

# SUPERIOR COURT

(Class Action Chamber)

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No.: 500-06-001331-244

DATE: December 17, 2025

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**BY THE HONOURABLE MARTIN F. SHEEHAN, J.S.C.**

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**PASCAL DESMEDT**

Applicant

v.

**SAMSUNG ELECTRONICS CANADA INC.**

Defendant

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## JUDGMENT ON MOTION TO AUTHORIZE A CLASS ACTION

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### OVERVIEW

[1] Applicant, Mr. Pascal Desmedt, wishes to file a class action against Samsung Electronics Canada Inc. (“**Samsung**”) for the benefit of all persons who, since 2013, purchased one or more Samsung range models (the “**Ranges**”) recalled under Health Canada Identification #RA-75974 (the “**Recall**”).

[2] In his *Application to Authorize the Bringing of a Class Action* filed on September 12, 2024 (the “**Application for Authorization**”), Applicant alleges that the Ranges are defective and dangerous in that the front-mounted knobs of the range can accidentally activate and cause fires.

[3] Claiming that the solution offered under the Recall is not satisfactory, the Applicant seeks the following remedies:

- 3.1. The refund of his Range;
- 3.2. Compensatory damages of \$1,000; and
- 3.3. Punitive damages of \$1,000.<sup>1</sup>

[4] Applicant relies on articles 37, 38, 39, 40, 41, 53, 215, 219, 220(a), 221(g), 228, 253 and 272 of the *Consumer Protection Act*<sup>2</sup> (the “CPA”), as well as articles 1726 to 1730 of the *Civil Code of Québec* (“C.C.Q.”).

[5] Samsung contests the Application for Authorization for the following reasons:

- 5.1. If used properly and according to the owner’s manual, the Ranges do not present a safety defect under article 53 of the CPA and articles 1726 and following of the C.C.Q.
- 5.2. Any hypothetical risk was addressed through the added safety measures (the “**Added Safety Measures**”), implemented during the Recall.
- 5.3. The Added Safety Measures do not affect the operation of the Range. Even after modification, the Ranges comply with Samsung’s advertisements and representations.
- 5.4. The Applicant’s claim rests solely on an alleged “aesthetic prejudice”, which prejudice is purely subjective.

[6] Subsidiarily, Samsung submits that the proposed class is overly broad in terms of the geographical location of class members and Ranges targeted by the proposed class action.

[7] At the hearing, Applicant’s counsel agreed that the class action should only be authorized for Quebec consumers but objected to removing certain Range models that were part of the Recall.

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<sup>1</sup> Paragraph 31 of the Application for Authorization mentions punitive damages of \$5,000 but at the hearing, Applicant’s counsel confirmed that the amount should read \$1,000 as is stated in the conclusions.

<sup>2</sup> *Consumer Protection Act*, CQLR, c. P-40.1.

## **ANALYSIS**

### **1. Does Applicant Meet the Requirements for the Authorization of a Class Action?**

#### **1.1 Conclusion**

[8] Considering the low threshold that is applicable at this stage, the requirements are met and the class action is authorized.

#### **1.2 Legal Principles**

[9] A class action is a procedure by which a person, the class representative, sues on behalf of all members of a group that have a similar claim. Because the class representative is not specifically mandated to act on behalf of these members, prior authorization of the Court is required before a class action can be filed.<sup>3</sup>

[10] Article 574 C.C.P. provides that an application for authorization to file a class action must set out: i) the facts on which the class action is based; ii) the nature of the class action; and iii) the class on whose behalf the representative intends to act.

[11] According to article 575 C.C.P., the Court must authorize the class action if it is of the opinion that:

- 11.1. the claims of the members of the class raise identical, similar or related issues of law or fact;
- 11.2. the facts alleged appear to justify the conclusions sought;
- 11.3. the composition of the class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings; and
- 11.4. the class member appointed as representative plaintiff is in a position to properly represent the class members.

[12] The Court's role at the authorization stage has been described as "screening". It must weed out those untenable and frivolous cases that clearly do not meet the requirements for the issuance of class action (article 575 C.C.P.). The threshold is low. The requirements must be interpreted in a broad and liberal fashion designed to give effect to the social goals of class actions (facilitating access to justice, modifying harmful

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<sup>3</sup> *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.*, 2019 SCC 35, para. 6.

behaviour and preserving scarce judicial resources).<sup>4</sup> When all four criteria are met, the Court has no discretion to refuse the authorization. Moreover, if a doubt remains at the end of the analysis, this doubt should benefit the applicant, and the authorization should be granted.<sup>5</sup>

[13] Nonetheless, the social objectives of class actions are not a substitute for the authorization conditions, and one must be careful not to authorize a class action that does not satisfy them simply because the action meets those objectives.<sup>6</sup> Indeed, while it is true that class actions constitute a formidable tool for access to justice, those who are called upon to defend them should only be forced to do so against actions that are sustainable.<sup>7</sup> Moreover “[p]reventing baseless class actions from monopolizing the judicial system to the detriment of other litigants’ actions is also part of preserving access to justice for all litigants.”<sup>8</sup> As Justice Stratas summarily put it, “[d]evoting resources to one case for no good reason deprives the others for no good reason”.<sup>9</sup>

[14] In the present matter, arguments focussed on the absence of “facts alleged that appear to justify the conclusions sought”.

[15] For related reasons, Defendant also submits that the representative Plaintiff has not alleged a valid personal right of action.

<sup>4</sup> *Western Canadian Shopping Centres Inc. v. Dutton*, 2001 SCC 46, paras. 27 to 29; *Royer c. Capital One*, 2025 QCCA 217, para. 23 (Applications for leave to appeal to the Supreme Court, 2025-04-28 (S.C. Can.) 41212).

