Defendants revised Bombardier's internal quarterly FCF projections as follows:

Q1 2018 Negative \$721M (actual, down \$171M from initial projection)

Q2 2018 Negative \$485M (projected, down \$265M from initial projection)

Q3 2018 Positive \$815M (projected, up \$371M from initial projection)

Q4 2018 Positive \$905M (projected, up \$380M from initial projection)

as appears from the First Quarterly Report Summary and 2018 F1 Forecast Presentation to Bombardier's Board dated May 2, 2018, communicated herewith as **Exhibit P-19**, at p. 38.

83. On August 1, 2018, after Q2 2018 financial data was received, the Defendants revised Bombardier's internal quarterly projections as follows:

Q1 2018 Negative \$720M (actual, down \$171M from initial projection)

Q2 2018 Negative \$380M (actual, down \$160M from initial projection)

Q3 2018 \$0M (projected, down \$445M from initial projection)

Q4 2018 Positive \$1,101M (projected, up \$575M from initial projection)

as appears from the Second Quarterly Report Summary and 2018 F2 Forecast Presentation to Bombardier's Board dated August 1, 2018, communicated herewith as **Exhibit P-20**, at p. 57.

84. As a result, on August 1, 2018, the day before Bombardier's 2018 annual FCF Guidance of "Breakeven +/- \$150M" was reaffirmed, its actual FCF usage was negative \$1,100M (i.e. (720M) + (380M)), which was down \$331M from initial projections.
85. Just as important, the Defendants now projected \$0M of FCF generation for Q3 2018, which is a negative variance of \$445M. Cumulatively, at this point in time, the Defendants' own internal projections were that they would be down \$776M from their own budget for Q1 to Q3 2018.
86. It is also at this point in time that the Defendants balloon their Q4 2018 FCF projection up to the sum of \$1,101M of FCF in Q4 2018 to break even.
87. There was then less than a 0.08% chance that Bombardier would generate \$1,101M (or \$1.1B) of FCF in Q4 2018 and less than a 0.35% chance it would generate \$950M in Q4 2018 to meet its 2018 FCF Guidance⁵.
88. Although knowledge is not required for the Defendants to be liable for the damages caused by their misrepresentations in this case, they should have known, on August 2, 2018, that they were misleading the market, *inter alia*, by failing to disclose risks, factors, or assumptions to investors.

2) Systemic and Structural Flaws

89. Second, and independently from the foregoing, on August 2, 2018, it was not reasonable for the Defendants to reaffirm Bombardier's 2018 FCF Guidance, because that representation was based on partially inadequate information due to, *inter alia*:
 - a) The Defendants' improper forecasting process;
 - b) The Defendants' flawed calculations of Bombardier's FCF;
 - c) Material weaknesses in Bombardier's internal controls; and
 - d) The Defendants' aspirational assessment of extant facts.
90. Individually and together, these elements demonstrate that the Defendants' forecasting and reporting process was flawed, unreliable, or subject to error or misreporting.
91. They also show that the Defendants' basis to reaffirm Bombardier's 2018 FCF Guidance, as well as their disclosure of the risks, factors, or assumptions in connection thereto, were inadequate.

⁵ Not that this should matter, considering that one must place oneself on August 2, 2018 to determine whether it was reasonable for the Defendants to reaffirm their 2018 FCF Guidance on August 2, 2018 - in the manner that they did, but it would be misleading for the Defendants to assert, as they previously have, that they, in fact, beat the odds and met their \$1B FCF generation forecast in Q4 2018. The only reason the actual numbers ended up approaching the disclosed forecast is because the Defendants manipulated their capital expenditures, not because they resolved any of the problems that should have been known on August 2, 2018, discussed herein. These problems should have prevented the reaffirmation of the FCF Guidance on August 2, 2018, or, at the very least, should have been disclosed to the public to enable it to assess the risks and factors associated with the Defendants' representations.

3) BT Issues

92. Third, on August 2, 2018, the Defendants knew or should have known that the Company would likely not achieve its FCF Guidance according to their own explanation of the shortfall, including the following BT Issues:

- a) a shift in Bombardier's product portfolio;
- b) production, ramp up, and delivery delays; and
- c) delays due to customer infrastructure and homologation issues;

as appears, *inter alia*, from the transcript of the November 13, 2018 *Scotiabank Transportation & Industrials Conference*, communicated herewith as **Exhibit P-21**, p. 1-4; the transcript of Bombardier's 2018 Investor Day Presentation of December 6, 2018, communicated herewith as **Exhibit P-22**, p. 6, 13, 14, 26, and 27; the power point presentation shown during Bombardier's 2018 Investor Day, communicated herewith as **Exhibit P-23**, p. 42; and the video of that 2018 Investor Day Presentation, communicated herewith as **Exhibit P-24**⁶.

93. The Defendants attributed \$200 million of the \$600 million FCF Guidance shortfall to each of these three BT Issues. They further stated that the last two BT Issues listed above were exemplified by five key projects which "impacted [BT] for around \$400 million of working capital this year [2018]": (1) the Metropolitan Transportation Authority of New York City ("**MTA NYC**") project, the Transport for London ("**TfL**") LoTrain project, the DoICDB project in Germany, the TWINDEXX SBB project in Switzerland, and the Crossrail project in England, as appears from the transcript of Bombardier's 2018 Investor Day Presentation, Exhibit P-22, p. 6, 13, 26, and from the related power point presentation, Exhibit P-23, p. 42.

i. Shift in BT's Product Portfolio

94. On November 13, 2018, the Defendants attended the *Scotiabank Transportation & Industrials Conference*, as appears from the transcript of this presentation, Exhibit P-21.
95. During this conference, Di Bert provided investors with an explanation for the \$600 million shortfall in Bombardier's FCF Guidance, which, according to the monitor at the conference, "obviously, caused a bit of havoc here in the stock market" (Exhibit P-21, p. 1).
96. Di Bert informed investors that "the challenge at BT" is what prevented Bombardier from maintaining its initial 2018 FCF Guidance in Q3 2018 (Exhibit P-21, p. 2).
97. He explained that the \$600-million adjustment could be attributed to essentially three reasons, each of which accounted for one third of the shortfall (Exhibit P-21, p. 2).
98. He stated that approximately \$200 million of the \$600 million shortfall was due to a shift in BT's product portfolio/order book (Exhibit P-21, p. 2). This shift is said to have resulted in

⁶ Some of these exhibits are summarized in the authorization judgment, *inter alia*, at paragraphs 186-193. An annex to the Plaintiff's List of Exhibits, attached hereto, shows the correlation between the exhibits in support of the Originating Application and those discussed in the authorization judgment.

