



TRUDEL JOHNSTON & LESPÉRANCE

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## FREQUENTLY ASKED QUESTIONS

The class action *SQDI v. Procureur général du Québec and Santé Québec*

*This document is provided for informational purposes only.*

*It does not constitute legal advice.*

**This is an unofficial English translation.**

**In the event of any discrepancy, the French version shall prevail.**

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## **| What is the context of this class action?**

For several years, the SQDI has maintained that certain practices in non-inclusive socio-professional programs in Quebec are problematic and constitute human rights violations.

Other organizations, such as the Commission des droits de la personne et des droits de la jeunesse (CDPDJ) and the United Nations (UN), have denounced the fact that participants in these programs are not remunerated and do not benefit from the protections usually guaranteed to workers.

⇒ For example, the *Act respecting labour standards* and its regulations provide for a minimum wage to which most employees in Quebec are entitled (while specifying applicable exceptions), define the number of hours constituting a "normal week" of work depending on the sector of activity, establish overtime pay requirements, and provide for the annual leave and sick leave entitlements, among other protections.

This differential treatment violates the **right to equality** protected by the *Quebec Charter of Human Rights and Freedoms* (the *Quebec Charter*) and the *Canadian Charter of Rights and Freedoms* (the *Canadian Charter*), as well as **the right to protection against exploitation** guaranteed by the *Quebec Charter*. It also violates **the right of people with disabilities to work**, as recognized by the United Nations Convention on the Rights of Persons with Disabilities.

In addition, many of these programs do not provide meaningful training or facilitate participants' integration into the labour market, thereby contributing to situations of exploitation.

For years, the SQDI has worked with the Quebec government to improve the situation. Despite commitments made by elected officials, little change has occurred in practice, even as increasing numbers of individuals have publicly denounced unpaid work situations.



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## **| What is a non-inclusive socio-professional program?**

A socio-professional program is considered non-inclusive when:

- persons with disabilities perform work to produce goods and services;
- the program generates revenues for the host organization or other parties;
- the tasks performed are equivalent to those of a regular employment, yet participants do not receive the minimum wage or the statutory protections and benefits usually afforded to employees.



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## **| What is the purpose of this class action?**

According to the SQDI, thousands of individuals have experienced violations of their rights in non-inclusive socio-professional programs over the past three years.

A class action is a **legal mechanism** that makes it possible to:

- obtain recognition of, and put an end to, an injustice affecting a large group of individuals; and
- obtain compensation for the harm suffered.

In this context, the class action filed by the SQDI pursues **two main objectives**:

1. To seek compensation from the Government of Quebec for all class members for violations of their human rights;
2. To require the Quebec government to regulate socio-professional programs so that they respect participants' rights.

**In the longer term**, the SQDI hopes that:

- persons with intellectual disabilities will have access to employment training programs that respect their rights and lead to employment for those who wish and are able to work;
- socio-professional programs will include clear training objectives, appropriate supervision, and limited duration; and
- the Government of Quebec will fund new forms of social participation based on choice, dignity, and respect for the rights of people with intellectual disabilities, rather than solely on work.



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## Why is the SQDI acting as the institutional representative of this class action?

The SQDI decided to act as an institutional representative because thousands of persons with intellectual disabilities work in unpaid workshops, work platforms or internships without receiving fair wages or the benefits and protections normally granted to employees.

The SQDI seeks recognition that these situations are unfair and discriminatory and aims to reform these programs so that they become **more inclusive** and **respectful of participants' rights**.

By doing so, the SQDI supports persons with intellectual disabilities and their families, who should not have to confront these injustices alone. Many have already spoken publicly and participated in the SQDI's advocacy campaign. The time has now come to bring these stories before the Court.



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## **Does the SQDI want to close workshops, work platforms or abolish internships?**

**No.** The SQDI does not seek their closure. These programs may play an important role in socio-professional training.

However, the SQDI seeks to transform them so that they become genuinely inclusive, fair, and respectful of participants' rights.

**In its policy directions,** the SQDI calls on the government to:

- review socio-professional activities to ensure fair remuneration;
- provide diversified options reflecting individuals' interests and abilities; and
- support transitions toward inclusive workplaces or toward leisure and respite activities, while recognizing the active social contribution of persons with intellectual disabilities — that is, the idea that these individuals can contribute a great deal to society, rather than simply receiving assistance.

**In short,** the SQDI does not oppose the existence of workshops and work platforms, but rather their current form where participants often work for years without pay, benefits, or legal protections normally granted to employees.

The SQDI promotes meaningful choices and new opportunities not based exclusively on work, enabling everyone to grow, learn, and fully contribute to society.



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## My organization offers socio-professional programs (work platforms, internships, etc.): **what changes for us?**

Each organization remains responsible for complying with human rights legislation and all other applicable laws in Quebec.

This class action does not target individual organizations. At this stage, the application for authorization does not change anything for your organization. In this class action, the SQDI is pursuing only the Government of Quebec.

