

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-000986-196

SUPERIOR COURT
(Class Action Chambers)

DANIELLE DALLAIRE, residing and
domiciled at [REDACTED]

Applicant

v.

MARUYASU INDUSTRIES CO., LTD., legal
person, having its principal place of business
at 1 Kitayama, Hashime-cho, Okazaki-shi,
Aichi 4448580

and

CURTIS-MARUYASU AMERICA, INC., legal
person, having its principal place of business
at 665 Metts Dr., Lebanon, KY 40033

and

SANOH INDUSTRIAL CO., LTD., legal
person, having its principal place of business
at Ebisu Square 1-23-23 Ebisu, Shibuya-Ku,
Tokyo 150001

and

SANOH AMERICA, INC., legal person, having
its principal place of business at 1849
Industrial Dr, Findlay, OH 45840

and

USUI CO., LTD., legal person, having its
principal place of business at 131-2,
Nagasawa, Shimizu-cho, Sunto-gun,
Shizuoka-ken, 411-8610 Japan

and

USUI INTERNATIONAL CORPORATION,
legal person, having its principal place of
business at 44780 Helm Street, Plymouth, MI
48170

and

JTEKT CORPORATION, legal person, having its principal place of business at No. 7-1, Meieki 4-chome, Nakamura-ku, Nagoya, Aichi Pref., 450-8515 Japan

and

JTEKT NORTH AMERICA CORPORATION, legal person, having its principal place of business at 7 Research Drive, Greenville, SC 29607

and

JTEKT AUTOMOTIVE NORTH AMERICA INC., legal person, having its principal place of business at 55 Excellence Way, Vonore, TN 37885

Defendants

**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO OBTAIN
THE STATUS OF REPRESENTATIVE
(Art 574 C.C.P. and following)**

**TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT, SITTING IN THE
CLASS ACTION CHAMBERS IN THE DISTRICT OF MONTREAL, YOUR APPLICANT STATES
AS FOLLOWS:**

I. GENERAL PRESENTATION

1. The Applicant wishes to bring a class action on behalf of the Class hereinafter described, of which she herself is a member, namely:

"All direct and indirect purchasers in Quebec who purchased or leased motor vehicles containing Automotive Steel Tubes or who purchased Automotive Steel Tubes, between December 2003 and July 9, 2011 (the "**Class Period**")."*

*Motor vehicle is defined as: cars, sport utility vehicles (SUVs), vans, light trucks (weighing up to 10,000 lbs).

A. Overview

2. Beginning at least as early as December 2003 and continuing through July 9, 2011, or such other time as the anti-competitive effects of the Defendants' conduct ceased (the **Class Period**), the Defendants (as described in paragraphs 8-9, 12-13 and 16-17 and 20-22

below) conspired with various corporations, persons, partnerships, firms and/or individuals not named in this lawsuit, the identities of which are not presently known, to 1) fix, maintain, increase or control the price for the supply of Automotive Steel Tubes (as defined in paragraph 31 below), 2) to allocate sales, territories, customers or markets for the production or supply of Automotive Steel Tubes, 3) to fix, maintain, control, prevent, lessen or eliminate the production or supply of Automotive Steel Tubes, and/or 4) to rig bids for Automotive Steel Tubes (collectively the **Conspiracy**, as further defined in paragraphs 39 through 44 below).

3. The Conspiracy was targeted at automobile original equipment manufacturers (**OEMs**), who purchased Automotive Steel Tubes directly from the Defendants or one of them, and component manufacturers (**Tier I Manufacturers**), who purchased Automotive Steel Tubes directly from the Defendants or one of them before selling the Automotive Steel Tubes to OEMs.
4. As a consequence of the Defendants' collusive conduct, the Defendants and their co-conspirators eliminated or reduced competition in the automotive parts industry. Through their conduct, the Defendants effectuated an overcharge for Automotive Steel Tubes purchased by OEMs and Tier I Manufacturers.
5. OEMs and Tier I Manufacturers passed their increased costs for the purchase of Automotive Steel Tubes on to indirect purchasers of Automotive Steel Tubes, including but not limited to indirect purchasers in Quebec who purchased or leased vehicles containing Automotive Steel Tubes and Automotive Steel Tubes for replacement parts.
6. The Defendants' Conspiracy had the effect of overcharging both direct and indirect purchasers of Automotive Steel Tubes and direct and indirect purchasers of Automotive Steel Tubes suffered losses as a consequence of the Defendants' unlawful conduct.
7. Through this suit, Quebec direct and indirect purchasers of Automotive Steel Tubes seek to hold the Defendants accountable for their unlawful Conspiracy.

B. The Parties

Maruyasu Defendants

8. The Defendant Maruyasu Industries Co., Ltd. is a Japanese corporation with its principal place of business in Nagoya, Aichi Prefecture, Japan. During the Class Period, Maruyasu Industries Co., Ltd., directly and/or through its subsidiaries, which it wholly owned and/or controlled, manufactured, marketed and/or sold Automotive Steel Tubes that were sold and purchased throughout Canada, including in Quebec.
9. The Defendant Curtis-Maruyasu America, Inc. is an American corporation with its principal place of business in Lebanon, Kentucky. During the Class Period, Curtis-Maruyasu America, Inc. conducted business from facilities located in several areas of the United States, including Tracy, California and San Antonio, Texas. Curtis-Maruyasu America, Inc. is a subsidiary of and wholly owned and/or controlled by its parent, Maruyasu Industries Co., Ltd. Curtis-Maruyasu America, Inc. manufactured, marketed and/or sold Automotive Steel Tubes that were sold and purchased throughout Canada, including in Quebec, during the Class Period. At all times during the Class Period, its activities in Canada and elsewhere were under the control and direction of its Japanese parent.

