

SUPERIOR COURT

(Class Action)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

No.: 500-06-001124-219

DATE: December 17, 2021

BY THE HONOURABLE DONALD BISSON, J.S.C.

(JB4644)

JEAN NOEL

Applicant

v.

OTTO FUCHS Beteiligungen KG, ET AL.

Defendants

JUDGMENT

(on Application to temporarily stay the Class Action)

[1] **CONSIDERING** the Applicant's *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative Plaintiff* filed on January 29, 2021, on behalf of the following class:

All persons resident in Québec during the Class Period who purchased or leased an automobile, or purchased Replacement Parts, containing Forged Aluminum Products manufactured, marketed, distributed and/or sold by one or more of the Defendants (the "**Class**" and "**Class Members**")

[2] **CONSIDERING** the Applicant's *Demande de suspension temporaire de l'action collective* (the "Application"), whereby the Applicant requests that the class action he filed against the Defendants OTTO FUCHS Beteiligungen KG, Leiber Group GmbH & Co. KG, Strojmetal Aluminium Forging GmbH, Bharat Forge Aluminiumtechnik GmbH, Presswerk Krefeld GmbH & Co. KG and Hirschvogel Aluminium GmbH (the "**Québec Action**") be temporarily stayed until a final certification judgment is rendered in the matter instituted

by Mr. Adam Alteen and bearing Court docket number S-210739 of the Supreme Court of British Columbia (the “**B.C. Action**”);

[3] **CONSIDERING** that the B.C. Action was filed prior to the Québec Action, that both actions raise the same legal and factual issues and that the members of the Québec Action are included in the class definition of the B.C. Action;

[4] **CONSIDERING** that class counsel for the Québec Action alleges to be collaborating with class counsel for the B.C. Action to advance this case as a national class action before the Supreme Court of British Columbia;

[5] **CONSIDERING** that no procedural steps have been taken in the Québec Action to date;

[6] **CONSIDERING** that the Court is satisfied that the rights and interests of the Québec class members will be protected in the B.C. Action and that Québec class counsel will keep Québec class members and the Court informed of all important developments in the B.C. Action;

[7] **CONSIDERING** that class counsel has undertaken to provide this Court with an update on the status of the B.C. Action on a semi-annual basis and to advise this Court within thirty (30) days of any significant development in the B.C. Action that may affect the course of the Québec Action or the rights of Québec class members;

[8] **CONSIDERING** that a stay is consistent with the principles of proportionality and judicial economy and will avoid the risk of contradictory judgments and multiple proceedings;

[9] **CONSIDERING** that the Defendants do not contest the Application, under reserve of their rights to contest the jurisdiction of the Quebec and Canadian Courts;

[10] **CONSIDERING** articles 18, 49, 158 and 577 C.C.P.;

FOR THESE REASONS, THE COURT:

PAR CES MOTIFS, LE TRIBUNAL :

[1] **ACCUEILLE** la demande de suspension;

[2] **SUSPEND** le présent dossier jusqu'à 90 jours suivant un jugement final sur la certification dans le recours collectif putatif déposé par Adam Alteen devant la Cour suprême de la Colombie-Britannique dans le dossier de la Cour numéro S-210739,

FOR THESE REASONS, THE COURT:

[1] **GRANTS** the Application to temporarily stay the class action;

[2] **STAYS** the present action until 90 days following a final judgment on certification is rendered in the putative class action filed by Adam Alteen before the Supreme Court of British Columbia in Court docket number S-210739, or earlier as

ou plus tôt à la demande d'une partie ou si ordonné par la Cour;

may be requested by any of the parties or ordered by the Court;

[3] **PREND ACTE** de l'engagement des avocats du demandeur de fournir à cette Cour une mise à jour sur le statut de l'Action de Colombie-Britannique sur une base biannuelle et d'aviser la Cour dans les 30 jours de tout développement significatif dans l'Action de Colombie-Britannique qui pourrait affecter le cours de l'Action québécoise;

[3] **TAKES NOTE** of counsel for the Applicant's undertaking to provide this Court with an update on the status of the B.C. Action every six months, and to advise this Court within 30 days of any significant development that may affect the course of the Québec Action;

[4] **SANS FRAIS DE JUSTICE.**

[4] **WITHOUT LEGAL COSTS.**



DONALD BISSON, J.S.C.

M^e Sébastien A. Paquette
CHAMPLAIN AVOCATS
Attorneys for the Applicant

M^e Vincent de l'Étoile
LANGLOIS AVOCATS, S.E.N.C.R.L.
Attorneys for OTTO FUCHS Beteiligungen KG

M^e Kristian Brabander
MCCARTHY TÉTRAULT LLP
Attorneys for Strojmetal Aluminium Forging GmbH

M^e Éric Christian Lefebvre
NORTON ROSE FULBRIGHT, S.E.N.C.R.L., S.R.L.
Attorneys for Bharat Forge Aluminiumtechnik GmbH

M^e Joséane Chrétien
MCMILLAN, S.E.N.C.R.L., S.R.L.
Attorneys for Leiber Group GmbH & Co. KG

M^e Simon Jun Seida
BLAKE CASSELS GRAYDON, S.E.N.C.R.L., S.R.L.
Attorneys for Hirschvogel Aluminium GmbH

M^e Jean Saint-Onge
BORDEN LADNER GERVAIS, S.E.N.C.R.L., S.R.L.
Attorneys for Presswerk Krefeld GmbH & Co. KG