BT acquiring more contracts that generated less upfront payments at the beginning of projects (e.g. signaling and services contracts). This type of order book stood in contrast with previous contracts that generated large upfront advances and milestone payments (e.g. new innovation/engineering projects in relation to Bombardier's rolling stock contracts). Di Bert stated that this portfolio shift was "by design".

99. Indeed, the Defendants already knew that BT would be undergoing a shift in its product portfolio before Bombardier published its 2018 Q2 MD&A, Exhibit P-3. This was not *new information* that came to light after Bombardier's 2018 Q2 MD&A, such that it should have already been taken into account when the Defendants reaffirmed Bombardier's FCF Guidance on August 2, 2018, and the risks and factors associated therewith should have been disclosed. This cannot serve as an acceptable excuse to justify the Defendants' complete reversal in Bombardier's 2018 Q3 MD&A, Exhibit P-4.
100. Already in Bombardier's 2016 Investor Day Presentation, the Defendants informed investors that one of BT's targets was to generate 50% of its revenues from signaling and services by 2020 and that it would put a "higher focus" on signaling and services, as appears from Bombardier's 2016 Investor Day Presentation, Exhibit P-8, at p. 40 and 44.
101. In Bombardier's 2017 Year-End MD&A, under the heading "Positive outlook for the railway industry", the Defendants indicated that Bombardier's services market segment was expected to grow (Exhibit P-1, p. 92 and 93).
102. The 2017 Year-End MD&A, Exhibit P-1, also stated that:
 - a) "Sizable signalling and service agreements were granted in Italy, the U.K. and France" (Exhibit P-1, p. 94);
 - b) "In the upcoming years, significant tenders are projected in the signalling segment in Spain and Norway and in the services segment in the U.K. and Germany" (Exhibit P-1, p. 94); and
 - c) "Significant signalling orders were secured in Australia and Thailand as well as many mid-sized services agreements in Australia and Malaysia" (Exhibit P-1, p. 95).
103. In Bombardier's 2018 Q1 MD&A, published in May 2018, the Defendants informed investors that Bombardier had obtained numerous large signaling contracts in Europe and that various services and signaling contracts were anticipated across the USA and Canada, as appears from Exhibit P-2, p. 33.
104. The "Analysis of Results" segment of this Q1 MD&A indicated that the signaling market segment generated revenues of \$211 million, which represented a \$13 million increase from the first quarter of the previous year (2017) or a 7% year-to-year change, as appears from Exhibit P-2, p. 34.
105. As for the services market segment, it generated \$537 million in revenues, which represented a \$103 million increase from the first quarter of the previous year (2017) or a 24% year-to-year change, as appears from Exhibit P-2, p. 34.
106. In Bombardier's 2018 Q2 MD&A, published in August 2018, Exhibit P-3, p. 42, the Defendants indicated that the signaling market segment generated revenues of \$262

million, which represented a \$67 million increase from the second quarter of the previous year (2017) or a 34% year-to-year change.

107. The 2018 Q2 MD&A also indicated that Bombardier's services market segment increased by \$63 million compared to the second quarter of the previous year (2017) to generate \$522 million in revenues, as appears from page 42 of Exhibit P-3. This represented a year-to-year increase of 14%.
108. Bombardier's 2018 Q2 MD&A stated that the Company's revenue increase was mainly due to, *inter alia*, "higher activities in signalling mainly in Europe and Asia-Pacific (\$58 million) and higher activities in services mainly in Europe (\$41 million)", as appears from page 42 of Exhibit P-3.
109. In comparison, the Q2 year-to-year revenues for Bombardier's rolling stock market segment increased by a mere 7%, as appears from page 42 of Exhibit P-3.
110. In Bombardier's 2018 Investor Day Presentation webcast video, Exhibit P-24, Laurent Troger, President of BT, stated that the shift was "**in line with our strategy**, more signaling, more services, more reuse or options" and that "if you go back to the orders that we have signed **over the last three years**, you can see that there is an **acceleration**" [Emphasis added], as also appears from page 13 of the transcript of Bombardier's 2018 Investor Day Presentation, Exhibit P-22.
111. As demonstrated by the foregoing, the Defendants knew of the shift in BT's product portfolio/order book towards executing more services and signaling contracts and less rolling stock contracts well before the release of the 2018 Q3 MD&A, Exhibit P-4, and more specifically, when the 2018 Q2 MD&A, Exhibit P-3, was released. They represented to the market that they were closely monitoring the evolution of this shift, that they were aware of the pace at which the change was coming into effect, such that a reasonable investor would not have expected this to be one of the three main reasons for such an enormous shortfall in Bombardier's FCF forecast. At the very least, the Defendants should have disclosed the risks and factors relating thereto when reaffirming Bombardier's FCF Guidance in their 2018 Q2 MD&A.

ii. Production, Ramp Up, and Delivery Delays

112. The Defendants allege that another third of Bombardier's \$600 million shortfall was caused by production and delivery delays (or ramp cadence and system integration issues), as appears, *inter alia*, from page 2 of the transcript of the November 13, 2018 *Scotiabank Transportation & Industrials Conference*, Exhibit P-21, and from the exhibits relating to Bombardier's 2018 Investor Day Presentation (Exhibit P-22, p. 6 and 13; Exhibit P-23, p. 42; and Exhibit P-24).
113. The Defendants identified the "key contracts" that "impacted [Bombardier] for around \$400 million of working capital this year [2018]". Of those "key contracts", according to the Defendants, two were significant in explaining the shortfall attributable to production, ramp up, and delivery delays: the Metropolitan Transportation Authority of New York City (MTA NYC) and Transport for London (TfL) LoTrain contracts, as appears from Exhibits P-22, p. 6, 13, 26; P-23, p. 42; and P-24.