10. The Defendant companies named in paragraphs 8 and 9 of this application are collectively referred to as the "**Maruyasu Defendants**". Each of the Maruyasu Defendants was an agent of the other for the purposes of the manufacture, distribution, marketing and/or sale of the Automotive Steel Tubes.
11. At all material times, the Maruyasu Defendants functioned as a joint enterprise in the Conspiracy to suppress and eliminate competition in the Automotive Steel Tubes industry. The business of each of the Maruyasu Defendants is inextricably interwoven, and they operate collectively for their mutual benefit and profit.

Sanoh Defendants

12. The Defendant Sanoh Industrial Co., Ltd. is a Japanese corporation with its headquarters in Tokyo, Japan. During the Class Period, Sanoh Industrial Co., Ltd., directly and/or through its subsidiaries, which it wholly owned and/or controlled, manufactured, marketed and/or sold Automotive Steel Tubes that were sold and purchased throughout Canada, including in Quebec.
13. The Defendant Sanoh America, Inc. is an American corporation with its principal place of business in Findlay, Ohio. Sanoh America, Inc. is a subsidiary of and wholly owned and/or controlled by its parent Sanoh Industrial Co., Ltd. Sanoh America, Inc. manufactured, marketed and/or sold Automotive Steel Tubes that were sold and purchased throughout Canada, including in Quebec, during the Class Period. At all times during the Class Period, its activities in Canada and elsewhere were under the control and direction of its Japanese parent.
14. The Defendant companies named in paragraphs 12 and 13 of this application are collectively referred to as the "**Sanoh Defendants**". Each of the Sanoh Defendants was an agent of the other for the purposes of the manufacture, distribution, marketing and/or sale of the Automotive Steel Tubes.
15. At all material times, the Sanoh Defendants functioned as a joint enterprise in the Conspiracy to suppress and eliminate competition in the Automotive Steel Tubes industry. The business of each of the Sanoh Defendants is inextricably interwoven, and they operate collectively for their mutual benefit and profit.

Usui Defendants

16. The Defendant Usui Co., Ltd. is a Japanese corporation with its headquarters in Shimizu, Japan. During the Class Period, Usui Co., Ltd., directly and/or through its subsidiaries, which it wholly owned and/or controlled, manufactured, marketed and/or sold Automotive Steel Tubes that were sold and purchased throughout Canada, including in Quebec.
17. The Defendant Usui International Corporation is an American corporation with its principal place of business in Plymouth, Michigan. Usui International Corporation is a subsidiary of and wholly owned and/or controlled by its parent Usui Co., Ltd. Usui International Corporation manufactured, marketed and/or sold Automotive Steel Tubes that were sold and purchased throughout Canada, including in Quebec, during the Class Period. At all times during the Class Period, its activities in Canada and elsewhere were under the control and direction of its Japanese parent.

18. The Defendant companies named in paragraphs 16 and 17 of this application are collectively referred to as the "**Usui Defendants**". Each of the Usui Defendants was an agent of the other for the purposes of the manufacture, distribution, marketing and/or sale of the Automotive Steel Tubes.
19. At all material times, the Usui Defendants functioned as a joint enterprise in the Conspiracy to suppress and eliminate competition in the Automotive Steel Tubes industry. The business of each of the Usui Defendants is inextricably interwoven, and they operate collectively for their mutual benefit and profit.

JTEKT Defendants

20. The Defendant JTEKT Corporation is a Japanese corporation with its principal place of business in Nagoya, Japan. During the Class Period, JTEKT Corporation, directly and/or through its subsidiaries, which it wholly owned and/or controlled, manufactured, marketed and/or sold Automotive Steel Tubes that were sold and purchased throughout Canada, including in Quebec.
21. The Defendant JTEKT North America Corporation is an American corporation with its principal place of business in Greenville, South Carolina. JTEKT North America Corporation is a subsidiary of and wholly owned and/or controlled by its parent JTEKT Corporation. JTEKT North America Corporation manufactured, marketed and/or sold Automotive Steel Tubes that were sold and purchased throughout Canada, including in Quebec, during the Class Period. At all times during the Class Period, its activities in Canada and elsewhere were under the control and direction of its Japanese parent.
22. The Defendant JTEKT Automotive North America, Inc. is an American corporation with its principal place of business in Vonore, Tennessee. JTEKT Automotive North America, Inc. is a subsidiary of and wholly owned and/or controlled by its parent JTEKT Corporation. JTEKT Automotive North America, Inc. manufactured, marketed and/or sold Automotive Steel Tubes that were sold and purchased throughout Canada, including in Quebec, during the Class Period. At all times during the Class Period, its activities in Canada and elsewhere were under the control and direction of its Japanese parent.
23. The Defendant companies named in paragraphs 20 through 22 of this application are collectively referred to as the "**JTEKT Defendants**". Each of the JTEKT Defendants was an agent of the other for the purposes of the manufacture, distribution, marketing and/or sale of the Automotive Steel Tubes.
24. At all material times, the JTEKT Defendants functioned as a joint enterprise in the Conspiracy to suppress and eliminate competition in the Automotive Steel Tubes industry. The business of each of the JTEKT Defendants is inextricably interwoven, and they operate collectively for their mutual benefit and profit.
25. Other corporations, persons, partnerships, firms and/or individuals not named in this application, because their identities are currently unknown to the Applicant participated as co-conspirators in the Conspiracy and performed acts and made statements and agreements in furtherance of the Conspiracy. The co-conspirators were all persons whom it is reasonable to believe would have, in the absence of the Conspiracy, been likely to have competed with the Maruyasu, Sanoh, Usui and JTEKT Defendants with respect to

Automotive Steel Tubes. Reference by the Applicant to the Defendants in this application includes reference to their co-conspirators as well.

26. Whenever reference is made in this application to any act, communication, agreement or transaction of a corporation, the Applicant is alleging that the corporation engaged in the act, communication, agreement or transaction by or through its directors, officers, employees and/or agents while they were actively engaged in the direction, management and/or control of the corporation's business.
27. The Applicant, Danielle Dallaire, is a resident of Quebec who purchased a motor vehicle equipped with the Defendants' Automotive Steel Tubes during the Class Period, in April 2009.

