

CANADA  
 PROVINCE OF QUEBEC  
 DISTRICT OF MONTREAL

SUPERIOR COURT OF QUEBEC  
 (CLASS ACTION)

No.: 500-06-000905-188

C [REDACTED] P [REDACTED]

-and-

V [REDACTED] C [REDACTED]

*Plaintiffs*

vs.

FCA CANADA INC.

*Defendant*

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**RE-AMENDED APPLICATION FOR AUTHORIZATION TO INSTITUTE A  
 CLASS ACTION  
 (Articles 574 C.C.P. and following)**

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TO (...) THE HONOURABLE JUSTICE (...) GARY D.D. MORRISON, OF THE SUPERIOR COURT OF QUEBEC, DESIGNATED TO PRESIDE OVER THE PRESENT PROCEEDINGS, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PLAINTIFFS STATE THE FOLLOWING:

**Introduction:**

1. Plaintiffs wish to institute a class action on behalf of the following Group of which they are a member:

All residents of Canada (or subsidiarily Quebec), who own, owned, lease and/or leased one or more of the Subject Vehicles, or any other Group(s) or Sub-Group(s) to be determined by the Court;

(hereinafter referred to as the "Plaintiff(s)", the "Class Member(s)", the "Class", the "Group Member(s)", the "Group");

2. Defendant is a member of the Fiat Chrysler Automobiles N.V. ("FCA") family of companies. Defendant has approximately 440 dealers and markets Chrysler, Jeep®, Dodge, Ram and FIAT brands, as well as the SRT performance vehicle

designation, and it also distributes Alfa Romeo models and Mopar products (hereinafter collectively the “**Brands**”);

3. In addition to its assembly facilities, which produce the Chrysler Pacifica, Dodge Grand Caravan (Windsor), Chrysler 300, Dodge Charger and Dodge Challenger (Brampton), Defendant operates an aluminum casting plant in Etobicoke, a research and development center in Windsor, and has sales offices and parts distribution centers throughout the country;
4. FCA is an international automotive group and the seventh-largest automaker in the world based on total annual vehicle sales. FCA is listed on the New York Stock Exchange under the symbol “FCAU” and on the Mercato Telematico Azionario under the symbol “FCA”;
5. Plaintiffs communicate herewith an extract of the Defendant’s corporate website, as **Exhibit R-1**, and a copy of the *Registraire des entreprises* (CIDREQ) report on Defendant, as **Exhibit R-2**;
6. “Subject Vehicles” means all Fiat brand vehicle models, including without limitation all Fiat 500 and Abarth models, Plaintiffs reserving their right to amend these proceedings to include any further makes or models from the Brands distributed by Defendant with similar or identical door hinge and/or door handle defects and/or malfunctions (as detailed more fully below);
7. At all material times, Defendant, directly and/or in conjunction with its related entities and/or parent companies, marketed, promoted, distributed, leased and sold the Subject Vehicles throughout Canada, including in the Province of Quebec;

**The situation:**

8. Since approximately 2011, Defendant has marketed, promoted, distributed, leased and sold the Subject Vehicles to Class Members, which were defectively designed and manufactured, namely with defective door hinges and/or defective door handle mechanisms;
9. Indeed, the door hinges and/or door handles of the Subject Vehicles are prone to stick and/or get jammed in which case the door cannot be opened from either inside or outside of the vehicle;
10. The said door handles usually first start to loosen, then get jammed shut and will finally end up breaking and falling off completely. When the handle starts to fail, the vehicle's door cannot be opened using either the automatic key or a manual key, and no amount of pulling on the handle will get the door open, whether from the inside or outside of the vehicle. This problem occurs on the driver's door, the passenger's door, or both doors;
11. This handle issue may be exacerbated by the weather, especially during cold Canadian winters. That being said, Class Members (as well as other owners or lessees of these same vehicles in other warmer countries around the world) have also experienced the same door handle failures and breaking during warm summer months as well;
12. Obviously, Defendant is and was well aware of the Canadian climate and its harsh winters when marketing and distributing the Subject Vehicles to Class Members;
13. When the door handle fails, gets jammed as mentioned or completely breaks or snaps off, the door handle must be replaced with a replacement door handle kit manufactured by Defendant (for the driver side, the passenger door, or both doors);

14. Each replacement handle costs approximately \$200 to \$400 installed, in parts and labor, plus applicable taxes. Class Members hereby claim from Defendant damages representing, and/or the reimbursement of, all amounts paid to repair or replace the Subject Vehicles' handles;
15. Finally, even if the broken handles are replaced with new replacement parts, these replacement parts manufactured by the Defendant are equally defective and the door handle failure issue is sure to reoccur again over time, as has been the case for many Class Members, including the Plaintiffs, as mentioned below;
16. If it is the driver door that jams shut due to the defect, the driver is forced to enter and exit the vehicle from the passenger side or the hatchback trunk door, which is not only embarrassing and annoying, but also a serious safety and security risk. Indeed, in case of emergency such as fire, imminent collision, accident, etc., a driver must be able to quickly exit the vehicle, which Plaintiffs and the other Class Members cannot accomplish in a timely fashion when their door handles malfunction and jam unexpectedly;
17. This important safety and security risk makes this door handle defect much more than a mere cosmetic annoyance or defect and this justifies the injunctive relief being sought herein, namely that Defendant be ordered to recall all Subject Vehicles in order to replace the doors handles (and related parts) with non-defective replacement handles and parts, failing which that Defendant be ordered to take back the Subject Vehicles and reimburse the Class Members;
18. Defendant has known about this issue for many years, since many Class Members have brought in their Subject Vehicle to Defendant's various dealers complaining of the issue and were told by Defendant's agents that there were no defects or recalls regarding the door and handle of the Subject Vehicles, that the door and/or handle simply needed lubrication, and/or that the Class Members were required to purchase new replacement door handles at their

own expense since Defendant refused to replace the broken door handles free of charge;

