

AUTHORIZATION TO INSTITUTE A CLASS ACTION

**Gélinas et al. v. COMMISSION DES NORMES, DE L'ÉQUITÉ, DE  
LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL (CNESST)**

Superior Court file: 500-06-001099-205

**“CNESST: Accountability and damages in relation to claims for compensation from U.S. trusts and funds to compensate for injuries related to asbestos products”**

This notice concerns the judgment of the Superior Court of Quebec (District of Montreal) dated July 29, 2022 authorizing a class action against the defendant CNESST. In her judgment, the Honourable Suzanne Courchesne (S.C.J.) described the class as follows:

***“Any beneficiary, including their successors in title, successors and heirs, who has been compensated under the Act respecting industrial accidents and occupational diseases (CQLR c. A-3.001) for an occupational disease associated with asbestos products and who has been notified since January 1, 2011 by the CNESST that a subrogatory remedy would be or could be undertaken against U.S. funds.”***

The status of representative for the exercise of the class action was assigned to Anne-Marie Gélinas, Isabelle Gélinas, Cécile Katherine Daoust and Sylvain Alix.

The nature of the class action brought by the plaintiffs on behalf of the members is a class action for accountability and damages against the defendant.

The alleged wrongdoing occurred when the CNESST obtained sums from the various U.S. trusts and funds and can be summarized as follows:

- (1) Failure to inform the class members: of the existence of said sums; of the mandates of representation granted to law firms, including Motley Rice, in order to recover the benefits; of their rights to excess sums from the various trusts and funds;
- (2) Failure to respond to members' requests for information within a reasonable time, forcing them to submit requests for access under the *Act respecting Access to documents held by public bodies and the Protection of personal information* (CQLR, c. A-2.1);
- (3) Failure to pay excess sums to the plaintiffs and class members.

The main **conclusions sought** by the representatives against the defendant can be summarized as follows:

In summary, the plaintiffs seek from the CNESST:

1. An accounting of the sums claimed and collected from the trusts and funds;
2. The full amount of the sums received from the trusts and funds on behalf of the beneficiaries or their estate, after deduction of the benefits paid and/or due by the CNESST;
3. The full amount of the sums to which they would have been entitled had the CNESST not failed to inform them in time of their file and of their right to file a claim against the trusts and funds themselves.

**A member may opt out of the recourse no later than Monday May 15<sup>th</sup>, 2023 at 4:30 p.m.**

Members cannot be called upon to pay the legal costs of the class action if the recourse is dismissed.

**A new notice will be published at the time of the final judgment on these applications.**

The authorization judgment for the class action and the formalities relating to the procedure for the exclusion of members are available at the registry of the Superior Court of the District of Montreal, at the Registry of class actions on the website [www.tribunaux.qc.ca](http://www.tribunaux.qc.ca).

Class members are represented by the lawyers:

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**PUBLICATION OF THIS NOTICE WAS ORDERED BY THE COURT**

In the event of a discrepancy, the authorization judgment prevails.

For more information, please visit the web page:

[www.cnesst-amiante.ca](http://www.cnesst-amiante.ca)