

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No : 500-06-001239-231

Chamber of Collective Actions
SUPERIOR COURT

MICHEL ALLARD

Applicant

c.

HYUNDAI AUTO CANADA CORP., legal
person having an elected domicile at 1700-630,
boulevard René-Lévesque Ouest, Montreal,
district of Montreal, province of Quebec, H3B
1S6;

Defendant

**REQUEST FOR AUTHORIZATION TO TAKE A CLASS ACTION AND TO BE
A REPRESENTATIVE** (Articles 574
et seq. *Cpc*)

IN SUPPORT OF HIS REQUEST, THE APPLICANT EXPOSES:

I. GENERAL PRESENTATION

1. The plaintiff wishes to institute a class action on behalf of persons belonging to the following group:

Main Group

All persons who have purchased or leased on a long-term basis a "white" or "pearl white" Hyundai motor vehicle;

Consumer sub-group

All natural persons domiciled in Quebec who have purchased or leased a Hyundai brand motor vehicle in the color "white" or "pearl white" on a long-term basis;

or any other group to be designated by the Court;

(The Main Group and the Consumer Sub-group are hereinafter sometimes referred to collectively as the " **Group** ". It is further understood that the Consumer Group is proposed for the sole purposes of the application of *the consumer*, CQLR, c. P-40.1, and that the members of the Consumer Sub-group are an integral part of the Main Class)

II. THE PARTS

2. The plaintiff is the owner of a Hyundai brand vehicle, Elantra model of the year 2017, white in color;
3. The plaintiff is a natural person who has purchased goods for personal use from a merchant, and is therefore a consumer within the meaning of the *Consumer Protection Act* (hereinafter " **CPA** ") and of the *Civil Code of Québec* (hereinafter " **CCQ** ");
4. Defendant Hyundai Auto Canada Corp. works in the importation and distribution of Hyundai brand motor vehicles, as appears from an extract from the Registraire des entreprises, **exhibit P-1**;
5. The defendant is moreover a manufacturer within the meaning of section 1 g) ii) of the CPA;

III. THE CAUSE OF ACTION

6. Owners of new vehicles keep their cars for an average of more than eight (8) years, of which approximately one-third of these last between eleven (11) and fifteen (15) years, as appears from the articles of Recyc- Auto and CAA, in a bundle, **exhibit P-2**;
7. The Elantra model marketed by the defendant and purchased by the plaintiff has been one of the best-selling vehicles in Canada since 2011, as appears from an article in the Journal de Montréal, exhibit P- 3 ;
8. By way of illustration, nearly 150,000 Elantras were sold in Canada between March 2016 and July 2019, as appears from Exhibit P-3;
9. As a general rule, the defendant guarantees defects affecting the paintwork of the cars it manufactures for a period of thirty-six (36) months or 60,000 km

whichever comes first, all as it appears from the warranty pages on the defendant's site, as well as the defendant's warranty guides for the years 2019 and 2021, in a bundle, exhibit P-4 ;

10. The defendant honors its warranties through a vast network of dealers who represent it with its customers within the framework of its after-sales services;
11. The purpose of paint, anti-chill primer and filler applied to cars is to protect them from corrosion, puncture and prevent paint peeling;
12. It is common knowledge that the paint coating of a vehicle has a useful life that exceeds by several years the basic warranties and/or the extended warranties offered by the manufacturers;
13. However, in recent years, a phenomenon of detachment by patches in Hyundai brand vehicles, more particularly in "white" or "pearl white" color, and even more particularly at roof level, has been observed everywhere in America. of the North, in particular in the United States, as appears from the copies of articles and blogs, in a bundle, **exhibit P-5**;
14. For example, Toyota recently increased the term of its base protection from four (4) years to fourteen (14) years in response to the occurrence of paint chipping issues on vehicles with "blizzard" paints. pearly" or "super white" due to a manufacturing defect, as appears from an article in Guide Auto and from a Technical service bulletin, in a bundle, **exhibit P-6**;

