

**CANADA**

PROVINCE OF QUEBEC  
DISTRICT OF  
MONTREAL

NO.: 500-06-001060-207

**SUPERIOR COURT**  
(Class Action)

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**BARBARA SCHNEIDER**, *ès qualité*  
liquidator of **THE ESTATE OF THE LATE**  
**MARY SCHNEIDER (NÉE KAPLAN)**,  
domiciled and residing at 12631 Raîche  
street, in the City of Montréal, Province of  
Québec, H9A 3J1

Petitioner

v.

**CENTRE D'HÉBERGEMENT ET DE**  
**SOINS DE LONGUE DURÉE HERRON**  
**INC.**, a legal person, duly constituted  
according to law, with its head office located  
at 69 Jean-Proulx Street, Suite 301, in the  
City of Gatineau, Province of Québec, J8Z  
1W2

-and-

**CHARTWELL QUEBEC HOLDINGS INC.**  
**(2033770 ONTARIO INC.)**, a legal person,  
duly constituted according to law, with its  
head office located at 69 Jean-Proulx  
Street, Suite 301, in the City of Gatineau,  
Province of Québec, J8Z 1W2

-and-

**KATASA GROUP INC.**, a legal person,  
duly constituted according to law, with its  
head office located at 69 Jean-Proulx  
Street, Suite 301, in the City of Gatineau,  
Province of Québec, J8Z 1W2

-and-

**KATASA DEVELOPMENT INC.**, a legal  
person, duly constituted according to law,  
with its head office located at 69 Jean-  
Proulx Street, Suite 301, in the City of  
Gatineau, Province of Québec, J8Z 1W2

Respondents

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**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO  
OBTAIN THE STATUS OF REPRESENTATIVE  
(Articles 574 et seq. C.C.P.)**

**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN  
AND FOR THE DISTRICT OF MONTRÉAL, PETITIONER RESPECTFULLY SUBMITS  
THE FOLLOWING:**

**1. INTRODUCTION**

- 1.1. The elderly are among the most vulnerable members of a society in normal times, and they are especially vulnerable in the COVID-19 pandemic;
- 1.2. The elderly depend upon the care and assistance of professionals whom they pay to reside in long-term care facilities;
- 1.3. The elderly are entitled to that care and assistance from staff who are properly equipped, in an environment with proper sanitation protocols and adequate testing to prevent the spread of COVID-19 and ensure that such care is not abandoned;
- 1.4. Tragically, residents of the residential and long-term care facility CHSLD Herron have been denied these rights;
- 1.5. The consequences have been predictably devastating;
- 1.6. The present class action seeks redress and compensation for the events described below;

**2. THE PARTIES**

- 2.1. Petitioner is the liquidator of the estate of Mary Schneider (née Kaplan), who was a resident of the CHSLD Herron from February 24, 2020 until her death on April 10, 2020;
- 2.2. The Respondents "**Centre d'hébergement et de soins de longue durée Herron inc.**" (hereinafter "**Herron inc.**"), "**Chartwell Quebec Holdings inc.**" (hereinafter "**Chartwell inc.**"), "**Katasa Group inc.**" and "**Katasa Development inc.**" (collectively "the **Respondents**") are interrelated corporations that have the same head office and that are controlled by the same president and director;

