Docket: T1340/7008

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 and NISHNAWBE ASKI NATION

Interested Parties

WRITTEN SUBMISSIONS OF THE FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA

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PART I - STATEMENT OF FACTS

A. Overview

1. In 2016, the Canadian Human Rights Tribunal (the "**Tribunal**") substantiated a systemic and far-reaching human rights complaint filed by the First Nations Child and Caring Society (the "**Caring Society")** and the Assembly of First Nations (the "**AFN**") (collectively, the "**Complainants**"). The complaint was filed in February of 2007 on authority of First Nations in Assembly. The Chiefs of Ontario ("**COO**") were granted interested party status in 2009, and Nishnawbe Aski Nation ("**NAN**") was granted interested party status after the Tribunal substantiated the discrimination in 2016 CHRT 2.

2. On March 7, 2025, absent the Complainants or the respondent, the Attorney General of Canada ("**Canada**"), COO and NAN brought a motion seeking an order, without condition, approving the Ontario Final Settlement Agreement on the long-term reform of the First Nations Child and Family Services Program ("**Ontario FSA**"), and an order that the Ontario FSA and the Trilateral Agreement in Respect of Reforming the 1965 Agreement (the "**Trilateral Agreement**") satisfy, supersede, and replace all orders of the Tribunal related to the FNCFS Program in Ontario and the 1965 Agreement (the "**Ontario Motion**"). The Ontario Motion further seeks an order ending the Tribunal's jurisdiction in Ontario regarding the FNCFS Program.

3. Given that interested parties generally do not have the jurisdiction to seek to resolve a human rights complaint absent the support of the complainants, on May 7, 2025, COO and NAN sought leave to amend the Ontario Motion, seeking to add the following relief:

> 5. If COO's and NAN's status as interested parties restricts them from filing this motion to partially settle the Complaint as it relates to Ontario as described in paragraph 2, COO and NAN request that the Tribunal make an order granting COO and NAN additional participation rights for the purposes of bringing this motion or whatever relief the Tribunal deems just pursuant to its responsibility under s.48.9(1) of the Canadian Human Rights Act to ensure proceedings are conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow, (emphasis added).

4. By that time, twelve (12) applicants, composed of First Nations rights holders, First Nations regional organizations and First Nations child and family service agencies and organizations had already applied for interested party status on the Ontario Motion. The

Tribunal had earlier set out a schedule, with the prospective interested parties filing their leave material on April 15, 2025. As such, the applicants for interested party status did not have the opportunity to directly consider the relief sought in COO and NAN's proposed amendment.

5. For its part, the Panel directed that the question raised in the amended notice of motion be addressed before proceeding with the substance to the Ontario Motion. However, on May 28, 2025, Canada's responding submissions, without prior notice, changed the parameters of COO and NAN's request to amend their notice of motion, as Canada had advised that it will join as a moving party on the Ontario Motion (with COO and NAN's consent). This has made COO and NAN's earlier request to amend their motion moot.

6. There are three central questions to be considered by the Tribunal: (i) whether Canada's request to be added to the Ontario Motion renders COO and NAN's request moot, such that Canada ought to file a fresh as amended notice of motion; (ii) whether, mootness aside, COO and NAN's existing participatory rights extend to bringing the Ontario Motion; and (iii) whether, mootness aside, the Tribunal ought to expand COO and NAN's participatory rights, granting them leave to independently seek a final remedy under the *Canadian Human Right Act*, to resolve the complaint in Ontario regarding child and family services, and terminate the Tribunal's jurisdiction regarding same.

7. As set out in the submissions that follow, the Caring Society is of the view the questions raised regarding the scope of COO and NAN's participatory rights are moot and that a fresh as amended notice of motion ought to be filed by Canada, to ensure Canada is accountable for its discriminatory conduct perpetrated against First Nations children and families in Ontario. This would also ensure that all parties, including the prospective interested parties who are seeking to participate in the Ontario Motion, have a full and transparent understanding of the grounds on which Canada relies in support of the Ontario Motion. Having determined that it will become a moving party, Canada should not simply rely on the grounds advanced by COO and NAN, as they are not the perpetrators of discrimination. Indeed, had Canada filed moving materials, in its name, from the outset (as has been done on other joint motions) this confusion and delay could have been avoided.

8. On the second question, to the extent the Tribunal elects to determine it, the Caring Society is of the view that COO and NAN's existing participatory parameters do not extend to the right to seek to resolve the complaint in Ontario as set out in the Ontario Motion. COO

and NAN did not request, and were not granted, the right to file motions to resolve the complaint. Instead, COO and NAN were granted certain and specific rights to participate in the complaint – to provide support and assistance to the Tribunal regarding the unique issues in Ontario and those unique issues facing remote First Nations communities in NAN territory. While COO and NAN have sought certain relief at various points during this proceeding, that relief has been directly connected to the nature and scope of their participatory rights: to provide guidance on the implementation of effective national remedies within the Ontario context. Indeed, the remedies sought by COO and NAN and ordered by the Tribunal have been grounded in the existing remedial framework set out in the Merits Decision and pursued by the Complainants. It has not included the capacity to seek final and independent relief.

9. In addition, the duration of the complaint has not automatically augmented the participatory rights of COO and NAN – those rights and responsibilities have been determined by the Tribunal within the scope of this complaint. The passage of time in a complex and systemic human rights complaint does not broaden or change the rights of COO and NAN.

10. On the third question, the Caring Society is of the view that it is not in the interests of justice to expand the participatory rights of COO and NAN. There are clear distinctions between complainants and interested parties that ought to be preserved within the context of human rights litigation. If interested parties can be permitted to usurp the role of complainants by commandeering human rights cases, in whole or in part, unintended consequence may result.

B. The Facts

1) Sustained Efforts of the Complainants to Pursue the Complaint

11. In December 2006, the Chiefs in Assembly at the Assembly of First Nations ("**AFN**") unanimously passed Resolution 53/2006 authorizing the AFN and the Caring Society to file a human rights complaint against the Government of Canada for failing to provide equitable and culturally appropriate child and family services on reserves.[1]

12. On February 27, 2007, the Caring Society and the AFN filed this human rights complaint pursuant to s. 5 of the *Canadian Human Rights Act* (the "***CHRA***"), alleging that Canada was discriminating against First Nations children and families based on race and

[1] Opening Statement, Assembly of First Nations, dated February 25, 2013, at page 78, line 5 to line 11.

national and/or ethnic origin (the "**Complaint**"). The Complaint alleged that Canada's FNCFS Program adversely impacted First Nations children and families, and that its implementation of Jordan's Principle caused First Nations children to be denied services and to experience service delays resulting in inequitable outcomes. The discrimination was described as "systemic and ongoing".

13. The Complaint was filed as a last resort. For the decade prior to filing the Complaint, both organizations played pivotal roles in research commissioned by Canada demonstrating adverse differentiation and denial of services in Canada's First Nations child and family services and proposing evidence informed solutions. to the discrimination.[2] The Caring Society and AFN had no other choice but to bring the Complaint after Canada refused to implement report recommendations to remedy the discrimination contributing to the growing numbers of First Nations children in care.

14. Getting the Complaint heard on its merits was a struggle. After the Complaint was filed, Canada immediately sought to have it dismissed, asking the Canadian Human Rights Commission (the "**Commission**") to decline to deal with the Complaint under section 41(1)(c) of the *CHRA*. Canada argued that the Complaint was outside of the Commission's jurisdiction and that it did not disclose a *prima facie* case of discrimination.

15. In September 2008, the Commission referred the matter for hearing.[3] Canada attempted to judicially review the Commission's decision to elevate the Complaint on the basis that it was not providing a "service" within the meaning of the *CHRA* and that there was no comparator group in relation to First Nations children, such that discrimination could not be made out. In response, the Caring Society and the AFN brought a motion to strike Canada's Notice of Application or, in the alternative, stay the application until the Tribunal could deal with the Complaint on its merits.

16. In November 2009, Prothonotary Aronovitch denied Caring Society and AFN's motion to strike the Attorney General's application. However, she was satisfied that it would be "just

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[2] Joint National Policy Review ("**NPR**"), CHRC Book of Documents ["**CBD**"] Vol 1 at Tab 3; Bridging Econometrics: Phase One Report, CBD Vol 1 at Tab 4; Wen:De: We are Coming to the Light of Day, CBD Vol 1 at Tab 5; Wen:De: The Journey Continues, CBD Vol 1 at Tab 6.
[3] Canadian Human Rights Commission, Letter to Cindy Blackstock and Jonathan Thompson regarding Decision in First Nations Child and Family Caring Society of Canada and Assembly of First Nations v. Indian and Northern Affairs Canada (20061060), October 14, 2008.

and equitable" to stay Canada's application for judicial review pending the Tribunal's decision.[4]

17. Canada, on the one hand, and the Caring Society and AFN on the other, appealed the decision of Prothonotary Aronovitch. On March 30, 2010, the Federal Court denied both appeals, resulting in a stay of Canada's judicial review pending the Tribunal's decision.[5]

18. In the interim, COO sought to be added to the proceeding as a complainant.[6] Notwithstanding its arguments that it was the best positioned, as a complainant, to provide evidence on the unique landscape of child and family services in Ontario based on the 1965 Agreement, the Tribunal refused grant COO this status.[7] Instead, COO's participation rights were limited to examining its own witnesses, cross-examining the respondent's witnesses after cross-examination by the Commission and the complainants, and making final submissions. COO was not permitted to present any evidence, cross-examine or make final submissions that would duplicate or overlap with those of the Commission or the complainants. COO did not ask for, nor was it granted, the right to request final orders or seek to terminate the Complaint.[8]

19. The Caring Society and the AFN continued to take on the procedural challenges within the Tribunal process to ensure the merits could be considered. In the fall of 2009, following the replacement of Chairperson Sinclair, Canada again raised the service issue and comparator issue in an effort to have the Complaint quashed. Following an invitation from newly appointed Chairperson Chotalia, on December 21, 2009, Canada filed a motion to dismiss the Complaint for want of jurisdiction, arguing that the Complaint did not come within the purview of sections 3 and 5 of the *CHRA*.

