

[UNOFFICIAL TRANSLATION]

C A N A D A
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

No: 500-06-001221-239

SUPERIOR COURT
(Class Action Division)

C., having elected domicile at the offices of his attorneys, Kugler Kandestin LLP, located at 1 Place Ville Marie, Suite 1170, in the City and District of Montreal, Province of Québec, H3B 2A7

Plaintiff

vs.

PHILLIP (HART) BAUGNIET, domiciled and residing at 1121 Woodstock Avenue, Apartment #1, Victoria, British-Colombia, V8V 2R2

-and-

CENTRE DE SERVICES SCOLAIRE DE MONTRÉAL, a legal person, with its place of business situated at 180-5100 Sherbrooke Street East, Montreal, District of Montreal, Province of Québec, H1V 3R9

-and-

ENGLISH-MONTREAL SCHOOL BOARD, a legal person, with its place of business situated at 6000 Fielding Avenue, Montreal, District of Montreal, Province of Québec, H3X 1T4

Defendants

APPLICATION FOR AUTHORISATION TO INSTITUTE A CLASS ACTION AND TO OBTAIN THE STATUS OF REPRESENTATIVE
(Articles 574 and following of the *Civil Code of Procedure (Québec)*)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT OF QUÉBEC, SITTING IN THE CLASS ACTION DIVISION, THE PLAINTIFF, C., RESPECTFULLY SUBMITS THE FOLLOWING:

1. INTRODUCTION

- 1.1. Plaintiff C. seeks leave to commence a class action on behalf of the following class members, of which he is a member:

“All persons sexually assaulted as minors by Phillip (Hart) Baugnet while he was principal of Victoria School or FACE School in Montreal, or while he held a teaching, executive or supervisory position there, and the estates of such persons if deceased since August 21, 2019”

- 1.2. For decades, Phillip Hart Baugnet ("**Baugnet**") used the power and prestige derived from his position as principal and teacher at Victoria School ("**Victoria School**") and F.A.C.E. School ("**FACE**") to perpetrate sexual assaults on minors.
- 1.3. Through the proposed class action, Plaintiff wishes to provide access to justice for the numerous people who, as he was, were sexually assaulted by Baugnet as minors.

2. THE PARTIES

A. PLAINTIFF C

- 2.1. Plaintiff is a male in his early 40s who was sexually assaulted by Baugnet while he was a student at FACE. Plaintiff's case is detailed in paragraphs 3.1 to 3.44 herein.

B. DEFENDANT BAUGNIET

- 2.2. Baugnet is a male who at all times relevant hereto lived in Québec, and who now lives in British Columbia.
- 2.3. Baugnet served as principal of Victoria School for many years until 1975.
- 2.4. At that time, Victoria School was located at 1822 De Maisonneuve Boulevard West, Montreal, Québec, H3H 1J8.
- 2.5. In 1975, Baugnet founded FACE public school, as appears from an excerpt from FACE's website, filed in support hereof as **Exhibit R-1**.
- 2.6. Since its founding, FACE, originally known as F.A.C.E.S., has been an arts-based elementary and secondary school (**F**ormation **A**rtistique au **C**œur de l'**E**ducation/ **F**ine **A**rts **C**ore **E**ducation). Since its founding, FACE has prided itself on offering a unique educational model that values a rich, holistic education, the whole as evidenced by an excerpt from the website of the *Centre de services scolaires de Montréal*, filed in support hereof as **Exhibit R-2**.

- 2.7. FACE is located at 3449 University Street, Montreal, Québec, H3A 2AB.
- 2.8. Baugniet served as Director of FACE from its founding in 1975 until at least 1991, as appears from, among other things, an article in the Montreal Gazette dated November 20, 2020, filed in support hereof as **Exhibit R-3**, and a letter from a FACE Committee to the Secretary of the Board of Education dated April 12, 1988, filed in support hereof as **Exhibit R-4**.

C. DEFENDANT ENGLISH-MONTREAL SCHOOL BOARD AND DEFENDANT CENTRE DE SERVICES SCOLAIRE DE MONTRÉAL

i. VICTORIA SCHOOL

- 2.9. During the years in which Baugniet acted as its principal and as a teacher (until 1975), Victoria School was under the responsibility of the Protestant School Board of Greater Montreal ("**PSBGM**"), as appears, *inter alia*, from the *Régistrare des entreprises CIDREQ* Report for the PSBGM, filed in support hereof as **Exhibit R-5**.
- 2.10. In 1997-1998, the Government of Québec proceeded with a major reform of school boards.
- 2.11. As part of this reform, several new school boards were created, including :
- a. the Defendant English-Montreal School Board [*Commission Scolaire English-Montreal*] ("**CSEM**"), as appears from a copy of the *Régistrare des entreprises CIDREQ* Report for the Defendant CSEM, filed in support hereof as **Exhibit R-6**; and
 - b. the *Commission scolaire de Montréal* (now known as the Defendant, *Centre de services scolaire de Montréal* ("**CSSDM**")), as appears from the *Régistrare des entreprises CIDREQ* Report for the Defendant CSSDM filed in support hereof as **Exhibit R-7**
- 2.12. As part of the 1997-98 reform, the PSBGM was voluntarily dissolved on July 1, 1998, as appears from the *Régistrare des entreprises CIDREQ* Report for the PSBGM (R-5).
- 2.13. The ownership of Victoria School, as well as its rights and obligations, were transferred to the Defendant CSEM, as appears, *inter alia*, from the Notice in virtue of Section 121 of the "Loi sur l'instruction publique" [the Education Act] dated October 7, 1999, filed in support hereof as **Exhibit R-8**.
- 2.14. Victoria School also appears in the *Régistrare des entreprises CIDREQ* Report for the Defendant CSEM (R-6).
- 2.15. Thus, the Defendant CSEM assumes the rights and obligations of the PSBGM with respect to Victoria School.