- 2.3. The Respondent Herron inc. is a corporation that operates the CHSLD Herron in accordance with a license delivered by the Minister of Health and Social Services, the whole as appears from its profile on the Registraire des entreprises du Québec, produced herewith as **Exhibit R-1** and from the Minister's website, produced herewith as **Exhibit R-2**. Its main shareholder is the respondent Katasa Group inc.;
- 2.4. The Respondent Chartwell inc. is listed as the owner of the immovable property in which the CHSLD Herron is operated, the whole as appears from its profile on the Registraire des entreprises du Québec, produced herewith as **Exhibit R-3** and from the City of Dorval property valuation, produced herewith as **Exhibit R-4**. Its main shareholder is the respondent Katasa Group inc.;
- 2.5. CHSLD Herron's promotional material distributed by "Katasa Groupe + Développement" advertises to the public that "*Katasa Group has recently made the acquisition of Maison Herron. The family company which holds more than 30 years of experience in the field of residences offering units and services to autonomous and semi-autonomous retired as well as persons with the loss of autonomy is excited by this new challenge*", and "*Since Katasa has acquired the Herron residence, key investments were made significant investments so that residents can enjoy a place that is comfortable, friendly, warm and safe, as well as, equipment that is recent and of good quality*", the whole as appears from CHSLD Herron's promotional brochure, produced herewith as **Exhibit R-5** and from an extract of its website, produced herewith as **Exhibit R-6**;
- 2.6. The website maintained by "Katasa Groupe + Développement" advertises to the public that "Katasa" acquired CHSLD Herron in 2015, the whole as appears from an extract of its website, produced herewith as **Exhibit R-7**;
- 2.7. "Katasa Groupe + Développement" is a trade name used for the purposes of marketing the CHSLD Herron facility as well as other facilities and, while such trade name is not formally registered as being used by any particular corporation, such name appears to be a trade name used by Respondents "Katasa Group inc." and "Katasa Development inc." A copy of the corporations' profile as registered at the Registraire des entreprises du Québec are produced respectively as **Exhibit R-8** and **Exhibit R-9**;
- 2.8. The Respondents constitute the various corporate vehicles used for the purposes of advertising, marketing, acquiring, operating, holding and managing the CHSLD Herron;
- 2.9. CHSLD Herron markets itself as a residence "*offering high-quality care to semi-autonomous seniors and people with cognitive or physical impairment*", the whole as appears from an extract of its website, Exhibit R-6;

- 2.10. CHSLD Herron advertises that it maintains nurses and orderlies on-site and physicians on-call 24 hours a day, seven days a week, as appears from Exhibit R-6;
  - 2.11. CHSLD Herron further advertises that “[o]ur devoted team providing all types of care has been trained to respond to all your needs, regardless of whether these are minor or major problems!”, as appears from Exhibit R-6;
  - 2.12. The Respondents either individually or collectively charge residents of CHSLD Herron between \$3,000 and \$10,000 per month, depending on the level of care required;
  - 2.13. Notwithstanding the foregoing, the Respondents have subjected the residents of the CHSLD Herron to neglect, mistreatment, pain and discomfort, and have robbed them of their dignity;
3. **The Petitioner wishes to institute a class action on behalf of the classes of persons hereinafter described, namely:**

“All individuals resident in the CHSLD Herron at any time from and as of March 13, 2020 (“**Residents**”), estates of any such Residents who passed away since March 13, 2020 (“**Estates**”), as well as the spouses and children of such Residents (“**Family Members**”)”

4. **The Petitioner’s personal claim against the Respondents is based on the following facts:**

**The COVID-19 Pandemic in Canada**

- 4.1. On January 26, 2020, the first presumptive case of COVID-19 in Canada was announced in the city of Toronto;
- 4.2. On February 25, 2020, the World Health Organization stated that older people are more vulnerable to contracting severe or fatal forms of COVID-19, the whole as appears from the World Health Organization Coronavirus Disease 2019 (COVID-19) Situation Report, a copy of which is produced herewith as **Exhibit R-10**;
- 4.3. On February 28, 2020, the first presumptive case of COVID-19 in Québec was announced;
- 4.4. On March 9, 2020, the Government of Québec opened three clinics to screen for COVID-19 cases;
- 4.5. On March 11, 2020, the World Health Organization declared that the COVID-19 virus constituted a pandemic. That same day, Québec Minister of Health

and Social Services, Danielle McCann, stated that Québec is “preparing for the worst-case scenario”;

