

CANADA

COUR SUPÉRIEURE
(Recours collectif)

PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

No : 500-06-000737-151

NORMAN PRINCE

Requérant

-c.-

AVIS BUDGET GROUP, INC.

-et-

AVISCAR, INC.

-et-

BUDGETCAR, INC.

-et-

THE HERTZ CORPORATION

-et-

HERTZ CANADA LIMITED

-et-

ENTERPRISE HOLDINGS, INC.

-et-

ENTERPRISE RENT-A-CAR CANADA
COMPANY

-et-

ALAMO RENT A CAR

Intimées

REQUÊTE DES INTIMÉES THE HERTZ CORPORATION ET HERTZ CANADA
LIMITED POUR PERMISSION DE PRODUIRE UNE PREUVE APPROPRIÉE
(Article 1002 C.p.c.)

À L'HONORABLE JOHANNE MAINVILLE DE LA COUR SUPÉRIEURE, LES
INTIMÉES, THE HERTZ CORPORATION ET HERTZ CANADA LIMITED,
EXPOSENT RESPECTUEUSEMENT CE QUI SUIT :

I. Introduction

1. Le 7 avril 2015, le requérant Norman Prince a déposé une requête intitulée Motion to authorize the bringing of a class action and to ascribe the status of representative (la « **Requête** »), par laquelle il demande l'autorisation d'exercer un recours collectif contre huit (8) intimées, dont The Hertz Corporation et Hertz Canada Limited (collectivement « **Hertz** »), pour le groupe plus amplement décrit au paragraphe 1 de la Requête, à savoir :

*« All residents in Quebec, who rented a vehicle from one of the Respondents from March 2009 onwards, and paid a vehicle licensing fee, concession recovery fee, energy recovery fee, customer facility fee, tire management fees, or other fees (the « **Surcharge** ») »*

2. Aux paragraphes 7 et suivants de la Requête, le Requérant allègue que les Intimées se seraient livrés à des pratiques de commercialisation trompeuses en omettant d'indiquer que des frais additionnels devaient être ajoutés au prix de location de base annoncé et en représentant faussement que ces frais étaient requis par les gouvernements et agences autorisées (« *governments and authorized agencies* »);
3. Les allégations à l'égard de Hertz concernent spécifiquement les frais suivants, selon le par. 25 c) :
 - (i) Vehicle Licensing Recovery and Air Conditioning Surcharge Recovery \$1.41 per day;
 - (ii) Concession Recovery Fee \$4.37 per rental;
 - (iii) Energy Surcharge \$0.88 per day;
 - (iv) Customer Facility Charge \$5.50 per day;
4. M. Prince n'allègue pas avoir loué une voiture chez Hertz, mais il l'aurait fait chez trois autres intimées, les 7 janvier, 2 février et 3 mars 2015.
5. Concernant Hertz, il allègue la pièce P-5 qu'il affirme être un « sample car rental agreement », ce qui est inexact à la face même du document, malgré la copie de piètre qualité.
6. En réponse à ces allégations, Hertz souhaite présenter une preuve pertinente au débat sur l'autorisation du recours collectif proposé, à savoir un interrogatoire sur certains sujets décrits ci-après, un court affidavit, ainsi qu'une preuve documentaire complétant la pièce P-5.

II. Interrogatoire du requérant

7. Hertz souhaite interroger le Requérant sur les sujets suivants:

- a. Son statut de consommateur et les circonstances l'ayant amené à louer des voitures de trois intimées différentes, en trois mois consécutifs;
 - b. Les circonstances dans lesquelles il a donné son accord pour agir à titre de Requéran, l'enquête qu'il a faite et les démarches d'identification des membres du groupe proposé;
 - c. Sa capacité de représenter adéquatement les membres du groupe, incluant ses connaissances de la situation de membres qui auraient contracté avec Hertz ou d'autres Intimées que ses propres cocontractants.
8. Cet interrogatoire permettra au tribunal de contrôler le sérieux des allégations, de déterminer si les critères de l'article 1003 C.p.c. sont satisfaits et, si nécessaire, de définir le groupe approprié et les questions qui peuvent être traitées collectivement;
 9. Hertz soumet qu'il est dans l'intérêt de la justice qu'elle puisse interroger le Requéran hors Cour sur ces sujets, estimant qu'une durée de 90 minutes devrait suffire à cet égard;

III. La présentation d'une preuve appropriée par la production d'un affidavit et d'une preuve documentaire

10. Bien que le Requéran réfère à un "contrat de louage" impliquant Hertz au paragraphe 25c) de sa Requête, le document qu'il communique est en réalité une page imprimée d'un extrait du site Internet de Hertz (Pièce P-5).
11. En effet, la Pièce P-5 montre une soumission obtenue en ligne pour la location d'une voiture, incluant le prix de base pour la location du véhicule ainsi que les quatre (4) frais en cause.
12. Comme il s'agit d'une copie en noir et blanc de mauvaise qualité, la Pièce P-5 ne montre pas les icônes en forme de « ? » (point d'interrogation) qui permettent d'accéder à la description de chacun des frais en cause, en cliquant sur le symbole situé à côté de chacun des frais ventilés.
13. Hertz souhaite donc produire un affidavit accompagné de meilleures copies des pages pertinentes de son site Internet, sous forme de captures d'écran en couleur, afin d'avoir un portrait plus fidèle de la soumission en question, la pièce P-5 étant incomplète, voire trompeuse dans sa forme actuelle.
14. Ces documents permettra de visualiser l'information disponible pour le client à l'écran, ce qui permettra d'étudier les critères de l'art. 1003 C.p.c. en pleine connaissance de cause, plutôt qu'en utilisant un document incomplet.
15. Un projet d'affidavit à cet effet est joint à la présente requête comme **Annexe A**, avec les pièces H-1, H-2 *en liasse* et H-3.

