

500-09-031368-251 – 500-09-031363-252 – 500-09-031364-250 – 500-09-031365-257 – 500-09-031366-255

COURT OF APPEAL OF QUÉBEC

Montréal

Appeal from a judgment of the Superior Court of Québec, District of Montréal, rendered on January 14, 2025 by the Honourable Justice Catherine Piché

N°: 500-09-031368-251 C.A.M. – 500-06-001225-230 C.S.M.

ROBERT GERALD MILLER

APPELLANT
(Defendants)

v.

S.N., B.N., and V.R.

RESPONDENTS
(Plaintiffs)

-and-

**HELMUT LIPPMANN
RAYMOND POULET
SAM JOSEPH ABRAMS
FUTURE ELECTRONICS INC.**

IMPLEADED PARTIES
(Defendants)

(Parties continued on subsequent pages)

RESPONDENTS' MEMORANDUM

Volume 1 of 3, pages 1– 34

Dated July 24, 2025

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Nº: 500-09-031365-257 C.A.M. – 500-06-001225-230 C.S.M.

SAM JOSEPH ABRAMS

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Nº: 500-09-031366-255 C.A.M. – 500-06-001225-230 C.S.M.

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v.

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RESPONDENTS
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and

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PART I: FACTS

1. This appeal concerns an alleged egregious scheme of juvenile prostitution perpetrated by one of Canada's wealthiest and secretive corporate executives, his corporation, and executives serving at his direction. As part of this scheme, teenage girls were lured, groomed, and given money and other compensation to engage in legally non-consensual sexual activity with Appellant Miller, constituting the criminal offences of sexual interference, sexual exploitation, invitation to sexual touching, sexual assault, and obtaining the sexual services of a minor for consideration – and to civil faults under arts. 1457 and 1463 C.C.Q.

2. The facts are as found by the Honourable Justice Catherine Piché, J.S.C. in the Judgment on Appeal¹ and are incorporated by reference for convenience and concision.

PART II: ISSUES IN DISPUTE

3. The Appellants raise the following issues:

- A. Did the Authorization Judge err in her application of art. 575(1) C.C.P.?
- B. Did the Authorization Judge err in her application of art. 575(2) C.C.P.?
- C. Did the Authorization Judge err in her application of art. 575(3) C.C.P.?
- D. Did the Authorization Judge err in her application of art. 575(4) C.C.P.?
- E. Did the Authorization Judge render a judgment in violation of the principles of procedural fairness and/or art. 342 C.C.P.?

4. The Respondents affirm that the answer to each question is negative.

PART III: SUBMISSIONS**STANDARD OF APPELLATE REVIEW**

5. The decision rendered by an application judge at the conclusion of the essentially procedural gatekeeping and filtering authorization stage is discretionary.² This Honourable Court recently reaffirmed the following principles for determining whether the Authorization Judge committed a reversible error in authorizing a class action:

¹ Judgment on Appeal.

² *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.*, [2019 SCC 35](#), at para. 10 [TAB 1] ("Oratoire"), citing *Vivendi v. Dell'Aniello*, [2014 SCC 1](#), at para. 34.

[28] Quant au rôle de la Cour d'appel, il est reconnu que le juge autorisateur possède une « importante marge de manœuvre »^[39] dans l'évaluation des conditions d'autorisation d'une action collective et qu'en conséquence, la Cour doit faire preuve d'une grande déférence à son endroit^[40]. Elle n'interviendra donc qu'en présence d'une erreur de droit ou d'une appréciation manifestement mal fondée des critères d'autorisation^[41].³

6. Further, even if the judge's assessment of the authorization criteria is legally incorrect or clearly wrong, "the Court of Appeal can substitute its own assessment... only for that criterion and not for the others..."⁴ An appeal of a judgment authorizing a class action is not a *de novo* hearing. This Honourable Court's bases for intervention are exceptionally narrow.

7. In the present case, the Authorization Judge did not err in law and her application of the authorization criteria in art. 575 C.C.P. is not "manifestement mal fondée."⁵ It is, rather, the Appellants' arguments that are manifestly unfounded. The appeal should be dismissed.

A – THE AUTHORIZATION JUDGE DID NOT ERR IN APPLYING ART. 575(1) C.C.P.

A.1 – The Authorization Judge Correctly Identified Several Common Questions

A.1.1 – Appellants' Joint Arguments Are Without Merit

8. Appellants' reliance on *Rozon c. Les Courageuses*, [2020 QCCA 5](#) [TAB 2] is entirely misplaced and misleading. First, the Authorization Judge correctly distinguished *Les Courageuses* from the present class action:

[217] Les défendeurs prétendent que la faute n'est pas la même pour chacune et que les trois groupes représentés par les trois demandresses n'ont pas les mêmes questions communes, se fondant sur le raisonnement du juge Hamilton dans l'arrêt *Les Courageuses*.

[218] **Or, trois aspects centraux différencient le présent dossier de celui de l'affaire *Les Courageuses*** : 1) des relations sexuelles interdites au criminel avec des mineures (peu importe le consentement) constitutives en soi de faute civile, 2) un stratagème mis en place pour les attirer et rendre leur consentement, déjà invalide^[119], encore plus douteux, et 3) la responsabilité des autres défendeurs à titre de complices ou de facilitateurs et de Future.⁶

9. Indeed, in *Les Courageuses*:

³ *Royer c. Capital One Bank (Canada Branch)*, [2025 QCCA 217](#) [TAB 3]; *Oratoire*, at para. 10 [TAB 5].

⁴ *Oratoire*, at para. 10 [TAB 1], citing *Vivendi*, at para. 35, and several other cases.

⁵ *Royer c. Capital One Bank (Canada Branch)*, [2025 QCCA 217](#), at para. 28 [TAB 3], citing several cases.

⁶ See also Plaintiffs' Argument Plan for Authorization, at paras. 312 to 326.

[81] **La présente affaire est particulière puisque l'action collective ne vise qu'un seul individu** pour des inconduites sexuelles alléguées à l'égard de nombreuses personnes sur une longue période de temps. Les tribunaux n'ont pas encore eu à déterminer si un recours pour des abus sexuels qui auraient été commis **par un seul individu** soulève une question identique, similaire ou connexe permettant l'exercice d'une action collective. (Emphasis added)

10. Second, the Authorization Judge did not conflate “les questions de droit ou de fait identiques similaires ou connexes” required under art. 575(1) and “les principales questions qui seront traitées collectivement” under art. 576 in identifying 16 common questions. Appellants completely misunderstand and misapply paragraph 77 of *Les Courageuses*. This paragraph which simply provides that “les principales questions qui seront traitées collectivement” are those that satisfy the requirements of art. 575 (1). In other words, art. 576 does not lessen the standard applying under art. 575(1).

11. Here, each of the common questions identified by the Authorization Judge is firmly anchored in the jurisprudence of this Honourable Court and of the Superior Court in cases involving claims of sexual violence. First is the Authorization Judge's following unimpeachable analysis:

[219] Je souligne également que **la Cour d'appel** a reconnu l'existence de questions communes dans un dossier d'action collective visant des élèves mineurs ayant été abusés par un ancien directeur d'une école reliée à une église, ainsi que des élèves mineurs ayant été abusés par ce même directeur au sein d'une école clandestine qu'il a subséquentement mise en place^[120], de même que dans un dossier d'action collective visant des joueurs de hockey qui, depuis 1969, avaient subi des abus alors qu'ils étaient mineurs et évoluaient au sein de la Ligue de hockey junior majeur du Québec^[121]. **La Cour déterminait dans le premier qu'il existait au moins une question commune, soit celle de savoir si le défendeur Guillot avait commis des fautes en infligeant des châtiments corporels à des enfants et à des adolescents**^[122]. Dans le deuxième dossier, la Cour jugeait que l'une des questions communes était de savoir s'il existait une négligence systémique au sein des défenderesses quant aux abus subis par les membres du groupe^[123].⁷

[220] Dans le présent dossier, la description du groupe implique des questions communes. **Ensuite, contrairement à l'affaire Les Courageuses, il existe plusieurs éléments du *modus operandi* ou du schème qui peuvent être déterminés de manière commune : l'objet des rencontres, le système et les conditions de recrutement, les étapes préliminaires aux rencontres, le type de lieu pour les rencontres, les conditions hygiéniques ou sanitaires**

⁷ See also paras. 319-324 of the Plaintiffs' Argument Plan for further comparison of *Guillot* and *Rozon*.

aux rencontres, les modalités de l'acte sexuel avec Miller, le système de rétributions monétaires ou matérielles et le rôle des acteurs.

[221] Dans le présent dossier, il s'agit de relations sexuelles non protégées avec des mineures – 46 filles, au moins –, pour rétribution, durant une période d'environ dix ans (généralement entre 1996 et 2006)^[124].

12. Significantly, in *M.L. c. Guillot*, [2021 QCCA 1450](#) [TAB 4] – which the Authorization Judge correctly applied – this Honourable Court overturned the Superior Court's refusal of authorization on the basis that it had misapplied *Les Courageuses*:

[17] La juge s'interroge sur l'impact de la description générale du groupe et retient des allégations de la demande d'autorisation que les appelants « présentent des situations tout à fait différentes, vécues à des époques très éloignées dans le temps et dont les gestes reprochés ne s'apparentent pas »^[14]. Se sentant liée par les enseignements de l'arrêt *Rozon c. Les Courageuses*^[15], elle conclut que les faits reprochés à Guillot devront faire l'objet d'une analyse individuelle^[16].

[18] Or, dans *Rozon*, la nature des gestes variait grandement d'une personne à l'autre, le contexte n'était pas toujours le même et la question du consentement se posait pour chaque membre individuellement. Quant au *modus operandi*, le seul élément qui, selon le juge Hamilton, pouvait être déterminé de façon commune était le statut de l'appelant, c'est-à-dire sa position de pouvoir et d'influence.