MTA NYC

114. Bombardier's contract with the MTA NYC relates to an original order of 300 R179 series subway cars for the New York City Transit for approximately \$599 million, as appears from a news release dated June 4, 2012 titled "Bombardier to Supply 300 New Subway Cars for New York City Transit", communicated herewith as **Exhibit P-25**.
115. All 300 subway cars were scheduled for delivery between mid-2015 and early 2017.
116. The Defendants knew or should have known of the delays in production with regard to the MTA NYC contract on August 2, 2018, as appears, *inter alia*, from pages 28 and 30 of the July 2014 *MTA Capital Program Oversight Committee Meeting* report, communicated herewith as **Exhibit P-26**, as well as from pages 33-35 and 43 of the January 2017 *MTA Capital Program Oversight Committee Meeting* report, communicated herewith as **Exhibit P-27**.
117. A reasonable investor would, in any event, expect the Defendants to be aware of the delays affecting their significant projects / "key contracts", to take them into account when making public disclosures, and to inform the market of all material information.
118. The delays in the MTA NYC contract originally related to welding issues (hot cracking) discovered on Bombardier's R179 prototype cars. A July 29, 2014 news article in the New York Daily states:

Riders on the C train, who endure the oldest and most battered subway cars in the entire system, will have to continue to do so for longer than planned.

The manufacturer of a new model of subway car that was picked to replace those on the C line has encountered problems with its prototypes. Bombardier discovered cracks in the prototype's steel undercarriage and walls, Metropolitan Transportation Authority officials said Monday.

The MTA had expected all 300 of the new R179 cars to be delivered by January 2017. That date could now be pushed back between six months and 11 months, officials said. (...)

as appears from the article titled "Riders on C train will have to wait longer for new Subway cars", communicated herewith as **Exhibit P-28**.

119. Moreover, it is due to these past delays that Bombardier was shut out of a \$3.2 billion contract to supply 1175 to 1700 subway cars in NYC in August of 2017, as appears from an August 29, 2017 CBC News article, communicated herewith as **Exhibit P-29**.
120. Further, in an internal memorandum dated August 23, 2017, authored by Benoît Brossoit, President of BT Americas from April 11, 2016 to November 19, 2018, Mr. Brossoit wrote:

(...) notre mauvaise performance et les retards importants que nous avons encourus sur le projet R179 ont scellé le sort de notre offre. Nos actions ont exacerbé un environnement de mobilité déjà difficile dans la ville de New York, et la décision de notre client démontre que le marché n'est plus disposé à accepter des retards dans la performance et à subir l'impact de nos manquements. Cet

avertissement est un sérieux coup de semonce et nous devons y répondre en respectant nos promesses de livraison, en temps et sans excuse.

as appears from a copy of the internal memorandum, communicated herewith as **Exhibit P-30**.

121. Bombardier confirmed the authenticity of this internal memorandum, adding that the Company was “extremely disappointed”, as appears from a news article dated August 29, 2017 titled “*New York dit non à Bombardier: La multiplication des retards et les dépassements de coûts lui coûtent cher*”, communicated herewith as **Exhibit P-31**.
122. As at December 6, 2018, Bombardier had only delivered 142 of 314 subway cars to the New York City Transit, as appears from page 42 of the 2018 Investor Day Presentation, Exhibit P-23.
123. Furthermore, during Bombardier's December 6, 2018 Investor Day Presentation, Laurent Troger stated the following:

So, I pushed the team **this year** to significantly increase the capacity by more than 20% for this project and **where we have planned to build one car a day. We were producing 2 cars per week**, we moved to forecast and we are getting to the 5 car now, but we have been a bit late. (1:20:40)

[Emphasis added]

as appears from Bombardier's December 2018 Investor Day Presentation webcast video, Exhibit P-24, and from page 13 of the transcript of this presentation, Exhibit P-22.

124. The Defendants were acutely aware of these delays in production when they prepared, reviewed, and published Bombardier's 2018 Q2 MD&A, Exhibit P-3.

LoTrain

125. As for the LoTrain project with TfL, Bombardier signed two contracts to build and maintain 45 four-car new Electric Multiple Units⁷. The first contract covered the design, manufacture, commissioning, and entry into service of the units, and the second was a 35-year train services agreement for the maintenance of the units, as appears from a July 3, 2015 news release titled “Bombardier Signs Major Rolling Stock and Maintenance Contracts for Transport for London's LOTRAIN Project”, communicated herewith as **Exhibit P-32**.
126. Together, these two contracts were valued at approximately £358 million.
127. On June 25, 2018, an article by *Forestgatedotnet* stated that Bombardier was unable to obtain the approval of Network Rail (the authority which owned and operated the railway infrastructure in England, Wales, and Scotland) to operate its trains, as appears from the *Forestgatedotnet* article titled “Waiting for the train”, communicated herewith as **Exhibit P-33**.

⁷ An Electric Multiple Unit or EMU is a multiple-unit train consisting of self-propelled carriages using electricity as the motive power. A separate locomotive is not required because the traction drive and control system are contained under various cars in the train.