IV. THE FACTS GIVING RISE TO THE INDIVIDUAL APPEAL OF THE PLAINTIFF AGAINST DEFENDANT

15. On June 5, 2019, the plaintiff acquired a second-hand Hyundai vehicle, model Elantra 2017 in white color bearing the serial number 5NPD74LF8HH123855, for the price of \$15,995, as it appears from the proof of registration of the Société de l'assurance automobile du Québec, **exhibit P-7**;
16. The plaintiff chose this vehicle in particular because of its visual aspect, its price and its reliability;
17. At that time, the vehicle had accumulated 26,140 km on its odometer;

18. During the inspection of the pre-purchase vehicle, it was in perfect condition, both mechanically and aesthetically, and as far as this dispute is concerned, the paint showed no signs of degradation;
19. Around September 2019, only three (3) months after the purchase of his vehicle, the plaintiff noticed for the first time that the paint of his vehicle began to peel off in patches at the level of its front hood;
20. At that time, the Plaintiff's vehicle had accumulated less than 37,000 km at its odometer;
21. On or around October 22, 2019, the Plaintiff therefore went to his dealership, Albi Hyundai Mascouche, to have his paint problem examined;
22. During this visit, the plaintiff met with a service advisor, who noted the problem, namely the peeling and peeling of the paint along the length of the hood, on an area of four inches by one inch (4 in. x 6");
23. The service advisor took photos of the plaintiff's vehicle and the dealer then forwarded the repair request to the defendant, as appears from the appointment sheet, exhibit P-8 ;
24. A few weeks later, the plaintiff was notified by the dealer that his request had been accepted by the defendant and that he would repair his vehicle;
25. On or around November 29, 2019, the plaintiff took back his repaired vehicle, at the defendant's costs;
26. In the summer of 2022, the Applicant noticed that the problem he had previously observed on the front hood of his vehicle was now appearing in other places, notably on the left front fender and on the roof of the vehicle, near the windshield, as it appears from the photos, in a bundle, **exhibit P-9**;
27. In fact, the paint was peeling when the plaintiff was only passing his finger on the affected parts;
28. In July 2022, the plaintiff then went again to his dealership to advise him of this fact;

29. Ultimately, the technical advisor informed the plaintiff that a new request would be sent to the defendant and that he would inform the plaintiff whether another repair was possible at the defendant's expense;
30. A few weeks later, having received no follow-up from the technical advisor, the plaintiff contacted Mr. Patrick Roy, director of operations at Albi Hyundai Mascouche;
31. During a telephone discussion that lasted thirty (30) minutes, Mr. Roy told the plaintiff that the request was refused because the warranty on the paint had expired;
32. Mr. Roy indicated that it was the defendant who had the last word, even if the warranty had expired, and then invited the plaintiff to submit a motion to new;
33. Thus, on or around September 22, 2022, the plaintiff contacted the defendant's customer service (file number #20349990) to confirm Mr. Roy's statements;
34. During this appeal, a representative of the defendant confirmed that it will not repair not his vehicle, because the warranty had expired;
35. On or around September 27, 2022, the plaintiff returned to his dealership to make another request, as appears from the appointment sheet, **exhibit P-10**;
36. Subsequently, the plaintiff had no news from his dealer, and this, while the paint of his vehicle continued to deteriorate month after month;
37. On March 1 , 2023, the plaintiff decided to contact the defendant's customer service to follow up on this new request (file number #21080631);
38. The agent was unable to give the Applicant a clear answer and told him that he would call the Applicant back the next day;
39. Having heard nothing, the Plaintiff called the Defendant's customer service several times, in particular on March 3, 2023, and the latter informed the Plaintiff that the Defendant had refused his request in September 2022 and To

reiterated that the defendant had no intention of repairing the plaintiff's vehicle;

