

Court File No. CV-15-539855-00-CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**REBECCA ROMEO, JOE ROMEO, DIANE BÉLAND,
ELYSE CHOINIERE, LINDA GOODMAN, AND TRACY CORSI**

Plaintiffs

- and -

**FORD MOTOR COMPANY and
FORD MOTOR COMPANY OF CANADA, LIMITED**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF GEORGE BRAZEAU (Sworn March 31, 2017)

I, George Brazeau, of the City of Winnipeg, in the Province of Manitoba, make oath and say:

BACKGROUND

1. I live in Winnipeg, Manitoba. Prior to retiring in 2006, I was self-employed as an importer of children's toys.
2. I currently own a 2014 Ford Focus (the "Car") which is equipped with a Dual Clutch Transmission.
3. I owned four previous Ford Focus vehicles. As such, I had trust in the Ford brand and in the Focus line specifically as reliable vehicles.

4. On September 21, 2014, I purchased the Car, used, from 2399467 Manitoba Ltd. The Car had 11,913 kilometers listed on the odometer. I paid \$20,001 for the Car, inclusive of applicable taxes. Attached hereto as **Exhibit "A"** is the purchase invoice.
5. I briefly test drove the Car prior to purchase, and did not experience any problems during the test drive.
6. Included with my purchase was a new vehicle warranty.

TRANSMISSION PROBLEMS

7. I began to experience problems with the Car about three months after purchasing it. The Car sometimes lurched forward when I accelerated from a complete stop, such as at stop signs or stop lights, even when I depressed the gas pedal smoothly. Other times, when I depressed the gas pedal, there would be hesitation or a pause before the Car began to accelerate.
8. The Car also shuddered when accelerating, meaning that the Car would noticeably vibrate or shake, regardless of the speed.
9. I also experienced a lack of performance when driving up inclines. The Car struggled to climb even moderate inclines because it did not seem to have enough power. The Car did not perform well while climbing inclines even when I pressed down harder on the gas pedal. It was as if there was a disconnect between me pressing on the gas pedal and any response from the engine.

10. In addition, the Car generally drove poorly. I was always aware when the car shifted gears because it resulted in a sudden jerking sensation accompanied by a noticeable grinding noise.
11. At first, these transmission problems occurred sporadically, but over time they increased in frequency until they occurred quite often and I began to worry about my safety.

UNSUCCESSFUL STEPS TO FIX THE TRANSMISSION

12. In or around September of 2014, I brought the Car to River City Ford Sales Ltd. (“River City Ford”), an authorized Ford dealer in Winnipeg, Manitoba, due to transmission problems with the Car. River City Ford inspected my Car, and ordered a replacement clutch.
13. I had to wait five weeks for an appointment with River City Ford to bring the Car back to get the replacement clutch installed. River City Ford told me that this delay was because the replacement clutches were back-ordered due to high demand. The service centre staff also me a Ford PowerShift 6-Speed Automatic Transmission (DPS6) Service Customer Handling Guide (“Handling Guide”). The Handling Guide states that “[d]emand for DPS6 Clutches is currently greater than parts supply. Ford Motor Company recommends implementing a customer handling process to assist with customer expectation, time to complete service, and use of alternative transportation”. Attached hereto as **Exhibit “B”** is the Handling Guide.
14. When I brought the Car back to River City Ford in December of 2014, I had to leave the Car at the dealership for three days while it was being repaired. River City Ford provided

