

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO: 500-06-001000-195

(Class Action)
SUPERIOR COURT

IAN S [REDACTED]

Applicant

-vs-

COMMISSION SCOLAIRE LESTER B. PEARSON, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 1925, avenue Brookdale, Dorval, province de Québec, H9P 2Y7

and

COMMISSION SCOLAIRE DES AFFLUENTS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 80, rue Jean-Baptiste-Meilleur, Repentigny, province de Québec, J6A 6C5

and

COMMISSION SCOLAIRE DES APPALACHES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 650, rue Lapierre, Thetford Mines, province de Québec, G6G 7P1

and

COMMISSION SCOLAIRE DE LA BAIE-JAMES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 596, 4e Rue, Chibougamau, province de Québec, G8P 1S3

and

COMMISSION SCOLAIRE DE LA BEAUCE-ETCHEMIN, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 1925, 118e Rue Est, Saint-Georges, province de Québec, G5Y 7R7

and

COMMISSION SCOLAIRE DES BOIS-FRANCS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 40, boulevard Bois-Francis Nord, Victoriaville, province de Québec, G6P 6S5

and

COMMISSION SCOLAIRE DE LA CAPITALE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 1900, rue Côté, Québec, province de Québec, G1N 3Y5

and

COMMISSION SCOLAIRE CENTRAL QUÉBEC, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 2046, chemin Saint-Louis, Québec, province de Québec, G1T 1P4

and

COMMISSION SCOLAIRE DE CHARLEVOIX, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 575, boulevard de Comporté, La Malbaie, province de Québec, G5A 1T5

and

COMMISSION SCOLAIRE DU CHEMIN-DU-ROY, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 1515, rue Sainte-Marguerite, Trois-Rivières, province de Québec, G9A 5E7

and

COMMISSION SCOLAIRE DES CHÊNES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 457, rue des Écoles, Drummondville, province de Québec, J2B 6X1

and

COMMISSION SCOLAIRE DES CHICS-CHOCS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 102, rue Jacques-Cartier, Gaspé, province de Québec, G4X 2S9

and

COMMISSION SCOLAIRE AU CŒUR-DES-VALLÉES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 582, rue Maclaren Est, Gatineau, province de Québec, J8L 2W2

and

COMMISSION SCOLAIRE DE LA CÔTE-DU-SUD, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 157, rue Saint-Louis, Montmagny, province de Québec, G5V 4N3

and

COMMISSION SCOLAIRE DES DÉCOUVREURS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 945, avenue Wolfe, Québec, province de Québec, G1V 4E2

and

COMMISSION SCOLAIRE DES DRAVEURS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 200, boulevard Maloney Est, Gatineau, province de Québec, J8P 1K3

and

COMMISSION SCOLAIRE EASTERN SHORES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 40, rue Mountsorrel, New Carlisle, province de Québec, G0X 1Z0

and

COMMISSION SCOLAIRE EASTERN TOWNSHIPS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 340, rue Saint-Jean-Bosco, Magog, province de Québec, J1X 1K9

and

COMMISSION SCOLAIRE DE L'ÉNERGIE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 2072, rue Gignac, Shawinigan, province de Québec, G9N 6V7

and

COMMISSION SCOLAIRE ENGLISH-MONTRÉAL, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 6000, avenue Fielding, Montréal, province de Québec, H3X 1T4

and

COMMISSION SCOLAIRE DE L'ESTUAIRE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège

social au 771, boulevard Joliet, Baie-Comeau, province de Québec, G5C 1P3

and

COMMISSION SCOLAIRE DU FER, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 30, rue Comeau, Sept-Îles, province de Québec, G4R 4N2

and

COMMISSION SCOLAIRE DU FLEUVE-ET-DES-LACS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 14, rue Vieux-Chemin, Témiscouata-sur-le-Lac, province de Québec, G0L 1E0

and

COMMISSION SCOLAIRE DES GRANDES-SEIGNEURIES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 50, boulevard Taschereau, La Prairie, province de Québec, J5R 4V3

