



CLASS ACTION CLINIC
Windsor Law

Annual Report



University
of Windsor



Service, Research & Advocacy

The Clinic is the only non-profit legal services provider in North America to focus on the needs and rights of class members. The Clinic began offering its services in October 2019. Founded by Professor Jasminka Kalajdzic, one of Canada's leading class action scholars, the Clinic has a unique mission: to provide legal assistance and information to class members free of charge and at all stages of a class action; to engage in policy analysis and empirical research on various class action issues; to participate in public legal education; and, when appropriate, to

represent class members who wish to object to proposed settlements. In all of these ways, the Clinic aims to improve upon class actions' access to justice promise. Four years after the Class Action Clinic's launch, we are pleased to report that we have exceeded the goals we set at our founding, and have achieved the financial stability needed to continue our service, research and advocacy work for at least the next decade. We are proud to provide meaningful experiential learning opportunities to students throughout the academic year and in the summer.

Who We Are



Jasminka Kalajdzic
(B.A., LL.B., LL.M.)

Professor Jasminka Kalajdzic is the Founder and Director of the Class Action Clinic. She is a Bencher of the Law Society of Ontario and a Professor at the University of Windsor's Faculty of Law where she teaches Evidence and Class Action Law. She has published two books and dozens of articles and book chapters on all aspects of class actions. She is a frequent speaker at academic, judicial and bar seminars and conferences, both in Canada

and abroad. Her extensive class action experience includes twelve years as a litigator, six years as a member of the **Class Proceedings Committee**, and two years as co-lead researcher and author of the Law Commission of Ontario's **Class Action Report**. The challenges faced by class members at various stages of class actions, and her belief in the access to justice promise of class actions, were her inspiration for the Clinic.

Andrew joined the Clinic as its Staff Lawyer in January 2020. In this role, he draws on his experience with class actions which began as an articling student clerking at the Superior Court of Justice in Toronto. Andrew then worked as a plaintiff-side class action litigator where he was involved in many different facets of class proceedings including: commencing claims, arguing certification and settlement approval motions, and the administration of claims.

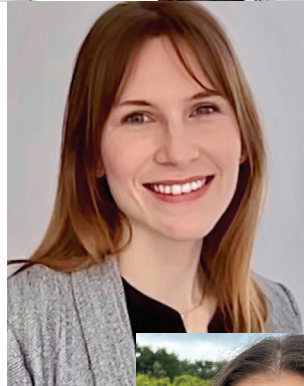
At the Clinic, Andrew supervises the work of students throughout the

year, providing guidance and mentorship to them. He has appeared as counsel for a variety of objectors and on intervention applications on behalf of the Clinic.

In addition to his work at the Clinic, Andrew is a mediator of civil disputes and sits on the OBA's Class Action Bench-Bar Liaison Committee. He is proud of what the Clinic has accomplished so far and is excited for the continuing potential of the Clinic to provide a meaningful experiential learning opportunity for students and improved access to justice for class members.



Andrew Eckart
(B.A., LL.B.)



Students

The Clinic has been honoured to train and mentor dozens of students since our opening. Each semester, the Clinic has been staffed by four University of Windsor law students who work for academic credit under the supervision of Mr. Eckart and Professor Kalajdzic. In the summer months, the Clinic hires two to four law students to work full-time, many of whom return for an academic term. In the summer of 2021, two students from McGill University and the University of Ottawa worked at the Clinic as paid interns offered by their respective law schools, and in 2022, a student from the University of Toronto Law School worked at the Clinic

as a Donner Civic Leadership fellow. In the fall of 2023, we welcomed our first student from the Lincoln Alexander School of Law at Toronto Metropolitan University, for a full-time professional placement. Our second TMU student will join us in the winter term of 2024. The Clinic is pleased to offer employment opportunities to students from all Canadian law schools. We thank all of our law students, past and present, for their dedication to their clients and the work of the Clinic. Their work is indispensable to the success of the Clinic. Unless otherwise noted, all students are from Windsor Law.

