

SUPERIOR COURT
(Class Actions)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-001375-258

DATE: December 8, 2025

BY THE HONOURABLE DOMINIQUE POULIN, J.S.C.

DAVID COBRIN

Applicant

v.

MCGILL UNIVERSITY

Respondent

INDEPENDENT JEWISH VOICES CANADA INC.

Intervenor

JUDGMENT
(APPLICATION FOR VOLUNTARY FRIENDLY INTERVENTION)

OVERVIEW

[1] Plaintiff David Cobrin seeks authorization to institute a class action against McGill University (“**McGill**”) on behalf of McGill’s Jewish students, for damages they suffered during a series of protests which took place on McGill’s campus after the events of October 7, 2023, in relation to the international conflict between Israel and Palestine.

[2] Mr. Cobrin alleges that the protestors engaged in antisemitic and anti-Zionist activities and speeches, which resulted in discrimination against class members. He further alleges that the proposed class members were harassed, were prevented from

attending their classes and that certain were even assaulted, the whole in violation of the *Quebec Charter*¹ and the McGill Policies.

[3] McGill is blamed for failing to take meaningful and expeditious disciplinary actions against the perpetrators, allowing the activities to continue and intensify. The Plaintiff underlines that McGill acknowledged on repeated occasions that the activities and conduct of the protestors violated its Policies and the law.

[4] The Plaintiff alleges that McGill's failure to act prevented the class members from obtaining a university experience respectful of their academic and non-academic endeavours, in a safe, welcoming and respectful environment, resulting in significant harm to the class members.

[5] Mr. Cobrin's goals are to ensure that the harm caused to the class members is recognized, to ensure that McGill enforces its policies to combat antisemitism on its campus and to obtain rightful compensation for himself and the class members, as well as punitive damages.

[6] As part of his recourse, Mr. Cobrin raises the following issues, which concern the activities of the protestors:²

- Do the activities and actions of the protestors and student-run associations at McGill that arose following the October 7th Terrorist Attack contravene the McGill Policies?
- Do the activities and actions of the protestors and student-run associations at McGill that arose following the October 7th Terrorist Attack contravene the *Quebec Charter*?
- Should anti-Zionism be formally recognized as a form of antisemitism under McGill's Policy on Harassment and Discrimination?

[7] One of the protestors, Independent Jewish Voices Canada ("**IJV**"), asks to intervene at the authorization stage. This organization, comprised of Jewish people, many of whom are proposed class members, claims to advocate for justice and peace for all in Israel and Palestine.

[8] IJV claims to be an anti-Zionist organization whose members do not believe that criticism of Zionism is inherently anti-Semitic.

[9] IJV wishes to intervene and to debate the validity of the proposed class description. It submits that the proposed class description is vague and lacks objective criteria,

¹ *Charte des droits et libertés de la personne*, RLRQ c C-12 [**Quebec Charter**].

² *Application for Authorization to Institute a Class Action, and to Obtain the Status of Representative*, Principal questions of law and fact, at para 120.

undermining the commonality of the questions raised (575 (1) C.C.P.) and the applicant's adequacy as a class representative (575(4) C.C.P.) It also wishes to argue that all or some of the conclusions sought are not justiciable (575 (2) C.C.P.).

[10] Two of IJV's campus clubs, IJV McGill and IJV Concordia, were active in the spring and summer 2024 encampment described in the Plaintiff's application. IJV claims that its student members have first-hand knowledge of several events described in the application.

[11] IJV argues that the questions in dispute are of public interest and that it could make a useful contribution to the debate, by providing a different perspective on certain issues raised by the Plaintiff.

[12] For the following reasons, the Court finds that the arguments raised by IJV concern the merits of the matter and go beyond the scope of the issues raised at the authorization stage. The intervention is not indispensable at the present stage, and it is hence not permitted.

ANALYSIS

1. IS THE INTERVENTION APPROPRIATE AT THE AUTHORIZATION STAGE?

1.1 Legal principles

[13] IJV first filed an application for aggressive voluntary intervention.

[14] In light of the case law submitted and the arguments raised by IJV's lawyers during the hearing, the Court asked whether the application should rather be considered a friendly intervention.

[15] Indeed, despite the wording of the application to intervene, the case law invoked by IJV mostly relates to principles applying to friendly interventions. The lawyers placed the greatest emphasis on the perspective which IJV could bring to the debate in view of what they see as a lack of consideration in the application for freedom of speech, an important right also protected by the Quebec Charter.

[16] As the Court of Appeal explains, an intervention is aggressive when the intervenant asks for conclusions in its favour³ and shows a legal interest in the dispute which is direct and personal.⁴

[17] Here, IJV does not invoke any right against either party and does not seek any conclusion directly affecting its rights.

