

FILE NO. CI 18-01-17220

**THE QUEEN'S BENCH**  
**Winnipeg Centre**

BETWEEN:

**DAVID WEREMY**

Plaintiff

- and -

**THE GOVERNMENT OF MANITOBA**

Defendant

FILED  
QUEEN'S BENCH

AUG 26 2021

LAW COURTS  
WINNIPEG

Proceeding under *The Class Proceedings Act*, C.C.S.M. c. C.130

---

**TRUE COPY**  
**CONSENT ORDER**

---

**KOSKIE MINSKY LLP**  
Barristers & Solicitors  
900-20 Queen Street West  
Toronto, ON M5H 3R3

**David Rosenfeld**  
Tel: 416-595-2700  
Fax: 416-204-2894  
**Nathalie Gondek**  
Tel: 416-542-6286  
Fax: 416-204-2878

**WOLSELEY LAW**  
303-960 Portage Avenue  
Winnipeg, MB R3G 0R4

**Gerrit Theule**  
**Kathleen Brownell**  
Tel: 204-977-1706  
Fax: 866-880-8506

**Counsel for the Plaintiff**

**THE QUEEN'S BENCH**

**Winnipeg Centre**

THE HONOURABLE  
MADAM JUSTICE GRAMMOND

*Wednesday*, THE *25<sup>th</sup>*

DAY OF AUGUST, 2021

BETWEEN:

**DAVID WEREMY**

Plaintiff

- and -

**THE GOVERNMENT OF MANITOBA**

Defendant

Proceeding under *The Class Proceedings Act*, C.C.S.M. c. C.130

**TRUE COPY**

**ORDER**

**IN ACCORDANCE WITH** the Order of this Court of July 22, 2020 (“**Certification Order**”) and sections 16, 19 and 24 of the *The Class Proceedings Act*, C.C.S.M. c. C130, and the Order of the Court of Appeal of June 23, 2021 denying leave to appeal the Certification Order;

**ON READING** the materials filed by the parties in relation to this Order and on hearing the submissions of counsel for the parties,

**AND UPON** being advised that the parties consent to the terms of this Order,

1. **THIS COURT ORDERS** that the capitalized terms herein have the same meaning as those terms are defined in the Certification Order.

2. **THIS COURT ORDERS** that Epiq Class Action Services Canada Inc. be and is hereby appointed as the notice administrator to, *inter alia*, disseminate notice of certification and to receive opt out forms from the Class all in accordance with this order (the “**Administrator**”).

3. **THIS COURT ORDERS** that Class Members shall be notified that this proceeding has been certified as a class proceeding as follows:

- (a) by the Administrator delivering a notice, in substantially the same form as the notice attached hereto as **Schedule "A"** (the "**Publication Notice**") and attached hereto as **Schedule "B"** (the "**Long Form Notice**"), by regular mail and email (if applicable), within thirty (30) days of this Order, to the addresses identified on the Class List and to any other potential Class Member who has otherwise contacted Class Counsel or the Administrator;
- (b) by the Administrator delivering, within thirty (30) days of this Order, the Publication Notice and Long Form Notice, by regular mail and email (if applicable), along with a covering letter in a form and content agreed upon by the parties, to the community agencies listed by the Defendant pursuant to subparagraph 8(b) of the Certification Order (the "Agency List");
- (c) by the Defendant posting the Publication Notice and Long Form Notice in prominent places within the Manitoba Development Centre so as to come to the attention of Class Members or their family members, within thirty (30) days of this Order;
- (d) by Class Counsel delivering the Publication Notice and Long Form Notice to the Public Guardian and Trustee, within thirty (30) days of this Order;
- (e) by the Administrator placing, within thirty (30) days of this Order, the Publication Notice in the publications set out in **Schedule "C"** attached hereto in ¼ of a page size in the weekend edition of each paper, if possible;
- (f) by the Administrator issuing a press release substantially in the form attached as **Schedule "D"**, within 30 days of this Order, via CNW national newswire service;
- (g) by Class Counsel, within thirty (30) days of this Order, asking People First Canada and People First of Manitoba to distribute the Publication Notice and Long Form Notice to its distribution list and to its adult protective service worker members;
- (h) by Class Counsel, within thirty (30) days of this Order, asking Community Living Manitoba to distribute the Publication Notice and Long Form Notice to its adult protective service worker members and local branches;
- (i) by Class Counsel and the Administrator posting, within thirty (30) days of this Order, the Publication Notice and Long Form Notice on their respective websites; and
- (j) by the Administrator forwarding the Publication Notice and Long Form Notice to any person who requests it.

