

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(CLASS ACTION DIVISION)

NO: 500-06-001265-236

HARRY DANDY

Plaintiff

v.

ATTORNEY GENERAL OF QUÉBEC, *ès qualités* 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE L'OUTAOUAIS, public corporation having an office at 80 Gatineau Avenue, City of Gatineau, Province of Québec, J8T 4J3;

and

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE CENTRE INTÉGRÉ DE SANTÉ ET DE SERVICES SOCIAUX DE L'ABITIBI-TÉMISCAMINGUE, a public corporation having an office at 19th Street, City of Rouyn-Noranda, Province of Québec, J9X 2A9;

and

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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 legal person under public law with its head office at 3120 Taschereau Boulevard, in the City and Judicial District of Longueuil, Province of Quebec, J4V 2H1

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;

Defendants

ORIGINATING APPLICATION
(Article 583 C.C.P.)

TABLE OF CONTENTS

PART I - INTRODUCTION	7
PART II - AUTHORIZATION OF THE CLASS ACTION	8
PART III - THE FACTS	11
I. THE EVOLUTION OF THE LEGISLATIVE FRAMEWORK APPLICABLE TO THE CENTRES	11
A. Youth Protection Laws	12
B. Young Offenders Laws	15
II. INDIGENOUS YOUTH AND THE YOUTH PROTECTION SYSTEM	16
A. General Context	16
B. The Specific Situation in Nunavik	17
III. THE PLAINTIFF'S SITUATION	19
IV. THE FACTS RELATING TO THE CLAIMS OF OTHER CLASS MEMBERS	21
A. General Facts	21
B. Indigenous-Specific Facts	26
PART IV - COMPENSATORY DAMAGES	29
I. THE WRONGFUL IMPOSITION OF MEASURES AND THE COMMISSION OF SEXUAL ASSAULTS	29
II. THE RESPONSIBILITY OF THE DEFENDANT HEALTHCARE FACILITIES	34
A. The Liability of the Defendant Healthcare Facilities and Previous Entities as Principals	34
B. Violation by the Defendant Healthcare Facilities and Previous Entities of their Legal Obligations	35
C. The Negligence of the Defendant Healthcare Facilities and the Previous Entities	35
D. The Transfer of Responsibility from the Previous Entities to Santé Québec	36
E. The Transfer of Responsibility from the KHSSC to the NRBHSS	37
III. THE RESPONSIBILITY OF THE GOVERNMENT OF QUÉBEC	37
A. Violation by the Government of Québec of its Legal Obligations	37
B. The Systemic Negligence of the Government of Québec	38
C. Willful Blindness by the Government of Québec of the Violation by the Defendant Healthcare Facilities and by the Previous Entities of their Legal Obligations	39
PART V - PUNITIVE DAMAGES	39
I. THE PERIOD FROM OCTOBER 1, 1950, TO JUNE 27, 1976: PUNITIVE DAMAGES UNDER THE PUBLIC <i>COMMON LAW</i>	40
II. THE PERIOD FROM JUNE 28, 1976, TO THE PRESENT: PUNITIVE DAMAGES UNDER THE <i>QUÉBEC AND CANADIAN CHARTERS</i>	40
PART VI - PRESCRIPTION	41

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT OF QUÉBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PLAINTIFF STATES THE FOLLOWING:

PART I - INTRODUCTION

1. This class action seeks compensation for First Nations, Inuit or Métis individuals who, since October 1, 1950 (the "**Class Period**"), as children, were abused or discriminated against while in youth protection institutions (the "**Centres**", as defined below.
2. These individuals, while they were children, were subjected to horrific treatment that included being, confined to isolation cells or common areas, locked in their rooms or cells, subjected to the use of force, restrained by mechanical means or drugs, discriminated against based on their indigeneity, and/or were sexually assaulted.
3. The Class Members (as defined below) bring this action against the Government of Québec (represented by the Attorney General of Québec (the "**AGQ**")) which, at all relevant times, had responsibilities and powers in relation to the Centres, but did not stop the abuse that was occurring within them, even though it knew or ought to have known about it.
4. The Class Members also bring this action against Santé Québec, acting through the various *centres intégrés de santé et de services sociaux* ("**CISSS**") and *centres intégrés universitaires de santé et de services sociaux* ("**CIUSSS**"), as well as the Nunavik Regional Board of Health and Social Services (the "**NRBHSS**") and the Cree Board of Health and Social Services of James Bay (the "**CBHSSJB**") (collectively, the "**Defendant Healthcare Facilities**"), that are liable for faults committed in the Centres where the Class Members were placed.
5. The Class Members seek pecuniary and non-pecuniary damages for the harm caused to them by the defendants.
6. They also seek punitive damages on two separate and distinct bases. First, under the public *common law* that applied in Québec before the *Charter of Human Rights and Freedoms*, RLRQ c C-12 (the "**Québec Charter**") came into force. Second, for the unlawful infringement of their rights guaranteed by the *Québec Charter* and by the *Canadian Charter of Rights and Freedoms*, Part I of *The Constitution Act, 1982*, Schedule B to the *Canada Act, 1982* (UK), 1982, c 11 (the "**Canadian Charter**").

PART II - AUTHORIZATION OF THE CLASS ACTION

7. On September 22, 2023, the Plaintiff Harry Dandy filed an *Application for Authorization to Institute a Class Action and Obtain the Status of Representative*.
8. By judgment dated April 3, 2025, this court authorized the Plaintiff to institute this class action on behalf of the Class against the AGQ and the Defendant Healthcare Facilities, and appointed the Plaintiff as representative for all Class members (the "**Authorization Judgment**").
9. The Authorization Judgment defines the "**Class**" 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*, 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*."
 - (a) Subclass 1: Member of the Class who was placed in a *Centre* under a *Youth Protection Law*:
 - i) ordinarily resident in Nunavik and registered or entitled to be registered as a beneficiary under the James Bay and Northern Québec Agreement; or
 - ii) ordinarily resident in Québec;
 - (b) Subclass 2: Member of the Class who was placed in a *Centre* under a *Young Offenders Law*:
 - i) ordinarily resident in Nunavik and registered or entitled to be registered as a beneficiary under the James Bay and Northern Québec Agreement; or
 - ii) ordinarily resident in Québec"
10. Capitalized expressions have the following meaning:
 - (a) "**Excluded Person**":
 - i) Any person who is a member 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;

- ii) 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;
 - (b) **“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, a youth centre, the Inukjuak Group Home, the Puvirnituq Group Home, and the Saturvik Group Home. It excludes a hospital centre, any other group home or a foster family;
 - (c) **“Youth Protection 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*;
 - (d) **“Young Offenders Law”** means the *Juvenile Delinquents Act*, the *Young Offenders Act* and the *Youth Criminal Justice Act*, the *Act Respecting Health Services and Social Services*, the *Act Respecting Health Services and Social Services for Cree Native Persons*;
 - (e) **“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;
 - (f) **“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.
11. The Authorization Judgment identifies the main questions of fact and law to be determined collectively as follows:
- 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. unnecessary medication, medial 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. Do defendants benefit from an immunity for all or some of the alleged faults?
 5. Are certain types of pecuniary damages common to class members as a result of a finding of fault as per paragraphs 2 and 3?
 6. 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?
 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?
12. The Authorization Judgment identifies the conclusions sought by the class action as follows:

GRANT the Plaintiff's action;

CONDEMN the Defendants Santé Québec, a legal person, acting through the intermediary of the *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;

CONDEMN the Defendants Santé Québec, a legal person, acting through the intermediary of the *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;

CONDEMN, the Defendants Santé Québec, a legal person, acting through the intermediary of the *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;

GRANT the Plaintiff's action on behalf of all Class Members;

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;

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;

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

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

THE WHOLE with interest and additional indemnity provided for in the Civil Code of Québec calculated from the date of the service of the Modified 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.

PART III - THE FACTS

I. THE EVOLUTION OF THE LEGISLATIVE FRAMEWORK APPLICABLE TO THE CENTRES

13. During the Class Period, the Class Members were placed in various institutions under a Youth Protection Law or a Young Offenders Law.
14. The names used by the legislature to refer to these institutions have varied over time in accordance with the applicable youth protection legislation (A) or young offenders legislation (B).

A. YOUTH PROTECTION LAWS

15. In 1869, the Government of Québec adopted the *Industrial School Act*, 32 Vict. (1869), c. 17, the purpose of which was the prevention of delinquency among abandoned or errant children. The *Industrial School Act* was ultimately consolidated as *An Act respecting Industrial Schools*, SRQ 1941, c. 39, a copy of which is filed as **Exhibit P-1**. Under this act, children could be placed in institutions designated as "industrial schools".
16. The foregoing act was repealed on October 1, 1950, and replaced by the *Youth Protection Schools Act*, 14 Geo. VI (1950), c. 11, a copy of which is filed as **Exhibit P-2**.
17. Under section 2 of the *Youth Protection Schools Act*, any person placed in a "reformatory school" (under the *Reformatory School Act* referred to above) or an "industrial school" (under the *Industrial School Act* referred to above) was now considered to be placed in a "youth protection school" (under the new *Youth Protection Schools Act*).
18. Class Members were placed in a Centre or Centres designated as a "youth protection school."
19. In 1951, the *Youth Protection Schools Act* was amended by *An Act to Amend the Youth Protection Schools Act*, 14-15 Geo. VI (1950-51), c. 56 to add the possibility of placing a child in a "public charitable institution", among other things, as appears from a copy of that act filed as **Exhibit P-3**.
20. Class Members were placed in a Centre or Centres designated as a "public charitable institution."
21. A "public charitable institution" was an institution recognized as such under the *Québec Public Charities Act*, SRQ 1941, c. 187, as appears from a copy of that act filed as **Exhibit P-4**.
22. In 1960, the *Youth Protection Schools Act* underwent certain amendments and was renamed the *Youth Protection Act*, as appears from a copy of the *Youth Protection Act*, 8-9 Eliz. II (1959-60), c. 42, filed as **Exhibit P-5**.
23. In addition to the new title, this act provided for the possibility of a child being placed in a "school", a "public charitable institution" or a "social agency", the latter two types of establishments being defined by reference to the *Québec Public Charities Act*.

