

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

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**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 LEE A. DOWDELL (Sworn April 6, 2017)**

I, Lee Ann Dowdell, of the City of Uxbridge, in the Province of Ontario, make oath and say:

**BACKGROUND**

1. I live in Uxbridge, Ontario. I am 53 years old.
2. I had leased a 2013 Ford Fiesta (the “Car”) which is equipped with a Dual Clutch Transmission.
3. On December 5, 2014, I leased the Car new from Douglas Ford Lincoln Sales Ltd., an authorized Ford dealership in Barrie, Ontario. Attached hereto as **Exhibit “A”** is the lease agreement. The dealership later changed its name to Bayfield Ford Lincoln Ltd. (“Bayfield Ford”).

4. The total lease amount for the Car was \$17,859.35, with a \$2,070.19 down payment, monthly payments of \$322.07 on a 48-month lease period. The residual value for the Car was \$3,000.
5. I took the Car for a short test drive when I leased it. I drove it on the roads just around the Dealership. The Car drove well, and I did not experience any problems during the test drive.

### **TRANSMISSION PROBLEMS**

6. I began to experience problems with my Car within a couple weeks of leasing it. When accelerating, the Car would hesitate or sputter, particularly when driving around a corner of an intersection.
7. Other times, the Car would lunge or lurch forward when accelerating from a complete stop. The Car would also shudder when accelerating, which means that the Car would noticeably vibrate or shake.
8. The Car generally drove poorly, as I could experience when the Car shifted gears because it had a jerking sensation that would be accompanied by a noticeable grinding noise.
9. Additionally, I experience a lack of performance when driving up inclines. When pressing the gas pedal to drive forward on an incline, the Car would often roll backwards before finally stopping and moving forward. The car did not seem to have enough power. I would have to push down harder on the gas pedal, but the Car did not respond the way I would expect climbing inclines even when I did press down on the gas.

10. The transmission issues occurred infrequently at first, but increased in frequency over time.

#### **UNSUCCESSFUL ATTEMPTS TO FIX THE TRANSMISSION**

11. On February 19, 2015, I Brought the Car to Brandon Ford Sales Ltd. (“Brandon Ford”), an authorized Ford dealership in Uxbridge, due to continuing transmission problems, including shuddering when accelerating and grinding noises. The dealership tested the Car for shuddering a road test, noting in the corresponding service invoice that they “found slippage”. The dealership reprogrammed the transmission control module (“TCM”). Attached hereto as **Exhibit “B”** is the service invoice. The repairs were performed under warranty, and as such I was not charged.
12. The Car drove more smoothly for about one month following the repairs. After a month or so, I began to experience the transmission problems, including the shuddering when accelerating. The problems were occasional at first, but increased in frequency and severity over time.
13. On January 18, 2016, I brought the Car back to Brandon Ford, and described to the service centre staff the continued transmission problems I was experiencing. They tested my Car for shuddering, and reprogrammed the TCM. They also determined that the Car needed a replacement clutch, and ordered the parts. Attached hereto as **Exhibit “C”** is the service invoice.
14. I brought the Car back to Brandon Ford on March 11, 2016, as the replacement clutch was available to be installed. The dealership replaced the clutch and seals, and reprogrammed the TCM, as noted in the service invoice, attached hereto as **Exhibit “D”**.

As the work was performed under warranty, I was not charged for these repairs. As noted on the service invoice, my Car only had 48,678 kilometers on the odometer at this time.

15. While the Car drove more smoothly following the repairs, I still experienced transmission problems occasionally.

## **ACCIDENT**

16. On May 30, 2016, I was driving at a slow speed approaching an intersection. I had a passenger in the front passenger seat. The light had changed from red to green, and I touched the gas pedal slightly to begin to accelerate. Instead, the Car lunged forward, hitting the back of the black truck in front of me.
17. There was minimal damage to the truck, but my Car went underneath the truck's bumper, heavily damaging the front of my Car. The front end of the Car crumpled, but the air bags did not deploy.
18. Both the passenger and I jolted from the impact, and I had bruising and soft tissue damage in my upper body and hips. The passenger also was quite sore, but no serious injuries.
19. A police car was driving by on the other side of the road immediately after the collision, and I waved him over. I told him that my Car had lunged forward, and explained to him the transmission problems I had been experiencing. He walked away, talked with the other driver in the black truck, and came back and issued me a ticket for careless driving, informing me that it is an automatic ticket-able offence if you rear end another vehicle. Attached hereto as **Exhibit "E"** is the Motor Vehicle Accident Report.