128. Although the first production line was delivered to the Network Rail test center in December of 2017 (Bombardier's objective was to deliver all trains in January of 2018), Bombardier ran into a software problem in the train management system, as appears from Exhibit P-33.
129. As a result of this issue, Bombardier had to slow down production since it was running out of space to store the new trains, as appears from Exhibit P-33.
130. As at November 15, 2018, Bombardier's trains had not yet been deployed since they required "further software development", as appears from the Barking and Dagenham Post article communicated herewith as **Exhibit P-34**.
131. As at December 6, 2018, Bombardier had only built 136 of 222 units, as appears from Bombardier's 2018 Investor Day power point presentation, Exhibit P-23, at p. 42.
132. During the December 6, 2018 Investor Day Presentation, Mr. Troger confirmed that Bombardier had not yet obtained the necessary authorization from the relevant authorities.
133. As demonstrated by the foregoing, the Defendants were aware of BT's production, ramp up, and delivery delays long before the release of the 2018 Q3 MD&A, Exhibit P-4, and more specifically, when the 2018 Q2 MD&A, Exhibit P-3, was released.
134. A reasonable investor would therefore have expected these delays to be taken into account when the Defendants determined whether to reaffirm Bombardier's FCF Guidance in Q2 2018, and for the risks and factors associated with this statement to be disclosed. Certainly, the Defendants cannot invoke this as new information justifying their about-face in Q3 2018.

iii. Delays Due to Customer Infrastructure and Homologation Issues

135. The Defendants further explained part of the \$600M miss to achieve FCF Guidance by delays caused by issues related to "working with customer", "infrastructure", and "homologation", as appears from page 42 of the Defendants' power point presentation during Bombardier's 2018 Investor Day, Exhibit P-23; from the transcript and video of this presentation, Exhibits P-22, p. 13-14; P-24; and from the transcript of the Scotiabank Transportation & Industrials Conference, Exhibit P-21, at p. 3.

Crossrail

136. The Defendants stated that the Crossrail Ltd. project was a "key contract" that exemplified why infrastructure issues prevented Bombardier from achieving its 2018 FCF Guidance.
137. Crossrail Ltd. is a wholly owned subsidiary of TfL and is jointly sponsored by TfL and the Department for Transport, the government department responsible for the English transport network.
138. On or around May 15, 2009, Crossrail Ltd. began construction on a new 118 km-long railway project that was meant to run through central London and certain surrounding counties, from Reading and Heathrow in the West, through central tunnels in London and across to Shenfield and Abbey Wood in the East (the "**Crossrail Project**"). The new railway was to stop at 41 accessible stations, 10 newly-built and 30 newly-upgraded, and was expected to

serve approximately 200 million people each year, increasing central London's rail capacity by 10%, as appears from an extract of the Crossrail Project's website, communicated herewith as **Exhibit P-35**.

139. At all relevant times, the Crossrail Project was the biggest construction project in Europe and one of the largest single infrastructure investments undertaken in the U.K., as appears from Exhibit P-35.
140. On February 19, 2014, Bombardier announced that it had signed a contract to provide TfL with the trains that would run on the Crossrail Project's railway. The contract covered the manufacturing of 65 nine-car Electric Multiple Units and the construction of a new maintenance depot for the trains. The contract was valued at approximately £1.3 billion, as appears from Bombardier's news release titled "Bombardier Signs Major Contract with Transport for London (TfL) to Build Crossrail Rolling Stock and Depot", communicated herewith as **Exhibit P-36**.
141. The project was due to open in December 2018. However, in August of 2018, it was announced that the opening would be postponed until autumn 2019 "to complete building work and allow for extensive testing to ensure it opened as a safe and reliable railway", as appears from an article from The Guardian titled "London Crossrail opening postponed until autumn next year", communicated herewith as **Exhibit P-37**.
142. Tom Edwards, a BBC London transport correspondent stated:

I have lost count of the times that Crossrail executives said to me the project would be delivered "on time and on budget".

Today that disappeared in a puff of smoke, and there is no doubt this is a blow for Crossrail.

I'm told it wasn't one specific problem. There were issues with three different signaling systems and also delays to the station fit outs.

They simply ran out of time. This will also hit TfL's finances which was relying on Crossrail to increase its fare take.

This flagship project - the biggest construction project in Europe - just lost some of its lustre.

as appears from an article from the BBC dated August 31, 2018 titled "Crossrail delay: New London line will open in autumn 2019", communicated herewith as **Exhibit P-38**.

143. The completion of the Crossrail Project included the testing of the new Bombardier trains and infrastructure across the railway, which was underway. At Bombardier's 2018 Investor Day presentation, BT's President, Laurent Troger, discussed the delays the Company was facing in testing its trains on the Crossrail Project in light of the construction delays. He stated:

[The] Crossrail Project (...) is one of the most complex and largest infrastructure projects. (...) We have built 483 cars, we have delivered 269. (...) We have already started commercial service on the East and West part of London but the central section of London has not been opened. We have not been able to complete our integrated test there and we are now working with the customer how (*sic*) to

continue this project. You are aware that they have announced a delay on the infrastructure until next year and we are trying to find a way to complete this program with our customers.

as appears from Bombardier's December 2018 Investor Day Presentation webcast video, Exhibit P-24, and from page 14 of the transcript of this presentation, Exhibit P-22.

144. Given the immensity and importance of the Crossrail Project, and considering the complexities involved in its timely development and scheduling, BT and TfL were in constant and regular communication, exchanged numerous project updates and reports, and discussed delays at length.
145. With an order for 630 train cars, 483 of which were built and 269 delivered, and considering the Crossrail Project's original projected completion date of December 2018, the phase of the project concerning the testing of the cars on the railway was the subject of a detailed and specific timeline and schedule. Accordingly, BT was aware of any potential delays in the testing phase of its new trains and/or the postponement of the opening of the project prior to the announcement of the delay in the media in August 2018.
146. The delays concerning the Crossrail Project and the testing of BT's trains was not *new information* for BT which came to light after Bombardier's 2018 Q2 MD&A and it could not be presented as such in order to justify or explain the shortfall in the Company's FCF Guidance and its reversal between the FCF Guidance in its 2018 Q2 MD&A, Exhibit P-3, and its 2018 Q3 MD&A, Exhibit P-4.
147. The Defendants were or should have been aware of the customer infrastructure issues that could affect BT, and consequently the FCF Guidance, long before the release of the 2018 Q3 MD&A, and more specifically, when the 2018 Q2 MD&A was released.
148. At a minimum, they should have been aware of the related risks and should have disclosed them to investors in connection with the FCF Guidance.