<sup>5</sup> *Desjardins Cabinet de services financiers Inc. c. Asselin*, 2020 CSC 30, paras. 27, 55, 116 and 156; *L’Oratoire Saint-Joseph du Mont-Royal v. J.J.*, *supra*, note 3, paras. 6, 8, 18, 19, 20, 42, 56 and 58; *Vivendi Canada Inc. v. Dell’Aniello*, 2014 CSC 1, paras. 1, 37, 55 and 67; *Infineon Technologies AG v. Option Consommateurs*, 2013 CSC 59, paras. 59 to 61; *Apple Canada Inc. c. Badaoui*, 2021 QCCA 432, para. 25; *Benamor c. Air Canada*, 2020 QCCA 1597, para. 35; *Godin c. Aréna des Canadiens Inc.*, 2020 QCCA 1291, paras. 49 and 50 (Approval of a settlement agreement granted, 2022 QCCS 2110 ); *Tenzer c. Huawei Technologies Canada Co. Ltd.*, 2020 QCCA 633, para. 20 (Application for approval of a settlement agreement granted, 2021 QCCS 4663); *Belmamoun c. Ville de Brossard*, 2017 QCCA 102, paras. 73 and 74 (Application for leave to institute class action dismissed, 2025 QCCA 1011); *Charles c. Boiron Canada Inc.*, 2016 QCCA 1716, paras. 40 to 43 (Motion for leave to appeal to the Supreme Court dismissed with dissent (Can C.S., 2017-05-04) 37366); *Union des consommateurs c. Bell Canada*, 2012 QCCA 1287, para. 117 (Motion for permission to appeal to the Supreme Court of Canada dismissed (S.C. Can., 2013-01-17) 34994).

<sup>6</sup> *Rozon c. Les Courageuses*, 2020 QCCA 5, para. 70 (Motion for permission to appeal to the Supreme Court of Canada dismissed (S.C. Can., 2020-11-16, 39115)).

<sup>7</sup> *Infineon Technologies AG v. Option consommateurs*, *supra*, note 5, para. 61; *Boudreau c. Procureur général du Québec*, 2022 QCCA 655, para. 17 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2023-03-30) 40311); *Harvey c. Vidéotron*, 2021 QCCA 1183, para. 21; *Levy c. Nissan Canada Inc.*, 2021 QCCA 682, para. 27 (Application for approval of a settlement agreement granted and approval of the agreement, 2024 QCCS 2282).

<sup>8</sup> *Jensen v. Samsung Electronics Co. Ltd.*, 2021 FC 1185, para. 62 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2024-01-11) 40807).

<sup>9</sup> *Coote v. Lawyers’ Professional Indemnity Company*, 2013 FCA 143, para. 13 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2015-04-09) 36226), cited with approval in *Jensen v. Samsung Electronics Co. Ltd.*, *supra*, note 8, para. 62.

[16] Finally, if the Class Action is authorized, Defendant submits that the group definition should be revised to restrict it to certain products or to exclude punitive damages.

1.2.1 Allegations that Appear to Justify the Conclusions Sought (article 575(2) C.C.P.)

[17] Regarding the second criterion, article 575 C.C.P. states that the facts alleged must “appear” to justify the conclusions sought.

[18] While it is possible to “read between the lines” to discern an arguable cause of action, the approach rests first on the allegations of the proceeding.<sup>10</sup>

[19] The applicant must both put forth: i) a syllogism that is neither frivolous nor clearly unfounded in law; and ii) allege facts that are precise enough to support this syllogism.<sup>11</sup>

[20] When the applicant alleges specific facts, these are generally presumed to be true. It follows that when those facts are sufficient to support a sustainable case, the application for leave must be granted since it satisfies the minimum threshold required. However, the presumption does not apply to facts that are implausible or have been clearly proven incorrect.<sup>12</sup> Furthermore, allegations that are vague or general are more akin to opinions, hypothesis, or speculation. Such allegations are not assumed to be true. Nonetheless, even in the presence of allegations that lack precision or are otherwise not considered to be proven, the court may still authorize a class action if there exists a sufficient factual basis for these allegations in the court record. Thus, prior to authorizing a class action in the presence of such allegations, the judge must verify whether the file contains some evidence to support them, while avoiding entering a debate on the veracity of the evidence or its accuracy.<sup>13</sup>

[21] The specificity of the allegations of fact included in the application and the requirement to provide some evidence in support of them are therefore related

<sup>10</sup> *Desjardins Cabinet de services financiers Inc. c. Asselin*, *supra*, note 5, paras. 11 to 21; *Royer c. Capital One*, *supra*, note 4, para. 25; *Haroch c. Toronto-Dominion Bank*, 2021 QCCA 1504, paras. 13 and 14 (Motion for approval of settlement agreement granted, 2023 QCCS 696).

<sup>11</sup> *Desjardins Cabinet de services financiers Inc. c. Asselin*, *supra*, note 5, para. 66; *Royer c. Capital One*, *supra*, note 4, para. 24.

<sup>12</sup> *Tessier c. Economical, compagnie mutuelle d'assurance*, 2023 QCCA 688, para. 27 (Motion for extension of time granted and motion for leave to appeal to the Supreme Court denied (S.C. Can., 2023-12-21) 40856); *Cozak c. Procureur général du Québec*, 2021 QCCA 1376, para. 7 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2022-03-24) 39964); *Baratto c. Merck Canada Inc.*, 2018 QCCA 1240, para. 48 (Withdrawal of class action (S.C., 2025-01-06) 500-06-000648-135, 2025 QCCS 75); *Lambert (Gestion Peggy) c. Écolait Itée*, 2016 QCCA 659, para. 38.