20. I settled the ticket prior to trial for a lesser charge of failure to yield to the left to avoid an accident – I received an \$85 fine and 2 demerit points.
21. The Car was towed to a garage, and later to Precision Auto Refinishing in Uxbridge. The Car was never actually repaired, as the damages was significant enough that it was declared a total “write-off”.
22. On May 31, 2016, the day after the accident, I spoke with Kathy at Ford Customer Relations Centre and requested Ford Motor Company of Canada, Limited (“Ford Canada”) to investigate the transmission problems, as it caused my collision. Kathy directed me to contact my insurer. I was given a case number, CAS-9603323-Q64057.
23. I then called my insurer, Travelers Dominion of Canada (“Travelers”), who also was not willing to investigate my concern.

#### **CURRENT SITUATION**

24. My Car was not safe to drive due to the transmission problems described above. I did not feel safe when driving the Car because I did not feel in control at all times, due to the lurching forward and unpredictable acceleration.
25. As noted above, the lurching forward had in fact led to an accident. I am lucky that there were only minor injuries to me and my passenger.
26. I now drive a 2016 Ford Focus, which I leased from Bayfield Ford on June 30, 2016. I went about one month without a car between my accident in the Fiesta and leasing the new car. My insurance company covered my existing obligations on my prior lease, and I used the additional payout from the policy as a down payment on the lease for the Focus.

I was told by the staff at Bayfield Ford that the 2016 Focus has a better engine in it, and that I should not experience the same problems as I had with my Car. To date, the Focus has driven well.

### **BREACH OF WARRANTY**

27. I believe 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 issues, discussed above, which pose very real safety issues. The Dealership has tried to fix the transmission issues on at least the occasions noted above, and despite these attempts, the transmission issues and safety issues continue. I do not believe that the defendants are capable of permanently fixing my Car so that it will be fit for its purpose.
28. Simply put, the Car is a lemon. I did not receive a Car that was fit for driving.

### **BREACH OF *CONSUMER PROTECTION ACT, S.O. 2002, C.30, SCHED. A***


29. When I began looking to lease a new car, I only considered leasing one with an automatic transmission. I prefer the ease of use of driving a car with an automatic transmission and do not feel comfortable driving a car with a manual transmission.
30. When I leased the Car, I believed that it had an automatic transmission that would operate similar to a traditional automatic transmission.
31. None of the Ford marketing material that I read prior to leasing the Car described the PowerShift transmission as being a Dual Clutch Transmission or having any of the characteristics of a manual transmission. Rather, it represented that the 2013 Ford Fiesta

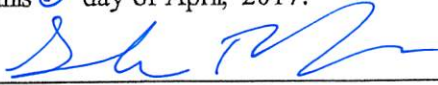
had either a manual or automatic transmission. I believe that the window sticker simply indicated that the Car was an “automatic”.

32. Further, there was no mention in the Ford marketing materials of the transmission problems caused by the Dual Clutch Transmission.
33. If I had known that the Dual Clutch transmission would not operate similar to traditional automatic transmissions and would cause the transmission problems, I would not have leased the Car.
34. Assuming the transmission problems I have described are somehow normal for the Car, I would never have leased the Car had I known about them. Ford did not disclose the transmission problems in its marketing material or manual. The manual never describes that the transmission is a Dual Clutch Transmission.
35. I am a former lessee of a 2013 Ford Fiesta, a prospective Class Vehicle, and as such have personal knowledge of the facts hereinafter deposed. Where my knowledge is based on information obtained from others, I have so indicated and believe that information to be true.

36. I swear this affidavit in support of the motion for certification of this action as a class action and for no other or improper purpose.

SWORN BEFORE ME at the )  
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City of Uxbridge, in the Province of )  
 )  
Ontario, via videoconference )  
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this 6<sup>th</sup> day of April, 2017. )

  
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Lee A. Dowdell

  
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(A Commissioner, etc.)  
Glenn Brandys  
LSUC # 676850