

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and
ASSEMBLY OF FIRST NATIONS**

Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

**ATTORNEY GENERAL OF CANADA
(Representing the Minister of Indigenous Services Canada)**

Respondent

- and -

**CHIEFS OF ONTARIO,
AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION**

Interested Parties

**AFFIDAVIT OF VALERIE GIDEON
AFFIRMED ON JUNE 30, 2023**

I, **VALERIE GIDEON**, Associate Deputy Minister of Indigenous Services Canada, residing in the City of Gatineau, in the Province of Québec, **AFFIRM THAT:**

1. I am currently employed as the Associate Deputy Minister of Indigenous Services Canada ("ISC"). I have been in this position since 2020. Prior to

this post, I was the Senior Assistant Deputy Minister of the First Nations and Inuit Health Branch ("FNIHB") at ISC. I am Mi'kmaq from the Gesgapegiag First Nation and have spent most of career dedicated to First Nations and Inuit health and wellness.

2. As Associate Deputy Minister of ISC, I exercise an important supportive role in the implementation of reforms to the FNCFS Program and the improved delivery of Jordan's Principle. I am the senior client representative for Canada, and have been deeply involved in the negotiations seeking a resolution to the outstanding compensation issues for children and families, as ordered in relation to the discrimination found by the Tribunal, as well as the claims raised in related class actions filed in the Federal Court of Canada. Specifically, these actions are: Court File Number T-402-19 (the "Moushoom" action), which was consolidated with Court File Number T-141-20 (the "Assembly of First Nations (AFN) action"); and, Court File Number T-1120-21 (the "Trout action") [collectively the "Class Actions"].
3. In my position as Associate Deputy Minister, and in my previous position as Senior Assistant Deputy Minister, I have also gained extensive knowledge of the findings and orders of the Tribunal in this matter as part of my responsibilities overseeing FNIHB. From the time of the Tribunal's compensation decision in 2019, I was involved in working with the AFN and the Caring Society on the development of the Compensation Framework until the Tribunal approved it. In this context, I carried over this knowledge and experience in the negotiations of the proposed Final Settlement Agreement.
4. As one of Canada's chief negotiators, and as a result of my position and experience, I have personal knowledge of the negotiations and of the matters addressed herein. If I reference information from third parties, I believe that information to be true.

5. An Agreement in Principle was signed by Canada and Plaintiffs' counsel on December 31, 2021 (the "Agreement in Principle").
6. After the Agreement in Principle was signed, I also participated actively in almost all of the meetings between Plaintiffs' counsel and Canada during the negotiation of the proposed Final Settlement Agreement, between January 2022 and June 2022. Plaintiffs' counsel and Canada executed a Final Settlement Agreement on June 30, 2022 (the "June 2022 Final Settlement Agreement").
7. Following the execution of the June 2022 Final Settlement Agreement, the AFN and Canada brought a motion to the Tribunal to confirm that it fully satisfied the Tribunal's compensation orders (the "Joint Motion"). The First Nations Family and Child Caring Society and the Canadian Human Rights Commission opposed the motion.
8. The Tribunal dismissed the Joint Motion on October 24, 2022, with full reasons released on December 20, 2022. The Tribunal found that the Final Settlement Agreement substantially satisfied its compensation orders, but identified specific derogations from the orders and clarifications with respect to individuals covered by its compensation orders (the "Joint Motion Decision").
9. Following its review of the December 20, 2022 decision, and beginning in February of 2023, Canada entered into focused negotiations with Plaintiff's Counsel and the Caring Society, with the shared goal of working in collaboration to address the derogations identified by the Tribunal in a revised settlement agreement.

10. During these negotiations, Canada agreed to add an additional \$3.34394 billion to the \$20 billion already committed to in the Agreement-in-Principle and June 2022 Final Settlement Agreement. This amount includes additional funds to ensure that:
- a. Non-ISC funded or “kith” placements are compensated, including children and their caregivers;
 - b. Estates of the caregiving parents or grandparents of removed children are compensated;
 - c. Caregiving parents and grandparents are compensated for removal of multiple children;
 - d. Interest payments are made on compensation for removed children and compensation due to denial or delay of an essential service under Jordan’s Principle;
 - e. Additional funds are directed to class members outside those contemplated by the Tribunal’s orders, in particular with respect to estates of caregivers and removal of multiple children; and,
 - f. Additional funds, which will be deposited into a trust as part of the settlement agreement, are available to support high needs individuals eligible for compensation due to denial or delay of an essential service under Jordan Principle up until the age of twenty-six.
11. Ultimately, Canada and the plaintiffs in the Class Actions entered into a Revised Final Settlement Agreement, signed April 19, 2023 (the “Revised Final Settlement Agreement”).
12. The Caring Society participated in the negotiations leading up to the signing of the revised agreement. While it did not sign the final settlement agreement, it agreed to sign separate minutes of settlement that contemplate the implementation of the agreement, annexed to the minutes (the “Minutes of Settlement”). I have reviewed the proposed Revised Final