Karly Lyons
Daniel MacDonald
Michael Burnsⁱ
Katie Pfaff
Bianca Demian
Lindsay Dixon
Joudy Sarraj
Arshdeep Aulakh
Lori Laronde

Ally Lawrence
Braden Adsett
Emma Walshⁱⁱ
Micheline Chevrier
Khawla Khalifa
Elizabeth Yan
Elian Shoukry
Isabel Cox
Jessica Rocha

Azra Alagic
Mariam Rajabali
Lyann Ordenes-Gonzalez
Olivia Pomajba
Iman Naqvi
Jacklyn Barrios
David Balzer
Homa Aminnejad
Chloe Korol

Lovejot Bhullar
Flavia Zaka
Lauren Tzogas
Oscar Ramirez
Laura Clerkⁱⁱⁱ
Catherine Yue
Jordan Afolabi
Jacky Chiang
Shirin Mollayeva^{iv}

ⁱUniversity of Ottawa

ⁱⁱMcGill University

ⁱⁱⁱUniversity of Toronto

^{iv}Toronto Metropolitan University

Advisory Committee

The Clinic receives helpful guidance from its Advisory Committee. The members of the Committee bring a wealth of expertise from a variety of contexts:



Marilyn Dolmage

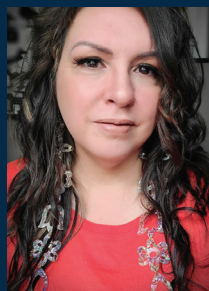
Marilyn Dolmage works alongside people labelled/with intellectual disabilities, their families, schools and communities to access justice, challenge

segregation and create new supports, relationships and opportunities – especially through inclusive education and direct funding.

She and her husband Jim were Litigation Guardians for the class action concerning the Ontario government's operation of Huronia Regional Centre. She had been social worker for Lead Plaintiffs Marie Slark and Patricia Seth in that institution, where her brother died. Although they were upset that historic harm would not be aired at trial, and frustrated with the claims process and compensation provided by the 2013 settlement, it led to a public apology from the Premier of Ontario, and its unclaimed cy pres funds have been used to document survivors' experiences.

Marilyn is an Associate of Inclusive Education Canada and a founding member of Inclusion Action in Ontario and People for Personalized Funding.

Her forthcoming book challenges ableism and encourages advocacy for inclusion – through poetry, personal stories and professional reflection.



Katherine Strongwind

Katherine is a Sixties Scoop Adoptee, and the volunteer Director of the 60s Scoop Legacy of Canada – a Non Profit Organization (NPO) aimed at healing and

wellness for Survivors and their families. The 60s Sixties Scoop Legacy of Canada was formed in 2017 and offers peer-support and advocacy for thousands of Survivors/Adoptees all over the world. In 2018, Katherine was a presenter at the Expert Mechanism for the Rights of Indigenous People Session 12 in Geneva, Switzerland.

Katherine was born and adopted from birth in Winnipeg, Manitoba from a non-Indigenous mother and an Indigenous father. Katherine has re-established her Anishinaabe roots and continues to fight for Survivors and their families of the Sixties Scoop to regain their rights and for long-term healing supports. Katherine is a mom of three and has three grandchildren.

An entrepreneur experienced in NPO startups, marketing and communications, and event planning, Katherine has spent years building relationships and overseeing many major events including the record-setting 2022 South Island Powwow, 2021 Orange Shirt Day and Canada Day rallies in Manitoba, multi media campaigns, and facilitating gatherings and workshops.



Gemma Smyth

Gemma Smyth is Associate Professor and Externship Program Director at the Faculty of Law, University of Windsor. Her expertise lies in

clinical legal education, place-based learning, and dispute resolution. She was previously Director of University of Windsor Mediation Services and Academic Clinic Director with Legal Assistance of Windsor and Community Legal Aid. She is passionate about access to justice and experiential approaches to legal education.



Valarie Waboose

Valarie G. Waboose is an Anishinabe Kwe from Bkejwanong Territory (also known as Walpole Island First Nation). She is a great-grandmother of

2, grandmother of 7 and mother of two daughters. She is a second-generation survivor of two parents that attended Shingwauk Indian Residential School and completed her Ph. D. dissertation (Trent) on the impacts of the class action compensation processes upon residential school survivors.

Valarie is currently an Associate Professor at the University of Windsor, Faculty of Law and has taught, Aboriginal Law, Access to Justice, Indigenous Legal Traditions, Reconciliation and the Residential School Legacy, Indigenous Legal Orders and

Anishinabe Law Camp. Her research interests include Indigenous Legal Traditions/Orders and methodologies, child welfare, reconciliation and the residential school legacy and indigenous justice systems.



Alison Warner

Alison is the registrar of the Ontario Judicial Council and the Justices of the Peace Review Council. Alison previously worked at the Court of Appeal for

over 20 years as legal research counsel and as the Court's Senior Legal Officer. Alison also worked at the Centre for Judicial Research and Education in the Office of the Chief Justice, Ontario Court of Justice, where she designed and delivered judicial education to members of the Ontario Court of Justice bench. In addition, she was an Adjunct Professor at the University of Toronto Faculty of Law where she taught the course Appeals: Principles and Practice. Alison is a co-author of the text, *The Law of Class Actions in Canada* (Toronto: Thomson Reuters Canada, 2015), together with the Hon. Warren K. Winker, Justice Paul M. Perell and Professor Jasminka Kalajdzic.