C. The Steel Tubes Market and Governmental Investigations

The Steel Tubes Market is Generally Conducive to a Price-Fixing Conspiracy

28. The structure and other characteristics of the automotive parts market and sub-markets in Canada and elsewhere are conducive to price-fixing arrangements and have made collusion particularly attractive. Specifically, with respect to each component part in the automotive parts market, including the Automotive Steel Tubes market, there are (1) high barriers to entry, and (2) inelasticity of demand.
29. A new entrant into the Automotive Steel Tubes market would face costly and lengthy start-up costs, including multi-million-dollar costs associated with manufacturing plants and equipment, energy, transportation, distribution infrastructure and long-standing customer relationships.
30. A collusive arrangement that raises product prices above competitive levels would, under basic economic principles, attract new entrants seeking to benefit from the supra-competitive pricing. But, where there are significant barriers to entry, new entrants are less likely. Thus, barriers to entry help to facilitate the formation and maintenance of cartels.
31. Demand is said to be "inelastic" if an increase in the price of a product results in only a small decline in the quantity sold of that product, if any. In other words, customers have nowhere to turn for alternative, cheaper products of similar quality, and so continue to purchase the product despite a price increase. Inelastic demand is a market characteristic that facilitates collusion, allowing producers to raise their prices without triggering customer substitution and lost sales revenue.

Demand for Automotive Steel Tubes is highly inelastic because there are no close substitutes for this product. In addition, customers must purchase these components as an essential part of a vehicle, even if the prices are kept at supra-competitive levels.

Investigation and Guilty Pleas – Canada and the United States

32. A press release from the Competition Bureau Canada indicates that the Bureau's investigation of international bid-rigging conspiracies among car parts suppliers resulted in 13 guilty pleas and over \$86 million in fines imposed by the courts in Canada, as appears from a copy of said press release dated October 19, 2018 which followed a similar press release dated February 14, 2018, disclosed *en liasse* as **Exhibit P-1**.

33. The Maruyasu, Sanoh, Usui and JTEKT Defendants have each been indicted in the United States for participating in a conspiracy to suppress and eliminate competition in the automotive parts industry by agreeing to allocate the supply of, rig bids for and to fix, stabilize and maintain the prices of Automotive Steel Tubes in violation of the *Sherman Antitrust Act*, 15 U.S.C. §1, as appears from the case summary in *U.S. v. Maruyasu Industries Co.et al.* and indictment, disclosed *en liasse* as **Exhibit P-2**.
34. On November 14, 2014, November 8, 2016 and May 31, 2018, the United States Department of Justice announced that JTEKT Corporation, Usui Co., Ltd. and Maruyasu Industries Co. Ltd had agreed to plead guilty to a one count criminal Information and pay a \$103.27 million fine, a \$7.2 million fine and a \$12 million fine, respectively, for conspiring to fix prices, rig bids and allocate the market for Automotive Steel Tubes sold to automobile manufacturers in the United States and elsewhere, as appears from copies of press releases from the United States Department of Justice, disclosed *en liasse* as **Exhibit P-3**.

D. Automotive Steel Tubes and the Conspiracy

Automotive Steel Tubes

35. An “Automotive Steel Tube” is used in fuel distribution, braking, and other automotive systems. Automotive Steel Tubes are sometimes divided into two categories: chassis tubes and engine parts. Chassis tubes, such as brake and fuel tubes, tend to be located in the body of a vehicle. Engine parts, such as fuel injection rails, oil level tubes, and oil strainer tubes, are associated with the function of a vehicle’s engine. When reference is made herein to Automotive Steel Tubes this includes components and/or parts thereof.
36. Automotive Steel Tubes are installed by OEMs in vehicles as part of the automotive manufacturing process.

Figure 1: Curtis-Maruyasu America, Inc. Chassis Tubes

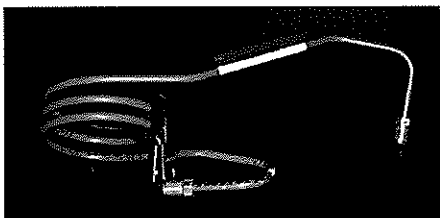


Figure 2: Curtis-Maruyasu America, Inc. Engine Parts

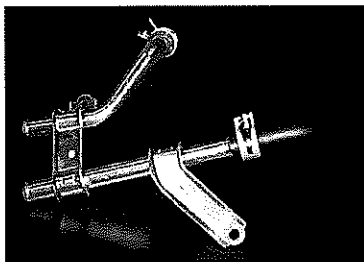


Figure 3: Usui Co., Ltd. Double Walled Steel Tubes

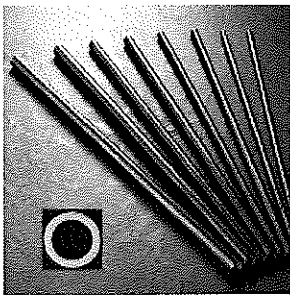
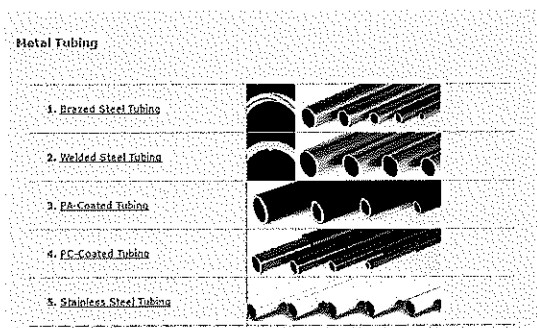