24. In 1971, *An Act Respecting Health Services and Social Services*, S.Q. 1971, c. 48 (the "**AHSSS 1971**") entered into force as the first legislative framework relating to the constitution and administration of health and social services establishments, as appears from a copy of this act, filed as **Exhibit P-6**.
25. This act introduced the concept of "establishment", a term that then encompassed different types of facilities, including a "reception centre."¹
26. The act also amended the definition of "public charitable institutions" in the *Youth Protection Act* by eliminating the reference to the *Québec Public Charities Act* and assimilating a "public charitable institution" to a "reception centre" within the meaning of the *AHSSS 1971*.
27. The *Regulation Respecting the Application of the Act Respecting Health Services and Social Services*, RRQ 1981, c. S-5, r. 1, established different classes of "reception centres", including "transition centres" and "rehabilitation centres", as appears from a copy of this regulation, filed as **Exhibit P-7**.
28. Class Members were placed in a Centre(s) designated as a "Reception Centre" and, more specifically, as a "Transition Centre" or "Rehabilitation Centre."
29. Beyond these legally recognized realities, there were also, in practice, centres called "detention centres," that were not mentioned in the law or regulations. These centres could be defined as "*loosely secured centre[s] used to punish and/or house youths 'temporarily' and having no admission criteria or recruitment program [translation]*", as appears from a copy of the *Rapport du comité d'étude sur la réadaptation des enfants et adolescents placés en centre d'accueil* (the "**Batshaw Report**"), filed as **Exhibit P-8**.
30. Class Members were placed in one or more Centres designated in practice as "detention centres."
31. In 1979, following the Batshaw Report, the *Youth Protection Act* was replaced by the *Youth Protection Act*, S.Q. 1977, c. 20 (the "**YPA 1979**") (amended several times since and consolidated as the *Youth Protection Act*, RLRQ c. P-34.1 (the "**YPA**")), as appears from a copy of the *YPA 1979* filed as **Exhibit P-9**.

¹ The *Youth Protection Act* already referred to the notion of "reception centre", a name that some Centres could in fact bear, even though the law had not yet formally defined such a notion. Class Members were therefore placed in Centres which, even before the adoption of the *AHSSS 1971*, were known as "reception centres."

32. The *YPA 1979* allowed for placement in a "reception centre", in continuity with the previous regime, as amended at the time of the coming into force of the *AHSSS 1971*. Section 91(e) of the *YPA 1979* further permitted "[ordering] *the foster care of a child fourteen years of age or older in a security unit*" in certain circumstances, discussed in more detail below.
33. The concept of "secure unit" in the *YPA 1979* was amended in 1981 and repealed in 1984, as appears from copies of *An Act to Amend the Youth Protection Act*, S.Q. 1981, c. 2 and *An Act to Amend the Youth Protection Act and Other Legislative Provisions*, S.Q. 1984, c. 4, (the "**YPA 1984**") filed as **Exhibit P-10**, *en liasse*. However, in practice, some places have continued to meet the definition of a secure unit.
34. Class Members were placed in a Centre or Centres or parts of Centres designated as or corresponding to "security units" before and after the repeal of this concept.
35. In 1991, the new *Act Respecting Health Services and Social Services and Amending Various Legislation*, S.Q. 1991, c. 42 (the "**AHSSS 1991**") came into force and began the process of administrative reform of the health and social services network, as appears from a copy of the *AHSSS 1991*, filed as **Exhibit P-11**. The *AHSSS 1991* was subsequently amended several times and consolidated as the *Act Respecting Health Services and Social Services*, C.Q.L.R. c. S-4.2 (the "**AHSSS**"), now largely replaced by *An Act to Make the Health and Social Services System More Effective*, S.Q. 2023, c. 34, (the "**AHSSSME**"), save for provisions applicable to the Inuit and Naskapi.
36. Among other things, the *AHSSS 1991* redefined the categories of establishments and their respective missions. To this end, this act established:
 - (a) that "social service centres" become "child and youth protection centres";
 - (b) that the concept of "reception centre" was replaced by that of "rehabilitation centre";
 - (c) that "rehabilitation centres" were divided into several categories, including "rehabilitation centres for young persons with adjustment problems" and "rehabilitation centres for mothers with adjustment problems."
37. Following the adoption of the *AHSSS 1991*, the "child and youth protection centres" in each of Québec's administrative regions undertook an integration with the various "rehabilitation centres for young persons with adjustment problems" and "rehabilitation centres for mothers with adjustment problems", resulting in merged establishments commonly called "youth centres."

38. Class Members have been placed in one or more Centres designated as "child and youth protection centres", "rehabilitation centres for young persons with adjustment problems" or "youth centres."
39. Finally, in 2007, *An Act to Amend the Youth Protection Act and Other Legislative Provisions*, S.Q. 2006, c. 34 amended the YPA to explicitly provide for the housing of children in an "intensive supervision unit", as appears from a copy of this act filed as **Exhibit P-12**. In fact, placement in such units had been taking place for many years.
40. Class Members have been placed in one or more Centres or parts of Centres designated as "intensive supervision units."

B. YOUNG OFFENDERS LAWS

41. In parallel with the *Industrial School Act*, in 1869, the Government of Québec also adopted the *Reformatory School Act*, 32 Vict. (1869), c. 18, the object of which was the rehabilitation of young offenders. The *Reformatory School Act* was ultimately consolidated as *An Act Respecting Reformatory Schools*, SRQ 1941, c. 38, a copy of which is filed as **Exhibit P-13**. Under this act, children could be sent to a "reformatory school" or a "reformatory prison".
42. At the federal level, the Government of Canada introduced the country's first distinct juvenile justice system in 1908, with the adoption of the *Juvenile Delinquents Act*, 7-8 Edw. VII (1908), c. 40, (the "**JDA**") a copy of which is filed as **Exhibit P-14**.
43. The JDA was brought into force in Québec by *An Act Respecting Juvenile Delinquents*, 1 Geo. V (1910), c. 26, a copy of which is filed as **Exhibit P-15**. This act established "*The Juvenile Delinquents' Court*", responsible for hearing cases of juvenile delinquents.
44. Until 1984, Class Members were placed in a Centre or Centres pursuant to the JDA.
45. On April 2, 1984, the *Young Offenders Act*, S.C., 1982, c. 110, (the "**YOA**") was proclaimed into force and repealed the *Juvenile Delinquents Act*. A copy of the YOA is filed as **Exhibit P-16**.
46. As a result, the Québec Government adopted the YPA 1984, entrusting the Director of Youth Protection with the responsibility of applying the YOA in Québec.
47. Under section 24(6) of the YOA, a young person committed to custody could be placed in either open or secure custody, as defined under section 24(1).

48. From 1984 to 2003, Class Members were placed in a Centre or Centres, in open or secure custody, pursuant to the YOA.
49. On April 1, 2003, the *Youth Criminal Justice Act*, S.C. 2002, c. 1, (the “**YCJA**”) came into force, and replaced the YOA. A copy of the YCJA is filed as **Exhibit P-17**.
50. Under section 88 of the YCJA, the YOA provisions that defined open and secure custody continued to be applicable with any modifications that the circumstances required.
51. That same year, the Government of Québec adopted *Decree 477-2003*, (2003) 16 G.O. II, 2154, which provided that, pursuant to section 88 of the YCJA, the determination of the level of custody would be made under the provisions of the YOA. A copy of *Decree 477-2003* is filed as **Exhibit P-18**.
52. Since 2003, Class Members have been placed in a Centre or Centres, in open or secure custody, pursuant to the YCJA.

II. INDIGENOUS YOUTH AND THE YOUTH PROTECTION SYSTEM

A. GENERAL CONTEXT

53. In *Eleanor Lindsay c. Procureur général du Québec*, 2022 QCCS 3044 (“**Lindsay**”), this court authorized a class action brought on behalf of persons aged 17 years or under who, since 1950, were placed in youth protection centres pursuant to a *Youth Protection Law* and were subjected to Measures or sexual abuse.
54. In authorizing *Lindsay*, the court excluded First Nations, Inuit and Métis (“**Indigenous**”) children from the class on the basis that their particular and complex experience and their over-representation in the youth protection system, among other factors, made their situations distinguishable from the rest of the class members in *Lindsay*.
55. This case is brought on behalf of those Indigenous children. It is therefore important to understand the particular context and laws applicable to Indigenous children.
56. The legacy of abusive confinement practices towards Indigenous children extends back to Residential Schools, where solitary confinement was a common measure used to punish children.
57. In the early 1950s, provincial authorities in Québec began to supplant religious orders in the realm of child protection.

58. During that same period, the Government of Canada amended the *Indian Act* to include section 87, as appears from the *Indian Act*, S.C. 1951, c. 29, filed as **Exhibit P-19**. This provision made provincial legislation applicable to Indigenous people in contexts where no federal laws were applicable. Given the absence of federal legislation, Québec's youth protection laws became applicable to Indigenous youth.
59. Large numbers of Indigenous children were consequently swept up into Québec's child welfare system, often outside their communities.
60. Similarly, nothing in the Young Offenders Laws adopted by the Government of Canada considered the particular needs of Indigenous children.
61. The importance of cultural safety and continuity for Indigenous children placed in Centres, their historical traumas, as well as their right to equality were therefore not considered or respected.
62. Indigenous children were not only regularly disconnected from their cultural roots and traditions but were also subject to discrimination by staff members and other children.
63. It was not until 2022, through the adoption of *An Act to Amend the Youth Protection Act and Other Legislative Provisions*, S.Q. 2022, c. 11, a copy of which is filed as **Exhibit P-20**, that the *YPA* and the *AHSSS* were amended to take into account the distinct reality of Indigenous children and to adapt these acts based on historical, social and cultural factors specific to Indigenous people.