³ *Compagnie canadienne d'assurances générales Lombard v. St-Jérôme (Ville de)*, 2012 QCCA 1, at para 8.

⁴ *Delisle v. Almagiva Santé*, 2021 QCCA 734, at paras 16 and 17.

[18] IJV acknowledges that its previous categorization of its intervention was an error. It now states that it seeks no conclusion and right for itself and considers its intervention to be friendly.

[19] The fact that IJV is presenting arguments against the application for authorization is not necessarily a bar to a friendly intervention.⁵

[20] In *Amnistie internationale Canada v. Environnement Jeunesse*,⁶ the Court of Appeal specifies in which circumstances an intervention can be allowed at the authorization stage of a class action.

[21] After reviewing the case law and doctrine on the issue of interventions in matters of class actions, Justice Bich concludes that there is no reason to exclude the procedure of intervention from class action matters, especially not friendly interventions, and that friendly interventions are not to be excluded at the authorization stage.⁷

[22] The following principles can be drawn from that decision and from the case law which it analyzes:⁸

- The judge has a wide discretion to authorize or refuse an intervention at any stage. However, the judge must exercise a high degree of caution to avoid overburdening and complicating the authorization process; accordingly, the judge must weigh the advantages and disadvantages of the intervention with a view to the principle of proportionality;
- The third party who intervenes as a friend does not become a party to the proceeding and does not need to demonstrate a legal interest in the issues in litigation⁹;
- The interest of the third party is to assert his or her point of view on an issue of importance to him or her. The interest is not a legal interest in the dispute, but rather an interest in the court's response to an issue in litigation;
- The object of the intervention is to allow the third party to make representations¹⁰ and not to participate in the debate as a party;

⁵ *Dunkin'Brands Canada Ltd. v. Bertico Inc.*, 2013 QCCA 867, at paras 23 and 24; see also *Procureure générale du Québec v. Association québécoise des vapoteries*, 2019 QCCA 2209, at para 16.

⁶ *Amnistie internationale Canada v. Environnement Jeunesse*, 2020 QCCA 223.

⁷ *Id.*, at para 15.

⁸ *Abihisira v. Johnston*, 2019 QCCA 657, citing *Raymond Chabot administrateur provisoire inc. c. Arbour*, 2015 QCCA 1963.

⁹ *Abihisira v. Johnston*, 2019 QCCA 657, at para 35.

¹⁰ *Abihisira v. Johnston*, *supra* note 8, at para 36, citing Justice Gascon in *Institution royale pour l'avancement des sciences, des gouverneurs de l'Université McGill v. Québec (Commission de l'équité salariale)*, 2005 CanLII 8151, at paras 4 and 5.

- Two factors need to be considered by the judge to determine if the intervention is expedient: the importance of the issues in dispute, particularly in relation to the public interest, and the usefulness of the third party's contribution to the debate;
- The courts are flexible in terms of friendly interventions when the dispute is in the public interest or raises questions of public law;
- The third party who wishes to intervene must convince the judge that the parties are not in a position to offer the full picture that the court will need in order to decide;
- The usefulness of the third party's contribution must be interpreted in harmony with the role of the judge at the authorization stage; the usefulness at that stage must approach **indispensability**.

1.2 Discussion

[23] On the basis of these criteria, and without deciding on the right of IJV to intervene on the merits of a possible eventual class action, the Court finds that its intervention is not indispensable at the stage of authorization.

[24] Indeed, IJV's arguments rather concern the merits of the matter and go beyond the scope of the issues raised at the authorization stage.

[25] As a first argument, IJV wishes to intervene and argue that the proposed class description is vague and is not based on objective or verifiable criteria.

[26] More particularly, it submits that the class description is based on the assumption that all Jewish students are Zionists, which it deems an incorrect assertion. IJV contests Mr. Cobrin's claim that anti-Zionism should be formally recognized as a form of antisemitism under McGill's Policies. IJV claims that a clear distinction must be made between anti-Semitism and anti-Zionism.

[27] The proposed class definition reads as follows:

8. (...)

All Jewish students registered at McGill University since October 8, 2023, including undergraduate, masters, continuing education, doctoral, and post-doctoral students.

[28] At the authorization stage, the Court will be called upon to analyze the conditions applicable to the description of the class. Those conditions have been determined as follows by the Court of Appeal in *George v. Québec (Procureur general)*:¹¹

[40] (...)

¹¹ *George v. Québec (Procureur général)*, 2006 QCCA 1204, at para. 40.