13. Paragraphs 222 to 238 of the Judgment on Appeal are also firmly grounded in this Honourable Court's jurisprudence and consequently unimpeachable. Indeed:

- The proposed common questions are appropriate even if 1) the incidents of sexual violence occurred over four decades; 2) if the amount of monetary or nature of other consideration given to each Class Member for exchanging in non-consensual sexual activity with Defendant Miller varied for each Class Member; 3) if not all incidents of sexual violence involved Defendants Lippmann, Abrams and/or Poulet; and 4) even if they took place at various locations;⁸
- Respondents' allegations concerning Appellants' violations of the *Criminal Code* give rise to common questions;⁹

⁸ *M.L. c. Guillot*, [2021 QCCA 1450](#), at paras. 17-21 [TAB 4]; *C.G. c. Ordre des Dominicains ou Frères prêcheurs*, [2023 QCCS 4415](#), at para. 91 [TAB 5]; *M.J. c. Frères de l'Instruction Chrétienne*, [2024 QCCS 1854](#), at para. 30 [TAB 6]; *Bégin c. Corporation archiépiscopale catholique romaine de Québec*, [2022 QCCS 1814](#), at para. 36 [TAB 7]; *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.*, [2019 SCC 35](#), at para. 18 [TAB 1]; *A.B. c. Religieux de St-Vincent-de Paul Canada*, [2021 QCCS 2405](#), at para. 59 [TAB 8].

⁹ *U.T. c. Centre intégré de santé et de services sociaux de Lanaudière*, [2023 QCCS 3180](#), at paras. 27, 55 [TAB 9], appeal allowed in part, but not on this point, in *U.T. c. Centre intégré de santé et de services sociaux de Lanaudière*, [2025 QCCA 157](#) [TAB 10].

- Whether Appellants Lippmann and Abrams were the subordinates of Future Electronics is a common question;¹⁰
- Whether Future Electronics is indirectly liable as principal for the faults of its subordinates Appellants Lippmann and Abrams under art. 1463 C.C.Q. is a common question;¹¹
- “la preuve de l’existence d’une pratique institutionnalisée et systémique... et d’un certain *modus operandi*” are questions common to all class members that are susceptible to “faire avancer de manière non négligeable ce débat...”¹²
- Respondents’ individual allegations concerning the solidarity of various combinations of Appellants is a common question;¹³
- Numerous class actions involving sexual assault¹⁴ – not limited to religious institutions as defendants¹⁵ – have recognized the following as common questions:
 - (1) the direct and indirect extracontractual liability of institutions for the sexual assaults committed by their subordinates;
 - (2) the nature and quantum of pecuniary, non-pecuniary and/or punitive damages that can be established at the collective stage; and
 - (3) the nature and quantum of pecuniary, non-pecuniary and/or punitive damages to be established by each class member at the stage of determining individual claims. These cases are not limited to religious institutions;
- The issue of whether any of the Respondents’ individual personal cases are prescribed is a common question – as is the question whether any of the Class Members were individually under a factual impossibility to act. This is true even if the latter question may lead to varying answers – which is not admitted in the present case;¹⁶
- The impossibility of lawful consent by the Respondents and all Class Members to the sexual violence at issue in the class action is a common question. In a conclusion affirmed by this Honourable Court, the Superior Court stated as follows:

¹⁰ See e.g., *J.B. c. Soeurs Grises de Montréal*, [2022 QCCS 964](#), para. 90 [TAB 11];

¹¹ *U.T. c. Centre intégré de santé et de services de Lanaudière*, [2025 QCCA 157](#), at paras. 6 e), 39 [TAB 10].

¹² *U.T. c. Centre intégré de santé et de services de Lanaudière*, [2025 QCCA 157](#), at para. 41 [TAB 10].

¹³ *U.T. c. Centre intégré de santé et de services de Lanaudière*, [2025 QCCA 157](#), at para. 47 [TAB 10].

¹⁴ See e.g., *G.C. c. Frères de la Charité*, [2023 QCCS 5209](#), at paras. 53-63 [TAB 12]; *A.B. c. Corporation épiscopale catholique romaine d’Amos*, [2023 QCCS 762](#), at paras. 107-114 [TAB 13]; *J.B. c. Soeurs Grises de Montréal*, [2022 QCCS 964](#), at para. 90, 109 [TAB 11]; *Bégin c. Corporation archiépiscopale catholique romaine de Québec*, [2022 QCCS 1814](#), at paras. 35-38 [TAB 7]; *N.M. c. Missionnaires Oblats de Marie Immaculée*, [2021 QCCS 4759](#), at para. 13 [TAB 14]; *Cormier c. Ville de Longueuil*, [2021 QCCS 3927](#), at para. 22 [TAB 15]; *A.B. c. Religieux de St-Vincent-de-Paul Canada*, [2021 QCCS 2405](#), at paras. 56-57, 69 [TAB 8]; *L’Oratoire Saint-Joseph du Mont-Royal v. J.J.*, [2019 SCC 35](#), at paras. 48-50 [TAB 1]; *A c. Frères du Sacré-Coeur*, [2017 QCCS 5394](#), at paras. 90-92.

¹⁵ See e.g., *Cormier c. Ville de Longueuil*, [2021 QCCS 3927](#), at para. 22 [TAB 15].

¹⁶ *U.T. c. Centre intégré de santé et de services de Lanaudière*, [2025 QCCA 157](#), at para. 39 [TAB 10].

[45] En ce qui concerne l'absence de consentement, c'est une question connexe à toutes les membres aussi. Les demanderesses allèguent une pratique systématique de stérilisation de la part des Médecins sans consentement de leurs patientes. Même si les Médecins plaident que l'analyse individuelle s'impose dans chaque cas, le Code de procédure civile n'exige pas une réponse commune, mais bien une question commune.¹⁷ (emphasis added)

- This Honourable Court affirmed the Superior Court as follows:

...le fait qu'il puisse bien sûr exister des nuances ou distinctions entre elles [class members], ou certaines spécificités individuelles et subjectives ne constitue pas un empêchement à cette détermination, surtout dans une perspective objective, comme ici, ou l'absence de consentement s'inscrit dans une pratique systématique...¹⁸ (emphasis added)

- In this case, the allegations concern a systematic scheme of juvenile prostitution. The answer cannot, by definition, vary: the Respondents and all Class Members were under the age of legal consent at the time the acts alleged occurred. No consent was legally possible. The answer does not change because Class Members will, at the stage of individual claims, have to show that they were underage at the time of the sexual violence. All class actions require class members to prove they are class members to be compensated. Appellants contrary arguments are meritless.

14. The Authorization Judge also correctly emphasized that “Le fait que certaines questions puissent trouver une réponse distincte ou individuelle ne change pas non plus la donne”¹⁹ and that “qu’il n’est pas nécessaire pour chaque membre du groupe d’avoir une cause d’action contre tous les défendeurs.”²⁰ Both principles are firmly anchored in the jurisprudence – as the cases cited by the Authorization Judge demonstrate. It is also ironic for the Appellants to accuse the Authorization Judge of having misinterpreted art. 575(1) C.P.C., which requires that the action raise “identical, similar or related issues of law or fact” – not only identical questions. Appellants’ joint arguments should be dismissed.

15. Alternatively, prior to concluding that the Application for Authorization does not raise a common, related or similar question for all Class Members, this Honourable Court must first consider segmenting the class description into sub-groups, each of which presents at

¹⁷ *U.T. c. Centre intégré de santé et de services sociaux de Lanaudière*, [2023 QCCS 3180](#), at para. 45 [TAB 9]. This Honourable Court allowed the appeal in part, *only to add additional common questions*: see *U.T. c. Centre intégré de santé et de services de Lanaudière*, [2025 QCCA 157](#) [TAB 10].

¹⁸ *U.T. c. Centre intégré de santé et de services de Lanaudière*, [2025 QCCA 157](#), at para. 41 [TAB 10].

¹⁹ Judgment on Appeal, at para. 212, citing *Watch Tower Bible and Tract Society of Pennsylvania c. A*, [2020 QCCA 1701](#), at para. 45 [TAB 16].

²⁰ Judgment on Appeal, at para. 213, citing *L'Oratoire Saint-Joseph*, at para. 44 [TAB 1]. See also *J.B. c. Soeurs Grises de Montréal*, [2022 QCCS 964](#), at para. 89 [TAB 11].

least one common question that will advance their collective claim in a non-negligible manner,²¹ though this was not necessary in the present case.

A.1.2 – Appellant Abrams' Arguments Are Without Merit

16. First, Appellant Abrams' arguments at paras. 14-15 of his Memorandum have nothing to do with art. 575(1) and the existence of common questions. Said arguments are properly addressed under art. 575(2) of the present Memorandum.

17. Second, the solidary liability of Appellant Abrams and Appellant Miller and the other Appellants was specifically pleaded,²² alongside the facts and evidence underlying these allegations.²³ Solidary liability is a common question under art. 575(1) C.P.C.²⁴ The balance of Appellant Abrams' arguments are addressed under "A.1.1 – Appellant's Joint Arguments Are Without Merit", above. Appellant Abrams has not shown that the Authorization Judge's application of art. 575(1) was legally wrong or manifestly unfounded.

A.1.3 – Appellant Poulet's Arguments Are Without Merit

18. Appellant Poulet has not demonstrated that the Authorization Judge's interpretation of art. 575(1) C.C.P. was legally wrong or manifestly unfounded. First, Appellant Poulet's arguments are patently contrary to the jurisprudence and principles identified under "A.1.1 – Joint Appellants' Arguments Are Without Merit".

19. Second, Appellant Poulet argues that the evidentiary standard for criminal behaviour is strict in both civil and criminal law cases – however, Appellant Poulet relies *on obiter dicta* from *Les Courageuses* discussing principles governing the admissibility of similar fact evidence to prove a fact in issue in a trial *on the merits*.²⁵ However, at the authorization stage, the plaintiffs' burden is one of demonstration – not persuasion – and questions of fact and mixed fact and law are not to be addressed at authorization.²⁶ As noted, allegations of

²¹ *M.L. c. Guillot*, [2021 QCCA 1450](#), at paras. 25-27, 31, 37 [TAB 4].

²² Fifth Amended Application for Authorization, at paras. 25, 55 i).

²³ Fifth Amended Application for Authorization, at paras. 25, 55 i), 42.1, 42.2, 42.7, 42.9 to 42.11, 42.23, Exhibits R-21, R-25, R-28, R-29, R-30, R-31, R-34, R-35, R-36, R-37, R-40, R-44, R-52, R-54, R-57, R-61, R-64, R-65, R-69, R-77, Applicants' Argument Plan for Authorization, at paras. 157 to 172 and 230 to 238.

²⁴ See e.g., *Ligue canadienne de hockey c. Latulippe*, [2024 QCCA 843](#), paras. 4, 14 [TAB 54]; *G.C. c. Frères de la Charité*, [2023 QCCS 5209](#), at paras. 53-63 [TAB 12].

²⁵ *Rozon c. Les Courageuses*, [2020 QCCA 5](#), at paras. 93-95 [TAB 2].

²⁶ *Allard c. Procureur général du Québec*, [2022 QCCA 686](#), at paras. 28 [TAB 22].