- 4.6. On March 13, 2020, pursuant to s. 118 of the *Public Health Act*, the Government of Québec declared a public health emergency throughout the Province of Québec, which has since been renewed on four occasions, the whole as appears from the initial declaration and renewals produced herewith *en liasse* as **Exhibit R-11**;
- 4.7. On March 14, 2020, the Government of Québec banned visits to seniors’ residences to limit the risk of exposure to the elderly;

#### **The Negligent and Careless Response to the COVID-19 at CHSLD Herron**

- 4.8. On March 26, 2020, a resident of CHSLD Herron that had been severely ill was sent to the Jewish General Hospital. He tested positive for COVID-19 and died that same day. It is obvious that he had been ill for some time before the personnel of CHSLD Herron reacted;
- 4.9. On March 29, 2020, CIUSSS West Island of Montréal (“**CIUSSS**”) visited CHSLD Herron and observed that the place had been completely deserted; the vast majority of staff members had abandoned the residence due to a lack of resources, most notably personal protective equipment;
- 4.10. CIUSSS personnel noted that there was only one (1) nurse and two (2) orderlies to care for over 130 elderly residents. No proper sanitation and isolation protocols procedure had been put in place to safeguard the Residents;
- 4.11. The Residents were found in completely inhumane conditions: some were unclothed, severely malnourished, dehydrated, without their medication and left in their feces and urine, creating an odour that permeated the facility;
- 4.12. Residents were found dead and appeared to be so for some time before they were discovered by CIUSSS personnel;
- 4.13. Other Residents were discovered on the floor in their rooms, without any care for days and lying in their own excrement;
- 4.14. The conditions of CHSLD Herron were likened to that of a concentration camp, as appears from a report published in the Montreal Gazette on April 11, 2020, a copy of which is produced herewith as **Exhibit R-12**;
- 4.15. On March 29, 2020, the CEO of CIUSSS wrote to a representative of CHSLD Herron, stating

*We do not have confidence at this time in your ability to ensure the safety of residents who, especially in a health crisis, should be given*

*priority. In addition, your decision yesterday to transfer several residents to the Lakeshore General Hospital Emergency Department runs counter to ministerial directives and the Quebec pandemic plan,*

the whole as appears from a report on CTV news website on April 14, 2020, a copy of which is attached herewith as **Exhibit R-13**;

- 4.16. That same day, CHSLD Herron was placed under provincial trusteeship and managed by CIUSSS;
- 4.17. It was clear that Residents had lacked care for many days and the unsanitary conditions had persisted prior to CIUSSS's intervention;
- 4.18. However, CIUSSS staff did not receive cooperation from CHSLD Herron's personnel;
- 4.19. CIUSSS was required to send two Demand Letters and obtain a court order to gain access to the premises and the Residents' medical files;
- 4.20. It appears that it was only on April 8, 2020 that CIUSSS was able to assume full control of CHSLD Herron and tend to the Residents who were in desperate need of care;
- 4.21. In one month, there have been 31 deaths at CHSLD Herron due to COVID-19, improper isolation procedures and/or mistreatment of Residents;
- 4.22. On April 11, 2020, the City of Dorval's Mayor publicly declared that what transpired at CHSLD Herron is "*completely unacceptable*", the whole as appears from a statement issued on the CHSLD Herron situation, a copy of which is produced herewith as **Exhibit R-14**;
- 4.23. Both the Coroner's Office and the police are now investigating the Respondents' handling of the COVID-19 crisis at CHSLD Herron;

#### **The Case of Mary Schneider (née Kaplan)**

- 4.24. Mary Schneider ("**Mrs. Schneider**") was 93 years old at the time of her death at CHSLD Herron;
- 4.25. Prior to her residing at CHSLD Herron, Mrs. Schneider resided at the Château Royal in the West Island until the beginning of January 2020;
- 4.26. While she resided at the Château Royal, Mrs. Schneider was fully autonomous;
- 4.27. On January 2<sup>nd</sup>, 2020, Mrs. Schneider suffered a fall that resulted in injuries to her face and ribs;