However, the SQDI advocates that organizations offering such programs receive adequate resources to ensure compliance with the law and the Charter in all aspects of their services.



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## **Does the SQDI want to send people who are unfit for employment home?**

**No.**

It is true that some individuals may be unable to enter the labour market, even part-time and even with reasonable accommodations. For these individuals, the SQDI considers it essential to provide satisfactory and stimulating alternatives not based on work, while respecting participants' constitutional rights and dignity.

The SQDI notably calls for the Quebec government to fund day programs and respite services for individuals unable to access the labour market. If the government considers that these individuals cannot hold paid employment because they are not sufficiently "productive", then the manner in which they participate in activities that constitute forms of work must be reconsidered.

In the coming years, the SQDI intends to work toward developing alternatives to existing programs for individuals who will not be able to enter the labour market.

**No one should be left behind.** Work is not the only way to contribute to society.



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## **| What is a class action ?**

A class action is a **legal procedure** that allows one person to bring a claim before the court on behalf of a group of individuals experiencing, or having experienced, a similar situation.

In some cases, an organization—such as the SQDI— may also institute a class action on behalf of such a group.

## **| What are the advantages of a class action?**

Class actions offer several important advantages. In particular, they allow for:

### **1. Improved access to justice and reduced costs**

A class action enables thousands of individuals in a similar situation to assert their rights through a single representative.

Legal costs are shared, making legal proceedings accessible to individuals who could not otherwise pursue claims individually.

In practice, members pay no fees, except for a percentage of compensation if the action succeeds.

Members also benefit from a degree of anonymity compared with individual proceedings.

### **2. Strength in numbers**

By bringing together thousands of people in a single proceeding, a class action helps rebalance the power dynamic vis-à-vis large corporations or governments.

This collective mobilization strengthens the ability of ordinary people to obtain justice and contributes to the protection of the public interest.



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### **3. Concrete changes in practices**

Class actions often encourage organizations or governments to modify their practices. Whether in response to a class action or to avoid one, the actors concerned tend to correct problematic behaviour.

The very existence of a class action can increase political or financial pressure to end an unfair situation.

### **4. More efficient use of judicial resources**

Instead of hundreds or thousands of individual claims, a class action combines similar claims into a single proceeding.

This makes the work of the courts more efficient and allows for simpler and faster management of the dispute.



## What are the stages of a class action?

Class actions proceed in three main stages:

### ⇒ First stage: Application for authorization

Before examining the merits of the case, the class action must be authorized by a judge of the Superior Court of Quebec.

The organization or person filing the class action submits an *Application for Authorization to Institute a Class Action*. After the application is filed, the Court sets a hearing date.

At this hearing, the judge will hear the arguments of each party in order to determine whether four conditions are met:

- 1) The issues raised are sufficiently similar to be dealt with together;
- 2) The proposed class action appears to be well founded;
- 3) The composition of the group makes individual proceedings difficult or impractical;
- 4) The person or organization representing the group is capable of adequately defending the interests of the members.

If the Court finds that these conditions are met, it will authorize the class action and issue a written judgment that will be made public.

The authorization stage may be brief or may take several years, depending on the complexity of the case. Once the class action has been authorized, the lawyers begin preparing the case for trial.

### ⇒ Second stage: trial on the merits of the case

At the second stage, the Court examines what is known as the merits of the case. The Superior Court judge examines all aspects of the case in detail, hears testimony, reviews



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expert reports and documentary evidence presented by counsel for each party, and hears legal arguments.

This stage resembles any other trial, but class actions are often complex. Preparation may take several years, as the parties must gather substantial evidence to support their respective positions.

Disagreements may arise regarding certain documents or procedural steps. In such cases, the Court may intervene. Certain decisions may also be appealed, which may result in additional delays.

Special rules also apply to protect the interests of members, even if they do not participate directly in the trial.

⇒ **Third stage: final judgment and distribution of compensation**

After hearing the parties, the judge retires to write the judgment; this period is known as **deliberation**.

If the class action is successful, the Court determines:

- The compensation that members may receive;
- How that compensation will be distributed.

The distribution procedure varies **depending on several factors**:

- The amount to which each member may be entitled;
- The evidence required to establish eligibility;
- The costs associated with distribution.

The Court always selects the procedure that is in the best interests of the members.

Once judgment has been rendered, a party who believes it contains an error may appeal to the Quebec Court of Appeal and, if necessary, to the Supreme Court of Canada.



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Each appeal may take several years. Compensation is distributed only once all appeals have been exhausted.

**→ What if there is an out-of-court settlement?**

The parties may reach an agreement at any stage of the legal process.

Even if the group representative accepts the agreement, it must be submitted to a judge of the Superior Court of Quebec. The Court must verify that the agreement is fair, reasonable, and in the best interests of the members.

This ensures that members' rights are protected at every stage of the class action.



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## Who are the members of this class action?