ii. FACE

- 2.16. During the years that Baugniet acted as its director and as a teacher, FACE was under the responsibility of the PSBGM, as appears, in particular, from the *Régistrare des entreprises CIDREQ* Report for the PSBGM (R-5).
- 2.17. As part of the 1997-1998 reform and following the voluntary dissolution of the PSBGM (R-5), the ownership of FACE, as well as its rights and obligations, were transferred to the *Commission scolaire de Montréal* (now known as the Defendant CSSDM), as appears, *inter alia*, from the Notice of Transfer under section 121 of the “Loi sur l’instruction publique” [the Education Act] dated March 7, 2000, filed in support hereof as **Exhibit R-9**.
- 2.18. FACE is listed among the institutions currently under the governance and direction of Defendant CSSDM, as appears from a copy of the *Régistrare des entreprises CIDREQ* Report for Defendant CSSDM (R-7).
- 2.19. On its website, FACE indicates that the school is owned by the *Commission scolaire de Montréal* (now known as the Defendant CSSDM), as appears from an excerpt from FACE's website (R-1).
- 2.20. In addition, FACE is also listed among the schools currently under the governance and direction of Defendant CSEM, as appears from the *Régistrare des entreprises CIDREQ* Report for Defendant CSEM (R-6), and the list of schools under the direction of CSEM filed in support hereof as **Exhibit R-10**.
- 2.21. In fact, FACE's students come from both Defendant CSSDM and Defendant CSEM as appears from the excerpt from FACE's website (R-1).
- 2.22. FACE is therefore jointly administered and directed by Defendant CSSDM and Defendant CSEM.
- 2.23. Given the foregoing, Defendant CSSDM and Defendant CSEM assume and have assumed, at all times relevant hereto, solidarily, the rights and obligations of the PSBGM with respect to FACE.

3. THE SEXUAL ABUSE

A. THE CASE OF PLAINTIFF C.

- 3.1. Plaintiff C. is a male in his early 40s.
- 3.2. Until Baugniet crossed his path, C. was an unproblematic child who came from a loving, close-knit family that highly valued education.
- 3.3. C. was a student at FACE from 1986 to 1989.

- 3.4. In 1986, C. became a student at FACE, attending kindergarten. He was five years old at the time.
- 3.5. At that time, Baugniet was the principal of FACE. It is in this context that C. met Baugniet. Although he was not a difficult student, C. met Baugniet as part of his duties as principal.
- 3.6. C. completed his 1986-87 (kindergarten) and 1987-88 (first grade) school years without any problems. He had no idea that Baugniet had targeted him as a prey.
- 3.7. During the 1988-1989 school year, while in second grade, C. was invited to a trip organized by Baugniet at his farm in Cornwall, Ontario. C. was 7 years old at the time.
- 3.8. This trip was part of FACE's school activities. Indeed, this trip was considered a "tradition", which Baugniet regularly repeated by inviting several FACE students to stay on his farm, especially on weekends.
- 3.9. FACE was informed of these trips to Baugniet's farm and teachers from the school regularly accompanied the students on these trips.
- 3.10. FACE required and obtained parental permission for these trips.
- 3.11. C. recalls that on his trip to the farm on a weekend during the 1988-89 school year, he was accompanied by approximately 40 students and several teachers from FACE, all of whom traveled to the farm by school bus.
- 3.12. At the farm, the students played farm games and played outdoors.
- 3.13. Because the farm trips usually last several days, students slept on site. On C.'s trip, students were invited to sleep in several small huts set up on the farm grounds, each of which could accommodate approximately 5 students.
- 3.14. On the first night, C. slept in one of the huts with other students.
- 3.15. Suddenly, Baugniet silently entered the hut and approached C. No teacher was in the hut at that time.
- 3.16. Baugniet crouched down next to C. and began to touch his genitals, telling him that this would "keep him warm". To this day, C. remembers the pain he felt as Baugniet touched his genitals, irritating his foreskin.
- 3.17. After touching C.'s genitals, C. saw Baugniet repeat the same actions on another student sleeping in the hut. Baugniet then left the hut.
- 3.18. C. was shocked. At age 7, C. had obviously never had any sexual contact and had never discussed sex with anyone.

- 3.19. The next day, Baugnet acted as if nothing had happened.
- 3.20. Petrified, C. did not discuss the sexual assault with the teachers or other students.
- 3.21. The trip ended and everyone returned to Montreal. Unfortunately, the sexual assaults did not end.
- 3.22. On another occasion, in the winter of 1990-1991, C. ended up at Baugnet's house in Montreal and went into the family bathroom where Baugnet followed him and touched his genitals again.
- 3.23. The two left the bathroom and Baugnet acted, once again, as if nothing had happened. C. returned home in a distressed state.
- 3.24. As is unfortunately the case for almost all victims of sexual assault, Baugnet's abuse has had a devastating impact on C.
- 3.25. As a teenager, C. began to use alcohol and drugs, including cannabis.
- 3.26. He became extremely distrustful of authority and others. He is not able to trust and, as a result, became isolated, with no real friends.
- 3.27. At 17, troubled and anxious, C. began to use hard drugs and various stimulants to forget the sexual abuse.
- 3.28. At the same time, he developed chronic insomnia, which still affects him today.
- 3.29. His studies were greatly impacted. He could not decide what profession he wanted to pursue, and it took him approximately 8 years to complete his college degree.
- 3.30. C. developed sexual addictions that continue to this day.
- 3.31. He also requires therapy to help him control episodes of rage and anger.
- 3.32. In 2003, after numerous difficult attempts, C. managed to stop using hard drugs. However, he continued to use cannabis daily.
- 3.33. In 2006, C. decided to start going to the gym in order to improve his physical and mental health and to get his life back on track. Sports helped him a lot.
- 3.34. However, due to his substance abuse problems and his strong distrust of authority and others, C. was not able to hold down a steady job.
- 3.35. This situation is particularly difficult for C. to accept, particularly because of his family background. His family has always valued higher education and the other members of his family have all developed very rewarding and lucrative careers.