- 4.28. She was taken to Montreal General Hospital where she recovered until she could obtain a room in an assisted-living facility;
- 4.29. Following her recovery, Mrs. Schneider remained somewhat autonomous: she could move around with the assistance of a walker and could eat on her own, although she required assistance getting dressed and bathing;
- 4.30. On February 18, 2020, Petitioner Barbara Schneider signed, on behalf of her mother, Mrs. Schneider, an Occupancy Agreement with CHSLD Herron, with occupancy to begin on February 24, 2020, the whole as appears from a copy of the Occupancy Agreement produced herewith as **Exhibit R-15**;
- 4.31. Mrs. Schneider was placed on the lowest floor of CHSLD Herron, which is reserved for its most autonomous residents;
- 4.32. The base rent pursuant to the Occupancy Agreement, Exhibit R-15, was \$4,500.00;
- 4.33. Schedule C of the Occupancy Agreement provides:

*The Residence Management and personnel share the mission of offering a comfortable, stimulating and safe living environment to all their residents. To that end, it is important that all residents respect certain living rules within the Residence, set out in full respect of their rights.*

1. *Resident's Rights*

- (a) *The Resident has the right to be treated with respect and to receive quality living and healthcare services, which includes the respect of his dignity and privacy.*
- (b) *The Resident has the right to take possession of the Premises in a good state of repair and habitable condition, obeying with health, safety and housing and maintenance standards.*

the whole as appears from Exhibit R-15;

- 4.34. From February 24, 2020 until the Government of Québec banned visits to seniors' residences on March 14, 2020, Petitioner spoke to her mother on average a couple of times daily, visited her every other day and observed that she was well;
- 4.35. From March 14, 2020 until approximately, March 24, 2020, Petitioner spoke with her mother over the phone daily;
- 4.36. Thereafter, despite multiple attempts to call her mother and the administration of CHSLD Herron on a daily basis, Petitioner was unable to have telephone communication with her mother. Nobody was answering the telephone at

CHSLD Herron and when Petitioner was finally be able to speak to someone, she was given excuses as to why her mother could not speak to her;

- 4.37. On March 27, 2020, the CHSLD Herron personnel sent an email to Petitioner informing her, and likely other Residents and family members placed in blind carbon copy (“bcc”), that a Resident had tested positive for COVID-19, the whole as appears from a copy of the email produced herewith as **Exhibit R-16**;
- 4.38. On March 30, 2020, Samantha Chowieri, identified as owner of CHSLD Herron, and Tina Pettinicchi, identified as Interim General Manager, signed an email sent to Petitioner informing her and others in bcc that three Residents were officially diagnosed with COVID-19 and that some staff members had tested positive the whole as appears from a copy of the email produced herewith as **Exhibit R-17**;
- 4.39. On April 5, 2020, the CHSLD Herron personnel sent another email to Petitioner and others in bcc that there were 12 confirmed cases of COVID-19 among the Residents, and other staff that had tested positive;
- 4.40. On April 8, 2020, Petitioner received a call from Dr. Adriana Ionescu informing her that her mother had tested positive for COVID-19;
- 4.41. On April 9, 2020, Petitioner received a call from Vanessa Reginato (“**Ms. Reginato**”), a nurse from St-Mary’s Hospital who had just been assigned to CHSLD Herron and had arrived at the residence following the intervention of CIUSSS, informing her that she could not believe that Ms. Schneider was so emaciated and dehydrated;
- 4.42. That day, with the help of Ms. Reginato, Petitioner was able to speak to her mother by Facetime and could not believe how visibly deteriorated her mother’s condition was;
- 4.43. On April 10, 2020, Ms. Reginato called Petitioner to inform her that her mother had passed away;