Figure 4: Sanoh America, Inc. Metal Tubing



37. Before ordering Automotive Steel Tubes, OEMs and, in some circumstances, Tier I Manufacturers, request pricing from automotive part suppliers through requests for quotation (“RFQs”). Once a supplier is awarded a contract to supply parts for a particular automobile model, the supplier typically supplies the parts for the lifespan of the model.
38. In response to RFQs for Automotive Steel Tubes, the Maruyasu, Sanoh, Usui and JTEKT Defendants submitted price quotes to various OEMs and Tier I Manufacturers. In response to their submitted quotes, each of the Maruyasu, Sanoh, Usui and JTEKT Defendants were awarded certain supply contracts.
39. Pursuant to these supply contracts, the Maruyasu, Sanoh, Usui and JTEKT Defendants manufactured Automotive Steel Tubes in the Canada, the United States, Japan and elsewhere and then supplied the Automotive Steel Tubes to various OEMs and Tier I Manufacturers for installation in vehicles 1) manufactured and sold in Canada, including in Quebec, 2) manufactured and sold in the United States, 3) manufactured and sold elsewhere, 4) manufactured in Canada and then exported to and sold elsewhere, 5) manufactured in the United States or elsewhere and then imported to and sold in Canada, including in Quebec, and/or 6) as replacement parts.
40. The affected OEMs included, but were not limited to: Toyota Motor Corporation and certain of its subsidiaries, affiliates and suppliers in Canada, the United States, Japan and elsewhere; Ford Motor Company and certain of its subsidiaries, affiliates and suppliers in Canada, the United States and elsewhere; Honda Motor Co., Ltd. and certain of its subsidiaries, affiliates and suppliers in Canada, the United States, Japan and elsewhere;

and General Motors Company and certain of its subsidiaries, affiliates and suppliers in Canada, the United States and elsewhere.

41. The identities of all affected OEMs and Tier I Manufacturers who entered into supply contracts with the Maruyasu, Sanoh, Usui and JTEKT Defendants and their co-conspirators are currently unknown to the Applicant.
42. The sale of the Automotive Steel Tubes – and the Conspiracy which led to their artificially inflated prices - resulted in substantial revenues for the Maruyasu, Sanoh and Usui Defendants. The revenues of these companies were increased as a consequence of the Conspiracy.

The Conspiracy

43. The Maruyasu, Sanoh, Usui and JTEKT Defendants voluntarily colluded as between themselves and with other co-conspirators to use unlawful means to injure the economic interests of 1) OEMs and/or Tier I Manufacturers, and 2) indirect purchasers of the Automotive Steel Tubes.
44. Beginning at least as early as December 2003 and continuing through July 9, 2011, or such other time as the anti-competitive effects of the Defendants' conduct ceased, the exact dates being unknown to the Applicant, the Maruyasu, Sanoh, Usui and JTEKT Defendants and their co-conspirators knowingly entered into one or more continuing agreement(s), understanding(s) and concert(s) of action to 1) increase or maintain the prices of Automotive Steel Tubes, and/or 2) suppress and eliminate competition with respect to the manufacture, marketing, sale and/or distribution of Automotive Steel Tubes (collectively the "**Agreement**"), and to conceal their Agreement from OEMs, Tier I Manufacturers and industry stakeholders.
45. The substantial terms of the Agreement included: 1) fixing, maintaining, increasing or controlling the price for the supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere, 2) allocating sales, territories, customers or markets for the production or supply Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere, 3) fixing, maintaining, controlling, preventing, lessening or eliminating the production or supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere, and/or 4) engaging in bid-rigging with respect to quotes for the supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere.
46. With respect to the Conspiracy, "price" includes any discount, rebate, allowance, price concession or other advantage in relation to the supply of Automotive Steel Tubes.
47. Bid-rigging, with respect to the Conspiracy, means:
 - a. an agreement or arrangement between or among the Maruyasu, Sanoh and Usui Defendants and their co-conspirators whereby one or more of those persons agreed or undertook not to submit a bid or tender in response to a call or request for bids or tenders, or agreed or undertook to withdraw a bid or tender submitted in response to such a call or request, or

- b. the submission, in response to a call or request for bids or tenders, of bids or tenders was arrived at by the agreement or arrangement between or among the Maruyasu, Sanoh, Usui and JTEKT Defendants and their co-conspirators

where the agreement or arrangement was not made known to OEMs and/or Tier I Manufacturers calling for or requesting the bids or tenders for Automotive Steel Tubes at or before the time when any bid or tender was submitted or withdrawn by the Maruyasu, Sanoh, Usui and JTEKT Defendants and/or their co-conspirators.

48. For the purpose of carrying out the Conspiracy, the Maruyasu, Sanoh, Usui and JTEKT Defendants engaged in conduct that included, among other things:

- a. participating in meetings, conversations and other communications to discuss the bids and price quotations to be submitted to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- b. participating in meetings, conversations and other communications to discuss the allocation among the companies of certain sales, territories, customers or markets for the production or supply of Automotive Steel Tubes;
- c. agreeing, during those meetings, conversations and communications on bids and price quotations to be submitted to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere or, alternatively, agreeing that one or more of the companies not submit bids in response to RFQs or that one or more companies withdraw bids submitted in response to RFQs;
- d. agreeing, during those meetings, conversations and communications to fix, maintain, increase or control the price for the supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- e. agreeing, during those meetings, conversations and communications to allocate among the companies certain sales, territories, customers or markets for the production or supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- f. agreeing, during those meetings, conversations and communications to fix, maintain, control, prevent, lessen or eliminate the production or supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- g. in order to effectuate the Agreement, exchanging information on: 1) bids and price quotations to be submitted to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere, 2) the allocation of certain sales, territories, customers or markets for the production or supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere, and/or 3) the production and supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- h. in accordance with the Agreement, submitting bids and price quotations to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere or, alternatively, declining to submit bids in response to RFQs or withdrawing bids submitted in response to RFQs;
- i. in accordance with the Agreement, fixing, maintaining, increasing and/or controlling the price for the supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- j. in accordance with the Agreement, allocating among the companies certain sales, territories, customers and/or markets for the production or supply of Automotive

- Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- k. in accordance with the Agreement, fixing, maintaining, controlling, preventing, lessening and/or eliminating the production and/or supply of Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
 - l. selling Automotive Steel Tubes to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere at collusive and non-competitive prices;
 - m. accepting payment for Automotive Steel Tubes sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere at collusive and non-competitive prices which resulted in increased revenues for the Maruyasu, Sanoh and Usui Defendants;
 - n. engaging in conversations and other communications for the purpose of monitoring and enforcing adherence to the agreed upon bid rigging and price fixing scheme; and
 - o. employing measures to keep their conduct secret.