Criminal Code violations constituting a fault under art. 1457 C.C.Q. give rise to a common question – as the Authorization Judge correctly concluded.²⁷

20. Third, this Honourable Court held in *Les Courageuses* that punitive damages did not give rise to a common question *in the context of a class action involving a single individual*. By contrast, this Court has since authorized punitive damages under the *Quebec Charter* as a common question in class actions involving several defendants.²⁸ This Court also dismissed an application for leave to appeal a judgment authorizing a class action involving sexual violence including punitive damages as one of the common questions.²⁹

21. Fourth, Appellant Poulet's alleged participation in the juvenile prostitution scheme alongside Appellant Miller³⁰ – and also alongside Appellants Abrams, Lippman and/or Future Electronics³¹ – as well as their solidary liability³² constitute common questions under art. 575(1) C.P.C.³³ Once again, the fact that a common question may give rise to different answers does not displace that conclusion.³⁴

22. Fifth, the Authorization Judge's conclusion that the nature of Appellants' faults "ne varie pas véritablement d'un victime à l'autre" concerns the various sub-groups of victims who identify different Defendants *in addition to* Appellant Miller. The nature of Appellants Miller and Poulet's faults does not truly vary as concerns victims who identify them, even if other Appellants are also involved. The fact that other Class Members' causes of action do not concern Appellant Poulet does not defeat common questions concerning him and other Appellants. The jurisprudence is unequivocal.³⁵

23. Sixth, the precise extent of Appellant Poulet's participation in the juvenile prostitution scheme need not be defined at authorization – it is a question of fact to be addressed on the merits. Poulet's faults as part of this scheme give rise to a common question.

²⁷ *U.T. c. Centre intégré de santé et de services sociaux de Lanaudière*, [2023 QCCS 3180](#), at paras. 27, 55 [TAB 9], appeal allowed in part, but not on this point, in *U.T. c. Centre intégré de santé et de services sociaux de Lanaudière*, [2025 QCCA 157](#) [TAB 10].

²⁸ *U.T.*, [2025 QCCA 157](#), paras. 5, 6b), c) and d) [TAB 10], upholding *U.T.*, [2023 QCCS 3180](#), para. 44 [TAB 9]; *M.L. c. Guillot*, [2021 QCCA 1450](#), paras. 39.4 k) and l) [TAB 4].

²⁹ *Ligue canadienne de hockey c. Latulippe*, [2024 QCCA 843](#) [TAB 54], dismissing leave to appeal the judgment in *Latulippe c. Ligue canadienne de hockey*, [2024 QCCS 1207](#), see paras. 30-32 [TAB 23].

³⁰ Fifth Amended Application for Authorization, at paras. 28-35; Applicants' Argument Plan for Authorization, at paras. 210-229; R-76, R-17, R-18, R-23, R-26, R-33, R-38, R-39, R-42, R-51, R-54, R-55, R-58, R-62, R-9.

³¹ Exhibits R-19, R-40, R-52, R-60.

³² Fifth Amended Application, at paras. 25, 55 i), Applicants' Argument Plan for Authorization, paras. 230-238.

³³ *U.T. c. Centre intégré de santé et de services de Lanaudière*, [2025 QCCA 157](#), at para. 47 [TAB 10].

³⁴ *Watch Tower Bible and Tract Society of Pennsylvania c. A*, [2020 QCCA 1701](#), at para. 45 [TAB 16].

³⁵ *Oratoire*, at para. 44 [TAB 1]; *J.B. c. Soeurs Grises de Montréal*, [2022 QCCS 964](#), at para. 89 [TAB 11].

B – THE AUTHORIZATION JUDGE DID NOT ERR IN APPLYING ART. 575(2) C.C.P.

B.1 – Principles Governing Art. 575(2) C.C.P.

24. This Honourable Court recently summarized the principles governing art. 575(2) C.C.P. in *Royer c. Capital One (Canada Branch)*, [2025 QCCA 217](#) [TAB 3]:

[23] La Cour suprême a établi dans l'arrêt *Infineon Technologies AG c. Option consommateurs* que l'autorisation d'une action collective n'est pas l'occasion de faire un procès sur le fond, mais plutôt d'exercer un rôle de filtrage en écartant les recours frivoles ou manifestement mal fondés^[22]. Le seuil pour le représentant est donc peu élevé. Il lui suffit de démontrer une « cause défendable », une simple « possibilité » d'avoir gain de cause sur le fond suffit et non une possibilité « réaliste ou raisonnable »^[23]. De même, ces critères doivent être interprétés de manière large et généreuse afin de favoriser les objectifs de l'action collective que sont l'accès à la justice^[24], la dissuasion des comportements néfastes et l'indemnisation des victimes^[25].

[24] Pour assurer ce filtrage, la demande doit alléguer des faits « concrets, précis ou palpables » qui soutiennent de manière *prima facie* les prétentions du représentant et justifient les réclamations recherchées^[26]. Le juge peut prendre en considération tous les éléments de preuve déposés au dossier, notamment la preuve documentaire^[27] et si les faits du demandeur doivent être tenus pour avérés, celui-ci ne peut se contenter de fournir des affirmations non corroborées^[28] ou encore se satisfaire d'allégations vagues, générales et imprécises^[29].

[25] Bien que l'on puisse espérer que la demande d'autorisation soit rédigée avec soin et démontrer une vision maîtrisée et précise du recours intenté, l'on ne peut toutefois faire de la qualité rédactionnelle ou formelle de la procédure, laquelle découle du travail de l'avocat, un élément déterminant sans, dès lors, adopter une approche indûment formaliste et préjudiciable aux membres. L'on ne doit pas, en effet, adopter une lecture textuelle de la procédure, mais contextuelle^[30]. Le tribunal doit savoir « lire entre les lignes » de la demande d'autorisation, c'est-à-dire passer outre le caractère imparfait de certaines allégations dont le sens véritable ressort néanmoins^[31].

[26] La Cour suprême met donc en garde les juges autorisateurs contre les excès de littéralisme et de rigorisme dans l'analyse d'une demande d'autorisation qui ne correspond pas à la démarche souple, libérale et généreuse préconisée au stade des conditions d'autorisation^[32]. Il convient d'évaluer l'ensemble de la demande d'autorisation, plutôt que de s'arrêter sur un paragraphe ou un mot malencontreux, pour saisir le « sens véritable » de ses allégations^[33].

25. Importantly, “the applicant is not required to establish an arguable case in accordance with the civil standard of proof on a balance of probabilities, as the evidentiary

threshold for establishing an arguable case falls “comfortably below” that standard...”³⁶
The applicant’s burden is one of *demonstration* – not of persuasion.³⁷

B.2 – Analysis

B.2.1 – The Authorizing Judge Correctly Considered the 46 Declarations

26. Appellants’ joint position that the Authorization Judge erred in considering the 46 signed declarations in concluding that the Application for Authorization disclosed arguable causes of action is manifestly contrary to the jurisprudence.³⁸

27. It is trite law that an Application for Authorization is to be generously read in light of the facts alleged therein, the evidence adduced in support, and any inferences or presumptions of fact and law to which they give rise.³⁹ The declarations were incorporated by reference into the Application for Authorization and form part of the “assise factuelle” in the context of which the Respondents’ respective allegations are to be assessed.

28. It is also trite law that plaintiffs can file evidence in meeting their burden of demonstration even if this evidence would not be admissible at trial *per se*.⁴⁰ This includes hearsay evidence.⁴¹ The Authorization Judge repeatedly cautioned that she was not determining the declarations’ evidentiary weight⁴² – which would have been an error of law. It is clear law that plaintiffs’ allegations must be taken as averred. The Authorization Judge correctly held that the Respondents met their burden of *demonstration* and asserted arguable causes of action against the Appellants on the basis of their allegations, the evidence tendered in support – including the 46 declarations – and the legal and factual inferences to be drawn therefrom.⁴³

29. Appellants are misleading this Honourable Court in stating that the Authorization Judge erred in law and “contradicted judgments already rendered in the present case” in admitting the 46 declarations. No court has “ruled that no anonymous materials could be

³⁶ *L’Oratoire Saint-Joseph du Mont-Royal v. J.J.*, [2019 SCC 35](#), at para. 58 (majority reasons) [TAB 1], citing *Infineon Technologies AG v. Option consommateurs*, [2013 SCC 59](#) at paras. 127, 65, 89, 94 [TAB 17].

³⁷ *Oratoire*, at para. 58 [TAB 1].

³⁸ *Oratoire*, at para. 60 [TAB 1].

³⁹ *Oratoire*, at paras. 24, 60, 69 [TAB 1]; *Royer c. Capital One Bank (Canada Branch)*, [2025 QCCA 217](#), at para. 24 [TAB 3].

⁴⁰ See e.g., *Haroch c. Toronto-Dominion Bank*, [2023 QCCA 1282](#), at paras. 14-15 [TAB 18].

⁴¹ *Haroch*, at paras. 14-15.

⁴² Judgment on Appeal, at paras. 58, 61-62.

⁴³ Judgment on Appeal, at paras. 33, 122-138.

used in these proceedings”;⁴⁴ Justice Immer held *anonymous affidavits* were impermissible.⁴⁵

30. To comply with this, the undersigned Class Counsel had the anonymous affidavits re-signed and re-filed as *anonymous declarations that are not affidavits* in addition to amending the Application for Authorization to incorporate them by reference therein. This was expressly held to be permissible by Justice Immer in *S.N. c. Miller*, [2024 QCCS 113](#):

[41] [...] Le tableau et les renseignements qu'il comprend peuvent s'inscrire, de prime abord, dans la foulée de ce qui a été autorisé dans *Oratoire* où les renseignements recueillis par les avocats du groupe étaient anonymisés. Quel poids le Tribunal doit donner à ces déclarations, vu qu'elles sont anonymes et qu'elles relatent potentiellement des situations différentes de celle dans laquelle se trouvait la demanderesse, sera débattu lors de l'audience sur l'autorisation.
[...]

[44] Cela étant, le Tribunal souligne que le fait que ces déclarations soient signées n'en fait pas un témoignage, ni ne rehausse, leur crédibilité. Le Tribunal considère qu'elles ne servent qu'à alléger la demande qui autrement devrait contenir les 51 récits relatés dans les déclarations et que leur contenu est donc incorporé par référence pour fins de commodité. Le Tribunal les traitera donc comme des allégations.