- 3.36. Until he was 31 years, old in 2012, C. did not hold a job for more than a month.
- 3.37. In 2012, C. finally got a job and managed to keep it. Unfortunately, although he has stopped using hard drugs, his alcohol use became excessive.
- 3.38. In addition, Baugniet's sexual assaults continue to haunt C.
- 3.39. He got married in 2013, but his marriage ended a few years later. C. attributes the failure of this marriage to his substance abuse problems, which stem from the sexual assaults perpetrated by Baugniet.
- 3.40. As of the date hereof, C. continues to live daily with the severe after-effects of these sexual assaults. He suffers from insomnia, spending entire nights ruminating on the sexual assaults and his life.
- 3.41. C. suffers from severe depression and anxiety, which affects all aspects of his life. Every little daily task is a burden for him. Considering his distrust of others, he has not been able to develop and maintain lasting friendships throughout his adult life such that today his social life is extremely limited.
- 3.42. C. also feels shame, guilt, and resentment in relation to the sexual assaults committed by Baugniet.
- 3.43. These sexual assaults mean that today, for C., every day is a new struggle.
- 3.44. In retrospect, C. understands that his substance use and addiction problems, his academic difficulties, and his personal and professional difficulties stem from the sexual assaults perpetrated by Baugniet.

B. THE CASE OF MEMBER #2

- 3.45. Member #2 is a male in his early sixties.
- 3.46. Like C., he came from a close-knit, loving family that highly valued education.
- 3.47. Until he crossed paths with Baugniet, Member #2 was an unproblematic child and student.
- 3.48. During the 1973-1974 school year, Member #2 was a student at Victoria School in the sixth grade. He was 12 years old.
- 3.49. Baugniet was the principal, music teacher, and English teacher at Victoria School at the time.
- 3.50. During the 1973-1974 school year, Baugniet was Member #2's English and music teacher. It is in this context that Member #2 got to know Baugniet better.

- 3.51. At some point during the school year, Baugniet asked Member #2 to accompany him to various extracurricular activities.
- 3.52. Member #2 agreed. At that time, he had a great deal of respect for Baugniet, who was charismatic, adored by his students, praised by the other teachers, and paid a great deal of attention to Member #2. Member #2 then trusted Baugniet completely.
- 3.53. Although Member #2 came from a well-balanced, close-knit family, at that time in his life, his father was regularly absent. During the extracurricular activities in which he participated, Member #2 revealed this information to Baugniet, who then targeted him.
- 3.54. As part of the regular meetings between the students' parents and their teachers to discuss the students' academic progress, Baugniet met with Member #2's mother.
- 3.55. Baugniet used these meetings not only to discuss with Member #2's mother his performance in English and music, but also to coax her and develop a relationship of trust. Baugniet's goal was to have Member #2's mother give him access to her son.
- 3.56. Member #2's mother developed a trusting relationship with Baugniet, whom she felt was a good role model for her son and an excellent teacher.
- 3.57. In the spring of the 1973-1974 school year, Baugniet invited Member #2 to stay at his farm for the first time during a weekend of the school year. Member #2 and his mother accepted.
- 3.58. At that time, Baugniet regularly invited students from Victoria School to stay at his farm during the school year. This fact was openly known to the staff and teachers at Victoria School.
- 3.59. In mid-April of the 1973-1974 school year, Member #2 therefore went to the Baugniet farm with Baugniet to spend a weekend there.
- 3.60. At the farm, Baugniet sexually assaulted Member #2. Baugniet took off all his clothes in front of Member #2, invited him to touch him, repeatedly stroked Member #2's genitals and pushed his erect penis against him.
- 3.61. From the spring to early summer of the 1973-1974 school year, Member #2 accompanied Baugniet to his farm on 5 occasions. On one of these occasions, Baugniet's parents were present at the farm and no sexual assault occurred. On the other 4 occasions, Baugniet and Member #2 were alone and Baugniet sexually assaulted Member #2.
- 3.62. Member #2 never disclosed the sexual assaults to his parents or other family members. He was ashamed of what happened, feared his parents' reaction,

especially his mother's, and feared Baugnet's reaction. He feared that if the sexual assaults were disclosed, Baugnet would find a way to expel him from school.

- 3.63. As a result of the sexual assaults, Member #2 experienced a great deal of shame, confusion, and isolation. At puberty, the confusion experienced by Member #2 increased and he developed compromising and risky drug use habits.
- 3.64. Throughout his life, feelings of shame and guilt accompany Member #2. He lives with anxiety and has difficulty trusting and developing relationships with others.
- 3.65. Member #2 still suffers today from several effects related to the sexual assaults perpetrated by Baugnet. He still experiences shame, guilt, and anxiety.
- 3.66. In parallel to Member #2's stays at Baugnet's farm, Baugnet used the prestige and power associated with his positions as principal and teacher at the Victoria School to reinforce the trust of Member #2's mother, which allowed him regular access to the latter's family home.
- 3.67. It is in this context that Baugnet targeted his new victim, Member #3.

