

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N^o : 500-06-000751-152

SUPERIOR COURT
(Class Action)

GUSTAV NADEAU, 


Petitioner

-vs-

FIAT CHRYSLER AUTOMOBILES N.V., a legal person, having its principal place of business at 25 St James's Street, London, United Kingdom, SW1A 1HA;

-and-

FCA US LLC, a legal person, having its principal place of business at 1000 Chrysler Drive, Auburn Hills, Michigan, United States of America, 48326-2766;

-and-

FCA CANADA INC., a legal person, having its principal place of business at 1 Riverside Drive West, Windsor, Ontario, N9A 5K3;

Respondents

**MOTION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO ASCRIBE
THE STATUS OF REPRESENTATIVE
(Art. 1002 C.C.P. and following)**

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

GENERAL PRESENTATION

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

- All residents in Quebec who own, lease or otherwise possess one or more of the following Fiat Chrysler vehicles:
 - 2008-2012 Dodge Ram 1500 pickups
 - 2008-2012 Dodge Ram 4500 and 5500 heavy-duty pickups
 - 2009-2011 Dodge Dakota
 - 2009 Dodge Durango
 - 2009 Chrysler Alpen
 - 1993-2015 Jeep Grand Cherokee
 - 2002-2007 Jeep Liberty

("Class Vehicles")

(hereinafter, referred to as "Class Member(s)", "Group Member(s)", the "Group", the "Class", the "Member(s)");

The Respondents

2. The Respondent, **Fiat Chrysler Automobiles N.V. ("FCA")** is a corporation headquartered in London, United Kingdom. FCA directs and controls the business actions of **FCA US LLC ("FCA US")** and **FCA Canada Inc. ("FCA Canada")**;
3. The Respondent, FCA US, wholly owned by FCA, is a corporation headquartered in Auburn Hills, Michigan;

4. The Respondent, FCA Canada, wholly owned by FCA US, is a corporation headquartered in Windsor, Ontario, and carries on business throughout Canada;
5. FCA, FCA US, and FCA Canada (“Respondents”) shared the common purpose of designing, testing, manufacturing, marketing, sales, and distribution of the class vehicles in Canada;
6. The business and interests of the Respondents are inextricably interwoven, therefore, all the Respondents are solidarily liable for the acts and omissions of the other;

General Facts:

7. At all material times, the Respondents tested, manufactured, marketed, sold, and distributed the Class Vehicles;
8. In July 2015, the U.S. National Highway Traffic Safety Administration fined the Respondents a record \$105 million for poorly executing 23 vehicle safety recalls covering more than 11 million defective vehicles;
9. The Ram pickups, which are the Respondents’ top selling vehicle, have defective steering parts which can cause drivers to lose control, significantly increasing the likelihood of an accident;
10. Previous repairs have proven unsuccessful, and therefore, in the United States, the Respondents have agreed to buy back the vehicles;
11. Owners also have the option of getting them repaired at the Respondents’ cost;
12. Further, in the United States, the Respondents will make payments to owners of 1.56 million recalled Jeeps with gas tanks located behind the rear axle;
13. Owners may take them to dealers to install trailer hitches to help protect the tanks, because the tanks are vulnerable and can leak gasoline if damaged in rear collisions;

14. The defects in the Class Vehicles render them dangerous to operate, and subjects owners, passengers, and third parties, to an increased risk of an accident leading to personal injury and death;

FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PETITIONER

15. The Petitioner, Gustav Nadeau, is a resident [REDACTED];
16. In 2015, the Petitioner purchased a new 2015 Jeep Grand Cherokee;
17. The defect was unknown and could not be known to the Petitioner at the time of the purchase;
18. Had the Petitioner known about this serious danger and/or defect, he would not have purchased his vehicle;
19. In addition, due to the defect, the Petitioner's vehicle's resale value has diminished;
20. The damages suffered by the Petitioner are a direct and proximate result of the Respondents' conduct;
21. As a consequence of the foregoing, the Petitioner is justified in claiming damages;

