

CITATION: Stewart v. Mazda Canada Inc. 2026 ONSC 1038
COURT FILE NO.: CV-08-42872-CP
DATE: 2026 02 18

ONTARIO SUPERIOR COURT OF JUSTICE
EAST REGION CLASS PROCEEDINGS LIST

RE: GRAHAM STEWART, Plaintiff

-and-

MAZDA CANADA INC., Defendant

Proceeding under the *Class Proceedings Act, 1992*

BEFORE: C. MacLeod RSJ

COUNSEL: Carolan Villeneuve and Laurent Crépeau , for the plaintiff

David Elman, for the defendant (moving party)

HEARD: February 18, 2026

REASONS FOR DECISION

[1] This is a class proceeding that was started in 2008 but never proceeded to the certification stage. There were parallel proceedings commenced in Quebec and in British Columbia. In both of those provinces the actions proceeded through certification and appellate intervention. Ultimately there was a relatively modest recovery for the members of narrow classes resident in those provinces.^{1 2}

[2] The Ontario action never progressed beyond the point of the defendant filing a Notice of Intent to Defend on January 26, 2009. Subsequently, on September 11, 2028 there was an order of my colleague Justice Pierre Roger staying this action until further order in light of the parallel proceedings underway in other provinces.

¹ Regarding the B.C. action, see *Koubi v. Mazda Canada Inc.*, 2012 BCCA 310, leave to appeal refused [2012] SCCA no. 398 This resulted in certification only for a class of individuals who purchased or leased Mazda3 vehicles for personal purposes to the extent they had remedies under the B.C. *Sale of Goods Act*. See 210 BCSC 650.

² Regarding the Quebec action, see *Fortin c. Mazda Canada Inc.*, 2016 QCCA 31, demande pour autorisation de pourvoi à la Cour suprême rejetée (C.S.Can., 2016-08-11), 36898 and see 2020 QCCS 4270

[3] The Defendant now seeks to lift the stay and to have the action dismissed. Counsel for the Plaintiff advises that they have lost touch with the nominal plaintiff and have no intention of proceeding with the action. Counsel for the plaintiff agrees that the action should be dismissed but is without instructions.

[4] S. 29.1 of the Act requires the court to dismiss a proposed class proceeding for delay if the plaintiff has not moved for certification within one year of the proceeding being commenced or this provision coming into force (in 2021) unless the court has established a timetable for the certification motion or other steps in the proceeding. Disregarding the period during which the action has been stayed, dismissal of this action under this rule is both justified and required.

[5] The only question is whether class counsel should be required to take steps to notify the members of the proposed class or whether any other steps should be required for the protection of the rights of the class members under s. 29 (2). The limitation period for claims against the defendant is suspended by operation of s. 28 of the Act and begins running again when a proposed class proceeding is dismissed.³

[6] In this case I am advised that no steps were ever taken by class counsel to identify members of the proposed classes in Ontario, there was no register and no process for class members to register with the law firm. The only member of the class with whom the law firm had contact was the named plaintiff – who has now disappeared.

[7] In this case I am satisfied that based upon the results of the class proceedings in British Columbia and Quebec, the claims against the defendants for the benefit of the class members would have been minor – limited to costs of repair and not to damages at large. There is no significant public interest served by requiring anyone to take heroic steps to keep any rights of action alive.

[8] Pursuant to s. 29.1 (2) (a) of the Act, class counsel will be required to publish notice of the dismissal and a copy of the order on the firm's website. I will not however require any further steps to notify members of the proposed class.

[9] Although this is a brief two-page endorsement, it will be released for publishing. In that manner, members of the profession will be aware of it. Nothing in this dismissal order precludes an individual claim or a subsequent class proceeding providing it is commenced in what is left of the unexpired limitation period.

[10] Order to go as signed dismissing the action without costs.

Justice C. MacLeod

³ *Class Proceedings Act, 1992*, S.O. 1992, c. 6, *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B