

C A N A D A

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
(Class Actions)

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No.: 500-06-000972-196

JULIE TANNY

Applicant

v.

ROYAL VICTORIA HOSPITAL

and

MCGILL UNIVERSITY HEALTH  
CENTRE

and

ATTORNEY GENERAL OF CANADA

and

UNITED STATES ATTORNEY GENERAL

Defendants

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**APPLICATION OF THE ATTORNEY GENERAL OF CANADA  
FOR AUTHORIZATION TO SUBMIT RELEVANT EVIDENCE  
(ART. 574(3) CCP)**

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**TO THE HONOURABLE JUSTICE DOMINIQUE POULIN OF THE SUPERIOR COURT OF QUEBEC, DESIGNATED AS SPECIAL CASE MANAGEMENT JUDGE IN THE APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION IN THE PRESENT FILE, THE ATTORNEY GENERAL OF CANADA SUBMITS AS FOLLOWS:**

**Introduction**

1. The Respondent, the Attorney General of Canada (AGC), seeks leave to submit relevant evidence for the purpose of the hearing of the *Re-Amended Application to Authorize the Bringing of a Class Action and to Appoint the Applicant as Representative Plaintiff (Application)* dated March 25, 2022.

2. The AGC will oppose the Application on the basis that it does not meet the conditions set out in arts. 575(2) and (4) of the *Code of Civil Procedure (CCP)*.
3. The documentary evidence that the AGC wishes to produce consists of the affidavit of Méлина Robidoux and the following exhibits:
  - a. *en liasse* as **Exhibit AGC-1**: (i) Charles Tanny's application to the Allan Memorial Institute Depatterned Persons Assistance Plan (**AMI Plan**) to obtain an *ex gratia* payment of \$100,000, dated December 2, 1992, signed by his wife and curator May Tanny and witnessed by the Applicant, Julie Anne Gold; and (ii) a letter dated January 31, 1984 from Royal Victoria Hospital addressed to May Tanny in response to her request to access Charles Tanny's medical records;
  - b. **Exhibit AGC-2**: A letter *dated* December 8, 1992 from the Department of Justice Canada to Charles Tanny informing him that his application to the AMI Plan has been approved;
  - c. **Exhibit AGC-3**: A fax dated December 10, 1992 from Paula Tanny, Charles Tanny's daughter, to the Department of Justice Canada, attaching (i) a release signed by May Tanny in consideration for the *ex gratia* payment of \$100,000 to Charles Tanny, witnessed by the Applicant, Julie Gold, and (ii) a court document dated November 16, 1977 appointing May Tanny as her husband's curator.
4. This evidence is essential and indispensable to establish whether there is an arguable case (art. 575(2) CCP) and whether the Applicant can properly represent the class members (art. 575(4) CCP), more specifically whether the Applicant's personal claim is prescribed on the face of the proceedings and whether she can present a claim as a "successor" or "assign" of her father.
5. The proposed evidence is limited, not controversial, and proportionate in terms of the nature and scale of the proposed class action. It completes and fills a factual gap left by the allegations in the Application and allows the Court to have a better understanding of the factual context of the claim.

### **The Proposed Class Action**

6. As alleged in the Application, the Applicant seeks to institute a class action on behalf of the class described as follows (Application, paragraph 1):

*All persons who underwent depatterning treatment at the Allan Memorial Institute in Montreal, Quebec, between 1948 and 1964 using Donald Ewan Cameron's methods (the "Montreal Experiments") and their successors, assigns, family members, and dependents or any other group to be determined by the Court.*

7. The Application submits that the Canadian government provided funding for the "Montreal Experiments" between 1948 and 1964 through four (4) research grants awarded to Dr. Cameron by the Department of National Health and Welfare under its Mental Health Grant program and a fifth research grant by the National Research Council (paragraph 22).
8. The Application alleges that Dr. Cameron's former patients suffered physical, moral and emotional injuries due to the treatments they received at the Allan Memorial Institute (AMI), as well as damages for medical expenses, lost income and other pecuniary losses. The Application also claims damages on behalf of family members, dependents and successors of former AMI patients, including loss of support, guidance and companionship; physical, moral and emotional injuries; caregiving expenses; medical expenses and lost income. The Application seeks both compensatory and punitive damages (paragraph 286).
9. Among the broad range of faults alleged against the Defendants, the Application states:

*210. The Defendants had a duty to the Applicant and to the Class Members to abide by the rules of conduct, usage or law to ensure that patients at the Allan Memorial Institute were not experimented on without their informed consent and even had such consent been obtained (which it was not), that they were not experimented on with hazardous treatments that had no therapeutic benefit [...]*

*211. The Defendants had a duty to the Applicant and to the Class Members to (i) exercise reasonable care in their supervision and control of Cameron, (ii) ensure that research that they were funding or housing was not hazardous to human life and being performed in accordance with generally-accepted medical principles (including informed consent), (iii) ensure that they were not funding or housing and thus enabling, medical malpractice, assault, battery, false imprisonment, intentional or negligent infliction of emotional distress, and/or breaches of basic human rights.*

10. The Applicant, Julie Tanny, is the daughter of Charles Tanny, who was admitted as a patient at the AMI in 1957. The Application alleges that he was submitted to what is described as the “Montreal Experiments” (paragraphs 256-266).
11. The allegations in the Application which concern the Applicant’s individual action are found at paragraphs 250-282.
12. These paragraphs of the Application describe Charles Tanny’s consultations with physicians between 1950 and 1957 and treatments he received at the Montreal Neurological Institute and the AMI. This is followed by a description of the Applicant’s relationship with her father following his release from the hospital and the alleged consequences of his treatments at the AMI on the Applicant.
13. It is alleged that the Applicant suffered the loss of support, guidance, care, consortium, intimacy, stability, and companionship that she “might reasonably have received” but for the alleged damages caused by the “Montreal Experiments” to her father (paragraph 282).
14. The Application states that the Canadian government commissioned a report by George Cooper (**Cooper Report**) to investigate its funding of research at the AMI during the 1950’s and 1960’s and to advise whether it acted illegally or improperly in providing funding to Dr. Cameron. The Cooper Report was published in 1986 (paragraph 188).
15. The Application alleges that in a memorandum to the Canadian government, Mr. Cooper proposed an *ex gratia* payment to former patients who were depatterned at the AMI, conditional on the signing of a release. Following this, the Canadian government launched the Allan Memorial Institute Depatterned Persons Assistance Plan (**AMI Plan**), which authorized *ex gratia* payments of \$100,000 to depatterned persons who met certain conditions (paragraphs 201-204).

### **The Proposed Relevant Evidence**

16. **Exhibit AGC-1** contains documents related to Charles Tanny’s application to the AMI Plan:
  - a. Charles Tanny’s application to the AMI Plan to obtain an *ex gratia* payment of \$100,000, dated December 2, 1992, signed by his wife and curator May Tanny and witnessed by the Applicant, Julie Anne Gold;

- b. A letter dated January 31, 1984 from Royal Victoria Hospital addressed to May Tanny in response to her request to access Charles Tanny's medical records. The medical records were submitted with Charles Tanny's application to the AMI Plan, but the AGC is not seeking to file them as evidence for the authorization hearing.
17. **Exhibit AGC-2** contains a letter dated December 8, 1992 from the Department of Justice Canada to Charles Tanny informing him that his application to the AMI Plan has been approved.
18. **Exhibit AGC-3** contains a fax dated December 10, 1992 from Paula Tanny, Charles Tanny's daughter, to the Department of Justice Canada, attaching (i) the release signed by May Tanny in consideration for the *ex gratia* payment of \$100,000 to Charles Tanny, witnessed by the Applicant; and (ii) a court document dated November 16, 1977, appointing May Tanny as her husband's curator.
19. The proposed evidence completes and fills a factual gap left by the allegations in the Application and allows the Court to have a better understanding of the factual context of the claim. In particular, it demonstrates that Charles Tanny presented an application to the AMI Plan, that his application was accepted and that he received an *ex gratia* payment.
20. The proposed evidence will demonstrate that as of 1992, the Applicant was aware of all the essential elements giving rise to her claim against Canada, including her father's hospitalization and treatment at the AMI and the fact that the federal government provided funding to Dr. Cameron, as she was a witness to both Charles Tanny's application and the release signed on his behalf.
21. Additionally, the proposed evidence will show that under the terms of the release signed on behalf of Charles Tanny, his "heirs, executors, administrators, successors and assigns" release the Attorney General of Canada and Royal Victoria Hospital from any claims arising from "any injury, loss or damages arising from depatterning treatment of the releasor at the Allan Memorial Institute."