19. The Class Members have and/or will suffer a significant decrease in value (and/or resell value) of their Subject Vehicle unless a proper recall is announced in order to properly repair the Subject Vehicles with non-defective replacement door handles;

### **FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PLAINTIFFS**

#### **Plaintiff C [REDACTED] P [REDACTED] (hereinafter "Plaintiff P")**

20. Plaintiff P is a litigation paralegal with over 30 years of experience (not working with or otherwise affiliated to the undersigned attorneys);
21. Plaintiff P owns a 2012 Fiat 500 Lounge, vehicle identification number (VIN): [REDACTED], which is depicted in the following picture:



22. Plaintiff P purchased her said vehicle on October 19, 2017 from [REDACTED], the original and sole previous owner of said vehicle (the “**Previous Owner**”);
23. The Previous Owner had purchased the vehicle from the Fiat car dealership Trois Diamants Autos, in Mascouche, Quebec (“**Trois Diamants**”);
24. In November 2017, Plaintiff P went to Trois Diamants to effect the change of ownership in the latter’s records, for the purposes of being informed of any future communications and recall notices regarding the vehicle;
25. In mid-December 2017, as soon as temperatures lowered mildly, the door handles of Plaintiff P’s vehicle began exhibiting jamming problems, which prevented her from opening both the driver and passenger doors;
26. Unable to get into her vehicle, Plaintiff P conducted research on the Internet to find out if this was a known problem and/or how to solve the issue;
27. Plaintiff P was shocked and appalled to discover hundreds of threads and posts on online forums dedicated to the Fiat 500 door handle issue, confirming that this issue was a widespread and recurring problem;
28. Indeed, Plaintiff P discovered multiple online forum communities discussing this Fiat 500 door handle issue in Canada, USA, UK and other countries where Fiat models are sold, extracts of which are communicated herewith, *en liasse*, as **Exhibit R-3**. The following are the URL’s to the said forums that Plaintiff P found and consulted online:
  - [https://www.carcomplaints.com/Fiat/500/2013/accessories-exterior/door\\_handles\\_fell\\_off.shtml](https://www.carcomplaints.com/Fiat/500/2013/accessories-exterior/door_handles_fell_off.shtml)
  - [http://www.fixya.com/f/landing/tagspage/fiat\\_500\\_door\\_handle\\_falling?cm\\_pid=20170418&qclid=EAlalQobChMIjuDp5YDy2AIVhovlCh2CsgsTEAMYASAAEgLi1PD\\_BwE](http://www.fixya.com/f/landing/tagspage/fiat_500_door_handle_falling?cm_pid=20170418&qclid=EAlalQobChMIjuDp5YDy2AIVhovlCh2CsgsTEAMYASAAEgLi1PD_BwE)

- <http://www.fiat500usaforum.com/showthread.php?29740-door-handle-trouble>
  - <https://www.fiatforum.com/500-guides/316198-broken-door-handle-articulator-hinge-repair.html>
  - <http://www.fiat500owners.com/forum/8-fiat-500-general-discussion-forum/115897-door-handle-repair.html>
  - <http://www.abarthforum.co.uk/500-abarth/recall-on-door-handle/>
29. There are no recalls affecting Plaintiff P’s vehicle, the whole as more fully appears from the recall search results on Defendant’s website regarding Plaintiff P’s particular Vehicle Identification Number (“VIN”), communicated herewith as **Exhibit R-4**;
30. Plaintiff P also learned (as mentioned above) that once the door handle(s) are “repaired” or replaced by the Defendant or its related agents or dealerships, or via a private mechanic, the same problem will reoccur, requiring further “repairs” and/or replacements with new but equally-defective door handle mechanism kits sold by or through Defendant;
31. On December 14, 2017, unable to enter her vehicle, Plaintiff P called Defendant a first time to apprise them of her door handle issue, and to enquire about any national recall campaign regarding this widespread problem;
32. The Defendant’s representative over the telephone was dismissive of Plaintiff P’s issue, informing Plaintiff P that there has been no recall regarding the door handle issue and stating that Plaintiff “*should not believe everything she reads on the Internet*”. The representative suggested that Plaintiff P have her door handles replaced through a Fiat dealership, at Plaintiff P’s expense, of course, since the car was no longer under warranty and Fiat does not admit any liability regarding the door handle problem;
33. In the following days, the passenger door of Plaintiff P’s vehicle would

sometimes jam and sometimes open although the driver side door remained jammed shut. Plaintiff P was therefore forced to enter and exit her vehicle from the passenger door, on those few days said door would open, representing not only an embarrassing annoyance but a serious security risk as mentioned above;