E. Damages

49. As a direct result of the anticompetitive and unlawful conduct alleged herein, the Applicant and Class members paid artificially inflated prices for Automotive Steel Tubes during the Class Period and have thereby suffered damages.
50. The Defendants' price-fixing Conspiracy had the following effects, among others:
- a. price competition has been restrained or eliminated with respect to Automotive Steel Tubes;
 - b. the prices of Automotive Steel Tubes have been fixed, increased, maintained, or stabilized at artificially inflated levels;
 - c. direct and indirect purchasers of Automotive Steel Tubes in Canada, including in the province of Quebec, the United States, Japan and elsewhere have been deprived of free and open competition; and
 - d. direct and indirect purchasers of Automotive Steel Tubes in Canada, including in the province of Quebec, the United States, Japan and elsewhere paid artificially inflated prices for the Automotive Steel Tubes.

F. The Defendants' Liability

51. The Defendants' conduct and that of their co-conspirators was contrary to Part VI of the *Competition Act*.
52. Each of the Maruyasu, Sanoh, Usui and JTEKT Defendants aided, abetted and/or counselled each of the other Defendants and their co-conspirators in the commission of the breaches of Part VI of the *Competition Act*. Each of the Maruyasu, Sanoh, Usui and JTEKT Defendants therefore violated sections 21 and 22 of the *Criminal Code*.
53. The conduct of the Maruyasu, Sanoh, Usui and JTEKT Defendants and their co-conspirators was also contrary to the competition laws of the United States, Japan and various European nations.

54. Further, for the purpose of giving effect to the Conspiracy and contrary to Part VI of the *Competition Act*, beginning at least as early as December 2003 and continuing through July 9, 2011 or such other time as the anti-competitive effects of the Defendants' conduct ceased, the exact dates being unknown to the Applicant, the Maruyasu, Sanoh and Usui Defendants, wherever incorporated who carried on business in Canada, implemented, in whole or in part in Canada, a directive, instruction, intimation of policy or other communication to the corporation or any person from a person in a country other than Canada who was in a position to direct or influence the policies of the corporation, which communication was for the purpose of giving effect to a conspiracy, combination, agreement or arrangement entered into outside Canada, whether or not any director or officer of the corporation in Canada had knowledge of the conspiracy, combination, agreement or arrangement.
55. The purpose of the conspiratorial conduct of the Defendants and their co-conspirators was to increase, fix, rig, maintain, control or stabilize the price of Automotive Steel Tubes. As a direct and foreseeable result of the Conspiracy, the prices of 1) Automotive Steel Tubes, and 2) motor vehicles containing Automotive Steel Tubes were artificially inflated in Canada, including in the province of Quebec, and in the United States, Japan and elsewhere. The Applicant and Class Members were overcharged for Automotive Steel Tubes.
56. The conduct of the Maruyasu, Sanoh, Usui and JTEKT Defendants in furtherance of the Conspiracy was unlawful and inequitable. The increased revenues that the Maruyasu, Sanoh, Usui and JTEKT Defendants realized as a consequence of artificially inflating the prices of Automotive Steel Tubes are ill-gotten profits.
57. Pursuant to section 36 of the *Competition Act*, the Applicant and Class members are entitled to recover from the Maruyasu, Sanoh, Usui and JTEKT Defendants an amount equal to the loss or damage suffered by them, together with any additional amount that the Court may allow.
58. Furthermore, the Defendants failed to comply with their obligations under the *Civil Code of Quebec* such as, and without limiting the generality of the foregoing, those relating to their good faith obligation and duty not to cause injury to another.
59. The Defendants intended to cause damage to the Applicant and Class members. Alternatively, the Defendants knew or ought to have known that their actions would cause damage to the Applicant and Class members.
60. The Defendants' anticompetitive and unlawful conduct, including their participation in the Conspiracy, was concealed and conducted in such a way as to prevent its discovery by the Applicant and the Class members.
61. Moreover, a reasonable person placed in the same circumstances would not have seen fit to investigate the legitimacy of the prices of the Defendants' Automotive Steel Tubes.
62. Each of the Maruyasu, Sanoh, Usui and JTEKT Defendants is jointly and severally liable for the actions of the other Defendants and their co-conspirators and for the damages allocated to each Defendant.

Punitive Damages

63. A punitive damage award in this case is necessary to express society's condemnation of the conduct engaged in by the Maruyasu, Sanoh, Usui and JTEKT Defendants and to achieve the goals of both specific and general deterrence.
64. The Defendants intentionally engaged in unlawful conduct for their personal financial gain. The conduct of the Defendants was planned and deliberate. It lasted for several years. The Defendants profited from their misconduct. Their conduct was high-handed and represented a marked departure from ordinary standards of decent behavior.
65. Compensatory damages are insufficient in this case. The conduct of the Defendants merits punishment and warrants a claim for punitive damages.

Unjust Enrichment

66. Three criteria are required to establish unjust enrichment: 1) an enrichment, 2) a corresponding deprivation, and 3) the absence of any juristic reason for the enrichment.
67. In this case, the Defendants were enriched by the artificially inflated prices of Automotive Steel Tubes caused by the Conspiracy. These artificially inflated prices resulted in increased revenues for the Defendants.
68. The Applicant and Class members suffered a corresponding deprivation as a consequence of the inflated prices of Automotive Steel Tubes, namely: paying more for Automotive Steel Tubes and vehicles containing Automotive Steel Tubes than they would have in the absence of the Conspiracy.
69. There was no juristic reason or justification for the enrichment of the Defendants; conversely, the conduct of the Defendants was unlawful.

II. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE APPLICANT

70. The facts giving rise to an individual claim by the Applicant against the Defendants are as follows:
 - a. during the Class Period, the Applicant, Danielle Dallaire, purchased a 2010 Honda Insight, as shown in the April 22, 2009 contract of purchase, disclosed as **Exhibit P-4**;
 - b. in light of the Defendants' anticompetitive and unlawful conduct, the Applicant was deprived of free and open competition and, as a result, paid an artificially inflated price for the motor vehicle equipped with Automotive Steel Tubes which she purchased;
 - c. the Applicant suffered damages as a result of the Defendants' anticompetitive and unlawful actions, namely the difference between the artificially inflated price paid for the motor vehicle she purchased equipped with Automotive Steel Tubes and the price she would have normally paid in a market where free and open competition prevails;
 - d. the Defendants' anticompetitive and unlawful actions were camouflaged and were not brought to the attention of the Applicant;
 - e. the Applicant did not and could not know that the Defendants were involved in anticompetitive and unlawful conduct and breaching their obligations.

71. The Applicant's damages are a direct result of the Defendants' conduct.

72. Thus, the Applicant is justified in claiming damages from the Defendants.

III. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE CLASS

73. The facts giving rise to the individual claims by each of the members of the Class against the Defendants are as follows:

- a. every member of the Class has purchased Automotive Steel Tubes and/or purchased or leased a motor vehicle equipped with Automotive Steel Tubes;
- b. in light of the Defendants' anticompetitive and unlawful conduct, every member of the Class was deprived of transactions in a free and open market and, as a result, paid an artificially inflated price for the purchase of Automotive Steel Tubes and/or for the purchase or rental of motor vehicles equipped with these components;
- c. every member of the Class suffered damages equal to the difference between the artificially inflated price paid for Automotive Steel Tubes and / or motor vehicles equipped with these components that they purchased or leased, and the price they should have normally paid in a market where free and open competition prevails;
- d. the Defendants' anticompetitive and unlawful actions were camouflaged and were not brought to the attention of the Class members;
- e. the Class members did not and could not know that the Defendants were involved in anticompetitive and unlawful conduct and breaching their obligations;
- f. every member of the class suffered damages as a direct result of the Defendants' anticompetitive and unlawful conduct;
- g. thus, each Class member is justified in claiming damages suffered as a result of the Defendants' anticompetitive and unlawful conduct.

IV. CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

74. The composition of the Class makes it difficult or impractical to apply the rules relating to the mandate to sue or be sued on behalf of others or for consolidation of proceedings, having regard to Article 575 (3) of the *Civil Code of Procedure*, in that:

- a. the number of people in the Class is estimated at several million, given the sales figures of the Defendants and the widespread use of the products described herein;
- b. Class members are numerous and scattered across the entire province;
- c. the names and addresses of the persons who are part of the Class are unknown to the Applicant;
- d. all the facts alleged in the foregoing paragraphs demonstrate that it would be impractical, if not impossible, to contact each and every member of the Class to obtain mandates and to join them together into one action;
- e. in these circumstances, a class action is the only appropriate procedure and the only viable means for all of the members of the Class to effectively pursue their respective legal rights and gain access to justice.

75. The claims of the members of the Class raise identical, similar or related issues of law or fact.

76. Individual issues, if any, pale by comparison to the numerous common issues that are significant to the outcome of the litigation.
77. The damages sustained by the Class members flow, in each instance, from a common nucleus of operative facts, namely, the Defendants' misconduct.
78. The questions of fact or of law that concern the members of the Class Action and the Applicant are listed in the following paragraphs and are identical, similar or related for each:
- a. Have the Defendants conspired and/or entered into an agreement or arrangement that had the effect of unduly restricting competition in the sale of Automotive Steel Tubes and/or artificially increasing the price of Automotive Steel Tubes and, if so, during what period did this conspiracy and bid rigging have an effect on the Applicant and the Class members?
 - b. Does the participation of the Defendants in the conspiracy and bid rigging constitute a fault for which they are jointly and severally liable towards the Applicant and the Class members?
 - c. Did the conspiracy and bid rigging result in an increase in the price paid by the Applicant and Class members in Quebec for the purchase of Automotive Steel Tubes and/or the purchase and/or rental of motor vehicles equipped with Automotive Steel Tubes and, if so, does this increase constitute a damage to the Applicant and to each of the members of the Class?
 - d. What is the total amount of damages suffered by the Applicant and the Class members?
 - e. Are the Defendants liable to pay punitive damages and if so, in what amount?
 - f. Are the Applicant and Class members justified in claiming the reimbursement of the costs incurred in the present matter, namely the costs of investigation, the extrajudicial fees and disbursements of attorneys for the Applicant?
 - g. Were the Defendants unjustly enriched and if so, should the Defendants disgorge their profits?

V. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

79. The action that the Applicant wishes to institute on behalf of the members of the Class is an action in damages;
80. The conclusions that the Applicant wishes to introduce by way of an application to institute proceedings are:
- **GRANT** the class action of the Applicant; and each of the members of the Class;
 - **CONDEMN** the Defendants, jointly and severally, to pay compensatory damages valued at \$ 50,000,000 to be adjusted, and **ORDER** collective recovery of those sums;
 - **CONDEMN** the Defendants, jointly and severally, to pay punitive damages valued at \$ 5,000,000 to be adjusted, and **ORDER** collective recovery of those sums;
 - **CONDEMN** the Defendants, jointly and severally, to pay the costs incurred for any investigation necessary to establish their liability in this case, including the extrajudicial fees and disbursements of attorneys for the Applicant;

- **CONDEMN** the Defendants, jointly and severally, to pay interest at the legal rate plus the additional indemnity provided for in article 1619 of the *Civil Code of Quebec* on the above sums from the date of service of the application to authorize a class action;
- **CONDEMN** the Defendants to bear the costs of the present action including expert fees and notice fees;
- **RENDER** any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

81. The Applicant requests that she be attributed the status of representative of the Class and is able to ensure adequate representation of the members of the Class for the following reasons:

- a. She is a member of the Class;
- b. The Applicant is ready and available to manage and direct the present action in the interest of the members of the Class that she wishes to represent and is determined to lead the present action until a final resolution of the matter, the whole for the benefit of the Class, as well as to dedicate the time necessary for the present action before the Courts and the Fonds d'aide aux actions collectives, as the case may be, and to collaborate with her attorneys;
- c. Applicant has the capacity and interest to fairly, properly, and adequately protect and represent the interest of the members of the Class;
- d. Applicant has given the mandate to her attorneys to obtain all relevant information with respect to the present action and intends to keep informed of all developments;
- e. Applicant, with the assistance of her attorneys, is ready and available to dedicate the time necessary for this action and to collaborate with other members of the Class and to keep them informed;
- f. Applicant has given instructions to her attorneys to put information about this class action on their website and to collect the coordinates of those Class members that wish to be kept informed and participate in any resolution of the present matter, the whole as will be shown at the hearing;
- g. Applicant is in good faith and has instituted this action for the sole goal of having her rights, as well as the rights of other Class members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of the Defendants' conduct;
- h. Applicant understands the nature of the action;
- i. Applicant's interests do not conflict with the interests of other Class members and further, Applicant has no interest that is antagonistic to those of other members of the Class;
- j. Applicant is prepared to be examined out-of-court on her allegations (as may be authorized by the Court) and to be present for Court hearings, as may be required and necessary;
- k. Applicant has spent time researching this issue on the internet and discussing with her attorneys to prepare this file. In so doing, she is convinced that the problem is widespread.

82. The Applicant proposes, in the best interest of the Class members, that this class action be brought before the Superior Court, sitting in the District of Montreal, for the following reasons:

- a. a great number of the members of the Class reside in the judicial district of Montreal;
- b. many of the purchases of Automotive Steel Tubes and/or purchases or leases of motor vehicles containing Automotive Steel Tubes were concluded in the judicial district of Montreal;
- c. the Applicant's attorneys practice their profession in the judicial district of Montreal.

83. The whole cause of action arose in Quebec.

84. The present application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present application;

AUTHORIZE the bringing of a class action in the form of an application to institute proceedings in damages;

DESIGNATE the Applicant, Danielle Dallaire, as representative of the persons included in the Class herein described as:

"All direct and indirect purchasers in Quebec who purchased or leased motor vehicles containing Automotive Steel Tubes or who purchased Automotive Steel Tubes, between December 2003 and July 9, 2011 (the "**Class Period**")."*

*Motor vehicle is defined as: cars, sport utility vehicles (SUVs), vans, light trucks (weighing up to 10,000 lbs).

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

- a. Have the Defendants conspired and / or entered into an agreement or arrangement that had the effect of unduly restricting competition in the sale of Automotive Steel Tubes and/or artificially increasing the price of Automotive Steel Tubes and, if so, during what period did this conspiracy and bid rigging have an effect on the Applicant and the Class members?
- b. Does the participation of the Defendants in the conspiracy and bid rigging constitute a fault for which they are jointly and severally liable towards the Applicant and the Class members?
- c. Did the conspiracy and bid rigging result in an increase in the price paid by the Applicant and Class members in Quebec for the purchase of Automotive Steel Tubes and/or the purchase and / or rental of motor vehicles equipped with Automotive Steel Tubes and, if so, does this increase constitute a damage to the Applicant and to each of the members of the Class?
- d. What is the total amount of damages suffered by the Applicant and the Class members?
- e. Are the Defendants liable to pay punitive damages and if so, in what amount?
- f. Are the Applicant and Class members justified in claiming the reimbursement of the costs incurred in the present matter, namely the costs of investigation, the extrajudicial fees and disbursements of attorneys for the Applicant?
- g. Were the Defendants unjustly enriched and if so, should the Defendants disgorge their profits?

The interests of justice favour that this motion be granted in accordance with its conclusions;

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

- **GRANT** the class action of the Applicant and each of the members of the Class;
- **CONDEMN** the Defendants, jointly and severally, to pay compensatory damages valued at \$ 50,000,000 to be adjusted, and **ORDER** collective recovery of those sums;
- **CONDEMN** the Defendants, jointly and severally, to pay punitive damages valued at \$ 5,000,000 to be adjusted, and **ORDER** collective recovery of those sums;
- **CONDEMN** the Defendants, jointly and severally, to pay the costs incurred for any investigation necessary to establish their liability in this case, including the extrajudicial fees and disbursements of attorneys for the Applicant;
- **CONDEMN** the Defendants, jointly and severally, to pay interest at the legal rate plus the additional indemnity provided for in article 1619 of the *Civil Code of Quebec* on the above sums from the date of service of the application to authorize a class action;
- **CONDEMN** the Defendants to bear the costs of the present action including expert fees and notice fees;
- **RENDER** any other order that this Honourable Court shall determine and that is in the interest of the members of the Class.

DECLARE that all members of the Class that have not requested their exclusion, within the specified timeframe, be bound by any judgment to be rendered on the class action to be instituted in the manner provided for by the law;


FIX the delay of exclusion at thirty (30) days from the date of the publication of the notice to the Class members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgment to be rendered herein;

ORDER the publication of a notice to the members of the Class in accordance with articles 576 and 579 C.C.P. within sixty (60) days from the judgment to be rendered herein;

RENDER any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

THE WHOLE with costs, including all publication fees.

Montreal, March 11, 2019



Klein Avocats Plaideurs Inc.
500, Place d'Armes, suite 1800
Montreal, Quebec, H2Y 2W2
Attorneys for the Applicant

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Klein Avocats Plaideurs Inc.