<sup>13</sup> *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.*, *supra*, note 3, para. 59; *Infineon Technologies AG v. Option consommateurs*, *supra*, note 5, para. 67; *Homsy c. Google*, 2023 QCCA 1220, paras. 24, 25, 28, 29 and 38 (Permission to authorize a class action granted, 2024 QCCS 1324); *Haroch c. Toronto-Dominion Bank*, 2023 QCCA 1282, para. 8; *Charles c. Boiron Canada Inc.*, *supra*, note 5, para. 43.

concepts. When the factual allegations are very specific, the need for evidence is diminished as the allegations are considered proven. When the allegations are general in nature, consist in conclusions or, in the words of the Supreme Court of Canada, are “bare”, they cannot be taken as true, and they are “insufficient to meet the threshold requirement of an arguable case [...] without some form of factual underpinning”.<sup>14</sup>

[22] Nonetheless, the applicant’s burden is one of demonstration, not proof. The applicant does not need to show that the claim is likely to succeed. Sufficiency of allegations should not be conflated with a sufficiency of evidence.<sup>15</sup> All that is required is that the applicant demonstrates, on a *prima facie* basis, that there is an arguable case in light of the facts and the applicable law.<sup>16</sup>

[23] The authorization stage must be distinguished from the trial on the merits. The merits of the case should only be considered after authorization has been granted.<sup>17</sup> Authorization judges may decide questions of law when the presentation of additional evidence would not place them in a better position. However, they should refrain from doing so if the decision requires applying the law to findings of fact. Any analysis of the evidence should be deferred to the merits given the frugal and limited evidence available at the authorization stage and the fact that much of the relevant evidence may remain under the control of the defendants.<sup>18</sup>

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<sup>14</sup> *Infineon Technologies AG v. Option consommateurs*, *supra*, note 5, para. 134.

<sup>15</sup> *Pharmascience Inc. c. Bourassa*, 2024 QCCA 1403, para. 22 (Settlement agreement regarding defendants GSK, Novartis, and Sanofi, 2024 QCCS 3295).

<sup>16</sup> *Desjardins Cabinet de services financiers Inc. c. Asselin*, *supra*, note 5, par. 71; *L’Oratoire Saint-Joseph du Mont-Royal v. J.J.*, *supra*, note 3, paras. 7 and 58; *Vivendi Canada Inc. v. Dell’Aniello*, *supra*, note 5, para. 37; *Infineon Technologies AG v. Option consommateurs*, *supra*, note 5, paras. 58, 59, 61, 65 and 66; *Benjamin c. Crédit VW Canada Inc.*, 2022 QCCA 1383, para. 27 (Approval of a settlement agreement with respect to one of the defendants, CDLSI, 2023 QCCS 3430); *Sibiga c. Fido Solutions Inc.*, 2016 QCCA 1299, para. 52.

<sup>17</sup> *Desjardins Cabinet de services financiers Inc. c. Asselin*, *supra*, note 5, paras. 16 and 17; *L’Oratoire Saint-Joseph du Mont-Royal v. J.J.*, *supra*, note 3, paras. 7 and 22; *Vivendi Canada Inc. v. Dell’Aniello*, *supra*, note 5, para. 37; *Infineon Technologies AG v. Option consommateurs*, *supra*, note 5, paras. 65 and 68.

<sup>18</sup> *Desjardins Cabinet de services financiers Inc. c. Asselin*, *supra*, note 5, para. 55; *L’Oratoire Saint-Joseph du Mont-Royal v. J.J.*, *supra*, note 3, para. 55; *Salko c. Financière Banque Nationale Inc.*, 2025 QCCA 74, para. 31; *Pilon c. Banque Amex du Canada*, 2021 QCCA 414, para. 12 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2022-03-10) 39669); *Durand c. Subway Franchise Systems of Canada*, 2020 QCCA 1647, paras. 48 to 54 (Application for permission to withdraw an application for authorization to institute a class action, 2023 QCCS 179); *Benamor c. Air Canada*, *supra*, note 5, para. 42; *Godin c. Aréna des Canadiens Inc.*, *supra*, note 5, paras. 53, 54, 55, 93 and 113; *Belmamoun c. Ville de Brossard*, *supra*, note 5, paras. 81 and 82; *Sibiga c. Fido Solutions Inc.*, *supra*, note 16, paras. 76 to 86.

[24] Since the action does not exist on a class basis at the authorization stage, the court must consider plaintiff's individual claim to determine whether the action has a reasonable chance of success. If the plaintiff does not have an arguable personal cause of action, the claim must be dismissed even if other class members could theoretically have a valid cause of action.<sup>19</sup>

[25] When several independent causes of action are invoked in support of the application for authorization, the applicant must demonstrate an appearance of right for each of them. Thus, the Court must separately assess the merits of each and authorize only those that meet the condition.<sup>20</sup>

### 1.3 Discussion

#### 1.3.1 Context

[26] Samsung manufactures certain Ranges equipped with front knobs.