40. On April 24, 2023, the plaintiff consulted a mechanic who noted the deterioration of the paint in several places as well as the presence of rust;
41. The latter assessed the repair work at \$4,581.52, as appears from the tender of Fix Auto Terrebonne, **exhibit P-11**;
42. In addition, according to the mechanic, the problem is a paint defect;
43. During the evaluation of his vehicle, the plaintiff was able to benefit from a courtesy vehicle, namely a white Hyundai Elantra 2017 model;
44. However, this vehicle also had paint degradation problems, in particular on the front hood of the vehicle, as appears from the photos, in the bundle, **exhibit P-12**;
45. As of the date of filing of this application, an area of paint approximately eleven (11) inches by six (6) inches has peeled off the covering of the roof of the applicant's vehicle, as appears from the photographs showing the condition of the vehicle on the date of filing of this application, in a bundle, **exhibit P-13**;
46. However, the plaintiff expects the entire surface of the roof of his vehicle to be taken off by the end of the year;
47. The plaintiff notes that the peeling of the paint harms the aesthetic appearance of his vehicle, but, in addition, makes it considerably more susceptible to premature deterioration by corrosion;
48. The plaintiff considers that it is unreasonable that the coating of his vehicle shows generalized degradation after five (5) years and 75,000 km of use, when he has always maintained his vehicle well since its purchase. ;
49. In fact, paint degradation in the vehicles covered by this action occurs prematurely compared to the vast majority of vehicles of the same age that were built by the defendant or by other manufacturers;
50. The speed of degradation of the paint and its generalized extent go beyond what constitutes normal wear and in no way meet the legitimate expectations of consumers, in particular the plaintiff, taking into account in particular

the value of the property acquired;

51. Plaintiff searched the Internet and found a Facebook group made up of hundreds of consumers who had experienced the same paint plate peeling problem on other Hyundai brand models, as it appeared that a excerpt from the Facebook page, **Exhibit P-14**;
52. By way of illustration of the widespread nature of this phenomenon, the plaintiff also drew up a list of potential members, including three (3) owners of the white 2017 Elantra model, **exhibit P-15**;
53. The plaintiff was not informed at the time of the purchase of his vehicle, that the paint of this one could peel off or degrade prematurely, as well as the other consequences which could ensue from it;
54. Moreover, to date, no recall or information campaign has been carried out by the defendant to inform the public, owners, lessees or dealers selling the models affected by the defect that there was a problem with premature paint degradation on these vehicles;
55. The plaintiff would not have bought or given such a high price for his vehicle if he had been informed of the existence of this problem which directly affects the quality of the good, the visual appearance and the life expectancy of the vehicle. a vehicle being important elements in the applicant's decision to purchase the vehicle;
56. Indeed, the plaintiff would have shopped for another vehicle or would have asked for a lower cost, taking into account the possible work that he would have to perform and the lesser quality of the vehicle;
57. The plaintiff is entitled to claim compensatory damages in reimbursement, damages and a reduction of his obligation, for the violation of articles 37, 38, 53 and 228 of the Lpc, as well as articles 1726 and 1730 of the CCQ, in addition to punitive damages under the terms of section 272 Lpc;

V. THE FACTS GIVING RISE TO INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE CLASS AGAINST THE DEFENDANT

58. The causes of action and the legal bases of the recourses of each of the members of the Class against the defendant are essentially the same as those of the plaintiff;

59. Each Class member purchased or leased a “white” or “pearl white” Hyundai brand vehicle;
60. The obligations of the defendant as well as the faults and breaches committed by the latter with respect to the members are the same as those committed with respect to the plaintiff, which are detailed below;
61. The degradation of the paint coatings on the vehicles of the members of the Group occurred prematurely compared to what they could reasonably have expected, and this, in contravention of the legal guarantee of quality;
62. Moreover, the members of the Consumer Sub-group were never informed by the defendant of the poor quality of the paint coating, even though this is an important fact within the meaning of the Lpc
63. As a result of these faults and breaches, each member of the Class suffered the same type of damage, for which each member is entitled to obtain compensation from the defendant;
64. More specifically, each member of the Group is entitled to claim compensation to repair or compensate for the material damage caused to their vehicles;
65. In addition, the members of the Consumer Sub-group are entitled to claim a partial reimbursement of their vehicle for the violation of article 228 Lpc, as well as punitive damages in accordance with article 272 Lpc
66. The claimant is not, however, in a position to assess the overall amount of the damage suffered by all members of the Group;

VI. THE REQUIRED CONDITIONS FOR THE EXERCISE OF AN ACTION

COLLECTIVE

a) Identical, similar or related questions of fact and law

67. The issues linking each member of the Class to the Defendant and which the Plaintiff intends to have the class action resolved are as follows:
 - a) Are the Elantra, Sonata, Santa Fe, Sorento, Accent and Genesis paint coatings in "White" or "Pearl White" affected with a latent delamination problem?