C. THE CASE OF MEMBER #3

- 3.68. Member #3 is a male in his early 60s.
- 3.69. He is the older brother of Member #2. He came from the same well-balanced, close-knit, loving family that valued education and academics.
- 3.70. Member #3 first met Baugnet during a visit to Victoria School with his mother during the 1973-1974 school year.
- 3.71. During this visit, Baugnet invited Member #3 and his mother into his principal's office.
- 3.72. Member #3 and Baugnet met a few times thereafter when Baugnet visited the family home.
- 3.73. Member #3 was a child who particularly enjoyed playing outside.
- 3.74. After a few visits by Baugnet to the family home, Member #3's mother informed him that Baugnet invited him to stay at his farm so that he could enjoy nature. Baugnet proposed that Member #3 take advantage of the summer vacation to spend a few weeks with him at the farm.
- 3.75. Pleased with Member #2's relationship with Baugnet, his mother agreed. Because he was never informed by his brother of Baugnet's sexual assaults

and since his mother seemed to think that the farm stay was a good idea, Member #3 also agreed.

- 3.76. Thus, at the beginning of the summer of 1974, Member #3 began a stay of approximately 3 weeks at Baugnet's farm. He was then 13 years old. Member #3 was alone with Baugnet and the latter's father.
- 3.77. Near the main farm building was a small, converted barn. Baugnet slept in an enclosed room on the second floor of this barn. He informed Member #3 that Member #3 would sleep on a mattress located in an open room adjoining Baugnet's room. Baugnet's father slept in another building.
- 3.78. The first week of the stay went smoothly. Member #3 helped Baugnet on the farm, enjoyed nature and played outside.
- 3.79. One evening during the second week of the stay, Baugnet invited Member #3 to come to and give him a massage in his room. Baugnet was drunk. Member #3 was surprised as he has never seen Baugnet drink before.
- 3.80. Baugnet asked Member #3 to lie down next to him, to look at the stars, while embracing him. Baugnet repeated this ploy every night of the week.
- 3.81. At the beginning of the third week, Baugnet returned to the barn late in the evening. Member #3 was lying in bed and sleeping.
- 3.82. Baugnet approached Member #3 and woke him up. Member #3 realized that Baugnet was still drunk. Baugnet turned him on his side, pulled down his pants and penetrated him violently in the anus. Baugnet then went to bed in his room.
- 3.83. Member #3 was terrified. His anus hurt and he did not understand what had just happened. He was in shock.
- 3.84. During the nights of the third week of the stay, Baugnet sodomized Member #3 several times. On one occasion, Baugnet also performed oral sex on Member #3.
- 3.85. Baugnet mentioned to Member #3 that what happened was a secret and that if he revealed the sexual assaults to anyone, he would kill him.
- 3.86. Convinced that no one would believe him if he reported the assaults and terrorized by Baugnet's threats, Member #3 kept the assaults a secret.
- 3.87. Member #3 suffered significant effects because of the sexual assaults. In the years following the abuse, his school grades dropped, he was unable to hold a job for many years, he used hard drugs for a long time in order to "feel better," became anorexic and an insomniac, and had great difficulty connecting with others.

3.88. He still lives with many after-effects, including shame, guilt, and resentment.

D. THE CASE OF MEMBER #4

3.89. Member #4 is a male in his late fifties.

3.90. He came from a stable, well-balanced family, with parents who favored education and were themselves in professions requiring higher education.

3.91. During the 1973-1974 school year, Member #4 was a student at Victoria School, in Grade 4. He was 10 years old.

3.92. At the time, Baugniet served at Victoria School as a principal, English teacher, and music teacher.

3.93. At that time, Baugniet was the conductor of the Victoria School band, in which Member #4 participated. It was in that context that Member #4 got to know Baugniet better.

3.94. During the 1973-1974 school year, Member #4 participated in an out-of-town extracurricular activity with several other band students. Baugniet accompanied and "supervised" them.

3.95. As part of this two-day extracurricular activity, the students were all scheduled to sleep together in the same dormitory, in bunk beds. Member #4 had a top bunk.

3.96. In the middle of the night, Baugniet silently entered the dormitory, approached Member #4's bed, and began to touch his genitals. Baugniet then immediately left the dormitory.

3.97. Member #4 was in shock. He does not know if other students witnessed this and was afraid of their reaction. He did not tell anyone about the assault.

3.98. A short time later, Baugniet called Member #4 into his office at Victoria School. Baugniet told him that he wanted to invite him to spend the weekend at his farm. He instructed Member #4 to call his mother in front of him to get her permission. In this way, Baugniet ensured that he controlled the conversation.

3.99. Member #4's mother accepted Baugniet's invitation. After all, Baugniet made regular trips to his farm with students from the school and he was the school principal. His mother trusted Baugniet and greatly respected his position as principal.

3.100. Member #4 was fearful. However, at age 10, he did not have the strength and ability to stand up to Baugniet.

- 3.101. He left for the farm with Baugniet in Baugniet's car. Baugniet asked Member #4 to sit in the front seat with him.
- 3.102. During the drive, Baugniet touched Member #4's genitals.
- 3.103. Member #4 was alone on the farm with Baugniet for the weekend. Over the weekend, Baugniet assaulted Member #4 at least 2 more times, including on the tractor and in Baugniet's bed. Baugniet touched Member #4's genitals and masturbated him.
- 3.104. Baugniet insisted that Member #4 sleep with him in his bed.
- 3.105. For a long time, Member #4 did not disclose the abuse because of his feelings of guilt and shame. He never informed his mother because he was afraid that she would feel guilty for allowing him to go to the farm with Baugniet.
- 3.106. To this day, Member #4 is inhabited by the sexual assaults. He regularly questions how his life would have turned out if he had not been assaulted by Baugniet.
- 3.107. Although he understands that he was only a child at the time of the assaults, Member #4 cannot help but question whether he could have done anything to prevent the assaults. He understands that at 10 years old, there was nothing he could have done to counter the traps set for him by Baugniet, but these questions follow him.
- 3.108. Member #4 finds the class action process, which allowed him to discuss Baugniet's sexual assaults with the undersigned attorneys, to be very liberating.

