C A N A D A

PROVINCE OF QUÉBEC
District of Montréal

(Class Action Division)

S U P E R I O R C O U R T

Nº : 500-06-001265-236

HARRY DANDY, [redacted];

Petitioner

v.

ATTORNEY GENERAL OF QUÉBEC, *es qualité* representative of the Ministère de santé et de services sociaux, having a place of business at 1 Notre-Dame Street East, suite 800, in the City of Montréal, judicial district of Montréal, Province of Québec, H2Y 1B6;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DU BAS-SAINT-LAURENT, a public corporation having an office at 355 Saint-Germain Boulevard West, City of Rimouski, Province of Québec, G5L 3N2;

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DU SAGUENAY — LAC-SAINT-JEAN, a public corporation having an office at 930 Jacques-Cartier Street East, City of Chicoutimi, Province of Québec, G7H 7K9;

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE LA CAPITALE-NATIONALE, a public corporation having an office at 2915 du Bourg-Royal Avenue, City of Québec, Province of Québec, G1C 3S2;

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE LA MAURICIE-ET-DU-CENTRE-DU-QUÉBEC, a public corporation having an office at 858 Terrasse Turcotte, City of Trois-Rivières, Province of Québec, G9A 5C5;

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE L'ESTRIE — CENTRE HOSPITALIER UNIVERSITAIRE DE SHERBROOKE, a public corporation having an office at 375 Argyll Street, City of Sherbrooke, Province of Québec, J1J 3H5;

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE L'OUEST-DE-L'ÎLE-DE-MONTRÉAL, a public corporation having an office at 160 Stillview Avenue, City of Pointe-Claire, Province of Québec, H9R 2Y2;

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DU CENTRE-SUD-DE-L'ÎLE-DE-MONTRÉAL, a public corporation having an office 155 St-Joseph Boulevard East, City of Montréal, Province of Québec, H2T 1H4;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE L'OUTAOUAIS, a public corporation having an office at 80 Gatineau Avenue, City of Gatineau, Province of Québec, J8T 4J3;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE L'ABITIBI-TÉMISCAMINGUE, a public corporation having an office at 1 9th Street, City of Rouyn-Noranda, Province of Québec, J9X 2A9;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LA CÔTE-NORD, a public corporation having an office at 835 Jolliet Boulevard, City of Baie-Comeau, Province of Québec, G5C 1P5;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LA GASPÉSIE, a public corporation having an office at 215 de York Boulevard West, City of Gaspé, Province of Québec, G4X 2W2;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE CHAUDIÈRE-APPALACHES, a public corporation having an office at 363 Cameron Road, City of Sainte-Marie, Province of Québec, G6E 3E2;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LAVAL, a public corporation having an office at 1755 René-Laennec Boulevard, City of Laval, Province of Québec, H7M 3L9;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LANAUDIÈRE, a public corporation having an office at 260 Lavaltrie Street South, City of Joliette, Province of Québec, J6E 5X7;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DES LAURENTIDES, a public corporation having an office at 290 de Montigny Street, City of Saint-Jérôme, Province of Québec, J7Z 5T3;

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LA MONTÉRÉGIE-EST, a public corporation having an office at 3120 Taschereau Boulevard, Suite 7, City of Greenfield Park, Province of Québec, J4V 2H1;

and

NUNAVIK REGIONAL BOARD OF HEALTH AND SOCIAL SERVICES, a public corporation having an office at CP 900, City of Kuujjuaq, Province of Québec, J0M 1C0;

and

CREE BOARD OF HEALTH AND SOCIAL SERVICES OF JAMES BAY, a public corporation having an office at 277 Duke Street, City of Montreal, Province of Québec, H3C 2M2;

Respondents

APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND OBTAIN THE STATUS OF REPRESENTATIVE
(Art. 575 of the *Code of civil procedure*)

IN SUPPORT OF HIS APPLICATION, THE PETITIONER RESPECTFULLY SUBMITS AS FOLLOWS:

1. Introduction

1.1. In *E.L. c. Procureur général du Québec*, 2022 QCCS 3044 (*"E.L."*), the Superior Court authorized a class action brought on behalf of persons who were placed in youth protection centres under the age of 17 and were subjected to solitary confinement, physical force and sexual abuse, among other things, since 1950.

1.2. *E.L.* was authorized against 16 regional health centres and the Attorney General of Québec.

1.3. While the Modified Application for Authorization made no distinctions as to race, nationality or ethnic origin, the authorization judge excluded First Nations, Inuit and Métis children from the class on the basis of their particular, complex experience and over-representation in the youth protection system, among other factors that made their situations distinguishable from the rest of the class.

1.4. The present class action addresses that distinction and advances claims on behalf of First Nations, Inuit and Métis children for the abuse they suffered in youth centres, as described below.

2. The Petitioner therefore wishes to institute a class action on behalf of natural persons forming part of the following classes hereinafter described and of which he is also a member, namely:

> Any First Nations, Inuit or Métis person, including those without status, save for an *excluded person*, who was placed, on or after October 1, 1950, in a *Centre* pursuant to a *Youth Law*, when he or she was 17 years old or less and who was subject to *Measures*, *Discrimination*, sexual abuse or denied an education at a *Centre*.
>
> The italicized words have the following meanings:
>
> a) "**Centre**": means an industrial school, a youth protection school, a charitable institution, a reception centre, a secured unit, a detention centre, a transition centre, a child and youth protection centre, a rehabilitation centre, a rehabilitation centre for young persons with adjustment problems, an intensive supervision unit and a youth centre. It excludes a hospital centre or a foster family.

b) "**Youth law**": means the *Youth Protection Schools Act*, the *Youth Protection Act,* the *Act Respecting Health Services and Social Services*, the *Act Respecting Health Services and Social Services for Cree Native Persons*, the *Juvenile Delinquents Act*, the *Young Offenders Act* and the *Youth Criminal Justice Act*.

c) "**Measures**": means being placed in solitary confinement, confined in a common area, being locked up in a room or in a cell, being subject to the use of force, including by mechanical means or chemicals.

d) "**Discrimination**": means being punished for speaking one's Indigenous language, practising one's Indigenous culture, being subjected to derogatory or degrading treatment or comments by staff members regarding one's Indigenous identity, or being subject to differential treatment without justification on the basis of one's race, ethnicity or nationality.

e) "**Excluded person**":

Any person who is part of the class on behalf of which a class action was authorized in connection with Mont d'Youville reception centre (200-06-000221-187), but this exclusion does not apply to any such person who was also admitted to reception centres other than Mont d'Youville.

Any person who received financial assistance and signed a release pursuant to the National Program of Reconciliation with the Duplessis Orphans or the National Reconciliation Program for Duplessis Orphans Who Were Residents of Certain Institutions (collectively, the "NPRDO"). This exclusion does not apply to any such persons if, beyond having been admitted to one of the institutions covered by the NPRDO between October 1, 1950, and December 31, 1964, (i) they were also admitted during this period to reception centres which are not covered by the NPRDO; or (ii) they were also admitted or readmitted, on or after January 1, 1965, to any reception centre.

3. The facts that give rise to an individual action on behalf of the Petitioner against the Respondents, are as follows:

3.1. Petitioner, Harry Dandy, is 72 years old.

3.2. He was born and raised in Kipawa, Québec and is a member of the Kebaowek First Nation.

3.3. At approximately age 6, Mr. Dandy began attending Temiskaming Indian Day School No. 19 ("**TDS**").

3.4. At TDS, Mr. Dandy was regularly subjected to physical abuse by his teachers and priests: he was given black eyes, punched in the head and stomach, beaten to the point of losing consciousness, and "given the strap," among other forms of abuse.