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[4] *Canada (Attorney General) v. First Nations Child and Family Caring Society of Canada* (24 Nov. 2009), Ottawa T-1753-08 (F.C.) (Proth.)
[5] *Canada (Attorney General) v. First Nations Child and Family Caring Society of Canad*a, 2010 FC 343.
[6] Chiefs of Ontario Notice of Motion, dated August 7, 2009, at para 17.
[7] Letter from Canadian Human Rights Tribunal to the parties, re "First Nations Child and Family Caring Society et al. v. Attorney General of Canada Tribunal File: T1340/7008" (September 17, 2009) [**CHRT September 2009 Letter**].
[8] CHRT September 2009 Letter. Amnesty International's participation rights were limited to making final legal submissions, written and/or oral submissions after the evidence and legal submissions of the other parties.

20. The motion to dismiss was heard by the Tribunal in June 2010. When no decision had been made by early 2011, the Caring Society commenced an application in the Federal Court seeking an order of *mandamus* to compel the Tribunal to render a decision. On March 14, 2011, the Tribunal released its decision dismissing the Complaint.[9] The Caring Society's *mandamus* application was thus discontinued.

21. Faced with the unimaginable result of seeing the Complaint dismissed, the Caring Society and the AFN, joined by the Commission, quickly brought applications for judicial review, challenging the Tribunal's decision. Those applications were heard by the Federal Court on February 13, 14 and 15, 2012. COO, as an interested party, played a supporting role in those applications, providing submissions on the particularities of on-reserve child welfare services in Ontario.[10]

22. The Federal Court (per McTavish J., as she then was) concluded that the Tribunal's decision to dismiss the Complaint was unreasonable and that the process followed by the Tribunal was not fair, as it considered a substantial volume of extrinsic material.[11] Canada appealed the Federal Court's decision, requiring the Caring Society and the AFN to continue litigating to preserve the Complaint and the rights of First Nations children impacted by Canada's discriminatory conduct. Canada's appeal was dismissed by the Federal Court of Appeal in March 2013.[12]

23. The Complaint was heard over 72 days in 2013 and 2014. The Tribunal heard from 25 witnesses, and, in keeping with the standing granted by the Tribunal in 2009, none of them who were called by COO. The witnesses who spoke to the existing discrimination in Ontario were called by the Commission,[13] with the cooperation of the Caring Society, including the following: Elizabeth Ann Kennedy (Executive Director of the Ontario Native Women's Association and former director of the Association of Native Child and Family Service Agencies of Ontario), Thomas Goff (former Regional Director of Social Development with

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[9] *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2012 CHRT 16 [**2012 CHRT 16**].
[10] *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2012 FC 445 at para. 17 [**2012 FC 445**].
[11] 2012 FC 445.
[12] *Canada (Attorney General) v. Canadian Human Rights Commission*, 2013 FCA 75.
[13] September 4, 2013 examination-in-chief of Elizabeth Ann Kennedy, p 4, line 5 – p 5, line 8; See also May 8, 2014 cross-examination of Phil Digby, p 168, line 7-20.

Indian and Northern Affairs Canada from 1986-1991 and First Nations consultant), and Theresa Stevens (Executive Director for Anishinaabe Abinoojii Family Services in Kenora, Ontario). Phil Digby, the Manager of Social Programs, Ontario Region was called by Canada and cross-examined by the Commission, the Caring Society and the AFN.[14]

24. For its part, COO did not examine or cross examine any witnesses, and attended approximately 25% of the days that evidence was heard.[15] COO provided written and closing submissions, supporting the relief sought by the Caring Society, the AFN and the Commission.[16]

2) The Complainants Discharged Their Burden and Demonstrated Discrimination

25. As complainants, the Caring Society and the AFN accepted, and discharged, their burden of proof in establishing a *prima facie* case of discrimination.[17] With the Commission's significant support, the Caring Society and the AFN led extensive evidence that has shaped the nature and scope of this proceeding. The Complainants and the Commission proffered compelling and largely uncontradicted evidence of Canada's discriminatory conduct, and the perpetuation of harm and trauma through the FNCFS Program and Canada's failure to implement Jordan's Principle. That evidence included hearing from crucial witnesses called by the complainants, including Chief Robert Joseph, Dr. Amy Bombay, John Loxley, Raymond Shingoose, and Dr. Cindy Blackstock.[18]

26. The complainants also led critical documentary evidence of harm and trauma experienced by First Nations children, outlined in the NPR and the Wen:De Reports, which Canada funded and partnered in, showing Canada was well aware its child welfare services

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[14] May 7, 2014 examination-in-chief of Phil Digby; May 8 2014, cross-examination of Phil Digby.
[15] *Canadian Human Rights Tribunal*, (file T1340/7008), hearings held between February 2013 – October 2024; based on the author's review of the hearing transcripts, COO was present for approximately 18 days.
[16] Closing Oral Submission, Chiefs of Ontario, dated, October 22, 2014, page 1, line 18, page 2 – line 2.
[17] *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2, at para. 21 [**Merits Decision**].
[18] January 13 2014 examination-in-chief of Chief R. Joseph; Jan 14 2014 examination-in-chief and cross-examination of Chief R. Joseph; Apr 8 2013 examination-in-chief of Derald Dubois; Apr 9 2013 cross-examination and examination of Derald Dubois; Sep 25 2013 examination-in-chief and cross-examination of Raymond Shingoose; Sep 26 2013 cross-examination of Raymond Shingoose; 2013-2014 Testimony of Cindy Blackstock.

disparities were hurting First Nations children and their families. The NPR identified harms such as loss of community, culture, language, worldview and traditional family, as well as dysfunction, high suicide rates and violence.[19] The Wen:De Reports detailed the funding disparity for FNCFS Agencies, noted detrimental impacts for First Nations children resulting from jurisdictional disputes and recommended fully implementing Jordan's Principle.[20] The complaints also pointed to government documents to discharge their burden: two reports of the Auditor General of Canada, two reports from the House of Commons Standing Committee on Public Accounts, and several internal federal government reviews showed how the FNCFS Program, and Canada's narrow implementation of Jordan's Principle, harmed First Nations children.[21]

27. Canada's concerning conduct continued after the hearing on the merits commenced on February 25, 2013. On April 24, 2013, the Caring Society advised the Tribunal that it had received a significant number of prejudicial documents (including documents relevant to proving discrimination in Ontario) that had not previously been disclosed by Canada. It was eventually revealed that there was a total of 90,000 documents that had not been disclosed.[22] The Tribunal ordered Canada to disclose those documents and later to pay $143,469.70 in compensation[23].

28. Under cross examination, Canada's own witnesses provided further evidence of the discrimination and harm perpetuated against First Nations children. Ms. Shelia Murphy acknowledged in her testimony that taking children away from their family and communities has harmful impacts on children and families.[24] Under cross-examination by Michael Sabet for the Caring Society, Ms. Corinne Baggley, Canada's witness on Jordan's Principle, was asked "So in the briefing notes that you may have contributed to, do you recollect if you ever

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[19] Merits Decision at para 151.
[20] Merits Decision at paras 162 and 183; Wen:De: The Journey Continues at p 16, CHRC BOD Vol 1 at Tab 6.
[21] Merits Decision at para 149. See for e.g. Mar 28, 2012 Internal Audit Report re Mi'kmaw Children and Family Services Agency, CBD Vol 5 at Tab 52; Mar 5, 2010 Implementation Evaluation of Enhanced Prevention Focus in Albera, CBD Vol 13 at Tab 271; March 2007 Evaluation of the [FNCFS Program], CBD Vol 4 at Tab 32
[22] *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian Affairs and Northern Development Canada)*, 2013 CHRT 16 .
[23] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 1.
[24] Apr 2, 2014 examination-in-chief of S. Murphy at p 50 lines 3-5

recommended modifying the federal definition of Jordan's Principle? In reply, she admitted "No, I don't remember writing a recommendation to modify."[25] She also admitted that public servants did not have a mandate to publicize Jordan's Principle and there was no means for families to make an application for services under Jordan's Principle.[26] Some of Canada's witnesses also displayed a shocking indifference towards the lives of First Nations children. For example, Ms. Baggley blithely described how a Jordan's Principle case was considered "resolved" where a child died or waited so long for the service that they aged out of care.[27]

29. The Caring Society and the AFN, with the support of the Commission, ultimately discharged their burden in this case and the Tribunal upheld the key allegations of discrimination made by the Complainants.[28] The Tribunal determined that Canada's FNCFS Program and approach to Jordan's Principle discriminated against First Nations children and families on the prohibited grounds of race and national or ethnic origin contrary to s. 5 of the *CHRA*.[29] The Tribunal ordered Canada to cease its discriminatory practices, reform the FNCFS Program, and to take measures to immediately implement the full meaning and scope of Jordan's Principle.