4. THE DEFENDANTS' RESPONSIBILITY

A. DEFENDANT BAUGNIET

- 4.1. Baugniet is personally responsible for the sexual assaults that he committed on defenseless children to satisfy his deviance.
- 4.2. These sexual assaults constitute attacks on the integrity, dignity, and inviolability of the members of the group.
- 4.3. At all times relevant hereto, Baugniet knew or should have known that by sexually assaulting minors, he was causing them significant physical, psychological, spiritual and moral harm.
- 4.4. Baugniet committed extremely serious misconduct in assaulting class members and is responsible for all the damages he caused them.

B. DEFENDANTS CSEM AND CSSDM

- 4.5. The CSEM and CSSDM are responsible, both as principals of Baugniet, and for their own faults.
- 4.6. Baugniet's misconduct is to be deemed to be the same as the misconduct of CSEM and CSSDM since Baugniet was, at all times relevant hereto, the principal and a teacher at the Victoria School or FACE, and, therefore, their principal representative.
- 4.7. CSEM assumed the rights and obligations of the PSBGM with respect to Victoria School and FACE.
- 4.8. CSEM is, solidarily with the Defendant CSSDM, responsible for the rights and obligations of the PSBGM with respect to FACE.
- 4.9. In the course of his duties as principal and teacher at Victoria School or FACE, Baugniet was, in addition to their principal representative, an employee and a representative of the PSBGM.
- 4.10. The PSBGM's mission was to support the schools in its network and to ensure and supervise their proper functioning.
- 4.11. The PSBGM was responsible for the welfare, education, protection, and development of the students attending the schools in its network.
- 4.12. As principal and teacher at Victoria School and FACE, the role assigned to Baugniet by the PSBGM was to supervise the students, ensure their education and well-being, and act as an authority figure.
- 4.13. The role of director and teacher assigned to Baugniet by the PSBGM allowed him to build trust with the students, who were then developing, vulnerable children and adolescents, and with their families.
- 4.14. The parents of the students at Victoria School and FACE sent their children there to get a good education. They gave Baugniet, as principal and teacher, their trust, and the authority to use authority and discipline to ensure the proper education of their children.
- 4.15. Baugniet used his position as principal and teacher at Victoria School and FACE to commit his sexual assaults on group members.
- 4.16. As evidenced in the cases of Plaintiff C and Members #2 to #4, he generally used the same modus operandi to commit the assaults.
- 4.17. He would meet with victims in his role as principal and teacher, use the authority and power of those roles to build trust with the victims, and then invite them to stay at his farm, where the sexual assaults began.

- 4.18. Baugniet used his farm as an extension of Victoria School and FACE with the knowledge and approval of the PSBGM.
- 4.19. He often took students there by school bus for "extracurricular activities" during the school year. This was one of the reasons why Baugniet was able to get parents to agree that he could take their children to the farm.
- 4.20. Given Baugniet's modus operandi and the fact that tens of thousands of students attended Victoria School and FACE during the many years that Baugniet worked there, it is reasonable to believe that hundreds of young people were sexually assaulted by Baugniet.
- 4.21. Baugniet used his position as principal and teacher to molest students at the schools, but also to be in contact with and molest other underage youth, including siblings of Victoria School and FACE students, as appears from the accounts of Members #2 and #3, which are vivid examples.
- 4.22. At all times relevant hereto, the PSBGM knew or should have known that Baugniet was using the authority, power, and prestige derived from his position as principal and teacher at Victoria School and FACE to develop inappropriate relationships with and sexually assault students.
- 4.23. The PSBGM was specifically informed of the sexual assaults perpetrated by Baugniet on class members. In an excerpt from Journeyman's Journey in Journalism, filed in support hereof as **Exhibit R-11**, freelance journalist Christy McCormick writes:

Then Anne's son, Derek, came up with a tale that was intriguing, though I was unaware of its journalistic potential at first, reacting more as a concerned parent.

His school, FACE (Fine Arts Core Education), shared the old High School of Montreal building with MIND (Moving in New Directions). FACE was created by Philip Baugniet in 1975 and said to be inspired by New York's High School of Performing Arts. One Sunday, Derek came home from an overnight school outing in the country with a report that Mr Baugniet had entered one of the cabins where the kids were sleeping and told one of them he would be more comfortable in the cabin where the teachers were lodged. When the kid rejoined the group the next morning he had a tale to tell that shocked Derek. He reported the boy being roused from deep sleep, led by Baugniet back to the cabin where he was put into another bed in a separate room, but soon joined by Baugniet, who fingered the boy's genitals.

I phoned the Protestant School Board of Greater Montreal and was shocked by what I was told. I was not after severe prosecution, I only wanted to be assured that measures would be taken to ensure such behavior stopped. I had been diddled by a gas station attendant when I was kid that age and was no worse for wear for the experience. But Derek was upset and wanted it to stop, having later discovered that this was not the first incident but rather a regular occurrence on overnight school excursions.

What shocked me was the school board's attitude. Far from wanting to discuss what might be done to stop Baugnet, they advised me to get a lawyer to duke it out with their lawyers. I could not believe that they would treat such complaints not as a problem to be solved but a charge to be denied. I could understand the teachers' union taking such an attitude, but not the school board.

[Emphasis added]

- 4.24. By keeping Baugnet in a position of authority, the PSBGM exacerbated the situation and allowed Baugnet to continue to sexually assault group members with impunity.
- 4.25. At all times relevant to this case, the PSBGM had control and supervisory power over its employees, such as Baugnet, whom it hired, paid and could fire.
- 4.26. At all times relevant hereto, the PSBGM failed to act and to put in place the necessary measures that would have prevented the sexual assaults committed by Baugnet on the members of the group.
- 4.27. Thus, the Defendant CSEM is solidarily liable with Baugnet, for damages arising from the sexual assaults perpetrated on class members who attended Victoria School and FACE.
- 4.28. For its part, the Defendant CSSDM is solidarily liable with Baugnet and CSEM for damages arising from the sexual assaults perpetrated on the members of the group who attended FACE.