#### **The Respondents’ Liability**

- 4.44. At all relevant times, the Respondents had an obligation to safeguard the life, health, dignity and well-being of Residents of CHSLD Herron and to ensure that continued and adequate care be provided;
- 4.45. The Respondents knew that the COVID-19 crisis would constitute a danger to its residents and its staff;
- 4.46. The Respondents knew that the Residents of CHSLD Herron were among the segment of the population most vulnerable to contracting severe or fatal symptoms of COVID-19;



- 4.47. The Respondents failed to ensure that its personnel/staff were equipped with adequate personal protective equipment, that its environment was sanitary and that mitigation measures were in place – all of which was necessary to ensure that care was continually provided to its Residents whose lives depended on such care;
- 4.48. The Respondents acted recklessly by abandoning the Residents of the CHSLD Herron and showed a wanton disregard for their life, health, dignity and well-being by subjecting them to inhumane and degrading maltreatment;
- 4.49. As a result, the Respondents knew or ought to have known that failure to maintain care for its Residents, implement proper sanitary protocols or provide adequate personal protective equipment would have devastating and/or fatal consequences for its Residents;
- 4.50. Those consequences have now materialized and include but are not limited to the following;
  - 4.50.1 The deaths of Residents either due to COVID-19, for which the Respondents failed to properly mitigate the risk, or due to lack of proper care;
  - 4.50.2 The grief, pain, suffering and heartache of Family Members of the deceased Residents;
  - 4.50.3 The pain, suffering, anxiety and indignity endured by current Residents of CHSLD Herron, having gone without adequate care;
- 4.51. The Respondents are liable for the above-mentioned consequences;
- 4.52. Given the negligence and abuse of the Respondents in showing a wanton disregard for the Residents' rights to life, personal security, and dignity, Respondents are liable for punitive damages;

### **The Remedies**

- 4.53. Petitioner seeks on behalf of the Estates of deceased Residents moral damages in the amount of \$25,000 for the pain and suffering they endured from the time of the declaration of a Public Health Emergency on March 13, 2020 until the time of their deaths;
- 4.54. Petitioner seeks on her behalf and on behalf of Family Members moral damages in the amount of \$10,000 for their anguish in respect of the suffering and/or loss of their loved ones in the inhumane and degrading conditions that were caused by the fault of the Respondents;
- 4.55. Petitioner seeks on behalf of the Residents moral damages in the amount of \$25,000 for the pain and suffering they endured since the declaration of the

Public Health Emergency due to the lack of care that was the responsibility of the Respondents;

- 4.56. Petitioner seeks on behalf of Residents and the Estates punitive damages in the amount of \$2 million for the unlawful interference with Residents' rights to personal security and dignity under the *Charter of Human Rights and Freedoms*;
  - 4.57. Two million dollars represents approximately \$15,000 for each of the 130 Residents whose basic rights to dignity and personal security were breached in wanton disregard by the Respondents;
  - 4.58. Petitioner seeks on behalf of Residents and the Estates reimbursement of all rent and other fees and/or charges imposed by the Respondents, paid for the months of March and April 2020, to be recovered collectively;
5. **The personal claims of each of the members of the class against Respondents are based on the following facts:**
- 5.1. All Residents were subjected to inhumane and degrading maltreatment as a result of the Respondents' failure to ensure continued and adequate care;
  - 5.2. All Estates are estates of individuals who were at one point Residents of CHSLD Herron since the declaration of the Public Health Emergency and consequently were subjected to inhumane and degrading maltreatment as a result of the Respondents' failure to ensure continued and adequate care;
  - 5.3. All Residents and Estates are entitled to reimbursement of the rent paid for their residence at CHSLD Herron;
  - 5.4. All Family Members either lost a relative who was a Resident of the CHSLD Herron since the declaration of the Public Health Emergency due to the Respondents' fault and/or suffered moral damages as a result of the Respondents' failure to provide their loved ones with proper and adequate treatment and care;
6. **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:**
- 6.1. At the time of the COVID-19 crisis, there were over 130 residents at CHSLD Herron;
  - 6.2. The Residents are isolated and inaccessible since the Government of Québec has prohibited visits to CHSLDs; moreover, the names and coordinates of the members of this class are not publicly available;

