

# KOSKIE MINSKY

JUSTICE MATTERS

April 25, 2024

Communications Department  
Toll Free Hotline: 1-866-474-1740  
Direct Fax: 416-204-2897  
waitlistclassaction@kmlaw.ca

OTTAWA-CARLETON ASSOCIATION FOR PERSONS WITH DEVELOPMENTAL  
DISABILITIES (OCAPDD)  
229 Colonnade Road South  
Ottawa, ON  
K2E7K3

To whom it may concern:

**Re: Developmental Services Class Action – Notice to Class Members**

Koskie Minsky LLP is class counsel in a certified class act on on behalf of individuals who were eligible for Ministry of Children, Community and Social Services-funded adult developmental services, supports and funding, and who were placed on a service registry between July 1, 2011, and December 14, 2018 ("class members"). This action relates to delays in accessing funding and services.

As part of the Notice Plan ordered by the Court, to provide notice of certification to class members, we are distributing copies of the long and short-form notice to each MCCSS-funded adult developmental services agency in Ontario. Ontario has agreed to the content of and attachments to this letter and has agreed to its distribution in this manner.

Please make the long and short-form notice available to any of your service users who may be part of the class, or who may have a family member who is part of the class. If possible, please post a copy of the short-form notice in an area where it is likely to be seen by class members, or their families. Copies of the long and short-form notice are also available on the webpage for this class action: <https://kmlaw.ca/waitlistclassaction>. You can also direct individuals to that website for more information.

The opt-out deadline for this class action (the date by which class members must indicate if they do not want to be part of the class action) is **July 26, 2024**. It is therefore important that this information is circulated promptly.

Thank you for your assistance in distributing notice of this class action to class members.

Yours truly,

**Communications Department**

Koskie Minsky LLP | Barristers & Solicitors

T 1-866-474-1740 | F 416-204-2897 | E [waitlistclassaction@kmlaw.ca](mailto:waitlistclassaction@kmlaw.ca)

[kmlaw.ca/waitlistclassaction](https://kmlaw.ca/waitlistclassaction)

**Were You Eligible and Assessed for Ministry of Children, Community and Social Services (formerly Ministry of Community and Social Services)-Funded Adult Developmental Services and Supports and Funding and Placed on a Service Registry between July 1, 2011, and December 14, 2018?**

***A lawsuit may affect you. Please read this carefully.***

A class action is happening for people who were alive as of April 10, 2015 and eligible for ministry-funded adult developmental services and supports and funding, who were assessed by an application entity (DSO) and placed on these service registries between July 1, 2011 to December 14, 2018:

- (i) "residential services and supports" and ,
- (ii) "caregiver respite services and supports" under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*; and
- (iii) "Passport" funding under the *Ministry of Community and Social Services Act*.

If you are a Class member, you can choose to stay in or leave the Class.

**Option 1: Stay in the class action:** To stay in the class action, you do not have to do anything. If money or benefits are obtained, you will be told about how to make a claim. You will be legally bound by all orders and judgments in the class action, and you will not be able to sue Ontario separately about the legal claims in this case.

**Option 2: Get out of the class action:** If you want to leave the class action, you must submit an opt out form by July 26, 2024. Opt out forms are available here: [kmlaw.ca/waitlistclassaction](http://kmlaw.ca/waitlistclassaction). You can also opt out by writing to Class Counsel at the address below and telling them that you want to be removed from this class action. Please include your name, address, telephone number and/or email address in the letter and have it post marked by July 26, 2024. If you remove yourself, you cannot get money or benefits from this lawsuit if any are awarded.

The Court has appointed Koskie Minsky LLP ("Class Counsel") to represent the Class. You don't have to pay Class Counsel to participate. If they get money or benefits for the Class, they may ask for lawyers' fees and costs which would be deducted from any money obtained or to be paid separately by Ontario.