4. **THIS COURT ORDERS** that the Administrator shall maintain a website during the course of dissemination of notice of certification and up to sixty (60) days after the Opt-Out

Deadline for Class Members to obtain information about the notice of certification and opt-out process and shall maintain an email address and fax number for the same time period to receive Opt-Out Forms from Class Members.

5. **THIS COURT ORDERS** that the Plaintiff and the Defendant shall each pay half of the expenses arising from paragraph 3, paragraph 4, and the Administrator's responsibilities set out herein (the "Notice Expenses"), up to a maximum payment by the Defendant of \$50,000. For Notice Expenses in excess of the maximum payment by the Defendant, the Plaintiff shall incur such expenses in first instance and shall be permitted to seek an order requirement payment by the Defendant of all or half such expenses. This Order reflects the agreement between the parties to temporarily share the cost of the Notice Expenses and is made without prejudice to the parties' right to seek recovery of the Notice Expenses they incurred from the other party at any time upon motion to the Court or otherwise at the conclusion of this proceeding.

6. **THIS COURT ORDERS** that a Class Member may opt out of the class proceeding by delivering a signed Opt-Out form, substantially in the form attached as **Schedule "E"**, or some other legible signed request to opt out, within four (4) months from the date of this Order (the "**Opt-Out Deadline**"), sent to the Administrator by e-mail, regular mail, or facsimile, at the following address:

Epiq Class Action Services Canada Inc.  
Attention: Manitoba Developmental Centre Class Action  
134 – 1364 McPhillips Street,  
Winnipeg, Manitoba  
R2X 2M4  
Email: info@mdcclassaction.ca

7. **THIS COURT ORDERS** that no person may opt out a minor or a person who is mentally incapable, as defined in Queen's Bench Rule 7.01(1), without leave of the Court after notice to the Office of the Public Guardian and Trustee is provided as appropriate.

8. **THIS COURT ORDERS** that no Class Member may opt out of the class proceeding after the Opt-Out Deadline, except with leave of the Court.


9. **THIS COURT ORDERS** that the Administrator shall serve on the parties, within sixty (60) days of the expiry of the Opt-Out Deadline, an affidavit listing all persons who have opted out of the class proceeding, if any.

August 25  
~~July~~ \_\_, 2021

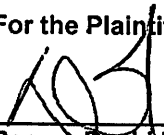
  
Grammond J.

**APPROVED AS TO FORM:**

**For the Defendant:**

for:   
Per: Jim Koch/Alan Ladyka  
Legal Services Branch

**For the Plaintiff:**

  
Per: David Rosenfeld, Koskie Minsky LLP/  
Daniel Hildebrand, Wolseley Law LLP

## Schedule "A" – Publication Notice

### Did you live in Manitoba Developmental Centre or know someone who did?

*A Lawsuit May Affect You. Please Read this Carefully*

You could be affected by a class action lawsuit involving the Manitoba Developmental Centre ("MDC") in Portage la Prairie. The Manitoba Queen's Bench has decided that a class action lawsuit will go forward on behalf of a "Class," of people, which could include you. This notice summarizes your rights and options. You can choose whether to stay in the Class or not. There is no money available now and no guarantee that there will be.

#### WHAT IS THE CASE ABOUT?

This lawsuit says that the Province of Manitoba failed to properly protect the people who lived at MDC from the harm they suffered. The lawsuit says that MDC residents were physically, sexually and mentally harmed by staff and other residents. The Government of Manitoba denies these claims. The Court has not decided which side is right. The lawyers for the Class will have to prove their claims in Court.

#### AM I INCLUDED?

You are affected by this lawsuit if:

- You lived at MDC between July 1, 1951 and May 29, 2020; OR
- You are an estate trustee of someone who lived at MDC between July 1, 1951 and May 29, 2019, and who died *after* October 31, 2016.

#### WHO REPRESENTS THE CLASS?

The Court has appointed Koskie Minsky LLP to represent the Class as "Class Counsel". You do not have to pay Class Counsel, or anyone else, to participate. Instead, if Class Counsel gets money or benefits for the Class, they may ask for lawyers' fees and costs, which would be deducted from any money obtained, or be paid separately by the Government of Manitoba.

You may hire your own lawyer but if you do, you may have to pay that lawyer.