[27] The Ranges are advertised as "secure", "modern", having a "built-in look". On its website, Samsung mentions that "[t]he large, ergonomic design of the metallic knobs makes the knobs easy to grip for precise temperature control". The website adds that the knobs have a "stylish, premium look".<sup>21</sup>

[28] On January 19, 2024, the Applicant purchased a Samsung range (model NE63T8711SS/AC) from Rona in Mascouche, along with a four-year extended protection plan, for \$2,305.91.<sup>22</sup>

[29] In June 2024, the Applicant left an oatmeal box on his Range and returned home to the smell of fire burning.<sup>23</sup> He didn't understand how this could have happened as he had not turned his Range on. He suspects the Range was inadvertently turned on when he brushed against it while placing his groceries on his kitchen counter.<sup>24</sup>

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<sup>19</sup> *Royer c. Capital One*, *supra*, note 4, para. 27; *Ehouzou c. Manufacturers Life Insurance Company*, 2021 QCCA 1214, para. 45 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2022-03-24) 39863); *Champagne c. Subaru Canada Inc.*, 2018 QCCA 1554, para. 22; *Sofio c. Organisme canadien de réglementation du commerce des valeurs mobilières (OCRCVM)*, 2015 QCCA 1820, para. 10; *Beaulieu c. Procureur général du Canada*, 2021 QCCS 4559, para. 64; *Lehouillier-Dumas c. Facebook Inc.*, 2021 QCCS 3524, para. 105; *Hazan c. Micron Technology Inc.*, 2021 QCCS 2710, para. 20 (Appeal dismissed, 2023 QCCA 132); *Saurette c. Astrazeneca Canada Inc.*, 2019 QCCS 3323, para. 24.

<sup>20</sup> *Salko c. Financière Banque Nationale Inc.*, *supra*, note 18, para. 28; *Belmamoun c. Ville de Brossard*, *supra*, note 5, para. 77; *Delorme c. Concession A25, s.e.c.*, 2015 QCCA 2017, para. 6 (Appeal dismissed, 2025 QCCA 1236).

<sup>21</sup> Exhibit P-2.

<sup>22</sup> Exhibit P-1.

<sup>23</sup> Transcript of Mr. Desmedt's deposition dated March 27, 2025, p. 6, l. 12-18, p. 18, l. 11-17.

<sup>24</sup> Transcript of Mr. Desmedt's deposition dated March 27, 2025, p. 8, l. 5-11.

[30] On August 8, 2024, CTV News reported on a U.S. recall of similar ranges. The report (the “**CTV Report**”) states that “Samsung is recalling knobs on some of its electric stoves, warning that fires can be set off if pets - or even humans - bump into them”. The CTV Report mentions that “[s]everal videos have shown pets accidentally igniting fires from jumping onto stoves and pawing at the knobs”. “A Colorado dog set off a house fire in June by doing just that, when the boxes on top of the stove caught on fire. It was all caught on the home’s security footage.” According to CTV, “Samsung received more than 300 reports of accidental activation by pets or humans since 2013, resulting in about 250 fires. At least 18 of those fires caused extensive property damage. There also have been 40 injury reports, eight of which required medical attention, and seven of those fires have led to pet deaths.”<sup>25</sup>

[31] In a video dated September 24, 2024, Applicant has been able to replicate the activation of the cooktop by brushing against the knobs.<sup>26</sup>

[32] The CTV Report notes that “Samsung will provide free knob locks or covers for certain slide-in electric ranges with front-mounted knobs that were sold between 2013 and 2024”.<sup>27</sup>

[33] Similar reports appeared on other media. For example, an article on the TVA Nouvelles website<sup>28</sup> published the next day (August 9, 2024) reiterates most of the content of the CTV Report. It concludes:

*Ainsi, Samsung fournira gratuitement des verrous ou des couvercles à boutons pour l'ensemble des 1,1 million de fours touchés par le rappel, selon le média américain.*

*En attendant de les recevoir, la compagnie aurait indiqué qu'il est possible d'utiliser le four, en conseillant cependant de ne pas laisser les animaux et les enfants à proximité, de s'assurer que les boutons sont bien fermés et de ne rien laisser sur le dessus de la cuisinière.*

[34] On August 29, 2024, Samsung proceeded to a voluntary Recall in Canada.<sup>29</sup>

[35] The Recall warns that [c]onsumers using the recalled ranges without knob locks or covers are cautioned to ensure that children and pets are kept away from the knobs, to not leave objects on the range when not in use, and to check that the knobs are off before leaving home or going to sleep”. “Consumers should contact Samsung Canada to receive a free set of knob locks or covers compatible with their model of electric slide-in range to install.”<sup>30</sup> Each Added Safety Measure applies to a particular model of

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<sup>25</sup> Exhibit P-5.

<sup>26</sup> Exhibit P-7.

<sup>27</sup> Exhibit P-5.

<sup>28</sup> Exhibit P-9.

<sup>29</sup> Exhibit P-3.

<sup>30</sup> *Ibid.*

Range. Owners of some Range models are provided with knob covers while owners of other Range models are provided with knob locks. There is no overlap.<sup>31</sup>

[36] Upon learning of the Recall, Applicant went to the Rona store where he purchased his Range. The store said they had not heard of the Recall. He noticed that the Ranges were still for sale despite applicable legislation.<sup>32</sup>

[37] Applicant contacted Samsung through its website to ask for an agent to contact him. He received an automated response to the effect that his request to receive knob covers was being processed and that he would receive them within five business days. Applicant never requested knob covers.

[38] A few days later, the Applicant received four knob covers in the mail (from Samsung) along with some 3M tape to stick the knob covers to his stove.<sup>33</sup>

[39] According to the Applicant, his Samsung Range is now far from the “stylish” and “modern” look advertised by Samsung.

[40] On September 25, 2024, the Journal de Montréal reported on the Recall and the Application for Authorization (the “**First JDM Article**”). The First JDM Article mentions fifty-seven Canadian incident reports received by Samsung. One Quebec customer is quoted as asking for a refund. The article also states that Samsung has been aware of the issue for eleven years.<sup>34</sup>

[41] On October 1, 2024, the Journal de Montréal published a second article (the “**Second JDM Article**”) that mentions four families who suffered fire damage because of their Samsung Range. One family allegedly lost their house on New Year’s Eve, December 31, 2023, after their dog reached for a cheese that had been placed on the Range activating the knob. Two other families suffered the same fate because of their dog accidentally starting the Range. A fourth family suffered fire damage after a teenager accidentally rubbed and activated the knob to access a meal that their parents had left for them on the Range’s cooktop.<sup>35</sup>

[42] A fire report regarding one of the families mentioned in the Second JDM Article refers to the dog reaching for a cheese as a hypothetical cause of the fire.<sup>36</sup>

[43] Comments by some consumers on the Samsung website echo these worries. One mentions several “near house burning events”. The knobs are described as not

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<sup>31</sup> Exhibits SECA-3, SECA-4 and SECA-5; Exhibit SECA-2, Affidavit of Frank Martino, paras. 4 and 5.