3.5. Mr. Dandy was bullied by school staff and told on a near daily basis that he was a "savage," a "two-bit Indian."

3.6. From this experience, Mr. Dandy grew to despise authority figures and tried to avoid attending school as much as possible.

3.7. His attempt to escape the abuse inflicted upon him was interpreted as delinquency by the school.

3.8. At approximately 11 years of age, Mr. Dandy was sent to another school in Temiscaming and was regularly stopped by police for truancy, among being accused of other minor offences for which he was forced to plead guilty.

3.9. Eventually, the local Police Chief became involved.

3.10. The Police Chief presented to Mr. Dandy's parents an ultimatum: either Mr. Dandy's parents ensure that he attended school full time at TDS or he could be sent to Shawbridge Boys' Farm and Training School in Montréal ("**Shawbridge**").

3.11. Over Mr. Dandy's mother's protests, his father elected to send him to Shawbridge.

3.12. At this time, Mr. Dandy was approximately 13 years of age.

3.13. Shawbridge evolved in name and mission through its more than 100-year history:

a) It was initially founded as a reformatory school in 1907;

b) In 1950, provincial legislation expanded the mandate of Shawbridge from housing delinquent children to include “battered children, runaways and handicapped youngsters”;

c) In 1976, Shawbridge became Prévost Campus and expanded to admit girls;

d) In 1992, under changes to the *Health and Social Services Act*, Shawbridge merged with Ville Marie Child and Youth Protection Centre, Youth Horizons and Mount St-Patrick Centre Youth Centre to form Batshaw Youth and Family Centres, which is a Centre de réadaptation pour les jeunes en difficulté d’adaptation of the Centre intégré universitaire de santé et services sociaux de l’Ouest de l’île de Montréal.

as appears from a page of the website of Batshaw Centres, “Shawbridge and Shawbridge Boys Farm,” and the entry identification page for Batshaw Youth and Family Services, *en liasse*, **Exhibit R-1**.

3.14. Shawbridge exposed Mr. Dandy to further abuses, often worse than what he received at TDS.

3.15. Security guards preyed upon smaller boys and physically and verbally assaulted them on a regular basis.

3.16. Older kids were also deputized by staff to “discipline” the younger and weaker kids through draconian measures and physical abuse.

3.17. Furthermore, staff were aware that these older boys frequently sexually abused younger boys in the dormitory and never intervened in any fashion to put an end to it, as witnessed by Mr. Dandy.

3.18. Mr. Dandy fought back anytime a guard or anyone else at the school laid a hand on him.

3.19. Because he resisted these advances and physical assaults, Mr. Dandy was often placed in an isolation room for days on end, and sometimes up to a week.

3.20. The isolation room measured approximately 8 feet by 8 feet, with no mattress or furniture of any kind.

3.21. In the isolation room, Mr. Dandy was under constant surveillance of a security guard who would beat him regularly to force a “confession” out of him, even though Mr. Dandy was merely defending himself.

3.22. Beyond these abuses, Mr. Dandy and other kids were sent to see a dentist on a monthly basis, even though he had no toothaches and never asked to go.

3.23. Mr. Dandy received a filling on each of these visits, as did other kids, for no apparent reason other than to guarantee a steady stream of work to the dentist, for which Mr. Dandy believes Shawbridge or its staff received a kickback.

3.24. Mr. Dandy also observed other children being ridiculed and denigrated by Shawbridge staff and other boys because of their Aboriginal identity.

3.25. They were subjected to taunts, harassment, and verbal abuse.

3.26. Mr. Dandy learned to conceal his Indigenous identity so as to avoid similar abuse.

3.27. During his time at Shawbridge, he had no contact with his family and he could not write to them since he had not been taught to read at either TDS or at Shawbridge.

3.28. All told, Mr. Dandy spent approximately three years at Shawbridge.

3.29. By the time he left Shawbridge, Mr. Dandy had no education and his resentment toward authority figures only deepened.

3.30. His experiences there left him with deep emotional wounds that he carries to this day.

3.31. Although he has tried to forget the pain that he endured, he has flashbacks of the abuse and torment he suffered at Shawbridge.

3.32. Mr. Dandy was never given a fair opportunity to succeed in the labour market because of his lack of an education.

3.33. After trouble with the law in his first years out of Shawbridge, Mr. Dandy gained employment as a contractor through his own grit and determination and despite the trauma and scars he carries from his experience there.

3.34. The Indian Day School class action and the filing of the class action in *E.L. c. Procureur général du Québec* brought to the fore Mr. Dandy’s painful memories of Shawbridge, which he had subconsciously suppressed for years.

3.35. He brings forward the present claim to seek redress for himself and all other similarly affected class members who suffered in institutions such as Shawbridge.

4. The facts that give rise to an individual action on behalf of each member of the class against the Defendants, are as follows:

A. Indigenous Youth and the Youth Protection System

4.1. The legacy of abusive confinement practices toward Indigenous children extends back to Residential Schools.

4.2. As described in the Final Report of the Truth and Reconciliation Commission, schools in some cases operated as veritable jails:

> **Because there was no policy, there was no limit on the use of confinement as a punishment.** Some schools had rooms specifically set aside to serve as what amounted to solitary confinement jail cells. In a report from the fall of 1892 on the Battleford school, Indian Affairs official Alex McGibbon wrote that a fellow Indian Affairs official had locked a boy in a cell. This was done against the wishes of the school principal. The Shingwauk Home in Sault Ste. Marie in 1889 had a “lockup” room to which students were sent as punishment. For “serious faults,” students at the Williams Lake school might be locked in a room for up to twelve days in 1902. In a 1907 report on the Mohawk Institute, the inspector for Indian agencies, J. G. Ramsden, wrote, “I cannot say that I was favourably impressed with the sight of two prison cells in the boys [sic] playhouse. I was informed, however, that these were for pupils who ran away from the institution, confinement being for a week at a time when pupils returned.” In the 1920s, the principal of the Roman Catholic school at Kenora was reported to have locked students in cupboards, the outhouses, and the basement as punishment. He said he had adopted these practices because the local Indian agent had recommended that he make less use of corporal punishment. At the Gordon’s Reserve school in the 1930s, students were confined as punishment in the infirmary. While they were locked up, students might not be allowed to see their parents if they visited the school. Into the 1950s, there are reports of students

> confined to specific punishment rooms. (References omitted, emphasis in original)

as appears from the Final Report of the Truth and Reconciliation Commission of Canada, volume 1, Chapter 2, p. 97, Exhibit R-2.