SBB

149. On the homologation side of the BT Issues, the Defendants identified, *inter alia*, Bombardier's TWINDEXX SBB project in Switzerland (the "**SBB project**") as one of the five projects that "accounted for about \$400 million" of the \$600M FCF Guidance shortfall (Exhibits P-22, p. 26, 13, 14, and P-23, p. 42).
150. SBB is the acronym for Swiss Federal Railways, the national railway company of Switzerland. In French, the equivalent acronym is CFF for « *Chemins de fer fédéraux suisses* ».
151. On May 12, 2010, Bombardier was awarded the largest rolling stock contract in SBB's history, pursuant to which it was commissioned to build 59 new double-deck trains for long-distance services across Switzerland and to neighboring countries. The contract represented a total order volume of approximately CHF 1.9 billion (approx. CDN\$ 2.12B), covering 436 coaches with over 36,000 seats, as appears from an article dated May 17, 2010 titled "SBB awards Bombardier the contract to build 59 double-deck trains for long-distance services", at p.1, communicated herewith as **Exhibit P-39**, an article dated November 10, 2018 titled "*Les trains CFF Twindexx / Duplex TGL / FV-Dosto de*

Bombardier/Alstom, chronique”, communicated herewith as **Exhibit P-40**, at p. 3, and an article dated January 23, 2019 titled “*Les Suisses irrités par Bombardier*”, communicated herewith as **Exhibit P-41**.

152. The contract provided for the delivery of the new trains on a rolling basis starting in 2013, until the end of 2019, with hefty fines in the event of non-compliance with the agreed-upon delivery schedule (Exhibits P-39, p. 4-5; P-40, p. 6).
153. Unfortunately for Bombardier investors, the delivery of the Bombardier trains *started* in 2018, years after the agreed-upon timeline. A long list of issues was identified to explain these enormous and ongoing delays, including Bombardier’s difficulty building the railcars, the malfunction of the electric doors and stairs in the cars, the insufficient speed of the trains, inadequate shaking of the railcars, software and technology issues, to name but a few, as appears more fully from a 24-page list of issues plaguing Bombardier’s SBB project, Exhibit P-40⁸.
154. Unsurprisingly, Bombardier also faced homologation issues in connection with these railcars which were riddled with problems, as admitted by the Defendants, and as appears *inter alia* from Exhibit P-40, p. 10.
155. The Defendants were, or should have been, well aware of all of these issues at all relevant times, having *inter alia* even needed to place engineers physically on the trains when the first ones were finally commissioned in 2018-2019, to deal with continuously arising new problems, as appears from a June 11, 2019 article titled “*Les trains Bombardier livrés d’ici à l’été 2021*”, communicated herewith as **Exhibit P-42**, at p. 2.
156. On the eve of reaffirming Bombardier’s 2018 FCF Guidance, on August 1, 2018, the Defendants flagged as a potential risk affecting their projections “Sales Delivery”, in the following terms: “FY: Mainly impact from SBB rescheduling deliveries, impacting sales del. for 754M and 184 less cars compared to budget; Q4 heavy in in Sales Delivery @ \$2.9B”, as appears from the power point presentation of the Board meeting that took place on the eve of disclosing Bombardier’s Q2 2018 results to the public, Exhibit P-20, at p. 5.
157. After having simply reaffirmed the FCF Guidance on August 2, 2018 (P-3) and after the Public Correction of November 8, 2018 (P-4), on December 6, 2018, the Defendants reported that Bombardier had only built 160 of the 460 cars that were initially meant to be built by 2019 for the SBB project, as appears from the power point presentation of Bombardier’s 2018 Investor Day, Exhibit P-23, p. 42. Note that “built” cars are not necessarily “delivered” cars, in a context where SBB was reluctant to accept new trains before the defective ones already in service were repaired, as appears from an article dated January 23, 2019 titled “*Les Suisses irrités par Bombardier*”, Exhibit P-41.
158. As admitted by the Defendants, managing the delivery delays in the SBB project caused BT material liquidity shortages due to the hiring of personnel to ramp up its production, and it had a direct impact on the FCF Guidance revision - even without taking into account the significant potential penalties Bombardier was facing in connection with the SBB project.

⁸ Alstom (who purchased BT in 2021) reports that the delivery of all Bombardier SBB trains finished in 2022, four years after the end of the Class Period, as appears from an extract from Alstom’s website, communicated herewith as **Exhibit P-43**.

Bombardier a déçu les investisseurs en affichant un important trou dans ses liquidités en raison de l'embauche de personnel afin d'accélérer la cadence de production dans la division ferroviaire, ce qui a soulevé des questions sur la capacité de la société à atteindre ses cibles. L'entente avec les CFF a été citée comme l'un des contrats jugés problématiques.

Certains responsables suisses ont récemment évoqué la possibilité de pénalités de plus de 660 000 \$ par rame et par semaine de retard, ce qui pourrait se traduire par une facture salée pour Bombardier. M. Schmidt n'a pas commenté cette possibilité.

as appears from an article dated January 23, 2019 titled “*Les Suisses irrités par Bombardier*”, Exhibit P-41;

Théoriquement le constructeur Canadien Bombardier qui définitivement n'arrive pas à respecter ni les délais ni son cahier de charges, devrait se trouver à l'amende pour un montant de 500 000 francs suisse par semaine (selon le député Ulrich Giezendanner) et par train en retard de livraison et à cela il faut ajouter actuellement environ 600 millions de francs suisses de dommages et intérêts.

as appears from an article dated November 10, 2018 titled “*Les trains CFF Twindexx / Duplex TGL / FV-Dosto de Bombardier/Alstom, chronique*”, Exhibit P-40, at p. 13.