34. Once seated, Plaintiff P would try to open her driver door from the inside of the vehicle, but it would not open. The interior door handle was just as jammed shut from the inside as it was from the outside, due to the defects affecting the Subject Vehicles' door and/or door handle mechanisms;
35. Considering Plaintiff P's need to drive back and forth to work and attend various personal appointments outside her regular work hours, and not being able to afford to take taxis for so many daily travels, Plaintiff P was forced to continue entering and exiting her vehicle from the passenger door, whenever possible, which as mentioned is embarrassing, annoying and hazardous. The winter months, which bring bulky clothes, snow, mud and sludge, make these maneuvers in a particularly confined space even more unpleasant and unacceptable;
36. Plaintiff P's passenger door only managed to open for a few days in mid-December 2017 until the temperatures lowered drastically again, when Plaintiff P was once again completely locked out of her vehicle;
37. Discouraged and frustrated, Plaintiff P was forced to resort to alternative means to get to and from work and appointments, namely using costly taxis;
38. On January 3, 2018, Plaintiff P once again contacted Defendant by telephone to express her outrage and to ask for Defendant to immediately repair her immobilized vehicle. The Defendant's agent named "Veronica" replied that Defendant is not responsible for the door handles issue Plaintiff P was experiencing and suggested that Plaintiff P contact her closest Fiat dealership to schedule a service appointment;



39. During this client services call, Plaintiff P obtained the Fiat Case Number 33146995 for the call, and was asked to call back while at the dealership, after the vehicle had been examined (Defendant being summoned to communicate and file all notes and documents related to Plaintiff P's vehicle in general and the above Fiat Case Number in particular);
40. On that same day of January 3, 2018, Plaintiff P immediately called Trois Diamants to obtain an urgent service appointment, which was only scheduled for January 5, 2018;
41. On January 5, 2018, Plaintiff P brought in her Fiat 500 to said dealership's service department for inspection. The said service department refused to confirm the defect and refused to replace the door handles, indicating that both door handles were functional and not broken;
42. Plaintiff P immediately voiced her anger and safety concerns related to not being able to enter and exit her vehicle on most days. The Defendant's service representative simply dismissively replied "well, we are in winter", implying that this serious door jamming issue was somehow to be expected and was acceptable during winter months (which it is not);
43. Plaintiff P then called back Defendant's representative, Veronica, while still at the Trois Diamants service department. The Trois Diamants representative spoke to Veronica using Plaintiff P's cellular telephone, and Plaintiff P heard the service representative suggesting that the door handles only needed to be lubricated, not replaced;
44. After returning the cellular telephone back to Plaintiff P, Veronica informed Plaintiff P that Defendant would not assist her with (or pay for) any current or future repairs involving the door handles, including the charges for the diagnostic work and suggested lubrication job on January 5, 2018, because Plaintiff P's vehicle is no longer under warranty and reiterating that Defendant

- does not acknowledge any manufacturer defect regarding the door handles;
45. The Trois Diamants service department therefore recommended that both door handles be lubricated (therefore acknowledging, at the very least, that the door handles in question needed such a corrective measure in order to properly function) and Trois Diamants then proceeded to said lubrications on Plaintiff P's vehicle, indicating to Plaintiff P that she was being charged the labor for the diagnostic and lubrication work (...) to the door handles as well as the labor charges for another unrelated repair to the trunk area of the vehicle (...). In this regard, the Trois Diamants agent indicated to Plaintiff P that he was validly charging her for the diagnostic and labor charges associated with the lubrication work since her vehicle was not under warranty. Plaintiff P therefore had no other choice but to pay the total amount requested by Trois Diamants on January 5, 2018 for said lubrication work on the door handles and for the unrelated repair to the trunk areas of the vehicle;
46. The very next day, the problem reoccurred on both doors of Plaintiff P's vehicle, Plaintiff P not being able to open either door;
47. On January 7, 2018, Plaintiff P contacted the Previous Owner to inquire whether she had ever experienced problems with the door handles and the Previous Owner confirmed for the first time that she had indeed experienced the same problem;
48. In fact, the Previous Owner indicated that she had been forced to change the driver-side door handle, with original parts manufactured by the Defendant but installed by her private mechanic, approximately 3 ½ years prior, after the door handle had broken off in her hand. The Previous Owner also confirmed that the passenger door handle had also broken off and that she had similarly changed it in February 2016;
49. On January 16, 2018, Plaintiff P called and left a message for the same Trois Diamants service representative with whom she had dealt with on January 5,

2018, in order to once again discuss the defective door handles and her continued inability to use her car;

50. On January 17, 2018, the Trois Diamants service representative called Plaintiff P back and refused to replace the door handles, unless Plaintiff P herself paid for the repairs, the whole notwithstanding the previous failure of the lubrication of the doors;
51. Plaintiff P was thereafter not been able to use her vehicle on any regular basis, especially during the very cold winter months. She has already incurred over \$200 in unexpected taxi and metro travel expenses, *sauf à parfaire*, for which she holds Defendant fully liable;
52. On January 17, 2018, Plaintiff P created a Facebook page pertaining to this Fiat door handle issue and was immediately contacted by many other Class Members experiencing the same issues and door handle failures, the whole as more fully appears from extracts of said Facebook page, communicated herewith as **Exhibit R-5**, *en liasse*;
53. In this regard, Plaintiff P was able to compile a list of twenty-four (24) Class Members, all experiencing the same door jamming problems and/or door handles breaking or snapping off in their hands, some of whom have provided their contact information, vehicle model, pictures, and certain comments as to when their door handles failed or broke and when they had them replaced, the whole as more fully appears from Plaintiff P's said list of Class Members and pictures, communicated herewith, as though recited at length herein, **confidentially and under seal for privacy concerns**, as **Exhibit R-6**;
54. As appears from Exhibit R-6, Class Members have experienced the same failing door handle defect at different times, and some at multiple times, whether during summer months or winter months, and some experienced the problem earlier in their ownership of the vehicle and some very recently;