4.3. Beginning in the 1950s, provincial authorities began to supplant religious orders in the realm of child protection, even though Residential Schools would continue to operate until the mid-1990s, as described in the Final Report of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress, p. 71, **Exhibit R-3** (the "**Viens Commission**"):

> Provincial authorities were also involved in youth protection. After section 87 was added to the Indian Act in 1951, provincial legislation applied to Indigenous peoples, although they came under federal jurisdiction pursuant to the Constitution Act, 1867. To the extent that the Canadian government had no specific legislation covering the protection of Indigenous youth, provincial legislation applied. (references omitted)

4.4. Provincial involvement in youth protection gave no consideration for the particular needs of Indigenous children and was accompanied by a staggering number of removals and placement of children outside their communities, Viens Commission, Exhibit R-3, p. 72:

> **The rules that were developed and applied during this period were standardized and did not take into account the specific situations of Indigenous children**. In contrast with the residential school system, which aimed to assimilate children into the dominant culture, the goal was now to integrate by simply providing them with the same services available to any other child, in accordance with the principles of universality and neutrality. Although well-intentioned, the effects of the approach were, in many ways, similar to those of residential schools. **Among other things, it continued to divide families without considering the specific aspects of Indigenous communities, therefore fostering a loss of cultural reference points for the children. The transfer of responsibility from the federal to provincial governments was not accompanied by additional funding, creating great disparity between the regions in terms of the quality and quantity of services**. The integration policy led to the massive removal of Indigenous children from their communities. Taken into the custody

> of provincial youth protection agencies, children were placed with non-Indigenous families across Canada, in the United States, and even in Europe.
>
> This trend occurred across Canada, and would come to be called the "sixties scoop," a term that referred to the period when the over-representation of Indigenous children in youth protection began. The phenomenon peaked in the 1970s, but continued even into subsequent decades. An estimated 11,000 Indigenous children were adopted in Canada between 1960 and 1990, very often without their parents' consent. At the end of the 1970s, these children represented over 20.0% of the children in the custody of Canadian social services agencies; Indigenous people only represented 2.0% of the population.
>
> In Québec, where residential schools remained open longer, there is much less documentation on the impacts of the "sixties scoop." **Shortly after the Youth Protection Act (YPA) came into effect in 1979, it was observed that 2.6% of the children taken into custody by the province were Indigenous. At the time, they represented just 0.7% of Québec's children**. (Emphasis added.)

4.5. Large numbers of Indigenous children were consequently swept up into Québec's child welfare system, many of them ending up in Centres and being subjected to Measures or sexual abuse.

4.6. Indigenous children were placed in Centres pursuant to either provincial youth protection laws or federal young offender or youth delinquency legislation.

4.7. The evolution of youth protection legislation comprises the following over the class period:

a) *An Act Respecting Youth Protection Schools*, S.Q. 1950, c. 11;

b) *An Act Respecting Youth Protection*, S.Q. 1960, c. 42;

c) *Youth Protection Act*, L.Q. 1977, c. 20, modified in 2006, 2007, and 2017, RLRQ, c. C-12.

4.8. The evolution of young offender or youth delinquency legislation comprises the following over the class period:

a) *Juvenile Deliquents Act*, S.C. 1908 ch. 40.

b) *Young Offenders Act*, S.C., 1982, c. 110.

c) *Youth Criminal Justice Act*, S.C. 2002, c. 1.

4.9. The placement of Indigenous children was further governed by the adoption of the *Loi sur les services de santé et services sociaux*, S. Q. 1977 c 48, which regulated certain aspects of reception centres.

4.10. At no point during the class period was it permissible for anyone exercising care, control or guardianship over an Indigenous child to:

a) place them in solitary confinement arbitrarily and for reasons having nothing to do with their safety or the safety of other children;

b) physically or sexually assault a child;

c) fail to intervene to stop a child from being physically or sexually assaulted by another child;

d) force unnecessary medication, medical treatment, or dental care on a child;

e) subject the child to mechanical use of force;

f) subject a child to racist taunts or derogatory comments on the basis of their Indigenous identity.

4.11. Sadly, these practices were widespread in Centres, and have been heavily documented over the years, particularly as concerns the frequent recourse to solitary confinement and the generally deplorable conditions in which children lived.

B. Documented Abuse at Youth Protection and Reform Facilities

4.12. Over the ensuing decades, multiple news articles and public commissions would detail the deplorable treatment to which both Indigenous and non-Indigenous residents of the Centres were subjected.

4.13. For example, in 1974 the Montréal Gazette published a series of reports titled “Jail handcuffs girls and straps them to concrete bed” and “Architecture masks aim,” *en liasse*, **Exhibit R-4**.

4.14. The reports chronicled abuses at the Notre-Dame de Laval Reception Centre, which included the systematic use of lockdowns in cells, solitary confinement, beatings, use of medication for disciplinary purposes and use of cigarettes for disciplinary purposes (by giving cigarettes to children who did not smoke upon admission and then withholding cigarettes from them).

4.15. The reports also described a young girl held in solitary confinement, strapped to a filthy mattress, without access to a toilet and left lying in her own feces, urine and menstrual blood for days.

4.16. Following these reports, a commission of inquiry into the conditions of reception centres was held and the the final report was published on December 22, 1975, titled *Rapport du comité d'étude sur la réadaptation des enfants et adolescents placés en centre d'accueil* dated December 22, 1975 (the "**Batshaw Report**"), **Exhibit R-5**, which stated:

> **Telle qu'elle se pratique actuellement, la détention donne lieu à des pratiques aberrantes. Les jeunes sont placés en détention pour toutes sortes de raisons dont la plupart nous semblent inacceptables**. Dans l'état actuel des choses, il est permis de croire que les séjours en détention ne font aucun bien à l'enfant et ils risquent de lui causer un tort irréparable. Les jeunes placés en détention n'ont pas commis, pour la plupart, des délits suffisamment graves pour justifier un hébergement sécuritaire.

4.17. These aberrant practices continued. In 1997, Prévost Campus, previously known as Shawbridge, was investigated by the *Commission des droits de la personne et des droits de la jeunesse* (the "***CDPDJ***"), the conclusions of which were published in "The Batshaw Youth and Family Centres—Prévost Campus—La Chapelle Unit, Conclusions of the Investigation," May 1997 (the "**Prévost Investigation**"), **Exhibit R-6**.

4.18. The Prévost Investigation concluded that the reception centre's use of solitary confinement, intensive supervision units and the "*arrêt d'agir*" program as disciplinary measures were illegal in youth protection cases and that children's fundamental rights had been violated, Exhibit R-6, p. 19.

4.19. In 1998, the CDPDJ issued a statement, **Exhibit R-7** on the common and recurring use of detention and confinement measures was a breach of children's rights under the *Charter of Human Rights and Freedoms* and the *Youth Protection Act*:

> (…) **l'encadrement intensif dit statique**, qui se caractérise de mesures restrictives de liberté de telle sorte que l'enfant, dont la liberté est déjà restreinte pour des motifs prévus par la loi et selon la procédure prescrite à la suite d'une ordonnance d'hébergement obligatoire, se retrouve privé de sa liberté résiduelle, **ne respecte pas les droits garantis à l'enfant par l'article 24 de la Charte des droits et libertés de la personne du Québec**, et, en conséquence, ne respecte pas les droits qui lui sont reconnus par les articles 3 et 8 de la Loi sur la protection de la jeunesse. (Emphasis added.)

4.20. In 2000, the CDPDJ released another report on the practises in the Pavillon Bois-Joly at the Centre jeunesse de la Montérégie (the "**Bois-Joly Report**"), **Exhibit R-8**, in which it found that

> des personnes auraient été témoins de retraits fréquents, de mises en isolement répétées et abusives, de mesures disciplinaires excessives décrétées à l'endroit de jeunes qui sont hébergés aux unités Le Phare et Le Havre du Pavillon Bois-Joly de St-Hyacinthe. Ensemble, elles déplorent les conditions inacceptables imposées aux enfants. **Selon ces personnes, ces conditions s'apparentent à celles d'un milieu carcéral pour adultes et sont empreintes d'une grande sévérité et d'abus d'autorité**. (Emphasis added.)