159. The Defendants knew or should have known about all of the above prior to reaffirming Bombardier's FCF Guidance on August 2, 2018. They failed to inform the market of the risks associated with their disclosure, in contravention of their obligations.
160. Explicit parallels were made in the media between Bombardier's failures in the SBB project and its problems affecting the MTA NYC, DoICDB, LoTrain, and Crossrail projects, as appears from articles dated November 10, 2018 titled “*Les trains CFF Twindexx / Duplex TGL / FV-Dosto de Bombardier/Alstom, chronique*”, Exhibit P-40, at p. 10-11, and January 23, 2019 titled “*Les Suisses irrités par Bombardier*”, Exhibit P-41.
161. In summary, all of the BT Issues the Defendants claim to have been the cause of their FCF Guidance reversal and the \$600 million shortfall in Bombardier's FCF Guidance were known or should have been known when the 2018 Q2 MD&A was released. Accordingly, the Defendants either misrepresented that the Company was “in line” with regard to its FCF Guidance in the 2018 Q2 MD&A or failed to provide the market with the appropriate information in connection with the reaffirmation of Bombardier's FCF Guidance.

C. Disposition of Securities by Bombardier Executives

162. It is against this background that, a few days after the start of the Class Period, on August 15, 2018, the Defendants launched a new securities disposition program, the Automatic Securities Disposition Plan (“**ASDP**”), which enabled Bombardier executives to sell their securities as of September 17, 2018 under the umbrella of an exemption from the usual restrictions governing insider trading, as appears from Bombardier's press release dated August 15, 2018 titled “*Bombardier Establishes Automatic Securities Disposition Plan*”, communicated herewith as **Exhibit P-44**, and from a Globe & Mail article dated March 28,

2019 titled “Key Bombardier executives reap tens of millions from cashing in share units, options”, communicated herewith as **Exhibit P-45**.

163. Even though the program was meant to run for two years, several Bombardier executives sold a majority of their securities under the ASDP within the first two months, and before the price of Bombardier’s securities dropped due to the Public Correction, as appears from the Globe & Mail article, Exhibit P-45, and from excerpts from Bombardier’s reports on the System for Electronic Disclosure by Insiders (SEDI), communicated herewith as **Exhibit P-46 en liasse**.
164. For instance, defendant Alain Bellemare exercised 52% of his stock options placed in the ASDP, thereby making CDN\$ 10.6 million in profit in 2018, as appears, *inter alia*, from the Globe & Mail article, Exhibit P-45.
165. Although the AMF approved Bombardier’s ASDP, and “did not identify any offence or failure under securities legislation” during its implementation, it “strongly recommended that Bombardier Inc. reconsider the merits of maintaining its ASDP”, as appears from an AMF press release dated April 26, 2019 titled “AMF concludes its review of transactions relating to Bombardier Inc.’s Automatic Securities Disposition Plan”, communicated herewith as **Exhibit P-47**.
166. The AMF was severely criticized for its leniency in exempting Bombardier’s executives, including the Individual Defendants, from the regular insider trading rules, as appears, *inter alia*, from a Fair Canada letter to the AMF dated May 6, 2019, communicated herewith as **Exhibit P-48**.

D. Individual Defendants

167. As required by applicable regulation, Bellemare and Di Bert certified all of Bombardier’s interim and annual financial statements and MD&As during the Class Period (the “**Filings**”), attesting to the veracity and fair representation of all material facts therein, as appears from Exhibit P-5 *en liasse*.
168. More particularly, at all relevant times, both Bellemare and Di Bert certified that:
 - a) they reviewed the Filings;
 - b) the Filings did not contain any untrue statements of material facts or omitted to state a material fact required to be stated or that was necessary to make a statement non-misleading in light of the circumstances under which it was made;
 - c) the Filings fairly represented in all material respects the financial condition, performance, and cash flows of Bombardier;
 - d) they were responsible for establishing and maintaining disclosure controls and procedures as well as internal control over financial reporting;
 - e) they have designed, or caused to be designed under their supervision, disclosure controls and procedures to provide reasonable assurance that all material information relating to Bombardier is made known to them and that information required to be

- disclosed by Bombardier in its Filings or any other document submitted under a securities legislation is recorded, processed, summarized, and reported;
- f) they have designed, or caused to be designed under their supervision, internal control over financial reporting, to provide reasonable assurance regarding the reliability of financial reporting and the preparation specified in securities legislation; and
 - g) they have evaluated, or caused to be evaluated under their supervision, the effectiveness of Bombardier's disclosure controls and procedures as well as internal control over financial reporting at the financial year-end and confirmed that their conclusions regarding this effectiveness have been disclosed in Bombardier's annual MD&A.
169. The Individual Defendants oversaw the preparation and reporting of all Filings and other disclosures to the public that contained the misrepresentations alleged herein. They knew or ought to have known of the alleged misrepresentations.
170. They also authorized, permitted, or acquiesced in the release of the Impugned Documents.