30. The Tribunal also found Canada knew about: (i) its discriminatory conduct; (ii) the inequality in the FNCFS Program; (iii) the harm caused to First Nations children; (iv) the disparity facing First Nation children in accessing essential services; and (v) the harmful impacts of misconstruing Jordan's Principle.[30] It further ruled that Canada had evidence-based solutions to remediate these adverse impacts, as reflected in reports it funded and participated in.[31] Despite having opportunities to act, the Tribunal found Canada failed to make any substantive change to alleviate the discrimination, further exacerbating the harm to First Nations children across the country.[32] This wilful disregard by Canada was later held by the

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[25] May 1, 2014 cross-examination of C. Baggley at p 126, lines 4-17
[26] Apr 30, 2014 examination-in-chief of C. Baggley at p 128 lines 13-23, and May 1, 2014 at p 32, lines 8-14. See also *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 15 at paras 84-86 [**2020 CHRT 15**].
[27] May 1 cross-examination of C. Baggley at p 68 lines 11-25.
[28] Merits Decision.
[29] Merits Decision at paras 456-467.
[30] Merits Decision at paras 168, 362-372, 385-386, 389 and 458.
[31] Merits Decision at paras 150-185, 270-275, 362-372, 389 and 481.
[32] Merits Decision at para 461.

Tribunal to be the "worst-case scenario under our Act."[33] It is important to remember and reflect on these worst-case scenario cases, which included:

a. A 4-year-old girl suffered brain anoxia during routine dental surgery and needed a hospital bed to breathe. The request for a bed went through over a dozen bureaucrats before someone wrote – "Absolutely not". Her mother was 8 months pregnant, and it was Christmas. A doctor eventually paid for the bed.[34]

b. A child with a terminal illness, Batten Disease, required a hospital bed to alleviate respiratory distress. It took sixteen months for her to obtain the bed.[35]

c. The late Maurina Beadle, a mom and Elder, lovingly cared for her son Jeremy who had severe cerebral palsy and autism requiring care for his personal needs. She suffered a stroke and needed in home care for Jeremy while she recovered. Canada was only prepared to fund services that fell short of what professionals said Jeremy needed. Maurina and Pictou Landing sought judicial review. The Federal Court granted the application in 2013.[36]

31. In relation to Ontario, the Tribunal found that the evidence brought forward by the Commission and the Complainants demonstrated "shortcomings in the funding and structure of the *1965 Agreement* in Ontario" that ultimately perpetuated the perverse incentives to bring First Nations children into care.[37] The agreement had not been updated since 1981, causing serious gaps in child and family services and mental health services.[38] The Tribunal found that Canada itself highlighted that concerns were raised regarding the format of the 1965 Agreement and that Canada was not prepared to discuss cost-sharing the programs that fell outside of the mandate of Indian and Northern Affairs Canada.[39] The Tribunal relied on the

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[33] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 39 at para 234 [**2019 CHRT 39**].
[34] Merits Decision at paras 366-367.
[35] May 1, 2014 cross-examination of C. Baggley at p 117, line 16 to p 118, line 12. Oct 6 2013 AANDC Jordan's Principle Chart Documenting Cases at p 2. CHRC BOD Vol 15 at Tab 422.
[36] *Pictou Landing Band Council v Canada (Attorney General),* 2013 FC 342. See also Merits Decision at para 376.
[37] Merits Decision at para 217.
[38] Merits Decision at para 223.
[39] Merits Decision at para 225.

testimonies of Theresa Stevens, led by the Commission, and Phil Digby, led by Canada, in relation to its findings on FNCFS in Ontario.[40]

32. In addition to shouldering the burden of establishing discrimination in this case, the complainants, and in particular the Caring Society, also faced risk. When the Caring Society first brought this human rights complaint, Canada revoked all of the Caring Society's funding.[41] Then, on October 16, 2012, the Tribunal granted the Caring Society leave to amend the Complaint to include an allegation of retaliation against Dr. Blackstock. That portion of the Complaint was resolved in Dr. Blackstock's favour, with the Tribunal finding that Canada retaliated against her when she was denied entry to a meeting with the Chiefs of Ontario at the Minister of Aboriginal Affairs and Northern Development Canada's office (**"Retaliation Decision"**).[42] Dr. Blackstock was awarded $20,000: $10,000 for pain and suffering and $10,000 for Canada's wilful and reckless conduct."[43]

3) Complainant Remedial Orders supported by COO and NAN

33. In the Merits Decision, the Tribunal ordered Canada to immediately cease its discriminatory practices and reform the FNCFS Program and *1965 Agreement* to reflect the findings in the decision and cease applying its narrow definition of Jordan's Principle and to take measures to immediately implement the full meaning and scope of Jordan's Principle.[44] The Tribunal indicated that a progressive remedial process would unfold, given the complexity of the case and the "far-reaching effects of the relief sought".[45] The staged approach to the remedies, including compensation, would ensure that the remedies would be effective until long-term reform that would cease Canada's discrimination and prevent its recurrence could be achieved.

34. On March 18, 2016, NAN sought leave to intervene as an interested party on the remedial phase of the proceedings.[46] NAN outlined that their intervention would "not unduly

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[40] See Merits Decision at paras 218, 221, 223,
[41] February 26, 2013, examination-in-chief of Cindy Blackstock, p 93, line 20 – p 94, line 4.
[42] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2015 CHRT 14 at paras 58-61 [**2015 CHRT 14**].
[43] 2015 CHRT 14 at para 124 [emphasis added].
[44] Merits Decision, at para. 481
[45] Merits Decision, at para. 483
[46] Affidavit of Deputy Grand Chief Achneepineskum, affirmed March 18, 2016, at para 3 and Affidavit of Bobby Narcisse, affirmed March 18, 2016, at para 4.

prejudice or delay the determination of the rights of the parties to these proceedings"[47] but would "ensure remedies ordered by the Tribunal are designed with the unique considerations of service delivery in Northwestern Ontario".[48]

35. On May 5, 2016, the Tribunal granted NAN interested party status with its participation "limited to written submissions with respect to the specific considerations of delivering child and family services to remote and Northern Ontario communities and the factors required to successfully provide those services in those communities."[49] The Tribunal outlined that NAN's submissions should be limited to "areas where it says it can provide a different perspective to the positions taken by the other parties. That is, the specific considerations of delivering child and family services to remote and northern communities in Ontario and the factors required to successfully provide those services in those communities."[50]

36. Since the Merits Decision, the Caring Society and the AFN have continued to pursue effective interim remedies to advance the substantive equality rights of First Nations children, youth and families. Many interim orders have been made by the Tribunal, including the following which have had a direct impact on service delivery and ensuring First Nations children receive the services, products and supports they need when they need them. Those interim remedies include the following:

- 2016 CHRT 10: the Tribunal ordered Canada to immediately consider Jordan's Principle as including all jurisdictional disputes (this includes disputes between federal departments) and involving all First Nations children (not only those children with multiple disabilities) (the "**Jordan's Principle Scope Order**").[51]

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[47] Affidavit of Deputy Grand Chief Achneepineskum, affirmed March 18, 2016, at para 40.
[48] Affidavit of Bobby Narcisse, affirmed March 18, 2016, at para 7 and Affidavit of Deputy Grand Chief Achneepineskum, affirmed March 18, 2016, at para 4.
[49] *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 11 at para 5 [**2016 CHRT 11**]. See also *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2022 CHRT 26 at para 5 [**2022 CHRT 26**], and *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 31 at para 6 [**2020 CHRT 31**].
[50] 2016 CHRT 11 at para 15. See also 2022 CHRT 26 at para 8, and 2020 CHRT 31 at para 6.
[51] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2016 CHRT 10 at para 33 [**2016 CHRT 10**].

