

CANADA

SUPERIOR COURT
(Class Action)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° : 500-06-001016-191

OPTION CONSOMMATEURS

Plaintiff

-and-

GUILLAUME ROUSSEAU

Designated person

-vs-

2642-0398 QUÉBEC INC. ET ALS.

Defendants

APPLICATION BY THE DEFENDANT HERTZ CANADA VEHICLES
PARTNERSHIP FOR LEAVE TO ADDUCE RELEVANT EVIDENCE
(article 574 C.C.P.)

TO THE HONOURABLE CHANTAL TREMBLAY S.C.J., APPOINTED TO
MANAGE THE PRESENT CASE, THE DEFENDANT HERTZ CANADA
VEHICLES PARTNERSHIP RESPECTFULLY SUBMITS THE FOLLOWING:

1. The Plaintiff Option consommateurs filed an Application to Authorize the Bringing of a Class Action (modified as of December 30, 2019) (the "**Application**"), in which it proposes the following class:

"Toute personne au Québec ayant subi une discrimination ou ayant conclu un contrat de location de véhicule à court terme comportant une clause discriminatoire avec l'une ou plusieurs des défenderesses en raison de l'âge de l'un des conducteurs désignés au contrat, et ce, depuis le 16 août 2016.

SOUS-GROUPE 1

Toute personne au Québec ayant conclu ou été désigné dans un contrat de location de véhicule à court terme avec l'une des défenderesses dans lequel des frais additionnels ont été imposés en raison de l'âge de l'un des conducteurs désignés dans le contrat, et ce, depuis le 16 août 2016.

SOUS-GROUPE 2

Toute personne au Québec à qui l'une des défenderesses a refusé de louer à court terme un ou des modèles de véhicule disponibles en raison de l'âge de l'un des conducteurs désignés dans le contrat, et ce, depuis le 16 août 2016.

SOUS-GROUPE 3

Toute personne au Québec avec qui l'une des défenderesses a refusé de conclure un contrat de location de véhicule à court terme en raison de l'âge de l'un des conducteurs désignés dans le contrat, et ce, depuis le 16 août 2016."

(Emphasis added)

2. This Application was filed against fourteen (14) Defendants, including Hertz Canada Vehicles Partnership ("**Hertz Partnership**").
3. Hertz Partnership wishes to file appropriate evidence, a sworn statement which draft is communicated as **Annex A**, for the following reasons.
4. In the Application, Option consommateurs makes a broad statement to the effect that all the Defendants (therefore including Hertz Partnership), operate in the business of short-term lease of vehicles (par. 19 of the Application) and that they have policies to distinguish drivers based on their age (such as the imposition of additional fees to young drivers, the refusal to rent any vehicles or certain models of vehicles).
5. These general statements are incorrect, at least insofar as they relate to Hertz Partnership. As appears from the proposed affidavit, Annex A, Hertz Partnership does not lease any vehicles to customers in Quebec.
6. This proposed evidence, which plainly contradicts the Plaintiff's allegations, is relevant to the authorization debate with respect to Hertz Partnership.
7. Hertz Partnership therefore requests permission to adduce this relevant evidence which will assist the Court in considering whether the conditions of article 575 C.C.P. are met and whether the bringing of a class action should be authorized against Hertz Partnership.
8. Hertz Partnership requests the Court's permission to present this evidence in order to be fully heard at the authorization stage, in accordance with the *audi alteram partem* rule.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

ALLOW Hertz Canada Vehicles Partnership to file in the court record an executed sworn statement, substantially similar to the draft communicated as **Annex A** in support hereof, within thirty (30) days of judgment to be rendered on this Application.

THE WHOLE without costs, save in case of contestation.

MONTREAL, March 20, 2020

Stikeman Elliott LLP

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NOTICE OF PRESENTATION

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TAKE NOTICE that the foregoing *Application for Leave to Adduce Relevant Evidence* will be presented for adjudication before the Honourable Chantal Tremblay of the Superior Court appointed to manage the present case, at a date and place to be confirmed.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, March 20, 2020

Stikeman Elliott LLP

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ANNEX A

CANADA

SUPERIOR COURT
(Class Action)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° : 500-06-001016-191

OPTION CONSOMMATEURS

Plaintiff

-and-

GUILLAUME ROUSSEAU

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Defendants

SWORN STATEMENT OF VINCE BUNYAN

I, the undersigned, Malcom Vincent Bunyan, exercising my functions at Etobicoke, Province of Ontario, do solemnly declare as follows:

1. I am a Zone Vice President of Canada and have been an employee of Hertz Canada Limited ("**Hertz Canada**") since January 6, 2001.
2. The Plaintiff filed class action proceedings against the Defendants, including Hertz Canada Vehicles Partnership ("**Hertz Partnership**") concerning alleged discriminatory practices towards young drivers in relation to short-term lease of vehicles.
3. Hertz Partnership has no employees. It is a partnership incorporated in Delaware, and one of its partners is Hertz Canada.
4. Hertz Partnership's only purpose and business is to acquire vehicles, which are then used by Hertz Canada for its operations.
5. Hertz Partnership does not lease any vehicles to customers in Quebec.
6. All the facts alleged in this sworn statement are true.

AND I HAVE SIGNED:

MALCOM VINCENT BUNYAN

SOLEMNLY DECLARED before me on

_____, 2020

Notary Public

**SUPERIOR COURT
(Class Action)**

Nº. 500-06-001016-191

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

OPTION CONSOMMATEURS

Plaintiff

-and-

GUILLAUME ROUSSEAU

Designated person

vs.

2642-0398 QUÉBEC INC. ET ALS.

Defendants

BS0350

n/dos: 100336-1051

**APPLICATION BY THE DEFENDANT
HERTZ CANADA VEHICLES PARTNERSHIP
FOR LEAVE TO ADDUCE RELEVANT EVIDENCE
(article 574 C.C.P.)
ANNEX A**

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