

2nd NOTICE TO CLASS MEMBERS DATED FEBRUARY 3, 2024
AUTHORIZED CLASS ACTION
Conseil pour la protection des malades et Daniel Pilote
c. *CISSS de la Montérégie-Centre et al.*
N° 500-06-000933-180

On September 23, 2019, the Superior Court of Quebec for the district of Montreal authorized a class action (hereinafter the "Class Action") against the 22 *centres intégrés de santé et de services sociaux* ("CISSS") and *centres intégrés universitaires de santé et de services sociaux* ("CIUSSS") of Québec and the McGill University Health Center¹ ("MUHC") (hereinafter the "Defendants") for the benefit of the following group of persons²:

"All people who have resided in a public residential and long-term care centre (hereinafter "CHSLD") after July 9th, 2015, excluding persons who have stayed in a « temporary bed » for a period of thirty (30) days or less per stay in a CHSLD.

Temporary bed designates more particularly but not limited to: "respite beds", "emergency beds", "transitional beds", "convalescence beds", "overflow beds", "alternative geriatric beds", "rehabilitation beds", "short-term unit beds", "intensive functional rehabilitation transitional unit beds (URFI)", "alternative beds", "social emergency beds", "transitional functional recovery beds ("UTRF") and "palliative care beds".

The *Conseil pour la protection des malades* was appointed representative of the persons included in the Class Action, and the designated person is Mr. Daniel Pilote.

This Class Action aims to obtain compensation for damages which are alleged to have been suffered by the designated person, Daniel Pilote, and the members of the group, due to the alleged non-performance by the Defendants of their obligation to provide an alternative living environment respectful of the rights of these persons under the terms of the *Act respecting health services and social services*, the *Civil Code of Quebec* and the *Charter of Human Rights and Freedoms*.

The members of the group are automatically included in the Class Action without having to register. **It is important to note that the assignies of deceased members of the group will also have the right, in the event of a favorable judgment, to claim the sums which would have been owed to the deceased. It is therefore important for these people to provide their contact details now on the site www.larochelleavocats.com, so that they can be contacted more easily, if necessary.**

The Class Action proceeds in the judicial district of Montreal.

¹ The MUHC was added as a defendant following a modification to the originating application that was authorized by the court on may 21, 2020.

² In accordance with the court decision of march 24, 2021, allowing the modification of the group.

THE MAIN ISSUES

The main questions of fact or law to be dealt with collectively are:

- 1) Did the defendants fail in their obligation to offer a substitute living environment and to provide the quality and level of services required in such a substitute living environment under the applicable provisions of the *Act respecting health and social services* and applicable regulations ?
- 2) Has the total or partial deprivation of care and services to which members are entitled under the law, or the provision of inadequate or poor quality services contrary to the law, caused harm for which the members have the right to obtain compensation ?
- 3) Did the defendants infringe the right to safety, integrity, dignity and honor of each member of the group?
- 4) Due to the breaches described above, should indemnities of up to \$ 750 per month of residence in a CHSLD be paid to the members of the group as compensatory damages? "

In case of a favorable judgment, the main issues to be dealt with individually (or, if possible, through subgroups to be defined) are as follows:

- 1) Determine the prejudice suffered by each member, or if possible, by each member of a subgroup, with regard to the length of their stay in a CHSLD;
- 2) Determine the nature and value of the specific damages that each member, or if possible, by each member of a subgroup, has suffered, taking into account the commission of the following :
 - infringement of rights protected by the *Act respecting health services and social services*;
 - infringement of rights protected by the *Charter of Human Rights and Freedoms*.

THE CONCLUSIONS SOUGHT

The conclusions sought by the Class Action are as follows :

"GRANT the Class Action of the Plaintiff on behalf of all class members;

DECLARE that the services meant to be provided in the *Act respecting health services and social services* have not been rendered or have been rendered inadequately in the CHSLD where the members reside, thus engaging the liability of the defendants and as such;

DECLARE that the defendants have failed in their obligation to offer a substitute living environment and to provide the quality and level of services required in such a substitute living environment under the applicable provisions of the *Act respecting health services and social services* and applicable regulations;

DECLARE that the defendants failed in their obligation to respect the rights of the members of the group to their safety, integrity, dignity and honor, rights protected by Articles 1 and 4 of the *Charter of Human Rights and freedoms*, and by Article 10 of the *Civil Code of Quebec*;