As a firm believer in the benefits of experiential learning for law students, Alison is grateful to have a role as a member of the advisory committee of the Class Action Clinic.



Assisting Class Members

To date, the Clinic has assisted almost 250 class members at various stages of class actions. Inquiries ranged from complex settlement claims assistance to simple informational updates about the current status of a class action.

Clinic students and the staff lawyer frequently provide **legal information** to class members. They help class members identify whether they fall within the definition of a particular class, interpret a court-approved notice, and give advice about whether to opt out. Were it not for the Clinic providing these services, many class members would have to rely on generic information on class counsel websites or retain independent counsel at their own expense. Most objecting class members would essentially be self-represented litigants.

The Clinic has been formally retained to provide legal services to over 125 individuals in several different actions. To date, the Clinic has assisted class members across Canada, without

charge, file **settlement claims** in a variety of class actions. In doing so, the Clinic has helped its clients recover over \$1.6 million in compensation, recovering over \$450,000 for our clients in 2023 alone. The Clinic has also created a dedicated page to **class action settlements** on its newly revamped website, where we hope to continue adding information about ongoing settlement claims processes in an accessible, plain language format.

Other client services include making oral and written **submissions on behalf of objecting class members** and providing **independent legal advice** about retainer agreements and opt-out rights. In one such case, the presiding judge stated that the Clinic's representation "**is exactly the kind of work that the Class Action Clinic should be doing.**"

In February 2023, the Clinic opened a satellite office in Hamilton, Ontario. Doing so has provided another location for clients to meet with the staff lawyer and student caseworkers.

Research

The Clinic students engage in research projects on issues of broad interest to class members. The research is shared in a number of ways. In 2020, the Clinic produced a 7-minute video about the Basics of a Class Action, freely accessible on our website and on YouTube. We later produced a video on the Basics of a Class Action Settlement and a short guide on the Rights of Class Members.

We also engage in longer term research projects. A major study on Objections to Settlements is nearing completion. It is the first review of all cases in which objecting class members challenge proposed settlements to determine the frequency and impact of objections.

Student and guest bloggers explore a variety of topics in monthly posts on our website. We have published on issues ranging from privacy breach class actions to honorarium payments to representative plaintiffs. We invite law students and academics from other law schools, as well as practitioners, to submit blogs to the Clinic.

In addition to the blogs, the Clinic tweets class action news daily ([@ClassActClinic](https://twitter.com/ClassActClinic)).



A man with a beard, wearing a dark suit jacket, is seated in a green armchair, looking out a large window. The window shows a brick building, a red car, and a striped pole. The scene is brightly lit, suggesting daytime.

Advocacy

The Clinic is engaged in advocacy at the systemic level and to seek intervener status in appropriate cases on matters that affect class members. The Clinic also regularly assists appellants and other interveners by providing research and strategic advice.

With the assistance of students, the Clinic Director and Staff Lawyer regularly give presentations to the legal profession and the judiciary at public seminars and conferences. Most recently, Mr. Eckart moderated a panel discussion on trauma-informed assistance to class members at the annual Ontario Bar Association Class Action Colloquium. The Clinic has presented information about various class actions and offered individual consultations at events organized by various community organizations.



Ontario Class Actions Database

In the fall of 2022, the Law Commission of Ontario transferred the Ontario Class Actions Database to the Clinic for updating and maintenance. The Database was created as part of the Law Commission of Ontario's 2019 Class Action Project. Current content is limited by what was publicly available before 2019, but the Database is designed to include detailed information about class actions. With the financial support and expertise of Lenczner Slaght and its Data-Driven

Decisions project, the Clinic employed a law student to work full-time in the summer of 2023 to research and code data on all class actions. A significant amount of work was completed.

Unfortunately, technical issues with the Database remain unresolved at the time of writing. Discussions are ongoing with the third-party web designer to address the issues and make the Database a useful resource for lawyers and the general public.

Feedback from Clients, Lawyers & Students

"I am glad you helped me in the critical situation, and I really enjoyed working with you. The Clinic will have a greater role to play helping people like me and its existence as the only class action clinic in Canada is very significant."

- Anonymous

"Both Andrew and his student caseworker, Micheline, were very supportive, thorough and prompt in all communications, by phone and email. Couldn't have asked for anyone better than they were!"