16. L'affidavit et les pièces à son soutien seront utiles pour étudier les critères de l'article 1003 C.p.c., identifier, au besoin, les questions qui seront traitées collectivement et déterminer la description du groupe aux fins de l'article 1005 C.p.c.;
17. Il serait contraire aux intérêts de la justice que le tribunal analyse la demande d'autorisation sans avoir une version complète de la soumission Pièce P-5, qui n'est présentée que de manière tronquée dans la Requête;
18. Hertz demande l'autorisation de présenter ces éléments de preuve, afin de pouvoir être pleinement entendue au stade de l'autorisation.

POUR CES MOTIFS, PLAISE À LA COUR :

ACCORDER aux intimés The Hertz Corporation et Hertz Canada Limited la permission d'interroger hors Cour le Requéérant sur les sujets identifiés au paragraphe 5 de la présente requête, pour une durée approximative de 90 minutes;

PERMETTRE aux intimés The Hertz Corporation et Hertz Canada Limited de produire un affidavit similaire au projet joint à la requête comme Annexe A, ainsi que les pièces H-1, H-2 *en liasse* et H-3 à son soutien;

LE TOUT, frais à suivre.

Montréal, le 3 novembre 2015



STIKEMAN ELLIOTT S.E.N.C.R.L., s.r.l.
Procureurs des Intimées The Hertz
Corporation et Hertz Canada Limited

AVIS DE PRÉSENTATION

Me Daniel Chung
Merchant Law Group
10, rue Notre-Dame Est, #200
Montréal, Québec
H2Y 1B7

Procureurs du Requéant

Me Sylvain Lussier
Me Annie Gallant
Osler, Hoskin & Harcourt
1000 de la Gauchetière Ouest, #2100
Montréal, Québec
H3B 4W5

Procureurs de Enterprise Holdings Inc.,
Enterprise Rent-a-Car Canada Company
et Alamo Rent a Car

Me Eric Dunberry
Me Jocelyn F. Rancourt
Norton, Rose, Fulbright
1, Place Ville-Marie, #2500
Montréal, Québec
H3B 1R1

Procureurs de Avis Budget Group Inc.,
Avis Car Inc. et Budgetcar Inc.

PRENEZ AVIS que la présente *Requête des Intimées The Hertz Corporation et Hertz Canada Limited pour permission de produire une preuve appropriée* sera présentée devant l'Honorable Johanne Mainville, j.c.s., au Palais de Justice de Montréal situé au 1, rue Notre-Dame Est à Montréal, Province de Québec, **le 10 novembre 2015**, à l'heure et dans une salle à être déterminés.

VEUILLEZ AGIR EN CONSÉQUENCE.

Montréal, le 3 novembre 2015



STIKEMAN ELLIOTT S.E.N.C.R.L., s.r.l.
Procureurs des Intimées The Hertz
Corporation et Hertz Canada Limited

ANNEXE A

CANADA

SUPERIOR COURT
(Class Action)

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No : 500-06-000737-151

NORMAN PRINCE

Petitioner

-vs-

AVIS BUDGET GROUP, INC.

-and-

AVISCAR, INC.

-and-

BUDGETCAR, INC.

-and-

THE HERTZ CORPORATION

-and-

HERTZ CANADA LIMITED

-and-

ENTERPRISE HOLDINGS, INC.

-and-

ENTERPRISE RENT-A-CAR CANADA
COMPANY

-and-

ALAMO RENT A CAR

Respondents

AFFIDAVIT OF LAURA A GIBBONS

I, the undersigned, **LAURA A. GIBBONS**, employee of The Hertz Corporation, with a place of business located at 3181 North Bay Village Court, in the Municipality of Bonita Springs, State of Florida, United States of America, 34135, solemnly declare the following:

1. I am Senior Director, Digital Marketing, for the Respondent Hertz Corporation ("**Hertz**") and I have held this position since October 10th, 2011. I have been an employee of Hertz since April 1994.
2. I am advised that a *Motion to authorize the bringing of a class action and to ascribe the status of representative* (the "**Motion**") was filed against Hertz concerning four charges that are mentioned in par. 25 c) of the Motion.
3. The Motion refers to an alleged "car rental agreement", which was communicated as Exhibit P-5. This document (P-5) is a printed copy of one page from the reserving process from the Hertz website. It includes a quote with "Rate Details" and a price breakdown which mentions the four charges at issue.
4. Unfortunately, the copy filed as exhibit P-5 is of poor quality, it is incomplete and it does not accurately show what information is available on the relevant web page, nor how it is actually displayed on a computer screen.
5. I attach to the present affidavit, as **Exhibit H-1**, a screenshot which shows how Exhibit P-5 would have looked like on the actual computer screen. A screenshot is a digital image that shows, much more clearly, how the information is displayed on the computer screen, when the customer is looking at it.
6. For instance, the screenshot (H-1) shows the question mark icons that are featured beside each of the relevant four charges, which are not visible on the black and white photocopy produced as Exhibit P-5.
7. Upon clicking on the question mark symbol, a pop-up window appears on the screen and displays a scroll-down list of all charges, with their description.
8. The second and third screenshots, attached *en liasse* as **Exhibit H-2**, show what appears on the screen when the customer clicks on any of the question mark icons, if he/she wants to know the description of each charge.
9. The same menu describing the relevant charges can also be accessed by clicking on the word "**Charges**" at the bottom of the page shown on Exhibit H-1.
10. After reviewing the quote shown on Exhibit H-1 (or P-5), the customer must click on the "Submit" icon to continue with the reservation process. He will then be taken to a page, where he must enter his personal information, credit card details, etc., as shown on another screenshot, filed as **Exhibit H-3**.
11. On that page (H-3), the customer is again shown a breakdown of all relevant costs, and he can again click on the question mark icon, to verify the definition of the four charges at issue.

12. If the customer agrees and wish to complete the reservation, he must then click on the appropriate box to confirm his agreement to the terms and conditions, which include the Rate Details provided.
13. These question mark icons and the descriptions of the relevant charges at issue have been available on Hertz's website in this manner from March 2009 onwards (the proposed class period) and even before 2009.
14. All the facts alleged herein are true.

AND I HAVE SIGNED:

Laura A. Gibbons


Solemnly declared before me in
_____, on _____, 2015

Notary Public




PIÈCE H-1

[1. Edit Itinerary](#)
[2. Choose a Car](#)
[3. Choose Extras](#)
[4. Review & Book](#)

Protection Options

| Add | Item Description | Price |
|--------------------------|---|-----------------------------|
| <input type="checkbox"/> |  Protect the Car - Loss Damage Waiver Get peace of mind. Covers all vehicle damage to the Hertz rental car. Watch this video on Hertz Car Rental Protection More Details | 33.99 CAD Per Day |

Safety Options

| Add | Item Description | Quantity | Price |
|--------------------------|--|--------------------------|-----------------------------|
| <input type="checkbox"/> |  Booster Seat For children weighing 40 to 80 lbs or 18kg-36kgs. More Details | <input type="checkbox"/> | 13.00 CAD Per Day |
| <input type="checkbox"/> |  Infant Child Seat For infants less than one year and weigh up to 20 pounds or up to 9 kgs. More Details | <input type="checkbox"/> | 13.00 CAD Per Day |
| <input type="checkbox"/> |  Child Seat Forward facing for children weighing 20-40 pounds or 8kgs-18 kgs and up to 40 inches/101 cms in height. More Details | <input type="checkbox"/> | 13.00 CAD Per Day |

Rental Qualifications and Requirements

- [Insurance & Waivers](#)
- [Fuel Policy](#)
- [Damage Policy](#)
- [Payment Options](#)
- [Restrictions and Requirements](#)
- [Amendments, Cancellation & No Shows](#)
- [Additional Equipment & Services](#)
- [Charges](#)
- [Privacy Policy](#)

Your Itinerary [Edit](#)

Pickup Time
Tue, Nov 17, 2015 at 06:00 PM

Return Time
Wed, Nov 18, 2015 at 06:00 PM

Pickup and Return Location
Regina Airport

[view details](#)

Discounts
RQ: BEST

Arrival/Flight Information
No Arrival Information

Your Age
25+

Your Car [Edit](#)



Midsize (Group C) ICAR
(C) Toyota Corolla or similar

[More Details](#)

Payment Method Pay Now

Discounts
RQ: BEST

| Rate Details | |
|---|-----------|
| 1 day at 39.87 CAD | 39.87 CAD |
| <input type="checkbox"/> Concession fee recovery | 4.95 CAD |
| <input type="checkbox"/> Vehicle Licensing Fee Recovery & Air Cond Surcharge Recovery | 1.41 CAD |
| <input type="checkbox"/> Customer Facility Charge | 5.50 CAD |
| <input type="checkbox"/> Energy Surcharge | 0.88 CAD |
| <input type="checkbox"/> Taxes | 5.27 CAD |

Included
Unlimited Free Kilometers Included

Vehicle Subtotal 57.88 CAD

Upon booking, your credit card will be charged 39.87 CAD

Amount to be paid at time of rent 18.01 CAD

Total 57.88 CAD

PIÈCE H-2
(en liasse)



Infant Child Seat

For infants less than one year and weigh up to 20 pounds or up to 9 kgs.

[More Info](#)



13.00

CAD Per Day

Midsized (Group C) ICAR
(C) Toyota Corolla or similar

[View Details](#)



Child Forward Facing Seat

Forwards facing seats for children 2-8kgs-100cm

[More Info](#)

Fees and Surcharges

Close

Concession Recovery Fee (CFR) - This fee is to reimburse Hertz for concession fees paid for each rental at this location.

Customer Facility Charge - The Airport requires that all car rental companies collect this fee. The money collected is used to pay for new car rental facilities.