- 2017 CHRT 14 and 2017 CHRT 35: These comprehensive Tribunal orders regarding Jordan's Principle include the following elements (the "**Jordan's Principle Implementation Order**")[52]:

    - Jordan's Principle applies to all First Nations children, on and off reserve;
    - Jordan's Principle ensures there are no gaps in government services;
    - the government or department of first contact shall pay for the service, product or support without case conferencing or other similar administrative procedure before the recommended service is approved and funding is provided;
    - needs of the First Nations child /youth are evaluated on the basis of substantive equality, culturally appropriate services and safeguarding the best interests of the child;
    - the normative standard in the province / territory is not definitive to the determination of a request; and
    - requests must be determined within the Tribunal ordered timelines:
        - *Individual Requests*: 12 hours for urgent requests / 48 hours for non-urgent requests
        - *Group Requests*: 48 hours for urgent requests / 7 days for non-urgent requests

- 2018 CHRT 4: the Tribunal ordered funding for the actual costs to FNCFS agencies for least disruptive measures, building repairs, intake and investigations, legal fees in child welfare, child service purchases in child welfare, small FNCFS agencies, and (2) funding at the actual cost to First Nations for providing First Nations Representatives Services in Ontario (the "**Actuals Order**").[53]

- 2019 CHRT 7: the Tribunal granted an interim order extending Jordan's Principle eligibility to First Nations children facing urgent/life threatening situations who were

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[52] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2017 CHRT 14 at para 135 [**2017 CHRT 14**], and *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2017 CHRT 35 at para 10 [**2017 CHRT 35**].

[53] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada),* 2018 CHRT 4 at paras 407-450 [**2018 CHRT 4**].

recognised by their First Nations (the "**Interim Jordan's Principle Eligibility Order**").[54]

- 2020 CHRT 20 and 2020 CHRT 36: the Tribunal ordered that the following First Nations children are eligible for Jordan's Principle: (i) children who are registered or eligible to be registered under the *Indian Act*, as amended from time to time; (ii) children who have one parent/guardian who is registered or eligible to be registered under the *Indian Act*; (iii) children who are recognized by their Nation for the purposes of Jordan's Principle; or (iv) children who are ordinarily resident on reserve (the "**Jordan's Principle Eligibility Orders**").[55]

- 2021 CHRT 12: On a motion by the Caring Society and on consent of the AFN and Canada, The Tribunal ordered specific funding to non-agency First Nations, ensuring that First Nations children from communities not served by a delegated FNCFS Agency receive funding consistent with the communities with delegated FNCFS agencies per 2016 CHRT 2, and subsequent orders (The "**Non-Agency First Nations Order**"). [56]

- 2021 CHRT 41: the Tribunal ordered Canada to fund the purchase and construction of capital assets for FNCFS and Jordan's Principle. The Capital Order provides funding for the actual costs of capital projects that support the delivery of child welfare and Jordan's Principle, including planning costs and construction costs for the development of capital projects (the "**Capital Order**").[57]

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[54] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 7 at paras 87-93 [**2019 CHRT 7**].
[55] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 20 at paras 321-324 [**2020 CHRT 20**]; and *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 36 at paras 54-59 [**2020 CHRT 36**].
[56] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2021 CHRT 12 at paras 1 and 42 [**2021 CHRT 12**].
[57] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2021 CHRT 41 at para 542 [**2021 CHRT 41**].

- 2022 CHRT 8: On consent of the Caring Society, the AFN and Canada, the Tribunal made orders to enhance the nature and basis of prevention funding for 2022/23 and beyond, introduced funding for post-majority care, and established research parameters to support the parties' discussions on long-term reform. (the "**Consent Order**").[58]

- 2025 CHRT 6: the Tribunal made specific orders regarding urgency in determining Jordan's Principle requests, ordered Canada immediately deal with the backlog in Jordan's Principle requests and return back to the Tribunal with its detailed plan with targets and deadlines, triage all backlogged requests for urgency and review all self-declared urgent requests and communicate with all requestors with undetermined deemed urgent cases as per the Tribunal's clarifications to take interim measures to address any reasonably foreseeable irremediable harms. The Tribunal ordered Canada to consult with the Parties and Interested Parties to co-develop a number of approach to supporting the implementation of Jordan's Principle (the "**Jordan's Principle Backlog Order**").[59]

37. These orders were largely advanced by the Caring Society, with the support of the AFN and the Commission. As discussed below, while COO and NAN sought tailored relief within the context of this interim remedy process, the Complainants consistently pursued national remedies for this national complaint (including with application to Ontario) in a manner consistent with their obligations as complainants under the *CHRA.* The interim relief that has been requested by COO and NAN, and ordered by the Tribunal has occurred directly within the limits of their participatory parameters. They have sought and been granted specific relief in the context of the broader relief sought by the Complainants and tailored to Ontario's unique circumstances.

38. In addition to the various interim remedies that have been sought by the Caring Society and the AFN, the Complainants also sought financial compensation for the victims of Canada's discrimination. On September 6, 2019, the Tribunal found that certain victims of

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[58] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2022 CHRT 8 at paras 172-176 [**2022 CHRT 8**].
[59] *First Nations Child & Family Caring Society of Canada and Assembly of First Nations v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada),* 2025 CHRT 6 at paras 552-585 [**2025 CHRT 6**].

Canada's discriminatory conduct are entitled to compensation for both pain and suffering (s. 53(2)(e)) and because of Canada's wilful and reckless conduct (s. 53(3)) (**"Compensation Entitlement Order**"). It emphasized the factual findings made in previous decisions were based on its "thorough review of thousands of pages of evidence including testimony transcripts and reports" – evidence led by the complainants and the Commission.[60] Based on the entirety of the evidence, the Tribunal held that Canada's discrimination was a "worst-case scenario" under the *CHRA* and "devoid of caution with little to no regard to the consequences of its behavior towards First Nations children and their families".[61]

39. Canada sought judicial review of the Compensation Entitlement Order and sought a stay pending a decision of the Federal Court. In response, the Caring Society sought to stay the application for judicial review. Both motions were ultimately dismissed.[62]

40. Notwithstanding the impending judicial review of the Compensation Entitlement Order, on February 21, 2020, the Caring Society, the AFN, and Canada submitted a draft compensation framework to the Tribunal (**"Compensation Framework"**). The Compensation Framework arose from the collaborative efforts of the complainants and the respondent to structure a distribution mechanism in keeping with the Tribunal's orders to ensure an efficient, culturally safe, and effective process. While some aspects of the Compensation Framework are the result of negotiation and consensus, many issues had to be adjudicated before the Tribunal, including the following:

- 2020 CHRT 7: At the parties' request, the Tribunal provided guidance and clarification regarding: (i) the age of majority to be applied to determine when child beneficiaries could access compensation, (ii) whether children removed from their homes, families and communities prior to Jan 1, 2006 but who remained in care as of that date were eligible for compensation, and (iii) whether the estates of deceased victims were eligible for compensation.[63]

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[60] 2019 CHRT 39 at para 15 [emphasis added].
[61] 2019 CHRT 39 at para 231.
[62] *Canada (Attorney General) v. First Nation Child and Family Caring Society of Canada*, 2019 FC 1529.
[63] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada),* 2020 CHRT 7 [**2020 CHRT 7**].

- 2020 CHRT 15: The Tribunal, again at the parties' request, provided guidance and clarification regarding the definitions of "essential service", "service gap" and "unreasonable delay" for purposes of Jordan's Principle compensation.[64]

- 2021 CHRT 6: The Tribunal provided guidance and clarification regarding the means by which compensation would be held in trust for victims who have not yet reached the age of majority or otherwise lack legal decision-making capacity, responded to two requests from NAN for further amendments to the draft compensation framework and ruled on its continuing jurisdiction over the compensation framework following submissions by the parties in response to a question from the Panel on the matter.[65]

- 2022 CHRT 8: the Tribunal made an order, on consent and after detailed consideration, confirming areas of agreement reached by the parties following intensive discussions in November and December 2021. These areas of agreement set an end date for FNCFS Program compensation, enhanced the nature and basis of prevention funding for 2022/23 and beyond, introduced superior funding for post-majority care, and established research parameters to support the parties' discussions on long-term reform.[66]

41. In relation to the Compensation Framework, COO and NAN each made requests that compensation apply equally to First Nations individuals on and off-reserve in Ontario. COO and NAN also requested that eligible caregivers include other caregivers than parents and grandparents. NAN, specifically, further requested that specific considerations be included to account for remote communities where Canada is providing financial or other supports to First Nations for their beneficiaries. These amendments to the Compensation Framework were not supported by the Complainants and were ultimately rejected by the Tribunal.[67]

42. On February 12, 2021, the Tribunal released the **Compensation Payment Order,** incorporating the terms of the Compensation Framework into its order.[68] Shortly thereafter,

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[64] 2020 CHRT 15.
[65] *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2021 CHRT 6 [**2021 CHRT 6**].
[66] 2022 CHRT 8.
[67] 2020 CHRT 15, at para. 3
[68] 2021 CHRT 7 at para 40.

Canada amended its Notice of Application for judicial review and indicated its intent to seek judicial review of the Compensation Payment Order.

