

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF QUEBEC

(Class Action)  
SUPERIOR COURT

No: 200-06-000108-087

**RICHARD ROBITAILLE**

Petitioner

v.

**MAZDA CANADA INC.**

Respondent

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**Notice to the Members**

(Article 1006 of the *Code of Civil Procedure*)

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1. TAKE NOTICE that the institution of a class action was authorised on June 3, 2010 by judgement of the Honourable Jacques Viens, J.S.C., of the Superior Court, on behalf of the persons belonging to the groups described hereunder:

**Group 1:**

*« Toutes les personnes physiques et morales domiciliées ou résidentes au Québec, comptant cinquante (50) employés et moins, étant ou ayant été locataires, crédit-preneurs ou propriétaires d'un véhicule de marque et modèle Mazda 3, années 2004, 2005, 2006 et 2007 qui ont été victimes d'un vol ou d'une attaque qui a laissé une ou des bosses autour de la poignée de la portière du conducteur. »*

[translation] All physical and legal persons, accounting for fifty (50) employees or less, residing or domiciled in Quebec, which are or have been lessors, finance-lessors or owners of a Mazda 3 brand and model, vehicle years 2004, 2005, 2006 and 2007, who have been victim of theft or attack leaving one or multiple dents around the handle of the driver's door.

**Group 2 :**

*« Toutes les personnes physiques et morales domiciliées ou résidentes au Québec, comptant cinquante (50) employés et moins, étant devenues locataires, crédit-preneurs ou propriétaires d'un véhicule de marque et modèle Mazda 3, années 2004, 2005, 2006 et 2007 sur lequel a été installé après la prise de possession du*

*véhicule, un renforcement du dispositif de verrouillage de la portière du conducteur. »*

[translation] All physical persons and legal persons, accounting for fifty (50) employees or less, residing or domiciled in Quebec, which are or have been lessors, finance-lessors or owners of a Mazda 3 brand and model, vehicle years 2004, 2005, 2006 and 2007, on which a safety locking mechanism in the driver's door was installed, after taking possession of the vehicle.

2. The Chief Justice ordered the class action authorised by the present judgement to be instituted in the judicial district of Québec;
3. The petitioner's address is: 6893 De Vénus Street, Québec, Québec, G3E 2K4;
4. The respondent's address is: 55, Vogell Road, Richmond Hill, Ontario, L4B 3K5;
5. The status of representative to institute the class action was ascribed to the petitioner Mr. Richard Robitaille, domiciled and residing at 6893 De Vénus Street, Québec, Québec, G3E 2K4, judicial district of Quebec;
6. The main questions of fact and of law which will be treated collectively are the following [translation]:
  1. *Are Mazda 3 vehicles affected by a design defect which affects the locking mechanism of the driver's door?*
  2. *In the affirmative, which models are affected by this design defect?*
    - 2.1 *Did the respondent know or was presumed to know the existence of this defect, as of what date and, in the affirmative, did it engage in illegal commercial practices?*
    - 2.2 *Following the discovery of the defect, did the respondent commit one or several faults when setting up a program to correct the defect affecting Mazda 3's as well as in the disclosure and publication of the corrective measures in question?*
  3. *Does the respondent's recall on Mazda 3 vehicles constitute an admission of the existence of the problematic or of this design defect?*
  4. *Did the petitioner and members of the group suffer from damage resulting from this design defect, from the respondent's faults and illegal commercial practices?*
  5. *In the affirmative, does the petitioner and do the members of the groups have the right to claim damages and/or a reduction of the purchase price of their vehicle from the respondent?*
  6. *If yes, on what basis and for what amount?*