55. Had Plaintiff P and the Class Members known of this serious design defect and serious safety issue, they would not have purchased or leased their Subject Vehicles;
56. As mentioned, the value and resell value of the Subject Vehicles has and will be negatively affected by this unresolved and serious defect;
57. On January 21, 2018, Plaintiff P noticed a Subject Vehicle parked in a commercial parking lot with a broken door handle (as stated above). Plaintiff P does not know who owns or leases that particular vehicle, but she took the following picture in order to further fulfil her burden herein:



58. Plaintiff P is clearly concerned and troubled by the discoveries mentioned above, propelled by her ongoing and still unresolved door handle issues. She therefore contacted the undersigned attorneys in order to institute the present class action proceedings on Plaintiff P's behalf and on behalf of the Class Members;
- 58.1. Following the institution of the present proceedings, namely on or about May 3, 2018, Plaintiff P mandated her local garage to repair her broken driver-side door handle, which had already been replaced in the past by the Previous

Owner. The problem emanated from a faulty interior mechanism, which required partial replacement of said door handle's interior mechanism. The garage purchased a used door handle part and installed it for a total cost of \$220 paid by Plaintiff P (namely \$120 for the replacement part and \$100 for the labor, taxes included), which Plaintiff P hereby further claims from Defendant;

58.1.1. Since mid-December 2017, Plaintiff P ceased to regularly use her Subject Vehicle since she feared for her security and safety as a result of the above-mentioned defects;

58.1.2. She therefore purchased another used automobile (a 2010 Mini Cooper S) to be used as her primary vehicle, since Defendant was continuing to refuse to properly repair or recall the Subject Vehicles;

58.1.3. Plaintiff P would nonetheless start and drive her Subject Vehicle for a few minutes approximately once per month, in order to run the motor, avoid rust accumulation on the brakes and to ensure proper circulation of the vehicle's fluids;

58.1.4. Plaintiff P's Subject Vehicle always remained parked outdoors, although underneath a "tempo" type shelter;

58.1.5. On March 16, 2019, Plaintiff P, intending to clean and drive her Subject Vehicle for her monthly short spin around her neighbourhood in order to upkeep the road-worthiness of the vehicle, noticed that the driver-side door handle of her Subject Vehicle had become unhinged, the whole as depicted in the following two (2) photographs that Plaintiff P took that day;



58.1.6. A few days later, on March 19, 2019, Plaintiff P made a video showing the state of her Subject Vehicle, which video is communicated herewith, as **Exhibit R-13**;

58.1.7. On March 28, 2019, Plaintiff P's common law spouse brought Plaintiff P's Subject Vehicle back to Trois Diamants for an inspection of the malfunctioning driver-side door handle;

58.1.8. The Trois Diamant service representative confirmed to Plaintiff P's spouse that he has seen many similar Subject Vehicles with the same malfunctioning or broken door handle problem and that this is a recurrent issue plaguing these types of Fiat vehicles. He further added that they had attempted to pressure Fiat to recall the Fiat vehicles in question, but that Defendant flatly refused;

58.1.9. The Trois Diamant mechanic inspected Plaintiff P's Subject Vehicle and confirmed that the driver-side door handle was broken and needed to be replaced completely, quoting a total of \$281.41 in parts, labor and taxes in order to complete said repairs, the whole as more fully appears from a copy of the "cotation de service" issued on March 28, 2019 by Trois Diamant, communicated herewith, as **Exhibit R-14**, Defendant being summoned to file the full reports and notes of that service visit;

58.1.10. Plaintiff P has not yet conducted the driver-side door handle replacement in question considering that (1) this replacement would already represent a second replacement of the driver-side handle in less than 3 years, (2) the significant costs involved, and (3) such a "repair" will surely not resolve the actual defects affecting her Subject Vehicle, as more fully detailed above. Plaintiff P holds Defendant liable for all future repair costs to be disbursed in order to replace and repair the door handles of her Subject Vehicle;

58.1.11. Considering all of the above, Plaintiff P claims additional damages for loss of time, inconvenience and embarrassment, in an amount to be determined by the Court;

**Plaintiff V [REDACTED] C [REDACTED] (hereinafter "Plaintiff C")**

58.2. Plaintiff C works as a manager and consultant in various industries and has a law degree from the Université du Québec à Montréal, although she does not practice law;

58.3. Plaintiff C owns a 2012 Fiat 500 Lounge, vehicle identification number (VIN): [REDACTED], which is depicted in the following picture (originally put in use on or about August 24, 2012 but purchased by Plaintiff on September 15, 2014):



58.4. There are no recalls affecting Plaintiff C's vehicle, the whole as more fully appears from the recall search results on Defendant's website regarding Plaintiff C's particular Vehicle Identification Number ("VIN"), communicated



herewith as **Exhibit R-7**;

