

NOTICE TO MEMBERS - AUTHORIZATION FOR CLASS ACTION - *Daubois v. Centre d'hébergement et de soins de longue durée Sainte-Dorothée, et al* No. 500-06-001062-203

On January 22, 2024, the Superior Court of Quebec, District of Montreal, authorized a class action (the "**Class Action**") in damages against 17 Centres intégrés de santé et de services sociaux ("CISSS") and Centres intégrés universitaires de santé et de services sociaux ("CIUSSS") of Quebec, the Attorney General of Quebec ("Defendants") for the benefit of the following group:

"Any person who has resided at any time between March 13, 2020, and March 20, 2021, in one of Quebec's public CHSLD*s in which there has been an outbreak of 25% or more cases of COVID-19, as well as their spouse(s), their caregiver(s), their children and grandchildren along with the heirs and beneficiaries of deceased residents."

* To find out if your CHSLD is included in the Class Action, please consult the list of CHSLDs in the appendix.

The class representative is Jean-Pierre Daubois, personally and in his capacity as heir to his mother, the late Anna José Maquet.

This Class Action seeks compensation for damages allegedly suffered by the representative, Jean-Pierre Daubois, and the members of the group, as a result of the defendants' management of the COVID-19 pandemic in Quebec's public CHSLDs.

Class members are automatically included in the Class Action without having to take any steps to register. Members may also contact the class representative's attorneys by completing the form available on the website menardmartinavocats.com.

The Class Action will proceed in the district of Montreal.

EXCLUSION OF THIS CLASS ACTION:

Any class member has the right to exclude himself or herself from the Class Action by filing a written notice to the clerk of the Superior Court of Quebec for the district of Montreal, in accordance with article 580 of the Code of Civil Procedure, on July 11, 2025, at the latest:

Quebec Superior Court Registry (C.S. 500-06-001062-203) 1, Notre-Dame Street East, Montreal, Quebec, H2Y 1B6

The deadline for opting out of the Class Action without court authorization is July 11, 2025, at the latest.

Any class member who is not excluded from the Class Action will be bound by any judgment rendered in this Class Action. In addition, any class member who has filed an individual action against one or more defendants which has, in whole or in part, the same subject matter as the Class Action and who has not discontinued his action on July 11, 2025, at the latest, shall be deemed to have excluded himself or herself from the Class Action.

Please note that requests for compensation, formal notices or claims, other than an originating application, having in whole or in part the same subject as the Class Action, transmitted to the Defendants after the exclusion period by class members who have not excluded themselves cannot be processed by the Defendants. If applicable, authors of these requests will be advised to communicate with the group's representative attorneys.

MAIN QUESTIONS

Following the authorization judgement, the main questions of fact or law which will be dealt with collectively are the following:

- 1) In managing the COVID-19 pandemic, did the defendant CISSS and CIUSSS fail to fulfill their legal obligations toward members under the *Civil Code of Québec*, the *Act respecting health services and social services*, and the *Charter of Human Rights and Freedoms*?
- 2) In managing the COVID-19 pandemic, did the defendant CISSS and CIUSSS commit faults against class members giving rise to compensatory damages?
- 3) Did the defendant CISSS and CIUSSS commit the following faults in the management of the first wave of the COVID-19 pandemic:
 - a) Failure to adopt or update a regional influenza pandemic plan between 2006 and 2020?
 - b) Failure to take steps to prepare the CHSLDs under their responsibility for the pandemic in January and February 2020?
 - c) Having forced symptomatic or at-risk employees to work in CHSLDs?
 - d) Failure to implement isolation measures, in a timely manner, including the establishment of a "hot zone" and a "cold zone", the wearing of personal protective equipment ("PPE") in accordance with the rules of the art, and the adoption of the protection and distancing measures indicated?
 - e) Failure to train their staff on the wearing of protective equipment and on appropriate prevention and protection measures?
 - f) Failure to supply their staff with PPE in accordance with the best industry standards?
 - g) The failure to protect CHSLD residents, who were identified as part of the most vulnerable population as of January 2020?
 - h) The fact of having systematically lowered the levels of care for patients in CHSLDs without obtaining free and informed consent?
- 4) In connection with the management of the COVID-19 pandemic, did the Attorney General of Quebec ("AGQ"), the ministère de la Santé et des Services sociaux ("MSSS"), the Minister of Health ("Minister") and the Directeur national de la santé publique ("DNSP") commit faults against class members giving rise to compensatory damages?
- 5) Did the AGQ, the MSSS, the Minister and the DNSP commit the following faults in managing the first wave of the COVID-19 pandemic:
 - a) Failure to update and implement the 2006 Plan in a timely manner?
 - b) Failure to plan a supply of PPE to deal with the first wave of COVID-19 that was coming?
 - c) Failure to take steps to plan the provision of services given the looming staff shortage?
 - d) Failure to protect CHSLD residents, who were identified as part of the most vulnerable population as of January 2020?
 - e) Failure to take the necessary measures to ensure that members receive the care they require by their state of health?