and

COMMISSION SCOLAIRE HARRICANA, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 341, rue Principale Nord, Amos, province de Québec, J9T 2L8

and

COMMISSION SCOLAIRE DES HAUTES-RIVIÈRES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 210, rue Notre-Dame, Saint-Jean-sur-Richelieu, province de Québec, J3B 6N3

and

COMMISSION SCOLAIRE DES HAUTS-BOIS-DE-L'OUTAOUAIS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 331, rue du Couvent, Maniwaki, province de Québec, J9E 1H5

and

COMMISSION SCOLAIRE DES HAUTS-CANTONS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 308, rue Palmer, East Angus, province de Québec, J0B 1R0

and

COMMISSION SCOLAIRE DES ÎLES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 1419, chemin de l'Étang-du-Nord, L'Étang-du-Nord, province de Québec, G4T 3B9

and

COMMISSION SCOLAIRE DE LA JONQUIÈRE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège au 3644, rue Saint-Jules, Jonquière, province de Québec, G7X 7X4

and

COMMISSION SCOLAIRE DE KAMOURASKA-RIVIÈRE-DU-LOUP, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 464, rue Lafontaine, Rivière-du-Loup, province de Québec, G5R 3Z5

and

COMMISSION SCOLAIRE DU LAC-ABITIBI, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 500, rue Principale, La Sarre, province de Québec, J9Z 2A2

and

COMMISSION SCOLAIRE DU LAC-SAINT-JEAN, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 350, boulevard Champlain Sud, Alma, province de Québec, G8B 5W2

and

COMMISSION SCOLAIRE DU LAC-TÉMISCAMINGUE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 2, rue Maisonneuve, Ville-Marie, province de Québec, J9V 1V4

and

COMMISSION SCOLAIRE DES LAURENTIDES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 13, rue Saint-Antoine, Sainte-Agathe-des-Monts, province de Québec, J8C 2C3

and

COMMISSION SCOLAIRE DE LAVAL, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 955, boulevard Saint-Martin Ouest, Laval, province de Québec, H7S 1M5

and

COMMISSION SCOLAIRE MARGUERITE-BOURGEOYS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 1100, boulevard de

la Côte-Vertu, Saint-Laurent, province de Québec, H4L 4V1

and

COMMISSION SCOLAIRE MARIE-VICTORIN, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 13, rue Saint-Laurent Est, Longueuil, province de Québec, J4H 4B7

and

COMMISSION SCOLAIRE DE MONTRÉAL, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 3737, rue Sherbrooke Est, Montréal, province de Québec, H1X 3B3

and

COMMISSION SCOLAIRE DES MONTS-ET-MARÉES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 93, avenue du Parc, Amqui, province de Québec, G5J 2L8

and

COMMISSION SCOLAIRE DE LA MOYENNE-CÔTE-NORD, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 1235, rue de la Digue, Havre-Saint-Pierre, province de Québec, G0G 1P0

and

COMMISSION SCOLAIRE DES NAVIGATEURS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 1860, 1ère Rue, Saint-Romuald, province de Québec, G6W 5M6

and

COMMISSION SCOLAIRE NEW FRONTIERS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 214, rue McLeod, Châteauguay, province de Québec, J6J 2H4

and

COMMISSION SCOLAIRE DE L'OR-ET-DES-BOIS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 799, boulevard Forest, Val-d'Or, province de Québec, J9P 2L4

and

COMMISSION SCOLAIRE DES PATRIOTES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 1740, rue Roberval, Saint-Bruno-de-Montarville, province de Québec, J3V 3R3

and

COMMISSION SCOLAIRE DU PAYS-DES-BLEUETS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 828, blvd. Saint-Joseph, Roberval, province de Québec, G8H 2L5

and

COMMISSION SCOLAIRE DES PHARES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 435, avenue Rouleau, Rimouski, province de Québec, G5L 6V4

and

COMMISSION SCOLAIRE PIERRE-NEVEU, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 525, rue de la Madone, Mont-Laurier, J9L 1S4

and

COMMISSION SCOLAIRE DE LA POINTE-DE-L'ÎLE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 550, 53e Avenue, Montréal, province de Québec, H1A 2T7