43. On September 29, 2021, the Federal Court dismissed Canada's application for judicial review, finding that the Tribunal's Compensation Entitlement Order and Compensation Payment Order (which incorporates the Compensation Framework) was reasonable, underlining the importance of the evidence led in this proceeding and focus of compensation under the *CHRA*, namely the infringement of dignity.[69]

44. Ultimately, the Tribunal's compensation orders were subsumed into the settlement of the Federal Court class action. On December 31, 2021, the AFN, Canada and the representative plaintiffs in three Federal Court class actions concluded an agreement in principle regarding class action compensation to victims of Canada's FNCFS Program and Jordan's Principle discrimination, from 1991-2022.[70] On June 30, 2022, a final settlement agreement was reached (the "**2022 FSA**") and in July 2022, the AFN and Canada brought a motion to the Tribunal seeking a declaration that the 2022 FSA was fair, reasonable, and satisfied the Compensation Entitlement Order and all related clarifying orders. In the alternative, AFN and Canada sought an order varying the Compensation Entitlement Order, the Compensation Framework Order and other compensation orders, to conform to the 2022 FSA (the "**Joint Motion**").

45. With the Caring Society and the Commission objecting to the 2022 FSA, the Tribunal dismissed the Joint Motion by letter decision on October 25, 2022, with full reasons set out in 2022 CHRT 41.

46. Following the release of 2022 CHRT 41, the class actions plaintiffs, the AFN, the Caring Society and Canada explored amendments to the 2022 FSA in order to fully satisfy the compensation orders. The class actions plaintiffs, the AFN, the Caring Society and

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[69] *Canada (Attorney General) v. First Nations Child and Family Caring Society of Canada*, 2021 FC 969 at paras 158, 229 and 230.

[70] T-402-19: *Moushoom et al v Attorney General of Canada* (representative plaintiffs: Xavier Moushoom, Jeremy Meawasige, Jonavon Meawasige and, until her death, Maurina Beadle); T-141-20: *Assembly of First Nations et al v His Majesty the King* (representative plaintiffs: Ashley Bach, Karen Osachoff, Melissa Walterson, Noah Buffalo-Jackson, Carolyn Buffalo, Dick Eugene Jackson); T-1120-21: *Trout et al v Attorney General of Canada* (representative plaintiff: Zacheus Trout). The class proceedings in T-402-19 and T-141-20 were consolidated on July 7, 2021, and certified on November 26, 2021 (2021 FC 1225). The class proceedings in T-1120-21 were certified on February 11, 2022.

Canada engaged in negotiations throughout January-April, 2023. These negotiations resulted in the Revised Final Settlement Agreement, which was approved by the Tribunal July 26, 2023 with full reasons released on September 26, 2023.[71] While recognizing the contributions of COO and NAN, the Tribunal acknowledged that the AFN and the Caring Society were instrumental in obtaining meaningful compensation for First Nations children and families.[72]

47. As summarized above, the Caring Society and the AFN have taken all of the significant steps in this proceeding, as complainants under the *CHRA*, to consistently and effectively discharge their burden of demonstrating the ongoing nature of Canada's discrimination and ensuring that all victims across the country are acknowledged, their rights protected and that the remedies ordered to date seek to achieve substantive equality.

48. Certainly, the Caring Society agrees with the joint submissions of COO and NAN that they, as interested parties, have sought orders in the context of the interim remedial phase of this proceeding. The Ontario-specific relief sought by COO and NAN and ordered by the Tribunal has enhanced the overall implementation of the Tribunal's interim remedies in the areas of child and family services and Jordan's Principle. However, these remedies have been sought and granted within the context of overarching relief sought by the Complainants. As discussed in more detail below, the Caring Society submits that there is a significant difference between an interested party seeking to tailor ongoing remedies to the specific parameters of their interested party status and seeking to resolve a national complaint in one region, particularly where that resolution would erase all existing Tribunal orders in that region and terminate the Tribunal's jurisdiction, in that region, over the Complaint.

4) The National AIP Process and the Ontario FSA

49. In December 2021, the Caring Society, the AFN, Canada, COO and NAN signed the Agreement-in-Principle on Long-term Reform of the FNCFS Program and Jordan's Principle ("**AIP**").[73] The Caring Society, AFN, COO, NAN and Canada worked confidentially to develop a long-term reform agreement in 2022 and 2023.[74] The discussions related to FNCFS

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[71] Letter decision of the Canadian Human Rights Tribunal, dated July 26, 2023; *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2023 CHRT 44 [**2023 CHRT 44**].
[72] 2023 CHRT 44, at para. 10
[73] Government of Canada, "Executive Summary of Agreement-in-Principle on Long-Term Reform" (updated September 13, 2023) [Canada, Executive Summary of AIP]; GC Abram Affidavit, 6 Mar 2025 at para 63.
[74] Affidavit of Amber Potts at paras 22-24

did not progress for several months in 2023, due to Canada's stating that it required a new "mandate".[75] At the end of 2023, given serious and ongoing concerns regarding Canada's non-compliance with Jordan's Principle, the Caring Society left the AIP in order to file a non-compliance motion on Jordan's Principle; bringing a non-compliance motion was not permissible under the AIP.[76]

50. AFN, COO, NAN and Canada's confidential AIP discussions after the Caring Society's departure from that process led to the release of the Draft Final Settlement Agreement on Child and Family Services (the "**Draft FSA**") on July 11, 2024. The Draft FSA included conditions precedent that required the approval by First Nations Leadership and the Tribunal. While the Draft FSA was approved by COO and NAN Chiefs-in-Assembly in early October, 2024, it was not accepted at the October 17, 2024, AFN Special Chiefs Assembly. Following the AFN Special Chiefs Assembly, the COO Chief-in-Assembly passed a resolution for the organization to enter into discussions with NAN and Canada related to an Ontario final settlement agreement.[77]

51. COO, NAN and Canada reached the Ontario FSA and the Trilateral Agreement on February 10, 2025, after five weeks of negotiation.[78] On February 25 and 26, 2025, the Ontario FSA was ratified by the NAN and COO Chiefs-in-Assembly, respectively.[79]

52. On March 7, 2025, COO and NAN jointly filed the Ontario Motion, seeking an order from the Tribunal approving the Ontario FSA, that the Ontario FSA and the Trilateral Agreement satisfy, supersede, and replace all previous order of the Tribunal related to the FNCFS Program in Ontario and the 1965 Agreement, and an order ending the Tribunal's jurisdiction in Ontario as it pertains to the FNCFS program.[80] Canada has filed two affidavits in support of the motion.[81]

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[75] Affidavit of Amber Potts at paras 22-24; Affidavit of Duncan Farthing-Nichol at paras 39-40.
[76] Affidavit of Amber Potts at para 25.
[77] GC Abram Affidavit at para 94.
[78] Joint Notice of Motion of the Chiefs of Ontario and the Nishnawbe Aski Nation, dated March 7, 2025 at para 16.
[79] Affidavit of Alvin Fiddler at paras 72-74.
[80] Joint Notice of Motion of the Chiefs of Ontario and the Nishnawbe Aski Nation, dated March 7, 2025 at paras 1-5.
[81] Affidavits of Duncan Farthing-Nichol, affirmed March 7,2025 and May 15, 2025.

53. The grounds pleaded by COO and NAN in support of the Ontario Motion focus primarily on the engagement efforts of COO and NAN, the importance of a First Nations-led process and provide an overview of the anticipated impacts of the Ontario FSA. Little is pleaded about how the proposed reforms address Canada's egregious discriminatory conduct, Canada's obligations under the *CHRA* or Canada's commitment, going forward, to protecting the substantive equality rights of First Nations children.

54. On June 4, 2025, the National Children's Chiefs Committee (the "**NCCC**"), established by the AFN Chiefs-in-Assembly, wrote to the Caring Society on COO and NAN's request regarding its participatory rights on the Ontario Motion. In order to respect the voices of the NCCC, the Caring Society attaches the NCCC June 4, 2025 letter to these submissions.

PART II - ISSUES

55. The Caring Society submits that this motion raises the following issues:

a) Whether the relief sought by COO and NAN is moot, given Canada's request for leave to be added to the Ontario Motion as a moving party, on consent of COO and NAN;

b) If the mootness doctrine does not apply, whether COO and NAN's current participation rights as interested parties extend to seeking relief to end the Tribunal's jurisdiction with respect to the Complaint and terminate the existing orders; and

c) If the mootness doctrine does not apply and the answer to (b) is no, whether the Tribunal should grant COO and NAN additional participatory rights to seek relief ending the Tribunal's jurisdiction with respect to the Complaint and to terminate the existing orders.

PART III - SUBMISSIONS

A. The Issues are Moot

56. The Caring Society submits that the relief sought by COO and NAN in relation to determining the scope of their participatory rights is now moot: Canada has indicated, with the consent of COO and NAN, that it seeks to be added as a moving party to the Ontario Motion.[82] Indeed, had Canada moved the Ontario Motion at first instance, the Complainants,

[82] May 28, 2025 Submission of the Attorney General of Canada.

interested parties and prospective interested parties would have been responding to a clear record.

57. Canada, as the Respondent to this proceeding, has the right to seek a final determination of the Complaint within the scope of participatory rights of parties (both complainants and respondents) to a human rights complaint. As such, given Canada's recent statement that it will participate in this motion as a moving party, it is no longer necessary to decide whether and to what extent COO and NAN have the right, as interested parties, to seek the relief sought on the Ontario Motion independently.