B. THE SPECIFIC SITUATION IN NUNAVIK

64. In 1975, the Governments of Québec and Canada, the Northern Québec Inuit Association, the Grand Council of the Crees of Québec and three Québec Crown Corporations entered into the *James Bay Northern Québec Agreement* (the "**JBNQA**"), the whole as appears from a copy of the *JBNQA*, filed as **Exhibit P-21**.
65. The *JBNQA* offered the Cree and the Inuit of Québec certain autonomy over the management of, among other things, the health and social services on their territory, and was meant to ensure that children living in the territories covered by the *JBNQA* benefitted from youth protection services locally.
66. Sections 14 and 15 of the *JBNQA* provided for the creation of, respectively, the Cree Regional Board of Health Services and Social Services and the Kativik Health and Social Services Council (the "**KHSSC**"), which were to be governed by the *AHSSS 1971*.

67. In 1977, the *AHSSS 1971* was amended by the *Act to Amend the Act Respecting Health Services and Social Services*, S.Q. 1977, c. 48, filed as **Exhibit P-22**. Section 9 of this act added provisions to the *AHSSS* allowing the Government of Québec to create health and social services councils in the regions covered by the *JBNQA*.
68. Pursuant to these provisions, the CBHSSJB was created by Order in Council 1213-78 on April 20, 1978.
69. That same year, the KHSSC was created with the aim of promoting, advancing and developing public health in the areas of Nunavik under its jurisdiction.
70. Since then, these entities have been in charge of health and social services in their communities, which includes the operation of youth centres and group homes.
71. When the *AHSSS 1991* was adopted, the previous version of the *AHSSS* was renamed as *An Act Respecting Health Services and Social Services for Cree and Inuit Native Persons* (the “**AHSSS-CINP**”) in accordance with section 594 of the *AHSSS 1991* (Exhibit P-11).
72. In 1992, *An Act to Amend Various Legislative Provisions Concerning the Application of the Act Respecting Health Services and Social Services and Amending Various Legislation*, S.Q. 1992, c. 21, was adopted, a copy of which is filed as **Exhibit P-23**. Section 341 of this act incorporated a new provision into the *AHSSS-CINP*, section 1.1, which ensured that the *AHSSS-CINP* applied to the CBHSSJB and the KHSSC. The provision of youth protection services for the Cree and the Inuit thus became governed by the *AHSSS-CINP*.
73. The following year, *An Act to Amend the Act Respecting Health Services and Social Services*, S.Q. 1993, c. 58, (the “**AHSSS 1993**”), filed as **Exhibit P-24**, incorporated sections 530.25 and 530.42 into the *AHSSS*, which provided for the replacement of the KHSSC by the NRBHSS.
74. The *AHSSS* was amended once again by *An Act to Amend the Act Respecting Health Services and Social Services and Other Legislative Provisions*, S.Q. 1994, c. 23, a copy of which is filed as **Exhibit P-25**. Section 20 of this act renamed the *AHSSS-CINP* into *An Act Respecting Health Services and Social Services for Cree Native Persons* (the “**AHSSS-CNP**”). A copy of the *AHSSS-CNP* is filed as **Exhibit P-26**.
75. This modification also included striking out the words “*and the Conseil Kativik de la santé et des services sociaux*” in section 1.1 of the newly named *AHSSS-CNP*, making it only applicable to the Cree (section 21).

76. In 2023, section 1293 of the newly adopted *AHSSSME*, filed as **Exhibit P-27**, renamed the *AHSSS* to *An Act Respecting Health Services and Social Services for the Inuit and Naskapi* (the “**AHSSS-IN**”) and governed the provision of youth protection services for the Inuit. A copy of the *AHSSS-IN* is filed as **Exhibit P-28**.
77. Today, the *AHSSS-CNP* and the *AHSSS-IN*, in conjunction with the *YPA* and the *YCJA*, govern the provision of youth protection services by the CBHSSJB and the KHSSC in Nunavik.

III. THE PLAINTIFF’S SITUATION

78. At approximately age 6, Mr. Dandy began attending Temiskaming Indian Day School No. 19 (“**TDS**”), where he 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.
79. Mr. Dandy was bullied by school staff and told on a near daily basis that he was a “savage,” a “two-bit Indian.”
80. From this experience, Mr. Dandy grew to despise authority figures and tried to avoid attending school as much as possible. His attempt to escape the abuse inflicted upon him was interpreted as delinquency by the school.
81. At approximately 11 years of age, Mr. Dandy was sent to another school in Temiskaming and was regularly stopped by police for truancy, and accused of other minor offences to which he was forced to plead guilty.
82. Eventually, the local Police Chief became involved and presented an ultimatum to Mr. Dandy’s parents: 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 north of Montréal (“**Shawbridge**”), a Centre as defined above.
83. Over Mr. Dandy’s mother’s protests, his father elected to send him to Shawbridge. At this time, Mr. Dandy was approximately 13 years of age.
84. In Shawbridge, Mr. Dandy was exposed to further abuses, often worse than what he received at TDS.
85. Security guards preyed upon smaller boys and physically and verbally assaulted them on a regular basis.
86. Older kids were also deputized by staff to “discipline” the younger and weaker kids through draconian measures and physical abuse.

87. 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.
88. Because Mr. Dandy fought back any time a guard or anyone else at the school laid a hand on him, he would often be placed in an isolation room for days on end, and sometimes up to a week.
89. This isolation room was small, measuring approximately eight (8) feet by eight (8) feet, with no mattress or furniture of any kind.
90. 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.
91. 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.
92. 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.
93. Mr. Dandy also observed other children being ridiculed, denigrated, and subjected to taunts, harassment and verbal abuse by Shawbridge staff and other boys because of their Indigenous identity.
94. Mr. Dandy learned to conceal his Indigenous identity so as to avoid similar abuse.
95. 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; a fact which has haunted him and held him back his whole life.
96. In Shawbridge, 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.
97. Mr. Dandy spent approximately three years at Shawbridge.
98. By the time he left Shawbridge, Mr. Dandy had no education and his resentment towards authority figures only deepened.
99. His experiences there left him with deep emotional wounds that he carries to this day.
100. Although he has tried to forget the pain that he endured, he has flashbacks of the abuse and torment he suffered at Shawbridge.

101. Mr. Dandy was never given a fair opportunity to succeed in the labour market because of his lack of an education.
102. After experiencing 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.
103. The Indian Day School class action and the filing of the Lindsay class action brought to the fore Mr. Dandy's painful memories of Shawbridge, which he had subconsciously suppressed for years.

IV. THE FACTS RELATING TO THE CLAIMS OF OTHER CLASS MEMBERS

104. The case of the Plaintiff is not an isolated one.
105. Hundreds of Class Members were victims of Measures, Discrimination and/or sexual assaults at Centres during the Class Period.
106. In fact, Measures have been applied systemically, and Discrimination and sexual assaults have occurred in the Centres since at least October 1, 1950.
107. The name given to the Measures may have changed over time. For example, several Class Members have been subjected to practices called "time-out" ("arrêt d'agir") or "intensive supervision." These are part of the Measures because they involve a greater level of restriction and deprivation of liberty, and because they take place primarily in intensive supervision units.

A. GENERAL FACTS

108. In the 1970s, several newspaper articles reported on the fact that the Measures were being applied in the Centres, as appears from copies of an article by Victor Malarek dated November 2, 1971, and entitled "*Housewife says daughter 'going crazy' in solitary*" and articles dated January 2 and 3, 1975 respectively in *The Gazette*, filed as **Exhibit P-29**.
109. The treatments reported were not acceptable according to the standards of the time. The articles published in January 1975 caused a scandal. The public outcry even led, on February 1, 1975, to the creation by the Minister of Social Affairs of the *Comité d'étude sur la réadaptation des enfants et adolescents placés en centres d'accueil*, chaired by Manuel G. Batshaw.
110. Among other things, this commission of inquiry was mandated to "[v]isit the transition and rehabilitation centres, including the secure reception centres, to evaluate their operation", as well as to "[e]xamine the methods commonly used [...]"

for the rehabilitation of residents received in transition and rehabilitation centres for socially maladjusted youth" [translation].²

111. As part of its mandate, the commission of inquiry visited each of the Centres then in existence in the province.
112. On December 22, 1975, the Study Committee issued the Batshaw Report (Exhibit P-8).
113. The Batshaw Report found, among other things, the following Measures within the Centres (at pp. 96, 102 and 103):

Not so long ago, the inmates of Notre-Dame de Laval were locked in their cells 22 hours a day and, for 6 months, they could not go outside. When not locked in a cell, the young inmate is constantly monitored, controlled, counted.

[...]

2.6.4 Isolation

The question of discipline leads us straight to the problem of isolation. In January 1975, following the revelation in the newspapers of certain isolation practices, the Deputy Minister of Social Affairs, Dr. Brunet, issued a directive [...].

The directive aroused more discontent in the reception centres than real change. In some centres (and in particular in detention centres) the directive is not known to the educators who continue to act more or less according to old habits. [...]

Isolation or withdrawal from the group can be used for a variety of reasons: 1) to punish certain unacceptable behaviours; thus, in several reception centres, running away is automatically sanctioned by a period of isolation; 2) to control a crisis; when a resident becomes "disorganized", he or she can be isolated for as long as the crisis lasts; in these circumstances, isolation avoids the inconvenience of the crisis for the group and for the educators, and prevents contamination which could degenerate into a collective crisis; [...] The isolation measure is relatively complex because it allows to achieve several goals at once: punishing a behavior, controlling it (physically preventing it from occurring), ridding the educators and the group of a troublesome individual, etc... This is why the temptation to resort to isolation is always present among educators. It "allows them to take on only adolescents who agree to function well" (S. Laflamme-Cusson and M. Baril 1975, Vol. II, p. 129).