Energy Surcharge - Separate and apart from the costs of fueling rental vehicles, energy costs represent a substantial portion of Hertz's operating expenses. To offset the significant costs of utility charges, bus fuel, oil and grease, and related costs, Hertz is separately imposing an Energy Surcharge. This charge is not intended to reflect a precise measure of Hertz's actual energy costs incurred to serve a particular customer.

Ferry Transaction Fee - This fee is to reimburse Hertz for Ferry fees paid to the City Centre Terminal Corp (Billy Bishop Airport).

Rental Qualifications and Requirements

- › [Insurance & Waivers](#)
- › [Fuel Policy](#)
- › [Damage Policy](#)
- › [Payment Options](#)
- › [Restrictions and Requirements](#)

Payment Method Pay Now

Details

| | |
|--|-----------|
| at 39.87 CAD | 39.87 CAD |
| Concession fee recovery | 4.95 CAD |
| Vehicle Licensing Fee recovery & Air Cond surcharge Recovery | 1.41 CAD |
| Customer Facility charge | 5.50 CAD |
| Energy Surcharge | 0.88 CAD |
| Taxes | 5.27 CAD |

Additional

Unlimited Free Kilometers Included

Vehicle Subtotal 57.88 CAD

Upon booking, your credit card will be charged 39.87 CAD

Amount to be paid at time of rent 18.01 CAD

Total 57.88 CAD



Infant Child Seat

For infants less than one year and weigh up to 20 pounds or up to 9 kgs.

[More Info](#)



13.00
CAD Per Day

Midsize (Group C) ICAR
(C) Toyota Corolla or similar

[View Details](#)



Child Seat

Forward facing
8kgs-18kgs

[More Info](#)

Rental Qualifications and Requirements

- › [Insurance & Waivers](#)
- › [Fuel Policy](#)
- › [Damage Policy](#)
- › [Payment Options](#)
- › [Restrictions and Requirements](#)

Fees and Surcharges

Close

Hotel Concession Fee Recovery (HCFR) - This fee is to reimburse Hertz for concession fees paid to the hotel for each rental.

Parking Charge Recovery Fee - This fee is to reimburse Hertz for the high cost of parking at this location.

Vehicle Licensing Cost Recovery (VLCR) - This fee is for Hertz' recovery of the proportionate amount of vehicle registration, licensing and related fees applicable to a rental.

Ontario Eco Fee - This fee is to reimburse Hertz for the Ontario Eco Fee that is paid when purchasing products that require special disposal such as oils, oil filters, etc.

Payment Method Pay Now

Details

| | |
|--|-----------|
| at 39.87 CAD | 39.87 CAD |
| concession fee recovery | 4.95 CAD |
| Vehicle Licensing Fee recovery & Air Cond surcharge Recovery | 1.41 CAD |
| Customer Facility charge | 5.50 CAD |
| Energy Surcharge | 0.88 CAD |
| Taxes | 5.27 CAD |

Additional

Unlimited Free Kilometers Included

Vehicle Subtotal 57.88 CAD

Upon booking, your credit card will be charged 39.87 CAD

Amount to be paid at time of rent 18.01 CAD

Total 57.88 CAD

PIÈCE H-3

[1. Edit Itinerary](#)
[2. Choose a Car](#)
[3. Choose Extras](#)
[4. Review & Book](#)
[Your Itinerary](#)
[Edit](#)
Pickup Time
Tue, Nov 17, 2015 at 06:00 PM

Return Time
Wed, Nov 18, 2015 at 06:00 PM

Pickup and Return Location
Regina Airport
[view details](#)
Discounts
RQ: BEST

Arrival/Flight Information
No Arrival Information

Your Age
25+

[Your Car](#)
[Edit](#)

 Midsize (Group C) ICAR
(C) Toyota Corolla or similar
[More Details](#)
Payment Method Pay Now

Discounts
RQ: BEST

| Rate Details | |
|--|-----------|
| 1 day at 39.87 CAD | 39.87 CAD |
| Concession fee recovery | 4.95 CAD |
| Vehicle Licensing Fee Recovery & Air Cond Surcharge Recovery | 1.41 CAD |
| Customer Facility Charge | 5.50 CAD |
| Energy Surcharge | 0.88 CAD |
| Taxes | 5.27 CAD |

Included
Unlimited Free Kilometers Included

Vehicle Subtotal 57.88 CAD

Upon booking, your credit card will be charged 39.87 CAD

Amount to be paid at time of rent 18.01 CAD

Total 57.88 CAD

Rate is guaranteed. Taxes, fees and extras, if not included in the Rate, are subject to change.

[More Details About Your Quote](#)
[View Optional Items](#)
Important Information
[Visa/ Debit Cards](#)
[PREPAID](#)
[Credit Cards/Debit Cards](#)
[Young Drivers](#)
[Need Additional Protection?](#)
Rental Qualifications and Requirements
[Insurance & Waivers](#)
[Fuel Policy](#)
[Damage Policy](#)
[Payment Options](#)
[Restrictions and Requirements](#)
[Amendments, Cancellation & No Shows](#)
[Additional Equipment & Services](#)
[Charges](#)
[Privacy Policy](#)
Your Personal Information

 First Name: Last Name:

 E-mail Address:

 Verify E-mail Address:

(if you'd like to receive an email confirmation)

 By selecting this checkbox you are indicating that you would like to periodically receive marketing and promotional materials via email from Hertz. You can withdraw your consent to receive marketing and promotional materials at any time either by using the [unsubscribe](#) link found in those electronic messages or by contacting us at customer_service@hertz.com or 14501 Hertz Quail Springs Pkwy, Oklahoma City, OK 73120.