58. The Supreme Court of Canada defined the test for mootness in *Borowski v. Canada (Attorney General)*.[83] In his reason, Justice Sopinka described the doctrine of mootness in the following terms at page 353:

> The doctrine of mootness is an aspect of a general policy or practice that a court may decline to decide a case which raises merely a hypothetical or abstract question. The general principle applies when the decision of the court will not have the effect of resolving some controversy which affects or may affect the rights of the parties. If the decision of the court will have no practical effect on such rights, the court will decline to decide the case. This essential ingredient must be present not only when the action or proceeding is commenced but at the time when the court is called upon to reach a decision. Accordingly if, subsequent to the initiation of the action or proceeding, events occur which affect the relationship of the parties so that no present live controversy exists which affects the rights of the parties, the case is said to be moot. The general policy or practice is enforced in moot cases unless the court exercises its discretion to depart from its policy or practice. The relevant factors relating to the exercise of the court's discretion are discussed hereinafter.
>
> The approach in recent cases involves a two-step analysis. First it is necessary to determine whether the required tangible and concrete dispute has disappeared and the issues have become academic. Second, if the response to the first question is affirmative, it is necessary to decide if the court should exercise its discretion to hear the case. The cases do not always make it clear whether the term "moot" applies to cases that do not present a concrete controversy or whether the term applies only to such of those cases as the court declines to hear. In the interest of clarity, I consider that a case is moot if it fails to meet the "live controversy" test. A court may nonetheless elect to address a moot issue if the circumstances warrant.[84]

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[83] *Borowski v. Canada (Attorney General),* 1989 CanLII 123 (SCC), [1989] 1 SCR 342,
[84] *Borowski v. Canada (Attorney General),* 1989 CanLII 123 (SCC), [1989] 1 SCR 342, p 353.

59. The Caring Society is mindful of the Tribunal's resources in considering and deciding the exceptional question posed by COO and NAN regarding their participatory rights. Moreover, there is no controversy that Canada can seek the relief sought in the Ontario Motion, such that the issue is now largely academic.

60. It is critical that Canada serve and file a fresh as amended notice of motion. The Ontario Motion, as drafted, focuses on the roles of COO and NAN in arriving at the Ontario FSA and sets out the structure and intentions of the Ontario FSA, from COO and NAN's perspective. However, the pleadings as drafted, do not provide any acknowledgment of Canada's role as the perpetrator of discrimination, the duties it owes to First Nations children, youth and families, and does not include any clear commitment from Canada that the discrimination will not be repeated. Moreover, it does not clearly address any implications of the Ontario FSA to the rest of the country. To this end, Canada should not simply supplant itself on the Ontario Motion, as drafted, given the Respondent's distinct identity, duties and responsibilities to First Nations writ large, and duty to remedy the discrimination in this case.

61. Moreover, Canada is the perpetrator in this case and a signatory to the Ontario FSA. Canada has the responsibility and legal obligation to remedy the discrimination found by the Tribunal and demonstrate that it has taken all necessary steps to ensure that the rights that have been won and entrenched by the Tribunal are not eroded. Canada ought to be accountable for the decisions and compromises it has made in coming to the terms of the Ontario FSA, particularly given the Ontario FSA seeks to rescind and supersede all existing Tribunal orders related to FNCFS in Ontario.

62. As the Tribunal has already made clear in numerous rulings, any settlement or resolution of the Complaint must demonstrate an evidence-based, meaningful and sustainable approach to remedying the discrimination identified throughout this proceeding and prevent its recurrence. Indeed, The Tribunal has consistently cautioned that it will not make orders absent strong and reliable evidence. In the Capital Order, the Tribunal noted as follows:

> [503] The case is quite different with long-term reform where not all issues have been adjudicated by the Tribunal. The Tribunal supports First Nations-led solutions to eliminate discrimination **if the evidence advanced proves to eliminate the systemic discrimination found in an effective and sustainable manner that responds to the specific needs of First Nations children, families and also communities.** The Tribunal reminds the parties that it is a Tribunal created by statute with a mandate to eliminate discrimination in Canada once findings are made, **always based on evidence and not opinion**.

> [517] […] Canada cannot contract out the Tribunal's quasi-constitutional responsibility to eliminate the discrimination found and prevent similar discriminatory practices from arising. It has to occur after an **evidence-based finding that satisfies the Tribunal** that discrimination is eliminated and prevented from reoccurring or on consent of all, not just some, parties in the Tribunal proceedings and **based on compelling evidence** that the systemic racial discrimination will be eliminated. […] [Emphasis added][85]

63. As a moving party, Canada will have to demonstrate that the reform sought in relation to the Ontario FSA is complete, sustainable and long-term for multiple generation.[86] Long-term reform cannot be interim or short-term in nature if the Complaint is to be resolved on a final basis:

> [237] The ultimate objective is to achieve sustainable long-term reform informed by the many studies, expert committees, First Nations, the parties, etc. **for generations to come.** The Tribunal has always hoped for a settlement on long-term reform by way of consent order requests, if possible, similar to the compensation settlement agreement for both Jordan's Principle and the FNCFS Program. However, if this is not possible, the Tribunal can make systemic long-term orders informed by the parties to eliminate the systemic discrimination found. This is not optimal without the expert input of the parties including the First Nations Chiefs' knowledge and decisions expressed in the Chiefs-in-Assembly resolutions. [Emphasis added][87]

64. The responsibility and obligation to meet the standards set by the Tribunal and eliminate discrimination rests on Canada, requiring that it directly make the request to the Tribunal and provide its grounds for doing so. This is not a responsibility that COO and NAN can take on for Canada: they did not perpetrate harm and trauma against First Nations children and their families Indeed, the victims of Canada's discrimination in Ontario deserve to hear directly from the discriminator, including whether Canada is committed to redressing discrimination in Ontario as it relates to the findings in this proceeding and prevent its recurrence.

65. In addition to being directly accountable to the victims in Ontario, Canada has an obligation to be accountable to First Nations children, youth and families across the country. Canada has stated that the Ontario FSA will likely inform the path forward for the national approach for long-term reform.[88] As such, Canada ought to seek the relief on the Ontario

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[85] 2021 CHRT 41, at paras 503 and 517
[86] 2023 CHRT 44, at para. 225
[87] 2025 CHRT 6 at para. 237
[88] Letter from Canada to Panel re "First Nations Child and Family Caring Society et al. v. Attorney General of Canada Tribunal File: T1340/7008" (March 17, 2025) [**Canada March 17 Letter**].

Motion, defend its approach to remediating discrimination and preventing its recurrence, and be accountable to the Complainants, the Commission and the Tribunal.

B. The Current Scope of COO and NAN's Participatory Rights Do Not Include Seeking Final Orders

1) General Participatory Rights of Interested Parties

66. Generally speaking, those seeking interested party status will only be granted such a designation if they can demonstrate that their expertise will assist the Tribunal, their involvement will add to the legal positions of the parties and the proceeding will impact the applicant.[89] Thus by their very nature, interested parties are distinct from complainants in the context of human rights complainants; they have distinct roles, distinct powers and distinct participatory parameters: their participation is predicated on assisting the Tribunal.

67. While there are a number of nuanced differences between a complainant and an interested party, there are two fundamental distinctions: (i) a complainant has the burden of proof of establishing the alleged discrimination and (ii) an interested party cannot seek to resolve the complaint without the support of a party.

68. In *CHRA* complaints, the burden is on the complainant to present evidence that is sufficiently complete to meet the burden of proof in establishing a prima facie case of discrimination. This requires a complainant to establish, on a balance of probabilities, a case of discrimination which covers the allegations made and, if believed, is complete and sufficient to justify a verdict. Indeed, under section 5 of the *CHRA*, a complainant must prove three elements to demonstrate a prima facie case of discrimination:

a. There is a prohibited ground of discrimination;

b. The complainant or the person/group who is the alleged victim was denied a service by the respondent or the respondent differentiated adversely against the complainant or the person/group who is the alleged victim in the provision of a service or services customarily available to the general public; and

[89] 2022 CHRT 26 at para 30; see also 2016 CHRT 11 at para 3.

c. The prohibited ground of discrimination was a factor in the adverse impact or denial of the service.[90]

69. Interested parties bear no risk or consequence for discharging the statutory duty of demonstrating discrimination. While interested parties, like COO and NAN, can supplement, assist, and support a claim for discrimination, they do not share the same responsibilities as a complainant in this regard.

70. Indeed, given that interested parties do not share the responsibility of proving discrimination, they do not share the corresponding right to seek to end a complaint on a final basis. The Caring Society submits that the participation of interested parties, while integral to the hearing of complex human rights complaints, particularly those involving systemic discrimination, is supplemental to the role of complainants. The limits on the participatory rights of interested parties and the assistive nature of their role demonstrate a clear delineation between the participatory rights of interested parties and complainants.