4.21. The Bois-Joly Report contained contemporaneous notes and reports (the "*Cahiers de relais*") from the staff at the youth centre, which unequivocally show that children have been routinely subjected to abuse, solitary confinement and "removal" (a euphemism used to describe the lockdown of a child in her room) as disciplinary measures for trivial offences.

4.22. In 2002, the CDPDJ authorized a systemic inquiry into the youth protection services provided to children in Nunavik. This inquiry was authorized after the CDPDJ received several complaints addressing the situation of children who were receiving inadequate treatment while placed in reception centres in Nunavik.

4.23. The CDPDJ released its report in April 2007, titled Enquête portant sur les services de protection de la jeunesse dans la baie d'Ungava et la baie d'Hudson — Nunavik — Rapport, conclusions d'enquête et recommandations, **Exhibit R-9.**

4.24. In the ensuing report, the CDPDJ made the following findings:

> *Au Centre de réadaptation, les procédures d'isolement sont généralement conformes aux positions de la Commission. Toutefois, ces procédures n'ont pas été suivies dans le cas de plusieurs retraits de longue durée assimilables à une mesure d'isolement; (…)*
>
> *Une adolescente a été victime d'agression sexuelle par deux autres jeunes au Foyer de groupe d'Inukjuak. À son arrivée dans le même foyer de groupe, une autre adolescente a été agressée sexuellement par un gardien de nuit qui, selon les policiers, n'en était pas à son premier abus. L'adolescente a bénéficié de peu de soutien par la suite; au Foyer de groupe d'Inukjuak, un adolescent est demeuré six heures en isolement bien qu'il ait retrouvé son calme, sans être rencontré pendant cette période. Il était vêtu d'un seul caleçon. (…)*
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> *L'enquête a révélé qu'au Foyer de groupe de Puvirnituq, des adolescents peuvent demeurer en isolement pendant plusieurs heures, voire jusqu'à 24 heures.*

as appears from the *Enquête portant sur les services de protection de la jeunesse dans la baie d'Ungava et la baie d'Hudson — Nunavik — Rapport, conclusions d'enquête et recommandations*, CDPDJ, April 2007, **Exhibit R-9**, pp. 46-47.

4.25. The continued use of restrictive measures and abuses of authority were further described in a research paper titled *Les jeunes en centres jeunesse prennent la parole ! – Avis*, July 2004 and published by the *Conseil permanent de la jeunesse*, **Exhibit R-10**.

4.26. The paper gathered testimonies from residents of various centres, many of which pointed to the carceral conditions to which they were subjected.

4.27. Further testimonies were gathered and revealed in the context of a documentary produced by Paul Arcand in 2005 titled *Voleurs d'enfance*, a transcript of a passage of which is attached hereto as **Exhibit R-11** and the documentary itself as **Exhibit R-12**.

4.28. The documentary confirmed the use of confinement measures for trivial offences having nothing to do with the safety of the child or others, as relayed by one interviewee:

> Où est-ce que des enfants sont demeurés dans des chambres pendant des mois. Embarrés pendant des mois! On est au Québec en 2004 là. On a vu ça en 2002-2003 là! Où est-ce que des éducateurs, dans un cadre de l'exercice d'un pouvoir (parce que c'est certain, ils ont un pouvoir très important), et maintenaient des enfants parce que l'enfant leur avait fait une grimace, et puis (euh) bon ben c'est un autre 24 heures en isolement dans ce genre de situations-là.

4.29. As recently as 2021, the *Rapport de la commission spéciale sur les droits des enfants et la protection de la jeunesse*, **Exhibit R-13**, p. 281, noted the excessive recourse to confinement measures and that Indigenous children have sadly been disproportionately affected by these measures, given that they have been and continue to be heavily overrepresented in the youth protection and youth justice systems.

4.30. In 2013, the First Nations of Québec and Labrador Health and Social Services Commission released a major statistical study of the Indigenous population in the youth protection system and found that for the period of 2002 to 2010, the rate of placements of Indigenous children was between 6.4 and 9.3 the rate of placements for non-Indigenous children, **Exhibit R-14**, *Analysis Project of the Trajectories of First Nations Youth Subject to the Youth Protection Act*, p. 44.

4.31. In 2022, the Court of Appeal noted that the youth protection system has largely failed Indigenous children throughout the history of state involvement in child welfare, *Renvoi à la Cour d'appel du Québec relatif à la Loi concernant les enfants, les jeunes et les familles des Premières Nations, des Inuits et des Métis*, 2022 QCCA 185, para. 126:

> **The over-representation of Aboriginal children in youth protection services is part of a sad historical continuity**. Despite the many warning signs given over the decades and the initiatives aimed at stemming the problem, it is still very much present throughout Canada. **This is an indisputable reality that everyone, including the parties in this case, agree on.**

4.32. Since the filing of the proceedings in *E.L.*, the undersigned counsel have been contacted in confidence and subject to the duty of professional secrecy by many putative class members, many of whom were unaware that they had been excluded from *E.L.* but described being subjected to similar treatment or worse, including denigrating and derogatory treatment on the basis of their Indigenous identity and were denied an education.

4.33. Mr. Dandy himself did not receive an education at Shawbridge, a fact which has haunted him and held him back his whole life.

4.34. His fellow residents similarly did not receive an education.

4.35. Denying Indigenous children an education at centres is sadly a problem that has persisted throughout the decades.

4.36. While Mr. Dandy was denied an education out of sheer disinterest on the part of Shawbridge in providing any kind of scholastic instruction to its residents, other Indigenous children have been denied schooling due to blatantly avoidable administrative oversights or discriminatory policies.

4.37. Inuit children, for example, who are sent to Centres in the south have been systematically denied or delayed access to education:

> "Part of the reason I am in placement is that I was not attending school. So they send me here, and I am not allowed to go to school."
>
> This Inuit child skips class so often that their behaviour is flagged by a youth protection worker who decides it's best to take them from their family and put them on a southbound plane to live in a Montréal group home.
>
> But once the child is outside of Nunavik, they're no longer eligible to attend high school in English.

as appears from the "Inuit youth caught in English schooling snafu at Batshaw: report," Montréal Gazette, December 17, 2019, **Exhibit R-15**.

4.38. As noted just this year by the Commission des droits de la personne et de la jeunesse, this problem had persisted for at least a little more than a decade, thus likely resulting in hundreds of children being denied access to education:

> Dans la foulée des travaux de la Commission spéciale sur les droits des enfants et la protection de la jeunes (CSDEPJ) et grâce aux efforts des commissions scolaires anglophones nous pouvons

> maintenant affirmer que l'éligibilité à la scolarisation en langue anglaise pour les jeunes inuit placés à Batshaw est maintenant assurer après plus d'une décennie de paralysie. Tous nos jeunes qui sont placés à Batshaw et dans nos deux unités gérées par le Nunavik à Montréal et Dorval sont maintenant scolarisés en anglais.

as appears from the *Enquête et rapport de la Commission des droits de la personne et de la jeunesse 2007 : le point 15 ans plus tard*, **Exhibit R-16,** p. 24.

4.39. The failure to register Inuit children in school was based on a lack of English certificates, which systematically affected Inuit children because they did not require an English certificate when they studied in Nunavik.

4.40. The net result was Inuit children would be denied the same educational and employment opportunities as non-Inuit children as a result of the discriminatory effect of this policy.

4.41. The evidence is overwhelming: the rights of the Indigenous children, who have been placed in reception centres with non-Indigenous youth, have been and continue to be systematically violated, notwithstanding the fact that the government has been put on notice of such violations on multiple occasions spanning several decades.