Settlement Agreement and Minutes of Settlement, signed by Caring Society, Canada and AFN on April 19, 2023, and I am familiar with their terms.

13. The minutes confirm the shared opinion of Canada, AFN and the Caring Society that the Revised Final Settlement agreement now fully satisfies the Tribunal's orders related to compensation and the order with respect to the Compensation Framework.
14. Recognizing that the Revised Settlement Agreement and Minutes of Settlement provide the Caring Society with an ongoing role in the implementation and administration of the settlement agreement over approximately 20 years, Canada has agreed to pay \$5 Million to the Caring Society to facilitate their involvement on a non-profit basis.
15. The Revised Final Settlement Agreement and Minutes of Settlement, which represent what I understand to be the largest settlement in Canada's history, commits Canada to pay \$23.34394 billion to settle the compensation claims raised or capable of being raised in both the Class Actions and the Tribunal proceedings.
16. Canada has as well agreed to pay significant additional amounts to fund supports for claimants as part of the proposed settlement agreement, as well as administrative costs. This additional funding for supports would bolster the existing network of health and cultural supports or be provided through organizations already serving children, youth and families. This includes, for example:
 - a. Additional funding to support child and family focused health and cultural support workers, hired by existing First Nations agencies and organizations;

- b. Funds to bolster and leverage the current trauma-informed health and cultural support network (including resolution health support workers and cultural support providers) through the Indian Residential Schools Resolution Health Support Program (IRS RHSP) and supports for Missing and Murdered Indigenous Women and Girls and the Indian Day Schools settlement. Funds will also be provided for the development and provision of specialized training related to child welfare and associated traumas to all trauma-informed health and cultural support workers;
- c. Additional funding to ensure all class members have access to mental health counselling by providing coverage for those without eligibility for the Non-Insured Health Benefits (NIHB) Program;
- d. Support for a new confidential, 24/7 accessible, help/crisis line dedicated to providing culturally sensitive, trauma-informed emotional support for children, youth and families included in the settlement agreement; and
- e. Funding to provide interim surge capacity for navigation services in First Nations communities (on and off-reserve) and friendship centres to refer individuals to appropriate supports and communicate and disseminate information, as these organizations deem necessary. This would allow these organizations to bridge any gap until navigators are properly recruited and staffed by the Claims Administrator.

17. The level of funding demonstrates the Government's recognition of the extent of past harms suffered by First Nations children and their families, and its commitment to redressing past discriminatory practices.

18. From my perspective, the negotiations required to reach a Final Settlement Agreement were complex, extensive and challenging. Each party was able to fully develop and voice their positions, including Canada, and there was vigorous debate. Many issues were raised and canvassed, at times with input provided by outside experts. Ultimately, these issues were resolved to the satisfaction of the Plaintiffs, the Caring Society and Canada.

19. The Government of Canada is committed to advancing reconciliation and renewing, on a nation-to-nation basis, the relationship with Indigenous people. Canada recognizes the leadership role assumed by the AFN and the Caring Society in ensuring that the interests and concerns of First Nations and the individual claimants are served by the proposed revised settlement agreement and Minutes of Settlement.
20. In negotiating the Agreement in Principle in 2021, Canada acknowledged that it was central for any settlement to be First Nations designed, led and controlled. The final settlement agreement and now the revised final settlement agreement and Minutes of Settlement continue to recognize this important concept.
21. In addition, extensive work is underway to compile data related to children taken into care so that it can be made available to the settlement administrator. This data will assist the administrator in validating claims and, in turn, minimize the administrative burden on claimants and also avoid re-traumatization. We have also been asked to explore what Jordan's Principle data may also be of assistance.
22. Canada recognizes the importance to First Nations, and to Canada's objective of reconciliation, of a comprehensive and lasting settlement that provides compensation to those affected by the discrimination found by this Tribunal. I believe that this settlement succeeds in achieving this purpose.