To contact class counsel and for more information about your rights:

- Go to [kmlaw.ca/waitlistclassaction](http://kmlaw.ca/waitlistclassaction)
- Email [waitlistclassaction@kmlaw.ca](mailto:waitlistclassaction@kmlaw.ca)
- Call toll-free 1-866-474-1740 (Dial 711 before number for TTY)
- Write to:           Developmental Services Waitlist Class Action  
                          Attn: Communications Department  
                          Koskie Minsky LLP  
                          20 Queen Street West, Suite 900  
                          PO Box 52  
                          Toronto, ON  
                          M5H 3R3

Published on: April 27, 2024

**Were You Eligible and Assessed for Ministry-Funded Adult  
Developmental Services and Supports and Funding and  
Placed on a Service Registry between July 1, 2011 and  
December 14, 2018?**

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 involving adult developmental services, supports, and funding.

You are a member of the Class if all of the items on the following list apply to you:

- You are eligible for Ministry of Children, Community and Social Services (formerly Ministry of Community and Social Services)-funded adult developmental services, supports and funding;
- You have been assessed by an application entity (DSO) and placed, at any point between July 1, 2011 to December 14, 2018, on any one or more of the service registries for:
  - “residential services and supports” under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*;
  - “caregiver respite services and supports” under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*; and
  - “Passport” funding under the *Ministry of Community and Social Services Act*.

**If you know someone who you believe is a Class Member who cannot read this notice, please share this information with them.**

## LONG FORM NOTICE

The Court has not decided whether Ontario did anything wrong, and there still has to be a court case about whether Ontario did anything wrong. There is no money available to Class Members now and no guarantee there will ever be any money awarded. However, if you are a Class Member your rights are affected, and you have a choice to make now. This notice is to help you make that choice.

YOUR LEGAL RIGHTS AND OPTIONS AT THIS STAGE	
<b>DO NOTHING</b>	<p><b>Stay in this lawsuit and wait for the outcome. Share in possible benefits from the outcome but give up certain individual rights.</b></p> <p>By doing nothing, you keep the possibility of getting money or other benefits that may come from a trial or settlement. But, you give up any rights to sue Ontario on your own about the same legal claims in this lawsuit.</p>
<b>REMOVE YOURSELF (OPT OUT)</b>	<p><b>Get out of this lawsuit and get no benefits from it. Keep rights.</b></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 Ontario on your own about the same legal claims in this lawsuit, subject to any applicable limitation period.</p>

- Lawyers must prove the claims against Ontario at a trial or a settlement must be agreed on. If money or benefits are obtained and you have stayed in the lawsuit 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 **July 26, 2024**.

WHAT THIS NOTICE CONTAINS

**BASIC INFORMATION.....Page 1**

1. Why was this notice issued?
2. What is this lawsuit about?
3. Why is this a class action?
4. Who is a member of the Class?
5. What is the Plaintiff asking for?
6. Is there any money available now?

**YOUR RIGHTS AND OPTIONS.....Page 3**

7. What happens if I do nothing?
8. What if I don't want to be in the Class?

**THE LAWYERS REPRESENTING YOU.....Page 4**

9. Do I have a lawyer in the case?
10. How will the lawyers be paid?

**A TRIAL .....Page 4**

11. How and when will the Court decide who is right?
12. Will I get money after the trial?

**GETTING MORE INFORMATION.....Page 5**

13. How do I get more information?

## BASIC INFORMATION

### 1. Why is there a notice?

This lawsuit has been “certified” as a Class Action. This means that the lawsuit meets the requirements for class actions and may proceed to trial. If you are a Class member, you may have legal rights and options before the Court decides whether the claims being made against Ontario on your behalf are correct. This notice explains all of these things.

A judge of the Ontario Superior Court of Justice is currently overseeing this case. The case is known as *Leroux v. Ontario*, Court File No. CV-17-573091-00CP. The person who sued is called the Plaintiff. Ontario is the Defendant.

### 2. What is this lawsuit about?

In the lawsuit, the plaintiff alleges that Ontario has been negligent, and breached section 7 of the *Canadian Charter of Rights and Freedoms*, by virtue of “waitlisting” Class Members for residential services and supports, caregiver respite services and supports, and/or Passport funding. Ontario denies these claims. The Court has not decided whether the Plaintiff or Ontario is right. The lawyers for the Plaintiff will have to prove their claims in Court.