- b) Did the defendant breach the defendant's warranty of quality, warranty of use or warranty of durability within the meaning of the *Civil Code of Quebec* and the *Consumer Protection Act* because of this problem?

- c) Did the defendant commit a prohibited practice by ignoring an important fact within the meaning of the *Consumer Protection Act*, namely that its products are affected by problems of paint peeling that could affect the use, resale value and/or vehicle durability?

- d) Are the plaintiff and the members of the Class entitled to obtain compensation in connection with these shortcomings?
 - i. Are the members of the Class entitled to claim reimbursement from the defendant for the repair costs assumed or estimated in order to correct the paint problem?

 - ii. Are the members of the Group entitled to claim from the defendant reimbursement of the costs of surrender paid to the lessor at the end of a long-term rental agreement on the grounds of excessive wear and tear?

 - iii. Are the members of the Consumer Sub-group entitled to claim from the defendant a reduction in the sale and/or rental price of their vehicles in connection with the prohibited practice committed?

 - iv. Are the members of the Consumer Sub-group entitled to claim punitive damages from the defendant in connection with breaches of the *Consumer Protection Act*?

- e) What is the amount of damages to which the plaintiff and the members of the Group are entitled?

68. Each of the above questions does not require any individual analysis and is likely to lead to an answer that will benefit all members of the Group;

B. The facts alleged justify the conclusions sought

69. The plaintiff and the members of the Group have an action for latent defect meaning of the CCQ in connection with the facts raised in this application;
70. In this regard, the main provisions applicable to this case are articles 1726, 1729 and 1730 CCQ;
71. The delamination of the paint affecting the vehicles manufactured by the defendant is a serious defect which makes it unfit for its intended use and which diminishes its usefulness so much that the buyer would not have bought it;
72. Indeed, the plaintiff and the members of the Group are entitled to expect that the defendant will provide them with a vehicle whose bodywork is covered with a durable and properly applied coat of paint, free from visual imperfections, and allowing protection of the vehicle body against wear and corrosion under normal use, for a reasonable period of time;
73. However, the premature deterioration of the paint constitutes a serious defect in that it alters the visual appearance of the vehicle, thus reducing the enjoyment of its user, and negatively affects the durability and the market value of the good, making it vulnerable to various forms of wear;
74. Moreover, this degradation occurs prematurely compared to vehicles from other manufacturers with the same number of years of use under comparable conditions;
75. Moreover, the problem of deterioration of the paint does not result from the normal wear and tear of the item;
76. The paint defect in dispute is moreover concealed, as it could not and could not be detected by an ordinary examination at the time of acquisition, neither by the plaintiff nor by the members of the Group. ;
77. Finally, although the delamination often appears after the purchase of the vehicles in dispute, it stems from a latent defect already affecting the vehicles in dispute at the time of purchase;
78. As a manufacturer, the defendant is presumed to know of the existence of the defect affecting the vehicles purchased by the members of the Group;

79. Moreover, unlike the Defendant, the Plaintiff and the members of the Group are presumed to act in good faith and to have no knowledge of the defect;
80. However, the plaintiff and the other members of the Group were at no time informed of this defect by the defendant and the defect therefore remained unknown to them at the time of the purchase;
81. In another vein, the plaintiff and most of the members he identified are members of the Consumer Subgroup and therefore benefit from the additional protection offered by the CPA;
82. In fact, under the terms of section 262 Lpc, the Lpc is a law of public order and the consumer cannot waive the rights conferred on him by this law;
83. One of the main objectives of the Lpc is to rebalance the balance of power between consumers and merchants, in particular by offering consumers additional recourse to recourse for latent defects under ordinary law and by recognizing their right to benefit from complete information before procuring a good or service;
84. From this perspective, the main provisions applicable to this case are articles 37, 38, 53, 54 and 228 Lpc;
85. Thus, in any event, and without limiting the foregoing, the defendant's conduct constitutes a fault engaging its liability under the CPA and the CCQ, in particular in that it:
 - a) has not fulfilled its guarantee of quality, its guarantee of use and its guarantee of durability, and this, by supplying consumers with goods affected by a serious defect and which cannot be used for the use for which it is intended for a reasonable period, having regard to its price and the normal conditions of use of the good;
 - b) did not inform the members of the Consumer Sub-Group of the existence of known defects and/or shortcomings with respect to the durability and quality of the components of the paint coating of its vehicles, even though if they had been made aware of this deficiency, they would not have agreed to pay such a high price for the purchase or lease of their vehicle or would have considered obtaining another model or another brand of vehicle;