The members of the class action are persons who meet the definition of the group proposed in the *Application for Authorization*, which must still be approved by the Superior Court of Quebec.

The current definition of the group appears in French in the official court proceedings, as follows:

« Toute personne en situation de handicap ayant participé à un atelier de travail, un plateau de travail et/ou un stage individuel relevant, ou étant supervisé, ou étant soutenu par le ministère de la Santé et des Services sociaux (MSSS) et/ou Santé Québec depuis le 17 novembre 2022. »

An **unofficial** English translation reads as follows:

"Any person with a disability who has participated in a workshop, work platform and/or individual internship relevant to, supervised by, or supported by the Ministère de la Santé et des Services sociaux (MSSS) (the Ministry of Health and Social Services) and/or Santé Québec since 17 November 2022."

In other words, you may be part of the class action (be a member of this class action) if:

⇒ You are a person with a disability;

**AND**

⇒ You have participated in a workshop, work platform, or individual internship relevant to, supervised by, or supported by the Ministry of Health and Social Services (MSSS) and/or Santé Québec since 17 November 2022.

Parents and family members representing these individuals may also participate in the class action and receive updates regarding its progress.



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## **I recognize my situation or that of a person I represent in the description of the group: how do I become a member of the class action?**

In Quebec, a person **automatically** becomes a member of a class action if they meet the definition of the group.

There is therefore nothing you need to do at this stage to become a member.

If the class action is successful, or if a settlement provides for compensation, each member will later be required to submit a claim if they wish to receive compensation. For now, however, no action is required.

## **I recognize my situation or that of a person I represent, but I do not wish to be part of or associated with this class action: what should I do?**

In Quebec, a person is automatically a member of a class action if they meet the definition of the group.

Being a member of the class action **does not** require a person to:

- claim compensation (if applicable);
- participate in legal proceedings;
- have their name associated with the class action, unless they testify or participate actively.

Some individuals may nevertheless wish to exclude themselves (opt out). The primary reason for opting out is generally to bring an individual action against the same defendant for the same alleged harm.

If the class action is authorized, the Court will establish an opt-out period. A notice explaining the opt-out procedure will then be published and distributed to members.



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## **Who is affected by this class action?**

This class action is brought against the Government of Quebec. Specifically, the Attorney General represents the Ministry of Health and Social Services (MSSS) and Santé Québec as defendants.

It is important to note that the class action is not intended to hold non-profit organizations or private companies liable.

According to the SQDI, the Quebec government bears primary responsibility because it designed, funded, coordinated, and maintained these programs as they currently exist, without a legal framework guaranteeing participants' rights and dignity, despite numerous warnings issued by various organizations.



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**I would like to read the application for authorization for this class action. Is that possible?**

Yes. The Application for Authorization to Institute a Class Action is a public document.

You can view it on the TJL website at the following address:

<https://tjl.quebec/en/class-actions/non-inclusive-socio-professional-programs/>



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## **I would like to receive updates on the class action. What should I do?**

If you wish to receive updates regarding this class action, you may **complete the form** available on the website of Trudel, Johnston and Lespérance, counsel for the group:

<https://tjl.quebec/en/class-actions/non-inclusive-socio-professional-programs/>

**You do not need to subscribe to receive updates in order to become a member of the group.** As explained above, you are automatically a member if you meet the definition of the group.

You can also subscribe to the newsletter even if you are not a member of the class action.

**If you have any other additional questions,** you may contact Trudel, Johnston & Lespérance using the contact information below:

750, Côte de la Place d'Armes, Suite 90  
Montréal (Quebec) H2Y 2X8

**T** 514 871-8385

**Toll free** 1-844-588-8385

**F** 514 871-8800

**info@tjl.quebec**



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## Who is Trudel Johnston & Lespérance (TJL)?

TJL is a law firm specializing in class actions and public interest litigation for more than 20 years. Several of its cases have resulted in landmark decisions, including before the Supreme Court of Canada.

TJL accepts only cases that contribute to advancing Quebec and Canada toward a **more just** society that **respects individuals**, their **health**, and the **environment**. Like the SQDI, TJL considers this class action to be an important human rights matter. Together, we believe this proceeding represents an important opportunity to change the law and improve the lives of persons with intellectual disabilities.

The firm represents groups historically marginalized or excluded from the justice system, including:

- women, Indigenous peoples, and racialized communities;
- persons with disabilities and migrants;
- workers and persons living in poverty or experiencing homelessness,
- survivors of institutional violence, among others.

Over the years, TJL has developed **inclusive** and **accessible** practices, for example:

- translations for predominantly Spanish-speaking groups;
- Quebec Sign Language interpretation services for deaf women;
- adaptation to the realities of incarcerated persons.

These practices demonstrate the firm's commitment to conducting complex litigation while taking into account the needs and realities of the communities it represents. In representing SQDI in this class action, TJL is committed to ensuring that all information relating to the proceeding is accessible to class members and their families.