- 6.3. As a result, the names of the liquidators of the Estates and the Family Members are unknown, unreachable and potentially geographically disparate;
  - 6.4. It would therefore be impracticable to obtain mandates or consolidate proceedings in the present matter;
  - 6.5. Furthermore, a class action is an appropriate procedural vehicle to give access to justice to vulnerable people and obtain compensation for the Respondents' common fault, which has had consequences for hundreds of individuals;
  - 6.6. The legal issues of whether the Respondents breached their legal obligations toward all members of the class is best dealt with by one judge in a single legal proceeding in order to avoid a multitude of proceedings that would encumber the legal system, and potentially lead to contradictory judgments;
7. **The identical, similar or related questions of law or of fact between each member of the class and the Respondents, which Petitioner wishes to have decided by this class action, are:**
- 7.1. Did the Respondents have an obligation to provide and ensure the presence of properly trained and equipped staff to take care of the needs of the Residents?
  - 7.2. If yes, did the Respondents breach this obligation?
  - 7.3. Are the Respondents liable to compensate members of the Class for damages suffered?
  - 7.4. Are the Respondents liable to reimburse Residents and the Estates for rent and other charges imposed by the Respondents for the months of March and April 2020?
  - 7.5. If so, what is the amount of rent and other charges collected by the Respondents?
  - 7.6. Are the Respondents liable to Residents and the Estates to pay punitive damages for breach of rights guaranteed by the *Charter of Human Rights and Freedoms*?
8. **The questions of law or of fact which are particular to each of the members of the class are:**
- 8.1. The only question that is particular to each member of the class is the quantum to which he or she is entitled;
9. **The nature of the recourse which the Petitioner wishes to exercise on behalf of the members of the class is:**

9.1. An action in damages;

10. **The conclusions sought by Petitioner against the Respondents are as follows:**

**GRANT** the Class Action against the Respondents;

**CONDEMN** the Respondents to pay to the Petitioner:

- a) For the benefit of the Estates, \$25,000 per class member in moral damages; reimbursement of the rent and other charges paid during the months of March and April 2020;
- b) For the benefit of the Residents, \$25,000 per class member in moral damages; Reimbursement for rent and other charges paid during the months of March and April 2020;
- c) For the benefit of the Family Members, \$10,000 in moral damages;
- d) For the benefit of Residents and the Estates, punitive damages in the amount of \$2,000,000;

the whole with interest and the additional indemnity provided by law;

**CONDEMN** the Respondents to any further relief as may be just and proper;

**THE WHOLE** with legal costs, including the costs of all exhibits, reports, expertise and publication of notices.

11. **Petitioner requests that it be ascribed the status of representative;**

12. **Petitioner is in a position to represent the members of the class adequately for the following reasons:**

- 12.1. Petitioner is the liquidator of the Estate of Mary Schneider, as well as a Family Member as the daughter of Mary Schneider;
- 12.2. She was actively involved in attending to her mother's care and is as well informed as one can be, given the lockdown, of the decline in care she received and the overall state of the CHSLD Herron;
- 12.3. She has gathered and provided to the undersigned attorneys numerous documents, newspaper articles and has researched the present matter;
- 12.4. She has the motivation and interest to seek redress for the injustices suffered by class members;
- 12.5. She has no conflict and is willing and capable of acting in the present matter;

- 12.6. Petitioner has cooperated fully with the undersigned attorneys and is prepared and willing to fully represent and protect the rights of class members;
  - 12.7. Petitioner decided to institute a class action instead of an individual action, in order to advance and protect the rights of all class members instead of those of her family alone;
  - 12.8. Petitioner has spent numerous hours gathering documents, providing information, and answering questions in the interest of advancing the present matter;
  - 12.9. Petitioner has the full support of the members of her family;
  - 12.10. Petitioner is committed to communicating with other members of the class about this matter;
13. **Petitioner suggests that the class action be brought before the Superior Court for the district of Montréal for the following reasons:**
- 13.1. The CHSLD Herron is located in the district of Montréal;
  - 13.2. All the Residents of CHSLD Herron are accordingly domiciled in the district of Montréal;
  - 13.3. Petitioner is domiciled in the district of Montréal and to the best of her knowledge, the majority of members of the classes are domiciled in the district of Montréal;