<sup>32</sup> Article 7 of the *Canada Consumer Product Safety Act*, S.C. 2010, c. 21, prohibits a manufacturer or importer from manufacturing, importing, advertising or selling a consumer product that is covered by a recall.

<sup>33</sup> Exhibits P-4, P-8, SECA-4 and SECA-5.

<sup>34</sup> Exhibit P-11.

<sup>35</sup> Exhibit P-10.

<sup>36</sup> Exhibit P-17.

having “a strong enough push to turn action”. The same customer notes that the “free plastic knob covers” “look horrible and cheap on [his] expensive range”.<sup>37</sup>

[44] Applicant filed his Application for Authorization on September 12, 2025.

[45] After the Application for Authorization was filed, class counsel received videos from putative class members showing how easy it was for children to access the knobs even with the protective knob covers in place<sup>38</sup>. They were also provided with pictures of fire incidents.<sup>39</sup>

[46] The context having been set out, we must now examine each of the proposed causes of action to see if Applicant has established that he has a potential non-frivolous claim for each of them.

### 1.3.2 Safety Defect (articles 37, 38, 53 CPA and 1726 to 1729 C.C.Q.)

[47] Applicant has established a *prima facie* case that the Ranges are plagued with a safety defect.

[48] The allegations in this regard are precise and the record contains sufficient evidence that the knobs can be accidentally activated by humans or pets constituting a fire hazard.

[49] Samsung submits that, when used properly and according to the owner’s manual, the Ranges do not present a safety defect. According to Samsung, the Ranges only present a fire risk if the knobs are accidentally activated while there is a flammable substance placed on the cooktop.

[50] They add that a defect is no longer latent when the customer is made aware of it.<sup>40</sup>

[51] For example, they note that the user’s manual contains the following warnings:

51.1. Do not lean on the range as you may turn the control knobs inattentively.<sup>41</sup>

51.2. Young children should be supervised to ensure that they do not play with the appliance.<sup>42</sup>

<sup>37</sup> Exhibit P-2.

<sup>38</sup> Exhibits P-12 and P-13.

<sup>39</sup> Exhibits P-14, P-15, P-16, P-18 and P-19.

<sup>40</sup> *Reckitt Benckiser (Canada) Inc. c. Société d'assurance Beneva Inc. (La Capitale Assurances générales Inc.)*, 2024 QCCA 958, par. 10; *Imperial Tobacco Canada Ltée c. Conseil québécois sur le tabac et la santé*, 2019 QCCA 358, paras. 441, 454, 457 and 460.

<sup>41</sup> Exhibit SECA-6, p. 4.

<sup>42</sup> Exhibit SECA-6, p. 6.

51.3. Do not place or store items that can melt or catch fire on the electric cooktop, even when it is not being used.<sup>43</sup>

[52] These arguments are serious.

[53] Nonetheless, the C.C.Q. stipulates that a product is plagued with a latent defect when the product is “unfit for the use for which it was intended or which so diminish its usefulness that the buyer would not have bought it or paid so high a price if he had been aware of them”.<sup>44</sup> The CPA states that goods “must be fit for the purposes for which goods of that kind are ordinarily used”.<sup>45</sup>

[54] According to the Supreme Court of Canada, “[t]he key factor in the analysis resides in the loss of use, as assessed in light of the buyer’s reasonable expectations”.<sup>46</sup>

[55] At this stage, the Court is not ready to conclude that leaning on the Range, placing items on it while the cooktop is meant to be off, or allowing pets or children to circulate in the kitchen, constitute improper uses.

[56] Furthermore, the issue of customer knowledge is a question of fact which is best left for the trial judge.

[57] In support of its position that no safety defect exists, Samsung notes that these risks exist with several models of ranges distributed by other manufacturers that include front-mounted knobs.<sup>47</sup>

[58] While this may be the case, an industry-wide defect may still constitute a defect. As the Supreme Court of Canada stated, albeit in a different context, a common practice can still constitute a fault if it is demonstrated to be unreasonable.<sup>48</sup>

[59] As a second argument, Samsung pleads that any hypothetical risk was addressed through the Added Safety Measures, implemented during the Recall.

[60] For one, the voluntary performance by a merchant of its obligations does not deprive a consumer of his right to resort to the remedy best suited to his situation.<sup>49</sup>

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<sup>43</sup> Exhibit SECA-6, p. 11.

<sup>44</sup> Art. 1726 C.C.Q.

<sup>45</sup> Art. 37 CPA.

<sup>46</sup> *ABB Inc. v. Domtar Inc.*, 2007 SCC 50, para. 49.

<sup>47</sup> Exhibits SECA-7 and SECA-8.

<sup>48</sup> *Roberge v. Bolduc*, [1991] 1 SCR 374, p. 434.

<sup>49</sup> *Fortin c. Mazda Canada Inc.*, 2016 QCCA 31, paras. 124 and 132 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2016-08-11) 36898); *Option Consommateurs c. Samsung Electronics Canada Inc.*, 2018 QCCS 1751, paras. 66 to 68 (Application for leave to appeal dismissed, 2018 QCCA 1057); *Farias c. Federal Express Canada Corporation*, 2018 QCCS 5634, para. 30 (Appeal dismissed (judgment rectified rendered on November 14, 2019), 2019 QCCA 1954).