[...]

The forms and modalities of isolation or withdrawal are numerous: 1) according to the place: withdrawal to the room, to the educator's office, to any adjoining room, to a cell specially set up for this purpose, to a special unit, etc., 2) according to duration: a few minutes (time-out), the duration of an activity, the time to calm down, a few hours, 24 hours, a week; during our visits, the longest period of isolation that we heard of was 21 days; [...]

² Batshaw Report (Exhibit P-8), p. XIII.

Despite all the scholarly talk about the therapeutic indications of isolation, it is clear that it is a punitive and coercive measure. [...] [translation]

114. The Batshaw Report also reported on the deployment of Measures to use force against children in the Centres (at p. 52):

Similarly, disciplinary measures vary endlessly, from isolation (in one centre, a child was kept in an isolation cell for 17 consecutive days), to physical beatings (in one institution where children reported corporal punishment, the management said they were opposed to such practices, which they knew about but tolerated anyway), to humiliation (staying in pajamas all day) or withdrawal of certain privileges (outings, pocket money), to the deprivation of contacts with family or of outings, when it was not simply a cruel and sadistic punishment (for example, to put a child dressed only in underpants, in an isolation cell, simply lying on a mattress without a blanket, with the light on all night long, or to force another child to "faire le piquet", i.e. to remain standing straight for over three hours in a row twice a day!...).

Some examples are, of course, isolated cases. But such practices are unacceptable from adults who claim to re-educate and socialize children. And it is appalling to note how the act reproached could be without importance, and without common measure with the punishment. [translation]

115. The Batshaw Report led to the reform of the youth protection system and the enactment of the *YPA 1979*.
116. Unfortunately, it did not stop the systemic deployment of Measures, Discrimination of Indigenous Youth and the commission of sexual assaults in the Centres.
117. Since the Batshaw Report, abuses in the Centres have continued.
118. In 1997, the *Commission des droits de la personne et des droits de la jeunesse* (the "**CDPDJ**") launched an investigation into the abuse of children placed in the La Chapelle unit of the Prévost reception centre,³ as appears from a copy of the report filed as **Exhibit P-30**.
119. On October 9, 1998, the CDPDJ adopted and published a document examining the legality of the intensive supervision applied to children placed under the *YPA*, overlapping several Measures, as appears from a copy of this document filed as **Exhibit P-31**.
120. The CDPDJ noted that it was confronted, "[i]n several cases", with "*the situation of children, placed in rehabilitation centres under the Youth Protection Act, who are kept in conditions that restrict their freedom and are more akin to conditions of detention: prohibition on leaving the establishment, restriction of outings for all intents and purposes to the centre's courtyard or to highly supervised communiting,*

³ The La Chapelle unit was primarily designed to house young offenders, but some youth placed under the *YPA* were also housed there as part of an intensive supervision or time-out program ("arrêt d'agir").

locked unit doors, locked room doors, strict supervision, prohibition on wearing personal belongings, including underwear, time-out program ["arrêt d'agir"] with extremely harsh conditions, etc." (at p. 1 [translation]).

121. The CDPDJ concluded the following (on p 6):

Given the current wording of the *Youth Protection Act*, the legislative amendments made to this Act in 1984, which removed all references to security units and procedural safeguards that governed the use of this type of placement, the so-called static intensive supervision, which is characterized by measures restricting liberty in such a way that the child whose liberty is already restricted on statutory grounds and according to the procedure prescribed by a compulsory placement order, is deprived of his residual liberty, does not respect the rights guaranteed to the child by section 24 of the Charter of Human Rights and Freedoms. [translation]

122. In 2000, the CDPDJ investigated the Pavillon Bois-Joly of the *Centres jeunesse de la Montérégie* because of the Measures applied there, as appears from a copy of the report filed as **Exhibit P-32**.
123. In 2004, the *Conseil permanent de la jeunesse* published a research paper on the placement of hundreds of youths in Centres, which highlighted the impact that the imposition of Measures had on these people, as appears from a copy of the report filed as **Exhibit P-33**.
124. In an opinion attached to this report, the *Conseil permanent de la jeunesse* urged the authorities to put an end to the imposition of Measures in the Centres:

Recommendation 3

The *Conseil permanent de la jeunesse* recommends to the Minister of Health and Social Services, in collaboration with the Executive Director of the *Association des centres jeunesse et les directeurs généraux des centres jeunesse*, that he take immediate action to put an end to all forms of coercion of youth in youth centres.

[...]

Recommendation 16

The *Conseil permanent de la jeunesse* recommends that the executive directors of youth centres do everything possible to put an end to the abuse of power that can occur in their establishments, to prohibit the use of physical or chemical restraint, and to prevent the application of measures restricting the liberty of the residents of their establishments.

[translation]

as appears from a copy of such notice filed as **Exhibit P-34**.

125. In 2004, researcher Lucie Lemonde published a note on the 104 files investigating rights infringements by the CDPDJ between 1990 and 1999 with respect to "*files involving measures affecting the right to liberty and security of the person, namely isolation and removal, time-out ["Arrêt d'agir"] and special programming* [and]

- restraint and use of force* [translation]", among other things, as appears from a copy of this research note filed as **Exhibit P-35**.
126. Ms. Lemonde concluded that *"in rehabilitation centres, confinement is the intervention of first choice, for disciplinary and clinical purposes alike, and sometimes even administrative. Over the ten-year period, the Commission has repeatedly stated that this solution infringes on the fundamental rights of youth. However, on reading the files, no concrete change in practices is palpable despite a change in terminology and the adoption of a policy framework. [...] Disciplinary isolation is still common despite the various names used in the Centres"* (at p. 99) [translation].
127. In 2005, the practices and abuses committed in the Centres were the subject of a documentary by Paul Arcand, entitled *Les voleurs d'enfance* (Childhood Thieves), which featured Ms. Margaret F. Delisle, Minister for Youth Protection and Rehabilitation. This documentary is filed with the transcript of certain excerpts, *en liasse*, as **Exhibit P-36**.
128. In May 2017, following the publication by Radio-Canada of an *"article exposing the increase in the use of isolation and restraint in a rehabilitation centre,"* the CDPDJ published a *"Study on the use of isolation and restraint within the youth rehabilitation missions of the CISSSs and CIUSSSs of Québec, as well as in certain non-defendant establishments* [translation]" as appears from a copy filed as **Exhibit P-37**.
129. In 2019, the Government of Québec established a *Commission spéciale sur les droits des enfants et la protection de la jeunesse*, composed of twelve commissioners and chaired by Régine Laurent (the "**Laurent Commission**"). The Laurent Commission heard a vast amount of testimony and issued its final report on May 3, 2021, as appears from a copy of that report filed as **Exhibit P-38**.
130. Several witnesses heard by the Laurent Commission referred to the Measures applied in the Centres, as appears from transcripts and summaries of hearings filed as **Exhibit P-39**.
131. Like the Plaintiff, the other Class Members who were subjected to the wrongful imposition of Measures, who were subject to Discrimination and/or who were victims of sexual assault suffered and continue to suffer to this day from the physical, moral and material harm resulting from this misconduct.

B. INDIGENOUS-SPECIFIC FACTS

132. In 1991, the Royal Commission on Aboriginal Peoples ("**RCAP**") documented the disproportionate placement of Indigenous children in child welfare systems across Canada. The RCAP found that in Québec, approximately half of Indigenous children (excluding Cree and Inuit children) were placed in non-Indigenous homes, as appears from the third volume of the *Report of the Royal Commission on Aboriginal Peoples* ("**RCAP Report**"), filed as **Exhibit P-40** (at p. 26).
133. The RCAP Report found that the interventions of social agencies in Indigenous communities were more traumatic for Indigenous children than for non-Indigenous ones, perpetuated assimilative practices and "*devalued Aboriginal culture by not recognizing and using traditional Aboriginal systems of child protection*" (at p. 26).
134. In 2002, the CDPDJ authorized an inquiry into the youth protection services provided to children in Nunavik. This inquiry followed several complaints concerning the situation of children who were receiving inadequate treatment while placed in reception centres in Nunavik.
135. 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*, filed as **Exhibit P-41**, and made the following findings (at pp. 43, 69):
- one teenage girl was sexually assaulted by two youths at the Inukjuak Group Home. Another was sexually assaulted by a night security officer upon her arrival; according to police, this was not the man's first offence. The adolescent involved in this latter incident received very little support after the assault;
- one resident of the Inukjuak Group Home was kept in isolation for six hours, even though he had calmed down, without being interviewed. He was wearing undershorts.
- [...]
- the use of a new seven-stage "restricted program" at the Sapummivik Rehabilitation Centre, that includes confinement measures that resemble unwarranted detention;
- [...]
- the investigation revealed that, at the Puvirnituq Group Home, teenagers may remain in isolation for several hours, and even up to 24 hours;
136. Overall, the CDPDJ found that in Nunavik, certain Measures were applied in violation of the rights of the children to not be deprived of liberty, as provided for under section 24 of the *Québec Charter* (at pp. 43, 51, 69).

