



CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF DRUMMOND

**SUPERIOR COURT**  
(Civil Division)

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N°:

**CENTRE DU CAMION NATIONAL INC.**,  
a legal person duly constituted, with its  
head office located at 1264 boulevard de  
l'Avenir, City of Salaberry-de-Valleyfield,  
District of Beauharnois, Province of  
Quebec, J6T 2J2.

Plaintiff

v.

**BATTERIES DRUMMONDVILLE INC.**, a  
legal person duly constituted, with its head  
office located at 8088 boulevard Industriel,  
City of Drummondville, District of  
Drummond, Province of Quebec, J2C 2G3  
Defendant

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**ORIGINATING APPLICATION**  
(Art. 141 C.C.P.)

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**IN SUPPORT OF ITS APPLICATION, PLAINTIFF RESPECTFULLY SUBMITS THE FOLLOWING:**

1. (Plaintiff is a business specializing in the sale and distribution of truck parts, and operates 15 truck repair shops in the Province of Quebec.)
2. (Defendant is a business specializing in the manufacture and distribution of batteries for cars and trucks.)
3. On October 12, 2000, Plaintiff purchased from Defendant 4,500 truck batteries for a total of \$336,448.12 including tax, as appears from the contract of sale, **Exhibit P-1**.
4. In accordance with the terms of the contract of sale, Exhibit P-1, the 4,500 batteries were delivered on December 15, 2000 and paid for on January 15, 2001.
5. Towards the end of the month of January 2001, Plaintiff discovered that the batteries sold by Defendant were of poor quality.
6. In fact, the batteries' plastic casing was not properly sealed, rendering them unfit for their purpose.



7. The batteries are affected by latent defects caused by deficiencies in their plastic casing and their poor-quality plastic material.
8. On March 6, 2001, Plaintiff denounced to Defendant these latent defects affecting the batteries, as appears from a letter (of that same date), **Exhibit P-2**.
9. (On April 10, 2001, Defendant denied all responsibility, as appears from a letter (of that same date) from Bernard Chaput, Defendant's president, **Exhibit P-3**.)
10. Plaintiff had to refund its customers for all the batteries sold.
11. The batteries, still in Plaintiff's possession, are unsellable.
12. Plaintiff is in its right to claim from Defendant the sum of \$437,288.12, broken down as follows:
  - a. Reimbursement for the 4,500 batteries: \$336,448.12;
  - b. Expenses for the handling and transportation of the batteries: \$4,340.00;
  - c. Storage of the batteries: \$6,500.00;
  - d. Loss of profits: \$90,000.00.
13. By way of a letter dated May 8, 2001, Plaintiff put Defendant in default and demanded that it retake possession of the batteries, refund their purchase price and indemnify Plaintiff for its losses and damages, as appears from the letter (of that same date), **Exhibit P-4**.
14. To date, Defendant has not responded to the demand letter.
15. (Plaintiff reiterates its offer contained in the letter dated May 8, 2001, Exhibit P-4.)

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**PRAY ACT** of Plaintiff's offer to remit to Defendant the 4,500 batteries sold pursuant to the contract of sale of October 12, 2000;

**RESOLVE** the sale which intervened between Plaintiff and Defendant on October 12, 2000;

**CONDEMN** Defendant to pay Plaintiff the sum of \$437,288.12 with interest at the legal rate and the additional indemnity provided for by law as of May 19, 2001;

**THE WHOLE**, with costs.

Salaberry-de-Valleyfield, May 24, 2001

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**Attorneys for Plaintiff**