and

COMMISSION SCOLAIRE DES PORTAGES-DE-L'OUTAOUAIS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 225, rue Saint-Rédempteur, Gatineau, province de Québec, J8X 2T3

and

COMMISSION SCOLAIRE DE PORTNEUF, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 310, rue de l'Église, Donnacona, province de Québec, G3M 1Z8

and

COMMISSION SCOLAIRE DES PREMIÈRES-SEIGNEURIES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 643, avenue Cénacle, Québec, province de Québec, G1E 1B3

and

COMMISSION SCOLAIRE DE LA RÉGION-DE-SHERBROOKE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 2955, boulevard de l'Université, Sherbrooke, province de Québec, J1K 2Y3

and

COMMISSION SCOLAIRE RENÉ-LÉVESQUE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 145, avenue Louisbourg, Bonaventure, province de Québec, G0C 1E0

and

COMMISSION SCOLAIRE DE LA RIVERAINE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 375 rue de Monseigneur-Brunault, Nicolet, province de Québec, J3T 1Y6

and

COMMISSION SCOLAIRE RIVERSIDE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 7525, chemin de Chambly, Saint-Hubert, province de Québec, J3Y 5K2

and

COMMISSION SCOLAIRE DES RIVES-DU-SAGUENAY, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 36, rue Jacques-Cartier Est, Chicoutimi, province de Québec, G7H 1W2

and

COMMISSION SCOLAIRE DE LA RIVIÈRE-DU-NORD, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 995, rue Labelle, Saint-Jérôme, province de Québec, J7Z 5N7

and

COMMISSION SCOLAIRE DE ROUYN-NORANDA, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 70, rue des Oblats Est,

Rouyn-Noranda, province de Québec, J9X 5C9

and

COMMISSION SCOLAIRE DE SAINT-HYACINTHE, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 2255, avenue Sainte-Anne, Saint-Hyacinthe, province de Québec, J2S 5H7

and

COMMISSION SCOLAIRE DES SAMARES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 4671, rue Principale, Saint-Félix-de-Valois, province de Québec, J0K 2M0

and

COMMISSION SCOLAIRE DE LA SEIGNEURIE-DES-MILLE-ÎLES, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 430, boulevard Arthur-Sauvé, Saint-Eustache, province de Québec, J7R 6V6

and

COMMISSION SCOLAIRE SIR-WILFRID-LAURIER, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 235, Montée Lesage, Rosemère, province de Québec, J7A 4Y6

and

COMMISSION SCOLAIRE DES SOMMETS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 449, rue Percy, Magog, province de Québec, J1X 1B5

and

COMMISSION SCOLAIRE DE SOREL-TRACY, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 41, avenue de l'Hôtel-Dieu, Sorel-Tracy, province de Québec, J3P 1L1

and

COMMISSION SCOLAIRE DES TROIS-LACS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 400, avenue Saint-Charles, Vaudreuil-Dorion, province de Québec, J7V 6B1

and

COMMISSION SCOLAIRE DU VAL-DES-CERFS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 55, rue Court, Granby, province de Québec, J2G 9H7

and

COMMISSION SCOLAIRE DE LA VALLÉE-DES-TISSERANDS, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 630, rue Ellice, Beauharnois, province de Québec, J6N 3S1

and

COMMISSION SCOLAIRE WESTERN QUÉBEC, entité légalement constituée en vertu de la Loi sur l'instruction publique, ayant son siège social au 15, rue Katimavik, Gatineau, province de Québec, J9J 0E9

Defendants

**APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO
APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF
(ARTICLES 571 AND FOLLOWING C.C.P.)**

**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN
AND FOR THE DISTRICT OF MONTREAL, YOUR APPLICANT STATES AS
FOLLOWS:**

I. INTRODUCTION

1. Applicant wishes to institute a class action on behalf of the following class of which he is a member, namely:

Class:

All persons who paid any amount for a specialized program (“Projets Pédagogiques Particuliers”), such as “sport-études”, “arts-études” (including arts plastiques, danse, musique, art dramatique), “projets de type Profil”, “projets de type Concentration”, or “éducation internationale”, up until the legislative amendment to article 3 of the *Education Act* provided for in Bill 12 comes into force.