 Credit Card Type:

 Credit Card Number:

(Do not include spaces or dashes)

 Expiration Date:

At the time of rental, you MUST produce the same credit card you paid online and valid driver's license in your name. Once proof of this card has been provided, Hertz can accept any other valid credit card in your name at the time of rent for taxes, fees, and incidentals. We may place an authorization amount of up to USD 200.00 plus the estimated charges on a customer's card, given certain conditions that will be outlined at time of rental. These funds will not be available for your use. Debit cards and Hertz Credit Cards are not valid form of payment for prepaid rates.

Your Billing Information:

 Address 1: Address 2:

 City:

 Country - State/Province: Zip/Postal Code:

 Phone: [\(Why?\)](#)
Arrival/Flight Information

 Please add your flight information
Airline or Train Service

If you have a Company Order/Billing Reference Number enter it here:

 Customer Remarks

| | |
|---|------------------|
| Total | 57.88 CAD |
| Upon booking, your credit card will be charged..... | 39.87 CAD |
| Amount to be paid at time of rent..... | 18.01 CAD |

'Total' does not include any additional items you may select at the location or any costs arising from the rental (such as damage, fuel or road traffic charges). For renters under the age of 25, [additional charges](#) may apply, and are payable at the location.

'Pay at Location' is the balance of the total amount due based on the reservation above, including any optional extras, and is payable on pick-up.

 I Agree to the terms and conditions and I acknowledge that this is a prepaid rate.

 By clicking on the "Submit" button, you confirm that you understand and accept our [Rental Qualification and Requirements](#), [Terms and Conditions](#) and you understand the [Age Restrictions](#)

Terms and Conditions

Rates are for the time and location displayed above. Approximate rental charges are based on available information at the time of reservation for renters age 25 and older. For minimum age requirements please see "Rental Qualifications and Requirements" link below for details. Please note that for renters under age 25 an additional daily age differential charge may apply. Additional fees or surcharges may be applied at time of rental. Rates are for the time and location displayed above. **Any change to the reservation may impact the rental charges.** The rental rates may be higher if

(Recours collectif)
COUR SUPÉRIEURE

N°. 500-06-000737-151

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

NORMAN PRINCE

Requérant

- c. -

AVIS BUDGET GROUP, INC. & ALS.

Intimées

BS0350

Dossier: 100336-1045

REQUÊTE DES INTIMÉES THE HERTZ
CORPORATION ET HERTZ CANADA LIMITED POUR
PERMISSION DE PRODUIRE UNE PREUVE
APPROPRIÉE (ART. 1002 C.P.C.)

ANNEXE A, PIÈCES H-1, H-2 *en liasse* et H-3

ORIGINAL

Me Yves Martineau

514-397-3380
Fax: 514-397-3580

STIKEMAN ELLIOTT
Stikeman Elliott S.E.N.C.R.L., s.r.l.
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Montréal, Canada H3B 3V2

CANADA

COUR SUPÉRIEURE
(Recours collectif)

PROVINCE DE QUÉBEC
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ENTERPRISE HOLDINGS, INC.

-et-

**ENTERPRISE RENT-A-CAR CANADA
COMPANY**

-et-

ALAMO RENT A CAR

Intimées

**AVIS DE COMMUNICATION D'UNE DÉPOSITION ET RÉPONSE AUX
ENGAGEMENTS PAR LES INTIMÉES THE HERTZ CORPORATION ET HERTZ
CANADA LIMITED (Article 227 C.p.c.)**

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Me Eric Dunberry
Me Jocelyn F. Rancourt
Norton, Rose, Fulbright
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H3B 1R1

Me Sylvain Lussier
Me Annie Gallant
Osler, Hoskin & Harcourt
1000 de la Gauchetière Ouest, #2100
Montréal, Québec
H3B 4W5

PRENEZ AVIS que lors de l'audience, les Intimées The Hertz Corporation et Hertz Canada Limited entendent introduire en preuve la déposition de Monsieur Norman Prince, recueillie lors de son interrogatoire présidé par Me Yves Martineau tenu le 14 janvier 2016, ainsi que les pièces NP-2 et NP-3 produites lors de l'interrogatoire. Copies de la transcription des notes sténographiques de cet interrogatoire et de ces pièces sont déjà en possession des procureurs du Requéant.

Également, les Intimées The Hertz Corporation et Hertz Canada Limited entendent introduire en preuve la Réponse aux engagements produite par les procureurs du Requéant le ou vers le 16 mars 2016.

VEUILLEZ AGIR EN CONSÉQUENCE.