- 58.5. Approximately three (3) months after purchasing her vehicle, namely in December 2014, the driver-side door handle of Plaintiff C's vehicle broke off completely. She proceeded to the nearest certified Fiat dealership and service center, namely Élite Chrysler Jeep Inc. in Sherbrooke, Québec (hereinafter "Élite"), which is approximately a one (1) hour drive away from her residence;
- 58.6. Although still under the original warranty, the service representative at Élite refused to replace Plaintiff C's broken driver-side door handle stating that he had contacted Defendant who had refused to approve said repair under warranty;
- 58.7. Plaintiff C therefore had no other choice but to pay approximately \$200 to Élite, *sauf à parfaire*, in parts and labor, the whole in order to replace the broken driver-side door handle. Plaintiff did not retain a copy of the receipt for said service visit and Defendant is being summoned to communicate and file all notes, reports and documents related to Plaintiff C's vehicle in general and the above 2014 door handle replacement in particular. Plaintiff C claims said amount from Defendant;
- 58.8. In October (...) 2015, the same drive-side door handle which had already been replaced in 2014 failed and broke off again. This time, Plaintiff C called Defendant directly whose representative told her to go back to Élite after making an appointment, in order to have the vehicle inspected and diagnosed (...). However, Defendant's representative refused to approve the repair for free under warranty during said call;
- 58.8.1. On October 5, 2015, Plaintiff C brought her Subject Vehicle back to Élite for inspection. Élite inspected Plaintiff C's Subject Vehicle and confirmed that the driver-side door handle was indeed broken and needed to be replaced. Élite

charged Plaintiff C \$26.72 for said inspection and diagnosis and refused to replace the door handle for free, the whole as more fully appears from the Élite invoice of October 5, 2015, communicated herewith as **Exhibit R-15**. Plaintiff C claims said amount from Defendant;

58.9. Plaintiff C (...) contacted Élite thereafter to make the required service appointment in question. She brought in her vehicle on November 16, 2015 to have the same driver-side door handle replaced again. Although Plaintiff C asked for said repair to be conducted for free, the service representative at Élite refused after contacting Defendant. Plaintiff C therefore had no other choice but to pay Élite the total sum of \$232.52, in parts, labor and taxes, in order to have the driver-side door handle replaced, the whole as more fully appears from the Élite receipt dated November 16, 2015 together with the proof of payment thereof, communicated herewith, *en liasse* (...), as **Exhibit R-8**;

58.10. Plaintiff C immediately sent a demand letter to Defendant claiming the reimbursement of the \$232.52 paid on November 16, 2016 as per Exhibit R-8. Plaintiff has not retained a copy of said demand letter and Defendant is summoned to file a copy of same into the Court record;

58.11. By letter dated November 19, 2015, Defendant responded to Plaintiff C's demand letter and reimbursed the full amount of \$232.52 to Plaintiff C, the whole as more fully appears from Defendant's November 19, 2015 letter, communicated herewith as though recited at length herein, as **Exhibit R-9**;

58.12. Defendant's R-9 letter illegally states that the door handles on the Subject Vehicles are only covered by warranty for either 3 years or 60,000 kilometers, which ever comes first, notwithstanding the fact that Defendant had refused to replace Plaintiff C's broken door handle while the vehicle was still under the warranty in 2014, as detailed above;

- 58.13. As mentioned above, a broken and malfunctioning door handle represents a serious security and safety risk and Defendant should be ordered to recall the Subject Vehicles as detailed herein;
- 58.14. In March 2016, namely only four (4) months after the November 15, 2015 driver-side door handle replacement in question, the replacement door handle failed and broke off again;
- 58.15. Plaintiff C immediately called Defendant directly to inform Defendant and request a free and proper repair. Defendant's representative unequivocally refused to repair and replace the broken door handle;
- 58.16. Plaintiff proceeded to make an appointment with Élite and proceeded to have Élite repair the broken driver-side door handle on March 15, 2016 at a total approximate cost of \$195.97 in parts, labor and taxes, the whole as more fully appears from the Élite receipt dated March 15, 2016 together with the proof of payment thereof, communicated herewith, *en liasse* (...), as **Exhibit R-10** (...);
- 58.17. During said March 15, 2016 service appointment, Plaintiff C requested that Defendant replace the same broken door handle for free and the Élite representative refused indicating that Defendant had not authorized the repair under warranty;
- 58.18. As appears from the Exhibits R-8 and R-10 receipts, the same replacement part bearing number 68069942-AC (*poignée* 23-014-010) was installed on both visits, although Élite charged Plaintiff C different amounts in parts and labor for some unknown reason;
- 58.19. The R-10 receipt also indicates the following: "*Dossier chez Chrysler : 28869680*", Defendant being summoned to communicate and file a full copy

of said file as well as all notes, documents, reports, correspondence and/or recordings regarding Plaintiff C and concerning her Subject Vehicle since it was first put in use in 2012;

58.19.1. Plaintiff C sent a demand letter to Defendant claiming the reimbursement of the \$195.97 paid on March 15, 2016 as per Exhibit R-10. Plaintiff has not retained a copy of said demand letter and Defendant is summoned to file a copy of same into the Court record;

58.19.2. Upon receipt of said demand letter, Defendant reimbursed the full amount of \$195.97 to Plaintiff C;

58.20. Following the March 15, 2016 driver-side door handle replacement (R-10), the same door handle failed and broke off again in February 2017. Plaintiff C once again immediately called Defendant directly to inform Defendant and request a free and proper repair. Defendant's representative once again unequivocally refused to repair and replace the broken door handle;