[61] In addition, whether the fix is sufficient to cure the defect is also a question of fact that will need to be debated.<sup>50</sup> Applicant has provided videos from potential class members showing how easy it is for children to open the knob covers.<sup>51</sup>

[62] Furthermore, it cannot be ruled out that the presence of knob covers affect the operation of the Range. Applicant states that had he been aware of the safety defect, or that he would have to cover the knobs with bulky old-fashioned knob covers, he would not have purchased his Range, regardless of the price.<sup>52</sup> At this stage, this allegation is presumed to be true.

[63] Given the low threshold that must be met at authorization, there exists a *prima facie* case that a safety defect exists.

[64] Previous decisions of this court have considered that the presence of a recall can be an indication of the presence of a latent defect.<sup>53</sup>

### 1.3.3 Conformity (articles 40 and 41 CPA) and False Representations (articles 215, 219 and 228 CPA)

[65] A product must conform to the description made of them in the contract (article 40 CPA) or in statements or advertising (article 41 CPA). Thus, the CPA incorporates into the consumer contract all representations that may have played an important role in the consumer's decision-making process.<sup>54</sup>

[66] Applicant alleges that the Ranges are advertised as modern, stylish and having a premium look. He adds that that is not the case when the Added Safety Measures are implemented.

[67] The pictures filed in support of the claim support Applicant's claim. The knobs are bulky. There is a significant difference between the pictures in the advertisement P-2 and the pictures of the Applicant's Range after implementation of the Added Safety Measures.<sup>55</sup>

[68] As such, it cannot be said that the "aesthetic prejudice" is purely subjective.

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<sup>50</sup> *Option Consommateurs c. Samsung Eletronics Canada Inc.*, *supra*, note 49, paras. 68 to 70.

<sup>51</sup> Exhibits P-12 and P-13.

<sup>52</sup> Application for Auhtorization, para. 25.

<sup>53</sup> *Peillon c. Audi Canada Inc.*, 2022 QCCS 3642, para. 38 (Approval of a settlement agreement, 2023 QCCS 4470); *Hadida c. Nissan Canada Inc.*, 2019 QCCS 184, paras. 27 to 28; *Option Consommateurs c. Samsung Electronics Canada Inc.*, *supra*, note 49, paras. 52 to 58; *Abicidan v. Ikea Canada*, 2018 QCCS 5279, paras. 37 to 39 (Motion for leave to appeal dismissed, 2019 QCCA 383); *Robitaille c. Mazda*, 2010 QCCS 2630, paras. 47 and 52 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2016-08-11) 36898).

<sup>54</sup> Nicole L'HEUREUX et Marc LACOURSIÈRE, *Droit de la consommation*, 6<sup>e</sup> éd., Cowansville, Éditions Yvon Blais, 2011, paras. 25, 78, 109, 615 and 634.

<sup>55</sup> Exhibits P-4 and P-8.

[69] Applicant also complains of false representations. In particular, he points out that the fact that “humans and pets can accidentally activate the front-mounted knobs on the ranges, posing a fire hazard”<sup>56</sup> and that “consumers using the recalled ranges without knob locks or covers are cautioned to ensure that children and pets are kept away from the knobs, to not leave objects on the range when not in use, and to check that the knobs are off before leaving home or going to sleep” were objectively important facts that were not disclosed to him.

[70] He confirms that he and other potential class members would never have agreed to purchase a Range whose knobs are so sensitive that they can turn on with the slightest contact. The same goes for the fact that this defect must be remedied with bulky knob covers or locks.

[71] When a consumer was induced to contract because of certain false or misleading representations made by the merchant or its representative, those representations are presumed to have had a decisive effect on the consumer’s decision (article 253 CPA).

[72] The existence of a violation of article 228 CPA is a question for the merits. However, Applicant has met his burden of demonstration at this stage.<sup>57</sup> A violation of article 228 CPA can exist even when a recall has allegedly remedied the situation.<sup>58</sup>

#### 1.3.4 Damages

[73] In the presence of a CPA violation, consumers benefit from an absolute presumption of prejudice. The presumption applies if: (1) the merchant or manufacturer failed to fulfil one of the obligations imposed by Title II of the Act; (2) the consumer saw the representation that constituted a prohibited practice; (3) the consumer seeing that representation resulted in the formation, amendment or performance of a consumer contract; and (4) a sufficient nexus existed between the content of the representation and the goods or services covered by the contract.<sup>59</sup> The Application for Authorization includes allegations to this effect.

[74] Such damages are independent of other specific remedies set out in article 272 CPA.<sup>60</sup> A refund or partial refund is one of the possible remedies.<sup>61</sup>

[75] So are punitive damages.

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<sup>56</sup> Exhibit P-3.

<sup>57</sup> *Hadida c. Nissan Canada Inc.*, *supra*, note 53, para. 30; *Option Consommateurs c. Samsung Eletronics Canada Inc.*, *supra*, note 49, paras. 75 to 77; *Abicidan c. Bell Canada*, 2017 QCCS 1198, paras. 50 to 52 (Motion for approval of settlement agreement granted, 2021 QCCS 4946).

<sup>58</sup> *Fortin c. Mazda Canada Inc.*, *supra*, note 49, para. 175.

<sup>59</sup> *Richard c. Time Inc.*, 2012 SCC 8, para. 124.

<sup>60</sup> *Ibid*, paras. 50, 112, 113 and 124 to 128; *Fortin c. Mazda Canada Inc.*, *supra*, note 49, paras. 173 to 177.

<sup>61</sup> *Ibid*, para. 146.