Montréal, le 10 mai 2016



STIKEMAN ELLIOTT S.E.N.C.R.L., s.r.l.
Avocats des Intimées
The Hertz Corporation et Hertz Canada
Limited
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(Recours collectif)
COUR SUPÉRIEURE

N° . 500-06-000737-151

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

NORMAN PRINCE

Requérant

- C. -

AVISCAR, INC. & ALS.

Intimées

BS0350

Dossier: 100336-1045

AVIS DE COMMUNICATION D'UNE DÉPOSITION ET
RÉPONSE AUX ENGAGEMENTS PAR LES INTIMÉES
THE HERTZ CORPORATION ET HERTZ CANADA
LIMITED (Article 227 C.p.c.)

ORIGINAL

Me Yves Martineau

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Montréal, Canada H3B 3V2

CANADA

SUPERIOR COURT
(Class Action)

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No : 500-06-000737-151

NORMAN PRINCE

Petitioner

-vs-

AVIS BUDGET GROUP, INC.

-and-

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THE HERTZ CORPORATION

-and-

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ENTERPRISE HOLDINGS, INC.

-and-

ENTERPRISE RENT-A-CAR CANADA
COMPANY

-and-

ALAMO RENT A CAR

Respondents

AFFIDAVIT OF LAURA A. GIBBONS

I, the undersigned, **LAURA A. GIBBONS**, employee of The Hertz Corporation, with a place of business located at 8501 Williams Road, in the Municipality of Estero, State of Florida, United States of America, 33928, solemnly declare the following:

1. I am Senior Director, Digital Marketing, for the Respondent Hertz Corporation ("**Hertz**") and I have held this position since October 10th, 2011. I have been an employee of Hertz since April 1994.
2. I am advised that a *Motion to authorize the bringing of a class action and to ascribe the status of representative* (the "**Motion**") was filed against Hertz concerning four charges that are mentioned in par. 25 c) of the Motion.
3. The Motion refers to an alleged "car rental agreement", which was communicated as Exhibit P-5. This document (P-5) is a printed copy of one page from the reserving process from the Hertz website. It includes a quote with "Rate Details" and a price breakdown which mentions the four charges at issue.
4. Unfortunately, the copy filed as exhibit P-5 is of poor quality, it is incomplete and it does not accurately show what information is available on the relevant web page, nor how it is actually displayed on a computer screen.
5. I attach to the present affidavit, as **Exhibit H-1**, a screenshot which shows how Exhibit P-5 would have looked like on the actual computer screen¹. A screenshot is a digital image that shows, much more clearly, how the information is displayed on the computer screen, when the customer is looking at it.
6. For instance, the screenshot (H-1) shows the question mark icons that are featured beside each of the relevant four charges, which are not visible on the black and white photocopy produced as Exhibit P-5.
7. Upon clicking on the question mark symbol, a pop-up window appears on the screen and displays a scroll-down list of all charges, with their description.
8. The second and third screenshots, attached *en liasse* as **Exhibit H-2**, show what appears on the screen when the customer clicks on any of the question mark icons, if he/she wants to know the description of each charge.
9. The same menu describing the relevant charges can also be accessed by clicking on the word "**Charges**" at the bottom of the page shown on Exhibit H-1.
10. After reviewing the quote shown on Exhibit H-1 (or P-5), the customer must click on the "Submit" icon to continue with the reservation process. He will then be taken to a page, where he must enter his personal information, credit card details, etc., as shown on another screenshot, filed as **Exhibit H-3**.

¹ Exhibits H-1 to H-3 show the reservation display as it existed in November 2015.

11. On that page (H-3), the customer is again shown a breakdown of all relevant costs, and he can again click on the question mark icon, to verify the definition of the four charges at issue.
12. If the customer agrees and wish to complete the reservation, he must then click on the appropriate box to confirm his agreement to the terms and conditions, which include the Rate Details provided.
13. These question mark icons and the descriptions of the relevant charges at issue have been available on Hertz's website in this manner from March 2009 onwards (the proposed class period) and even before 2009.
14. All the facts alleged herein are true.

AND I HAVE SIGNED:

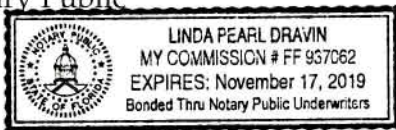


Laura A. Gibbons

Solemnly declared before me in
Esteros, FL, on May 17, 2016




Notary Public






PIÈCE H-1

[1. Edit Itinerary](#)
[2. Choose a Car](#)
[3. Choose Extras](#)
[4. Review & Book](#)

Protection Options

| Add | Item Description | Price |
|--------------------------|---|-----------------------------|
| <input type="checkbox"/> |  Protect the Car - Loss Damage Waiver Get peace of mind. Covers all vehicle damage to the Hertz rental car. Watch this video on Hertz Car Rental Protection More Details | 33.99 CAD Per Day |

Safety Options

| Add | Item Description | Quantity | Price |
|--------------------------|--|--------------------------|-----------------------------|
| <input type="checkbox"/> |  Booster Seat For children weighing 40 to 80 lbs or 18kg-36kgs. More Details | <input type="checkbox"/> | 13.00 CAD Per Day |
| <input type="checkbox"/> |  Infant Child Seat For infants less than one year and weigh up to 20 pounds or up to 9 kgs. More Details | <input type="checkbox"/> | 13.00 CAD Per Day |
| <input type="checkbox"/> |  Child Seat Forward facing for children weighing 20-40 pounds or 8kgs-18 kgs and up to 40 inches/101 cms in height. More Details | <input type="checkbox"/> | 13.00 CAD Per Day |

