

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO. 500-06-000886-172

DATE: 27th February 2019

UNDER THE PRESIDENCY OF THE HONORABLE CHANTAL CORRIVEAU, J.C.S.

LISA BLAIS

Plaintiff

v

WATCH TOWER BIBLE AND TRACT SOCIETY OF CANADA

-and-

WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA

-and-

WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC.

-and-

CHRISTIAN CONGREGATION OF JEHOVAH'S WITNESSES

Defendants

JUDGMENT

[1] Ms. Lisa Blais asks the Tribunal to authorize her to bring a class action against four entities related to Jehovah's Witnesses.

CONTEXT

[2] The plaintiff, a family member of Jehovah's Witnesses, was sexually assaulted by her brother while she was a minor. It blames the defendants for their lack of comfort, protection and appeasement.

[3] As a result of the sexual assaults of which the plaintiff was a victim, while she was a minor, the latter turned to her family, a Jehovah's Witness and an Elder, one of the organization's spiritual leaders. The latter discouraged her from reporting her aggressor to the police authorities, because it would risk tarnishing Jehovah's image¹.

PREVIEW

[4] The plaintiff wants to sue the defendants for their lack of protection and the deterrence to report to the police authorities the sexual assaults given the culture of silence that animates the community of Jehovah's Witnesses. She sued the defendants so that she and the thousands of people in the same situation would be compensated for the moral and pecuniary damages she suffered. In addition, she is seeking a conviction for punitive damages.

[5] The plaintiff also wishes to sue the defendants on behalf of all victims of sexual assault, this time committed by an elder on members of the organization.

[6] The defendants object by raising several pleas: at first, a request for a declinatory exception was made by the three American defendants, the latter considering that they had no connection with the plaintiff.

[7] With respect to the defendant Watch Tower Bible and Tract Society of Pennsylvania (WTPA), the Tribunal is satisfied with the Applicant's connection with this entity. This society is responsible for the communication and dissemination of all the teachings of the Jehovah Witness community and, although it is incorporated in the United States, it is these same publications which are disseminated throughout the world, including Canada, even in French.

[8] The Tribunal is of the view that the defendant Christian Congregation of Jehovah's Witnesses (CCJW), created in 2000, is not related to the facts raised by the plaintiff. The plaintiff has not established that this United States defendant carries on any action in Canada.

[9] According to the application, the Watch Tower Bible Society and Tract Society of New York (WTNY) is a subsidiary of the Watch Tower Bible Society and Tract Society of Pennsylvania, which is the commercial and administrative body of Jehovah's Witnesses in the United States. United States. In Canada, it is the defendant Watch Tower Bible and Tract Security of Canada (WTC) that plays this role. WTNY has established its right to the exclusion of the proceedings on the grounds of lack of jurisdiction of the Tribunal in the absence of a connection with the plaintiff.

¹ Revised application for authorization to institute class action and to be granted the status of representative dated December 7, 2018, s. 23.1. (hereinafter referred to as "Request").

[10] Finally, it should be noted that the defendant WTC submits that Ms. Blais' recourse is prescribed. It argues that the three-year limitation period is applicable to the particular facts raised by the plaintiff. The Tribunal considers that it is rather the 30-year prescription, as provided for in article 2926.1 of the Civil Code of Quebec (CCQ), which is applicable, so that in the absence of a blatant prescription element, the The Court rejects this defense at the authorization stage.

[11] For the rest, the defendants' arguments related to the Applicant's failure to demonstrate a legal syllogism.

[12] At the end of the analysis of this criterion dictated by Article 575 (2) of the Code of Civil Procedure of Quebec (Cpc), the Tribunal will conclude that the plaintiff blames the defendant for defaults that are not based solely on an opinion on its part, but on factual elements from the documentation of the defendants and facts reported. It is not, as the defendants in the trial of Jehovah's Witnesses argue. The Court considers that this criterion is dictated by Article 575 (2) C.p.c. is satisfied.

[13] With respect to the applicant's status as a representative, the Tribunal is of the opinion that she meets the factor both with regard to sexual assault against minors, and a situation identical to that experienced, that for the purpose of representing the subgroup that pursues the Elders.

[14] The Tribunal will, however, limit the subgroup to victims who have been assaulted while being a minor.

[15] The Tribunal is of the view that there are enough common issues to permit collective action.

[16] Given that the remedy is based on sexual assault, class action is the appropriate means. It would be difficult and impracticable for individual members to come out of the shadows and try to make their claims.

THE QUESTIONS

[17] The Tribunal will address the following questions:

1. Did the plaintiff establish a legal relationship against the three Defendants Watch Tower Bible and Tract Society of Pennsylvania (WTPA), Watch Tower Bible and Tract Society of New York (WTNY) and Christian Congregation of Jehova 's Winesses (CCJW)?
2. Is the plaintiff's action time-barred under a three-year limitation period?

3. Does the application contain factual allegations that are sufficiently precise to establish a link between the damages alleged by the plaintiff and the defenses she blames on the defendants?
4. Did the Applicant establish that it would be impractical to proceed with individual remedies?
5. Did the Applicant establish that there are enough common issues, despite the variations that may exist between each of the potential claimants?
6. Does the applicant have an interest in acting as a representative for the two sub-groups present?

[18] The plaintiff asks the Tribunal to institute a class action on behalf of the persons in Quebec belonging to the following groups:

"All persons who are or have been Jehovah's Witnesses and who allege that they have been sexually assaulted in Quebec by a person in the role of Elder (the " Sub-Group of Sexual Assault by Elders "). "

And

"All persons who are or have been Jehovah's Witnesses who allege that they have been sexually assaulted in Quebec, while under the age of majority, by a Jehovah Witness (the " Subgroup of sexual assault of a minor ")."

[19] Thus, the Tribunal will address the first question in connection with the submission by the three United States Defendants of an application for a declinatory exception.