[45] Or, ces déclarations ne sont pas de la preuve à proprement parler, la demanderesse n'ayant qu'un fardeau de démonstration. La partie demanderesse n'est pas limitée « à invoquer des pièces qui seraient recevables en preuve lors de l'instruction au fond ». Le Tribunal devra, à l'audience sur l'autorisation, leur donner « plus ou moins de poids selon leur utilité dans l'analyse du caractère soutenable du syllogisme juridique proposé ».

31. As these paragraphs show, Justice Immer expressly authorized the filing of the anonymous declarations, considered them incorporated by reference into the Application for Authorization, and declared them to be allegations to be assessed at authorization to determine whether the Respondents met their simple burden of persuasion.

32. Appellants are misleading this Honourable Court in failing to highlight authority that directly contradicts their submissions. Misleading arguments of this kind are littered throughout Appellants' joint and individual submissions – which should be carefully

⁴⁴ Joint Memorandum of Appellants, at para. 29.

⁴⁵ *S.N. c. Miller*, [2024 QCCS 113](#), at paras. 21-30 [TAB 19]; Judgment on Appeal, at paras. 55-56.

reviewed for additional misrepresentations of the facts and law. Appellants have essentially launched a collateral attack on Justice Immer's judgment, which is an abuse of process.⁴⁶

33. Overall, Appellants' arguments are meritless. The 46 declarations were correctly admitted and used by the Authorization Judge in applying the authorization criteria.

B.2.2 – The Authorizing Judge Correctly Rejected Appellant Miller's Evidence

34. The Judge correctly applied the law governing defense-led evidence at the authorization stage and correctly concluded that Appellant Miller's argument plan expressly sought to use the alleged "Declaration" to contradict Resondent V.R.'s allegations.⁴⁷

35. The Judge did not err in concluding that admitting the alleged "Declaration" would give rise to a contradictory debate – which would have been inappropriate and impermissible at the authorization stage.⁴⁸ The moment the evidence sought to be adduced by a class action defendant at authorization is "contestée ou simplement contestable," it is impermissible at this stage.⁴⁹

36. It is trite law that "la vérification de la véracité des allégations de la demande relève du fond"⁵⁰ and that "[e]vidence that may be challenged with regards to its truthfulness... or probative value should not be filed or considered at the authorization stage."⁵¹ And yet, Appellants – not limited to Miller – state that the alleged "Declaration" should have been admitted because it is "indispensable in demonstrating the falsity and contradictions of the allegations contained in the Application for Authorization as they pertain to V.R."⁵² Appellants' position is completely incompatible with the jurisprudence.

37. Further, the Authorization Judge did not invent "a purely hypothetical scenario" in rejecting the alleged "Declaration". As Appellants' themselves state, the Authorization Judge's statements at paras. 45 and 51 reflect submissions made by Class Counsel at the

⁴⁶ See e.g., *A. c. Directrice de la protection de la jeunesse du CIUSSS A*, [2022 QCCS 2272](#), at para. 73.

⁴⁷ Judgment on Appeal, paras. 41-53.

⁴⁸ See e.g., *Durand c. Subway Franchise Systems of Canada*, [2020 QCCA 1647](#), at paras. 51-52 [TAB 20].

⁴⁹ *Durand*, at para. 54, 51-52.

⁵⁰ See e.g., *Ward c. Procureur général du Canada*, [2021 QCCS 109](#), at para. 17 [TAB 21]; *Option Consommateurs c. Samsung Electronics Canada Inc.*, [2017 QCCS 1751](#), at para. 11 [TAB 22]; *Lauzon c. Municipalité régionale de comté (MRC) de Deux-Montagnes*, [2019 QCCS 4650](#), at para. 37 [TAB 23].

⁵¹ *Karras c. Maple Leaf Foods Inc.*, [2024 QCCS 1664](#), at para. 12.6. [TAB 24], citing *Association pour la protection automobile (APA) c. Banque de Montréal*, [2021 QCCA 676](#), at paras. 62 and 67; and *Durand c. Subway Franchise Systems of Canada*, [2020 QCCA 1647](#), at paras. 51 to 54 [TAB 20].

⁵² Appellants' Joint Arguments, at para. 31.

authorization hearing that Respondent V.R.'s declaration was produced under fear and duress in questionable circumstances.⁵³

38. The alleged "Declaration" purports to reflect an interview conducted with Respondent V.R. by Garda World Security, who was retained by Me Suzanne H. Pringle in the context of Appellant Miller's divorce proceedings from his now ex-wife.

39. The police report produced by the Service policier de la Communauté urbaine de Montréal contains a summary of the alleged "Declaration" and states that V.R. reported "qu'elle a été sous surveillance pendant 24 heures chez elle et qu'ils [une fille et un policier] sont même allés la reconduire à son travail puisqu'elle avait très peur." As well, V.R. "est très énervée au téléphone et un homme chicane derrière elle et elle raccorche deux fois."⁵⁴

40. In this light, it does not lie in the Appellants' mouth to characterize Class Counsel's submissions as hypothetical or the Authorization Judge's conclusions as "pure conjecture," when the submissions were part of the undersigned Class Counsel's arguments for rejecting the alleged "Declaration". Fundamentally, Appellants attempt to displace the grounds that Class Counsel identified and will further develop at trial to contest the alleged "Declaration"'s admission, veracity, credibility, and reliability in order to have it admitted at authorization. This is impermissible.

41. Finally, the alleged "Declaration" was not accompanied by a sworn statement contrary to arts. 101 and 574 C.C.P.⁵⁵ As well, the person who took the statement, Leeanne Bastos Couto, testified before the Authorization Judge that the alleged "Declaration" was written after Responent V.R. gave her statement – and not contemporaneously as she spoke – by a person who was not present during the questioning using notes prepared by Ms. Couto.⁵⁶ As well, Respondent V.R. never signed the alleged "Declaration".⁵⁷

42. The alleged "Declaration" is completely unreliable, is not credible, and does not satisfy the basic requirements for admission at the authorization stage (or even on the merits). The Authorization Judge correctly rejected it and would have erred in not doing so.

⁵³ Defendant's Application for Leave to Appeal From a Judgment Authorizing a Class Action, paras. 47-49.

⁵⁴ "Declaration of V.R." and "police report/notes" in "Joint Memorandum of the Appellants" at pp. 403 and 414.

⁵⁵ *Hand c. Denso International America Inc.*, [2021 QCCS 1671](#), at paras. 39-53 [TAB 25].

⁵⁶ "Transcript of Authorization Hearing" in "Joint Memorandum of Appellants", at p. 477. See also pp. 433-479.

⁵⁷ "Declaration of V.R." in "Joint Memorandum of the Appellants", at p. 403. See also pp. 478-479.

B.2.3 – Appellant Poulet's Arguments Are Without Meritless

43. The Authorization Judge correctly held that Respondents S.N. and B.N. had met their respective burdens of demonstration that their personal causes of action against Appellant Poulet are not frivolous.⁵⁸

44. The allegations made by Respondents S.N. and B.N.⁵⁹ are sufficiently concrete and palpable and must be taken as true. Further, the Authorization Judge highlighted the 15 signed declarations⁶⁰ from Class Members that specifically mention Appellant Poulet as a participant in Appellant Miller's scheme, and the extent to which that participation supports S.N. and B.N.'s allegations that Appellant Poulet's conduct engaged s. 152, 212(1) and 21(1)(b) of the *Criminal Code* and art. 1457 C.C.Q.⁶¹

45. Sections 152 and 212(1) C.Cr. respectively pertain to the offences of invitation to sexual touching⁶² and procuring, while 21(1)(b) C.Cr. is concerned with Appellant Poulet aiding Appellant Miller in committing the offences of sexual interference, invitation to sexual touching, sexual exploitation, and obtaining and communicating for the purposes of obtaining sexual services from a person under 18. The Authorization Judge also correctly applied the irrebuttable presumption that sexual violence automatically causes significant legally-cognizable injuries to victims.⁶³

46. Respondents S.N. and B.N.'s allegations concerning *Criminal Code* violations are validly part of their personal arguable causes of action under art. 1457 C.C.Q. because "the standards provided for in statutes and regulations... must be analysed in light of the basic concept of civil fault."⁶⁴ Of course, extracontractual liability is a question of mixed fact and law⁶⁵ and is to be addressed on the merits on the basis of evidence – not at authorization.

⁵⁸ Judgment on Appeal, at paras. 148-154.

⁵⁹ Fifth Amended Application for Authorization, at paras. 1-10, 28-35; Applicants' Argument Plan for Authorization, at paras. 210-229.

⁶⁰ Exhibits R-76, R-17, R-18, R-19, R-23, R-26, R-33, R-38, R-39, R-40, R-42, R-51, R-52, R-54, R-55, R-58, R-60, R-62.

⁶¹ Judgment on Appeal, at paras. 148-154.

⁶² An invitation may be to touch another person sexually, ex: Poulet inviting S.N. & B.N to sexually touch Miller

⁶³ Judgment on Appeal, para. 153, citing *Oratoire Saint-Joseph*, at para. 74 [TAB 1].

⁶⁴ *St. Lawrence Cement Inc. v. Barrette*, [2008 SCC 64](#), at paras. 33-34 [TAB 26].

⁶⁵ *St-Jean c. Mercier*, [2002 SCC 15](#), at para 104 [TAB 27]; *Benhaim v. St-Germain*, [2016 SCC 48](#), at para 92.

47. As well, the Authorization Judge correctly cited the CBC/Radio-Canada programs⁶⁶ *Enquête* and *The Fifth Estate* as part of the “assise factuelle” furthering S.N. and B.N.’s respective personal causes of action against Appellant Poulet. The episodes of *Enquête* features pictures of Appellant Poulet as well as an on-screen phone call placed by reputed reporter Brigitte Noel in which Appellant Poulet claims to be unaware of allegations concerning his participation in Appellant Miller’s alleged child prostitution network. Note that episodes of *Enquête* and *The Fifth Estate* can be used to support S.N. and B.N.’s allegations and, therefore, their personal arguable causes under art. 575(2) C.C.P.⁶⁷

48. As well, on or about July 11, 2025, Appellant Poulet was arrested by the SPVM on 10 criminal charges including sexual assault of a person under 14, sexual touching, and inducing prostitution of a person under 18 during the class period and as part of his participation in Appellant Miller’s odious scheme of juvenile prostitution.⁶⁸ This is known as a matter of judicial notice and further strengthens Respondents B.N. and S.N.’s allegations. It is trite law that the issuance of a warrant by a court of competent jurisdiction must satisfy a basic legal standard anchored in objective evidence of criminal wrongdoing.