Rental Qualifications and Requirements

- [Insurance & Waivers](#)
[Amendments, Cancellation & No Shows](#)
[Privacy Policy](#)
- [Fuel Policy](#)
[Additional Equipment & Services](#)
- [Damage Policy](#)
[Charges](#)
- [Payment Options](#)
- [Restrictions and Requirements](#)

Your Itinerary [Edit](#)

Pickup Time
Tue, Nov 17, 2015 at 06:00 PM

Return Time
Wed, Nov 18, 2015 at 06:00 PM

Pickup and Return Location
Regina Airport

[view details](#)

Discounts
RQ: BEST

Arrival/Flight Information
No Arrival Information

Your Age
25+

Your Car [Edit](#)



Midsize (Group C) ICAR
(C) Toyota Corolla or similar

[More Details](#)

Payment Method Pay Now

Discounts
RQ: BEST

| Rate Details | |
|---|-----------|
| 1 day at 39.87 CAD | 39.87 CAD |
| <input type="checkbox"/> Concession fee recovery | 4.95 CAD |
| <input type="checkbox"/> Vehicle Licensing Fee Recovery & Air Cond Surcharge Recovery | 1.41 CAD |
| <input type="checkbox"/> Customer Facility Charge | 5.50 CAD |
| <input type="checkbox"/> Energy Surcharge | 0.88 CAD |
| <input type="checkbox"/> Taxes | 5.27 CAD |

Included
Unlimited Free Kilometers Included

Vehicle Subtotal **57.88 CAD**

Upon booking, your credit card will be charged 39.87 CAD

Amount to be paid at time of rent 18.01 CAD

Total **57.88 CAD**

PIÈCE H-2
(en liasse)



Infant Child Seat

For infants less than one year and weigh up to 20 pounds or up to 9 kgs.

[More Info](#)



13.00

CAD Per Day

Midsized (Group C) ICAR
(C) Toyota Corolla or similar

[View Details](#)



Child Forward Facing Seat

Forwards facing seats for children 2-6 years old, 8kgs-25kgs

[More Info](#)

Fees and Surcharges

Close

Concession Recovery Fee (CFR) - This fee is to reimburse Hertz for concession fees paid for each rental at this location.

Customer Facility Charge - The Airport requires that all car rental companies collect this fee. The money collected is used to pay for new car rental facilities.

Energy Surcharge - Separate and apart from the costs of fueling rental vehicles, energy costs represent a substantial portion of Hertz's operating expenses. To offset the significant costs of utility charges, bus fuel, oil and grease, and related costs, Hertz is separately imposing an Energy Surcharge. This charge is not intended to reflect a precise measure of Hertz's actual energy costs incurred to serve a particular customer.

Ferry Transaction Fee - This fee is to reimburse Hertz for Ferry fees paid to the City Centre Terminal Corp (Billy Bishop Airport).

Payment Method Pay Now

Details

| | |
|--|-----------|
| at 39.87 CAD | 39.87 CAD |
| Concession fee recovery | 4.95 CAD |
| Vehicle Licensing Fee recovery & Air Cond surcharge Recovery | 1.41 CAD |
| Customer Facility charge | 5.50 CAD |
| Energy Surcharge | 0.88 CAD |
| Taxes | 5.27 CAD |



Unlimited

Unlimited Free Kilometers Included

Vehicle Subtotal 57.88 CAD

Upon booking, your credit card will be charged 39.87 CAD

Amount to be paid at time of rent 18.01 CAD

Total 57.88 CAD

Rental Qualifications and Requirements

- › [Insurance & Waivers](#)
- › [Fuel Policy](#)
- › [Damage Policy](#)
- › [Payment Options](#)
- › [Restrictions and Requirements](#)



Infant Child Seat

For infants less than one year and weigh up to 20 pounds or up to 9 kgs.

[More Info](#)



13.00
CAD Per Day

Midsize (Group C) ICAR
(C) Toyota Corolla or similar

[View Details](#)



Child Seat

Forward facing
8kgs-18kgs

[More Info](#)

Rental Qualifications and Requirements

- › [Insurance & Waivers](#)
- › [Fuel Policy](#)
- › [Damage Policy](#)
- › [Payment Options](#)
- › [Restrictions and Requirements](#)

Fees and Surcharges

Close

Hotel Concession Fee Recovery (HCFR) - This fee is to reimburse Hertz for concession fees paid to the hotel for each rental.

Parking Charge Recovery Fee - This fee is to reimburse Hertz for the high cost of parking at this location.

Vehicle Licensing Cost Recovery (VLCR) - This fee is for Hertz' recovery of the proportionate amount of vehicle registration, licensing and related fees applicable to a rental.

Ontario Eco Fee - This fee is to reimburse Hertz for the Ontario Eco Fee that is paid when purchasing products that require special disposal such as oils, oil filters, etc.