1. HAS THE APPLICANT ESTABLISHED A RIGHT OF LAW AGAINST THE THREE DEFENDANTS WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA (WTPA), WATCH TOWER BIBLE AND TRACT SOCIETY OF NEW YORK (WTNY) AND CHRISTIAN CONGREGATION OF JEHOVA'S WITNESSES (CCJW)?

[20] The inadmissibility of the appeal is based on a request made under section 3148 (3) of the Civil Code of Quebec:

3148. In personal actions of a patrimonial nature, the Quebec authorities are competent in the following cases:

3 A fault has been committed in Quebec, damage has been suffered therein, an injurious act has occurred therein or one of the obligations resulting from a contract must be performed there;

(added bold characters)

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[21] The parties agree that it is under the third paragraph that the connecting relationship between the plaintiff and the defendants must be assessed. The American defendants argue that this criterion is not met. It is therefore necessary to assess whether there is a link between the plaintiff and each of the United States defendants to support collective action.

[22] With regard to WTPA, it is a non-profit association incorporated in Pennsylvania in the United States in 1884².

[23] According to the goals of WTPA, it operates worldwide. Its activity is not restricted to the United States.

[24] It practices religious, educational and charitable work to promote the religion known as Jehovah's Witnesses. It operates under the guidance of a Central organization which we will discuss below.

[25] It was in 1925 that WTPA would have created a Canadian corporation, now dissolved, designated by the name International Bible Student's Association of Canada (IBSAC)³

[26] WTPA publishes literature and Bible works of which it holds copyright worldwide, including in Canada⁴

[27] For the Tribunal, the fact that WTPA owns the copyright and acts as the body that prepares the documentation and ensures its dissemination, creates a link between this American company and the members of the community of Jehovah's Witnesses who adhere to the dictates listed there, including Canada. Alumni, members and alleged victims of sexual assault in Canada follow these teachings in a strict manner.

[28] At this stage, it is sufficient to establish a link between the formal complaints and the plaintiff's account. The Tribunal agrees with the defendant WTPA that, for purposes of assessing the connection, the plaintiff cannot simply assert that the facts must be upheld. These facts must be based on evidence normally derived from the documentation produced. In this case, the fact that WTPA is circulating the rules that Elders and members consider imperative, and therefore must be respected, is an unavoidable element that is not and cannot be questioned. These facts are apparent from all the documentation produced by both the plaintiff and the

² See Exhibits P-1 and P-28; The Pennsylvania Society adopted its current name in 1955 when it was previously named Zion's Watch Tower Tract Society and Watch Tower and Tract Society Exhibit P-29.

³ Exhibit P-30.

⁴ See Exhibits P-1, P-11, P-13, P-16 and P-28.

defendants. The material that is distributed in Canada is developed by WTPA. This element is also apparent from the evidence available at this stage.

[29] This documentation contains the rules that bind Elders and members. The alleged faults arise from the rules that are circulated and imposed on the members. This is sufficient to establish a bond of attachment within the meaning of Article 3148 (3) C.c.Q.

[30] According to the Tribunal, the application for a declinatory exception against WTPA must therefore be dismissed since the connecting factors, with this defendant, are satisfied.

[31] With respect to WTNY, it is a non-profit corporation established in New York in 1909⁵. According to the plaintiff, WTNY is a subsidiary of WTPA although there is no corporate documents that support this allegation. According to the plaintiff, WTNY acts as the commercial and administrative agent of the entire Jehovah Witnesses' organization⁶.

[32] In terms of the objectives pursued by the WTNY⁷ association, WTNY is active in the United States.

[33] The Applicant alleges that WTNY, like WTPA and CCJW, operate under the direction of Central College⁸

[34] Although the three American defendants have common objectives, this is not sufficient to establish a connection with the plaintiff's proceedings.

[35] The mere fact that, in the event of the winding up of WTPA, WTNY and CCJW would receive the remaining assets⁹ is not sufficient to establish a legal relationship with the plaintiff's claim.

[36] All other claims in the application¹⁰ refer to WTNY's activities in the United States. These activities can be paralleled with the activities of WTC in Canada, which acts as a commercial and administrative agent. There is nothing in the proceedings to suggest that in Canada there are two companies that would act as commercial and administrative agents, namely WTNY and WTC.

[37] It is therefore very difficult to conclude that there is a sufficient connection between the misconduct alleged by the plaintiff and the damages she alleges to have suffered. It is difficult to understand how the actions of WTNY could have had any influence on the plaintiff in the absence of connection between the alleged faults and the damages suffered. In addition, the documentation produced does not allow the establishment of any activity of this entity in Canada.

⁵ Piece P-2.

⁶ Piece P-3.

⁷ Requested by 56.2; Exhibit P-2.

⁸ Requested by 54.1; Exhibits P-2 (WTNY), P-28 (WTPA), P-32 (CCJW).

⁹ Requested by 56.2; Exhibit P-2.

¹⁰ Pre., Note 1.

[38] The allegation that one of WTNY's board members is also a member of Central College, described as the group of individuals with supreme authority over Jehovah's Witnesses, does not disclose a link of attachment.

[39] The Tribunal therefore grants a declinatory remedy against WTNY as well.

[40] With respect to the third defendant, CCJW, the Tribunal had authorized the solemn declaration of one of its representatives, Mr. Jefferson, and an examination followed.

[41] According to Mr. Jefferson's statement, CCJW operates in the United States and the Caribbean, it does not operate in Canada and has no connection whatsoever with the Canadian entity in any way. was also incorporated in the year 2000, well after the plaintiff's allegations that she had been injured, and Mr. Jefferson's examination of the case did not establish a connection CCJW's Application and Plaintiff's Claim In granting CCJW's request for the filing of appropriate evidence¹¹, namely the solemn declaration of Mr. Jefferson, the Tribunal has already expressed its reservations as to the possible connection with this defendant. interrogation did not provide any material to satisfy this criterion.