(hereinafter referred to as the “**Class**”);

or any other Class to be determined by the Court;

2. On May 8th, 2019, Quebec’s Education Minister admitted that schools have been illegally charging parents extra fees for specialized programs, more commonly referred to as “Projets Pédagogiques Particuliers” (hereinafter “**PPP**”);
3. This admission was made during the parliamentary debate and vote on “*Projet de loi no 12 - Loi visant à préciser la portée du droit à la gratuité scolaire et à permettre l’encadrement de certaines contributions financières pouvant être exigées*” (hereinafter “**Bill 12**”), a copy of which is disclosed as Applicant’s **Exhibit P-1**;
4. The transcript of the parliamentary debate will only be published next month, at which time it will be communicated as Applicant’s **Exhibit P-2** (in the interim, the audio recording of the morning and afternoon sessions are available online at <http://www.assnat.qc.ca/fr/video-audio/archives-parlementaires/travaux-commissions/AudioVideo-80325.html>);
5. A document titled “*Document de présentation des orientations réglementaires – Projet de Loi no 12*” accessible on the Education Minister’s website (<http://www.education.gouv.qc.ca/en/parents-and-guardians/references/school-fees/bill-12/>) describes a PPP as “Projets approuvés par le conseil

d'établissement et réalisés pour un ou plusieurs groupes d'élèves inscrits aux services éducatifs de l'enseignement primaire ou secondaire", Applicant disclosing the PPP document as **Exhibit P-3**;

6. Exhibit P-3 explains that the following projects are included as PPPs:
 - programmes Sport-études reconnus par le ministre;
 - programmes Arts-études reconnus par le ministre;
 - programmes reconnus par l'organisation Baccalauréat international;
 - projets de type Concentration; soit ceux visant la réduction du temps alloué aux matières obligatoires afin de permettre à l'élève de consacrer du temps au champ d'activité spécifiquement visé par la concentration;
 - projets de type Profil; soit ceux visant à répondre aux intérêts de l'élève par des activités, des programmes d'études locaux ou des interventions pédagogiques liés au champ d'activité spécifiquement visé par le profil.
7. The May 8 debate (Exhibit P-2) confirms that while most PPPs cost between \$0-\$500 per student per year, others like hockey and tennis can cost parents more than \$5000.00 per student per year;
8. During the May 8 debate, Exhibit P-2, the Education Minister admits that not only have parents been paying these illegal charges for PPP for years, but previous governments may have been aware of this illegality and did nothing to intervene;
9. The Education Minister further admits that the purpose of Bill 12 (notably the amendment to article 3 of the *Education Act*, chapter I-13.3) is to avoid lawsuits and to mitigate damages, even comparing the current situation - where parents are unlawfully paying for PPPs - to a "*vice caché*";
10. The proposed amendment to the *Education Act* is to add the following paragraph at the end of article 3:
 - « Le droit à la gratuité des services éducatifs prévu au présent article ne s'étend pas aux services dispensés dans le cadre de projets pédagogiques particuliers et aux activités scolaires déterminés par règlement du ministre, dans la mesure et aux conditions qui y sont prévues. ».
11. Bill 12 comes into force on July 1, 2019;

12. Therefore, up until the time that article 3 of the *Education Act* is modified, it is unlawful for Defendants (or any of their agents, affiliates, partners, service providers or associates) to accept payments for PPPs or to participate in an arrangement where their students' parents were paying for PPPs;
13. Additionally, the Defendants' conduct violates sections 10 and 40 of Quebec's *Charter of Human Rights and Freedoms*, C-12:

10. Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.

[...]

40. Every person has a right, to the extent and according to the standards provided for by law, to free public education.