SUMMONS
(articles 145 and following C.C.P.)

Filing of a judicial application

Take notice that the applicant has filed this originating application in the office of the Superior Court in the judicial district of Montréal.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the Montréal courthouse situated at 1, Notre-Dame Est, Montréal, Québec, H2Y 1B6 within 15 days of service of the application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the applicant's lawyer or, if the applicant is not represented, to the applicant.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the applicant in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Change of judicial district

You may ask the court to refer the originating application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the applicant.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of

the court already seized of the originating application.

Transfer of application to Small Claims Division

If you qualify to act as an applicant under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the applicant's legal costs will not exceed those prescribed for the recovery of small claims.

Calling to a case management conference

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

Exhibits supporting the application

In support of the originating application, the Applicant intends to use the following exhibits:

EXHIBIT P-1:	<i>En liasse</i> copy of the Competition Bureau Canada's press releases dated October 19, 2018 and February 14, 2018
EXHIBIT P-2:	<i>En liasse</i> copy of case summary of <i>U.S. v. Maruyasu Industries Co. et al.</i> and indictment
EXHIBIT P-3:	<i>En liasse</i> copy of the United States Department of Justice's press releases dated November 14, 2014, November 8, 2016 and May 31, 2018
EXHIBIT P-4:	Copy of the Applicant's contract of purchase relating to the purchase of her vehicle

These exhibits are available on request.

Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No.: 500-06-000986-196

SUPERIOR COURT
(Class Action Chambers)

DANIELLE DALLAIRE, residing and domiciled
at [REDACTED]

Applicant

v.

MARUYASU INDUSTRIES CO., LTD., legal person, having its principal place of business at 1 Kitayama, Hashime-cho, Okazaki-shi, Aichi 4448580

and

CURTIS-MARUYASU AMERICA, INC., legal person, having its principal place of business at 665 Metts Dr., Lebanon, KY 40033

and

SANOH INDUSTRIAL CO., LTD., legal person, having its principal place of business at Ebisu Square 1-23-23 Ebisu, Shibuya-Ku, Tokyo 1500013

and

SANOH AMERICA, INC., legal person, having its principal place of business at 1849 Industrial Dr, Findlay, OH 45840

and

USUI CO., LTD., legal person, having its principal place of business at 131-2, Nagasawa, Shimizu-cho, Sunto-gun, Shizuoka-ken, 411-8610 Japan

and

USUI INTERNATIONAL CORPORATION, legal person, having its principal place of business at 44780 Helm Street, Plymouth, MI 48170

and

JTEKT CORPORATION, legal person, having its principal place of business at No. 7-1, Meieki 4-chome, Nakamura-ku, Nagoya, Aichi Pref., 450-8515 Japan

and

JTEKT NORTH AMERICA CORPORATION, legal person, having its principal place of business at 7 Research Drive, Greenville, SC 29607

and

JTEKT AUTOMOTIVE NORTH AMERICA INC.
legal person, having its principal place of
business at 55 Excellence Way, Vonore, TN
37885

Defendants

**NOTICE OF PRESENTATION
(ART 146 and 574 al. 2 C.C.P.)**

TO: MARUYASU INDUSTRIES CO., LTD., having its principal place of business at 1 Kitayama,
Hashime-cho, Okazaki-shi, Aichi 4448580
and

CURTIS-MARUYASU AMERICA, INC., having its principal place of business at 665 Metts Dr.,
Lebanon, KY 40033
and

SANOH INDUSTRIAL CO., LTD., having its principal place of business at Ebisu Square 1-23-23
Ebisu, Shibuya-Ku, Tokyo 1500013
and

SANOH AMERICA, INC., having its principal place of business at 1849 Industrial Dr, Findlay, OH
45840
and

USUI CO., LTD., having its principal place of business at 131-2, Nagasawa, Shimizu-cho, Sunto-
gun, Shizuoka-ken, 411-8610 Japan
and

USUI INTERNATIONAL CORPORATION, having its principal place of business at 44780 Helm
Street, Plymouth, MI 48170.
and

JTEKT CORPORATION, having its principal place of business at No. 7-1, Meieki 4-chome,
Nakamura-ku, Nagoya, Aichi Pref., 450-8515 Japan
and

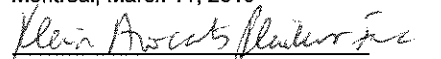
JTEKT NORTH AMERICA CORPORATION, having its principal place of business at 7 Research
Drive, Greenville, SC 29607
and

JTEKT AUTOMOTIVE NORTH AMERICA INC., having its principal place of business at 55
Excellence Way, Vonore, TN 37885
Defendants


TAKE NOTICE that the *Application for authorization to institute a class action and to obtain the status of representative* will be presented before one of the honourable judges of the Superior Court sitting in the Class Action Chambers at the Montréal Courthouse located at 1, Notre-Dame Est, at a date and time to be determined by the Class Action Chambers coordinator.

GOVERN YOURSELVES ACCORDINGLY.

Montreal, March 11, 2019


Klein Avocats Plaideurs Inc.
Attorneys for the Applicant

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Klein Avocats Plaideurs Inc.

CANADA

SUPERIOR COURT
(Class Action Chambers)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No.: 500-06-000986-196

DANIELLE DALLAIRE

Applicant

v.

MARUYASU INDUSTRIES CO., LTD.
ET AL.

Defendants

ATTESTATION OF ENTRY IN THE NATIONAL CLASS ACTION REGISTER
(ART 55 of the *Regulation of the Superior Court of Québec in civil matters*)

The Applicant, through her attorneys, attests that the *Application for authorization to institute a class action and to obtain the status of representative* will be entered into the national class action register.

Montreal, March 11, 2019


Klein Avocats Plaideurs Inc.
Attorneys for the Applicant

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Klein Avocats Plaideurs Inc.