[42] As for the defendant, CCJW, created in 2000, states that it only acts in the United States. Part of the revised documentary evidence seems to contradict this statement. Indeed, several bulletins are sent to Alumni in Canada both in English and in French. in the French version, concerning Jehovah's Witnesses' policies on the denunciation of sexual assault, which date from 2006 and 2012¹² are puzzling. They come from Christian Congregation of Jehovah's Witnesses whose address is identical to that associated with the Watch Tower Bible and Tract Society of Canada.

[43] This suggests at first sight that these ballots come from the American CCJW. However, the questioning of his representative Mr. Jefferson clarified this question. There are two companies with the same name, Christian Congregation of Jehovah's Witness. One, the defendant incorporated in the United States acting on this territory and in the Caribbean and a second incorporated in Canada acting on Canadian territory. The latter is active from the same offices as WTC and is not a defendant to the present ones.

¹¹ Judgment of the undersigned dated November 28, 2018.

¹² See Exhibits DWTC-12 to DWTC-18.

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[44] Thus, there is no apparent connection between the US defendant CCJW and the plaintiff. The Tribunal accordingly grants the claim of inadmissibility raised by CCJW.

[45] As defendants in the record, he will remain WTPA and the other Canadian defendant The Watch Tower Bible and Tract Society of Canada (WTC).

2. IS THE ACTION OF THE APPLICANT PRESCRIBED UNDER A THREE-YEAR PRESCRIPTION PERIOD?

[46] The Tribunal now proceeds to consider the argument of prescription of the action as argued by the defendant WTC. The latter argues that it is the three-year limitation period which is applicable in the present case and not that of 30 years. If that is the conclusion, the appeal must fail, because it was undertaken late.

[47] WTC acknowledges that section 2926.1 of the Civil Code of Quebec establishes a 30-year prescription for any claim relating to sexual assault, here is the text:

2926.1. An action for the compensation of bodily injury resulting from an act that may constitute a criminal offense is prescribed by 10 years from the day on which the victim becomes aware that his loss is attributable to that act. However, this period is 30 years if the prejudice results from a sexual assault, violence sustained during childhood, or violence from a spouse or former spouse.

In the event of the death of the victim or the author of the act, the applicable time limit, if it has not already passed, is reduced to three years and runs from the date of death.

[48] WTC also acknowledges that, at the class action authorization stage, it is only overt situations that require a dismissal of the application at this stage¹³. The Tribunal must be extremely cautious and avoid using a defense against an authorization application by way of prescription¹⁴.

[49] That said, WTC believes that we are in such an exceptional situation. She pleads that Ms. Blais' recourse is based on a fault resulting from the absence of denunciation of an assault already suffered.

[50] For this defendant, she was able to distinguish Ms. Blais' situation from a claim for damages resulting from a sexual assault. According to WTC, the defect of protection alleged by Ms. Blais occurred after the last assault and constitutes a separate element. It is from this posterior event that we must begin the computation of the prescription period.

¹³ Godin c. Canadian Red Cross Society, J.E. 93-1126 (C.A.). Beaulne c. Belanger, 2016 QCCS 5387, by.104

¹⁴ Asselin c. Desjardins Financial Services Firm, 2017 QCCA 1673

[51] According to the Tribunal, the plaintiff's claim arises out of sexual assault. It is in the context of this sexual assault that the plaintiff blames the defendants for her loss, which is the lack of protection and support they have shown.

[52] The sexual assault of which the plaintiff was the victim is central to the reproaches made by the latter to the defendants. The plaintiff alleges a fault in their duty of comfort, protection and appeasement. All these elements are closely related to the sexual assaults of which she was the victim.

[53] The wording of Article 2926.1 C.c.Q. does not include a definition of misconduct except to establish a 30-year prescription in the case of a sexual assault. It is the sudden injury that serves to establish the limitation period. The fault is not limited to the perpetrator of the sexual assault.

[54] The duty of protection has already permitted the prosecution of someone with authority in similar cases. For example, the prosecution against the father of a victim who has not protected his son when he was the victim of a sexual assault by an uncle and his cousins¹⁵ will be allowed.

[55] The protection claimed by Ms. Blais can be understood as precedent to sexual assault and at the end of the latter. The Tribunal acknowledges that there is no allegation elsewhere, which suggests that once Ms. Blais denounced to an elder and a Jehovah's Witness, the sexual assault of which she was the victim that she would have been the victim of further sexual assault. Despite this, she invokes the defect of protection she may have felt when she felt, as she claims, unsupported by Jehovah's Witnesses' community.

[56] Therefore, at this stage, Ms. Blais' application can not be dismissed on the grounds of prescription, as the defendant WTC would like. It can not be concluded that the lack of protection following the most recent sexual assault would be a separate and separate act from the sexual assault to be analyzed autonomously. As mentioned, Article 2926.1 C.c.Q. does not allow for such a distinction.

[57] The argument of rejection of the application on the grounds of prescription is refused at the stage of the application for authorization.

The class action proposed by the plaintiff

¹⁵ El C. G.L., 2017 QCCS 1762, par.42 to 46.

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[58] The Tribunal must now determine whether the four conditions of Article 575 of the Quebec Code of Civil Procedure are satisfied for the purpose of authorizing the exercise of the class action by Ms. Lisa Blais.

[59] The plaintiff seeks leave of the Tribunal to bring a class action suit on behalf of the individuals in the two subgroups, the Victims' Subgroup and the Minor Victims Subgroup.

[60] The plaintiff thus formulated the faults she blames the defendants against the members of the group:

1. With regard to the "Subgroup of sexual assault by Elders":

- (i) To have committed their responsibility as a principal in relation to the sexual assaults committed by Elders on Jehovah's Witnesses;
- (ii) To negligently inflict psychological pain and suffering resulting from the failure of the defendants to adequately support and protect Jehovah's Witnesses from the abuse perpetrated by the Elders;
- (iii) Failure to denounce the commission of sexual assaults by Elders when they knew or ought to have known that sexual assaults were being perpetrated by Elders;
- (iv) Deliberately, unjustifiably, intentionally and vexatiously inflict psychological pain and suffering directly as a result of the misconduct of the Defendants and Elders to ignore the sexual assaults committed by the Elders and to fail to report them to the authorities.