1. The definition of the group must be based on objective criteria;
2. The criteria must be based on a rational basis;
3. The definition of the group must not be circular or imprecise;
4. The class definition must not be based on a criterion or criteria that depend on the outcome of the class action on the merits.

[29] The analysis of those conditions does not require that the Court assume what could be the thoughts of the class members on Zionism. Indeed, the wording of the proposed class description (without addressing its adequacy at this juncture), does not include any reference to the ideology or conviction embraced by the class members.

[30] Hence, although a distinction between anti-Zionism and anti-Semitism could possibly become a relevant issue on the merits of an eventual class action, it is not an issue that needs to be resolved in order to analyze the conditions applicable to the class description.

[31] Furthermore, this issue could manifestly not be resolved at the preliminary stage of authorization, where no right is decided, except that of determining the contours of the recourse,¹² and where the judge must not rule on the legal merits of the conclusions with regard to the facts alleged.¹³

[32] The same reasoning applies to the next argument raised by IJV.

[33] IJV pleads that Mr. Cobrin's demand that anti-Zionism be declared anti-Semitic and that it be outlawed at McGill poses a threat to freedom of expression and academic freedom, contrary to both the Canadian and Quebec Charters. IJV wishes to voice its opinion and expose to the Court a view that is different from what is presented by Mr. Cobrin, which it deems partial and incorrect. It adds that the students that are members of IJV are in danger of being disciplined as a result of the recourse, for protesting within their rights of freedom of speech, with irremediable effects on their lives and careers.

[34] Again, this issue is a matter for the merits. Freedom of expression and rights of association would necessarily be part of the fundamental rights underlying an eventual class action. Indeed, the rights of association and free speech are intrinsic to the proposed class action, as announced upfront by the first paragraph of the application for authorization:

1. Universities are critical institutions for encouraging open debate and advocacy of opposing positions. The rights of association and free speech are so fundamental that they are protected both by the Quebec *Charter of Human Rights and Freedoms* (the "**Quebec Charter**") and by McGill's own policies (the "**McGill Policies**"). However, when the purported exercise of these

¹² *Rogers Communications, s.e.n.c. v. Brière*, 2016 QCCA 1497, at para 62.

¹³ *L'Oratoire Saint-Joseph du Mont-Royal v. J.J.*, 2019 CSC 35, [2019] 2 RCS 831, ("**L'Oratoire Saint-Joseph**"), at para 55.

rights becomes discriminatory, violent, hostile or harassing, it must be acknowledged, condemned and sanctioned as impermissible conduct and speech.

[35] Hence, the question of weighing the interrelationship between competing fundamental rights is already contemplated as an issue for the merits and no determination of the issue is at stake at the authorization stage.

[36] The Court is alive to the arguments put forward by IJV that the application appears to ignore in its wording the fact that the associations were protesting against Israel's retaliation following the attack of 7 October 2023.

[37] The Court is also sympathetic to the argument that McGill might not be in a position to provide full insight into the perspective of the protestors. It is indeed their actions and speeches that ground the allegations of faults made against McGill.

[38] The arguments put forward by both sides highlight the importance of the fundamental rights at issue and the complexity of the context that prevailed when McGill allegedly neglected to act.

[39] All these factors could be considered at an eventual stage of the matter if the authorization is granted.

[40] But the mere authorization of the class action would not impinge on the rights of the Defendant and, *a fortiori*, on those of IJV. The judgment authorizing a class action is only preliminary, it can be modified as the litigation progresses and does not decide in any manner of the outcome of the common issues.¹⁴

[41] For all these reasons, the application for intervention at the authorization stage is dismissed.

FOR THESE REASONS, THE COURT:

[42] **DISMISSES** the application for intervention at the authorization stage;

[43] **ALL OF WHICH**, with costs.

DOMINIQUE POULIN, J.S.C.

Me Tina Silverstein
Me Matthew Meland
FISHMAN FLANZ MELAND PAQUIN S.E.N.C.R.L.

¹⁴ *L'Oratoire Saint-Joseph*, *supra* note 13, at para 42.

Counsels for the applicant

Me Olga Redko
Me Laura Cárdenas
IMK S.E.N.C.R.L/IMK L.L.P.
Counsels for the respondent

Me Julius Grey
Me Niall Clapham Ricardo
Me Maxwell Silverman
Me Papa Adama Ndour
GREY & CASGRAIN S.E.N.C.
Counsels for the intervenor

Hearing date: October 22, 2025
 October 27, 2025, submission of a modified Application for
 Voluntary Friendly Intervention
 November 11, 2025, written pleadings of the applicant