86. The plaintiff and the members of the Group also benefit from numerous legal and jurisprudential presumptions in support of their action, among others, the absolute presumption of damage in article 272 Lpc, the presumption of knowledge of the defect by the manufacturer of the article 53 para. 3 Lpc, and the presumption of anteriority of the defect of article 1729 CCQ;
87. As a result of the faults and breaches committed by the defendant, the plaintiff and the members of the Group have suffered and continue to suffer damages;
88. The damages suffered by the plaintiff and the members of the Group all result from premature deterioration of their vehicle in relation to their reasonable lifespan, taking into account the price and the normal conditions of use of the property, and as regards the members of the Consumer sub-group more specifically, the defendant's omission to disclose to them an important fact relating to the quality of the goods sold;
89. The plaintiff and the members of the Consumer Sub-class are also justified in claiming punitive damages since the defendant adopted a lax and passive attitude, even a behavior of ignorance, recklessness or serious negligence with regard to his rights as well as those of the other members of the Group;
90. The punitive damages provided for in section 272 of the CPA have a preventive objective, namely to discourage the repetition of such undesirable conduct;
91. In this case, the defendant knowingly marketed products of poor quality, for several years, and at prices disproportionate to their quality, all without informing consumers of the latent defect affecting their products;
92. However, despite complaints from consumers over time, the defendant failed to modify its business practices, whether by correcting the quality of its products, by lowering the price of its vehicles, or even simply by properly informing the consumers of the actual quality of its products, which indicates an attitude of ignorance, recklessness or serious negligence with regard to consumer rights;
93. Failures depriving consumers of their right to complete information are moreover serious, particularly when they concern an element as essential to the contract as the quality of the goods sold and their premature deterioration;

94. The defendant has the means and the ability to properly inform consumers in a timely manner, but voluntarily chooses to ignore an important fact, being more concerned about its image and its sales, all in violation of the Lpc;

95. All in all, the plaintiff and the members of the Group are therefore entitled to claim from the defendant:

a) Compensatory damages in reimbursement:

i. costs incurred or estimated to prevent, limit and/or correct the paint deterioration phenomenon; and or

ii. handover fees paid to the lessor at the end of a long-term lease for excessive wear and tear related to the paintwork of the leased vehicle;

(b) A reduction in their obligations for the defendant's failure to disclose a material fact;

c) Punitive damages in connection with the defendant's breaches of its obligations under the CPA;

C. The composition of the Group makes it difficult or impractical to apply articles 91 or 143 CCP

96. The composition of the Group makes it difficult or impractical to apply the rules on the mandate to sue on behalf of another person or on the joinder of proceedings for the reasons set out below;

97. The plaintiff estimates that several hundreds, even thousands of people spread over the entire territory of the province of Quebec, including those submitted in the sample, exhibit P-15, suffered premature damage to the paint of their vehicle. as described herein;

98. The same applies to the persons who purchased the vehicles covered by the action;

99. The plaintiff has also joined several members of the Group who are part of the Facebook group specifically targeting people who have suffered paint problems on their Hyundai brand vehicles;

100. At the time of writing this application, this group has two hundred seventy-six (276) members;
101. Several of them testified to the effect that they suffered the same damages as the plaintiff and expressed an interest in this class action;
102. However, it is impossible and impracticable for the plaintiff to identify and trace all the members of the Group so that they can join in the same legal action, because he obviously does not have access to a list of owners of vehicles manufactured by the defendant;
103. It would be equally impossible and impractical for the plaintiff to obtain a warrant or a proxy from each of the members of the Group;
104. It would also be impractical and contrary to the interests of the sound administration of justice and to the spirit of the *Code of Civil Procedure* for each of the potential members to bring an individual action against the defendant;
105. Indeed, the cost of the individual shares of each of the members of the Group would be disproportionate to the claims of those actions;
106. Thus, the class action is the most appropriate procedural vehicle to allow each of the members of the Group to assert their claim arising from the facts alleged in this application;