C. Respondents' Liability

4.42. Over the years, youth reception centres went through a series of amalgamations in the context of the changes to the structure of the health and social services system in Québec.

4.43. On October 1, 1950, *An Act respecting Youth Protection Schools,* S.Q. 1950, ch. 11, came into force, amalgamating reformatory and industrial schools and converting same into youth protection schools, which are the predecessors of the youth reception centres.

4.44. The latest round of amalgamations of operating youth reception centres occurred pursuant to *An Act to modify the organization and governance of the health and social services network,* Chapter O-7.2*,* in April 2015.

4.45. As a result of these amalgamations, most of Québec youth reception centres have been integrated into the following institutions:

a) Centre intégré de santé et de services sociaux du Bas-Saint-Laurent;

b) Centre intégré universitaire de santé et de services sociaux du Saguenay–Lac-Saint-Jean;

c) Centre intégré universitaire de santé et de services sociaux de la Capitale-Nationale;

d) Centre intégré universitaire de santé et de services sociaux de la Mauricie-et-du-Centre-du-Québec;

e) Centre intégré universitaire de santé et de services sociaux de l'Estrie — Centre hospitalier universitaire de Sherbrooke;

f) Centre intégré universitaire de santé et de services sociaux de l'Ouest-de-l'Île-de-Montréal;

g) Centre intégré universitaire de santé et de services sociaux du Centre-Sud-de-l'Île-de-Montréal;

h) Centre intégré de santé et de services sociaux de l'Outaouais;

i) Centre intégré de santé et de services sociaux de l'Abitibi-Témiscamingue;

j) Centre intégré de santé et de services sociaux de la Côte-Nord;

k) Centre intégré de santé et de services sociaux de la Gaspésie;

l) Centre intégré de santé et de services sociaux de Chaudière-Appalaches;

m) Centre intégré de santé et de services sociaux de Laval;

n) Centre intégré de santé et de services sociaux de Lanaudière;

o) Centre intégré de santé et de services sociaux des Laurentides;

p) Centre intégré de santé et de services sociaux de la Montérégie-Est;

(the "Integrated Health and Social Services Centres" or "IHSSCs").

4.46. The IHSSCs acquired all the rights and obligations of amalgamated youth reception centres pursuant to the *Act respecting health services and social services,* S.R.Q. Chapter S-4.2 and are liable to the class members for the damages resulting from the faults alleged in this application.

4.47. The Nunavik Regional Board of Health and Social Services (the "**NRBHSS**") has been established by the Government of Québec pursuant to the *Act respecting health services and social service,* S.R.Q. Chapter S-4.2, on May 25, 1994.

4.48. The **NRBHSS** operates youth reception centres located within its territorial jurisdiction and, hence, is liable to the class members for the damages resulting from the faults committed at these reception centres.

4.49. The Cree Board of Health and Social Services of James Bay (the "**CBHSSJB**") has been established by the Government of Québec pursuant to the *Act respecting health services and social service,* S.R.Q. Chapter S-4.2, on April 20, 1978, in order to provide health and social services to the nine communities of the Cree Territory of James Bay.

4.50. Under the *Act respecting health services and social services for Cree Native persons*, S.R.Q. Chapter S-5, the CBHSSJB operates youth reception centres located within its territorial jurisdiction and, hence, is liable to the class members for the damages resulting from the faults allegedly committed at these reception centres.

4.51. The IHSSCs, the NRBHSS, and the CBHSSJB at all relevant times operated, maintained, staffed, oversaw or succeeded in the operation, maintenance, staffing and oversight of the Centres.

4.52. The staff members of Centres committed faults against class members by:

a) subjecting them to Measures;

b) physical or sexually assaulting them;

c) failing to intervene to stop a class member from being physically or sexually assaulted by another child;

d) subjecting class members to unnecessary medication, medical treatment, or dental care;

e) subject a child to racist taunts or derogatory comments on the basis of their Indigenous identity;

f) failing to provide an education to class members.

4.53. These acts constituted faults throughout the class period under the *Civil Code of Lower Canada*, SQ 1980, c 39 and the *Civil Code of Québec*, CQLR c CCQ-1991.

4.54. As of the entry into force of the *Charter of Human Rights and Freedoms*, CQLR, c C-12, this conduct constituted breaches of fundamental rights, namely, the right to personal security, inviolability and freedom, enshrined in s.1, the right to dignity, honour and reputation, enshrined in s.2, the right to quality, enshrined in ss. 10 and 10.1, and are sanctionable by punitive damages in virtue of s.49.

4.55. At all relevant times, the IHSSCs were responsible for oversight and conduct of its staff at the Centres and are thus liable as principals of those staff members.

4.56. In addition to constituting blatant violations of children's fundamental and constitutional rights recognized by *Charter of Human Rights and Freedoms*, the use of closed and solitary confinement, even in a juvenile justice context, is also unanimously condemned by international organizations, including the United Nations.

4.57. For instance, Rule 67 of the 1990 United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, filed as **Exhibit** R-**17**, expressly states:

> 67. All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.

4.58. Further, the United Nations Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment stated that subjecting children to solitary confinement of any duration amounts to cruel, inhuman or degrading treatment, which violates article 7 of the International Covenant on Civil and Political Rights and article 16 of the Convention against Torture:

> Thus the Special Rapporteur holds the view that the imposition of solitary confinement, of any duration, on juveniles is cruel, inhuman or degrading treatment and violates article 7 of the International Covenant on Civil and Political Rights and article 16 of the Convention against Torture.

as appears from the Report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, United Nations,

August 5, 2011, **Exhibit R-18**, p. 21; International Covenant on Civil and Political Rights, **Exhibit R-19**, and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, **Exhibit R-20**.

Also see, the United Nations Convention on the Rights of the Child, **Exhibit R-21**.

4.59. The Attorney General of Québec, as representative of the Ministère de santé et des services sociaux (the "MSSS"), bears responsibility for ensuring that the Centres act in compliance with applicable youth protection legislation, the Canadian and Québec Charters and for correcting systemic illegal conduct and abuses of power that violate the rights of children who are placed in state care.

4.60. The Centres operate pursuant to licenses delivered by the MSSS who must inspect the facilities prior to and during the operation under that license.

4.61. The MSSS was aware at least no later than the publication of the Batshaw report in 1976 that children in Centres were subjected to abusive practices under the guise of state authority, but the MSSS should have been aware at the start of the class period, given its own requirements to inspect Centres for the purposes of delivering and maintaining license.

4.62. The MSSS had the obligation to ensure that the institutions and individuals to whom the care of children had been granted were not subjecting those children to abuse or failing to protect them in abusive situations.

4.63. Moreover, the Attorney General of Québec is liable to class members for the systematic and discriminatory denial of access to education.

4.64. Consequently, the Attorney General of Québec, as the legal representative of the MSSS is liable to class members for all the resulting compensatory damages.

5. The composition of the Class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings, in that:

5.1. The Batshaw Report states that in 1975 alone, five thousand children were held in youth reception centres, Exhibit R-5, p. xvii.

5.2. The Viens Commission noted that in 1979, 2.9% of children taken into care were Indigenous, Exhibit R-3, p. 72.

5.3. According to Exhibit R-12, *Analysis Project of the Trajectories of First Nations Youth Subject to the Youth Protection Act*, there were 271 children in institutional care for the year 2007–2008 alone (p. 17).