5. DAMAGES

- 5.1. The Supreme Court stated in the case of *L'Oratoire* (2019 SCC 35, at para. 64) that "[s]exual assault has always been a fault that automatically causes **serious injury**".
- 5.2. Sexual assault often affects the victim at an age when their personality and identity are being formed, and it affects all areas of their adolescence and adult life.
- 5.3. In 2020, the Supreme Court, in *R. v. Friesen*, 2020 SCC 9, set out a list of harms that can develop in childhood following contact of a sexual nature by an adult: " *These effects include overly compliant behaviour and an intense need to please; self-destructive behaviour, such as suicide, self-mutilation, chemical abuse, and prostitution; loss of patience and frequent temper tantrums; acting out aggressive behaviour and frustration; sexually aggressive behaviour; an inability to make friends and non-participation in school activities; guilty feelings and shame; a lack of trust, particularly with significant others; low self-esteem; an inability to concentrate in school and a sudden drop in school performance;*

an extraordinary fear of males; running away from home; sleep disturbances and nightmares; regressive behaviours, such as bedwetting, clinging behaviour, thumb sucking, and baby talk; anxiety and extreme levels of fear; and depression." (para. 80, quoting author Bauman).

- 5.4. The Supreme Court also listed harms that develop into adulthood: "Sexual violence against children also causes several forms of long-term harm that manifest themselves during the victim's adult years. First, children who are victims of sexual violence may have difficulty forming a loving, caring relationship with another adult as a result of the sexual violence. Second, children may be more prone to engage in sexual violence against children themselves when they reach adulthood (*Woodward*, at para. 72; *D. (D.)*, at paras. 37-38). Third, children are more likely to struggle with substance abuse, mental illness, post-traumatic stress disorder, eating disorders, suicidal ideation, self-harming behaviour, anxiety, depression, sleep disturbances, anger, hostility, and poor self-esteem as adults " (para. 81).
- 5.5. Unfortunately, as detailed in paragraphs 3.1 to 3.44 herein, Plaintiff C. suffers from many of these harms.
- 5.6. The Plaintiff is entitled to claim non-pecuniary damages from the Defendants, solidarily, in the amount of \$450,000.
- 5.7. The Plaintiff is also entitled to claim from the Defendants, solidarily, the sum of \$750,000, *sauf à parfaire*, for his pecuniary losses, including his loss of productivity and earning capacity, and the costs of therapy he wishes to undertake to treat the after-effects of the sexual assaults.
- 5.8. Given the seriousness of the intentional attack on the dignity and physical and psychological integrity of their person, the severity of the sexual assaults, their duration, their frequency, the abuse of power and trust that accompanied them, and the lack of intervention on the part of the PSBGM, the Plaintiff is entitled to claim from the Defendants, solidarily, on behalf of the Group, punitive and exemplary damages in the amount of \$10 million, to be recovered collectively.

6. THE FACTS GIVING RISE TO AN INDIVIDUAL CLAIM FOR EACH CLASS MEMBER ARE AS FOLLOWS:

- 6.1. Each member of the class was sexually assaulted by Baugniet while he served as a principal of the Victoria School or FACE, or while he served in a teaching, leadership, or supervisory capacity at the school.
- 6.2. Each member has automatically suffered serious harm in connection with the sexual assaults.
- 6.3. Each member has suffered an injury to their integrity and dignity, thereby giving rise to an award of punitive and exemplary damages.

7. THE COMPOSITION OF THE CLASS MAKES IT DIFFICULT OR IMPRACTICAL TO APPLY THE RULES TO SUE ON BEHALF OF OTHERS OR ON THE JOINDER OF PROCEEDINGS IN THAT:

- 7.1. As previously mentioned, Baugnet served as principal and teacher at Victoria School and FACE for many years.
- 7.2. Thousands of students attended Victoria School or FACE during the years in which Baugnet served as principal or performed teaching, supervisory, and leadership functions at the school. It is impossible to trace the identity and contact information of each one of them, and to know which of them were sexually assaulted.
- 7.3. In all Québec class action lawsuits involving sexual assaults in educational institutions, such as Victoria School and FACE, the evidence revealed that several children were assaulted within the same institution by the same perpetrator.
- 7.4. In the case of *L'Oratoire* (2019 SCC 35, at para. 69), the Supreme Court of Canada cited with approval the comments of authors Langevin and Des Rosiers as follows:

[69] [...] As well, it should be borne in mind that *other* victims could come forward in the course of the proceedings:

[Translation] . . . if a class action is to be brought against an institution attended by multiple persons for acts committed over a long period of time, it seems to us that the possibly high number of potential victims, although unknown at the beginning of the proceedings, fully justifies the bringing of a class action. It may well be that only one victim comes forward and that this victim decides to bring a class action in his or her own name and on behalf of all the other victims. If a teacher or a priest assaulted the victim over a period of one year, and if he worked at the institution for several years, is it not logical to conclude that other children may have suffered the same fate? It matters little in our opinion whether 5, 10, 50 or 100 victims join the class action once it has been authorized. Even though this number cannot be determined at the outset, a class action should be authorized in order to make justice more accessible to victims of sexual violence, who already have to overcome great difficulties in bringing their individual actions. Some Canadian courts have even found that the class action can help the victims, who are particularly vulnerable.

[Emphasis added.]

- 7.5. The shame and guilt that victims of sexual assault feel makes it particularly difficult for them to report their abuse and share their stories.
- 7.6. Group members do not know each other, and the sexual assaults occurred at different times.