#### WHAT ARE MY OPTIONS?

**Stay in the Class:** To stay in the Class, you do not have to do anything. If money or benefits are obtained, you will be notified about how to ask for a share. You will be legally bound by all orders and judgments, and you will not be able to sue the Government of Manitoba about the legal claims in this case.

**Staying in this Class will not impact MDC residence or any supports received by class members from agencies which are funded by the Government of Manitoba.**

**Get out of the Class:** If you want to keep your rights to sue the Government of Manitoba individually over the claims in this case, then you need to remove yourself from the Class, by "opting out". If you remove yourself, you cannot get money or benefits from this lawsuit if any are awarded. To ask to be removed, send a letter to the address below, postmarked no later than [**4 months from the date of the Notice Order**], that says you want to be removed from *Weremy v. The Government of Manitoba*. Include your name, address, telephone number, and signature. You can also get an Opt Out Form at [**WEBSITE ADDRESS**]

You must mail your removal request or Opt Out Form postmarked by [**4 months from the date of the Notice Order**], to:  
[address], or send it by email at: [email].

#### HOW TO GET MORE INFORMATION

Go to <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>, call toll-free 1-800-286-2266, or by email at: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

**Getting information to people who need it**  
We ask for the help of family members, caregivers and friends of former residents in getting information to former residents who have trouble

reading or understanding this notice. More information about this lawsuit is available at the website or by calling the toll-free number. Please

show this notice to people who are impacted by this lawsuit or their caregivers.

## Schedule "B" - Long Form Notice

### **Did you live in Manitoba Developmental Centre, or know someone who did?**

If YES, A Class Action May Affect Your Rights.

*A court authorized this notice. You are not being sued.*

- You could be affected by a class action lawsuit involving the Manitoba Developmental Centre (“MDC”) in Portage la Prairie.
- A Court has decided that a class action lawsuit will go forward on behalf of people who lived at the MDC between July 1, 1951 and May 29, 2020. **If you know a former resident of MDC who cannot read this notice please share this information with them.**
- The Court has not decided whether the Government of Manitoba did anything wrong, and there still has to be a court case about that.
- There is no money available now and no guarantee there will ever be any money. However, your rights are affected, and you have a choice to make now. This notice is to help you make that choice.
- Lawyers must still prove the claims against the Government of Manitoba at a trial, or a settlement must be agreed to. If money or benefits are obtained, you will be notified about how to ask for your share.
- Your options are explained in this notice. To be removed from the lawsuit, you must ask to be removed by **[4 months from the date of the Notice Order]**.

#### QUESTIONS?

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)



**Your Legal Rights and Options AT THIS STAGE**

<p><b>Do Nothing</b></p>	<p><b>Stay in this lawsuit and wait for the outcome.</b></p> <p>Share in possible benefits from the outcome but give up certain individual rights.</p> <p>By doing nothing, you keep the possibility of getting money or other benefits that may come from a trial or settlement in this class action. But, you give up any rights to sue the Government of Manitoba on your own about the same legal claims in this lawsuit.</p>
<p><b>Remove Yourself (Opt Out)</b></p>	<p><b>Get out of this lawsuit and get no benefits from it.</b></p> <p>Keep your rights to sue.</p> <p>If you ask to be removed (opt out) and money or benefits are later awarded, you won't share in those. But, you keep any rights to sue the Government of Manitoba on your own about the same legal claims in this lawsuit.</p>

**QUESTIONS?**

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

## WHAT THIS NOTICE CONTAINS

BASIC INFORMATION .....	4
1. Why is there a notice?.....	4
2. What is this lawsuit about?.....	4
3. What is a class action?.....	5
4. Who is a member of the Class here? .....	5
5. What is the Plaintiff asking for? .....	5
6. Is there any money available now?.....	5
7. Where is the lawsuit at now? .....	6
YOUR RIGHTS AND OPTIONS .....	6
8. What happens if I do nothing at all?.....	6
9. What if I do NOT want to be in the lawsuit? .....	7
10. If a former MDC resident remains in the Class, will this impact the supports or services they receive from the Government of Manitoba?.....	7
THE LAWYERS REPRESENTING YOU .....	8
11. Do I have a lawyer in the case? .....	8
12. How will the lawyers be paid? .....	8
A TRIAL .....	9
13. How and when will the Court decide who is right? .....	9
14. Will I get money after the trial?.....	9
GETTING MORE INFORMATION.....	10
15. How do I get more information? .....	10

### QUESTIONS?

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

## BASIC INFORMATION

### 1. Why is there a notice?

This lawsuit has been “certified” to go ahead as a Class Action. This means that the lawsuit meets the requirements for class actions and may proceed to trial on behalf of the whole Class.

