

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 REBECCA ROMEO (Sworn March 30, 2017)**

I, Rebecca Romeo, of the City of Brampton, in the Province of Ontario, make oath and say:

1. I have retained Charney Lawyers PC to represent me in this proposed class action. I am hoping to be a representative plaintiff.

## BACKGROUND

2. I am 41 years old and live in Brampton Ontario. I am self-employed in the real estate industry, buying and selling rental properties.
3. I am married to Joseph Romeo (“Joe”), who is an owner of a 2014 Ford Fiesta and also a proposed representative plaintiff in this action. I have two children, who both live at home.
4. I currently own a white 2012 Ford Focus SEL hatchback (the “Car”), which is equipped with a Dual Clutch Transmission.
5. I purchased the Car brand new on September 21, 2011, from Planet Ford Inc., an authorized Ford dealership in Brampton, Ontario (the “Dealership”). Attached as **Exhibit “A”** is a copy of my purchase agreement.
6. The total sales price for the Car was \$26,102.79, inclusive of taxes, fees.
7. Included in the total purchase price was a Ford Extended Service Plan, priced at \$1,810 plus taxes. Attached as **Exhibit “B”** is the Ford Extended Service Plan contract, dated September 21, 2011.
8. I traded in my 2011 Ford Fusion as part of the purchase, for which I received a \$15,800 trade-in allowance, while still owing \$20,377.35 on the car.
9. Taking into account the purchase price of the Car, all taxes, fees, and the trade-in, I owed a total of \$32,059.51.

10. I had financed the outstanding balance through TD Financing Services, with an initial annual interest rate of 5.99% Attached hereto and marked as **Exhibit "C"** is the TD Sales Finance Contract.
11. I believe I test drove the Car very briefly just around the dealership property. I do not remember any problems with the Car when I drove it for this short test drive.
12. Included with my purchase was a new vehicle warranty.

#### **TRANSMISSION PROBLEMS**

13. I began to experience problems with my Car a couple weeks after purchasing it. When I would depress the gas pedal, the Car would hesitate or pause before the Car would accelerate. Other times, it 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.
14. 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.
15. When I would drive up an incline from a complete stop, the Car would roll back even when depressing the gas pedal until the Car finally stopped rolling backward and would begin to propel forward. I also experienced a lack of performance when driving up inclines, as the Car did not seem to have enough power. It was always a struggle. 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. It was as if there was a disconnect between me pressing on the gas pedal and the engine responding.

16. The transmission issues occurred infrequently at first, but increased in frequency over time.
17. Not long after buying the Car, my husband Joseph and I were scheduled to go on a trip to Montreal. The transmission problems were concerning enough that I decided to rent a car for this trip rather than drive the Car to and from Montreal.

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

18. After I began experiencing the transmission problems, I had called the Dealership several times to advise them of the lurching forward, hesitation, and shuddering when accelerating, as well as the jerkiness when changing gears and grinding noises. I had also brought the Car by the Dealership on multiple occasions. Each time, the service centre staff at the Dealership dismissed my complaints and told me that these issues were to be expected as the Car just needed time to break-in, and that the transmission problems would go away. As such, I continued to drive the Car despite the problems I was experiencing.
19. On August 8, 2012, I brought the Car to the Dealership and described to the service centre staff the transmission problems I had been experiencing. The Dealership reprogrammed the powertrain control module (“PCM”), transmission control module

(“TCM”) and anti-lock brake systems (“ABS”) module, noting in the service invoice that it was “ per recall 12B37”, attached hereto as **Exhibit “D”**. As such, the repairs were performed under warranty, and I was not charged for this work.

20. For about a month following these repairs, the transmission problems were noticeably less severe and occurred less frequently. After about a month, these issues began reoccurring more frequently and similar to as they had been prior to the repairs.
21. It was at this time, after the repairs failed to provide more than a temporary improvement to the transmission problems, that I called Ford Motor Company of Canada (“Ford Canada”) customer service to complain about the Car lurching forward, hesitating, and shuddering when accelerating, and the jerky gear changes and grinding noises.
22. In response to my complaints, the customer service agent surprisingly told me I should have done more research prior to purchasing a new car rather than try to address any of my concerns. I asked the customer service agent if she was aware of other Ford Focus owners who were experiencing the same transmission problems that I was. She told me she was not aware of anyone who had experienced the same issues with their Ford Focus.
23. I had told the customer service agent that I would like to get refunded for the purchase of my Car, as I felt misled about the performance and characteristics of my Car after experiencing the transmission problems, which were now how the Ford Focus was represented to me by Ford, Ford Canada, or any of the staff at the Dealership.
24. When it became clear she was not willing to provide any assistance, I asked to speak to her manager. The manager simply told me that both the Focus models equipped with the

Dual Clutch Transmission are “fine”, refusing to acknowledge any of the transmission problems. Neither of the people I had spoken with from Ford Canada offered any remedy or assistance in response to my expressed concerns about the problems with the Car.