- 7.7. In all the class actions filed in Québec on behalf of victims of sexual assault, the evidence revealed that if the plaintiffs in those class actions had not come forward on behalf of and for the benefit of all the victims, the victims would never have had the strength and courage to pursue their rights in court.
- 7.8. The social objective sought by the legislator in adopting the procedural vehicle of a class action was to promote access to justice for vulnerable persons who would otherwise be deprived of it.
- 7.9. It is therefore to be feared that in the absence of a class action, the majority of class members will never assert their rights against the Defendants and will never have access to the remedies to which they are entitled.
- 7.10. For these reasons, the composition of the group makes the application of Articles 91 and 143 C.C.P. difficult, impractical, and even impossible.

8. THE ISSUES OF FACT AND LAW THAT ARE THE SAME, SIMILAR OR RELATED FOR EACH CLASS MEMBER AND THAT THE PLAINTIFF INTENDS TO HAVE RESOLVED IN THE CLASS ACTION ARE:

- a) Did Phillip Baugniet commit sexual assaults on class members?
- b) Are the Defendants liable for the sexual assaults perpetrated by Phillip Baugniet, both by virtue of their direct faults and as principals of Phillip Baugniet?
- c) Should the Defendants be held solidarily liable?
- d) Can compensatory damage parameters be established for class members? If so, what are they?
- e) Did the Defendants intentionally infringe on the rights and freedoms of class members? If so, what is the quantum of punitive and exemplary damages to be recovered collectively?

9. THE ISSUES OF FACT AND LAW THAT ARE UNIQUE TO EACH CLASS MEMBER ARE AS FOLLOWS

- a) Was the Plaintiff and each member sexually assaulted by Phillip Baugniet?
- b) What is the quantum of pecuniary and non-pecuniary damages suffered by each member of the class?

10. THE NATURE OF THE CLASS ACTION THAT THE PLAINTIFF WISHES TO BRING FOR THE BENEFIT OF CLASS MEMBERS IS:

- 10.1. A civil liability action for compensatory, punitive and exemplary damages against the Defendants.

11. THE CONCLUSIONS SOUGHT BY THE PLAINTIFF ARE AS FOLLOWS:

GRANT the Plaintiff's action;

ORDER the Defendants solidarily to pay Plaintiff the sum of \$450,000 as non-pecuniary damages, with interest from the date of service of the Application for authorization to institute a class action and to obtain the status of representative, as well as the additional indemnity provided for by law from that date;

ORDER the Defendants solidarily to pay Plaintiff the sum of \$750,000.00, *sauf à parfaire*, as pecuniary damages, with interest from the date of service of the Application for authorization to institute a class action and to obtain the status of representative, as well as the additional indemnity provided for by law from that date;

ORDER the Defendants solidarily to pay an aggregate amount of \$10,000,000 as punitive and exemplary damages on behalf of the Class, with interest from the date of service of the Application for Authorization to Institute a Class Action and to obtain the status of representative, and the additional indemnity provided for by law from that date;

GRANT the class action on behalf of all Class Members;

DECLARE THAT:

- (a) Defendants are jointly and solidarily liable for non-pecuniary damages suffered by Class Members as a result of Baugniet's sexual assaults, the quantification and recovery of which will occur at the individual claims stage;
- (b) Defendants are solidarily liable for the monetary damages suffered by Class Members as a result of Baugniet's sexual assaults, including loss of income or earning capacity and out-of-pocket expenses, the quantification and recovery of which will be made at the individual claims stage;

ORDER the individual recovery of Class members' claims for compensatory damages in accordance with the provisions set out in Articles 599 to 601 C.C.P.;

ORDER the collective recovery of punitive and exemplary damages in accordance with the provisions of Articles 595 to 598 C.C.P.;

THE WHOLE with the legal costs, including all costs of experts, exhibits and notices to members.

12. THE PLAINTIFF ALSO REQUESTS THAT THIS HONORABLE COURT GRANT HIM THE STATUS OF REPRESENTATIVE. IN THIS REGARD, THE PLAINTIFF IS ABLE TO PROVIDE ADEQUATE REPRESENTATION OF CLASS MEMBERS IN THAT:

- 12.1. The Plaintiff had the courage to contact the undersigned attorneys to tell his story.
- 12.2. After discussing legal options, the Plaintiff chose the procedural route of a class action to obtain justice not only for himself, but also for all the other victims who, as he has, have suffered in silence for decades.
- 12.3. Plaintiff wishes to allow class members to come forward to the undersigned attorneys in confidence, and with respect for their right to personal dignity.
- 12.4. The Plaintiff has retained attorneys with extensive experience in class action litigation, including litigation against religious and educational institutions for sexual abuse of children by educators, coaches, and clergy.
- 12.5. Plaintiff sincerely hopes that by instituting this class action, all of Baugnet's victims will come forward to obtain the help, assistance, justice and compensation they deserve.
- 12.6. The Plaintiff has inquired of the undersigned attorneys about the experiences of other sexual assault victims in other class actions, and about the role of the representative.
- 12.7. Plaintiff knows that he will need to invest time and resources to complete all the formalities and tasks necessary to advance this class action and will do so with pride and honor.
- 12.8. Plaintiff has participated in the drafting of this proceeding.
- 12.9. Plaintiff has agreed to cooperate with the undersigned counsel and the Court. He understands that he will be required to attend hearings, make himself available upon the Court's request, and is willing to testify as to the sexual assaults suffered if the class action is authorized.
- 12.10. The Plaintiff also understands that he may be required to negotiate on behalf of the class members, in which case he will be required to make decisions, with the assistance and advice of the undersigned counsel, in the best interests of class members.
- 12.11. The Plaintiff believes that he has the strength to complete this case.
- 12.12. There is no conflict of interest between the Plaintiff and class members. The Plaintiff is acting in good faith, with a view to asserting his rights and those of the other class members.