V - CONCLUSION

171. The Defendants' relevant statements and omissions were materially false or misleading because the Defendants failed to disclose material adverse information and misrepresented the truth about Bombardier's business, operations, revenues, and FCF.
172. For instance, in Bombardier's 2018 Q2 MD&A, Exhibit P-3, a core document, the Defendants failed to highlight to investors the significance of BT's failure to meet its FCF generation targets in Q1 and Q2 2018. They did not explain the magnitude of the BT Issues, including delivery delays. They failed to adequately inform the market of the risks, factors, or assumptions that one should take into account in connection with their reaffirmation of the 2018 FCF Guidance. They did not state that the "expectations" for Q3 2018 had to be "managed"⁹. They did not mention that the mathematical probability of achieving their FCF Guidance was close to null. All of this, despite the fact that the Defendants consider FCF generation and FCF forecasts to be key indicators of Bombardier's performance, and, therefore, material facts relating to Bombardier.
173. As a result of these misrepresentations, the Representative Plaintiff asserts a statutory right of action for misrepresentation in the secondary market based on section 225.8 of the QSA on behalf of all Class Members against the Defendants.
174. The claim against the Defendants is asserted in respect of all Impugned Documents and any other documents or statements that reiterated the misrepresentations alleged herein.
175. The Representative Plaintiff and the Class seek to recover the damages caused by the overvaluation of the price of Bombardier securities at the time they were purchased by the Class Members and by the drop that followed the Public Correction, calculated in the manner set forth in the QSA.

⁹ Second Quarterly Report Summary and 2018 F2 Forecast Presentation to Bombardier's Board of Directors dated August 1, 2018, Exhibit P-20, p. 8.

176. The Defendants are liable for the monetary damages suffered by the Representative Plaintiff and the Class Members as a result of the misrepresentations.
177. The Individual Defendants were officers and directors of Bombardier during the release and publication of the Impugned Documents and, as such, were privy to Bombardier's internal budgets, plans, projections, and reports, as well as the Company's finances, operations, and prospects, and all documents filed in accordance with the applicable securities legislation.
178. At all relevant times during the Class Period, the Individual Defendants authorized, permitted or acquiesced to the release and publication of the Impugned Documents which they knew or ought to have known contained false or misleading information.
179. The criteria that give rise to the potential defenses listed in the QSA are not met in this case.
180. And the Representative Plaintiff purchased Bombardier securities between the moment when the misrepresentations were made and their Public Correction.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT this class action on behalf of all persons and entities who acquired or purchased Bombardier Inc.'s securities during the period spanning from August 2, 2018 to November 8, 2018, inclusively, and held all or some of these securities until November 8, 2018, inclusively (the "**Class Members**");

GRANT the Representative Plaintiff's action against the Defendants in respect of the rights of action asserted against Defendants under Title VIII, Chapter II, Divisions I and II of the QSA;

CONDEMN the Defendants to pay to the Representative Plaintiff and Class Members compensatory damages for all monetary losses;

ORDER collective recovery in accordance with articles 595 to 598 of the Code of Civil Procedure;

THE WHOLE with interest and additional indemnity provided for in the Civil Code of Québec and with full costs and expenses, including expert fees, notice fees, and fees relating to administering the plan of distribution of the recovery in this action.

MONTREAL, this 13th day of August, 2024

(S) Faguy & Co.

FAGUY & CO. BARRISTERS & SOLICITORS INC.

Attorneys for the Representative Plaintiff

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SUMMONS
(Art. 145 and following C.C.P.)

Filing of a judicial application

Take notice that the plaintiff has filed this originating application in the office of the Superior Court of Québec in the judicial district of Montréal.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montréal situated at 1 Notre-Dame St East, Montréal, Québec, H2Y 1B6, 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 judgement 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 originating application, the plaintiff intends to use the following exhibits:

- Exhibit P-1:** Bombardier's 2017 Year-End MD&A for the year ended December 31, 2017;
- Exhibit P-2:** Bombardier's 2018 Q1 MD&A for the three-month period ended March 31, 2018;
- Exhibit P-3:** Bombardier's 2018 Q2 MD&A for the three and six-month periods ended June 30, 2018;
- Exhibit P-4:** Bombardier's 2018 Q3 MD&A for the three and nine-month periods ended September 30, 2018;
- Exhibit P-5:** *(en liasse)* Bombardier's Forms 52-109F2 Certification of Interim Filings - Full Certificate signed by Alain Bellemare (CEO) and John Di Bert (CFO);
- Exhibit P-6:** Extract from the *Registraire des Entreprises du Québec* from 2019 relating to Bombardier;
- Exhibit P-7:** Extract of the *Autorité des Marchés Financiers'* Reporting Issuers List;
- Exhibit P-8:** Bombardier's 2016 Investor Day Presentation;
- Exhibit P-9:** Bombardier's 2017 Investor Day Presentation;

- Exhibit P-10:** Trading price history of Bombardier's BBD.B shares on the TSX between August 2018 and November 2018 (as published on the TMX Money website on July 24, 2024);
- Exhibit P-11:** Redacted copy of the Representative Plaintiff's Portfolio statement during the Class Period;
- Exhibit P-12:** Bombardier's February 15, 2018 news release titled "Bombardier Reports Fourth Quarter and Full Year 2017 Results";
- Exhibit P-13:** Bombardier's August 2, 2018 news release titled "Bombardier Reports Second Quarter 2018 Results";
- Exhibit P-14:** Trading price history of Bombardier's BBD.A shares between August and November 2018 (as published on the TMX Money website on July 24, 2024);
- Exhibit P-15:** Trading price history of Bombardier's Series 2 preferred shares BBD.PR.B between August and November 2018 (as published on the TMX Money website on July 24, 2024);
- Exhibit P-16:** Trading price history of Bombardier's Series 3 preferred shares BBD.PR.D between August and November 2018 (as published on the TMX Money website on July 24, 2024);
- Exhibit P-17:** Trading price history of Bombardier's Series 4 preferred shares BBD.PR.C between August and November 2018 (as published on the TMX Money website on July 24, 2024);
- Exhibit P-18:** 2018 Budget Review Presentation to Bombardier's Board of Directors dated December 12, 2017;
- Exhibit P-19:** First Quarterly Report Summary and 2018 F1 Forecast Presentation to Bombardier's Board of Directors dated May 2, 2018
- Exhibit P-20:** Second Quarterly Report Summary and 2018 F2 Forecast Presentation to Bombardier's Board of Directors dated August 1, 2018;
- Exhibit P-21:** Transcript of the *Scotiabank Transportation & Industrials Conference* dated November 13, 2018;
- Exhibit P-22:** Transcript of Bombardier's 2018 Investor Day Presentation of December 6, 2018;
- Exhibit P-23:** Power point presentation shown during Bombardier's 2018 Investor Day;
- Exhibit P-24:** Bombardier's December 2018 Investor Day Presentation webcast video;
- Exhibit P-25:** News release dated June 4, 2012 titled "Bombardier to Supply 300 New Subway Cars for New York City Transit";
- Exhibit P-26:** July 2014 *MTA Capital Program Oversight Committee Meeting* report;