25. When I brought my Car to the Dealership for servicing over the next couple years, I would explain to the Dealership the continued transmission problems I was experiencing. The service centre staff would tell me that it was just the normal operating characteristic of the Car, and I came to accept that I would just have to tolerate the Car not operating properly.
26. For example, I brought my Car to the Dealership on September 11, 2014 and described to the service centre staff about my Car rolling backward when trying to accelerate from a stop on an incline. The service centre staff told me that this was a normal operating characteristic of the transmission, as noted on the service invoice, attached hereto as **Exhibit “E”**.
27. On June 23, 2015, I brought the Car back to the Dealership for servicing, and complained to the service centre about my continued transmission problems. The Dealership agreed to perform a road test, which confirmed that the clutch was shuddering. The Dealership reprogrammed the PCM and TCM. The Dealership re-tested the transmission after the re-programming, and still found a shudder but did not do any further repairs as it was “within expected limits”, as noted in the service invoice, attached hereto as **Exhibit “F”**. The repairs were performed under warranty, and as such I was not charged for this work. My Car had only 33,394 kilometers on the odometer, as noted on the service invoice.

28. The Car drove better for about a month following the repairs. After a month, the transmission problems began to occur again, and worsened in both severity and frequency over time.
29. At the end of August, 2015, I received a letter from Ford Canada, informing me that I my Car needed repairs per a Software Update Program "15B22" related to components of the Dual Clutch Transmission. The letter, dated August 31, 2015, is attached hereto as **Exhibit "G"**.
30. On September 2, 2015, I brought the Car back to the Dealership in response to this letter. The Dealership reprogrammed the PCM and TCM in response to the Ford Software Update Program "15B22", as noted in service invoice, attached hereto as **Exhibit "H"**. The repairs were performed under warranty, and as such I was not charged for this work.
31. I did not notice any improvements to the transmission problems following these repairs. As such, on October 1, 2015, I brought the Car back to the Dealership. The Dealership inspected the Car and determined that the clutch needed to be replaced. The Dealership ordered a replacement clutch as they did not have the part in stock. Attached hereto as **Exhibit "I"** is the service history report for this date.
32. After the clutch was ordered, I never received a phone call or any correspondence from the Dealership to have the new part installed, which I made a handwritten note of on the Service History Report entry attached as Exhibit "I".
33. On November 15, 2016, I brought the Car to the Dealership. I asked a service centre staff member why I never received a call regarding the replacement clutch that they had told

me was being ordered. The staff member told me that they did not call me back because, after ordering the replacement clutch, they had come to realize that the replacement clutches were not performing well in other Ford Focus' and Fiestas that they had installed it in, and as such did not think it made sense to put in my Car. He also stated that the issues in both my Car and other vehicles with the Dual Clutch Transmission "are a total mess".

34. During this same visit, the Dealership tested my transmission and confirmed that it was shuddering, noting on the service invoice "FAILED SHUDDER READING AT 356", attached hereto as **Exhibit "J"**. The Dealership ordered a replacement clutch and fly wheel. When I asked how long it would be until I had the replacement parts installed, given my experience last time they had ordered a replacement clutch, the service centre staff could not give me a date. I had also noted to the Dealership at this time that the transmission warning light would go on and off intermittently. The Dealership could not identify the issue, and as such performed no related repairs.
35. On December 8, 2016, I brought my Car back to the Dealership, as the replacement parts had arrived. The Dealership replaced the clutch as well as the seals in the Dual Clutch Transmission. They reprogrammed the PCM and performed an "adaptive relearn", as noted in the service invoice, attached hereto as **Exhibit "K"**. The repairs were performed under warranty, and as such I was not charged for this work. The service invoice notes that my Car only had 66,606 kilometers at this point in time.
36. My Car drove more smoothly following this latest repair. I did not experience any transmission problems for about two months. Starting in early February, I have begun to



experience transmission problems again, including hesitation when trying to accelerate, shuddering, and on other occasions the Car lurching forward.

37. On two occasions, I decided to record conversations I had with a supervisor from Ford Canada named John and a service manager at Planet Ford named Hugh. I decided it was necessary to document my communications with Ford Canada and my dealership because of the assurances that had been given to me that my Car was driving the way it was intended, but despite these assurances the transmission problems continued. Attached hereto as **Exhibit "L"** are the transcripts from these recorded audio conversations.
38. In my October 8, 2015 conversation with Hugh from Planet Ford, he told me that, "[w]e're having lots of problems with it. It's no denying. We're having more complaints with the transmission." He also told me that if you "drive it like a maniac", then "you're not going to have a problem", but "if you drive it cautiously, you'll have a problem, because it doesn't know what gear it wants to be in..."
39. In my October 19, 2015 conversation with John from Ford Canada, he told me that unless the shuddering test shows an RPM over 250, the dealerships will not do a repair. He also told me that, regarding my transmission problems, "I don't see anything that is going to change as far as the operation of this vehicle."