D. Applicant is able to ensure adequate representation of members

107. The plaintiff is able to ensure adequate representation of the members of the Class and therefore requests that the status of representative be granted to him, for the reasons set out below;
108. Plaintiff is a member of the Class and holds personal interests in the research of the conclusions that it proposes;
109. The plaintiff has jurisdiction, in that he would have had the potential to be mandatory of the action if he had proceeded under article 91 of the *Code of Civil Procedure*;
110. There is no conflict between the interests of the applicant and those of the members of the Band;

111. The applicant has an excellent knowledge of the file and understands fully the nature of the action he is undertaking;
112. The plaintiff himself was the victim, in particular, of the delamination of the paint on his Hyundai brand vehicle, having consequently personally suffered the breaches alleged by the defendant and the damages detailed in the present application;
113. The plaintiff took steps to initiate this class action after noting that the paint peeling phenomenon was widespread and after having already identified several members of the Class;
114. The plaintiff transmitted to his lawyers all the information relevant to the present application at his disposal and instructed them to try to identify more members;
115. The plaintiff also undertakes to continue to cooperate fully with his lawyers and to make himself available so that the outcome of the class action is positive for all the members;
116. Plaintiff is willing to devote the time required to properly represent the members of the Class in this class action, both at the authorization stage and at the merits stage;
117. In drafting this Application, the Applicant has demonstrated great availability to its lawyers;
118. Plaintiff intends to honestly and loyally represent the interests of the members of the Group;
119. The Plaintiff demonstrates a keen interest in this case and expresses the desire to be kept informed at each stage of the process;
120. The Plaintiff is therefore in an excellent position to adequately represent the members of the Class in the context of the proposed class action;
121. It is therefore appropriate to authorize the exercise of a class action on behalf of the members of the Group;

VII. THE NATURE OF THE ACTION

122. The nature of the remedy that the plaintiff intends to exercise against the defendant on behalf of the members of the Group is:

An action for damages and reduction of obligations

VIII. Sought conclusions

123. The conclusions sought are:

- A. **GRANT** the plaintiff's action on behalf of all members of the group;
- B. **CONDEMN** the defendant to pay to each of the members of the Class a sum corresponding to the amount of the work paid or estimated for the repair of the damage suffered by their vehicle by the delamination of the paint, the difference between the sale price of the vehicle and the diminished value of the vehicle, and/or the costs of handing over paid to the lessor at the end of a long-term rental contract on the grounds of excessive wear and tear due to the peeling of the paint or one of its components with interest at the legal rate plus the additional indemnity provided for in article 1619 of the *Civil Code of Québec*, as of the date of service of this application;
- C. **CONDEMN** the defendant to pay to each of the members of the Class an amount to be determined as damages for breach of the obligation to inform, with interest at the legal rate plus the additional indemnity provided for in article 1619 of the *Civil Code of Québec*, from the date of service of this application;
- D. **CONDEMN** the defendant to pay to each of the members of the Class an amount to be determined as punitive damages, with interest at the legal rate plus the additional indemnity provided for in article 1619 of the Civil Code of Quebec, *and this* , from the date of the judgment to be rendered;
- E. **ORDER** that the claim of each member of the Class be individually liquidated;

F. **CONDEMN** the defendant to any other appropriate remedy deemed fair and reasonable;

G. **CONDEMN** the defendant to pay legal costs, including the costs of experts and publication of notices to members;

IX. JUDICIAL DISTRICT OF CLASS ACTION

124. Plaintiff proposes that the class action be brought before the Superior Court sitting in the district of Montreal for the following reasons:

- a) Due to demographics, the majority of members of the Group probably resides in the judicial district of Montreal;
- b) The plaintiff's lawyers have their offices in this judicial district;
- c) The Superior Court of the judicial district of Montreal has a chamber dedicated to class actions, comprising judges with experience in the management of this type of file;

FOR THESE REASONS, MAY IT PLEASE THIS HONORABLE COURT:

GRANT the Applicant's present request;