FOR THESE REASONS, MAY IT PLEASE THIS HONORABLE COURT TO:

GRANT this Application for authorization to institute a class action and to obtain the status of representative;

GRANT C. representative status on behalf of the following class:

"All persons sexually assaulted as minors by Phillip (Hart) Baugnet while he was principal of Victoria School (Victoria School) or FACE School, in Montreal, or held a teaching, executive, or supervisory position therein, as well as the estates of such persons if deceased since August 21, 2019."

IDENTIFY the principal issues of fact or law to be addressed collectively as follows:

- a) Did Phillip Baugnet commit sexual assaults on class members?
- b) Are the Defendants liable for the sexual assaults perpetrated by Phillip Baugnet, both by virtue of their direct faults and as principals of Phillip Baugnet?
- c) Should the Defendants be held solidarily liable?
- d) Can compensatory damage parameters be established for class members? If so, what are they?
- e) Did the Defendants intentionally infringe on the rights and freedoms of class members? If so, what is the quantum of punitive and exemplary damages to be recovered collectively?

IDENTIFY the conclusions sought therein as follows:

GRANT Plaintiff's action;

ORDER the Defendants solidarily to pay Plaintiff the sum of \$450,000 as non-pecuniary damages, with interest from the date of service of Application for authorization to institute a class action and to obtain the status of representative, and the additional indemnity provided by law from that date;

ORDER the Defendants solidarily to pay Plaintiff the sum of \$750,000.00, *sauf à parfaire*, as pecuniary damages, with interest from the date of service of Application for authorization to institute a class action and to obtain the status of representative, as well as the additional indemnity provided for by law from that date;

ORDER the Defendants solidarily pay an aggregate amount of \$10,000,000 as punitive and exemplary damages on behalf of the Class, with interest from the date of service of the Application for authorization to institute a class action and to obtain the

status of representative, as well as the additional indemnity provided for by law from that date;

GRANT the class action on behalf of all Class Members;

DECLARE THAT:

(a) Defendants are solidarily liable for the non-pecuniary damages suffered by Class Members as a result of Baugniet's sexual assaults, the quantification and recovery of which will be made at the individual claims stage;

(b) Defendants are solidarily liable for the monetary damages suffered by Class Members as a result of Baugniet's sexual assaults, including loss of income or earning capacity and out-of-pocket expenses, the quantification and recovery of which will be made at the individual claims stage;

ORDER the individual recovery of class members' claims for compensatory damages in accordance with the provisions set out in Articles 599 to 601 C.C.P.;

ORDER the collective recovery of punitive and exemplary damages in accordance with the provisions of Articles 595 to 598 C.C.P.;

THE WHOLE with legal costs, including all costs of experts, exhibits and notices to members.

DECLARE that, unless excluded, Class Members shall be bound in the manner provided by law by any judgment to be rendered in this class action;

SET the deadline for exclusion at sixty (60) days after the first date of publication of the Notice to Members, at the expiration of which time Class Members who have not availed themselves of the means of exclusion will be bound by any judgment to be rendered in this class action;

ORDER the publication of a notice to Class Members on such terms and in the media as the Court shall determine at a subsequent case management conference, at Defendants' expense;

DETERMINE the District in which the class action will proceed;

REFER the matter to the Chief Judge for designation of the coordinating judge who will hear it;

PERMIT the use of pseudonyms for the identification of the Plaintiff and Class Members in the proceedings, exhibits and any other documents filed with the Court, the whole in order to protect their identities;

THE WHOLE, with legal costs, including the costs of publishing notices.

Montreal, February 6, 2023

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

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**EXHIBITS IN SUPPORT OF THE APPLICATION FOR AUTHORISATION TO
INSTITUTE A CLASS ACTION AND TO OBTAIN THE STATUS OF
REPRESENTATIVE**

- EXHIBIT R-1:** Extract from FACE'S website;
- EXHIBIT R-2:** Excerpt from the Montreal School Service Centre website;
- EXHIBIT R-3:** Article from the Montreal Gazette dated November 20, 2020;
- EXHIBIT R-4:** Letter from FACE dated April 12, 1988 to the Commission of Education;
- EXHIBIT R-5:** PSBGM *Régistrare des Entreprises CIDREQ* Report;
- EXHIBIT R-6:** English-Montreal School Board *Régistrare des Entreprises CIDREQ* Report;
- EXHIBIT R-7:** Centre de services scolaires de Montréal *Régistrare des Entreprises CIDREQ* Report;
- EXHIBIT R-8:** Notice in virtue of Section 121 Education Act dated October 7, 1999;
- EXHIBIT R-9:** Notice in virtue of Section 121 of the Education Act dated March 7, 2020;
- EXHIBIT R-10:** English-Montreal School Board School List 2022-2023;
- EXHIBIT R-11:** Excerpt from the Journeyman's Journey in Journalism.

Montreal, February 6, 2023

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

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NOTICE OF PRESENTATION

TO : PHILLIP (HART) BAUGNIET

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Montreal, Québec
H1V 3R9

**ENGLISH-MONTREAL SCHOOL
BOARD**

6000 Fielding Avenue
Montreal, Québec
H3X 1T4

TAKE NOTICE that this Application for authorization to institute a class action will be presented before the Superior Court at the Montreal Courthouse, located at 1 Notre-Dame Street East, Montreal, Québec, H2Y 1B6, on a date to be determined by the Coordinating Judge of the Class Action Division.

THE WHOLE RESPECTFULLY SUBMITTED.

Montreal, February 6, 2023

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

KUGLER KANDESTIN, LLP

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