14. As such, the Applicant claims punitive damages in the amount of \$100.00 per class member for the unlawful and intentional breach by the Defendants of the principle of "free public education" provided for under the *Charter* and to attempt to discriminate on the basis of a social condition, since not all parents could afford registering their children in PPPs;

II. CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF (SECTION 575 C.C.P.):

A) THE FACTS ALLEGED APPEAR TO JUSTIFY THE CONCLUSIONS SOUGHT

15. From 2016 to 2018, the Applicant's son was registered in a sport-étude program at a high school that is part of the Lester B. Pearson School Board;
16. In 2016, the Applicant paid approximately \$5,200.00 to register his son in the sport-étude hockey program (grade 7 academic year);
17. In 2017, the Applicant paid approximately \$4,254.00 to register his son in the sport-étude hockey program (grade 8 academic year);

18. Applicant's proofs of payment for sport-étude are disclosed as **Exhibit P-4**;
19. In both grade 7 and grade 8, the Applicant's son did not play on the high school competitive hockey team, but nonetheless stayed registered in the sport-étude program so that he can obtain an education, all the while practicing the sport;
20. According to the *Education Act*, the Applicant should have never been asked to pay anything for the sport-étude program (which is a PPP);
21. Consequently, the sum of \$9,454.00 paid by Applicant for sport-étude was illegal, since up until the date of filing of this Application, article 3 of the *Education Act* provides that education services must be provided for free:

<p>3. The educational services provided for by this Act and prescribed by the basic school regulation established by the Government under section 447 shall be provided free to every resident of Québec entitled thereto under section 1.</p> <p>Literacy services and the other learning services prescribed by the basic school regulation for adult education shall be provided free to residents of Québec contemplated in section 2, subject to the conditions prescribed by the said regulation.</p> <p>The educational services prescribed by the basic vocational training regulation shall be provided free to every resident of Québec, subject, however, to the conditions determined in the basic regulation if the person is 18 years of age or older, or 21 years of age or older in the case of a handicapped person within the meaning of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (chapter E-20.1).</p>	<p>3. Tout résident du Québec visé à l'article 1 a droit à la gratuité des services éducatifs prévus par la présente loi et par le régime pédagogique établi par le gouvernement en vertu de l'article 447.</p> <p>Tout résident du Québec visé à l'article 2 a droit à la gratuité des services d'alphabétisation et à la gratuité des autres services de formation prévus par le régime pédagogique applicable aux services éducatifs pour les adultes, aux conditions déterminées dans ce régime.</p> <p>Tout résident du Québec a droit à la gratuité des services éducatifs prévus par le régime pédagogique applicable à la formation professionnelle; ce droit est assujéti aux conditions déterminées dans ce régime s'il a atteint l'âge de 18 ans, ou 21 ans dans le cas d'une personne handicapée au sens de la Loi assurant l'exercice des droits des personnes handicapées en vue de leur intégration scolaire, professionnelle et sociale (chapitre E-20.1).</p>
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22. Applicant is therefore entitled to a reimbursement of the sum of \$9,454.00, plus interest for the violation of article 3 of the *Education Act*;
23. Applicant learned of the situation by reading a May 9, 2019 CJAD news article titled "*Fees for Sport-Études and other Special Programs have been Illegal*", disclosed as **Exhibit P-5**;

24. Another article appeared the same day in *La Presse* titled “*Programmes particuliers au public: les frais aux parents seraient illégaux*”, disclosed as **Exhibit P-6**;
25. Applicant believes that the Lester B. Pearson School Board was very well aware that these charges are illegal and did nothing to prevent this unlawful situation from continuing as they profited from his payments;
26. The Applicant is therefore entitled to and does hereby claim the sum of \$100.00 on account of punitive damages pursuant to section 49 of the *Charter*, because the Lester B. Pearson School Board intentionally violated his *Charter* rights under sections 10 and 40;

B) THE CLAIMS OF THE MEMBERS OF THE CLASS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES OF LAW OR FACT:

27. All Class members are persons who have paid for PPPs prior to the legislative amendment to article 3 of the *Education Act*;
28. All Class members suffered financial damages as a result of this situation;
29. The claims of every Class member are founded on very similar facts to the Applicant’s claims;
30. Although the Applicant himself does not have a personal cause of action against, or a legal relationship with, each of the Defendants, the Class contains enough members with personal causes of action against each Defendant;
31. The nature of the interest necessary to establish the standing of the Applicant must be viewed from the perspective of the common interest of the proposed Class and not solely from the perspective of the Applicant;
32. By reason of the Defendants’ unconstitutional and illegal conduct, Applicant and Class members have suffered damages, which they may collectively claim against the Defendants;
33. All of the damages to the Class members are a direct and proximate result of the Defendants’ misconduct;
34. In taking the foregoing into account, all Class members are justified in claiming the sums which they unlawfully paid for PPPs either directly to one of the Defendants or to any of the schools in their districts, their agents, affiliates, partners, service providers or associates;
35. Individual questions, if any, pale by comparison to the numerous common questions that are significant to the outcome of the present Application;

36. **The questions of fact and law raised and the recourse sought by this Application are identical with respect to each Class member, namely:**
- a) Was there a violation of article 3 of the *Education Act* by any of the Defendants or by the schools in their districts?
 - b) Are Class members entitled to the reimbursement of the amounts paid for PPPs?
 - c) Was there a violation of section 10 or 40 of the *Charter* and, if so, are Class members entitled to punitive damages pursuant to s. 49?
 - d) When does prescription start for Class members and what are the factors common to the Class members regarding the impossibility in fact to act?

C) THE COMPOSITION OF THE CLASS

37. The composition of the Class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings;
38. According to comments made during the parliamentary debate on May 8, 2019, Exhibit P-2, there are hundreds of thousands of parents who register their children to paid PPPs each year and who are therefore all Class members;
39. For instance, the website of the *Éducation et Enseignement supérieur* states that: "*Il existe plus de 600 programmes Sport-études reconnus au Québec répartis dans 48 établissements d'enseignement secondaire. Il y a une possibilité de 35 disciplines sportives différentes*", Applicant disclosing the list for Sport-études alone as **Exhibit P-7**;
40. The amounts collected by the Defendants, the schools in their districts or their partners/affiliates on account of PPPs in the last 3 years alone is estimated to be more than **\$1.2 billion dollars** (one speaker during the May 8 debate mentions that the PPPs cost Class members approximately **\$400 million** per year);
41. The names and addresses of all persons included in the Class are not known to the Applicant, but are all in the possession of the Defendants and the schools in their districts;
42. Class members are very numerous and are dispersed across the province;
43. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class member to obtain mandates and to join them in one action;
44. In these circumstances, a class action is the only appropriate procedure for all of the members of the Class to effectively pursue their respective rights and have access to justice without overburdening the court system;

D) THE CLASS MEMBER REQUESTING TO BE APPOINTED AS REPRESENTATIVE PLAINTIFF IS IN A POSITION TO PROPERLY REPRESENT THE CLASS MEMBERS

45. Applicant requests that he be appointed the status of representative plaintiff for the following main reasons:
- a) he is a member of the Class and has a personal interest in seeking the conclusions that he proposes herein;
 - b) he is competent, in that he has the potential to be the mandatary of the action if it had proceeded under article 91 of the *Code of Civil Procedure*;
 - c) his interests are not antagonistic to those of other Class Members;
46. Additionally, Applicant respectfully adds that:
- a) he has the time, energy, will and determination to assume all the responsibilities incumbent upon him in order to diligently carry out the action;
 - b) he mandated his attorneys to file the present application for the sole purpose of having his rights, as well as the rights of other Class members, recognized and protected so that they may be compensated for the damages that they have suffered;
 - c) he cooperates and will continue to fully cooperate with his attorneys, who have experience in class actions;
 - d) he understands the nature of the action;
47. As for identifying other Class members, Applicant knows of several other parents who paid PPPs (notably those in the same hockey program as his son). He also draws certain inferences from the situation and realizes that by all accounts, there is a very important number of Class members that find themselves in an identical situation, and that it would not be any more useful for him to attempt to identify them given their sheer number;
48. For the above reasons, Applicant respectfully submits that his interests and competence are such that the present class action could proceed fairly and in the best interest of Class members;

III. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

49. The action that the Applicant wishes to institute on behalf of the Class members is an action in damages and declaratory judgment;
50. The conclusions that the Applicant wishes to introduce by way of an Originating Application are:

GRANT Plaintiff's action against Defendants on behalf of all Class members;

DECALRE Defendants liable for damages caused to Plaintiff and Class members;

CONDEMN Defendants to reimburse Plaintiff and each Class member the fees paid for PPPs, and **ORDER** collective recovery of these sums;

DECLARE that Defendants violated ss. 10 and 40 of the *Charter*;

CONDEMN Defendants to pay to Plaintiff and to every Class Member \$100.00 each on account of punitive damages pursuant to s. 49 of the *Charter*, and **ORDER** collective recovery of these sums;

CONDEMN Defendants to pay interest and the additional indemnity on the above sums according to law from the date of service of the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*;

ORDER Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN Defendants to bear the costs of the present action, including class counsel's professional fees and disbursements, the cost of notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

RENDER any other order that this Honourable Court shall determine;

51. The interests of justice favour that this Application be granted in accordance with its conclusions;

IV. JURISDICTION

52. The Applicant suggests that this class action be exercised before the Superior Court of the province of Quebec, in the district of Montreal, where he resides;

V. PRESCRIPTION & IMPOSSIBILITY TO ACT

53. Prescription should not run against Class members until Bill 12 comes into force, because it was impossible in fact for Class members to act;
54. Indeed, Class members could not have acted previously as they had no reason to doubt, prior to the admissions made by the Education Minister and to the subsequent amendment to article 3 of the *Education Act*, that such unlawful activity could take place, let alone on such a large scale, with the Defendants or

the government doing absolutely nothing to intervene;

55. In other words, it would be unreasonable to expect that: (i) the average law-abiding citizen should suspect the Defendants of participating in such an unlawful arrangement; and (ii) Class members could have ever suspected that it was illegal to pay fees for PPPs;
56. In the present case, the Defendants benefited from having the trust and confidence of Class members, as they were in a position of authority as School Boards. Their conduct - consisting of presenting the fees for PPPs as lawful year after year - misleads Class members and the Courts have found that such conduct causes an impossibility to act.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present Application;

AUTHORIZE the bringing of a class action in the form of an Originating Application in damages;

APPOINT the Applicant the status of representative plaintiff of the persons included in the Class herein described as:

Class:

All persons who paid any amount for a specialized program (“Projets Pédagogiques Particuliers”), such as “sport-études”, “arts-études” (including arts plastiques, danse, musique, art dramatique), “projets de type Profil”, “projets de type Concentration”, or “éducation international”, up until the legislative amendment to article 3 of the *Education Act* provided for in Bill 12 comes into force.

(hereinafter referred to as the “**Class**”)

or any other Class to be determined by the Court;

IDENTIFY the principle questions of fact and law to be treated collectively as the following:

- a) Was there a violation of article 3 of the *Education Act* by any of the Defendants or by the schools in their districts?
- b) Are Class members entitled to the reimbursement of the amounts paid for PPPs?
- c) Was there a violation of section 10 or 40 of the *Charter* and, if so, are Class members entitled to punitive damages pursuant to s. 49?

- d) When does prescription start for Class members and what are the factors common to the Class members regarding the impossibility in fact to act?

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

GRANT Plaintiff's action against Defendants on behalf of all Class members;

DECALRE Defendants liable for damages caused to Plaintiff and Class members;

CONDEMN Defendants to reimburse Plaintiff and each Class member the fees paid for PPPs, and **ORDER** collective recovery of these sums;

DECLARE that Defendants violated ss. 10 and 40 of the *Charter*;

CONDEMN Defendants to pay to Plaintiff and to every Class Member \$100.00 each on account of punitive damages pursuant to s. 49 of the *Charter*, and **ORDER** collective recovery of these sums;

CONDEMN Defendants to pay interest and the additional indemnity on the above sums according to law from the date of service of the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*;

ORDER Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN Defendants to bear the costs of the present action, including class counsel's professional fees and disbursements, the cost of notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