137. Following the *Indian Residential Schools Settlement Agreement* in 2006, the Government of Canada established the Truth and Reconciliation Commission of Canada (“**TRC**”), mandated with documenting and informing the public about the history and impacts of Residential Schools.
138. In its final report, produced in 2015, the TRC concluded that not only do provincial child welfare systems across the country apprehend far too many Indigenous children, but they also fail to protect them from harm, as appears from the *Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, filed as **Exhibit P-42** (at p. 140).
139. On December 21, 2016, the *Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec* (the “**Viens Commission**”) was mandated with making recommendations pertaining to the prevention of violence and discriminatory practices in the provision of, among other things, youth protection services to Indigenous people.
140. In its *Final Report*, a copy of which is filed as **Exhibit P-43**, published in 2019, the Viens Commission documented cases where Indigenous children placed in Centres, particularly in Nunavik, were not given appropriate care or attention. Due to staff shortages and overcapacity—reaching as high as 136% occupancy—children were placed “*wherever there is a bed*,” with little regard for whether their needs were met and without receiving the attention they required (at p. 452).
141. The Viens Commission noted that these issues led the focus in some Centres to shift “*from healing intervention to management and control*” and compromised the staff’s “*ability to effectively supervise children*”, potentially putting “*the youngsters at risk*” (at p. 452).
142. Moreover, the Viens Commission pointed out a “*lack of security measures at these rehabilitation centres [...] with references to suicides and suicide attempts by young people placed in these centres*” (at p. 452)
143. The Viens Commission also highlighted the following (at pp. 244-245):

incidents where Indigenous people were forbidden to speak their language by public service representatives or foster families, particularly in dealing with youth protection services. Some also spoke of sanctions or consequences imposed on those who defied this ban. These distressing scenarios hark back to the days of residential schools, where Indigenous children were not allowed to speak their own language. It is unbelievable that such practices persist today.

[...]

I am, however, convinced that prohibiting the speaking of an Indigenous language goes against the objective of preserving the cultural identity of children as set out in the Youth Protection Act, and even the Charter of Human Rights and Freedoms. [footnotes omitted]

144. The report further concluded to the existence of systemic discrimination against Indigenous children in youth protection services (at pp. 203-204).
145. All in all, the Viens Commission made as many as 30 Calls for Action concerning youth protection services, to ensure that they are adapted to Indigenous realities (at pp. 407 to 459).
146. In 2021, the Laurent Commission (Exhibit P-38) concluded that the Calls for Action of the Viens Commission regarding Indigenous youth had largely not been implemented (at pp. 280, 297) and found that Québec's youth protection system is unable to adequately ensure the protection and safety of Indigenous children (at p. 279).
147. Moreover, many Indigenous children have been denied schooling due to blatantly avoidable administrative oversights or discriminatory policies.
148. 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, filed as **Exhibit P-44**.

149. As noted in 2023 by the CDPDJ, this problem had persisted for at least more than a decade, 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 jeunesse (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 assurée 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* (at p. 24), filed as **Exhibit P-45**.

150. 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. 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.
151. In sum, Indigenous children, who are overrepresented in the youth protection system, placed in Centres with non-Indigenous youth or in Nunavik, continuously and systematically see their rights violated and their culture erased, notwithstanding the fact that the government has been put on notice of such violations on multiple occasions spanning several decades.

PART IV - COMPENSATORY DAMAGES

I. THE WRONGFUL IMPOSITION OF MEASURES AND THE COMMISSION OF SEXUAL ASSAULTS

152. The framework under which certain Measures may have been imposed, in limited circumstances at all times, has evolved over the Class Period. The following allegations are intended to provide an overview but are not intended to be exhaustive in this regard.
153. In the wake of the scandal caused by the publication of the articles of January 1975 in *The Gazette* (Exhibit P-29), the Deputy Minister of Social Affairs adopted a directive in 1975 providing that “[n]o physical restraint or isolation for non-medical purposes shall be used with respect to children under the age of 12” and that “exceptionally, physical restraint or isolation may be used on a person of 12 years of age or over if the safety of that person or of those around them is seriously endangered [translation]” (the “**Directive of 1975**”), the whole as appears from the Batshaw Report (Exhibit P-8, at p. 102). The Plaintiff does not have a copy of the Directive of 1975, but it is part of the documents that were requested from the Attorney General of Québec and the Defendant Healthcare Facilities on February 27, 2023.
154. Prior to the adoption of this directive, there was no legal text authorizing the imposition of Measures in the Centres. Under the general rules of civil liability, however, the Measures could only be applied in circumstances where a reasonable person would have resorted to them.
155. A reasonable person would have, between October 1, 1950, and the adoption of the Directive of 1975, limited the application of Measures to those same exceptional circumstances that are recognized in that directive.

156. Any application of the Measures outside of these circumstances was wrong even before the adoption of this directive.
157. The years that followed saw the gradual enactment of legislative and regulatory standards that explicitly governed the application of Measures in the Centres. These norms codified the rules that had previously existed under civil liability law and the Directive of 1975 and added stricter conditions.
158. The *YPA 1979* first introduced the possibility of imposing certain Measures, but subject to conditions strictly prescribed by law. Indeed, as explained above, between 1979 and 1984, this act allowed for the housing of certain children in a "secure unit."
159. When the *YPA 1979* came into force, a secure unit was defined by section 1(h) as *"any reception centre or part of a reception centre determined as such by regulation pursuant to subparagraph c of the first paragraph of section 132."* Under the latter subsection, the government could make regulations *determining "the reception centres or the parts of reception centres which must be considered as security units."*
160. As early as 1981, section 1(h) of the *YPA 1979* was amended and the secure unit was defined as *"any architecturally restrictive place located in a reception centre where, by the appropriate staff, rehabilitation services are furnished with a view to the reintegration of the child into society, and where special internal rules and measures designed to restrict the child's movements are applied for his own benefit and the protection of society"*, as appears from Exhibit P-10.
161. At the same time, section 132(c) of the *YPA 1979* was amended to grant the government the power of making regulations *"to determine the reception centres which are security units or include security units"* (Exhibit P-11).
162. Beyond the limitations provided by the definition of a secure unit itself, placement in a secure unit could only be made under strict conditions, provided for in section 91(e) of the *YPA 1979*:
 - (a) this placement was to be ordered by the court;
 - (b) only children 14 years of age or over could be placed;
 - (c) the placement was to be for a maximum period of three months, subject to renewal at the request of the Director of Youth Protection, *"after notifying parents and the child"*; and
 - (d) to order placement, the court had to conclude that *"the child will elude the application of the law or that he represents a danger to himself or to others."*

163. After the repeal of section 91(e) of the *YPA 1979* in 1984 and for many years, the *YPA* no longer allowed for the use of Measures involving confinement or isolation.
164. The general rules of civil liability and, in particular, the rules of conduct imposed on the reasonable person, continued to strictly limit or prohibit the imposition of Measures in the Centres.
165. In 1997, the *AHSSS* was amended to add section 118.1, allowing the application of certain Measures only under strict conditions, similar to those set out in the Directive of 1975:

118.1. Force, isolation, mechanical means or chemicals may not be used to place a person under control in an installation maintained by an institution except to prevent the person from inflicting harm upon himself or others. The use of such means must be minimal and resorted to only exceptionally, and must be appropriate having regard to the person's physical and mental state.

Any measure referred to in the first paragraph applied in respect of a person must be noted in detail in the person's record. In particular, a description of the means used, the time during which they were used and a description of the behaviour which gave rise to the application or continued application of the measure must be recorded.

Every institution must adopt a procedure for the application of such measures that is consistent with ministerial orientations, make the procedure known to the users of the institution and evaluate the application of such measures annually.

166. In 2007, the *YPA* was amended with respect to the use of Measures under section 118.1 of the *AHSSS 1991* in the context of youth protection, as appears from Exhibit P-12.
167. First, section 10 of the *YPA*, which dealt with disciplinary measures, was amended by adding a third paragraph, providing as follows:

The measures provided for in section 118.1 of the Act respecting health services and social services, in particular isolation, and the placement in an intensive supervision unit provided for in section 11.1.1 of this Act may never be used as disciplinary measures.
168. Far from prohibiting what would previously have been permitted, this paragraph codified the prohibition to apply Measures as a disciplinary means, which previously existed under the general rules of civil liability and then under the Directive of 1975.
169. At the same time, section 11.1.1 was added to the *YPA*:

11.1.1. If a child is provided with foster care in compliance with an immediate protective measure or an order issued by the tribunal under this Act, and there is a serious risk that the child represents a danger to himself or to others, the child may be placed in an intensive supervision unit maintained by an institution operating a rehabilitation centre that allows close supervision of the child's

behaviour and movements due to its more restrictive layout and special living conditions.

The placement must end as soon as the grounds for it no longer exist. In the case of an immediate protective measure, the placement may not exceed the period provided for in section 46.

The placement must be based on a decision of the executive director of the institution or the person the executive director authorizes in writing, and must respect the conditions prescribed by regulation; a detailed report of the placement must be entered in the child's record, mentioning the grounds for it and the duration. The information contained in the regulation must be given and explained to both the child, if the child is able to understand it, and the child's parents.

The child or the parents may refer the executive director's decision to the tribunal. The motion is heard and decided by preference.

170. In connection with these sections, the government adopted the *Regulation Respecting the Conditions of Placement in an Intensive Supervision Unit*, RLRQ c. P-34.1, r. 6, which further specifies the conditions for placing a child in an intensive supervision unit. Among other things, this regulation provides that the decision to place a child in an intensive supervision unit must be based on an assessment of the child's situation showing the existence of a serious risk that the child presents a danger to themselves or to others. This assessment must be done using recognized clinical tools and must consider a series of factors listed in the regulation.
171. Finally, in 2017, new amendments were made to the above sections of the *YPA*, addressing, among other things, the conditions of placement in "intensive supervision units":

6. Section 10 of the Act is amended by replacing the last paragraph by the following paragraph:

"The measures provided for in section 118.1 of the Act respecting health services and social services (chapter S-4.2), in particular isolation, may never be used as disciplinary measures. The same applies to placement in an intensive supervision unit, as provided for in section 11.1.1 of this Act, and to a measure intended to prevent a child from leaving the facilities maintained by an institution operating a rehabilitation centre, as provided for in section 11.1.2 of this Act."

7. Section 11.1.1 of the Act is amended by replacing the second, third and fourth paragraphs by the following paragraphs:

"Placement in such a unit must be aimed at ensuring the child's safety, putting an end to the situation placing the child or others in danger and preventing the recurrence of such a situation in the short term.