If you are included in the Class, you have legal rights and options before the Court decides whether the claims being made against the Government of Manitoba on your behalf are correct. This notice explains all of these things.

A judge of the Manitoba Queen’s Bench, is currently overseeing this case. The case is known as *Weremy v. The Government of Manitoba*, Court File No. CI 18-01-17220. The person who sued is called the Plaintiff. The Government of Manitoba is the Defendant.

### 2. What is this lawsuit about?

This lawsuit says that the Province of Manitoba failed to properly protect the people who lived at MDC from the harm they suffered while residing there. The lawsuit says that MDC residents were physically, sexually and psychologically harmed by staff and other residents.

The Government of Manitoba denies these claims. The Court has not decided which side is right. The lawyers for the Class will have to prove their claims in Court.

### QUESTIONS?

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

### **3. What is a class action?**

In a class action, one person called the “representative Plaintiff” (in this case, David Weremy) sues on behalf of people who have similar claims. All of these people are a “Class” or “Class Members.” The court resolves the issues for all Class Members in one case, except for those who remove themselves from the Class.

### **4. Who is a member of the Class here?**

The Class includes anyone who:

**lived at Manitoba Developmental Centre between July 1, 1951 and May 29, 2020, and was alive as of October 31, 2016.**

If you are an estate trustee of someone who meets the above definition but died *after* October 31, 2016, you may represent the Class member's estate in this class action.

### **5. What is the Plaintiff asking for?**

The Plaintiff is asking for money or other benefits for the Class.

He is also asking for lawyers' fees and costs, plus interest.

### **6. Is there any money available now?**

No money or benefits are available now because the Court has not yet decided whether the Government of Manitoba did anything wrong. There is no guarantee that money or benefits will ever be obtained. If they are, you will be notified about how to ask for your share.

#### **QUESTIONS?**

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

## **7. Where is the lawsuit at now?**

On May 29, 2020, the Manitoba Queen's Bench certified this proceeding as a class action.

The parties are currently giving each other and reviewing many documents that are relevant to this case. The parties may then ask questions of each other and ask for more documents to prepare for the trial. A trial will not take place until at least after 2021.

## **YOUR RIGHTS AND OPTIONS**

You must decide whether to stay in the Class or whether to remove yourself. You have to decide this by **[4 months from the date of the Notice Order]**.

## **8. What happens if I do nothing at all?**

If you do nothing, you will automatically remain in the lawsuit.

You will be bound by all Court orders, good or bad. The judgment on the common issues, whether the Class wins or loses, will apply to all Class Members who do not opt out of the lawsuit.

If any benefit is awarded, you may need to take action in order to receive any benefits.

### **QUESTIONS?**

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

**9. What if I do NOT want to be in the lawsuit?**

If you do not want to be in the lawsuit, you must remove yourself – this is sometimes referred to as “opting out.”

If you remove yourself, you will not receive any benefit that may be obtained from the lawsuit.

You will not be bound by any Court orders and you keep your right to sue the Government of Manitoba as an individual regarding the issues in this case.

To remove yourself, send a letter that says you want to be removed from the class of *Weremy v. The Government of Manitoba*. Include your name, address, telephone number, and signature. Or, you can also fill out an Opt-Out Form from [WEBSITE]

You must mail in your request to remove yourself or Opt Out Form postmarked by **[4 months from the date of the Notice Order]**, to:

[address], or send it by email at: [email].

Call **1-800-286-2266** or email [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca) if you have any questions about how to get out of the Class.

**10. If a former MDC resident remains in the Class, will this impact the supports or services they receive from the Government of Manitoba?**

No.

Staying in this Class will not impact the current supports or services received by members from the Government of Manitoba.

**QUESTIONS?**

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

## THE LAWYERS REPRESENTING YOU

### 11. Do I have a lawyer in the case?

Yes. The Court has appointed Koskie Minsky LLP from Toronto to represent you and all other Class Members as “Class Counsel”. The address of the law firm is:

Koskie Minsky LLP  
20 Queen Street West  
Suite 900, Box 52  
Toronto, Ontario  
M5H 3R3  
Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)  
Phone: 1-800-286-2266

If you want to be represented by another lawyer, you may hire one at your own expense.

### 12. How will the lawyers be paid?

Class Counsel will only be paid if they win a trial or if there is a settlement.