**-DePuy ASR Hip Implant
Claimant**

"I am grateful to have gotten such a holistic experience as a law student, involving work with clients, legal and academic research as well as the opportunity to participate in discussions about class member rights and experiences and the soft skills that make an effective lawyer."

**- Shirin Mollayeva, TMU
professional placement
student (Dec. 1, 2023)**

"Had I not had the availability of the expertise offered by the University of Windsor Legal Clinic I would not have followed up on the Class Action Lawsuit. My sincere thank you and your team for your help and providing the peace of mind to make an educated decision to continue with the Class Action."

- Helena

"Just a short note to express my appreciation for the assistance I received...to discuss a potential class action I believe has enough merit to, at a minimum, be investigated by a Canadian law firm."

- Vyron

"I can't say enough good things about the Class Action Clinic, and everyone that was involved. They remained professional, while adding a nice personal touch. We were kept up to date through every stage of the process with emails and phone calls."

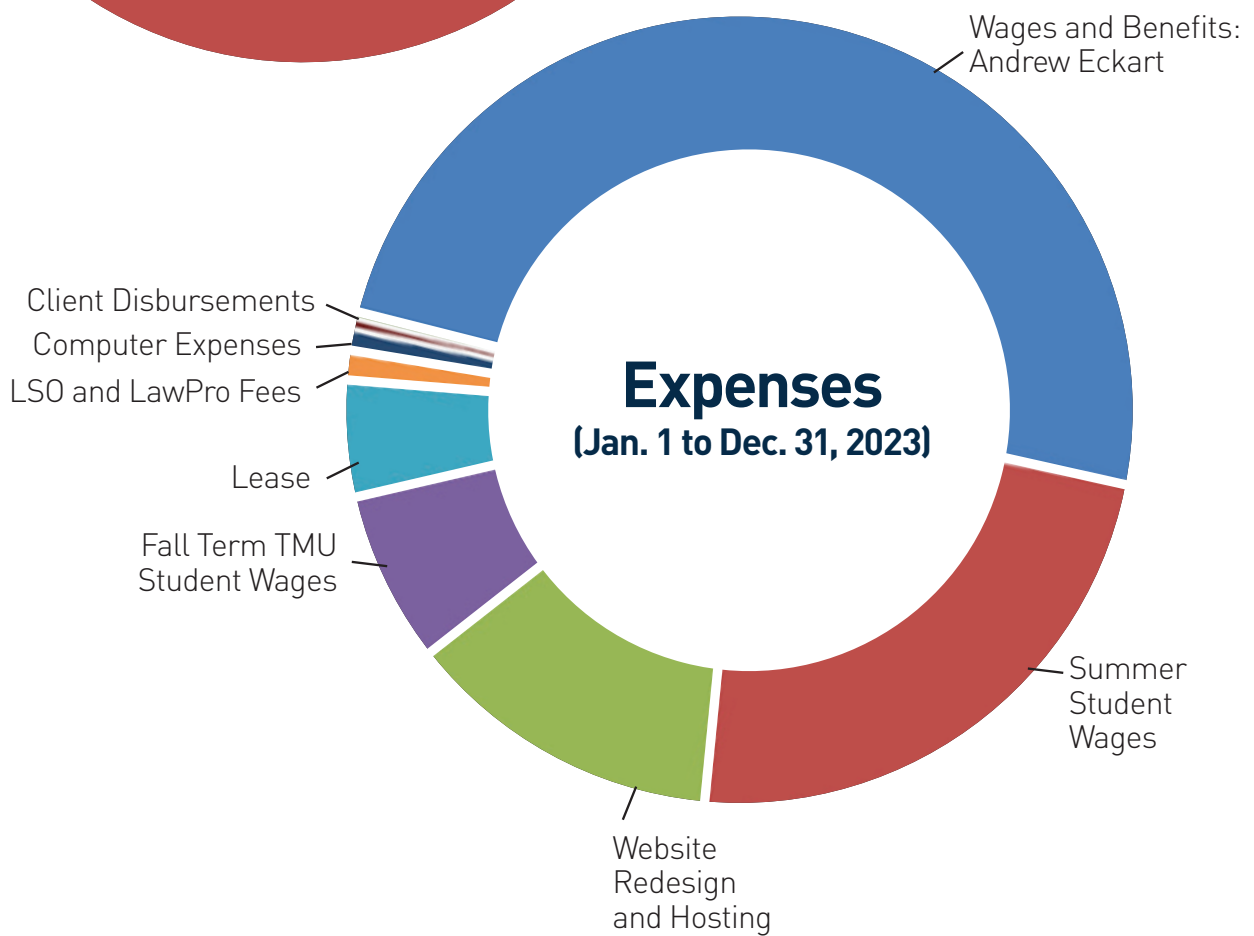
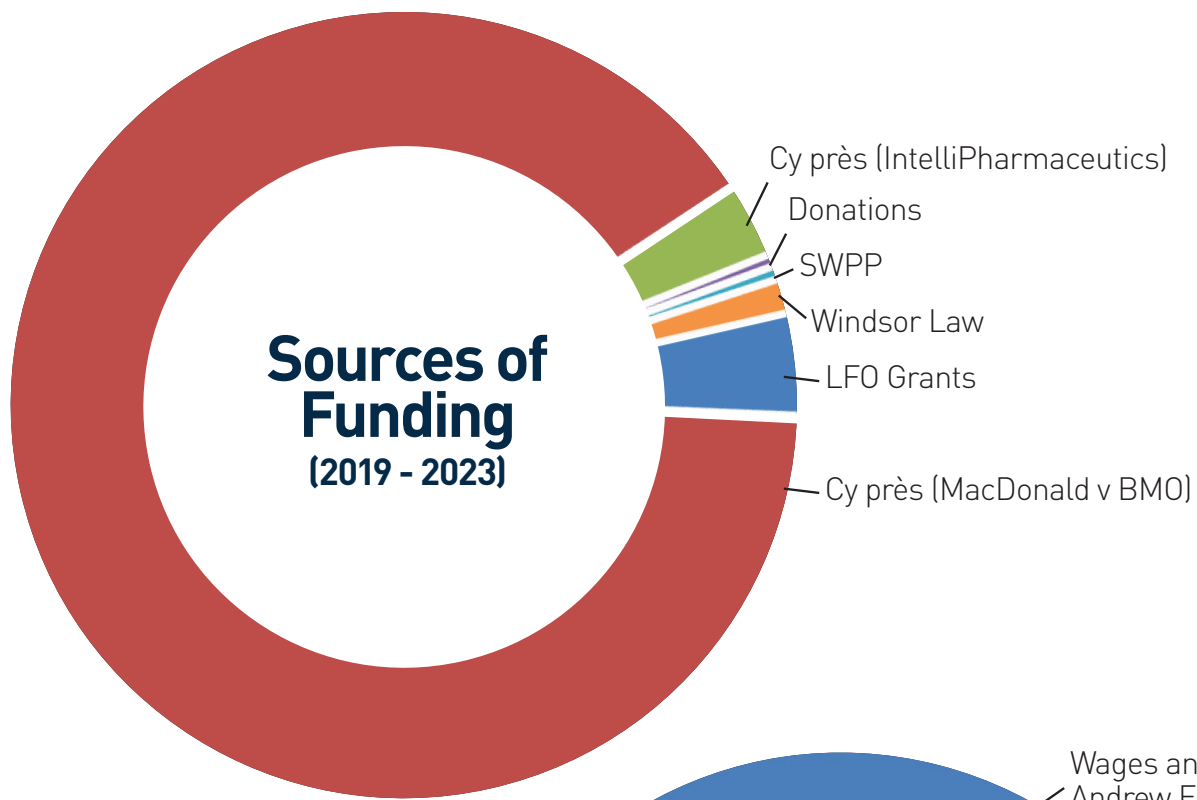
- Dianne