49. Overall, the Authorization Judge correctly held that the factual allegations, significant evidence, and inferences of fact and law that may be drawn from them against Appellant Poulet reveal “une simple possibilité d’avoir gain de cause sur le fond,” which does not require “une possibilité ‘réaliste’ ou ‘raisonnable’”⁶⁹ The low threshold for individual arguable cases was met by Respondents S.N. and B.N. Appellant Poulet’s arguments are meritless.

B.2.4 – Appellant Lippmann’s Arguments are Without Merit

50. The Authorization Judge correctly held that Respondent S.N. had met her burden of demonstration that her personal individual cause of action against Appellant Lippmann is arguable and not frivolous.

⁶⁶ Exhibits R-1A Viewable at: <https://www.youtube.com/watch?v=ax3xuzvJwew>, R-2A Viewable at: https://www.youtube.com/watch?v=F_LHTA95aj8, and R-7A.

⁶⁷ *Watch Tower Bible and Tract Society of Pennsylvania c. A*, 2020 QCCA 1701, at paras. 37, 47 [TAB 16]; *Oratoire*, at para. 77 [TAB 1].

⁶⁸ SPVM, “Mise à jour de l’enquête sur Robert Miller : le SPVM arrête un autre suspect”, July 11, 2025, Viewable at : <https://spvm.qc.ca/fr/Communiqués/Détails/16069>; Le Devoir, “Le bras droit de Robert Miller fait face à des accusations de proxénétisme et d’attouchement sexuel sur mineur,” July 11, 2025, Viewable at: <https://www.ledevoir.com/societe/justice/899776/bras-droit-robert-miller-face-accusations-proxenetisme-attouchement-sexuel-mineur>.

⁶⁹ *Oratoire*, at para. 5 [TAB 1].

51. First, Respondent S.N. makes specific allegations against him in the Application for Authorization beyond those identified in his Memorandum.⁷⁰ Second, the Authorization Judge correctly read the Application for Authorization in light of the facts alleged therein and of the inferences or presumptions of fact and law to which they give rise. In addition to S.N.'s allegations, the Judge highlighted the two declarations from Class Members that specifically mention Appellant Lippmann as a participant in Appellant Miller's scheme.⁷¹

52. The Authorization Judge also highlighted evidence adduced by S.N.,⁷² including the investigative report identifying Appellant Lippmann at 380 Olivier St. during the class period,⁷³ and the episode of *Enquête* about the "Réseau Miller" that specifically identifies Appellant Lippman as one of its participants.⁷⁴ As noted, media coverage – like *Enquête* – is an appropriate "assise factuelle" to support a plaintiff's allegations in class actions involving sexual violence.⁷⁵

53. The Judge did not err in concluding that this evidence supports S.N.'s allegations that Appellant Lippmann's conduct engaged ss. 21(b)(1) and 23(1) of the *Criminal Code* and art. 1457 C.C.Q.⁷⁶ The Judge further correctly held that "violence sexuelle" includes "**l'exposition** à des 'gestes à caractère sexuel, avec ou sans contact physique' et sans nécessité que l'agissement constitue une infraction criminelle"⁷⁷ and that Appellant Lippmann's conduct exposed S.N. and other Class Members to sexual behaviour committed by Appellant Miller. This is sufficient for an arguable case for faults under art. 1457 C.C.Q.

54. Indeed, 22 Class Members refer to sexual contact with Appellant Miller occurring at 380 Olivier St. when it was rented by Appellant Lippmann and the rent paid by Appellant Future Electronics – or at a condominium rented by Appellant Lippmann.⁷⁸ This directly

⁷⁰ Fifth Amended Application for Authorization, paras. 12, 19, 20, 24, 24.2 à 24.4, 31, 35, 46.1, 47, 55, 58; Applicants' Argument Plan for Authorization, paras. 119 to 133, 173 to 183, 185 to 189, 191, 200, and 209.

⁷¹ Exhibits R-31, R-53.

⁷² Exhibits R-48, R-12, R-13, R-49, R-50.

⁷³ Exhibit R-50.

⁷⁴ Judgment on Appeal, paras. 155-163.

⁷⁵ *Watch Tower Bible and Tract Society of Pennsylvania c. A*, [2020 QCCA 1701](#), at paras. 37, 47 [TAB 16].

⁷⁶ Judgment on Appeal, paras. 155-163.

⁷⁷ Judgment on Appeal, paras. 95.

⁷⁸ Exhibits R-19, R-22, R-27, R-28, R-29, R-30, R-31, R-32, R-35, R-36, R-52, R-53, R-57, R-59, R-60, R-63, R-64, R-65, R-66, R-67, R-68, R-69.

supports S.N.'s allegation that Appellant Lippmann paid her rent during a part of the time that she was a victim of sexual violence by Appellant Miller.⁷⁹

55. Allegations that Appellant Lippmann paid S.N.'s rent and also rented the property at 380 Olivier St. at the time Appellant Miller allegedly committed sexual violence against other young girls at that location are sufficient to contend that he aided, abetted, and/or assisted Appellant Miller as an accomplice to his acts under s. 21(b) of the *Criminal Code*.

56. As Appellant Lippmann continued to make the home available to Appellant Miller after initial incidents of sexual violence, and as Appellant Lippmann never reported Appellant Miller to the authorities, Respondent S.N.'s allegations are also sufficient to advance at the authorization stage that Appellant Lippmann also provided Appellant Miller with assistance after the fact, including for the purpose of enabling him to avoid or escape legal sanction under art. 23(1) of the *Criminal Code*.

57. Contrary to Appellant Lippmann's erroneous approach, the ultimate answer to each and both of these questions involves questions of mixed fact and law to be determined on the merits on the basis of evidence – not at the authorization stage. At this stage, S.N.'s burden is one of demonstration and the syllogism she advances is manifestly not frivolous.

58. Any uncertainty on Class Counsel defining Appellant Lippmann's role in the "Réseau Miller" should not be surprising and in no way undermines Respondent S.N.'s syllogisms concerning said Appellant. It is indeed the direct result of the informational disequilibrium that all class counsel and representative plaintiffs find themselves at the authorization stage and that must be kept in mind in reviewing S.N.'s allegations.⁸⁰ This is precisely why questions of fact and questions of mixed fact and law are not to be decided at authorization – no discovery or examinations have been conducted.

59. Overall, the Judge correctly held that S.N.'s allegations, evidence, and inferences of fact and law that can be drawn from them against Appellant Lippmann reveal "une simple possibilité d'avoir gain de cause sur le fond" – which does not require "une possibilité 'réaliste' ou 'raisonnable'"⁸¹ Appellant Lippmann's arguments are patently meritless.

⁷⁹ Fifth Amended Application, at para. 31.

⁸⁰ *Sibiga c. Fido Solutions inc.*, [2016 QCCA 1299](#), at paras. 73-76 [TAB 28].

⁸¹ Judgment on Appeal, paras. 79-80.

B.2.5 – Appellant Abrams' Arguments Are Without Merit

60. The Judge correctly held that Respondents B.N. and V.R. met their burden of demonstration that their personal causes of action against Appellant Abrams are arguable.⁸²

61. In addition to the allegations made by B.N. and V.R.,⁸³ the Judge highlighted the 18 signed declarations⁸⁴ from Class Members and other evidence⁸⁵ that specifically mention Appellant Abrams as a participant in Appellant Miller's alleged scheme. The Judge also correctly held that this evidence supports B.N. and V.R.'s allegations that Appellant Abrams' conduct engaged s. 152, 153, 212(4), s. 21(1)(b), (c) and 23(1) of the *Criminal Code* and art. 1457 C.C.Q.

62. Sections 152 and 212(1) C.Cr respectively pertain to the offences of invitation to sexual touching and procuring, while 21(1)(b) C.Cr. is concerned with Abrams aiding Appellant Miller in committing the offences of sexual interference, invitation to sexual touching, sexual exploitation, and obtaining and communicating for the purposes of obtaining sexual services from a person under 18. Significantly, Appellant Abrams was used by Appellant Miller “pour détenir un compte bancaire utilisé pour les dépenses de M. Miller”⁸⁶ – which was likely a source of cash payments given by Miller to Class Members.

63. The pertinence of *Criminal Code* violations in determining the existence of extracontractual faults under art. 1457 C.C.Q. is well recognized in the doctrine and jurisprudence.⁸⁷ The Judge also correctly applied the irrebuttable presumption that sexual violence automatically causes significant cognizable injuries to victims.⁸⁸ Whether Appellant Abrams' conduct amounts to a fault is determined at trial.

64. The balance of Appellant Abrams' arguments concern conclusions on questions of fact and mixed fact and law – neither of which can be addressed at authorization.

⁸² *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.*, [2019 SCC 35](#), para. 24 [TAB 1].

⁸³ Fifth Amended Application for Authorization, at paras. 12, 42.1, 42.2, 42.12, 42.13, 42.15, 42.23; Exhibit R-77; Applicants' Argument Plan for Authorization, at paras. 119-133, 157-172, 185-191, 204-206.

⁸⁴ Exhibits R-21, R-25, R-28, R-29, R-30, R-31, R-34, R-35, R-36, R-37, R-40, R-44, R-52, R-57, R-61, R-64, R-65, R-69.

⁸⁵ Including Exhibits R-1A, R-6, R-50.

⁸⁶ *A.B. c. Miller*, [2025 QCCS 1048](#), at para. 42 [TAB 30].

⁸⁷ *Charron c. Cloutier*, [2023 QCCQ 3119](#), at paras. 64-65 [TAB 31]; *U.T. c. Centre intégré de santé et de services sociaux de Lanaudière*, [2023 QCCS 3180](#), at paras. 27, 55 [TAB 9], appeal allowed in part on other points in *U.T. c. Centre intégré de santé et de services sociaux de Lanaudière* [2025 QCCA 157](#) [TAB 10].

⁸⁸ Judgment on Appeal, paras. 139-147 and 153, citing *Oratoire*, para. 74 [TAB 1].

65. Further, the personal arguable cases against Appellant Abrams disclosed in Respondents B.N. and V.R.'s allegations, the evidence supporting them, and the legal and factual inferences and presumptions to be drawn from them are bolstered by this Court's judgment in *A.B. c. Miller*, [2025 QCCA 850](#), released July 10, 2025 [TAB 29].