[76] Generally speaking, a punitive damage award must be based on an analysis of a defendant's overall conduct. Thus, in the presence of allegations "sufficient in order to comprehend the gist of the proposed narrative" any firm conclusion in this regard should be deferred to the merits.<sup>62</sup>

[77] Applicant alleges that Samsung was aware of the defect in its Ranges since 2013 and continued to sell the Ranges in question without informing consumers. Such allegations are sufficient at this stage.

[78] Samsung is correct to point out that cancellation of the contract is not open here as the contracting party, Rona, has not been named as a defendant.<sup>63</sup> However, this is not what Plaintiff is seeking. His claim is described as a reduction of the purchase price. The extent of the price reduction, if applicable, is a matter for the merits.

#### **1.4 Other causes of action (articles 39 and 221 CPA)**

[79] The Court agrees with Samsung that other causes of actions pleaded by the applicant are not sustainable.

[80] There are no allegations regarding lack of maintenance parts (article 39 CPA), "special advantage" (article 220(a) CPA) or that certain "characteristics of performance" should be expected (article 221(g) CPA).

## **2. Class Description, Representative Plaintiff, Questions to be Resolved Collectively, Conclusions Sought and District**

[81] Article 576 C.C.P. states that the judgment authorizing a class action must:

- 81.1. describe the classes and subclasses whose members will be bound by the class action judgment;
- 81.2. appoint a representative plaintiff;
- 81.3. identify the main issues to be dealt with collectively and the conclusions sought in relation to those issues; and
- 81.4. determine the district in which the class action is to be instituted.

[82] There is no dispute as to the representatives or the district in which the class action is to be instituted.

<sup>62</sup> *Levy c. Nissan Canada Inc.*, *supra*, note 7, para. 37; *Lavoie c. Wal-Mart Canada Corp.*, 2022 QCCS 1060, paras. 41 to 45 (Approval of a settlement agreement, 2024 QCCS 4449).

<sup>63</sup> *Imperial Tobacco Canada Ltée c. Conseil québécois sur le tabac et la santé*, *supra*, note 40, para. 431; *Systèmes Techno-pompes Inc. c. Tremblay*, 2006 QCCA 987, paras. 22 and 23.

[83] The Applicant, Mr. Pascal Desmedt, is appointed as class representative.

[84] The class action will be heard in the district of Montreal.

[85] This leaves the description of the class, the common questions and the conclusions.

## 2.1 Class Description

[86] In *George c. Québec (Procureur général)*,<sup>64</sup> the Court of Appeal ruled that the description of a proposed class should meet the following requirements:

- 86.1. The definition of the group must be based on objective criteria;
- 86.2. The criteria must have a rational basis;
- 86.3. The group definition must not be circular or imprecise; and
- 86.4. The class definition must not be based on a criterion or criteria that are contingent on the outcome of the class action on the merits.

[87] These requirements need to be respected at the outset of the class action because the class description specifies who is entitled to notices, who is entitled to relief (if relief is granted) and who will be bound by the judgment.<sup>65</sup>

[88] The class definition must not be overly broad and remain in line with the evidence submitted as well as the reality and the scope of the problem at the origin of the dispute. The court can redefine a class to ensure that “its dimensions are better aligned with the claim as framed by the applicant”. This remedy should be preferred to simply refusing authorization. The class can also be redefined at later stages in the proceedings.<sup>66</sup>

[89] The proposed common questions (listed at paragraph 38 of the Application for Authorization) and the conclusions sought (listed at paragraph 47 of the Application for

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<sup>64</sup> *George c. Québec (Procureur général)*, 2006 QCCA 1204, para. 40.

<sup>65</sup> *Cie de matériaux de construction BP Canada v. Fitzsimmons*, 2017 QCCA 1329, para. 49.

<sup>66</sup> *M.L. c. Guillot*, 2021 QCCA 1450, paras. 25 and 26; *Levy c. Nissan Canada Inc.*, *supra*, note 7, paras. 41 to 43; *Sibiga c. Fido Solutions Inc.*, *supra*, note 16, paras. 136 and 137; *Blouin v. Parcs éoliens de la Seigneurie de Beaupré 2 et 3, s.e.n.c.*, 2016 QCCA 77, paras. 10 and 14 (Motion for approval of transaction granted, 2019 QCCS 2968); *Fournier c. Banque de Nouvelle-Écosse*, 2011 QCCA 1459, paras. 50 and 51; *Citoyens pour une qualité de vie/Citizens for a Quality of Life v. Aéroports de Montréal*, 2007 QCCA 1274, para. 74 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2008-04-24) 32370).

Authorization) are similar to those authorized in the past in class actions involving safety recalls.<sup>67</sup>

[90] Originally, the Class included all persons who purchased one of the Ranges. At the hearing, Applicant’s counsel agreed to restrict the class to Quebec consumers.

[91] Samsung submits that the class should be limited to those consumers who were offered the knob covers and exclude those who were offered the knob locks. It alleges that there is no evidence in the record regarding the knob locks. It adds that the potential claims of Range owners who received knob locks are not similar enough to Applicant’s claim to include them in the proposed class.<sup>68</sup>

[92] The Court disagrees.

[93] The problem at the origin of both Added Safety Measures is the same. All Ranges were subject to a unique Recall.

[94] In the presence of similar issues, the proportionality principle dictates that similar claims should proceed together.<sup>69</sup>

**CONCLUSION**

[95] The class action is authorized though the class will be limited to Quebec consumers and certain causes of action will be removed.