71. In *Woodgate et al. v. Royal Canadian Mounted Police*, the Tribunal squarely considered a request for interested party standing, including that the participatory parameters of that standing incorporate the right to bring a motion to dismiss the complaint. In this case, the complainants were members of Lake Babine First Nation who alleged that the Royal Canadian Mounted Police (the "**RCMP**") discriminated against them and others by failing to properly investigate claims of historic childhood abuse suffered in school in Burns Lake and Prince George. The applicant for interested party standing argued that the complaint directly implicated him and his personal reputation. He sought, *inter alia*, standing to address concerns the confidentiality of certain documents and standing to bring a motion to dismiss the complaint.

72. While the Tribunal in *Woodgate* granted the applicant limited interested party standing, the Tribunal refused to grant the right of this interested party to bring a motion to dismiss the complaint. The Tribunal found the reasoning of the British Columbia Human Rights Tribunal ("**BCHRT**") regarding interested parties to be of assistance in determining whether to grant interested party status on the basis of an interested party wanting to resolve the complaint.[91]

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[90] Merits Decision, at paras 21-22.
[91] *Woodgate et al. v. Royal Canadian Mounted Police*, 2022 CHRT 3, at para 74 [**2022 CHRT 3**].

The Tribunal found that the issue of possible prejudice to the parties was an important factor to consider.[92] The Tribunal highlighted that the BCHRT will:

> balance "how likely it is that the intervenor will make a useful contribution" to the resolution of the complaint against the risk of prejudice to any of the parties, and in particular the risk that the intervenor will "**take the litigation away from the parties**" (*Campbell v. Vancouver Police Board*, 2019 BCHRT 12 (CanLII) at para 8; see also *Hughson v. Town of Oliver*, 2000 BCHRT 11 (CanLII) at para 7) [Emphasis added].[93]

73. The Tribunal found that granting an applicant interested party status to file a motion to dismiss the complaint posed a significant risk of prejudice to the parties and would effectively take the litigation away from the parties.[94] The Tribunal stated that the complaint was between the Indigenous complainants and the respondent, and the "focus of the inquiry should remain on the parties".[95] While discrimination had not yet been determined in *Woodgate,* the Tribunal's reasoning is nonetheless instructive, as it makes clear that there are important difference to the bundle of rights held by complainants and respondents compared to those held by interested parties. Moreover, this decision was upheld on judicial review.[96]

74. In *K.L. v. Canada Post Corporation*, the Tribunal granted a motion for interested party standing with limited participatory rights for a coalition that sought to provide assistance to the Tribunal regarding issues of domestic and intimate partner violence in the context of discrimination under the *CHRA*. The complaint had been brought by an employee who worked for Canada Post and alleged she had experienced discrimination on the basis of family status, sex and disability. In considering the coalition's request for interested party standing, the Tribunal affirmed the consideration of prejudice to the existing parties in a motion for interested party status :

> in *Woodgate et al. v Royal Canadian Mounted Police*, 2022 CHRT 3 [*Woodgate*], the Tribunal explicitly considered whether an interested person's participation would cause prejudice to the existing parties in determining whether to grant interested person status (para 75). The Tribunal's determinations based on this consideration were upheld on Judicial Review (*A.B. v C.D.*, 2022 FC 1500 at

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[92] 2022 CHRT 3 at para 75.
[93] 2022 CHRT 3 at para 74.
[94] 2022 CHRT 3 at para 77.
[95] 2022 CHRT 3 at para 77.
[96] A.B. v. C.D., 2022 FC 1500 at paras 30-35 [**2022 FC 1500**].

para 35). The consideration of prejudice in *Woodgate* is another example of the Tribunal taking into account the interests of justice.[97]

2) The Current Participatory Rights of COO and NAN Do Not Extend to Bringing the Ontario Motion

75. The Caring Society submits that COO and NAN do not currently have the participatory rights to seek to extinguish the Tribunal's existing orders, resolve the Complaint in Ontario for child and family services and terminate the Tribunal's jurisdiction. Such relief is reserved for the parties.

76. To better understand the existing scope of COO and NAN's participatory rights, it is important to understand the overall context of their participation throughout these proceedings. First, COO has already been denied the right to be added as a complainant to this proceeding. This purposeful decision by the Tribunal clearly indicates that COO (and by extension NAN) does not have the right to seek to extinguish the right of the complainants to seek to resolve the Complaint on its own terms. Otherwise, there is no fundamental distinction between a complainant and an interested party, which makes little sense in the context of the existing case law and invites perverse results in the process and procedure of adjudicating a human rights complaint.

77. Second, the Tribunal has been clear about COO's and NAN's roles throughout these proceedings. While the scope of their participation has ebbed and flowed in line with the Tribunal's discretion the essence of their participation has remained the same: to provide vital supporting information and feedback about the unique issues facing First Nations children in Ontario and provide guidance on the effective implementation of national remedies within the context of Ontario.[98] Their role has not been to seek independent and autonomous relief.

78. In the course of these proceedings, COO and NAN have not brought motions independent of the orders sought by the other parties and instead they have played a supporting role. The Caring Society submits that any motions or relief sought by COO and NAN, prior to the Ontario Motion, has always been in the larger context of relief already sought by the other parties.

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[97] *K.L. v. Canada Post Corporation*, 2025 CHRT 28 at para 56.
[98] See Merits Decision at para 13; 2016 CHRT 10 at para 28; 2017 CHRT 7 at para 19; 2020 CHRT 31 at paras 5-6; 2022 CHRT 26 at paras 7-8.

79. In late 2016, COO and NAN brought motions in collaboration with the complainants who sought various relief in relation to Canada's non-compliance with the Merits Decision.[99] Notwithstanding the clear findings in the Merits Decision and the immediate orders of the Tribunal, Canada had failed to take any substantive steps to remedy the discrimination and non-compliance orders were required.

80. The Caring Society and the AFN sought a wide range of relief, culminating in the Actuals Order. NAN joined the Complainants in seeking specific and effective immediate relief related to its specific participatory parameters, including immediate relief regarding a remoteness quotient,[100] the need to address deficits and capital needs of all NAN community-mandated child and family service agencies[101] and a request that Canada immediately fund mental health services pursuant to the Ontario *Child, Youth and Family Services Act*.[102] NAN subsequently sought relief after a number of children died in Wapekeka waiting for Canada to respond to a youth suicide crisis in the community. [103]

81. Similarly, COO sought an order declaring that Canada was not complying with the Merits Decision by virtue of its failure to fund mental health services in Ontario and requested an order that Canada to immediately fund same. COO also requested and was granted an order that First Nation Representative Services be funded at the actual costs.[104] COO further requested an order that Canada be required to fund a study on the 1965 Agreement in collaboration "with the Complainants and Interested Parties" (the "**Special Study**").[105] COO proffered evidence in support of the motion, including the affidavit of Deputy Grand Chief Denise Stonefish.[106]

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[99] Notice of Motion of the Assembly of First Nations, dated November 22, 2016. See also the Notice of Motion of the First Nations Child and Family Caring Society of Canada, dated November 22, 2016.
[100] Amended Notice of Motion of the Nishnawbe Aski Nation, dated January 27, 2017 [**2017 Amended NOM**] at para 7.
[101] 2017 Amended NOM at para 15.
[102] 2017 Amended NOM at para 23.
[103] Immediate Relief Factum of the Interested Party Nishnawbe Aski Nation, dated February 28, 2017 at paras 7 and 90.
[104] 2018 CHRT 4 at para 426-427
[105] Notice of Motion of the Chiefs of Ontario, dated November 22, 2016.
[106] Notice of Motion of the Chiefs of Ontario, dated November 22, 2016.

82. Ultimately, the Special Study was never ordered, as COO and Canada agreed to proceed with the research through an established Ontario technical table.[107] In the midst of the hearings in relation to the Actuals Order, NAN and Canada agreed to certain relief and brought solutions which were ultimately endorsed by the Tribunal. This included an agreement to implement Choose Life, to support life promotion and suicide prevention in remote NAN First Nations (the "**Choose Life Order**").[108]

83. The Caring Society did not challenge or question COO or NAN's request to seek relief related to the implementation of immediate measure in Ontario. The Actuals Order and the Choose Life Order are a part of a remedial process related to immediate relief that was connected to the Complainants' national approach to remedying discrimination across Canada as quickly as possible. The relief sought by COO and NAN was intimately connected to the trajectory of the Complaint and the direction sparked by the Complainants.

84. Importantly, when COO and NAN did seek orders that were final, not in keeping with the direction of the Complainants and not supported by the Complainants, the Tribunal did not grant their requested relief.

85. COO and NAN sought specific and independent relief in relation to the Compensation Framework. Specifically, COO and NAN each made requests that compensation apply equally to First Nations individuals on and off-reserve in Ontario, include caregivers other than parents and grandparents, and NAN requested that specific considerations be included to account for remote communities.[109]

86. The Tribunal denied all of COO and NAN's requests regarding the Compensation Framework. Indeed, when faced with competing interests from the interested parties and those of the AFN, Caring Society and Canada on compensation, the Tribunal decidedly agreed with the submissions of the AFN, Caring Society and Canada:

> When First Nations parties and interested parties in this case present competing perspectives and ask this Tribunal to prefer their strategic views over those of their First Nations friends, it does add complexity in determining the matter. Nevertheless, the Panel believes that all the parties and interested parties' views are important, valuable and enrich the process. This being said, it is one thing for this Panel to make innovative decisions yet, it is another to choose between different

[107] 2018 CHRT 4 at para 364.
[108] 2017 CHRT 7
[109] 2020 CHRT 15 at paras 51-55.