RENDER any other order that this Honourable Court shall determine;

DECLARE that all members of the Class that have not requested their exclusion, be bound by any judgement to be rendered on the class action to be instituted in the manner provided for by the law;

FIX the delay of exclusion at thirty (30) days from the date of the publication of the notice to the members, date upon which the members of the Class that have

not exercised their means of exclusion will be bound by any judgement to be rendered herein;

ORDER the publication of a notice to the members of the Class in accordance with article 579 C.C.P. within sixty (60) days from the judgement to be rendered herein in the “News” sections of the Saturday editions of LA PRESSE, LE JOURNAL DE MONTRÉAL, and the MONTREAL GAZETTE;

ORDER that said notice be published on the Defendants’ websites, Facebook pages and Twitter accounts, in a conspicuous place, with a link stating “Notice of a Class Action – Avis d’une action collective”;

RENDER any other order that this Honourable Court shall determine;

The whole with costs including publications fees.

Montréal, May 13th, 2019

(s) Joey Zukran

LPC AVOCAT INC.

Per: Me Joey Zukran

JZUKRAN@LPCLEX.COM

Co-Counsel for Applicant

Montréal, May 13th, 2019

(s) Renno Vathilakis Inc.

RENNO VATHILAKIS INC.

Per: Me Michael Vathilkais

mvathilakis@renvath.com

Co-Counsel for Applicant

SUMMONS
(ARTICLES 145 AND FOLLOWING C.C.P)

Filing of a judicial application

Take notice that the Applicant has filed this Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff in the office of the Superior Court in the judicial district of **Montreal**.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

Failure to answer

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

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the Applicant 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 the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

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

Change of judicial district

You may ask the court to refer the originating Application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the plaintiff.

If the application pertains to an employment contract, consumer contract or insurance

contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

Transfer of application to Small Claims Division

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also 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.

Calling to 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 this, the protocol is presumed to be accepted.

Exhibits supporting the application

In support of the Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff, the Applicant intends to use the following exhibits:

Exhibit P-1: Copy of *“Projet de loi no 12 - Loi visant à préciser la portée du droit à la gratuité scolaire et à permettre l'encadrement de certaines contributions financières pouvant être exigées”*;

Exhibit P-2: Copy of transcript of the parliamentary debate of May 8, 2019 (morning and afternoon sessions);

Exhibit P-3: Copy of document titled *“Document de présentation des orientations réglementaires – Projet de Loi no 12”* from the Education Minister's website;

Exhibit P-4: Copy of Applicant's proof of payment for Sport-Étude;

Exhibit P-5: Copy of the May 9, 2019 CJAD news article titled *“Fees for Sport-Études and other Special Programs have been Illegal”*;

Exhibit P-6: Copy of the May 9, 2019 *La Presse* article titled *“Programmes particuliers au public: les frais aux parents seraient illégaux”*;

Exhibit P-7: Copy of list of Sport-Étude programs.

These exhibits are available on request.

Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

Montréal, May 13th, 2019

(s) Joey Zukran

LPC AVOCAT INC.
Per: Me Joey Zukran
JZUKRAN@LPCLEX.COM
Co-Counsel for Applicant

Montréal, May 13th, 2019

(s) Renno Vathilakis Inc.

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Co-Counsel for Applicant

NOTICE OF PRESENTATION
(articles 146 and 574 al. 2 C.P.C.)

À : TOUTES LES COMMISSIONS SCOLAIRES NOMMÉES COMME DÉFENDERESSES AUX PAGES 1-13 DE LA PRÉSENTE DEMANDE.

TO: ALL SCHOOL BOARDS NAMED AS DEFENDANTS AT PAGES 1-13 HEREIN.

TAKE NOTICE that Applicant's *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff* will be presented before the Superior Court at **1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6**, on the date and time set by the coordinator of the Class Action chamber.

GOVERN YOURSELVES ACCORDINGLY.

Montréal, May 13th, 2019

(s) Joey Zukran

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Co-Counsel for Applicant

Montréal, May 13th, 2019

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