

SUPERIOR COURT

(Class Action)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-06-000872-172

DATE: August 24, 2018

**IN THE PRESENCE OF THE HONOURABLE JUSTICE PIERRE NOLLET,
J.S.C.**

MARC DESHAIES
Petitioner

v.

FCA CANADA INC.

and

FCA US LLC

and

CUMMINS EASTERN CANADA LP

and

35601 CUMMINS CANADA ULC

and

CUMMINS INC.

Respondents

JUDGMENT ON DISCONTINUANCE

[1] On July 10, 2017, the Petitioner filed an Application to Authorize the Bringing of a Class Action & to Appoint the Petitioner as Representative (Art. 574 C.C.P. and following on behalf of the following class:

“All persons, entities or organizations resident in Quebec who purchased and/or leased one or more of the model year 2013 through 2017 Dodge Ram 2500 and/or 3500 vehicles with a Cummins 6.7-litre diesel engine (collectively, the “Vehicles”

and the “Cummins Engines”), or any other group to be determined by the Court;”

[2] The Petitioner named the following 5 entities as Respondents in the Application:

- a) FCA Canada Inc.
- b) FCA US LLC

(the “FCA Respondents”)

- c) 35601 Cummins Canada ULC
- d) Cummins Eastern Canada LP
- e) Cummins Inc.

(the “Cummins Respondents”);

[3] In his Application, the Petitioner alleges *inter alia* that the Vehicles contained a defectively-designed selective catalytic reduction (SCR) system in the Cummins Engines that caused *inter alia* repeated failures, break-downs, emissions in excess of federal environmental standards, clogging of the diesel particulate filter, forced regeneration, and increased fuel consumption;

[4] It is alleged that the FCA Respondents designed, manufactured, imported/exported, distributed, supplied, tested, inspected, marketed, promoted, advertised, maintained, leased and/or sold and warranted the Vehicles containing the Cummins Engines and that the Cummins Respondents designed, manufactured, imported/exported, distributed, supplied, tested and/or inspection of the Cummins Engines;

[5] On August 23, 2018, the Petitioner filed an Application for Authorization to Discontinue the Present Class Action as Against Respondent Cummins Eastern Canada LP (“Cummins Eastern”) pursuant to arts. 213 and 585 C.C.P.;

[6] The reasons alleged in the above-mentioned Application to support the discontinuance are:

- a) THAT Counsel for Cummins Eastern has represented to the Petitioner that Cummins Eastern was not involved, in any way whatsoever, with the manufacturing, designing, testing, marketing, selling, distribution and importation/exportation of the Vehicles at issue;
- b) THAT there will be no prejudice to Class Members as the Cummins Respondents are still named parties to the Application to the exclusion of Cummins Eastern;

[7] Considering that at present, the Court finds the discontinuance to be in the interest of justice;

FOR THESE REASONS, THE COURT:

[8] **GRANTS** the present Application;

[9] **AUTHORIZES** the Petitioner to discontinue the present proceedings against Cummins Eastern Canada LP;

[10] **ORDERS** the Petitioner to file a Notice of Discontinuance in favour of Cummins Eastern Canada LP in the Court record within thirty (30) days of this judgment;

[11] **THE WHOLE** without prejudice and without legal costs.



PIERRE NOLLET, J.S.C.

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