66. This Honourable Court concluded that Appellant Abrams acted on Appellant Miller's behalf to attempt to settle a civil lawsuit brought by another of Appellant Miller's alleged victims. Appellant Abrams contacted the alleged victim to offer a settlement after she attempted to contact Appellant Miller, and Appellant Abrams paid this woman \$45,000 in 18 instalments of \$2,500 from October 26, 2022 and January 13, 2023. This occurred after the alleged victim informed Appellant Abrams that she had been contacted by a journalist from Radio-Canada to take part in the *Enquête* documentary concerning the Appellants.⁸⁹

67. After the episode of *Enquête* aired on February 2 and 9, 2023, Appellant Abrams informed the alleged victim that he would no longer be sending her money electronically on Appellant Miller's behalf but invited her to Montreal to receive a "full and final payment" from Appellant Miller. Appellant Abrams provided the alleged victim with an address upon her arrival in Montreal. That address was of the offices of Me Karim Renno, Appellant Miller's lawyer, who was present with Appellant Abrams.

68. Me Renno – who remains Appellant Miller's lawyer – then presented the alleged victim with a "projet de transaction" in which she would accept a full and final payment in exchange for renouncing her right to file a civil lawsuit against Appellant Miller.⁹⁰

69. These findings upheld by this Honourable Court further bolster the allegations of existing factual underpinnings of Respondents B.N. and V.R. concerning Appellant Abrams.

B.2.6 – Appellant Future Electronics' Arguments Are Without Merit

70. The Authorization Judge correctly held that the Respondents' respective allegations were sufficiently precise and concrete to disclose individual personal arguable cases concerning Appellant Future's direct and indirect liability under arts. 1457 & 1463 C.C.Q.⁹¹

B.2.6.1 – Future Electronic's Direct Liability

⁸⁹ *A.B. c. Miller*, [2025 QCCA 850](#), at paras. 1-5 [TAB 29].

⁹⁰ *A.B. c. Miller*, [2025 QCCA 850](#), at paras. 5-6 [TAB 29].

⁹¹ Judgment on Appeal, paras. 164-178.

71. Appellant Future's arguments concerning its direct liability consist of substantive defences to allegations of fact and mixed fact and law made against them. It is trite law that no defences or questions of this nature are to be determined at the authorization stage.⁹² Their submissions are therefore to be wholly disregarded and given no weight whatsoever.

72. In essence, the individual faults alleged to have been directly committed by Appellant Future against the Respondents consist of providing money and resources and/or paying for locations in which some or all of the sexual violence perpetrated against the Respondents by Appellant Miller took place – namely hotel rooms and the house at 380 Olivier St.

73. As Appellant Miller has never had a bank account in his own name,⁹³ it is inevitable that the payment of the hotel rooms and of the rent at 380 Olivier St. prior to its purchase by Appellant Miller's numbered company was made by Appellant Future Electronics. Appellant Miller was the CEO of Appellant Future Electronics at all relevant times and these actions are Appellant Future Electronics' own by virtue of the doctrine of corporate attribution of liability for the acts of directing minds.⁹⁴

74. Note that the corporate attribution doctrine applies in criminal law⁹⁵ and in the Quebec law of extracontractual civil liability,⁹⁶ referred to as the *théorie de l'attribution d'actes à une société* or the *théorie de l'alter ego*. Appellant Miller was clearly Appellant Future Electronics' directing mind until the day he resigned following CBC coverage about his alleged illicit acts.

75. Respondents' allegations are supported by evidence and by the inferences and presumptions of fact and law that may be drawn from them against Appellant Future Electronics. In covering parallel individual proceedings against Appellant Miller, the *Montreal Gazette* reported that evidence in that case includes a statement made in court by

⁹² See e.g., *Carrier c. Québec (Procureur général)*, [2011 QCCA 1231](#), at para. 34 [TAB 32].

⁹³ In a judgment rendered on November 15, 2024 in *A.B. c. Robert Gerald Miller et al.*, S.C.M. 500-17-125100-233, the Honourable Justice Gaudet J.S.C. noted that it is "troubling to learn that the defendant, Miller, a billionaire, does not have a bank account in his name and that elsewhere, there has been persistent use of (other people) to hide assets in Miller's name." (as reported in an article published in The Montreal Gazette entitled "Two Westmount homes owned by billionaire Robert Miller seized," published November 19, 2024 Viewable at: <https://www.montrealgazette.com/news/article567407.html>). Justice Gaudet's judgment was subsequently overturned, but not on this point: *A.B. c. Miller*, [2025 QCCS 1048](#) [TAB 30].

⁹⁴ *Aquino v. Bondfield Construction Co.*, [2024 SCC 31](#), at paras. 57-74, 82 [TAB 33].

⁹⁵ *Aquino*, paras. 63, 65-67, citing *Canadian Dredge & Dock Co. v The Queen*, [\[1985\] 1 SCR 662](#), at 691, 701.

⁹⁶ See e.g., *Général accident compagnie d'assurance du Canada c. Miscou motel ltée*, [\[1999\] RJQ 330 \(QCCA\)](#) [TAB 34]; *Brunet c. Axa Assurances inc.*, [2016 QCCA 832](#), at para. 27 [TAB 35].

Appellant Abrams that “Mr. Miller does not have a bank account. Not one.”⁹⁷ The Superior Court later held: “M. Miller n’a soudainement fermé ses comptes bancaires à la suite de l’introduction des procédures. En effet, cette situation perdure depuis 40 ans...”⁹⁸

76. At the authorization stage, this provides a factual basis to the allegations that monies used by Appellant Miller originated from Appellant Future Electronics – who paid for the hotels and rent directly, rather than from said Appellant Miller, at least some of the time; effectively, Appellant Miller mingled personal and corporate assets.

77. Respondents S.N., B.N. and V.R. make direct allegations that monies originating from Appellant Future Electronics was used to pay for the hotel rooms⁹⁹ and the rent at 380 Olivier St.¹⁰⁰ at the time Appellant Lippmann was renting it – the locations in which they were allegedly the victims of sexual violence by Appellant Miller. Other Class Members make similar allegations.¹⁰¹ The evidence is clear that the rent at 380 Olivier St. at the time it was rented out by Appellant Lippmann – but used by Appellant Miller for the illicit conduct as alleged in this class action – was paid for by Appellant Future Electronics and that 380 Olivier St. was later purchased by Appellant Miller’s company using a prête-nom.¹⁰²

78. Respondents B.N. and V.R.’s respective allegations – which must be taken as true – advance individual arguable cases concerning Appellant Future Electronics committing extracontractual faults against them by way of its direct involvement in acts and events of sexual violence allegedly perpetrated by Appellant Miller. The provision of monetary and other resources for the purpose of facilitating sexual exploitation, sexual interference, invitation to sexual touching and other forms of sexual violence is a fault under art. 1457 C.C.Q.

B.2.6.2 – Future’s Electronic’s Indirect Liability

79. The Authorization Judge correctly concluded that the Respondents’ respective allegations were sufficiently precise and concrete to disclose individual personal arguable cases concerning Appellant Future Electronics’ indirect liability for the faults of its subordinates Appellants Lippmann and Abrams – acting at the direction, for the benefit, or

⁹⁷ Quotation appears in the Montreal Gazette article identified at footnote 95.

⁹⁸ *A.B. c. Miller*, [2025 QCCS 1048](#), at paras. 42-44 [TAB 30].

⁹⁹ Application for Authorization, paras. 14, 18, 32-36, 42.2, 42.8, 42.9, 42.10; Exhibit R-60, paras. 1-10.

¹⁰⁰ Application for Authorization, paras. 14, 19, 42.2, 42.13; Exhibit R-60, paras. 1-10; Exhibit R-29, para. 7.

¹⁰¹ See all Exhibits mentioned in Annex A – Table of Victims and Perpetrators.

¹⁰² Exhibits R-48 and R-48.

otherwise on behalf or under the control of its former CEO, Appellant Miller. Significantly, Appellant Future Electronics was at all relevant times a privately-held corporation, owned 100% by Appellant Miller, through his various holding companies.

80. First, the Authorization Judge correctly declined to follow Quebec cases limiting indirect liability to institutions with a caregiving or supervisory vocation under a so-called “*théorie du risque*.” This “enterprise risk theory” is taken directly from the Supreme Court of Canada’s **common law precedent** in *Bazley v. Curry*, [1999] 2 R.C.S. 534 [TAB 36], which relies on the common law’s requirement of a duty of care for an institution’s vicarious liability in negligence for the fault of their employees or other subordinates.¹⁰³

81. Under this theory, an institution’s vocation as supervisory or caregiving is relevant to determining whether there is sufficient proximity between its activity or enterprise and the tortious conduct in respect of which it is alleged to be vicariously liable.¹⁰⁴ Without proximity, no duty of care can arise and no liability in tort is possible.¹⁰⁵

82. Duty of care, proximity, and the enterprise risk theory of liability are completely absent from the text of arts. 1457 and 1463 C.C.Q. Instead, a duty to act reasonably in all circumstances is codified into the Quebec law of extracontractual liability.¹⁰⁶ This Honourable Court has never endorsed the common law theory set out in *Bazley*. It has been applied, incorrectly, in two judgments of the Superior Court relied upon by Appellant Future Electronics.¹⁰⁷ This Honourable Court is not bound by these judgments under any theory of *stare decisis* and should expressly repudiate them as incorrectly decided.

83. Limiting the application of arts. 1457 and 1463 C.C.Q. for indirect liability to situations in which an institution has a caregiving or supervisory vocation would undermine the legislator’s intent and distort Quebec law. This Honourable Court recently emphasized that “le droit civil québécois, tout particulièrement en matière de responsabilité civile, participe de sa propre logique et technique qui se distinguent de celles du système de *torts* de la

¹⁰³ See *Bazley*, cited in *Lachance c. Institut séculier Pie X*, 2021 QCCS 1064, paras. 197-204 [TAB 37].

¹⁰⁴ *Bazley*, at paras. 18-19.

¹⁰⁵ *K.L.B. v. British Columbia*, 2003 SCC 51, at para. 20 [TAB 38].

¹⁰⁶ *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64, para. 21 [TAB 26].