**WHEREFORE THE PLAINTIFF PRAYS THAT BY JUDGMENT TO BE RENDERED HEREIN, MAY IT PLEASE THIS HONOURABLE COURT TO:**

**GRANT** the present Application;

**AUTHORIZE** the institution of the Class action;

**GRANT** the status of representative to Petitioner Barbara Schneider for the purpose of instituting the said Class action for the benefit of the following groups of persons, namely:

“All individuals resident in the CHSLD Herron at any time from and as of March 13, 2020 (“**Residents**”), estates of any such Residents who passed away since March 13, 2020 (“**Estates**”), as well as the spouses and children of such Residents (“**Family Members**”)”

**IDENTIFY** the principal questions of law and of fact to be dealt with collectively as follows:

- 1.1. Did the Respondents have an obligation to provide and ensure the presence of properly trained and equipped staff to take care of the needs of the Residents?
- 1.2. If yes, did the Respondents breach this obligation?
- 1.3. Are the Respondents liable to compensate members of the Class for damages suffered?
- 1.4. Are the Respondents liable to reimburse Residents and the Estates for rent and other charges imposed by the Respondents for the months of March and April 2020?
- 1.5. If so, what is the amount of rent and other charges collected by the Respondents?
- 1.6. Are the Respondents liable to Residents and the Estates to pay punitive damages for breach of rights guaranteed by the *Charter of Human Rights and Freedoms*?

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

**GRANT** the Class Action against the Respondents;

**CONDEMN** the Respondents to pay to the Petitioner:

- a) For the benefit of the Estates, \$25,000 per class member in moral damages; reimbursement of the rent and other charges paid during the months of March and April 2020;
- b) For the benefit of the Residents, \$25,000 per class member in moral damages; Reimbursement for rent and other charges paid during the months of March and April 2020;
- c) For the benefit of the Family Members, \$10,000 in moral damages;
- d) For the benefit of Residents and the Estates, punitive damages in the amount of \$2,000,000;

the whole with interest and the additional indemnity provided by law;

**CONDEMN** the Respondents to any further relief as may be just and proper;

**THE WHOLE** with legal costs, including the costs of all exhibits, reports, expertise and publication of notices.

**DECLARE** that any member of the Class who has not requested his/her exclusion from the Class be bound by any judgment to be rendered on the Class action, in accordance with law;

**FIX** the delay for exclusion from the Class at sixty (60) days from the date of notice to the members, and at the expiry of such delay, the members of the Class who have not requested exclusion be bound by any such judgment;

**ORDER** the Defendants to provide to Class counsel, in electronic form, a list containing the names and last known coordinates of all residents and responsible persons who are members of the classes;

**ORDER** the Defendants to the publication of a notice to the members of the Class to be published in La Presse, Le Journal de Montréal, The Gazette, and Le Devoir;

**REFER** the record to the Chief Justice so that he may fix the district in which the Class action is to be brought and the Judge before whom it will be heard;

**THE WHOLE** with legal costs, including the costs of all publications of notices.

MONTREAL, April 16, 2020

*Kugler Kandestin SENCER*

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**KUGLER KANDESTIN LLP**  
Attorneys for Petitioner

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**PETITIONER'S LIST OF EXHIBITS**