AUTHORIZE the exercise of the collective action described below:

An action for damages and reduction of obligations;

ATTRIBUTE to **MICHEL ALLARD** the status of representative for the purpose of exercising the class action on behalf of the Group of persons described below:

Main Group

All persons who have purchased or leased on a long-term basis a "white" or "pearl white" Hyundai motor vehicle;

Consumer sub-group

All natural persons domiciled in Quebec who have purchased or leased a Hyundai brand motor vehicle in the color "white" or "pearl white" on a long-term basis;

or any other group to be designated by the Court;

IDENTIFY the main issues of fact and law that will be dealt with collectively as follows:

- a) Are the Elantra, Sonata, Santa Fe, Sorento, Accent and Genesis “white” or “pearl white” paint coatings affected by a latent delamination problem?
- b) Did the defendant breach the defendant's warranty of quality, warranty of use or warranty of durability within the meaning of the *Civil Code of Quebec* and the *Consumer Protection Act* because of this problem?
- c) Did the defendant commit a prohibited practice by ignoring an important fact within the meaning of the *Consumer Protection Act*, namely that its products are affected by problems of paint peeling that could affect the use, resale value and/or durability of the vehicle?
- d) Are the plaintiff and the members of the Class entitled to obtain a remedy in connection with these breaches?
 - i. Are the members of the Group entitled to claim reimbursement from the defendant for the repair costs assumed or estimated in order to correct the paint problem?
 - ii. Are the members of the Group entitled to claim from the defendant reimbursement of the costs of surrender paid to the lessor at the end of a long-term rental agreement on the grounds of excessive wear and tear?
 - iii. Are the members of the Consumer Sub-group entitled to claim from the defendant a reduction in the sale and/or rental price of their vehicles in connection with the prohibited practice committed?
 - iv. Are the members of the Consumer Sub-group entitled to claim punitive damages from the defendant in connection

with breaches of the *Consumer Protection Act* ?

e) What is the amount of damages to which the plaintiff and the members of the Group are entitled ?

IDENTIFY the related conclusions sought as follows:

- A. **GRANT** the plaintiff's action on behalf of all members of the group;
- B. **CONDEMN** the defendant to pay to each of the members of the Class a sum corresponding to the amount of the work paid or estimated for the repair of the damage suffered by their vehicle by the delamination of the paint, the difference between the sale price of the vehicle and the diminished value of the vehicle, and/or the costs of handing over paid to the lessor at the end of a long-term rental contract on the grounds of excessive wear and tear due to the peeling of the paint or one of its components with interest at the legal rate plus the additional indemnity provided for in article 1619 of the *Civil Code of Québec*, as of the date of service of this application;
- C. **CONDEMN** the defendant to pay to each of the members of the Class an amount to be determined as damages for breach of the obligation to inform, with interest at the legal rate plus the additional indemnity provided for in article 1619 of the *Civil Code of Québec*, from the date of service of this application;
- D. **CONDEMN** the defendant to pay to each of the members of the Class an amount to be determined as punitive damages, with interest at the legal rate plus the additional indemnity provided for in article 1619 of the Civil Code of Quebec, *and* this , from the date of the judgment to be rendered;
- E. **ORDER** that the claim of each member of the Class be individually liquidated;
- F. **CONDEMN** the defendant to any other appropriate remedy deemed fair and reasonable;

G. **CONDEMN** the defendant to pay legal costs, including the costs of experts and publication of notices to members;

DECLARE that unless excluded, the members of the Class will be bound by any judgment to intervene on the class action in the manner provided by law;

SET the exclusion period at thirty (30) days after the date of publication of the notice to the members, period at the end of which the members of the Group who have not availed themselves of the means of exclusion will be bound by any judgment to intervene;

ORDER the publication of a notice to the members of the Class according to the terms and conditions that the Court will see to determine;

REFER the case to the chief judge for determination of the district in which the class action should be brought and for designation of the judge who will be seized of it;

ORDER the clerk of this Court, in the event that this class action should be instituted in another district, to send the file, upon the decision of the chief judge, to the clerk of this other district;

THE WHOLE with legal costs, including the costs of experts and publication of notices to members.

MONTREAL, May 1 , 2023



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