5.4. There are likely several hundreds if not several thousands of class members who are geographically located throughout and outside the province.

5.5. The nature of the abuses inflicted on these children and the ensuing traumas make it extremely difficult for individual plaintiffs to come forward and to institute individual legal proceedings.

5.6. In these circumstances, it is impossible or, at the very least difficult and impracticable, to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings, while assuring access to justice that the victims deserve.

6. The Petitioner seeks to have the following questions of fact and law, which are identical, similar or related, decided by this class action:

(1) Have Class Members been subject to the following measures or practices at the centres:

a) being prevented from leaving a common area?

b) being locked up in their room or in a cell?

c) placement in solitary confinement?

d) use of force, including by way of mechanical means?

e) sexual abuse?

f) use of force or unnecessary medication, medical or dental treatment?

g) discriminatory or derogatory comments and treatment on the basis of their Indigenous identity?

h) denial of access to education?

(2) Do all or some of the measures or practices listed at paragraph 1 amount to a fault engaging the liability of the Attorney General of Québec?

(3) Do all or some of the measures or practices listed at paragraph 1 amount to a fault engaging the liability of some or all of the other Defendants?

(4) Are certain types of pecuniary damages common to class members as a result of a finding of fault as per paragraphs 2 and 3?

(5) Are certain types of non-pecuniary damages common to class members as a result of a finding of fault as per paragraphs 2 and 3?

(6) Are the Class members entitled to punitive damages for measures which were taken or for practices which occurred prior to and after June 28, 1976?

(7) Are the Class members entitled to punitive damages for measures which were taken or for practices which occurred prior to and after June 28, 1976?

(8) Can such pecuniary, non-pecuniary or punitive damages be subject to collective recovery? If so, for what amount?

(9) Are some or all of the claims of members prescribed?

7. The nature of the action that this Petitioner seeks to introduce is an action in compensatory and punitive damages.

8. The Petitioner seeks the following conclusions on the merits of the class action:

[1] **GRANT** the Plaintiff's action;

[2] **CONDEMN** the Defendants Centre intégré universitaire de santé et de services sociaux de l'Ouest de l'île de Montréal and the Attorney General of Québec to pay to the Plaintiff, at the recovery stage, the amount of $500,000 on account of moral damages;

[3] **CONDEMN** the Defendants Centre intégré universitaire de santé et de services sociaux de l'Ouest de l'île de Montréal and the Attorney General of Québec to pay to the Plaintiff, at the recovery stage, an amount to be determined on account of pecuniary damages*;*

[4] **CONDEMN** the Defendants Centre intégré universitaire de santé et de services sociaux de l'Ouest de l'île de Montréal and the Attorney General of Québec to pay to the Plaintiff, at the collective recovery stage, an amount to be determined on the account of punitive damages*;*

[5] **GRANT** the Plaintiff's action on behalf of all Class Members;

[6] **CONDEMN** the Defendants to pay to each member of the Class an amount on account of non-pecuniary damages, the quantum of such amount to be determined in accordance with parameters to be established at the collective issues stage, including, without limitation, for pain, suffering, loss of enjoyment of life and other moral damages;

[7] **CONDEMN** the Defendants to pay to each member of the Class an amount on account of pecuniary damages, the quantum of such amount to be determined in accordance with parameters to be established at the common issues stage, including, without limitation, for loss of income, therapy and counselling fees;

[8] **CONDEMN** the Defendants to pay to the members of the Class an amount to be determined on account of punitive damages**;**

[9] **ORDER** the collective recovery of moral, pecuniary and punitive damages awarded to members of the Class**;**

[10] **THE WHOLE** with interest and additional indemnity provided for in the *Civil Code of Québec* calculated from the date of the service of the *Application for authorization to institute a class action and obtain the status of representative,* and with costs, including costs of all experts, notices, fees and expenses of the administrator of the plan of distribution of the recovery in this action.

9. The Petitioner is in a position to properly represent the class members.

9.1. Harry Dandy found the courage to come forward and to publicly expose traumatic treatments inflicted upon him and the other children at the reception centres.

9.2. He is willing, motivated and available to represent the interest of all class members and to fully assist and cooperate with his attorneys to diligently carry out the action.

9.3. Mr. Dandy has no conflict in this case and asks to be appointed representative plaintiff out of a pure desire to obtain justice and advance the claims of other First Nations, Inuit or Métis individuals who were affected by Respondents' conduct similar to how he was.

10. The Petitioner proposes that the class action be brought before the Superior Court, sitting in the district of Montréal, for the following reasons:

10.1. The reception centres concerned by this class action were and are situated throughout the province of Québec.

10.2. The location of the class members is not limited to a specific district within the Province of Québec, since their place of residence could have changed since they were released from the reception centres.

10.3. However, given the concentration of population in and near to Montréal, it is likely that a significant number of class members reside within or near the district of Montréal.

10.4. The Respondents have offices in Montréal.

10.5. The Petitioner's attorneys have their office and practice in the district of Montréal.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

[1] **GRANT** the Petitioner's Application for authorization to institute a class action and obtain the status of representative;

[2] **AUTHORIZE** the class action hereinafter described as:

> an action in compensatory and punitive damages;

[3] **APPOINT** Mr. Harry Dandy as representative plaintiff for all class members forming part of the classes hereinafter defined as:

> Any First Nations, Inuit or Métis person, including those without status, save for an *excluded person*, who was placed, on or after October 1, 1950, in a *Centre* pursuant to a *Youth Law*, when he or

she was 17 years old or less and who was subject to *Measures*, *Discrimination*, sexual abuse or denied an education at a *Centre*.

The italicized words have the following meanings:

a) "**Centre**": means an industrial school, a youth protection school, a charitable institution, a reception centre, a secured unit, a detention centre, a transition centre, a child and youth protection centre, a rehabilitation centre, a rehabilitation centre for young persons with adjustment problems, an intensive supervision unit and a youth centre. It excludes a hospital centre or a foster family.

b) "**Youth law**": means the *Youth Protection Schools Act*, the *Youth Protection Act,* the *Act Respecting Health Services and Social Services*, the *Act Respecting Health Services and Social Services for Cree Native Persons*, the *Juvenile Delinquents Act*, the *Young Offenders Act* and the *Youth Criminal Justice Act*.

c) "**Measures**": means being placed in solitary confinement, confined in a common area, being locked up in a room or in a cell, being subject to the use of force, including by mechanical means or chemicals.

d) "**Discrimination**": means being punished for speaking one's Indigenous language, practising one's Indigenous culture, being subjected to derogatory or degrading treatment or comments by staff members regarding one's Indigenous identity, or being subject to differential treatment without justification on the basis of one's race, ethnicity or nationality.

e) "**Excluded person**":

Any person who is part of the class on behalf of which a class action was authorized in connection with Mont d'Youville reception centre (200-06-000221-187), but this exclusion does not apply to any such person who was also admitted to reception centres other than Mont d'Youville.

Any person who received financial assistance and signed a release pursuant to the National Program of Reconciliation with the Duplessis Orphans or the National Reconciliation

Program for Duplessis Orphans Who Were Residents of Certain Institutions (collectively, the "NPRDO"). This exclusion does not apply to any such persons if, beyond having been admitted to one of the institutions covered by the NPRDO between October 1, 1950, and December 31, 1964, (i) they were also admitted during this period to reception centres which are not covered by the NPRDO; or (ii) they were also admitted or readmitted, on or after January 1, 1965, to any reception centre.