22. If allowed, this evidence will support arguments that (i) the Applicant’s personal claim against the AGC, as the family member of a former AMI patient, is statute-barred because she was aware of the legal facts giving rise to her claim in 1992; and (ii) the Applicant does not have a claim as a “successor” or “assign” of a former AMI patient due to the release signed on behalf of her father.
23. Thus, the proposed evidence is relevant to determining whether there is an arguable case (art. 575(2) CCP) and whether the Applicant can properly represent the class members (art. 575(4) CCP).

### **Conclusion**

24. The AGC’s proposed evidence is essential and indispensable for the Court to undertake an informed analysis of the authorization criteria set out in art. 575 CCP. The proposed evidence will allow the Court to assess whether the Applicant’s cause of action discloses an arguable case and whether the Applicant should be granted the status of representative plaintiff.
25. The proposed relevant evidence is limited, not controversial and proportionate, considering the scope of the proposed class action. It completes the allegations in the Application and provides factual and contextual information for the Court to have a better understanding of the claim. It is in the interests of justice that the Court benefit from this evidence at the authorization stage.

### **FOR ALL THESE REASONS, MAY IT PLEASE THIS COURT TO:**

**ALLOW** the Attorney General of Canada to submit the following evidence to be presented at the hearing of the *Re-Amended Application to Authorize the Bringing of a Class Action and to Appoint the Applicant as Representative Plaintiff*:

The **affidavit of Méлина Robidoux** and its exhibits:

- a) *en liasse* as **Exhibit AGC-1**: Charles Tanny’s application to the Allan Memorial Institute Depatterned Persons Assistance Plan (**AMI Plan**) to obtain an *ex gratia* payment of \$100,000, dated December 2, 1992, signed by his wife and curator May Tanny and witnessed by the Applicant, Julie

Anne Gold, which was accompanied by a letter dated January 31, 1984, from Royal Victoria Hospital to May Tanny in response to her request to access Charles Tanny's medical records;

- b) **Exhibit AGC-2:** Letter dated December 8, 1992 from the Department of Justice Canada to Charles Tanny informing him that his application to the AMI Plan has been approved;
- c) **Exhibit AGC-3:** Fax dated December 10, 1992 from Paula Tanny to the Department of Justice Canada, attaching (i) release signed by May Tanny in consideration for the *ex gratia* payment of \$100,000 to Charles Tanny, witnessed by the Applicant, Julie Gold; and (ii) a court document dated November 16, 1977 appointing May Tanny as her husband's curator;

**THE WHOLE** with costs to follow.

Montreal, January 30, 2025

*Attorney General of Canada*

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**ATTORNEY GENERAL OF CANADA**

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**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**SUPERIOR COURT  
(Class Actions)**

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**MCGILL UNIVERSITY HEALTH CENTRE**

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**ATTORNEY GENERAL OF CANADA**

**and**

**UNITED STATES ATTORNEY GENERAL**

Defendants

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**NOTICE OF PRESENTATION**

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**TO :**

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**TAKE NOTICE** that the *Application of the Attorney General of Canada for Authorization to Submit Relevant Evidence* shall be presented before the Honourable Justice Dominique Poulin of the Superior Court of the Montréal Courthouse situated at 1, Notre-Dame Street East, Montréal, the 27th day of February 2025, at 9:00 a.m., or as soon as counsel may be heard.

**PLEASE GOVERN YOURSELF ACCORDINGLY.**

Montreal, January 30, 2025

*Attorney General of Canada*

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*Counsel for the Respondent, Attorney General of Canada*

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**SUPERIOR COURT  
DISTRICT OF MONTREAL  
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**APPLICATION OF THE ATTORNEY  
GENERAL OF CANADA FOR  
AUTHORIZATION TO SUBMIT RELEVANT  
EVIDENCE (ART. 574(3) CCP)**

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**ORIGINAL**

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