7. *Can the owners, lessors, or finance-lessors of Mazda 3 vehicles who were not targeted by the recall claim damages from the respondent?*
  8. *If yes, on what basis and for what amount?*
  9. *Can the petitioner and members of the groups be granted punitive and exemplary damages?*
7. The conclusions sought for which are related to these questions are the following [translation]:
1. ***GRANT*** the petitioner's motion to institute proceedings;
  2. ***CONDEMN*** the respondent to pay to the petitioner the sum of ***300.00\$*** representing insurance deductible he assumed, with interests at the legal rate and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of service of the motion for authorisation to institute a class action and to be ascribed the status of representative;
  3. ***CONDEMN*** the respondent to pay to the petitioner an amount representing the repair costs for the damages made on his Mazda 3 vehicle, which is estimated at ***575.43\$*** taxes included, with interests at the legal rate and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of service of the motion for authorisation to institute a class action and to be ascribed the status of representative;
  4. ***CONDEMN*** the respondent to pay to the petitioner the sum of ***500.00\$*** representing the decrease in value of his vehicle, with interests at the legal rate and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of service of the motion for authorisation to institute a class action and to be ascribed the status of representative;
  5. ***CONDEMN*** the respondent to pay to the petitioner the sum of ***500.00\$*** for damages for troubles, worries and inconvenience, with interests at the legal rate and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of service of the motion for authorisation to institute a class action and to be ascribed the status of representative;
  - 5.1 ***CONDEMN*** the respondent to pay to the petitioner the sum of ***200.00\$*** for punitive and exemplary damages, with interests at the legal rate and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of service of the motion for authorisation to institute a class action and to be ascribed the status of representative;

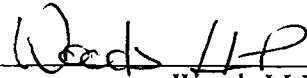
6. **CONDEMN** the respondent to pay to each of the groups' members the sum representing the insurance deductible they assumed, with interests at the legal rate and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of service of the motion for authorisation to institute a class action and to be ascribed the status of representative;
7. **CONDEMN** the respondent to pay to each of the groups' members the sum representing the repair costs of their Mazda 3 vehicle, with interests at the legal rate and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of service of the motion for authorisation to institute a class action and to be ascribed the status of representative;
8. **CONDEMN** the respondent to pay to each of the groups' members the sum of **500.00\$** representing the decrease in value of their vehicle, with interests at the legal rate and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of service of the motion for authorisation to institute a class action and to be ascribed the status of representative;
9. **CONDEMN** the respondent to pay to each of the groups' members the sum representing the damages they suffered for their troubles, worries and inconveniences, with interests at the legal rates and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of the service of the motion for authorisation to institute a class action and to be ascribed the status of representative;
- 9.1 **CONDEMN** the respondent to pay to each of the groups' members the sum of **200.00\$** for punitive and exemplary damages, with interests at the legal rate and the additional indemnity as per article 1619 of the Civil Code of Quebec, calculated from the date of service of the motion for authorisation to institute a class action and to be ascribed the status of representative
10. **ORDER** the recovery of the amount of the claims aforementioned collectively;
11. **ORDER** that some groups' members claims may be instituted individually according to the conditions of articles 1037 to 1040 of the Code of Civil Procedure;
12. **CONDEMN** the respondent to all other appropriate remedies judged fair and reasonable;

**THE WHOLE WITH COSTS, INCLUDING FEES FOR THE EXHIBITS, EXPERTS FEES, EXPERT REPORTS AND THE PUBLICATION OF NOTICES.**

8. The class action to be instituted by the representative on behalf of the groups members will consist of an action in price reduction, and compensatory and punitive damages and interests to sanction the respondent for the design defect, its wrongful conduct following the discovery of the defect and its illegal commercial practices related to the locking mechanism of Mazda 3 vehicles;
9. All members that are part of the groups, who will not have excluded themselves in the manner indicated hereafter, will be bound by the judgement to be rendered for the class action;
10. The date after which a member will no longer be allowed to exclude itself (save special permission) has been set to thirty (30) days following the publication date of the notice to the members;
11. A member, who has not already instituted a suit, can request exclusion from the groups by notifying the clerk of the Superior Court of the district of Québec, by registered or certified mail, before the expiration of the exclusion period;
12. All members of the groups who instituted an individual claim, for which the final judgement on the present demand of the representative could decide for same, are deemed to exclude themselves from the class action if they do not discontinue their suit before the expiration of the exclusion period;
13. Other than the groups' representative or intervener, no member can be liable for costs;
14. A member's intervention can be admitted by the court if it is considered useful to the groups. An intervener member is bound to submit itself to an examination on discovery or a medical examination (case depending) at the respondent's request. A member who does not intervene in the class action will only be submitted to an examination on discovery or medical exam if the court considers it necessary.
15. The judgment authorizing the class action was rendered in French. In case of any discrepancy between the official French version of this notice and this English translation thereof, the French version will prevail.

**DO GOVERN YOURSELF ACCORDINGLY**

Montreal, July 13, 2010



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**ORIGINAL**

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Mtre. Sébastien Richemont  
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