- Exhibit R-1:** Centre d'Hébergement et de Soins de Longue Durée Herron Inc.'s profile on the Registraire des entreprises du Québec;
- Exhibit R-2:** Centre d'Hébergement et de Soins de Longue Durée Herron Inc.'s profile on the Minister of Health and Social Services website;
- Exhibit R-3:** Chartwell Quebec Holdings Inc.'s profile on the Registraire des entreprises du Québec;
- Exhibit R-4:** City of Dorval property valuation of the CHSLD Herron;
- Exhibit R-5:** CHSLD Herron's promotional brochure;
- Exhibit R-6:** Extracts of CHSLD Herron's website;
- Exhibit R-7:** Extract of "Katasa Groupe + Développement"'s website;
- Exhibit R-8:** Katasa Group Inc.'s profile on the Registraire des entreprises du Québec;
- Exhibit R-9:** Katasa Development Inc.'s profile on the Registraire des entreprises du Québec;
- Exhibit R-10:** World Health Organization Coronavirus Disease 2019 (COVID-19) Situation Report, dated February 25, 2020;
- Exhibit R-11:** Initial declaration dated March 13, 2020 and renewals by the Government of Quebec declaring a public health emergency throughout the Province of Quebec;
- Exhibit R-12:** Montreal Gazette report published on April 11, 2020;
- Exhibit R-13:** CTV News report published on its website on April 14, 2020;
- Exhibit R-14:** Statement by the Mayor of Dorval on the CHSLD Herron Situation;
- Exhibit R-15:** Occupancy Agreement with CHSLD Herron signed by Petitioner Barbara Schneider, on behalf of her mother, Mrs. Schneider, on February 18, 2020;
- Exhibit R-16:** Email from CHSLD Herron personnel to Petitioner on March 27, 2020;
- Exhibit R-17:** Email signed by Samantha Chowieri, identified as owner of CHSLD Herron, and Tina Pettinicchi, identified as Interim General Manager to Petitioner on March 30, 2020;

*Copies of said exhibits are available upon request.*



**CANADA**

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

NO.: 500-06-001060-207

**SUPERIOR COURT**  
(Class Action)

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**BARBARA SCHNEIDER**, *ès qualité* liquidator  
of **THE ESTATE OF THE LATE MARY  
SCHNEIDER (NÉE KAPLAN)**

Petitioner

v.

**CENTRE D'HÉBERGEMENT ET DE SOINS  
DE LONGUE DURÉE HERRON INC.**

-and-

**CHARTWELL QUEBEC HOLDINGS INC.  
(2033770 ONTARIO INC.)**

-and-

**KATASA GROUP INC.**

-and-

**KATASA DEVELOPMENT INC.**

Respondents

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**ATTESTATION OF ENTRY IN THE NATIONAL CLASS ACTION REGISTER**

(Article 55 of the *Regulation of the Superior Court of Québec in civil matters Code of Civil Procedure*)

The Petitioner, through its undersigned attorneys, attests that the *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative* will be entered in the National Class Action Registry.

MONTREAL, April 16, 2020

*Kugler Kandestin S.E.N.C.R.L.*

**KUGLER KANDESTIN LLP**

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SUPERIOR COURT (Class Action)  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

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**BARBARA SCHNEIDER** *es qualité* administrator of  
**THE ESTATE OF THE LATE MARY SCHNEIDER**  
**(NÉE KAPLAN)**

Petitioner

v.

**CENTRE D'HÉBERGEMENT ET DE SOINS DE  
LONGUE DURÉE HERRON INC.**

-and-

**CHARTWELL QUEBEC HOLDINGS INC. (2033770  
ONTARIO INC.)**

-and-

**KATASA GROUP INC.**

-and-

**KATASA DEVELOPMENT INC.**

Respondents

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**APPLICATION FOR AUTHORIZATION TO  
INSTITUTE A CLASS ACTION AND TO OBTAIN  
THE STATUS OF REPRESENTATIVE  
(Articles 574 et seq. C.C.P.),**  
List of Exhibits and Attestation of Entry in the  
National Class Action Register

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ORIGINAL

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Me Arthur J. Wechsler / Me Olivera Pajani /  
Me William Colish

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