B. With respect to the "Minor Sexual Assault Subgroup"

- (i) Developed, maintained and implemented systemic policies and practices creating and maintaining an environment conducive to the commission of sexual assault on minors Witnesses of Jehovah
- (ii) To negligently permit sexual assaults by Jehovah's Witnesses on Jehovah's Witnesses;
- (iii) To have negligently inflicted psychological pain and suffering resulting from the failure of the defendants to adequately support and protect the members of the minor sexual assault subgroup from assaults

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- (iv) Failure to report sexual assault on Jehovah Witness minors when the defendants knew or ought to have known that sexual assault was being committed on minors
- (v) To have committed their responsibility as a principal in relation to the failure of the Elders to denounce the sexual assaults of Jehovah's Witnesses
- (vi) Having deliberately, unjustifiably, intentionally and vexatiously inflicted psychological suffering as a direct result of the misconduct of the defendants and the Elders to ignore sexual assaults on minors and to refrain from denouncing them to the authorities.

[61] The plaintiff seeks, on behalf of herself and other class members, the collective recovery of the following damages:

1. \$ 150,000 in moral damages per Class Member;
2. \$ 100,000 in punitive damages per Class Member for the unlawful and intentional infringement of Class Members' rights by the Defendants; in application of a violation of the Charter of Human Rights and Freedoms.
3. An amount of pecuniary damages to be determined at the time of the trial;
4. Interest at the legal rate, plus the additional indemnity provided for in article 1619 of the Civil Code of Quebec.
5. Legal costs, including expert fees, if any, and the costs of publication and notice, of an amount to be determined at the hearing.

The particular situation of the plaintiff

[62] The plaintiff was born in 1972 in Quebec to a family adhering to the Jehovah's Witnesses religion. She was baptized in 1988 in this group.

[63] His elder brother, about 13 years old, was also a Witness to Jehovah, as was his mother and father.

[64] The applicant's brother allegedly assaulted her while she was a baby. He left the family home while the plaintiff was 5 years old. He returned to the family home while the plaintiff was 16 years old. The attacks started again. It was also at this time that the applicant's brother confessed to having assaulted her at the age of 1 month.

- [65] At the time of the Brother's return home while the Applicant is 16 years old, he informs their mother of the sexual assaults committed on her sister.
- [66] The Applicant confronts her brother for the first time and asks her mother to intervene to protect her. This last command to silence¹⁶.
- [67] The applicant states that the father was informed of the sexual assault. No family member wanted to help him or denounce these acts to the authorities.
- [68] The plaintiff consulted another Jehovah's Witness and an Elder, seeking comfort, protection and appeasement¹⁷.
- [69] When the plaintiff told Jehovah's Witness and the Elder that she was thinking of going to the police to denounce the assailant, her brother. They would have told her that she should give up this idea, otherwise she would tarnish the image of God Jehovah¹⁸.
- [70] As a 17-year-old, the applicant concludes that she must leave the family home to distance herself from the destructive environment in which she lived.¹⁹
- [71] In 1996, at the age of 24, the plaintiff was excommunicated from the community²⁰. The proceedings are silent as to the reasons and circumstances of this excommunication.
- [72] The plaintiff says that neither her family, nor the Jehovah's Witness she contacted, nor the Elder denounced the crimes she had entrusted to them from her brother²¹. The elders act within Jehovah's Witnesses as spiritual leaders of each congregation²². The elders have the ultimate authority over Jehovah's Witnesses²³.
- [73] The Applicant claims to have suffered sexual assault in addition to the lack of support and protection from her parents, the Old Consulate and the other Jehovah's Witness, all of whom are Jehovah's Witnesses being at the same time. current sexual assault by his brother²⁴.

The legal principles applicable to the authorization

¹⁶ The plaintiff reports that her mother told her "you could have ended your mouth" (Request by 22)

¹⁷ Request by 23.

¹⁸ Request by 23.1.

¹⁹ Request by 24

²⁰ Request by 25

²¹ Request by 26

²² Request by 71

²³ Request by 72

²⁴ Request by 27

[74] The authorization of a class action is a filtering mechanism²⁵ which serves to determine whether the procedural means chosen are adequate²⁶. It is not necessary to decide the merits or to receive and consider the defenses that will be assessed, if the remedy is authorized, at the previous stage²⁷. Rather, it must be ascertained whether the plaintiff has set out a arguable case or the burden is a demonstration²⁸.

[75] Thus, the Tribunal must adopt a "flexible, liberal and generous approach (in its evaluation) of the conditions of authorization" with the objective of facilitating the exercise of class actions as a means of achieving the double objective of deterrence and compensation for victims²⁹.

3. DOES THE APPLICATION CONTAIN FACTUAL ALLEGATIONS SUFFICIENTLY ACCURATE TO ESTABLISH A LINK BETWEEN THE DAMAGES SUBMITTED BY THE APPLICANT AND THE MISTAKES WHICH IT REPLIES TO THE DEFENDANTS?

[76] The Tribunal must first assess whether the test set out in the second paragraph of Article 575 C.p.c. is to know whether: "the facts alleged seem to justify the conclusions sought. "

[77] The defendants argue that the allegations are too vague to establish a fault or connection with the alleged damages. They consider that the source of the plaintiff's damages is related to the incest she suffered and her parents' fault for having failed in their duty to protect their child.

[78] For the defendants, the plaintiff relies on her own opinion to support a connection between the lack of protection on the part of Jehovah's Witnesses she invokes and the sexual assaults she suffered.

[79] Moreover, the defendants argue that it is not for the Tribunal to interfere in the evaluation of religious practices

[80] According to the request, Jehovah's Witnesses Organization is headed by Central College, the latter being a group of seven influential men at the head of the organization. Central College is not incorporated. His seven members, all men, are not defendants in the proceedings. Some of these individuals sit on the boards of directors of the American companies identified in the proceedings.