[4] **IDENTIFY** as follows the main questions of fact and law to be determined collectively:

(1) Have Class Members been subject to the following measures or practices at the centres:

a) being prevented from leaving a common area?

b) being locked up in their room or in a cell?

c) placement in solitary confinement?

d) use of force, including by way of mechanical means?

e) sexual abuse?

f) use of force or unnecessary medication, medical or dental treatment?

g) discriminatory or derogatory comments and treatment on the basis of their Indigenous identity?

h) denial of access to education?

(2) Do all or some of the measures or practices listed at paragraph 1 amount to a fault engaging the liability of the Attorney General of Québec?

(3) Do all or some of the measures or practices listed at paragraph 1 amount to a fault engaging the liability of some or all of the other Defendants?

(4) Are certain types of pecuniary damages common to class members as a result of a finding of fault as per paragraphs 2 and 3?

(5) Are certain types of non-pecuniary damages common to class members as a result of a finding of fault as per paragraphs 2 and 3?

(6) Are the Class members entitled to punitive damages for measures which were taken or for practices which occurred prior to and after June 28, 1976?

(7) Can such pecuniary, non-pecuniary or punitive damages be subject to collective recovery? If so, for what amount?

(8) Are some or all of the claims of members prescribed?

[5] **IDENTIFY** as follows the conclusions sought in relation thereof:

[1] **GRANT** the Plaintiff's action;

[2] **CONDEMN** the Defendants Centre intégré universitaire de santé et de services sociaux de l'Ouest de l'île de Montréal and the Attorney General of Québec to pay to the Plaintiff, at the recovery stage, the amount of $500,000 on account of moral damages;

[3] **CONDEMN** the Defendants Centre intégré universitaire de santé et de services sociaux de l'Ouest de l'île de Montréal and the Attorney General of Québec to pay to the Plaintiff, at the recovery stage, an amount to be determined on account of pecuniary damages*;*

[4] **CONDEMN** the Defendants Centre intégré universitaire de santé et de services sociaux de l'Ouest de l'île de Montréal and the Attorney General of Québec to pay to the Plaintiff, at the recovery stage, an amount to be determined on the account of punitive damages*;*

[5] **GRANT** the Plaintiff's action on behalf of all Class Members;

[6] **CONDEMN** the Defendants to pay to each member of the Class an amount on account of non-pecuniary damages, the quantum of such amount to be determined in accordance with parameters to be established at the collective issues stage, including, without limitation, for pain, suffering, loss of enjoyment of life and other moral damages;

[7] **CONDEMN** the Defendants to pay to each member of the Class an amount on account of pecuniary damages, the quantum of such amount to be determined in accordance with parameters to be established at the common issues stage, including, without limitation, for loss of income, therapy and counselling fees;

[8] **CONDEMN** the Defendants to pay to the members of the Class an amount to be determined on account of punitive damages**;**

[9] **ORDER** the collective recovery of moral, pecuniary and punitive damages awarded to members of the Class**;**

[10] **THE WHOLE** with interest and additional indemnity provided for in the *Civil Code of Québec* calculated from the date of the service of the *Application for authorization to institute a class action and obtain the status of representative,* and with costs, including costs of all experts, notices, fees and expenses of the administrator of the plan of distribution of the recovery in this action.

[6] **ORDER** the publication of a notice to the Class Members according to the terms to be determined by the Court;

[7] **ORDER** the publication of the notice to the Class Members no later than thirty (30) days after the date of the judgment authorizing the class proceedings;

[8] **ORDER** that the deadline for a Class Member to exclude herself from the class action proceedings shall be sixty (60) days from the publication of the notice to the Class Members;

[9] **ORDER** the creation of a bilingual website or webpage to be administered by the representative plaintiff and his attorneys for the benefit of Class Members;

[10] **ORDER** the Defendants to pay the costs associated with the creation and the maintenance of the website or webpage until the conclusion of the proceedings;

[11] **ORDER** that this class action proceeds before the Superior Court, sitting in the district of Montréal;

[12] **ALLOW** the use of aliases for the purpose of identification of Class Members in the proceedings, exhibits or any other document filed with the Court, in order to protect their identity;

[13] **THE WHOLE** with costs, including the cost of all notices.

Montréal, September 22, 2023

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NOTICE OF SUMMONS
(Art. 145 of C.P.C.)

TAKE NOTICE that the Petitioner has filed this *Application for Authorization to Institute a Class Action and Obtain the Status of Representative* in the office of the Superior Court (Class Action Division) in the judicial district of Montréal.

Exhibits in support of the application

In support of the *Application for Authorization to Institute a Class Action and Obtain the Status of Representative*, the Petitioner to file the following exhibits:

EXHIBIT R-1 "Shawbridge and Shawbridge Boys Farm" and identification page for Batshaw Youth and Family Services, *en liasse*

EXHIBIT R-2 Final Report of the Truth and Reconciliation Commission of Canada, volume 1, Chapter 2

EXHIBIT R-3 Final Report of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress

EXHIBIT R-4 Article entitled "*Jail handcuffs girls and straps them to concrete bed*" by Gillian Cosgrove, *Montréal Gazette*, January 2nd, 1975, and Article entitled "*Architecture masks aim*" by Gillian Cosgrove, *Montréal Gazette*, January 3rd, 1975, *en liasse*;

EXHIBIT R-5 *Rapport du comité d'étude sur la réadaptation des* enfants *et adolescents placés en centre d'accueil,* December 22, 1975;

EXHIBIT R-6 *The Batshaw Youth and Family Centres—Prévost Campus—La Chapelle Unit, Conclusions of the Investigation, May 1997*;

EXHIBIT R-7 "*La légalité de l'encadrement intensif en vertu de la Loi sur la protection de la jeunesse*", CDPDJ, October 9th, 1998;

EXHIBIT R-8 *Rapport et conclusion d'enquête Pavillon Bois-Joly*, CDPDJ, September 2000;

EXHIBIT R-9 *Enquête portant sur les services de protection de la jeunesse dans la baie d'Ungava et la baie d'Hudson — Nunavik — Rapport, conclusions d'enquête et recommandations,* CDPDJ, April 2007;

EXHIBIT R-10 *Les jeunes en centres jeunesse prennent la parole* ! *— Rapport de recherche, Conseil permanent de la jeunesse,* July 2004;

EXHIBIT R-11 Transcript of Paul Arcand's documentary *Voleurs d'enfance,* 2005;

EXHIBIT R-12 Paul Arcand, *Voleurs d'enfance,* 2005;

EXHIBIT R-13 *Rapport de la commission spéciale sur les droits des enfants et la protection de la jeunesse*, 2021;

EXHIBIT R-14 First Nations of Québec and Labrador Health and Social Services Commission, *Analysis Project of the Trajectories of First Nations Youth Subject to the Youth Protection Act*;

EXHIBIT R-15 *"*Inuit youth caught in English schooling snafu at Batshaw: report", *Montréal Gazette*, December 17, 2019;

EXHIBIT R-16 *Enquête et rapport de la Commission des droits de la personne et de la jeunesse 2007 : le point 15 ans plus tard*, 2023;

EXHIBIT R-17 The 1990 United Nations Rules for the Protection of Juveniles Deprived of Their Liberty;

EXHIBIT R-18 Report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*,* United Nations, August 5, 2011;

EXHIBIT R-19 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 entry into force 26 June 1987;

EXHIBIT R-20 United Nations International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976;

EXHIBIT R-21 United Nations Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990.