**CURRENT SITUATION**

40. My Car is not safe to drive due to the transmission problems described above. I do not feel safe when driving the Car because I do not feel in control at all times, due to the lurching forward and unpredictable acceleration.
41. I am particularly concerned about the hesitation when trying to accelerate at an intersection, as it can take longer than expected to cross lanes of oncoming traffic, which could lead to a collision with another car.
42. I am also believe that the lurching forward of the Car could cause it to hit another car, object, or pedestrian.
43. While I do not believe the Car is safe to drive, I reluctantly still drive it because I cannot afford to buy a new car or accept a very low trade-in value for my current Car.
44. I have consequently avoided driving the Car for long distances and driving it other than getting to and from work and performing routine errands.
45. As noted above, my Car only had about 66,000 kilometers in December, 2016, when I had the last repairs performed at the Dealership.
46. In 2013, Joe and I began to start renting cars for longer trips, because we did not feel comfortable driving my Car or his Fiesta on anything longer than to run local errands. Attached hereto as **Exhibit "M"** are some of the rental car receipts.

**TRANSPORT CANADA**

47. I do not recall the date, but I had sent an email to Transport Canada, which included a description of my safety concerns with the Car.
48. I have not received a response from Transport Canada.

**BREACH OF WARRANTY**

49. As I had told Ford Canada customer service, as noted above, 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 six 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.
50. 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**

51. When I began looking to purchase a new car, I only considered purchasing one with an automatic transmission, as I have never learned how to drive a car with a manual transmission.
52. When I purchased the Car, I believed that it had an automatic transmission that would operate similar to a traditional automatic transmission.
53. 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. Rather, it represented that the 2012 Ford Focus had either a manual or automatic transmission. I believe that the window sticker simply indicated that the Car was an “automatic”.
54. Further, there was no mention in the Ford marketing materials of the transmission problems caused by the Dual Clutch Transmission.
55. I would never have purchased a car with a manual transmission, as I do not know how to drive 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 cause the transmission problems, I would not have purchased the Car.
56. Assuming the transmission problems I have described are, as indicated by Ford, 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. The manual never describes that the transmission is a Dual Clutch Transmission.

The section in the manual is simply entitled “AUTOMATIC TRANSMISSION OPERATION (IF EQUIPPED)”. A copy of this section of the manual is attached hereto as **Exhibit “N”**.

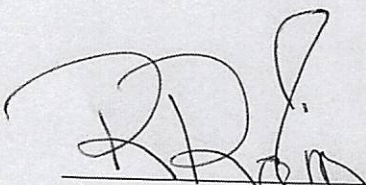
### **I AM PREPARED TO ACT AS A REPRESENTATIVE PLAINTIFF**

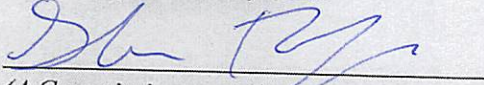
57. As stated above, I have retained Charney Lawyers and have provided instructions to seek to have me appointed as a representative plaintiff on behalf of the Class.
58. I am motivated to act as a representative plaintiff because I want to ensure that the Class Members are compensated properly and that the defendants are held accountable for their conduct.
59. I hope that at the end of the litigation, I and each Class Member will ultimately be compensated for the harm we have suffered due to our ownership or leasing of the Class Vehicles.
60. I understand that, in agreeing to seek and accept an appointment by the court as a representative plaintiff, it is my responsibility, among other things, to:
- a) assist my lawyers in making decisions in the litigation that are in the best interest of the class members;
  - b) to represent the class members as a whole and consider what is best for the class members;
  - c) become familiar with the issues to be decided by the court;

- d) assist in the preparation and execution of this affidavit in support of the motion for certification;
  - e) attend with my lawyers for my cross-examination on this affidavit, discovery and testify at trial;
  - f) participate in mediation;
  - g) express, in some circumstances, my opinions on strategy to my lawyers; and,
  - h) to communicate with members of the Class, as required.
61. To date, the following are some of the steps I have taken to fairly and adequately represent the class members:
- a) retained and instructed lawyers from Charney Lawyers;
  - b) provided documents and other information to my lawyers;
  - c) reviewed and became familiar with the issues to be decided by the Court;
  - d) aided in drafting this affidavit; and,
  - e) spoken over the phone and met with my lawyers on several occasions.
62. I believe that I can fairly and adequately represent the interests of the Class, and I am committed to fulfilling my responsibilities if the court appoints me a representative plaintiff. I do not believe I have any conflict of interest with the other Class Members.

- 63. My lawyers have developed a plan for advancing the proceeding on behalf of the Class and of notifying Class Members of the proceeding (the "Litigation Plan"), which is attached hereto as **Exhibit "O"**. I have been advised by my lawyers that the plan is subject to review by the court.
- 64. I have 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.
- 65. 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 )  
 )  
 City of Brampton, in the Province of )  
 )  
 Ontario, via videoconference )  
 )  
 this <sup>30th</sup> day of March, 2017. )

  
 \_\_\_\_\_  
 Rebecca Romeo

  
 \_\_\_\_\_  
 (A Commissioner, etc.)  
 Glenn Brandy S  
 LSUC # 676850