- me with a rental car during this time. As the repairs were under warranty, I was not charged.
15. After the repairs, the Car drove more smoothly for about two months. After two months, I began to experience the transmission problems again, including the lurching forward or hesitation when accelerating, as well as the shuddering.
 16. On May 19, 2015, I brought the Car back to River City Ford and described the continued transmission problems to them, including shuddering and hesitation when trying to accelerate. River City Ford inspected my Car and confirmed these problems. They consequently reprogrammed the transmission control module (“TCM”) and powertrain control module (“PCM”), as noted in the service invoice, attached hereto as **Exhibit “C”**. As the repairs were under warranty, I was not charged.
 17. My Car drove more smoothly for about one month following these repairs. After that month, I began to experience the transmission problems again.
 18. On July 21, 2015, I brought the Car back to River City Ford once more and I described to the continued transmission problems to the staff, including hesitation when accelerating and jerky gear changes. I also told the service centre staff that the Car is dangerous because of these problems, as noted in the service invoice. They inspected the Car, and tested for shuddering. As noted in the service invoice, the service centre staff were unable to verify customer concern of abnormal shuddering. They further noted that the shudder was “within limitations”. As such, they did not perform repairs. Attached hereto as **Exhibit “D”** is the service invoice.

19. The Car's performance only worsened over time. The transmission problems occurred more frequently and were even more severe than they had been before.
20. In September of 2015, I took the Car to Wilf's Elie Ford ("Elie Ford"), an authorized Ford dealership in Elie, Manitoba. Despite describing my transmission problems to the service department, I was advised that the problems were not serious enough to warrant repair.
21. I brought the Car back to Elie Ford in October 2015, since the transmission problems continued to worsen over time. Again, the service department at Elie Ford refused to perform repairs, telling me that the Dual Clutch Transmission was operating in the way it was supposed to operate.
22. I also called Ford Motor Company of Canada, Limited ("Ford Canada") customer service on three separate occasions. Each time, I spoke with a Mr. Tom Koons in customer relations. I explained to Mr. Koons that I had been experiencing significant problems with the transmission, and noted that the problems recurred in a short period of time after each repair. Mr. Koons did not offer to help with my situation and informed me that the Car was "supposed to run like that".
23. In May, 2016, I decided to take my car back to River City Ford as Elie Ford had not been helpful. The service centre inspected my Car and reprogrammed the PCM and TCM. They subsequently performed a test to determine whether there was shuddering, and found that there was "excessive shudder of 551 RPM", as noted in the service invoice. They ordered a replacement clutch, as none were in stock. I had to take the Car back to River City Ford about a couple weeks later, after the parts had arrived. They installed a

replacement clutch and replaced the seals. I only had 36,659 kilometers on the odometer at this time. Attached hereto as **Exhibit "E"** is the service invoice, dated May 17, 2016. As the repairs were under warranty, I was not charged.

24. The Car drove more smoothly for about three months following the repairs. After three months, the transmission problems began to recur, including the hesitation when accelerating, shuddering, and lurching forward. These problems have only worsened over time, occurring more severely and frequently.

CURRENT SITUATION

25. My Car is not safe to drive due to the transmission problems described above. I do not feel in control of the Car at all times, as the Car can unexpectedly lurch or fail to accelerate.
26. The hesitation when accelerating is particularly concerning, as it can take longer to cross lanes of oncoming traffic when driving through an intersection. I am also worried about the lurching or lunging of the Car, as it poses a risk of hitting another car, object, or even a pedestrian.
27. Ford's own Handling Guide, attached as Exhibit "B", discusses some of the transmission problems that lead to my safety concerns. Under the "Driving characteristics" heading, the Guide states that there may be a) vibration felt during acceleration during the 1,500 km break-in period; b) slight vibrations when accelerating at low speeds; and c) mechanical sounds after the engine is turned off.
28. Under the heading "Operating tips", the Guide states:

1. "When accelerating from a stop, a quicker acceleration will provide the smoothest clutch operation."
 2. While driving in stop-and-go traffic, allow some room between yourself and the vehicle ahead of you. Not only is this always a good safety tip, it will also allow you to keep your car moving along smoothly." and,
 3. If stopped on an incline, keep your foot on the brake pedal until you are ready to pull away from the stop. Allowing the car to creep on a slight incline without accelerating can cause the clutch wear."
29. Under the "Operating tips" heading is a section that reads: "NOTE: Conditions are amplified when the transmission clutch becomes hot. Some driving conditions can lead to more head including stop and go traffic, riding the brake, hot climates, and hilly or mountainous environments."
30. In the sections regarding procedure for replacing the clutch, the Handling Guide recommends that, when there is shudder greater than 500 RPMs, the service centre employee should work with the customer to arrange alternative transportation such as a rental car.
31. While I do not believe that the Car is safe to drive, I am reluctantly still driving it today because I cannot afford to buy another car. I do not believe the money I could generate from the sale of my Car would allow me replace it, because the resale value of the Car is very low.
32. I placed ads for the Car on multiple major used car classified websites in 2015 at a price of \$16,000. I received little interest in the Car and, for the few potential purchasers who contacted me, they declined to make an offer after learning of the transmission issues I had experienced and service record of the Car.

33. After failing to sell the Car, I relisted it for sale in the summer of 2016 for \$16,000, and again received little interest. I removed the listing in October, 2016, and no longer feel comfortable selling it due to the continuing transmission issues that pose a safety concern.

BREACH OF WARRANTY

34. I believe that the Car is not fit for the purpose of being a reliable and safe form of transportation. It does not perform the way a car normally performs. There are chronic transmission problems, discussed above, which pose very real safety issues. River City Ford has tried to fix the transmission problems on the occasions noted above, including replacing the clutch twice, and despite these attempts, the transmission issues and safety issues continue. I do not believe that the defendants are capable of permanently fixing the Car so that it will be fit for its purpose.
35. Simply put, the Car is a lemon. I did not receive a Car that was fit for driving.

BREACH OF *BUSINESS PRACTICES ACT*, C.C.S.M. C. B120

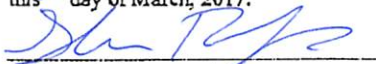
36. When I began looking to purchase a car in 2014, I was only interested in vehicles with automatic transmissions. While I do know how to drive a car with a manual transmission, I wanted the convenience and ease of use provided by a regular automatic transmission, particularly in city driving.
37. None of the Ford marketing material that I read prior to purchasing the Car described the PowerShift transmission as being a Dual Clutch Transmission or having any of the

characteristics of a manual transmission. I therefore chose to purchase the Car in part because I believed it to be an automatic transmission vehicle.

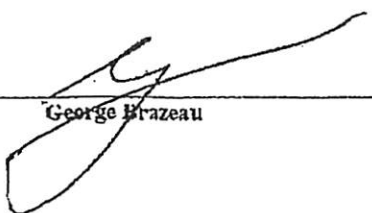
38. Consequently, I believed that the “PowerShift” name was merely Ford branding, and that the Car’s Dual Clutch Transmission was a regular automatic transmission which would shift the gears of the Car in a manner similar to that of other vehicles equipped with regular automatic transmissions. Further, there was no mention in the Ford marketing materials of the transmission problems caused by the Dual Clutch Transmission.
39. I would never have purchased a car with a manual transmission. If I had known that the Dual Clutch Transmission would not operate similar to traditional automatic transmissions and would instead cause the transmission issues, I would not have purchased the Car.
40. Assuming that the transmission problems I have described are somehow normal for the Car, I would never have purchased the Car had I known about them. Ford did not disclose the transmission problems in its marketing material or manual.
41. I am the owner of a 2014 Ford Focus, a prospective Class Vehicle, and as such have personal knowledge of the facts in this affidavit. Where my knowledge is based on information obtained from others, I have so indicated and believe that information to be true.

42. I swear this affidavit in support of the motion for certification of this action as a class action, for the consolidation of several actions, and for no other or improper purpose.

SWORN BEFORE ME at the)
)
City of Winnipeg, in the Province of)
)
Manitoba, via video conference)
)
this ^{31st} day of March, 2017.)



(A Commissioner, etc.)



George Brazeau

Glenn Brandy
LSUC#676850