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

22. Every Member of the Group owns, leases or otherwise possesses one of the motor vehicles comprised in the Class Vehicles;
23. Each Member of the Group is justified in claiming at least one or more of the following:
- a) Resiliation of the sale or lease of the Vehicle and reimbursement of the purchase price or lease amounts paid, including but not limited to taxes, license and

registration fees, security deposit, down payment, etc., or subsidiarily, damages for the diminished value (or resale value) of the Class Vehicles;

- b) Damages for the costs associated with the defects or repairs to the Class Vehicles;
- c) Damages for loss of use and enjoyment of their Class Vehicles;
- d) Damages for trouble, inconvenience and loss of time;
- e) Damages for anxiety and fear;
- f) Punitive and/or exemplary damages;

24. All of these damages to the Group Members are a direct and proximate result of the Respondents' conduct;

CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

The composition of the group makes the application of Article 59 or 67 C.C.P. impractical or impossible for the reasons detailed below:

- 25. The number of persons included in the Group is estimated to be in the thousands. There are thousands of vehicles in Quebec as part of the recalls by the Respondents;
- 26. The names and addresses of all persons included in the Group are not known to the Petitioner but are known to the Respondents;
- 27. In addition, given the costs and risks inherent in an action before the Courts, many people will hesitate to institute an individual action against the Respondents. Even if the Group Members themselves could afford such individual litigation, the Court system could not as it would be overloaded. Furthermore, individual litigation of the factual and legal issues raised by the conduct of Respondents would increase delay and expense to all parties and to the Court system;

28. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Member of the Class to obtain mandates and to join them in one action;
29. In these circumstances, a class action is the only appropriate procedure for all of the Members of the Group to effectively pursue their respective rights and have access to justice;

The questions of fact and law which are identical, similar, or related with respect to each of the Class Members:

30. The recourses of the Group Members raise identical, similar or related questions of fact or law, namely:
 - a) Is there a safety defect in the Class Vehicles?
 - b) Was the defect unknown to the Group Members?
 - c) Are the Class Vehicles fit for the purpose they were intended?
 - d) Did the Respondents know or should the Respondents have known about these defects affecting the Class Vehicles?
 - e) Did the Respondents fail, refuse or neglect to adequately disclose the defect to consumers before they purchased or leased the Class Vehicles, or thereafter?
 - f) Have the Group Members suffered damages as a result of the defect in question?
 - g) Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?
 - h) Are Respondents liable to pay any other compensatory, moral, punitive and/or exemplary damages to Group Members, and if so in what amount?

31. The interests of justice favour that this motion be granted in accordance with its conclusions;

NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

32. The action that the Petitioner wishes to institute for the benefit of the members of the Class is an action in damages for latent defect;
33. The conclusions that the Petitioner wishes to introduce by way of a motion to institute proceedings are:

GRANT Plaintiff's action against Defendants;

ORDER the resiliation of the sale or lease of the Class Vehicles purchased or leased by the Class Members;

ORDER and CONDEMN Defendants to reimburse the purchase price or lease amounts paid by the Class Members, and any other amounts paid by Group Members in connection with the purchase or lease, plus interest as well the additional indemnity since the date of purchase or lease;

OR SUBSIDIARILY, CONDEMN Defendants to pay damages to the Group Members equivalent to the amount of loss of resale value or diminished value of the Class Vehicle as a result of the existence and/or repair of the defect;

CONDEMN Defendants to reimburse to the Group Members any costs or fees paid in relation to the defect or repair thereof;

CONDEMN Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Class Vehicles, trouble, inconvenience, loss of time, anxiety and fear, and other moral damages;

CONDEMN Defendants to pay punitive and/or exemplary damages to the

Group Members, to be determined by the Court;

GRANT the class action of Petitioner on behalf of all the Members of the Group;

ORDER the treatment of individual claims of each Member of the Group in accordance with articles 1037 to 1040 C.C.P.;