¹⁰⁷ *Goodwin c. Commission scolaire Laurenval*, [1991] R.R.A. 673 (CS QC); *Lachance*, at paras. 194-204.

common law. Dès lors, l'on doit être plus que prudent avant d'adopter un raisonnement propre à la technique de la *common law*.”¹⁰⁸ (emphasis added)

84. Appellant Future's argument also results in institutions not having a caregiving or supervisory vocation being essentially immune from indirect liability notwithstanding conduct by subordinates that would be unreasonable and therefore a fault under art. 1457 C.C.Q. This result is not only absurd, extremely unreasonable, inequitable, and illogical, it is incompatible with the regime of extracontractual liability codified in the C.C.Q. and defeats its overall purpose. As such, the theory advanced by Appellant Future Electronics could clearly not have been intended by the legislator.¹⁰⁹ If arts. 1457 and 1463 C.C.Q. were intended to be limited as Appellant Future Electronics suggests, the legislature would have expressly said so. It did not. Courts cannot circumvent this intent.¹¹⁰

85. Further, the Authorization Judge correctly held that whether or not Appellants Lippmann and Abrams were the subordinates of Appellant Future Electronics and/or acting for the benefit of Appellant Future Electronics or its former CEO Appellant Miller is a question of mixed fact and law to be determined at trial on the basis of evidence – not at the authorization stage. Finally, “the most important criterion to be met for the purpose of [indirect liability] is control, supervision and direction by the principal in relation to the subordinate and his or her activities.”¹¹¹ Note that *L'Oratoire* involved the Oratoire's direct and indirect liability. Respondents' personal causes of action based on direct and indirect liability are consistent therewith.

B.2.7 – Conclusion

86. The Authorization Judge did not err in law and her application of art. 575(2) C.C.P. is not “manifestement mal fondée”¹¹² in respect of all Appellants. A contrary conclusion as to one Appellant does not undermine the Respondents' respective personal arguable causes of action against other Appellants – each must be analyzed individually. In any event, Appellants' submissions are meritless and this ground of appeal should also be dismissed.

¹⁰⁸ *Royer c. Capital One Bank (Canada Branch)*, [2025 QCCA 217](#), para. 18 [TAB 3].

¹⁰⁹ *Rizzo & Rizzo Shoes Ltd. (Re)*, [\[1998\] 1 S.C.R. 27](#), at para. 27 [TAB 39], most recently cited in *Pepa v. Canada (Citizenship and Immigration)*, [2025 SCC 21](#), at para. 102.

¹¹⁰ *McDiarmid Lumber Ltd. v. God's Lake First Nation*, [2006 SCC 58](#), para. 39 [TAB 40].

¹¹¹ *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.*, [2019 SCC 35](#), at paras. 19, 72, 183 [TAB 1].

¹¹² *Royer c. Capital One Bank (Canada Branch)*, [2025 QCCA 217](#), at para. 28 [TAB 3], citing several cases.

C – THE AUTHORIZATION JUDGE DID NOT ERR IN APPLYING ART. 575(3) C.C.P.

87. Contrary to their contentions, the Appellants' argument that the Authorization Judge "omit[ted] to rule on the existence of two separate classes" is not to be considered under art. 575(3) C.C.P. It is to be dealt with under art. 575(4). The Appellants are essentially challenging the Respondents' adequacy as representative plaintiffs for the class and the sub-groups it contains. This has nothing to do with art. 575(3) C.C.P.

88. If the contrary is true, the Appellants' arguments under art. 575(3) are without merit for the same reason they are meritless under art. 575(4) – addressed below. Art. 575(3) is concerned with whether "the composition of the class makes it difficult or impractical to apply the rules for mandates... or for consolidation of proceedings" – not with whether the representative plaintiffs are adequate representatives for sub-groups within the class.

89. Further, the Appellants' argument that "the second class would be comprised of only three women (Madams 42, 45, and 46)" is manifestly unfounded. First, the 46 anonymized declarations do not comprise the entire class. Numerous declarations make reference to other young girls who were present during the incidents of sexual violence these specific declarations refer to.¹¹³ Fifty-one (51) total class members have contacted the undersigned class counsel. It is estimated that the total number of Class Members is much higher. Not all Class Members have approached the undersigned law firm or signed declarations. This is their right and a key advantage of the class action procedural vehicle.

90. Indeed, class actions are preferred vehicles under art. 575(3) C.C.P. when involving allegations of sexual violence as they protect the anonymity of class members, contrary to the mechanisms of mandate and joinder of actions. Victims wishing to maintain their anonymity simply do not have a realistic possibility of seeking legal redress other than by way of the present class action.¹¹⁴ This also answers Appellant Miller's repeated and manifestly unfounded argument that anonymity undermines his right to defend himself.

91. This Honourable Court has also held that coverage of incidents of sexual violence on *Enquête* – as in this case – supports the class action as the appropriate procedural vehicle,

¹¹³ Exhibits R-17, R-17, R-18, R-19, R-20, R-21, R-22, R-23, R-24, R-25, R-26, R-27, R-28, R-30, R-31, R-32, R-35, R-36, R-37, R-39, R-40, R-42, R-44, R-51, R-52; R-54, R-55, R-56, R-57, R-59, R-60, R-61, R-62, R-64, R-65, R-66, R-67, R-68, R-69. See also Annex A – Table of Victims and Perpetrators.

¹¹⁴ *G.C. c. Frères de la Charité*, [2023 QCCS 5209](#), at paras. 71-72 [TAB 12]. See also *A c. Frères du Sacré-Cœur*, [2017 QCCS 34](#), at paras. 71 and 79 [TAB 41], cited in *Oratoire Saint-Joseph*, at para. 32 [TAB 1].

as it facilitates the identification of class members, some of whom may choose to come forward at the stage of individual claims once the class action is decided or settled.¹¹⁵

92. Appellants' arguments are also manifestly contrary to judgments of this Honourable Court and of the Supreme Court of Canada. In particular, this Court stated as follows in *J.J. c. L'Oratoire Saint-Joseph du Mont-Royal*, [2017 QCCA 1460](#) [TAB 42]:

[49] À ce sujet, je trouve particulièrement pertinents les commentaires suivants des auteures et professeures Nathalie Des Rosiers et Louise Langevin que je n'hésite pas à faire miens :

[...] si le recours collectif est dirigé contre un établissement, fréquenté par plusieurs personnes et pour des gestes posés sur une longue période de temps, il nous apparaît que le nombre possiblement élevé de victimes potentielles, bien qu'inconnu au début des procédures, justifie pleinement l'exercice d'un recours collectif. Il se peut qu'une seule victime se manifeste, et qu'elle décide d'exercer un recours collectif en son nom et celui de toutes les autres victimes. Si un enseignant ou un prêtre l'a agressée pendant un an, et qu'il a oeuvré auprès de l'établissement pendant quelques années, n'est-il pas logique de conclure que d'autres enfants ont pu subir le même sort? Il importe peu à notre avis que cinq, dix, cinquante ou cent victimes se joignent au recours collectif une fois qu'il est autorisé. Bien qu'au départ, ce nombre ne puisse être déterminé, le recours collectif devrait être autorisé pour favoriser l'accessibilité à la justice aux victimes de violence sexuelle, qui doivent déjà surmonter d'énormes difficultés dans l'exercice de leurs recours individuels. [emphasis added]

93. The Supreme Court endorsed the same citation in *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.*, [2019 SCC 35](#), at para. 8 [TAB 1].¹¹⁶ Appellants are bound by these cases.

94. Third, the Appellants' rigid, sterile, and acontextual approach is patently contrary to the social justice and access to justice objectives of class actions, generally,¹¹⁷ and as concerns victims of sexual violence, specifically.

95. It must not be forgotten that "le recours collectif est susceptible d'aider les victimes, qui sont particulièrement vulnérables,"¹¹⁸ and that this vulnerability may be the precise reason why they have chosen to remain anonymous, and why others have yet to come

¹¹⁵ *Watch Tower Bible and Tract Society of Pennsylvania c. A*, [2020 QCCA 1701](#), at para. 47 [TAB 16].

¹¹⁶ See also *B. c. Frères Maristes*, [2022 QCCS 3833](#), para. 23 [TAB 43] and *A.B. c. Clercs de Saint-Viateur du Canada*, [2022 QCCS 2484](#), para. 81.

¹¹⁷ *Royer c. Capital One Bank (Canada Branch)*, [2025 QCCA 217](#), para. 24 [TAB 3], citing several cases.

¹¹⁸ *J.J. c. L'Oratoire Saint-Joseph du Mont-Royal*, [2017 QCCA 1460](#), at para. 49 [TAB 42]; *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.*, 2019 SCC 35, at para. 8 [TAB 1]

forward to participate at the present stage of the class action. In any event, there are more than “2 to 3” class members, and more may come forward after this appeal is dismissed.

D – THE AUTHORIZATION JUDGE DID NOT ERR IN APPLYING ART. 575(4) C.C.P.

D.1 – Joint Appellants’ Arguments are Meritless

96. The Authorization Judge did not “omit to rule on the existence of two separate classes.”¹¹⁹ The Authorization Judge correctly held that the class definition contains sub-groups that together comprise the class in respect of which the class action was authorized.

97. The class definition set by the Authorization Judge is as follows:

« Toutes les personnes qui, alors qu’elles étaient âgées de moins de 18 ans, ont fourni des services sexuels en échange d’une rétribution, et/ou ont été victimes d’exploitation sexuelle, et/ou ont été victimes d’incitation à des contacts sexuels de la part de Robert G. Miller, Raymond Poulet, Sam Joseph Abrams, Helmut Lippmann et/ou Future Electronics Inc. »¹²⁰

98. Importantly, the Authorization Judge actually modified the class definition proposed in the Application for Authorization and provided the following explanation – which expressly communicates her awareness of the existence of sub-groups therein:

[210] D’abord, même si je modifie légèrement le groupe pour lequel l’action est autorisée pour le préciser, cela ne change pas le fait qu’à mon avis, le groupe proposé par les codemanders dans leur demande est clair et suffisamment précis; il correspond aux allégations sérieuses de la demande et permet aux victimes de s’y associer, dans la mesure où elles :

- ont subi des actes de violence sexuelle de la part de Miller et/ou de l’un des défendeurs alors qu’elles étaient mineures;
- ont fourni, moyennant rétribution, des services sexuels pour Miller et/ou ont communiqué avec une tierce personne dans le but de fournir de tels services; ou
- ont été victimes de contacts sexuels ou incitées à fournir des gestes sexuels de la part de Miller et/ou de l’un des défendeurs alors qu’elles étaient mineures;

[211] Ainsi, la définition est uniforme et non circulaire, même si certaines des questions devront être répondues sur une base individuelle. **Entre autres, il faudra répondre à la question de l’âge et de la date des événements pour identifier lequel des actes criminels a été commis.** De plus, certains incidents impliquent, en plus de Miller, Poulet et/ou Abrams et/ou Lippmann et/ou Future uniquement. [...]

¹¹⁹ Joint Memorandum of the Appellants, at Subheading D. and paras. 40-44.

¹²⁰ Judgment on Appeal at paras. 308-309.