58.21. This time, in order to save costs and faced with Defendant's repeated and abusive refusals to properly repair her vehicle, Plaintiff C mandated her private mechanic to order the original door handle replacement part from Élite directly, at a total cost of \$95.66, the whole as more fully appears from the Élite receipt dated February 9, 2017 together with the proof of payment thereof by Plaintiff directly, communicated herewith, *en liasse* (...), as **Exhibit R-11**. Plaintiff C claims said amount from Defendant. The said part was installed for free by Plaintiff C's private mechanic (which happens to be her father);

58.22. Finally, there have been several instances since 2013 when the passenger-side door handle of Plaintiff C's vehicle would fail to operate properly as well, although never breaking off, Plaintiff C being unable to open the passenger door during these instances. When these malfunctions would occur at the

same time as driver-side door handle failures, which occurred on several days over the years (especially on very cold days), Plaintiff C was forced to enter her vehicle via the hatchback trunk, which is obviously embarrassing and inconvenient, or forced to use another vehicle such as a rental car. Plaintiff C claims damages from Defendant in this regard as well;

58.23. As at the date of the Amended Application for Authorization dated November 26, 2018, the (...) said passenger-side door handle of Plaintiff C's vehicle (...) was malfunctioning again and also starting to unhinge on the right side of the handle. It was (...) barely holding on to the vehicle and Plaintiff C alleged that it would (...) surely break off completely in the future, the whole as depicted in the following picture of said door handle taken by Plaintiff C on November 26, 2018 (Plaintiff reserving her right to claim additional damages and repair costs in this regard as well):



58.23.1. Thereafter, in early March 2019, Plaintiff C noticed that both her Subject Vehicle's door handles were unhinging and malfunctioning;

58.23.2. Plaintiff C therefore made an appointment to return to Élite for an inspection, which was scheduled for March 18, 2019;

58.23.3. On March 18, 2019, Plaintiff C therefore returned to Élite to have her

Subject Vehicle inspected and diagnosed;

58.23.4. Élite indeed confirmed that both door handles were broken and recommended that they both be replaced, the whole as more fully appears from the Élite report dated March 18, 2019, communicated herewith as **Exhibit R-16**;

58.23.5. On March 18, 2019, Élite's service representative verbally quoted Plaintiff C the total amount of \$443.90 in parts, labor and taxes in order to replace the two (2) broken door handles on Plaintiff C's Subject Vehicle. Defendant is summoned to file the full reports and notes of that service visit;

58.23.6. Plaintiff C has not yet conducted the two (2) door handle replacements in question considering the significant costs involved and considering that such a "repair" will surely not resolve the actual defects affecting her Subject Vehicle, as more fully detailed above. Plaintiff C holds Defendant liable for all future repair costs to be disbursed in order to replace and repair the door handles of her Subject Vehicle;

58.24. Concerning all of the above, Plaintiff C claims additional damages for loss of time, inconvenience and embarrassment, in an amount to be determined by the Court;

**FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP**

59. Each Class Member has purchased or leased a Subject Vehicle;

60. Plaintiffs' and the Class Members' consent when purchasing or leasing the Subject Vehicle was vitiated as a result of the discovery of this serious defect

- and security risk, as described hereinabove;
61. Plaintiffs and the Class Members would not have purchased or leased the Subject Vehicle had they been made aware of the defects mentioned above;
  62. Class Members have paid to repair and/or replace their Subject Vehicle's door handles, for which the Class Members claim reimbursement and/or damages from Defendant;
  63. The safety of the current owners or lessees of the Subject Vehicles is at risk due to this serious defect, as mentioned above;
  64. Defendant's above-detailed deceitful actions and malicious intention to refuse to recall and repair the Subject Vehicles, notwithstanding widespread comments and complaints by Class Members and the Plaintiffs, show an intentional, malicious, oppressive and/or high-handed conduct that represents a marked departure from ordinary standards of decency when dealing with customers. In that event, punitive damages should be awarded to Plaintiffs and Class Members, independently from the compensable damages claimed by Plaintiffs and the Class Members;

#### **CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION**

65. The composition of the Group makes it difficult or impracticable to apply the rules for mandates to sue on behalf of others or for consolidation of proceedings (Article 575 (3) C.C.P.) for the following reasons:
66. Plaintiffs are unaware of the specific number of persons who purchased the Subject Vehicles, however, it is safe to estimate that it is in the hundreds if not thousands across the country, Plaintiff P having already and very quickly compiled the Exhibit R-6 list of 24 Class Members and Plaintiffs communicate herewith, as though recited at length herein, *en liasse*, **confidentially and under seal for privacy concerns and without waiving professional**

**secrecy**, as **Exhibits R-12 and R-12A**, the various online submissions received by the undersigned attorneys from various Class Members since the institution of the present proceedings, for the purposes of further fulfilling the arguable case burden for authorization herein;