These exhibits are available on request.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the Montréal Courthouse, situated at 1 Notre-Dame Street East, Montréal, within 15 days of the service of the present application or, if you have no domicile, residence or an establishment in Québec, within 30 days. The answer must be notified to the Petitioner's lawyers or, if the Petitioner is not represented, to the Petitioner.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgment may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code of Civil Procedure, cooperate with the plaintiff in preparing the case protocol that is to govern the

conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of this summons. However, in family matters or if you have no domicile, residence or establishment in Québec, it must be filed within 3 months after service; or

- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Where to file the judicial application

Unless otherwise provided, the judicial application is heard in the judicial district where your domicile is located, or failing that, where your residence or the domicile you elected or agreed to with plaintiff is located. If it was not filed in the district where it can be heard and you want it to be transferred there, you may file an application to that effect with the court.

However, if the application pertains to an employment, consumer or insurance contract or to the exercise of a hypothecary right on the immovable serving as your main residence, it is heard in the district where the employee's, consumer's or insured's domicile or residence is located, whether that person is the plaintiff or the defendant, in the district where the immovable is located or, in the case of property insurance, in the district where the loss occurred. If it was not filed in the district where it can be heard and you want it to be transferred there, you may file an application to that effect with the special clerk of that district and no contrary agreement may be urged against you.

Transfer of the application to the Small Claims Division

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

Convening a case management conference

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing that, the protocol is presumed to be accepted.

Application accompanied by a notice of presentation

Applications filed in the course of a proceeding and applications under Book III or V of the Code of Civil Procedure—excluding applications pertaining to family matters under article 409 and applications pertaining to securities under article 480—as well as certain applications under Book VI of the Code of Civil Procedure, including applications for judicial review, must be accompanied by a notice of presentation, not by a summons. In such circumstances, the establishment of a case protocol is not required.

Montréal, September 22, 2023

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NOTICE OF PRESENTATION

TAKE NOTICE that the Petitioner's *Application for Authorization to Institute a Class Action and Obtain the Status of Representative* shall be presented for adjudication before the Superior Court, at the Montréal Courthouse, situated at 1 Notre-Dame Street East, Montréal, on a day and time to be determined by the coordinating judge of the Class Action Division.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Montréal, September 22, 2023

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C A N A D A

PROVINCE OF QUÉBEC
District of Montréal

(Class Action Division)
S U P E R I O R C O U R T

Nº :

HARRY DANDY

Petitioner

v.

ATTORNEY GENERAL OF QUÉBEC

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DU BAS-SAINT-LAURENT

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DU SAGUENAY — LAC-SAINT-JEAN

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE LA CAPITALE-NATIONALE

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE LA MAURICIE-ET-DU-CENTRE-DU-QUÉBEC

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE L'ESTRIE — CENTRE HOSPITALIER UNIVERSITAIRE DE SHERBROOKE

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DE L'OUEST-DE-L'ÎLE-DE-MONTRÉAL

and

CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET DE SERVICES SOCIAUX DU CENTRE-SUD-DE-L'ÎLE-DE-MONTRÉAL

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE L'OUTAOUAIS

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE L'ABITIBI-TÉMISCAMINGUE

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LA CÔTE-NORD

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LA GASPÉSIE

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE CHAUDIÈRE-APPALACHES

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LAVAL

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LANAUDIÈRE

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DES LAURENTIDES

and

CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE LA MONTÉRÉGIE-EST

and

NUNAVIK REGIONAL BOARD OF HEALTH AND SOCIAL SERVICES

and

CREE BOARD OF HEALTH AND SOCIAL SERVICES OF JAMES BAY

Respondents

LIST OF EXHIBITS
(In support of the *Application for Authorization to Institute a Class Action and Obtain the Status of Representative*)

EXHIBIT R-1 "Shawbridge and Shawbridge Boys Farm" and identification page for Batshaw Youth and Family Services, *en liasse*

EXHIBIT R-2 Final Report of the Truth and Reconciliation Commission of Canada, volume 1, Chapter 2

EXHIBIT R-3 Final Report of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress

EXHIBIT R-4 Article entitled "*Jail handcuffs girls and straps them to concrete bed*" by Gillian Cosgrove, *Montréal Gazette*, January 2, 1975, and Article entitled "*Architecture masks aim*" by Gillian Cosgrove, *Montréal Gazette*, January 3, 1975, *en liasse*;

EXHIBIT R-5 *Rapport du comité d'étude sur la réadaptation des* enfants *et adolescents placés en centre d'accueil,* December 22, 1975;

EXHIBIT R-6 *The Batshaw Youth and Family Centres—Prévost Campus—La Chapelle Unit, Conclusions of the Investigation, May 1997*;

EXHIBIT R-7 "*La légalité de l'encadrement intensif en vertu de la Loi sur la protection de la jeunesse*", CDPDJ*,* October 9th, 1998;

EXHIBIT R-8 *Rapport et conclusion d'enquête Pavillon Bois-Joly*, CDPDJ, September 2000;

EXHIBIT R-9 *Enquête portant sur les services de protection de la jeunesse dans la baie d'Ungava et la baie d'Hudson — Nunavik — Rapport, conclusions d'enquête et recommandations,* CDPDJ, April 2007;

EXHIBIT R-10 *Les jeunes en centres jeunesse prennent la parole* ! *— Rapport de recherche, Conseil permanent de la jeunesse,* July 2004;

EXHIBIT R-11 Transcript of Paul Arcand's documentary *Voleurs d'enfance,* 2005;

EXHIBIT R-12 Paul Arcand, *Voleurs d'enfance,* 2005;

EXHIBIT R-13 *Rapport de la commission spéciale sur les droits des enfants et la protection de la jeunesse*, 2021;

EXHIBIT R-14 First Nations of Québec and Labrador Health and Social Services Commission, *Analysis Project of the Trajectories of First Nations Youth Subject to the Youth Protection Act*;

EXHIBIT R-15 *"*Inuit youth caught in English schooling snafu at Batshaw: report", *Montréal Gazette*, December 17, 2019;

EXHIBIT R-16 *Enquête et rapport de la Commission des droits de la personne et de la jeunesse 2007 : le point 15 ans plus tard*, 2023;

EXHIBIT R-17 The 1990 United Nations Rules for the Protection of Juveniles Deprived of Their Liberty;

EXHIBIT R-18 Report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*,* United Nations, August 5, 2011;

EXHIBIT R-19 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 entry into force 26 June 1987;

EXHIBIT R-20 United Nations International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976;

EXHIBIT R-21 United Nations Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990.

Montréal, September 22, 2023

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ATTESTATION OF SUBMISSION FOR INCLUSION IN THE NATIONAL CLASS ACTION DATABASE

(Art. 55 of the *Regulation of the Superior Court of Québec in civil matters*)

The undersigned lawyers, on behalf of the Petitioner, attest that the *Application for Authorization to Institute a Class Action and Obtain the Status of Representative* will be submitted for inclusion in the National Class Action Database.

Montréal, September 22, 2023

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Lawyers for the petitioner

No : 500-06-001265-236

(Class Action)
S U P E R I O R C O U R T
DISTRICT OF MONTRÉAL

HARRY DANDY

Petitioner

v.

ATTORNEY GENERAL OF QUÉBEC
and
CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DU BAS-SAINT-LAURENT and al.

Respondents

APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND OBTAIN THE STATUS OF REPRESENTATIVE
(Art. 575 of the Code of civil procedure)

List of Exhibits, and Attestation of submission for inclusion in the National Class Action Database

ORIGINAL

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