Payment Method Pay Now

Details

| | |
|--|-----------|
| Rate at 39.87 CAD | 39.87 CAD |
| Concession fee recovery | 4.95 CAD |
| Vehicle Licensing Fee recovery & Air Cond surcharge Recovery | 1.41 CAD |
| Customer Facility charge | 5.50 CAD |
| Energy Surcharge | 0.88 CAD |
| Taxes | 5.27 CAD |

Additional

Unlimited Free Kilometers Included

Vehicle Subtotal 57.88 CAD

Upon booking, your credit card will be charged 39.87 CAD

Amount to be paid at time of rent 18.01 CAD

Total 57.88 CAD

PIÈCE H-3

[1. Edit Itinerary](#)
[2. Choose a Car](#)
[3. Choose Extras](#)
[4. Review & Book](#)
[Your Itinerary](#)
[Edit](#)
Pickup Time

Tue, Nov 17, 2015 at 06:00 PM

Return Time

Wed, Nov 18, 2015 at 06:00 PM

Pickup and Return Location

Regina Airport

[view details](#)
Discounts

RQ: BEST

Arrival/Flight Information

No Arrival Information

Your Age

25+

[Your Car](#)
[Edit](#)

 Midsize (Group C) ICAR
(C) Toyota Corolla or similar

[More Details](#)
Payment Method Pay Now

Discounts

RQ: BEST

Rate Details

| | |
|--|-----------|
| 1 day at 39.87 CAD | 39.87 CAD |
| Concession fee recovery | 4.95 CAD |
| Vehicle Licensing Fee Recovery & Air Cond Surcharge Recovery | 1.41 CAD |
| Customer Facility Charge | 5.50 CAD |
| Energy Surcharge | 0.88 CAD |
| Taxes | 5.27 CAD |

Included

Unlimited Free Kilometers Included

Vehicle Subtotal
57.88 CAD

 Upon booking, your credit card will be charged **39.87 CAD**

 Amount to be paid at time of rent **18.01 CAD**
Total 57.88 CAD

Rate is guaranteed. Taxes, fees and extras, if not included in the Rate, are subject to change.

[More Details About Your Quote](#)
[View Optional Items](#)
Your Personal Information

First Name:

Last Name:

E-mail Address:

Verify E-mail Address:

(if you'd like to receive an email confirmation)

 By selecting this checkbox you are indicating that you would like to periodically receive marketing and promotional materials via email from Hertz. You can withdraw your consent to receive marketing and promotional materials at any time either by using the [unsubscribe](#) link found in those electronic messages or by contacting us at customer_service@hertz.com or 14501 Hertz Quail Springs Pkwy, Oklahoma City, OK 73120.

Credit Card Type:

Credit Card Number:

(Do not include spaces or dashes)

Expiration Date:

At the time of rental, you MUST produce the same credit card you paid online and valid driver's license in your name. Once proof of this card has been provided, Hertz can accept any other valid credit card in your name at the time of rent for taxes, fees, and incidentals. We may place an authorization amount of up to USD 200.00 plus the estimated charges on a customer's card, given certain conditions that will be outlined at time of rental. These funds will not be available for your use. Debit cards and Hertz Credit Cards are not valid form of payment for prepaid rates.

Your Billing Information:

Address 1:

Address 2:

City :

Country - State/Province :

Zip/Postal Code :

Phone:(Why?)

Arrival/Flight Information

Please add your flight information

Airline or Train Service

If you have a Company Order/Billing Reference Number enter it here:

 Customer Remarks

Total.....57.88 CAD

Upon booking, your credit card will be charged.....39.87 CAD

Amount to be paid at time of rent.....18.01 CAD

'Total' does not include any additional items you may select at the location or any costs arising from the rental (such as damage, fuel or road traffic charges). For renters under the age of 25, [additional charges](#) may apply, and are payable at the location.

'Pay at Location' is the balance of the total amount due based on the reservation above, including any optional extras, and is payable on pick-up.

 I Agree to the terms and conditions and I acknowledge that this is a prepaid rate.

 By clicking on the "Submit" button, you confirm that you understand and accept our [Rental Qualification and Requirements](#), [Terms and Conditions](#) and you understand the [Age Restrictions](#)

Terms and Conditions

Rates are for the time and location displayed above. Approximate rental charges are based on available information at the time of reservation for renters age 25 and older. For minimum age requirements please see "Rental Qualifications and Requirements" link below for details. Please note that for renters under age 25 an additional daily age differential charge may apply. Additional fees or surcharges may be applied at time of rental. Rates are for the time and location displayed above. **Any change to the reservation may impact the rental charges.** The rental rates may be higher if

(Recours collectif)
COUR SUPÉRIEURE

N°. 500-06-000737-151

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

NORMAN PRINCE

Requérant

- c. -

AVIS BUDGET GROUP, INC. & ALS.

Intimées

BS0350

Dossier: 100336-1045

REQUÊTE DES INTIMÉES THE HERTZ
CORPORATION ET HERTZ CANADA LIMITED POUR
PERMISSION DE PRODUIRE UNE PREUVE
APPROPRIÉE (ART. 1002 C.P.C.)

ANNEXE A, PIÈCES H-1, H-2 *en liasse* et H-3

ORIGINAL

Me Yves Martineau

514-397-3380
Fax: 514-397-3580

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Montréal, Canada H3B 3V2