RENDER any other order that this Honourable Court shall determine and that is in the interest of the Members of the Group;

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

34. Petitioner suggests that this class action be exercised before the Superior Court in the district of Montreal for the following reasons:
- a) Many Group Members are domiciled in the district of Montreal;
 - b) Many of the Class Vehicles were purchased or leased by Class Members in the district of the Montreal;
 - c) The Petitioner's counsel is domiciled in the district of Montreal;
35. The Petitioner, who is requesting to obtain the status of representative, will fairly and adequately protect and represent the interest of the Members of the Group, since Petitioner:
- a) owns a 2015 Jeep Grand Cherokee which is affected by the defect alleged above, and is thus a Member of the Group;
 - b) understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Members of the Group;

- c) is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class attorneys in this regard;
- d) is ready and available to manage and direct the present action in the interest of the Group Members that the Petitioner wishes to represent, and is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class;
- e) does not have interests that are antagonistic to those of other members of the Group;
- f) has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intend to keep informed of all developments;
- g) is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Members of the Group and to keep them informed;

36. The present motion is well-founded in fact and in law;

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present motion;

AUTHORIZE the bringing of a class action in the form of a motion to institute proceedings in damages;

ASCRIBE the Petitioner the status of representative of the persons included in the Group herein described as:

- All residents in Quebec who own, lease or otherwise possess one or more of the following Fiat Chrysler vehicles:
 - 2008-2012 Dodge Ram 1500 pickups

- 2008-2012 Dodge Ram 4500 and 5500 heavy-duty pickups
- 2009-2011 Dodge Dakota
- 2009 Dodge Durango
- 2009 Chrysler Alpen
- 1993-2015 Jeep Grand Cherokee
- 2002-2007 Jeep Liberty

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

- a) Is there a safety defect in the Class Vehicles?
- b) Was the defect unknown to the Group Members?
- c) Are the Class Vehicles fit for the purpose they were intended?
- d) Did the Respondents know or should the Respondents have known about these defects affecting the Class Vehicles?
- e) Did the Respondents fail, refuse or neglect to adequately disclose the defect to consumers before they purchased or leased the Class Vehicles, or thereafter?
- f) Have the Group Members suffered damages as a result of the defect in question?
- g) Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?
- h) Are Respondents liable to pay any other compensatory, moral, punitive and/or exemplary damages to Group Members, and if so in what amount?

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

GRANT Plaintiff's action against Defendants;

ORDER the resiliation of the sale or lease of the Class Vehicles purchased or leased by the Class Members;

ORDER and CONDEMN Defendants to reimburse the purchase price or lease amounts paid by the Class Members, and any other amounts paid by Group Members in connection with the purchase or lease, plus interest as well the additional indemnity since the date of purchase or lease;

OR SUBSIDIARILY, CONDEMN Defendants to pay damages to the Group Members equivalent to the amount of loss of resale value or diminished value of the Class Vehicle as a result of the existence and/or repair of the defect;

CONDEMN Defendants to reimburse to the Group Members any costs or fees paid in relation to the defect or repair thereof;

CONDEMN Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Class Vehicles, trouble, inconvenience, loss of time, anxiety and fear, and other moral damages;

CONDEMN Defendants to pay punitive and/or exemplary damages to the Group Members, to be determined by the Court;

GRANT the class action of Petitioner on behalf of all the Members of the Group;

ORDER the treatment of individual claims of each Member of the Group in accordance with articles 1037 to 1040 C.C.P.;

RENDER any other order that this Honourable Court shall determine and

that is in the interest of the Members of the Group;

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

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

FIX the delay of exclusion at 30 days from the date of the publication of the notice to the Members;

ORDER the publication of a notice to the Members of the Group in accordance with Article 1006 C.C.P.;

THE WHOLE with costs to follow.

MONTREAL, July 29, 2015

MERCHANT LAW GROUP LLP

Attorneys for the Petitioner