Placement of the child in an intensive supervision unit may occur only following a decision by the executive director of the institution or the person the executive director authorizes in writing and must comply with the conditions prescribed by regulation. A detailed report on the placement, mentioning the grounds for it and its duration, must be entered in the child's record. The information contained in the

regulation must be given and explained to both the child, if he is able to understand it, and the child's parents. The child or the parents may refer the executive director's decision to the tribunal. Such an application is heard and decided by preference.

Where the child's situation is being reassessed, the executive director or the person the executive director authorizes in writing may, during a transition period and if the child's situation requires it, allow the child to engage in activities outside the intensive supervision unit, in accordance with the conditions prescribed by regulation, with a view to returning the child to an open rehabilitation unit.

Placement in an intensive supervision unit must end as soon as the serious risk of danger no longer exists and the situation warranting the measure is not likely to recur in the short term. In the case of an immediate protective measure, the placement may not exceed the period prescribed in section 46."

8. The Act is amended by inserting the following section after section 11.1.1:

"11.1.2. If the child is placed in an open rehabilitation unit in an institution operating a rehabilitation centre following an immediate protection measure or an order issued by the tribunal under this Act, and there is reasonable cause to believe that the child is at risk of running away and thus placing himself or others in danger, without the child's situation warranting placement in an intensive supervision unit, the child may be the subject of a measure intended to prevent him from leaving the facilities maintained by the institution.

The measure intended to prevent the child from leaving the facilities maintained by the institution must be aimed at ensuring the safety of the child, putting an end to the situation placing the child or others in danger, and preventing the recurrence of such a situation in the short term. It must also be aimed at helping maintain the child in the open rehabilitation unit in which he has been placed.

Such a measure may be used only following a decision by the executive director of the institution or the person the executive director authorizes in writing and must comply with the conditions prescribed by regulation. A detailed report on the measure, mentioning the grounds for it and its duration, must be entered in the child's record. The information contained in the regulation must be given and explained to both the child, if he is able to understand it, and the child's parents. The child or the parents may refer the executive director's decision to the tribunal. Such an application is heard and decided by preference.

The measure must end as soon as the risk of the child running away and thus placing himself in danger no longer exists and the situation warranting the measure is not likely to recur in the short term. It must also end if the child's situation, after reassessment, warrants placement in an intensive supervision unit. In the case of an immediate protective measure, the placement may not exceed the period prescribed in section 46."

as appears from a copy of *An Act to Amend the Youth Protection Act and Other Provisions*, S.Q. 2017, c. 18 filed as **Exhibit P-46**.

172. After the conditions for the imposition of Measures were codified in statutory or regulatory standards, any imposition of Measures was wrongful if it did not comply with (a) the general rules of civil liability and, in particular, the rules of conduct

- binding on the reasonable person; and (b) the conditions set out in the statutory or regulatory standards.
173. Measures not complying with these rules and conditions have been applied to the Class Members and therefore faults have been committed against them.
174. At all times, any sexual assault was automatically considered misconduct against a Class Members who was the victim of such.
175. At all times, any use of force with the intention to restrain was wrongful unless it was proportionate and met the rules and conditions allowing for the application control measures.
176. Any other use of force, such as for disciplinary or exemplary purposes, constituted misconduct against the Class Member who suffered it, insofar as such use did not comply with the rules and conditions permitting the use of force.
177. Because the harm suffered by Class Members is the direct and immediate result of the Defendants' misconduct (as discussed below), Class Members are entitled to be compensated by an award in compensatory pecuniary and non-pecuniary damages.

II. THE RESPONSIBILITY OF THE DEFENDANT HEALTHCARE FACILITIES

178. The Defendant Healthcare Facilities have all incurred and continue to incur civil liability for the wrongful imposition of Measures, the Discrimination of Indigenous youth and/or the commission of sexual assaults at the Centres for which they are now responsible.
179. Santé Québec has also inherited the obligations of the entities that operated Centres during the Class Period other than the NRBHSS and the CBHSSJB and has successor liability.

A. THE LIABILITY OF THE DEFENDANT HEALTHCARE FACILITIES AND PREVIOUS ENTITIES AS PRINCIPALS

180. The wrongful actions, the sexual assaults and the Discrimination against Class Members were committed by employees of the Centres where Class Members were placed, while those employees were acting in the performance of their duties.
181. As principals, the entities that employed these employees (including the Defendant Healthcare Facilities for the most recent period) were therefore, at all times during the Class Period, civilly liable for such misconduct by their subordinates.

B. VIOLATION BY THE DEFENDANT HEALTHCARE FACILITIES AND PREVIOUS ENTITIES OF THEIR LEGAL OBLIGATIONS

182. The entities that, at any time during the Class Period, operated Centres (including, for the most recent period, the Defendant Healthcare Facilities), had the obligation under the law to provide the children placed there with the appropriate services, as well as the obligation to impose Measures only under the conditions strictly provided for by the legislative and regulatory standards.
183. These entities have breached their legal obligations, thereby incurring direct civil liability, by failing to offer the required services to the Class Members and by allowing Measures to be wrongfully imposed on them, or by allowing them to be victims of sexual assaults and/or Discrimination in the Centres.

C. THE NEGLIGENCE OF THE DEFENDANT HEALTHCARE FACILITIES AND THE PREVIOUS ENTITIES

184. The entities operating the Centres at all relevant times during the Class Period (including the Defendant Healthcare Facilities for the most recent period) knew or should have known that Measures were being wrongfully imposed on and that sexual assaults were being committed against Class Members, and that they were being discriminated against, including because of the extensive publicity associated with these matters and the reports and other publications issued on these issues, as evidenced by, among other things:
- (a) articles from the 1970s, including Victor Malarek's article dated November 2, 1971, and articles dated January 2 and 3, 1975 in *The Gazette* (Exhibit P-29);
 - (b) the Batshaw Report (Exhibit P-8);
 - (c) the RCAP Report (Exhibit P-40);
 - (d) investigation results, reports, documents and studies published by the CDPDJ or the *Conseil permanent de la jeunesse* (including Exhibits P-30, P-31, P-32, P-33, P-34, P-37, P-41, and P-45);
 - (e) the TRC's final report (Exhibit P-42);
 - (f) the research note by Ms. Lemonde (Exhibit P-35);
 - (g) the documentary film *Les voleurs d'enfance* (Exhibit P-36);
 - (h) the Viens Commission's *Final Report* (Exhibit P-43); and
 - (i) the proceedings and report of the Laurent Commission (Exhibits P-39 and P-38).

185. These entities incurred civil liability directly by failing to take appropriate action to prevent the wrongful imposition of the Measures, or by condoning the imposition of the Measures, and by failing to take appropriate action to prevent the commission of sexual assaults and the Discrimination against Class Members.

D. THE TRANSFER OF RESPONSIBILITY FROM THE PREVIOUS ENTITIES TO SANTÉ QUÉBEC

186. Outside of Nunavik, at the time when several of the Class Members were victims of wrongful Measures, Discrimination and/or sexual assaults, entities other than Santé Québec were responsible for the Centres where these children were placed.
187. That said, Santé Québec is now responsible for the obligations of a substantial proportion of these entities, including the obligation to indemnify Class Members for the harm they have suffered as a result of the misconduct of these entities or their subordinates.
188. Initially, a considerable proportion of entities operating Centres became "establishments" upon the coming into force of the *AHSSS 1971*, or were amalgamated with or converted into such establishments under section 82 et seq. of the *AHSSS 1971*.
189. Under section 86 of the *AHSSS 1971*, "[t]he new corporation resulting from the amalgamation or conversion [...] shall assume all the obligations of the amalgamated corporations or of the converted corporation [...]".
190. Second, a significant proportion of entities operating Centres became "establishments" upon the coming into force of the *AHSSS 1991*, or were amalgamated with, converted to, or integrated with such establishments, under section 323 et seq. of the *AHSSS*.
191. Under section 329 of the *AHSSS*, "[t]he new institution resulting from the amalgamation or conversion [...] assumes all the obligations of the amalgamated institutions or of the converted institution." Under section 332 of the same act, "[f]rom the date of integration, the integrating institution [acquired] the rights and property of the integrated institution and [assumed] the obligations thereof."
192. In 2015, the *CISSS* and the *CIUSSS* inherited the obligations of "establishments" governed by the *AHSSS*, under the provisions of *An Act to Modify the Organization and Governance of the Health and Social Services Network, in Particular by Abolishing the Regional Agencies*, S.Q. 2015 c. 1 (since consolidated as C.Q.L.R. c. O-7.2) (the "**AAHSSS**"), filed as **Exhibit P-47**.

193. In 2023, the *AHSSSME* was adopted. This act repealed the *AAHSSS* (section 1149) and established Santé Québec (section 23).
194. Under the provisions of the *AHSSSME*, the *CISSS* and the *CIUSSS* were amalgamated with Santé Québec, and their rights and obligations became those of Santé Québec, who became a party to all judicial proceedings to which the *CISSS* and the *CIUSSS* were parties.

E. THE TRANSFER OF RESPONSIBILITY FROM THE KHSSC TO THE NRBHSS

195. In the case of the Inuit, the KHSSC was responsible for public health and youth protection services until 1995, when it was replaced by the NRBHSS.
196. Under section 530.42 of the *AHSSS 1993*, the KHSSC “*cease[d] to exist [...] from 1 May 1995*”, from which date “*the rights and obligations of the health and social services council [became], without other formality, the rights and obligations of the*” NRBHSS.

III. THE RESPONSIBILITY OF THE GOVERNMENT OF QUÉBEC

197. The Government of Québec also incurred civil liability towards the Class Members because of the Measures wrongfully imposed on them, their Discrimination, and the sexual assaults to which they were subjected.