²⁵ Infineon par. 59 et 60.

²⁶ Videndi, par. 37

²⁷ Asselin par. 133, Sibega, par. 83

²⁸ Infineon, par. 65

²⁹ Asselin c. Desjardins, 2017 QCCA 1673, par. 29

- [81] As requested, Central College develops rules and policies and disseminates teachings to Jehovah Witness Witnesses around the world³⁰.
- [82] WTPA holds the copyright for Jehovah's Witnesses. As requested, Central College designates and supervises national headquarters in the various countries,³¹ including WTC in Canada.³²
- [83] The national headquarters of which WTC acts under the effective control of Central College in order to propagate these rules and policies of the organization³³.
- [84] National seats are divided by a subsidiary committee assists of several committees³⁴.
- [85] Each national seat is composed of several congregations. Each congregation is led by four or five spiritual leaders, "elders". The committee formed by the Elders is called "Conseil des Anciens"³⁵.
- [86] Elders, all men, hold and exercise ultimate authority over members over any matter.
- [87] Until 2014, the Elders were appointed by the national seats. Since then, Elders have been appointed by "District Supervisors"; the latter being appointed by the Central College which remains implicated in the process of appointment and dismissal of an elder, just like the national seats.³⁶
- [88] The Elders decide on the opportunity to form a judicial committee against a member and decide on his excommunication as well as his reintegration³⁷.
- [89] Non-compliance with policies is denounced within the community, which encourages isolation as the writings encourage members to regroup and to engage with those who are not Jehovah's Witnesses³⁸.
- [90] Thus, the policies encourage to respect the biblical laws and not to denounce in order to settle the complaints, internally, by a judicial council³⁹.

30 Request by. 77, 78, 79; exhibit P-16.

31 Request by. 57.

32 Application by. 59; exhibit P-4.

33 Application by. 57, 57.1, 58, 61.1 and 71.

34 Exhibit P-11; Request by. 60.

35 Request by. 57, 57.1, 58, 61.1 and 71.

36 Exhibit P-13; Ask by. 74, 75, 76.

37 Exhibit P-16 .; Request by 81, 89, 91

38 Request by 92.

39 Request by 93; Pieces P-26 and P-27, reportage of the program Enquete.

- [91] With regard to sexual assault, the Elders are instructed to report to the organization's legal department a reported sexual assault⁴⁰.
- [92] Elders must keep a record of reported sexual assault⁴¹ and maintain the confidentiality of the registry.
- [93] The applicant believes that the directives encourage Elders not to report the assaults and instead to undertake other methods of action, so that the denunciation results from a professional third party or family member, and in spite of the power and the important influence exercised by the Elders on the members.
- [94] On the other hand, if an offense is established, a judicial committee will be formed to confirm whether a wrong has been committed. An offense will be established if the former confesses or if two persons have witnessed wrongdoing.
- [95] A victim who is not believed at the end of the judicial committee can be recognized as the author of defamation⁴³.
- [96] An unreduced victim may be excommunicated from the community or choose to leave it. In either case, this person becomes excluded from the community, his social network and life, as well as possibly his family, even though he is already in a vulnerable state.
- [97] The Applicant explains that an author of sexual assault may be subject to punishment as excommunication. However, reintegration is possible when the abuser expresses repentance⁴⁵.
- [98] The applicant states that hundreds of sexual assault complaints were received in Quebec by Jehovah's Witnesses⁴⁶.
- [99] Central College develops a world-wide doctrine, including in Canada, addressed to Elders. They make sure to spread the rules to their members.
- [100] The secrecy surrounding the entire denunciation mechanism means that members are urged to denounce to the Elders attacks on children of which they may be aware, and then to incite the Elders to communicate with the legal department of Elders. the organization.

⁴⁰ Exhibit P-22 DWTC 4, par. 106; Exhibit P-23 DWTC 5; Piece DWTC 8; Exhibit P-25 DWTC.16, DWTC.17, DWTC.18; P-16.

⁴¹ Exhibit P-18; P-19, P-20.

⁴² Request par. 119 a; 21; Exhibit P-25 DWTC-16; Exhibit DWTC-9 and P-16.

⁴³ Request par. 126.

⁴⁴ Request par. 120 to 131.

⁴⁵ Request par. 133.1 et 135; Exhibit P. i 6; P-26.

⁴⁶ Request par. 2, 175 and 176; Exhibit s P-26 and P-27.

[101] It recalls the existence of the Canadian-wide laws that any sexual assault against a child or any situation of abuse must be denounced. In several publications, the choice is given to witnesses to denounce or not. Elders are invested as investigators in deciding how to proceed. The latter, at the end of the investigation, determined whether a sexual assault was completed. It is recommended that the family privilege a denunciation by a third party, either an attending physician, or a psychologist or alternatively a family member.

[102] Thus, the elders themselves avoid blaming the denunciation of an attacking Jehovah's Witness, but seek somebody else's report to the authorities.

[103] Thus, Bulletin ⁴⁷ dated 29 July 1988 explains the procedure to be followed. We quote some long extracts. The letter is for Informed Alumni of a sexual assault on a child of which we quote here some excerpts:

Legislation in all provinces in Canada requires that child abuse be reported to child protection officials so that immediate action can be taken to protect children. Jehovah's Witnesses certainly support this goal.

The difficulty lies in finding the right balance between your obligation to report such facts and your duty to preserve the confidentiality of the affairs of the congregation. We have asked our Legal Office to give us some advice, which we forward to you below:

When to report?

A person has a duty to report if there are reasonable and probable grounds to believe that there is assault or actual risk of assault and that parents have neglected to protect the child. The case will be immediately reported to local authorities for the protection of children. Sex offenders are known repeat offenders. Therefore, a thorough investigation is needed to ensure that no other child is threatened by the same person.