[231] Il est vrai que les victimes devront au mérite démontrer leur âge au moment des événements, et que cet âge impliquera l'application de l'un ou l'autre des articles du [Code](#) criminel. **Mais au stade de l'autorisation, savoir si Miller a obtenu des services sexuels auprès de mineurs pour rétribution est une question commune significative qui fera avancer le litige de manière non négligeable. Les défendeurs tentent de confondre le présent exercice d'autorisation avec celui du mérite qui exige de faire la preuve de l'existence de l'infraction pénale.** [emphasis added]

99. These paragraphs unequivocally show that the Authorization Judge knew precisely that there were different sub-groups within the general class whose causes of action were based on civil faults flowing from the violation of different *Criminal Code* provisions contingent upon Class Members' age of minority at the time the offences occurred. The Appellants' joint contrary arguments (paras. 40-41) are patently meritless.

100. The Authorization Judge did not err in law and her application of art. 575(4) is not “manifestement mal fondée.”¹²¹ Instead, it perfectly applies and aligns with the jurisprudence holding that an authorization judge may authorize a class action in respect of a class that also contains sub-groups whose causes of action, injuries, and identified defendants need not be identical. In particular, the “intérêt juridique” to be an adequate representative does not require an identity of causes of action with all Class Members.¹²² Indeed, “le recours personnel du représentant” does not need to be “un modèle type de celui de tous les membres ou même de la majorité de ceux ci.”¹²³

101. Further, a plaintiff who holds an arguable personal cause of action under art. 575(2) is an adequate representative under art. 575(4) even if sub-groups could advance other causes of action – including against different defendants. As per this Honourable Court:

[49] [...] Même si l'intimée n'allègue pas avoir été agressée sexuellement par un Ancien et ne fait donc pas partie de l'un des sous-groupes, un nombre important de questions que le litige soulève est commun aux deux sous-groupes et l'intimée paraît être en mesure d'offrir une représentation adéquate, compte tenu de sa situation personnelle, du fait qu'elle est une ancienne membre des Témoins de Jéhovah, issue d'une famille qui adhère aux enseignements qui y sont prodigués et en l'absence de conflit d'intérêts.¹²⁴ (emphasis added)

102. This is directly applicable to the present case.

¹²¹ *Royer c. Capital One Bank (Canada Branch)*, [2025 QCCA 217](#), at para. 28 [TAB 3], citing several cases.

¹²² *Lambert (Gestion Peggy) c. Écolait ltée*, [2016 QCCA 659](#), at para. 69 [TAB 44]; *U.T. c. Centre intégré de santé et de services de Lanaudière*, [2025 QCCA 157](#), at para. 22 [TAB 10].

¹²³ *Royer*, at para. 28 [TAB 3], citing *Poitrass c. Concession A25*, [2021 QCCA 1182](#), at para. 79.

¹²⁴ *Watch Tower Bible and Tract Society of Pennsylvania c. A*, [2020 QCCA 1701](#), at para. 49 [TAB 16].

D.2 – Appellant Abrams' Arguments Are Without Merit

103. Appellant Abrams challenges the Respondents' representation, on the basis of their interest in the class action as concerns him specifically. However, as concerns Appellant Abrams, the Authorization Judge correctly held that:

- each of the Respondents' respective allegations and evidence produced in support thereof disclose individual arguable cases against Appellant Miller;
- the Respondents B.N. and V.R.'s respective allegations and evidence produced in support disclose individual arguable cases against Appellant Abrams in respect of his role and faults committed in the context of the alleged scheme involving Appellant Miller and other named Appellants;¹²⁵

104. Significantly, the legal interest to be an adequate representative under art. 575(4) does not require an identity of causes of action with all Class Members. Even if such identity obviously satisfies the “legal interest” requirement, it is sufficient that the representative plaintiff's personal arguable case is “une cause défendable qui est similaire ou connexe avec celle des membres du groupe.”¹²⁶

105. As such, even if some Class Members may have causes of action against Appellant Miller and other Appellants instead of against Appellants Miller and Abrams specifically, Respondents are still adequate representatives for the entire class. Appellant Abrams' refusal to adhere to decided cases does not mean that he is not bound by them.

E – THE AUTHORIZATION JUDGE DID NOT VIOLATE NATURAL JUSTICE

106. Appellant Lippmann's argument that the Authorization Judge breached the principles of natural justice or art. 342 C.C.P. in mentioning art. 2858.1 C.C.Q. in her judgment is meritless. This ground of appeal should also be dismissed.

107. Art. 2858.1 C.C.Q. deems stereotypes and myths presumptively inadmissible in proceedings involving sexual violence. Despite receiving Royal Assent on December 4, 2024,¹²⁷ the substantive content of this article is not new. Even before its enactment, inferences based on myths and stereotypes were prohibited under art. 2857 C.C.Q.¹²⁸

¹²⁵ See also *Champagne c. Subaru Canada inc.*, [2018 QCCA 154](#), at para. 22 [TAB 45].

¹²⁶ *Lambert (Gestion Peggy) c. Écolait Itée*, [2016 QCCA 659](#), at para. 69 [TAB 44].

¹²⁷ *Rozon c. P.T.*, [2025 QCCA 432](#), at para. 3 [TAB 46].

¹²⁸ *A.C. c. Rozon*, [2025 QCCS 63](#), at paras. 76-78, 84-85 [TAB 47], citing art. 2849 C.C.Q., several judgments, and Catherine Piché, *La preuve civile*, 6e éd, Yvon Blais, 2020, pp. 151-152.

108. As well, the myths and stereotypes prohibited under art. 2858.1 enact into the C.C.Q. are the same as those that the Supreme Court of Canada has repeatedly held to be impermissible in criminal trials for sexual offences.¹²⁹ Several Quebec judgments in civil cases preceding the judgment under appeal even applied the Supreme Court's precedents in holding myths and stereotypes inadmissible in civil cases involving sexual violence.¹³⁰

109. Significantly, the Respondents' Argument Plan expressly referred to several of these Supreme Court precedents in "contextualizing and understanding the devastating and deleterious injuries suffered by survivors of sexual violence."¹³¹ These precedents make express reference to the impermissibility of myth-based reasoning and inferences in proceedings involving sexual violence.

110. Respondents' Argument Plan was, of course, served to all Appellants long before the authorization hearing. It is presumed that Appellant Lippmann read the Respondents' Argument Plan before the hearing and they have included it in their Appeal Record. As a result, under no circumstances can it reasonably be concluded that Appellant Lippmann – or any other Appellant – was denied procedural fairness or natural justice. Indeed, no other Appellant aside from Appellant Lippman has advanced this argument.

111. In addition, art. 342 C.C.P. was not infringed. Even if the Authorization Judge had raised art. 2858.1 with Appellant Lippmann subsequent to the Respondents' email on this topic, the fact that this article codifies precedents rendered prior to its enactment means that Appellant's arguments would inevitably have been the same as any he could have made in response to the paragraphs of the Respondents' Argument Plan addressing them.

112. Further, while the Authorization Judge makes reference to art. 2858.1 C.C.Q., she does not apply it in any material way and there is no indication that it influenced her reasoning in the judgment. As well, Appellant Lippmann made no request to present oral or written submission on art. 2858.1, making his argument appear like an *ex post facto* pretext. Had Appellant made such a request, and the Judge refused to hear arguments, this ground

¹²⁹ A.C. c. Rozon, [2025 QCCS 63](#), at paras. 78, 80 [TAB 47].

¹³⁰ X. c. Paquet, [2023 QCCS 1351](#), par. 38, 83, 85 [TAB 48]; Herman c. Zajdel, [2023 QCCS 5251](#), par. 310-317, 327, 357 [TAB 49]; C.T. c. Dudek, [2022 QCCS 4860](#), par. 19-20 [TAB 50]; L.W. c. D.W., [2022 QCCS 1728](#), par. 231-242 [TAB 51]; F. c. Frères du Sacré-Coeur, [2021 QCCS 792](#), par. 19 [TAB 52].

¹³¹ Applicants' Argument Plan, at para. 123-126, citing R. v. J.J., [2022 SCC 28](#), at paras. 132; R. v. D.R., [2022 SCC 50](#); R. v. A.R.J.D., [2018 SCC 6](#); R. v. Kruk, [2024 SCC 7](#), at paras. 31, 34, 36, 37, 41, 42, 43 [TAB 53].

of appeal would at least be plausible. Appellant Lippmann's memorandum does not even identify what arguments he would have made on art. 2858.1 at first instance.

113. **Finally**, eventual constitutional challenges to art. 2858.1 C.C.Q. are inconsequential. Unless and until art. 2858.1 is constitutionally invalidated, Quebec courts must apply it without reserve.¹³² It is true that this Honourable Court granted leave to appeal in *Rozon c. P.T.*, [2025 QCCA 281](#). However, the judgment under appeal had nothing to do with the constitutionality of art. 2858.1 C.C.Q. and the judgment holding that art. 2858.1 is of immediate application was never appealed. As well, after leave was granted in the present appeal, this Honourable Court dismissed the appeal in *Rozon* under art. 365(2) C.C.P. after leave was granted for having no reasonable chance of success. This Court expressly held that any constitutional challenge to art. 2858.1 C.C.Q. would be heard at the conclusion of the trial at first instance.¹³³ The constitutionality of art. 2858.1 – which is not before this Court, and has never been decided by any other court – is therefore irrelevant.

114. The appeals should be dismissed. The Judge did not err in law and her application of each of the authorization criteria in art. 575 C.C.P. is not “manifestement mal fondée.”¹³⁴ It is regrettable that the Representative Plaintiffs and Cass Members have seen justice being delayed over a frivolous appeal. This Honourable Court can now allow the class action to proceed on the merits and ensure that justice is not denied any longer.

PART IV: CONCLUSIONS

THE RESPONDENTS ASK THIS HONOURABLE COURT OF APPEAL TO:

DISMISS the appeal;

CONDEMN the Appellants to pay legal costs both in first instance and on appeal;

Montreal, July 24, 2025



CONSUMER LAW GROUP INC.

Per: Me Jeff Orenstein

Attorneys for the Respondents – Representative Plaintiffs

¹³² *Endean v. British Columbia*, [2016 SCC 42](#), at para. 79.

¹³³ *Rozon c. P.T.*, [2025 QCCA 432](#), at paras. 5, 21-22 [TAB 53].

¹³⁴ *Royer c. Capital One Bank (Canada Branch)*, [2025 QCCA 217](#), at para. 28 [TAB 3], citing several cases.

PART V: AUTHORITIES**CASE LAW****Paragraph(s)**

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