The fees and expenses that Class Counsel incurred could be deducted from any money obtained for the Class, or paid separately by the Government of Manitoba.

The Court must approve the fees to be paid to Class Counsel.

### QUESTIONS?

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

## A TRIAL

### **13. How and when will the Court decide who is right?**

If the lawsuit is not dismissed or settled, the Plaintiff will have to prove the claims at a trial that will take place in Winnipeg.

During the trial, a court will hear all of the evidence, so that it may decide which side is right about the claims in the lawsuit.

There is no guarantee that the Plaintiff will win any money or benefits for the Class.

### **14. Will I get money after the trial?**

If the Plaintiff obtains money or benefits as a result of a trial or settlement, Class Members will be notified about how to ask for a share or what your other options are at that time. These things are not known right now.

Important information about the case will be posted on the website, <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>, as it becomes available.

### **QUESTIONS?**

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)



## GETTING MORE INFORMATION

### 15. How do I get more information?

You can get more information by going to <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>, calling toll-free 1-800-286-2266, or by email at: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca).

### QUESTIONS?

Visit: <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

Call toll-free: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

**Schedule "C" - Publications**

<b>Publication</b>	<b>Unit Type/Size</b>
Globe & Mail	¼ Page
National Post	¼ Page
Winnipeg Free Press	¼ Page
The Graphic Leader (Portage la Prairie)	¼ Page

**Press Release**

North American distribution of an English and French press release via the CNW Newswire. Maximum 200 words in English and in French.

## **Schedule "D" – Press Release**

### **Court decides that lawsuit about Manitoba Developmental Centre will proceed as a Class Action**

David Weremy, a former resident of the Manitoba Developmental Centre in Portage la Prairie, commenced a class action against the Government of Manitoba, alleging it breached various duties in regards to the operation and management of the Manitoba Developmental Centre, resulting in the widespread physical, sexual and mental harm of residents.

On May 29, 2020, the Manitoba Court of Queen's Bench certified the proceeding as a class action. The Defendant's request to appeal that decision was denied by the Court of Appeal on April 8, 2021. Therefore, this action will continue as a certified class action.

The class includes all persons who resided at MDC between July 1, 1951 and May 29, 2020, and who were alive as of October 31, 2016.

The Court has yet to determine whether the allegations are proven.

For more information about the class action, contact:

Tollfree: 1-800-286-2266

Email: [mdcclassaction@kmlaw.ca](mailto:mdcclassaction@kmlaw.ca)

For media inquiries, contact [drosenfeld@kmlaw.ca](mailto:drosenfeld@kmlaw.ca)

**Schedule "E" – Opt-Out Form**

**OPT-OUT FORM**

**MANITOBA DEVELOPMENTAL CENTRE CLASS ACTION (CI18-01-17720)**

Completing this form will PREVENT YOU FROM claiming any money arising out of any settlement or judgment in the class action.

By completing this Opt-Out Form you confirm that you understand the following:

I am confirming that I do NOT want to participate in this class action, and

I will NOT be able to share in any money or benefits if they are later awarded in this class action, and

I take full responsibility for taking all necessary legal steps to protect any claim I may have, including addressing any relevant limitation periods.

**DEADLINE FOR OPTING OUT: [4 months from the date of the Notice Order]**

**Complete this section if you are filling out this Opt Out Form on your own behalf:**

\_\_\_\_\_  
Name of Class Member

\_\_\_\_\_  
Signature of Class Member

\_\_\_\_\_  
Date

Address of Class Member: \_\_\_\_\_

Email of Class Member: \_\_\_\_\_

Telephone of Class Member: \_\_\_\_\_

Name of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

**Complete this section if you are filling out this Opt-Out Form as a substitute decision-maker or legal representative of a class member:**

\_\_\_\_\_  
Name of Class Member

Address of Class Member: \_\_\_\_\_

Email of Class Member: \_\_\_\_\_

Telephone of Class Member: \_\_\_\_\_

Name of Substitute Decision-maker/Legal Representative

\_\_\_\_\_  
Signature of Substitute Decision-maker /Legal Representative      Date

Relationship to Class Member: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

\*If you are completing this form as Substitute Decision-maker or legal representative, you must attach the documents appointing you as a Substitute Decision-maker or legal representative.

**DEADLINE FOR OPTING OUT: [4 months from the date of the Notice Order]**

To: \_\_\_\_\_

[address], or send it by email at: [email].

**Attention: Manitoba Developmental Centre Class Action**