Who should report?

Most provinces impose this duty on "everyone". The law does not provide for a right of reservation. Generally, a person who makes a report in good faith cannot be prosecuted. A minister cannot neglect this obligation, otherwise he would be subject to prosecution, fines and imprisonment.

⁴⁷ Exhibit P-18 DWTC-1 French version.

Does a minister have another choice?

Yes. A minister can make specific arrangements for someone else to report.

For example, family members should be encouraged to discuss the aggression with a family doctor. The latter may arrange for therapy to be practiced by a competent professional in the field of mental health. Then the family or doctor could report the situation. The abuser could report it himself, which is strongly recommended. The usual result is that he will be helped; moreover, public servants are always better disposed to an abuser who is asking for help.

However, Elders must be aware that once they know of a situation, they have an obligation. They cannot just hope someone else is going to report. They must ensure that such a report is done without delay. Once the fact signals, either by them or by someone else, they have fulfilled their obligation.

[104] In the bulletin of October 1, 1989⁴⁸, where it is a question of protecting the confidentiality of such sensitive information:

Elders are responsible for herding the flock, however they must be careful not to divulge any information relating to personal matters to anyone who is not entitled to know it. There is "a time to be quiet" when "your words are to be few" (Ecclesiastes 3: 7; 5: 2).

[105] In the same bulletin, we mention the judicial committees in case of problematic reporting. It is the internal judicial committees of Jehovah's Witnesses that will act⁴⁹.

[106] It is interesting to note, according to another 2012⁵⁰ bulletin, Jehovah's Witnesses state that the Bible's rules state that an indictment will be retained on the testimony of two or three persons in sexual assault.

[107] The plaintiff produced two videos in the evidence from the program Enquete, which devoted two episodes to the treatment of sexual abuse complaints in the community of Jehovah's Witnesses.⁵¹ These reports contain the testimonies of minors who have been sexually assaulted by members in Quebec and elsewhere.

48 Exhibit P-36 DWTC-2 frameless version, para. 3.

49 Tab 2: Letter of October 1, 1989: quote extracts "insists on silence and promises denunciation by a Third Party". Bulletin Awake April 22, 1985: refer the legal department to know what to do.

50 Exhibit P-25 DWTC-16 para. 11.

51 Exhibits P-26 and P-27.

[108] In short, the plaintiff's fault with the defendants is to develop and disseminate unavoidable and binding teachings for Jehovah's Witnesses. This has the effect of facilitating the handling of complaints, including those of sexual assault, internally. This way of doing so has the effect of instituting the old plenipotentiaries in this matter. The latter have a concern not to tarnish the reputation of the community and therefore to promote the law of silence.

[109] In terms of misconduct, the plaintiff submits that the defendants lack the protection of minors in the absence of a mechanism of adequate denunciation of the aggressors which favors the impunity of the aggressors to the detriment of the victims.

[110] In the particular case of the plaintiff, the alleged misconduct begins at the time of the denunciation of Jehovah's Witnesses and the Elder, following the second wave of sexual assaults committed by her brother, while the plaintiff at 16 years old. All that led to his decision to leave the family at the age of 17, in order to exclude himself from this destructive environment. Thus, the plaintiff blames the defendants, who represent the effective authority of Jehovah's Witnesses on all members including the Elders, to have lack of comfort and appeasement in connection with these attacks. She adds that the lack of protection results from faults in the organization.

[111] In her proceedings, the plaintiff refers to the culture of silence reflected in the body of internal documentation emanating from the Central College, which is broadcast in particular by WTPA, CCJW and WTC.

[112] Thus, the plaintiff believes that the rules of Jehovah's Witnesses favor the rule of silence, which ultimately favors the impunity of the aggressors to the detriment of the victims.

[113] She considers that the violation of her right to security gives her the right to claim moral damages, which she establishes at \$ 150,000, a reserve to claim pecuniary damages and \$ 100,000 as punitive damages in violation. of section 9 of the Quebec Charter of Human Rights and Freedoms.

Analysis - Criterion 575 (2) of the Code of Civil Procedure

[114] At the leave stage, the Tribunal is satisfied with the Applicant's demonstration that the alleged misconduct is related to the prejudice suffered.

[115] The blame is most simply expressed by a deficient cadre of members of Jehovah's Witnesses community with a feeling of impunity for its members who engage in aggression. Given the policy of silence that encourages internal retention of sexual assault denunciations, this has the effect of protecting the abuser more than the victim.

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[116] The defect of protection and security, resulting from the rules governing the organization of Jehovah's Witnesses, as circulated and implemented by the defendants, are related to the damages suffered by the plaintiff, whereas it has 16 or 17 years old and thereafter.

[117] Indeed, the plaintiff, having resolved to leave the destructive family environment given the family's adherence to the dictates of Jehovah's Witnesses, has often felt the resulting social isolation. The joint and several damages claimed by the plaintiff stem from her (moral and economic) prejudices. The plaintiff does not claim the solidarity between the defendants with respect to the claim for punitive damages alleging a breach of the duty of security provided for in the Quebec Charter of Human Rights and Freedoms. It nevertheless considers that it can establish an intentional fault on the part of the defendants in this respect.

[118] The Tribunal is of the view that the Applicant alleges misconduct by the defendants who caused her damages. The plaintiff's allegations are not vague and ambiguous. They are not merely allegations based on opinions but of course on a set of facts.

[119] The Applicant set out the alleged misconduct by filing extensive documentary evidence, in fact, supplemented by the defendants. This documentation contains the policies that govern Jehovah's Witnesses that illustrate the ambivalence between the duties imposed on citizens and the internal rules that command silence. It is not enough to isolate the communications which invite the denunciation without taking into account all the bulletins which emphasize the obligation of confidentiality, and the obligation to submit the complaint to the internal investigation.

[120] In contrast, contrary to the contentions of the defendants, the collective action contemplated is not presented in order to proceed to the trial of a religion.