67. Class Members are numerous and are scattered across the entire province and country;
68. In addition, given the costs and risks inherent to litigation before the Courts, many people will hesitate to institute an individual action against the Defendant. Even if the Class Members themselves could afford such individual litigation, the Court system could not handle it as it would be overloaded. Further, individual litigation of the factual and legal issues raised by the conduct of the Defendant would increase delay and expense to all parties and to the Court system;
69. Moreover, a multitude of actions instituted risk leading to contradictory judgments on questions of fact and law that are similar or related to all Class Members;
70. These facts demonstrate that it would be impractical, if not impossible, to contact each individual Class Member to obtain mandates and to join them in one action;
71. In these circumstances, a class action is the only appropriate procedure for all the Class Members to effectively access justice and pursue their respective rights;
72. The damages sustained by the Class Members flow, in each instance, from a common nucleus of operative facts, namely Defendant's defectively designed and/or manufactured doors and door handle mechanisms;
73. The claims of the Class Members raise identical, similar or related issues of



law and fact (Article 575 (1) C.C.P.), namely:

- a) Do the Subject Vehicles suffer from a latent design and/or manufacturing defect?
- b) Did Defendant know of this issue and fail to warn Class Members of the defect and if they knew, when they knew or should have known?
- c) Did Defendant fail to disclose material information to Class Members?
- d) Is Defendant's omission of material facts misleading and/or reasonably likely to deceive a Class Member?
- e) Is Defendant legally obligated to recall the Subject Vehicles to repair the door and/or door handle mechanisms with new non-defective replacement parts;
- f) Do the Subject Vehicles perform or not in accordance with the standard of fitness for the purposes for which the Subject Vehicles are normally used?
- g) Do the Subject Vehicles perform or not in accordance with the standard of durability for normal use for a reasonable length of time, having regard to the price, terms of the contract and conditions of use for the Subject Vehicles?
- h) Should the sale or lease contracts signed by the Class Members for the Subject Vehicles be annulled or resiliated, and should all amounts paid by the Class Members be reimbursed in full or in part?
- i) Is Defendant liable to pay compensatory and/or moral damages to the Class Members, and if so, in what amount, including without limitation for the reimbursement of the purchase or lease price (or a portion thereof), any repair costs disbursed, other disbursements incurred, loss

of time, loss of use of the Subject Vehicle, embarrassment and inconvenience?

- j) Is Defendant liable to pay exemplary and/or punitive damages to the Class Members, and if so, in what amount?

74. The majority of the issues to be dealt with are issues common to every Class Member;
75. The interests of justice favor that this Application be granted in accordance with its conclusions;

#### **NATURE OF THE ACTION AND CONCLUSIONS SOUGHT**

76. The action that the Plaintiffs wish to institute for the benefit of the Class Members is an action in damages, product liability, consumer protection and injunctive relief;
77. The facts alleged herein appear to justify the conclusions sought by the Plaintiffs (Article 575 (2) C.C.P.), namely the following conclusions that Plaintiffs wish to introduce by way of an originating application:

**GRANT** the class action of the Representative Plaintiffs and each of the Class Members;

**ORDER** Defendant to issue a recall of the Subject Vehicles and to repair them free of charge with new non-defective replacement door and handle parts **FAILING WHICH: ANNUL** the sale or lease contract signed by Plaintiffs and the Class Members for the Subject Vehicles

and **ORDER AND CONDEMN** Defendant to reimburse the total amounts paid by Plaintiffs and the Class Members for their Subject Vehicle and **ORDER** Defendant to then retake possession and ownership of the said vehicles, at Defendant's costs;

**CONDEMN** the Defendant to pay to Plaintiffs and each of the Class Members a sum to be determined in compensatory damages, including without limitation for the reimbursement of the purchase or lease price, any repair costs disbursed, other disbursements incurred, loss of time, inconvenience, loss of use of the Subject Vehicle, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendant to pay to Plaintiffs and each of the Class Members a sum to be determined in moral damages, including without limitation for embarrassment, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendant to pay to each of the Class Members a sum to be determined in punitive and/or exemplary damages, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendant to pay interest and additional indemnity on the above sums according to the Law from the date of service of the original Application for Authorization to Institute a Class Action;

**ORDER** the Defendant to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest, additional indemnity, and costs;

**ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual

liquidation;

**CONDEMN** the Defendant to bear the costs of the present action, including experts' fees and all notice fees;

**RENDER** any other order that this Honorable Court shall determine and that is in the interest of the Class Members;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses, including expert's fee and publication fees to advise the Class Members;

78. Plaintiffs suggest that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:
- a. Many Class Members are domiciled in the District of Montreal;
  - b. Defendant's principal establishment is located in the District of Montreal;
  - c. The undersigned attorneys practice law in the District of Montreal;
79. Plaintiffs, who are requesting to be appointed as Representative Plaintiffs, are in a position to properly represent the Class Members (Article 575 (4) C.C.P.) since:
- a. Plaintiffs are members of the class who purchased a Subject Vehicle which suffers from door and handle defects mentioned above;
  - b. Plaintiffs understand the nature of the action and have the capacity and interest to fairly and adequately protect and represent the interests of the Class Members;