A. VIOLATION BY THE GOVERNMENT OF QUÉBEC OF ITS LEGAL OBLIGATIONS

198. At all relevant times, the applicable legislation gave the Government of Québec or certain members of the Executive Council significant responsibilities with regards to the supervision of the Centres, with the corresponding powers of oversight and intervention.
199. In fact, as soon as the first Youth protection laws were passed in the 19th century, the Government of Québec gave itself powers and obligations related to the certification and inspection of the Centres governed by these laws.
200. These powers and obligations, while they may have changed over time, have existed continuously—and still exist—under the various laws applicable to the Centres at all relevant times, including:
 - (a) under the *Québec Public Assistance Act*;
 - (b) under the *Youth Protection Schools Act* (and later the *Youth Protection Act*);
 - (c) under the *YPA*;
 - (d) under the *AHSSS 1971*;

- (e) under the *AHSSS*;
 - (f) under the *AAHSSS*;
 - (g) under the *AHSSSME*;
 - (h) under the *JDA*;
 - (i) under the *YOA*; and
 - (j) under the *YCJA*.
201. The Government of Québec has committed a fault, and incurred civil liability towards the Class Members, by contravening the legal obligations arising from its important powers of oversight and intervention with respect to the Centres.
202. It breached these obligations by failing to intervene to prevent the imposition of wrongful Measures, discriminatory practices, and the commission of sexual assaults in the Centres where Class Members were placed under a Youth protection law.

B. THE SYSTEMIC NEGLIGENCE OF THE GOVERNMENT OF QUÉBEC

203. In addition to the above, at all times during the Class Period, the Government of Québec knew or should have known that Measures were being wrongfully imposed, that Discrimination was taking place and that sexual assaults were being committed in the Centres, in part because of the high level of publicity associated with these issues and the reports and other publications issued on these matters (see paragraph 184 above).
204. Under these circumstances, the Government of Québec committed a fault, and incurred civil liability towards the Class Members, by failing to take the necessary measures to prevent or stop the imposition of wrongful Measures, the Discrimination of Indigenous youth and/or the commission of sexual assaults in the Centres where the Class Members were placed under a Youth protection law.
205. In doing so, the Government of Québec has committed systemic negligence.
206. Moreover, it appears from several interventions or documents that the Government of Québec had, at several periods during the Class Period, actual knowledge of the abuses committed in the Centres. The Plaintiff refers to the interventions of the Government and to the documents emanating from the Government, or of which it had or should have had knowledge, mentioned in paragraphs 108 to 130, 132 to 149, 184, 203, 207 and 208 of this Originating Application.

207. An article dated January 3, 1975, in *The Gazette* (Exhibit P-29) reported the following statement by the Minister of Social Affairs:

Forget said his ministry has until now practiced a non-interference policy towards the professionals in the detention field, but has « repeatedly stressed these measures should not be used ». [...] Forget said until recently it had been assumed the professionals were doing their job adequately and the government shouldn't interfere, but his ministry has begun to « question this very seriously » in the past few weeks. The fact the government has advised against solitary confinement hasn't "magically prevented" its use, he said. "This is where action should have been taken in the past. We assumed the professionals were doing their job and our assumptions were grievously wrong. Only recently did we realize this when we began looking at Berthelet's operations. [emphasis added]

208. Many years later, in 2002, the Ministry of Health and Social Services set out the *Orientations ministérielles relatives à l'utilisation exceptionnelle des mesures de contrôle nommées dans l'article 118.1 de la Loi sur les services de santé et les services sociaux : Contention, isolement et substances chimiques*, noting the following in the preamble:

The decision to define ministerial guidelines on the use of chemical substances, restraint and insolation as control measures stems first and foremost from concerns that have long been shared by the Ministère de la Santé et des Services sociaux, the regional boards, associations, groups and establishments concerned by the issue. [translation]

as appears from a copy of these departmental guidelines filed as **Exhibit P-48**

C. WILLFUL BLINDNESS BY THE GOVERNMENT OF QUÉBEC OF THE VIOLATION BY THE DEFENDANT HEALTHCARE FACILITIES AND BY THE PREVIOUS ENTITIES OF THEIR LEGAL OBLIGATIONS

209. Finally, the Government of Québec committed a fault, and incurred civil liability towards the Class Members, by turning a blind eye to the violation by the Defendant Healthcare Facilities, or the entities previously responsible for the Centres, of the legal obligations governing them, as explained above in paragraphs 182 and 183.

PART V - PUNITIVE DAMAGES

210. The Class Members are entitled to an award of punitive damages against the Defendant Healthcare Facilities and the Government of Québec for their wrongdoings.

I. THE PERIOD FROM OCTOBER 1, 1950, TO JUNE 27, 1976: PUNITIVE DAMAGES UNDER THE PUBLIC COMMON LAW

211. Class Members who were wrongfully subjected to Measures, discriminated against and/or who were victims of sexual assault prior to June 28, 1976, are entitled to punitive damages under the public *common law* then applicable in Québec for misconduct committed during that period.
212. The misconduct of the Government of Québec, the Defendant Healthcare Facilities, the entities previously responsible for the Centres or their subordinates was oppressive, arbitrary and unconstitutional and amounted to a deliberate and abusive disregard of the Class Members' rights.
213. In such cases, although the *Québec Charter* was not yet in force, the public *common law* provided for an award in punitive damages.

II. THE PERIOD FROM JUNE 28, 1976, TO THE PRESENT: PUNITIVE DAMAGES UNDER THE QUÉBEC AND CANADIAN CHARTERS

214. Misconduct occurring on or after June 28, 1976, gives rise to punitive damages under section 49 of the *Québec Charter*.
215. The faults of the Government of Québec, the Defendant Healthcare Facilities, the entities previously responsible for the Centres or their subordinates have unlawfully infringed upon the fundamental rights of the Class Members:
- (a) to life, personal security, inviolability and freedom of the person (s. 1);
 - (b) to the safeguarding of their dignity, honour and reputation (s. 4);
 - (c) to equality (s. 10);
 - (d) to not be deprived of their liberty or rights except on grounds provided by law and in accordance with prescribed procedure (s. 24); and
 - (e) to the protection, security and attention that their parents or the persons acting in their stead are capable of providing (s. 39).
216. These violations were intentional because these entities or individuals acted with knowledge of the immediate, natural or probable consequences that their conduct would have on the Class Members.
217. In addition, misconduct committed after April 17, 1982, by the Government of Québec or by the public authorities responsible for the Centres (including the Defendant Healthcare Facilities for the most recent period) also gives rise to punitive damages as a just and proper remedy under section 24(1) of the *Canadian Charter* for the infringement of the rights of the Class Members to life, liberty and

security of the person (s. 7), and to protection from arbitrary detention or imprisonment (s. 9).

PART VI - PRESCRIPTION

218. The action of the Plaintiff and the Class Members cannot be prescribed pursuant to article 2926.1 of the *Civil Code of Québec*, RLRQ c. CCQ-1991.
219. Further and in the alternative, if article 2926.1 C.C.Q. did not apply to the Plaintiff's and the Class Members' action, those claims would not be prescribed.
220. Indeed, as a result of the significant consequences caused by the faults of the Government of Québec, the Defendant Healthcare Facilities, the entities previously responsible for the Centres or their subordinates, it was and remains impossible for the Class Members to act to exercise their rights against the defendants.

FOR THESE REASONS, MAY THE COURT:

- [A] **GRANT** the Plaintiff's action;
- [B] **CONDEMN** the Defendants Santé Québec, a legal person, acting through the intermediary of the *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 \$500,000.00 on account of moral damages;
- [C] **CONDEMN** the Defendants Santé Québec, a legal person, acting through the intermediary of the *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;
- [D] **CONDEMN** the Defendants Santé Québec, a legal person, acting through the intermediary of the *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 account of punitive damages;
- [E] **GRANT** the Plaintiff's action on behalf of all Class Members;
- [F] **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;

- [G] **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;
- [H] **CONDEMN** the Defendants to pay to the members of the Class an amount to be determined on account of punitive damages,
- [I] **ORDER** the collective recovery of moral, pecuniary and punitive damages awarded to members of the Class;
- [J] **THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Québec calculated from the date of the service of the Modified 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.

Montréal, July 3, 2025

Alexeev Attorneys LLP

ALEXEEV ATTORNEYS LLP

M^{tre}. Lev Alexeev

M^{tre}. William Colish

M^{tre}. Narek Chakhalyan

Lawyers for the Plaintiff

Toronto, July 3, 2025

Sotos LLP

SOTOS LLP

M^{tre}. David Sterns

M^{tre}. Mohsen Seddigh

M^{tre}. Adil Abdullah

Lawyers for the Plaintiff

SUMMONS

(Articles 145 and following C.C.P.)

Filing of a judicial application

TAKE NOTICE that the Plaintiff has filed this Originating Application in the office of the Superior Court in the judicial district of Montréal.

Exhibits in support of the Application

In support of the Originating Application, the Plaintiff intends to use the following exhibits, which are available upon request:

- Exhibit P-1:** *An Act respecting Industrial Schools*, SRQ 1941, c. 39.
- Exhibit P-2:** *Youth Protection Schools Act*, 14 Geo. VI (1950), c. 11.
- Exhibit P-3:** *An Act to Amend the Youth Protection Schools Act*, 14-15 Geo. VI (1950-51), c. 56.
- Exhibit P-4:** *Québec Public Charities Act*, SRQ 1941, c. 187.
- Exhibit P-5:** *Youth Protection Act*, 8-9 Eliz. II (1959-60), c. 42.
- Exhibit P-6:** *An Act Respecting Health Services and Social Services*, S.Q. 1971, c. 48.
- Exhibit P-7:** *Regulation Respecting the Application of the Act Respecting Health Services and Social Services*, RRQ 1981, c. S-5, r. 1.
- Exhibit P-8:** *Rapport du comité d'étude sur la réadaptation des enfants et adolescents placés en centre d'accueil* (Batshaw Report).
- Exhibit P-9:** *Youth Protection Act* was replaced by the *Youth Protection Act*, S.Q. 1977, c. 20.
- Exhibit P-10:** *En liasse: An Act to Amend the Youth Protection Act*, S.Q. 1981, c. 2, and *An Act to Amend the Youth Protection Act and Other Legislative Provisions*, S.Q. 1984, c. 4.
- Exhibit P-11:** *Act Respecting Health Services and Social Services and Amending Various Legislation*, S.Q. 1991, c. 42.
- Exhibit P-12:** *An Act to Amend the Youth Protection Act and Other Legislative Provisions*, S.Q. 2006, c. 34.