[121] Collective action does not call into question the beliefs conveyed. However, it is possible to subject courts to do things that may be at fault and cause damage to victims. There is indeed a distinction to note. For the Tribunal, the purpose of the proposed collective action is not to prosecute Jehovah's Witnesses but rather to pursue certain methods of action.

[122] The Tribunal therefore finds that the test of section 575 (2) C.p.c. is meeting with regard to the subgroup of attacks on minors by members of Jehovah's Witnesses.

[123] With regard to the subgroup proposed for sexual abuse by Elders, this poses a difficulty.

[124] At first, we know that the Ancients are all, necessarily, members of Jehovah's Witnesses' community.

[125] Alumni who have sexually assaulted a minor are therefore already included in the definition of the first subgroup. Moreover, in addition to this element, the control exercised by the Jehovah Witnesses 'organization as the principal of the Elders, for the purpose of establishing a link of supervision and thus of the defendants' preposition to the Elders.

[126] The Applicant considers that the Elders are WTC Defendants who implement the rules developed and disseminated by WTPA. Then, it is the Elders who broadcast and see the application by the members of the said rules.

[127] Consequently, with regard to sexual assault against minors, given the documentation currently produced in the record, the Tribunal is able to hold that the class action may be aimed at minors who are victims of sexual assaults perpetrated by them. from elders to members of Jehovah's Witnesses.

[128] Moreover, a difficulty arises when the plaintiff wants to extend the group to all victims of sexual assault, minor and major.

[129] The lack of protection and security at the place of minors can be understood. The plaintiff was a minor at the material time, although she was of age at the time of the excommunication. The same is true of those who reported sexual assault in the two programs of INVESTIGATION.⁵² The victims' testimonies report faults that occurred while they were minor. Nothing in the file mentions the situation of adult victims of sexual assault.

[130] The situation of adults is complicated by the notion of consent, which is analyzed differently by minors. The Tribunal recognizes, however, that in the case of sexual assault, there is never consent. However, the record is completely silent about the precise situation of major victims.

[131] As a result, it appears that this record, as it stands, does not permit a link between the facts alleged and the conclusions sought with respect to the major victims of sexual assault and that there will be to modulate proposed subgroups to limit them to minor victims.

4. HAS THE APPLICANT ESTABLISHED THAT IT WOULD NOT BE PRACTICAL TO PROCEED BY INDIVIDUAL REMEDIES

[132] According to section 575 (1) CC, the plaintiff must show that the claim "raises identical, similar or related questions of law or fact".

52 Exhibits P-26 and P-27.

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[133] The presence of a single question of law or of fact that is related or similar is sufficient if it may have a significant part of the connection⁵³.

[134] Even though the entire case cannot be entirely resolved by the proposed class action, there is nothing to prevent its authorization⁵⁴.

[135] Thus, the Applicant lists the common issues to be addressed:

- Sexual Assault Commission by Jehovah's Witnesses (para 182 a)
- The neglect of the policies and practices of the organization (para 182b) and e)
- The consequences of the practices and policies of the organization (paragraphs 182 (c) and (d))
- Vicarious liability arising from wrongdoing of members or alumni (para 182 h)
- Damages caused by the defendants in terms of alleged moral and economic damage (para 182 h)
- The claim for punitive damages for intentional breach of the duty of security enjoyed by any person as prescribed by the Charter of Human Rights and Freedoms (paragraphs 182 (j) and (k)).

[136] In the light of this summary of common issues, the Tribunal is satisfied that the test in s. 575 (1) C.p.c. is met.

5. HAS THE APPLICANT ESTABLISHED THAT THERE ARE SUFFICIENT COMMON QUESTIONS, DESPITE THE VARIATIONS THAT MAY EXIST BETWEEN EACH OF THE POTENTIAL CLAIMANTS?

[137] The Tribunal must now "examine the composition of the group and the opportunity to use the class action rather than the ordinary course".

[138] The Tribunal must examine this issue under the spectrum of the collective action objective that seeks to provide access to justice for victims.

[139] According to the application, the defendants have received hundreds of complaints of sexual assault⁵⁵.

⁵³ Vivendi, para. 58; Infineon, para. 72, Sibiga, para. 121 to 128.

⁵⁴ Collective of the rights of the Monteregie (CDDM) c. Surort Regional Hospital Center, 2011 QCCA 826, para. 22 and 23.

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[140] The organization of Jehovah's Witnesses is highly hierarchical, led by men, and encourages the culture of silence. Internal treatment of complaints of sexual assault being the illustration.

[141] It is comfortable for the Tribunal to conclude that, as a result, the victims who were not encouraged or supported to denounce these assaults also do not have the courage to confront their aggressor and the organization in front of them. courts by instituting an individual prosecution⁵⁶.

[142] The Tribunal finds that the number of persons who could be targeted by the proposed groups, given the nature of the allegations and the specific complaint made, confirms that collective action raises common issues. The procedural route of collective action is therefore more appropriate than a multitude of individual remedies.

6. DOES THE APPLICANT HAVE AN INTEREST TO ACT AS A REPRESENTATIVE FOR THE TWO SUB-GROUPS PRESENTED?

[143] This criterion is evaluated according to three elements.

[144] The plaintiff's interest in his proceedings in exposing his personal situation as a former Jehovah's Witness and a member of a family that also adheres to the teachings.⁵⁷

[145] The second element is that of the absence of conflict of interests. There is nothing in the record to doubt at this stage of this element.

[146] The third criterion concerns jurisdiction. The Applicant claims to be competent and again, there is no reason to question her competence to represent members and instruct counsel. The applicant therefore appears to be able to ensure adequate representation.

In conclusion, the Tribunal authorizes the application of Ms. Lisa Blais to exercise a Collective Action Against Defendants Watch Tower Bible and Tract Society Canada (WTC) and Watch Tower Bible and Tract Society of Pennsylvania (WTPA)

THEREFORE, THE COURT:

On the declinatory means

[147] PARTLY GRANTING the defendant's declinatory of the Watch Tower Bible and Tract Society of New York (WTNY) and Christian Congregation of Jehovah's Witnesses (CCJW).