### 3. Why is this a class action?

In a class action, a person called the “Representative Plaintiff” (in this case, Briana Leroux and her litigation guardian Marc Leroux) sues on behalf of people who have similar claims. This group of people is called 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?

The Class includes:

All persons who were alive as of April 10, 2015, who are eligible for ministry-funded adult developmental services and supports and funding, assessed by an application entity (DSO) and placed, at any point between July 1, 2011 to December 14, 2018, on any one or more of the service registries for:

- i. “residential services and supports”,
- ii. “caregiver respite services and supports” under the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008; and
- iii. “Passport” funding under the *Ministry of Community and Social Services Act*.

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

The Plaintiff is asking for money or other benefits for the Class. She 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 Ontario did anything wrong, nor have the two sides settled the case. There is no guarantee that money or benefits will ever be obtained. If they are, there will be another notice about how Class Members can ask for a share.

The class action has received financial support from the Class Proceedings Fund. There will be a levy that reduces the amount of any award or settlement funds to which Class Members may become entitled that is the sum of the amount of any financial support paid from the Fund and 10 per cent of the amount of the award or settlement funds payable to Class Members, if any.

## YOUR RIGHTS AND OPTIONS

You must decide whether to stay in the Class or whether to remove yourself before a possible trial, and you have to decide this by **July 26, 2024**.

### 7. 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 and judgments in the class action, good or bad. If any benefit is awarded, you may need to take action in order to receive any benefits.

### 8. What if I don't 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 or judgements in the class action and you keep your right to sue Ontario separately as an individual regarding the issues in this case.

To remove yourself, send a letter to Class Counsel that says you want to be removed from the Class in *Leroux v. Ontario*. Include your name, address, telephone number, and signature. You can also get an Opt Out Form at [kmlaw.ca/waitlistclassaction](http://kmlaw.ca/waitlistclassaction).

Whether you use a letter or an Opt Out Form, you must send your request to be removed from the class action by no later than **July 26, 2024**, by email to [waitlistclassaction@kmlaw.ca](mailto:waitlistclassaction@kmlaw.ca) or by mail to:

Developmental Services Waitlist Class Action  
Attn: Communications Department  
Koskie Minsky LLP  
20 Queen Street West, Suite 900  
PO Box 52  
Toronto, Ontario M5H 3R3

Opt out forms sent by mail must be postmarked no later than **July 26, 2024**.

Call toll-free 1-866-474-1740 (Dial 711 first for TTY) if you have any questions about how to get out of the Class.



## THE LAWYERS REPRESENTING YOU

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

Yes. The Court has appointed Koskie Minsky LLP from Toronto to represent you and other Class Members as “Class Counsel.” You **will not be personally charged** for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

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

Class Counsel will only be paid if they win a trial or if there is a settlement. The Court has to approve their request to be paid. The fees and expenses could be deducted from any money obtained for the Class or paid separately by the Defendant.

## A TRIAL

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

If the lawsuit is not dismissed or settled, the Plaintiff will have to prove his claims at a trial that will take place in Toronto. During the trial, a Court will hear all of the evidence, so that a decision can be reached about whether the Plaintiff or Ontario is right about the claims in the lawsuit. There is no guarantee that the Plaintiff will win any money or benefits for the Class.

### 12. Will I get money after the trial?

If the Plaintiff obtains money or benefits as a result of a trial or settlement, there will be another notice 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, [kmlaw.ca/waitlistclassaction](http://kmlaw.ca/waitlistclassaction), as it becomes available.

## GETTING MORE INFORMATION

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

You can get more information at [kmlaw.ca/waitlistclassaction](http://kmlaw.ca/waitlistclassaction), or by contacting Class Counsel:

- By calling toll free at 1-866-474-1740 (Dial 711 first for TTY)
- By email to [waitlistclassaction@kmlaw.ca](mailto:waitlistclassaction@kmlaw.ca)
- Or in writing to:

Developmental Services Waitlist Class Action  
Attn: Communications Department  
Koskie Minsky LLP  
20 Queen Street West, Suite 900  
PO Box 52  
Toronto, Ontario M5H 3R3