- Exhibit P-13:** *Reformatory School Act* was ultimately consolidated as *An Act Respecting Reformatory Schools*, SRQ 1941, c. 38.
- Exhibit P-14:** *Juvenile Delinquents Act*, 7-8 Edw. VII (1908), c. 40.
- Exhibit P-15:** *An Act Respecting Juvenile Delinquents*, 1 Geo. V (1910), c. 26.
- Exhibit P-16:** *Young Offenders Act*, S.C., 1982, c. 110.
- Exhibit P-17:** *Youth Criminal Justice Act*, S.C. 2002, c. 1.
- Exhibit P-18:** *Decree 477-2003*, (2003) 16 G.O. II, 2154.
- Exhibit P-19:** *Indian Act*, S.C. 1951, c. 29.
- Exhibit P-20:** *An Act to Amend the Youth Protection Act and Other Legislative Provisions*, S.Q. 2022, c. 11.
- Exhibit P-21:** *James Bay Northern Québec Agreement*.
- Exhibit P-22:** *Act to Amend the Act Respecting Health Services and Social Services*, S.Q. 1977, c. 48.
- Exhibit P-23:** *An Act to Amend Various Legislative Provisions Concerning the Application of the Act Respecting Health Services and Social Services and Amending Various Legislation*, S.Q. 1992, c. 21.
- Exhibit P-24:** *An Act to Amend the Act Respecting Health Services and Social Services*, 1993, S.Q. 1993, c. 58.
- Exhibit P-25:** *An Act to Amend the Act Respecting Health Services and Social Services and Other Legislative Provisions*, S.Q. 1994, c. 23.
- Exhibit P-26:** *An Act Respecting Health Services and Social Services for Cree Native Persons*, 1994, c. 23
- Exhibit P-27:** *Act to make the health and social services system more effective*, 2023, c. 34
- Exhibit P-28:** *An Act Respecting Health Services and Social Services for the Inuit and Naskapi*, 2023, c. 34.

- Exhibit P-29:** En liasse: Housewife says daughter 'going crazy' in solitary" and articles dated January 2 and 3, 1975 respectively in The Gazette.
- Exhibit P-30:** *Commission des droits de la personne et des droits de la jeunesse*, Report 1997.
- Exhibit P-31:** *Commission des droits de la personne et des droits de la jeunesse*, Report 1998.
- Exhibit P-32:** *Commission des droits de la personne et des droits de la jeunesse*, Report 2000.
- Exhibit P-33:** *Conseil permanent de la jeunesse*, Report 2004.
- Exhibit P-34:** *Conseil permanent de la jeunesse*, Notice 2004.
- Exhibit P-35:** Research Note from Lucie Lemonde.
- Exhibit P-36:** *En liasse*: Documentary "Les voleurs d'enfance" (Childhood Thieves) and the transcript of certain excerpts.
- Exhibit P-37:** Study on the use of isolation and restraint within the youth rehabilitation missions of the CISSSs and CIUSSSs of Québec, as well as in certain non-defendant establishments [translation].
- Exhibit P-38:** *Commission spéciale sur les droits des enfants et la protection de la jeunesse*, Report, 2019 (the Laurent Commission).
- Exhibit P-39:** Transcripts and summaries of hearings before the *Laurent Commission*.
- Exhibit P-40:** Report of the Royal Commission on Aboriginal Peoples, 3rd Volume.
- Exhibit P-41:** Report of the Royal Commission on Aboriginal Peoples, 2007.
- Exhibit P-42:** Summary of the Final Report of the Truth and Reconciliation Commission of Canada, 2015.
- Exhibit P-43:** *Viens Commission's* Final Report, 2019.
- Exhibit P-44:** *Inuit Youth English Schooling Batshaw*, article from the Montréal Gazette, December 17, 2019.

Exhibit P-45: *Enquête et rapport de la Commission des droits de la personne et de la jeunesse 2007 : le point 15 ans plus tard.*

Exhibit P-46: *An Act to Amend the Youth Protection Act and Other Provisions*, S.Q. 2017, c. 18.

Exhibit P-47: *An Act to Modify the Organization and Governance of the Health and Social Services Network, in Particular by Abolishing the Regional Agencies*, S.Q. 2015 c. 1 (since consolidated as C.Q.L.R. c. O-7.2).

Exhibit P-48: *Orientations ministérielles relatives à l'utilisation exceptionnelle des mesures de contrôle nommées dans l'article 118.1 de la Loi sur les services de santé et les services sociaux : Contention, isolement et substances chimiques.*

Defendant's Answer

You must answer the application in writing, personally or through a lawyer, at the Courthouse of Montréal situated at 1 Notre-Dame Street East, Montréal, Québec H2Y 1B6, within 15 days of the service of this Application or, if you have no domicile, residence or establishment in Québec, within 30 days. This Answer must be notified to the Plaintiff's lawyer or, if the Plaintiff is not represented, to the Plaintiff.

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 the Answer

In the answer, you shall state your intention to either:

- negotiate a settlement in the matter;
- 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 to fix a settlement conference.

The Answer to the summons must include your contact information and, if you are represented by a lawyer, his 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 the exercise of a hypothecary right on an 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 Small Claims Division

If you would qualify to act as 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

Application filed during 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, July 3, 2025

Alexeev Attorneys LLP

ALEXEEV ATTORNEYS LLP

M^{tre}. Lev Alexeev

M^{tre}. William Colish

M^{tre}. Narek Chakhalyan

Lawyers for the Plaintiff

Toronto, July 3, 2025

Sotos LLP

SOTOS LLP

M^{tre}. David Sterns

M^{tre}. Mohsen Seddigh

M^{tre}. Adil Abdullah

Lawyers for the Plaintiff

SUPERIOR COURT

(Class Action Division)

District of Montréal

HARRY DANDY

Plaintiff

v.

ATTORNEY GENERAL OF QUÉBEC, *ès qualités* 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

ET ALS

Defendants

ORIGINATING APPLICATION

(Art. 583 C.C.P.)

ORIGINAL



ALEXEEV ATTORNEYS LLP

Mtre Lev Alexeev – lalexeev@alexeevco.com

Mtre William Colish – wcollish@alexeevco.com

Mtre. Narek Chakhalyan –

nchakhalyan@alexeevco.com

2000 McGill College Avenue, suite 600

Montréal (Québec) H3A 3H3

Phone : 514 400-2480

Fax : 514 648-7700

O/F : 1240-0075

BA1789

SUPERIOR COURT

(Class Action Division)

District of Montréal

HARRY DANDY

Plaintiff

v.

ATTORNEY GENERAL OF QUÉBEC, *ès qualités* 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

ET ALS

Defendants

ORIGINATING APPLICATION

(Art. 583 C.C.P.)

COPY FOR THE COURT



ALEXEEV ATTORNEYS LLP

Mtre Lev Alexeev – lalexeev@alexeevco.com

Mtre William Colish – wcollish@alexeevco.com

Mtre. Narek Chakhalyan –

nchakhalyan@alexeevco.com

2000 McGill College Avenue, suite 600

Montréal (Québec) H3A 3H3

Phone : 514 400-2480

Fax : 514 648-7700

O/F : 1240-0075

BA1789

SUPERIOR COURT

(Class Action Division)

District of Montréal

HARRY DANDY

Plaintiff

v.

ATTORNEY GENERAL OF QUÉBEC, *ès qualités* 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

ET ALS

Defendants

ORIGINATING APPLICATION

(Art. 583 C.C.P.)

COPY FOR DEFENDANT AGQ



ALEXEEV ATTORNEYS LLP

Mtre Lev Alexeev – lalexeev@alexeevco.com

Mtre William Colish – wcollish@alexeevco.com

Mtre. Narek Chakhalyan –

nchakhalyan@alexeevco.com

2000 McGill College Avenue, suite 600

Montréal (Québec) H3A 3H3

Phone : 514 400-2480

Fax : 514 648-7700

O/F : 1240-0075

BA1789

SUPERIOR COURT

(Class Action Division)

District of Montréal

HARRY DANDY

Plaintiff

v.

ATTORNEY GENERAL OF QUÉBEC, *ès qualités* 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

ET ALS

Defendants

ORIGINATING APPLICATION

(Art. 583 C.C.P.)

COPY FOR SANTÉ QUÉBEC



ALEXEEV ATTORNEYS LLP

Mtre Lev Alexeev – lalexeev@alexeevco.com

Mtre William Colish – wcollish@alexeevco.com

Mtre. Narek Chakhalyan –

nchakhalyan@alexeevco.com

2000 McGill College Avenue, suite 600

Montréal (Québec) H3A 3H3

Phone : 514 400-2480

Fax : 514 648-7700

O/F : 1240-0075

BA1789

SUPERIOR COURT

(Class Action Division)

District of Montréal

HARRY DANDY

Plaintiff

v.

ATTORNEY GENERAL OF QUÉBEC, *ès qualités* 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

SANTÉ QUÉBEC, LEGAL PERSON ESTABLISHED IN THE PUBLIC INTEREST, ACTING THROUGH THE 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

ET ALS

Defendants

ORIGINATING APPLICATION

(Art. 583 C.C.P.)

COPY FOR THE REPORT



ALEXEEV ATTORNEYS LLP

Mtre Lev Alexeev – lalexeev@alexeevco.com

Mtre William Colish – wcollish@alexeevco.com

Mtre. Narek Chakhalyan – nchakhalyan@alexeevco.com

2000 McGill College Avenue, suite 600

Montréal (Québec) H3A 3H3

Phone : 514 400-2480

Fax : 514 648-7700

O/F : 1240-0075

BA1789