> First Nations' perspectives. However, a choice needs to be made and the Panel agrees with the joint Caring Society, AFN, and Canada submissions and the AFN's additional submissions on caregivers which will be explained below.[110]

87. NAN also sought an amendment to the Compensation Framework to reflect their participatory rights as an interested parties, and to change the period of time for which individuals would be eligible for compensation under Jordan's Principle.[111]The Caring Society, the AFN and Canada argued that "NAN's amendment would grant it participatory rights that exceed what it was granted by the Tribunal."[112] Ultimately, the Tribunal did not grant NAN's request as they did "not view section 13.2 of the *Draft Compensation Framework* as infringing on the NAN's participatory rights or at odds with the compensation ruling."[113]

88. While COO and NAN have made motions throughout the course of these proceedings, the nature of the relief they have sought has been premised on assisting with the implementation of existing remedies within Ontario (or national remedies being sought by the Complainants) on an interim basis. In particular, the Tribunal had already identified the need to equitably fund band representative services.[114] The Tribunal had already identified and ordered Canada to address to immediately address its discriminatory funding of remote FNCFS agencies.[115] The Caring Society submits that the Tribunal has been clear in not granting relief that extended beyond the scope of the participatory rights of the interested parties, as seen in 2020 CHRT 15 when the Tribunal denied COO and NAN's request to broaden the scope of compensation.[116]

C. The Tribunal Should Not Expand COO and NAN's Participatory Rights to Bring the Ontario Motion

89. The Caring Society submits that the Tribunal ought not exercise its discretion to broaden the participatory parameters for COO and NAN. Such a broadening of COO and NAN's participatory rights would not be in keeping with the interests of justice.[117]

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[110] 2020 CHRT 15 at para 3.
[111] 2021 CHRT 6 at para 5.
[112] 2021 CHRT 6 at para 102.
[113] 2021 CHRT 6 at para 103.
[114] Merits Decision at para 228-230. 348, and 425.
[115] 2017 CHRT 7 at para 20.
[116] 2020 CHRT 15 at paras 23, 24 and 27.
[117] 2025 CHRT 28 at para 56.

90. The Caring Society agrees and respects that the Tribunal is the master of its own house while also acknowledging the limits of its decision-making power within the context of this unique case. Notwithstanding the broad remedial scope of the Tribunal's jurisdiction, the Caring Society submits that granting expanded participatory rights to COO and NAN at this juncture would constitute an unjust and unreasonable approach by the Tribunal, as it would erode the rights of Complainants and potentially open the flood gates to other interested parties to seek orders to rescind the existing Tribunal orders and terminate the Tribunal's jurisdiction. Such a result would, by virtue of the decision, change the parameters of the Complaint.

91. Certainly, the Tribunal has the jurisdiction to assess and reassess the scope of the participatory rights of interested parties throughout a proceeding. In *Canadian Association of Elizabeth Fry Societies and Acoby v. Correctional Service of Canada*, 2019 CHRT 30, the Tribunal ruled that the Native Women's Association ("**NWAC**") would be granted interested party status: NWAC was allowed to receive all disclosure and documents, and to call two expert witnesses as identified in their motion materials.[118] The Tribunal made its intention clear in this particular case that NWAC's further participation would be "reassessed as the systemic complaints proceed".[119] However, the Tribunal did not indicate that the very nature of an interested party's participation could be expanded to overtake the rights of the complainant.

92. Moreover, in *K.L. v. Canada Post Corporation*, the Tribunal reasoned that the coalition requesting interested party standing would not be granted the broad participatory rights it was seeking. In particular, the Tribunal reasoned that expanding the coalition's participatory rights to those of a full party would not be in the interests of justice, given that its position was similar to that of the Commission, which is a full party to the proceeding.[120] It therefore stands to reason that, given that Canada is a signatory to the Ontario FSA, COO and NAN share the same position as Canada, which is a full party.

93. Granting COO and NAN the right to bring the Ontario Motion would also introduce great uncertainty for the complainants in this and other cases if interested parties alone are

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[118] *Canadian Association of Elizabeth Fry Societies and Acoby v. Correctional Service of Canada*, 2019 CHRT 30 at para 33 [**2019 CHRT 30**].
[119] 2019 CHRT 30 at para 33. See also 2019 CHRT 30 at "order".
[120] 2025 CHRT 28 at para 84.

permitted to request final orders affecting the substantiated complaint either in whole or in part. Certainly, COO and NAN have participated in this case directly since the Merits Decision was released. However, the duration of their participation does not augment the scope of the Complaint, the burden that must be discharged to resolve the Complaint or the distinction inherent in the rights between complainants and interested parties. Relying on the duration of an interested party as the basis to expand their rights may have significant negative consequences to human rights jurisprudence and create perverse incentives.

94. The Caring Society further submits that this approach would set a dangerous precedent that has the effect of diluting the role and rights of complainants in the human rights regime and undermining the screening role of the Commission. The Caring Society submits that permitting the interested parties leave to seek the remedies sought in the Ontario Motion would have the effect of bypassing the Complainants in the litigation process and further narrowing the role of complainants in the human rights regime. Further, granting leave to the interested parties to seek the relief sought would have the impact of severing the Complaint from what it was originally intended to be when the Commission referred this complaint to the Tribunal.

95. The submissions made by COO and NAN regarding the need for the Tribunal to consider the voices of First Nations is not in dispute, and COO and NAN will have the opportunity to make submissions on the Ontario FSA in the course of this proceeding. However, fundamentally altering the roles and responsibilities between complainants and interested parties is not in the interests of justice or in line with the well-established approach to human rights litigation.[121]

PART IV - SUBMISSIONS ON DISPOSITION OF THE MOTION

96. The Caring Society respectfully submits the motion should be determined as follows:

a. An order that Canada serve and file a fresh as amended Notice of Motion in relation to the Ontario FSA within 15 days of the order;

b. To the extent that the fresh as amended Notice of Motion pleads new grounds or a materially different legal rationale, an order that the prospective interested

[121] 2022 CHRT 41 at para 465.

parties be provided with an opportunity to provide any supplemental submissions within 15 days of the amended Notice of Motion being filed;

c. An order dismissing the balance of the motion as moot.

All of which is respectfully submitted, this 4th day of June, 2025.

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Counsel for the Complainant,
First Nations Child and Family Caring Society of Canada

PART V - LIST OF AUTHORITIES

	STATUTES
1.	*Canadian Human Rights Act,* R.S.C., 1985, c. H-6
2.	**CASE LAW**
3.	*A.B. v. C.D., 2022 FC 1500*
4.	*Borowski v. Canada (Attorney General),* 1989 CanLII 123 (SCC), [1989] 1 SCR 342
5.	*Canada (Attorney General) v. First Nations Child and Family Caring Society of Canada*, 2010 FC 343
6.	*Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2012 FC 445, [2013] 4 FCR 545
7.	*Canada (Attorney General) v. Canadian Human Rights Commission*, 2013 FCA 75
8.	*Canada (Attorney General) v. First Nation Child and Family Caring Society of Canada*, 2019 FC 1529
9.	*Canada (Attorney General) v. First Nations Child and Family Caring Society of Canada*, 2021 FC 969
10.	*Canadian Association of Elizabeth Fry Societies and Acoby v. Correctional Service of Canada, 2019 CHRT 30*
11.	*First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2012 CHRT 16
12.	*First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian Affairs and Northern Development Canada)*, 2013 CHRT 16
13.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada),* 2015 CHRT 14
14.	*First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2
15.	*First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada),* 2016 CHRT 10

16.	*First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada),* 2016 CHRT 11
17.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2016 CHRT 16
18.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2017 CHRT 7
19.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2017 CHRT 14
20.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2017 CHRT 35
21.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2018 CHRT 4
22.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 1
23.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 7
24.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 39
25.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 7
26.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 15
27.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 20

28.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 24
29.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada),* 2020 CHRT 31
30.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2020 CHRT 36
31.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2021 CHRT 6
32.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2021 CHRT 7
33.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2021 CHRT 12
34.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada),* 2021 CHRT 41
35.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2022 CHRT 8
36.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada), 2022 CHRT 26*
37.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2022 CHRT 41
38.	*First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada),* 2023 CHRT 44
39.	*First Nations Child & Family Caring Society of Canada and Assembly of First Nations v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2025 CHRT 6
40.	*K.L. v. Canada Post Corporation*, 2025 CHRT 28
41.	*Pictou Landing Band Council v Canada (Attorney General),* 2013 FC 342

42.	*Woodgate et al. v. Royal Canadian Mounted Police*, 2022 CHRT 3