- f) The imposition of a systematic review of the levels of care of CHSLD residents in a short period of time?
- g) The decision to ban visits by family caregivers?
- h) The decision to prohibit CHSLD residents from being transferred to hospitals?
- 6) In managing the first wave of the COVID-19 pandemic, did the defendants infringe on the right to safety, freedom, integrity, dignity, equality and life of class members residing in CHSLDs?
- 7) Are the defendants' fault the cause of class members' damages?
- 8) What damages have class members suffered as a result of the defendants' wrongdoing?
- 9) What is the scope of the immunity conferred on defendants by [section 123](#) of the [Public, Health Act](#), RLRQ, c. S -2.2?
- 10) Do the defendants' faults give rise to exemplary damages for CHSLD residents? If so, what is the quantum?

SOUGHT CONCLUSIONS:

The sought conclusions by the Class Action are the following:

GRANT the Class Action of the plaintiff and class members against the defendants.

DECLARE the defendants liable for damages suffered by class members.

CONDEMN the defendants to pay each member of the group all damages suffered by them.

For each of the residents in the class, regardless of their infection with COVID-19:

- A sum of 40,000\$ to the class members in compensation for:
 - Psychological distress.
 - Damage to their integrity, safety and dignity.
 - The deterioration of their physical, psychological and cognitive health.
 - The feeling of abandonment, suffering, anger, sadness, stress and inconvenience resulting from the defendants' faulty and negligent management of the pandemic.
- A sum of 10,000\$ to his or her children in compensation for the pain, stress and inconvenience associated with the defendants' wrongful and negligent management of the pandemic.
- An additional sum of 5,000\$ to the resident's caregiver, in addition to the above if the caregiver is a child or grandchild of the resident.

For class members who were residents infected by COVID-19 and who survived the infection :

- An additional sum of 60,000\$ to the class member in compensation:
 - For pain, stress and inconvenience associated with COVID-19 contamination.
 - For the deterioration of their physical, psychological and cognitive health associated with COVID-19 contamination.
- Full reimbursement of expenses incurred or to be incurred as a result of the defendants' wrongful conduct.

- An additional amount to be paid to the class member, subject to the right of each class member to present, on an individual basis when assessing the quantum, proof of a more significant prejudice to which the class member will be entitled to if any of the following element is proved :
 - The member underwent a hospital stay in intensive care.
 - The member has been hospitalized.
 - The member was wrongfully not sent to a hospital when his condition or level of care required it, whether for hospital care or for comfort care that CHSLDs were unable to provide.
- A sum of 10,000\$, to his/her children in compensation for the pain, stress and inconveniences associated with their parent's COVID-19 contamination.
- An additional sum of 5,000\$ to the resident's caregiver, in addition to the above, if the caregiver is a resident' child or grandchild.