55 Application by. 2, 175 and 176 declaration; Piece P-26 and P-27.

56 JJ c. St. Joseph's Oratory, par. 99 to 102; Tremblay c. Lavoie, para. 59.

57 Bank of Montreal v Marcotte, 2014 SCC 55, 32)

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[148] DISMISSES the action brought against the defendant Watch Tower Bible and Tract Society of New York (WTNY) and the defendant Christian Congregation of Jehovah's Witness (CCJW);

ALL, without legal fees

On the application for authorization:

[149] **GRANTS** this application for leave to institute a class action and to be granted the status of a representative;

[150] **AUTHORIZES** collective action in civil liability and moral, pecuniary, punitive and exemplary damages against the Defendants;

[151] **ATTRIBUTES** to the plaintiff Lisa Blais the status of representative for the group described below:

"All underage persons who are or have been Jehovah's Witnesses and who allege that they have been sexually assaulted in Quebec by a person in the role of Elder (the" **Subgroup of Sexual Assault by Elders**".

"All underage persons who are or have been Jehovah's Witnesses who allege that they have been sexually assaulted in Quebec by a Jehovah Witness (the "**Sexual Assault Subgroup by a Jehovah Witness**")".

[152] **IDENTIFIES** as follows the main issues of fact or law that will be dealt with collectively:

Have Elders and other Witnesses sexually assaulted Witnesses of minor age, including the plaintiff?

Were the defendants negligent in failing to take steps to prevent the perpetration of sexual assault on minors by Elders and Witnesses, thus committing a fault within the meaning of the Civil Code of Quebec?

Have the defendants' systemic policies and practices facilitated the commission of sexual assaults on minors, including the plaintiff, thus constituting a fault within the meaning of the Civil Code of Quebec?

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Did the defendants' systemic policies and practices lead to the non-denunciation of the said sexual assaults on minor witnesses, including the plaintiff, to the provincial authorities, thus constituting a fault within the meaning of the Civil Code of Quebec?

Do the Defendants' Systemic Policies and Practices on Sexual Abuse of Minors Witnesses Inherent in Inherent Matter, Thus Constituting Misconduct Under the Quebec Civil Code?

Did the defendants incur their liability as principal for the sexual abuse committed by the Elders on minors?

Did the defendants commit their responsibility as principal for the failure of the Elders to denounce sexual assault on minors?

Do the misconduct by the defendants cause harm to the Class Members?

Are the defendants jointly and severally liable for the pecuniary and non-pecuniary damages caused to the members of the group?

Have the defendants unlawfully and intentionally interfered with the fundamental rights and freedoms of the members of the group, protected by the Quebec Charter of Human Rights and Freedoms?

Are the members of the group entitled to claim punitive damages?

[153] IDENTIFIES the related research findings as follows:

WELCOMES the plaintiff's claim;

CONDEMNS the defendants, jointly and severally, to pay to the plaintiff the sum of \$ 150,000, as non-pecuniary damages, plus interest at the legal rate and the additional indemnity provided for in article 1619 of the Civil Code of Quebec since the service of the application for authorization to institute a class action;

CONDEMNS the defendants, jointly and severally, to pay to the plaintiff a sum in pecuniary damages, to be determined at the trial, plus interest at the legal rate and the additional indemnity provided for in article 1619 of the Civil Code of Quebec, since service of the application for authorization to institute a class action

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CONDEMNNS the defendants, to pay to the plaintiff the sum of \$ 1 000 in punitive damages, plus interest at the legal rate and the additional indemnity provided for in article 1619 of the Civil Code of Quebec, since the service of the application for authorization to institute a class action

WELCOMES the plaintiff's class action for all the members of the group

CONDEMNNS the defendants, jointly and severally, to pay to each class member an amount of \$ 150,000 as non-pecuniary damages, plus interest at the legal rate and the additional indemnity provided for in article 1619 of the Civil Code of the Quebec since the service of the application for authorization to institute a class action;

CONDEMNNS the defendants, jointly and severally, to pay to each Class Member a sum in pecuniary damages, to be determined at the trial, plus interest at the legal rate and the additional indemnity provided for in article 1619 of the Civil Code of the Quebec since the service of the application for authorization to institute a class action;

CONDEMNNS the defendants to pay each member of the group the sum of \$ 1 000 in punitive damages, the majority of the interest at the legal rate and the additional indemnity provided for in article 1619 of the Civil Code of Quebec, since the service of the application for authorization to institute a class action;

ORDERS the collective recovery of claims for non-pecuniary and punitive damages for all Class Members and the individual liquidation of Class Members' claims in accordance with Articles 595 to 598 of the Code of Civil Procedure

ORDERS the collective recovery of claims for pecuniary damages for all Class Members and the individual liquidation of Class Members' claims in accordance with Articles 595 to 598 of the Code of Civil Procedure and, in the alternative;

ORDERS the individual recovery of claims for pecuniary damage for all Class Members in accordance with Articles 599 to 601 of the Code of Civil Procedure;

ALL with legal fees, including advisory and expert fees.

DECLARES that in the event of exclusion, the members of the group will be bound by any judgment to intervene on the collective action in the manner provided for by law;

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DETERMINE the exclusion period to thirty (30) days after the date of the notice to the members, at the expiry of which the members of the group who will not have availed themselves of the means of exclusion will be bound by any judgment to come

ORDERS the publication of a notice to the members (in accordance with Article 576 C.p.c.) in the terms to be determined by the Tribunal

REFERS the file to the Chief Judge for the determination of the district in which the class action shall be taken and the name of the judge to hear it;

ALL, with legal fees, including expert fees and publication fees.

[154] **ALL**, with legal fees.

CHANTAL CORRIVEAU, j.c.s.

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Mr Laurence Ste-Marie

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