Funding of Client Services

The Clinic obtained a start-up grant from the Law Foundation of Ontario and in-kind support from the University of Windsor's Faculty of Law. In 2021, the Clinic received two *cy prè*s awards: \$110,000 from the IntelliPharmaceuticals class action settlement, and \$250,000 from the *MacDonald v. BMO Trust Company* class action settlement. In October 2022, the Clinic was awarded a further \$2.8 million from the final *cy prè*s distribution in the *BMO Trust* case. These court-approved awards have been invested in short- and medium-term guaranteed investment certificates to generate income that will support most of the Clinic's operations for the next thirteen years. The Clinic has also received donations from Lenczner Slaght to support the Class Action

Database, and from Lerner's LLP to hire a student in the summer of 2021. The University of Windsor's Student Work Placement Program contributed almost \$20,000 for wages paid to Windsor Law summer students, while the three summer students from other law schools received financial support from their respective universities.

Our annual budget of approximately \$200,000 is mainly comprised of the Staff Lawyer's salary, summer law student wages, two full-time students on professional placements from Toronto Metropolitan University, and modest disbursements related to our court work and maintenance of the Database. In 2024, the Clinic plans to hire an articling student.






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For more information about the Clinic's work, visit classactionclinic.com or contact Clinic Director, Professor Jasminka Kalajdzic, at kalajji@uwindsor.ca.



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