- c. Plaintiffs are available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class Counsel in this regard;
- d. Plaintiffs are ready and available to manage and direct the present action in the interest of the Class Members and are determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class Members;
- e. Plaintiffs do not have interests that are antagonistic to those of other Class Members;
- f. Plaintiffs have given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intends to keep informed of all developments;
- g. Plaintiff P had given the mandate to the undersigned attorneys to post the present matter on their firm website in order to keep the Class Members informed of the progress of these proceedings and in order to more easily be contacted or consulted by said Class Members. In this regard, the undersigned attorneys have compiled the R-12 and R-12A lists of Class Members with comments which Plaintiffs are communicating herewith confidentially and under seal and without waiving professional secrecy, Plaintiffs reserving their right to file additional submissions received by Class Members before the authorization hearing;
- h. Plaintiff P conducted online research and created a Facebook page on this issue, as mentioned above, and communicated with many Class Members, which permitted Plaintiff P to already compile the

Exhibit R-6 list of Class Members;

- i. Plaintiffs are, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Class Members and to keep them informed;

80. The present Application is well founded in fact and in law.

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**GRANT** the present Application;

**AUTHORIZE** the institution of a class action in the form of an originating application in damages, product liability, consumer protection, and injunctive relief;

**APPOINT** the Plaintiffs as the Representative Plaintiffs representing all persons included in the Class herein described as:

All residents of Canada (or subsidiarily Quebec), who own, owned, lease and/or leased one or more of the Subject Vehicles, or any other Group(s) or Sub-Group(s) to be determined by the Court;

**IDENTIFY** the principal issues of law and fact to be treated collectively as the following:

- a) Do the Subject Vehicles suffer from a latent design and/or manufacturing defect?
- b) Did Defendant know of this issue and fail to warn Class Members of the defect and if they knew, when they knew or should have known?

- c) Did Defendant fail to disclose material information to Class Members?
- d) Is Defendant's omission of material facts misleading and/or reasonably likely to deceive a Class Member?
- e) Is Defendant legally obligated to recall the Subject Vehicles to repair the door and/or door handle mechanisms with new non-defective replacement parts;
- f) Do the Subject Vehicles perform or not in accordance with the standard of fitness for the purposes for which the Subject Vehicles are normally used?
- g) Do the Subject Vehicles perform or not in accordance with the standard of durability for normal use for a reasonable length of time, having regard to the price, terms of the contract and conditions of use for the Subject Vehicles?
- h) Should the sale or lease contracts signed by the Class Members for the Subject Vehicles be annulled or resiliated, and should all amounts paid by the Class Members be reimbursed in full or in part?
- i) Is Defendant liable to pay compensatory and/or moral damages to the Class Members, and if so, in what amount, including without limitation for the reimbursement of the purchase or lease price (or a portion thereof), any repair costs disbursed, other disbursements incurred, loss of time, loss of use of the Subject Vehicle, embarrassment and inconvenience?
- j) Is Defendant liable to pay exemplary and/or punitive damages to the Class Members, and if so, in what amount?

**IDENTIFY** the conclusions sought by the action to be instituted as being the following:

**GRANT** the class action of the Representative Plaintiffs and each of the Class Members;

**ORDER** Defendant to issue a recall of the Subject Vehicles and to repair them free of charge with new non-defective replacement door and handle parts **FAILING WHICH: ANNUL** the sale or lease contract signed by Plaintiff and the Class Members for the Subject Vehicles and **ORDER AND CONDEMN** Defendant to reimburse the total amounts paid by Plaintiffs and the Class Members for their Subject Vehicle and **ORDER** Defendant to then retake possession and ownership of the said vehicles, at Defendant's costs;

**CONDEMN** the Defendant to pay to Plaintiffs and each of the Class Members a sum to be determined in compensatory damages, including without limitation for the reimbursement of the purchase or lease price, any repair costs disbursed, other disbursements incurred, loss of time, inconvenience, loss of use of the Subject Vehicle, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendant to pay to Plaintiffs and each of the Class Members a sum to be determined in moral damages, including without limitation for embarrassment, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendant to pay to each of the Class Members a sum to be determined in punitive and/or exemplary damages, and **ORDER** collective recovery of these sums;



**CONDEMN** the Defendant to pay interest and additional indemnity on the above sums according to the Law from the date of service of the Application for Authorization to Institute a Class Action;

**ORDER** the Defendant to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest, additional indemnity, and costs;

**ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

**CONDEMN** the Defendant to bear the costs of the present action including experts' fees and all notice fees;

**RENDER** any other order that this Honorable Court shall determine and that is in the interest of the Class Members;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fee and publication fees to advise the Class Members;

**DECLARE** that all Class Members who have not requested their exclusion from the Group in the prescribed delay to be bound by any Judgment to be rendered on the class action to be instituted;

**FIX** the time limit for opting out of the Class at thirty (30) days from the date of the publication or notification of the notice to the Class Members;

**ORDER** the publication or notification of a notice to the Class Members in accordance with Article 579 C.C.P., within sixty (60) days from the Judgment to

be rendered herein, by way of direct mail and or emails to Class Members, bilingual press releases, and notices published in LA PRESSE, the MONTREAL GAZETTE, the GLOBE AND MAIL, and the NATIONAL POST, and **ORDER** Defendant to pay for all said publication costs;

**ORDER** that said notices be available on all of Defendant's websites, Facebook page(s), and Twitter account(s) regarding the Subject Vehicles, with a link stating "Fiat Door Handle Defects - Important notice to all past or present purchasers, lessees, or users of a Fiat vehicle";

**THE WHOLE** with legal costs, including all publication costs.

**MONTREAL, (...) April 18, 2019**

(s) David Assor

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**Lex Group Inc.**  
Per: David Assor  
Class Counsel / Attorneys for Plaintiffs