For spouses, children, grandchildren, heirs and assigns of residents' members of the group who have died as a result of the COVID-19 or as a result of a breakdown or deficiency in the basic hygiene, meal assistance or mobilization, excluding any compensatory damages under the Charter and any punitive damages under the Charter:

- A sum of 100,000\$ to the surviving spouse, in his/her personal capacity, in compensation for pain, stress and inconvenience suffered, as well as for grief caused by the loss of a loved one (*solatium doloris*) due to the defendants' wrongful conduct.
- A sum of 30,000\$ to each of the deceased's children, as the case may be, in compensation for the pain, stress and inconvenience suffered, as in compensation for the grief caused by the loss of a loved one (*solatium doloris*) due to the defendants' wrongful conduct.
- A sum of 100,000\$ to the surviving spouse in his/her capacity as heir of the deceased, if any, or to the estate of the deceased, as the case may be, in compensation for the physical and moral suffering suffered by the deceased prior to his/her death (*pretium doloris*) as a result of the defendants' wrongful conduct.
- Full reimbursement of disbursements and funeral expenses incurred and to be incurred as a result of the defendants' wrongful conduct.
- An additional amount to be paid to the class member, subject to the right of each class member to present, on an individual basis when assessing the quantum, proof of a more considerable, particular prejudice to which the member will be entitled, if it is proven that the class member has suffered pecuniary losses due to COVID-19, all in connection with the alleged faults.

CONDEMN the defendants to pay class members of the group residing in CHSLD the sum of ten million dollars (10,000,000\$) in punitive damages.

CONDEMN the defendants to pay interest at the legal rate on said sums, plus the additional compensation provided for in the C.C.Q. from the date of the summons.

ORDER the collective recovery of all damages suffered, or alternatively:

DECLARE the defendants liable for all damages suffered and **ORDER** that individual proofs be made in order to determine the amount of damages for each member of the group;

THE WHOLE, with costs, including all expert and opinion fees to be incurred in connection with the present proceedings.

CLAIMS NOT COVERED BY THE CLASS ACTION:

This Class Action does not include claims covered by the Class Action *Conseil pour la protection des malades v. Centre intégré de santé et de services sociaux de la Montérégie-Centre et al.* (C.S: 500-06- 000933-180) regarding the notion of "substitute living environment" and services offered in CHSLDs since July 9, 2015.

In the event of a favorable judgement, any person who has obtained compensation for any damages that they may have suffered as a result of a claim covered, in whole or in part by the Class Action, whether following a court decision or as part of an out-of-court settlement, before the end of the exclusion period, namely July 11, 2025, will not be able to be compensated for this claim as part of this Class Action.

INTERVENTION AND LEGAL COSTS

A class member may ask the Court to intervene in this Class Action. The petition to intervene can be granted if it is deemed useful to the group. An intervening class member may be required to undergo a pre-trial examination submit to discovery at the request of the Defendants' request to intervene.

A member who does not intervene in the Class Action may only be subject to pre-trial examination with the authorization of the Court.

A class member other than the representative or an intervenor cannot be called upon to pay the legal costs of the Class Action.

FOR FURTHER INFORMATION:

For more information, you can consult the Class Actions Register, where you will find the main legal documents filed with the Court, at the following address:

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

Class members who wish to be kept informed of developments can register, free of charge, by completing the form available on the class attorneys' website:

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The attorneys representing the 17 CISSS and CIUSSS and the AGQ (defendants) in this case are:

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 Me Jonathan Desjardins Mallette
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 Morency Société d'avocats s.e.n.c.r.l.
 Counsel for all CISSS and CIUSSS

Me Alexandra Hodder
 Me Annie Dumont
 Me Marie France Le Bel
 Bernard Roy (Justice Québec)
 Counsel for the defendant Attorney General of Québec

This notice has been authorized and approved by the Honourable Donald Bisson, j.c.s.