- Exhibit P-27:** January 2017 *MTA Capital Program Oversight Committee Meeting* report;
- Exhibit P-28:** July 29, 2014 news article in the New York Daily titled “Riders on C train will have to wait longer for new Subway cars”;
- Exhibit P-29:** August 29, 2017 CBC news article titled “Bombardier shut out of NYC subway contract bidding due to past delays”;
- Exhibit P-30:** August 23, 2017 internal memorandum by Benoît Brossoit;
- Exhibit P-31:** News article dated August 29, 2017 titled “*New York dit non à Bombardier: La multiplication des retards et les dépassements de coûts lui coûtent cher*”;
- Exhibit P-32:** July 3, 2015 news release titled “Bombardier Signs Major Rolling Stock and Maintenance Contracts for Transport for London’s LOTRAIN Project”;
- Exhibit P-33:** June 25, 2018 news article by *Forestgatedotnet* titled “Waiting for the train”;
- Exhibit P-34:** November 15, 2018 Barking and Dagenham Post article;
- Exhibit P-35:** Extract of the Crossrail Project’s website;
- Exhibit P-36:** Bombardier’s February 19, 2014 news release titled “Bombardier Signs Major Contract with Transport for London (TfL) to Build Crossrail Rolling Stock and Depot”;
- Exhibit P-37:** August 31, 2018 article from The Guardian titled “London Crossrail opening postponed until autumn next year”;
- Exhibit P-38:** August 31, 2018 article from The BBC titled “Crossrail delay: New London line will open in autumn 2019”;
- Exhibit P-39:** News article dated May 17, 2010 titled “SBB awards Bombardier the contract to build 59 double-deck trains for long-distance services”;
- Exhibit P-40:** News article dated November 10, 2018 titled “*Les trains CFF Twindexx / Duplex TGL / FV-Dosto de Bombardier/Alstom, chronique*”;
- Exhibit P-41:** News article dated January 23, 2019 titled “*Les Suisses irrités par Bombardier*”;
- Exhibit P-42:** News article dated June 11, 2019 titled “*Les trains Bombardier livrés d’ici à l’été 2021*”;
- Exhibit P-43:** Extract of Alstom’s website;
- Exhibit P-44:** Bombardier’s press release dated August 15, 2018 titled “Bombardier Establishes Automatic Securities Disposition Plan”;
- Exhibit P-45:** Globe & Mail article dated March 28, 2019 titled “Key Bombardier executives reap tens of millions from cashing in share units, options”;

- Exhibit P-46:** *(en liasse)* Excerpts from Bombardier's reports on the System for Electronic Disclosure by Insiders (SEDI);
- Exhibit P-47:** AMF press release dated April 26, 2019 titled "AMF concludes its review of transactions relating to Bombardier Inc.'s Automatic Securities Disposition Plan"; and
- Exhibit P-48:** Fair Canada letter to the AMF dated May 6, 2019.

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.

MONTREAL, this 13th day of August, 2024

(S) Faguy & Co.

FAGUY & CO. BARRISTERS & SOLICITORS INC.
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Our File: 10229-001

**ANNEX TO THE REPRESENTATIVE PLAINTIFF'S LIST OF EXHIBITS
IN SUPPORT OF THE ORIGINATING APPLICATION:
CORRELATION TABLE: MERITS EXHIBITS TO AUTHORIZATION EXHIBITS**

MERITS	AUTHORIZATION
P-1	P-1
P-2	P-2
P-3	P-3
P-4	P-4
<i>P-5 en liasse</i>	<i>P-5 en liasse</i>
P-6	P-6
P-7	P-33
P-8	P-7
P-9	P-8
P-10	P-9
P-11	P-35
P-12	P-10
P-13	P-11
P-14	P-12
P-15	P-14
P-16	P-15
P-17	P-16
P-18	P-43
P-19	P-44
P-20	P-45
P-21	P-40

MERITS	AUTHORIZATION
P-22	P-41
P-23	P-17
P-24	P-36
P-25	P-19
P-26	P-20
P-27	P-21
P-28	P-22
P-29	P-23
P-30	P-24
P-31	P-25
P-32	P-26
P-33	P-27
P-34	P-28
P-35	P-29
P-36	P-30
P-37	P-31
P-38	P-32
P-39 to P-48	n/a

SUPERIOR COURT (Class Action) Province of Québec District of Montréal Nº: 500-06-000977-195	
DENIS GAUTHIER	Representative Plaintiff
v.	
BOMBARDIER INC. -and- ALAIN BELLEMARE -and- JOHN DI BERT	Defendants
ORIGINATING APPLICATION INSTITUTING A CLASS ACTION (Articles 583 <i>et seq.</i> CCP and 225.2 <i>et seq.</i> QSA)	
ORIGINAL	
FAGUY & CO. BARRISTERS & SOLICITORS INC. Mtre Elizabeth Meloche emeloche@faguyco.com Mtre Shawn K. Faguy sfaguy@faguyco.com Our File : 10229-001 329 De la Commune West, Suite 200 Montréal, Québec H2Y 2E1 Canada Telephone: (514) 285-8100 Telecopier : (514) 285-8050 BM-1125	