CONDEMN the defendants to pay to the designated person Daniel Pilote a sum of \$500 and to each member of the group, a sum of up to \$750 per month of residence in a CHSLD as damages for the deprivation of service and the provision of inadequate services due to the actions of the defendants;

CONDEMN the defendants to pay interest at the legal rate plus additional indemnity since the filing of the Application for Leave to Bring a Class Action;

ORDER the collective recovery, if possible either for the whole group or for sub-groups to be determined;

ALL WITH COSTS, including expert fees and Notice to class members fees. "

RIGHT TO OPT OUT OF THE CLASS ACTION

Any person who became a member of the group **after June 28, 2021** has the right to opt out of the Class Action **by advising in writing the clerk** of the Superior Court of Quebec, in conformity with article 580 of the *Code of civil procedure*, before April 3, 2024:

Registry of the Superior Court of Quebec
(S.C.Q. 500-06-000933-180)
1, Notre-Dame Street East,
Montreal, Quebec, H2Y 1B6

Only the persons who became members of the group **after June 28, 2021** can still opt out of the Class Action. In addition, all the persons who opted out of the class action during the first opting out period will remain excluded from this Class Action.

Any member not having opted out of the Class Action will be bound by any judgement rendered in the Class Action.

In addition, any person who became a member of the group after June 28, 2021 and that has brought an individual action against one or more Defendants which has, in whole or in part, the same object as the Class Action and who has not withdrawn before April 3, 2024 will be deemed to have excluded itself from the Class Action.

It should be noted that the requests for compensation, letters of demands or claims, other than an originating application, having in whole or in part the same object as the Class Action, received by the Defendants and coming from members who did not opt out before the expiry of the opting out period, cannot be dealt with individually by the Defendants since they are part of the Class Action. Such requests, letters of demands or claims will therefore be forwarded to the attorneys of the representative and of the designated person, namely Mtre Philippe Larochelle and Mtre Sébastien Chartrand, after the authors of such claims or letters of demand have been duly advised.

CLAIMS NOT COVERED BY THE CLASS ACTION

This Class Action does not include members' claims or rights of action, which arise from faulty management of the pandemic and spread of COVID-19 in CHSLD, whether or not these claims or rights of action are covered by another class action in connection with the pandemic.

This Class Action only includes claims from a person who has occupied a so-called "permanent bed" in a CHSLD for the period covered by the Class Action. Any claim arising from a person who has occupied a so-called "temporary bed" (see the definition of "temporary bed" at page 1 of this Notice) is not covered by the Class Action.

Claims for material damages, for example but not limited to, loss or damages of prosthesis or personal effect, are not covered by the present Class Action.

Any person having received an indemnity for any damage arising out of a claim covered in all or in parts by the Class Action, following a final decision or an out of court settlement, prior to April 3, 2024, is not entitled to receive any indemnity in the event of a favorable judgment in the present Class Action.

INTERVENTION AND LEGAL COSTS

A member may ask the Court the right to intervene in this Class Action. The member's motion to intervene may be allowed by the Court if it is considered useful to the class. An intervening member may be bound to undergo an examination on discovery at the request of the Defendants.

A member who does not intervene in the Class Action can only be subject to an examination on discovery at the request of the Defendants if the Court deems it useful.

No member other than the representative or an intervenor may be required to pay legal costs arising from the Class Action.

FOR MORE INFORMATION

For more information, you may consult the registry of class actions where you will find the main legal documents filed in the Courts record, at the following address :

<https://www.registredesactionscollectives.quebec/>

Members who wish to be kept informed of the progress of the file may register without fees by filing the form available on the Class counsel's website :

www.larochelleavocats.com
chsld@larochelleavocats.com

**Mtre Philippe Larochelle
Mtre Sébastien Chartrand
Larochelle Avocats**

338, St-Antoine Street East, # 300
Montreal, Quebec, H2Y 1A3
514 866-3003

Counsels for the Defendants, namely the 22 CISSS and CIUSSS and the MUHC, in this case are:

Mtre Luc de la Sablonnière
Mtre Rosalie Jalbert
rjalbert@morencyavocats.com
www.morencyavocats.com
Morency, société d'avocats
500, place d'Armes, 25th floor
Montreal, Quebec, H2Y 2W2
514 845-3533

This Notice has been authorized and approved by the honorable Donald Bisson, j.s.c.