**FOR THESE REASONS, THE COURT:**

[96] **AUTHORIZES** the bringing of a class action in the form of an originating application in damages;

[97] **APPOINTS** the Applicant, Mr. Pascal Desmedt, as representative plaintiff of the persons included in the Class herein described as:

All Quebec consumers who, since 2013, purchased one or more of the following ranges recalled under Health Canada	Tous les consommateurs québécois qui, depuis 2013, ont acheté une ou plusieurs des cuisinières suivantes
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<sup>67</sup> *Vermette c. General Motors du Canada ltée*, 2008 QCCA 1793, para. 9 (Application for leave to appeal to the Supreme Court dismissed (S.C. Can., 2009-06-11) 32884); *Peillon c. Audi Canada Inc.*, *supra*, note 53, para. 49; *Hadida c. Nissan Canada Inc.*, *supra*, note 53, para. 45; *Option Consommateurs c. Samsung Eletronics Canada Inc.*, *supra*, note 49, paras. 85 to 87; *Robitaille c. Mazda Canada Inc.*, *supra*, note 53, para. 103; *Tardif c. Hyundai Motor America (Hyundai Auto Canada)*, J.E. 2004-1085 (C.S.), para. 101.

<sup>68</sup> *Charbonneau c. Location Claireview*, 2022 QCCA 659, para. 4 (Motion to partially dismiss a class action upheld (judgment rectified rendered on July 24, 2024), 2024 QCCS 2370).

<sup>69</sup> *Baratto c. Merck Canada Inc.*, *supra*, note 12, paras. 74 to 76; *Bellerose c. Véhicules Tesla Canada*, 2023 QCCS 3488, para. 28.

<p>Identification # RA-75974 with defective front-mounted knobs that can accidentally activate, manufactured, distributed, supplied, wholesaled and/or imported by Samsung:</p>	<p>rappelées sous le numéro d'identification de Santé Canada RA-75974 avec des boutons à l'avant défectueux qui peuvent être activés accidentellement, fabriquées, distribuées, fournies, vendues en gros et/ou importées par Samsung :</p>
<ul style="list-style-type: none"> <li>• NE58F9500SS/AC</li> <li>• NE58F9710WS/AC</li> <li>• NE58H9950WS/AC</li> <li>• NE58K9500SG/AC</li> <li>• NE58K9850WG/AC</li> <li>• NE58K9850WS/AC</li> <li>• NE58M9430SS/AC</li> <li>• NE58R9311SS/AC</li> <li>• NE58R9430SG/AC</li> <li>• NE63A8315SS/AC</li> <li>• NE63A8711QN/AC</li> <li>• NE63BB871112AC</li> <li>• NE63T8111SS/AC</li> <li>• NE63T8311SS/AC</li> <li>• NE63T8511 SS/AC</li> <li>• NE63T8711 SG/AC</li> <li>• NE63T8711SS/AC</li> <li>• NE63T8751 SG/AC</li> <li>• NE63T8751 SS/AC</li> </ul> <p>(the « <b>Ranges</b> »)</p>	<ul style="list-style-type: none"> <li>• NE58F9500SS/AC</li> <li>• NE58F9710WS/AC</li> <li>• NE58H9950WS/AC</li> <li>• NE58K9500SG/AC</li> <li>• NE58K9850WG/AC</li> <li>• NE58K9850WS/AC</li> <li>• NE58M9430SS/AC</li> <li>• NE58R9311SS/AC</li> <li>• NE58R9430SG/AC</li> <li>• NE63A8315SS/AC</li> <li>• NE63A8711QN/AC</li> <li>• NE63BB871112AC</li> <li>• NE63T8111SS/AC</li> <li>• NE63T8311SS/AC</li> <li>• NE63T8511 SS/AC</li> <li>• NE63T8711 SG/AC</li> <li>• NE63T8711SS/AC</li> <li>• NE63T8751 SG/AC</li> <li>• NE63T8751 SS/AC</li> </ul> <p>(les « <b>Cuisinières</b> »)</p>

[98] **IDENTIFIES** the principal questions of fact and law to be treated collectively as follows:

- 98.1. Did Samsung fail to satisfy the requirements of articles 37, 38, 40, 41, 53, 215, 219 or 228 CPA or of articles 1726 to 1730 C.C.Q.?
- 98.2. Did Samsung commit a fault in relation to the recall program or otherwise fail to satisfy its obligations in that regard?
- 98.3. Are Class Members entitled to:
  - i. A refund of their purchase price for the Range, or a reduction of their obligations, and in what amount?
  - ii. Damages for trouble and inconvenience and in what amount?
  - iii. Moral damages and in what amount?

iv. Punitive damages of \$1,000 per Class Member?

[99] **IDENTIFIES** the conclusions sought by the class action to be instituted as being the following:

- 99.1. ALLOW the class action of the Representative Plaintiff and the Class Members against the Defendant;
- 99.2. CONDEMN the Defendant to pay to each Class Member compensatory damages (or a refund) in an amount to be determined, and ORDER collective recovery of these sums;
- 99.3. CONDEMN the Defendant to pay to each Class Member \$1,000 in punitive damages and ORDER collective recovery of these sums;
- 99.4. CONDEMN the Defendant to pay interest and the additional indemnity on the above sums according to law from the date of service of the Application to authorize a class action;
- 99.5. 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 and costs;
- 99.6. ORDER that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;
- 99.7. CONDEMN the Defendant to bear the costs of the present action, including the cost of notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

[100] **CONVENES** the parties to a further hearing to hear representations on the information, the content of the notices required under article 579 of the *Civil Code of Procedure*, the appropriate communication or publication of the said notice and the appropriate delay for a class member to request exclusion, such hearing to take place within 60 days of the present judgment, on a date to be determined between the parties and the Court;

[101] **THE WHOLE** with costs.

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MARTIN F. SHEEHAN, J.S.C.

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Hearing date: November 4, 2025