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Court File No

FEDERAL COURT

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA,
ASSEMBLY OF FIRST NATIONS, CANADIAN HUMAN RIGHTS COMMISSION,
CHIEFS OF ONTARIO, NISHNAWBE ASKI NATION
and AMNESTY INTERNATIONAL CANADA,

Respondents

APPLICATION FOR JUDICIAL REVIEW

THE ATTORNEY GENERAL OF CANADA

Department of Justice Canada
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Counsel for the Applicant, the Attorney General of Canada



FEDERAL COURT

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA,
ASSEMBLY OF FIRST NATIONS, CANADIAN HUMAN RIGHTS COMMISSION,
CHIEFS OF ONTARIO, NISHNAWBE ASKI NATION
and AMNESTY INTERNATIONAL CANADA,**

Respondents

NOTICE OF APPLICATION FOR JUDICIAL REVIEW

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at *(place where Federal Court of Appeal (or Federal Court) ordinarily sits)*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the Federal Courts Rules, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

September 17, 2026

Issued on: September 17, 2026

Issued by: Moses Imonikhe (Registry Officer)

Address of Local Office: 90 Sparks Street/rue Sparks Ottawa, Ontario K1P 5R5

Issued by:

Registry Officer

Federal Court of Canada
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APPLICATION

This is an application for judicial review of the Canadian Human Rights Tribunal's (**Tribunal**) Chairperson's decision, dated August 18, 2026 (**Decision**), with reasons to follow, in the matter of *First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada*, Tribunal file number T1340/7008. The applicant reserves the right to seek amendments to the application following the issuance of the Tribunal's reasons for Decision.

The applicant makes an application for:

1. An order pursuant to s 18.1 of the *Federal Courts Act*, RSC 1985, c F-7, in the nature of *certiorari*, setting aside, in whole or in part, the Tribunal's Decision; and
2. Such further and other relief as this Court considers appropriate.

The grounds for the application are:

1. In 2007, the Assembly of First Nations (**AFN**) and First Nations Child and Family Caring Society of Canada (**Caring Society**) jointly filed a complaint under the *Canadian Human Rights Act*, RSC 1985, c H-6, alleging that Canada was discriminatorily funding child welfare services to First Nations children living on reserve through its First Nations Child and Family Services Program and that jurisdictional disputes between the Canada and the provinces resulted in discriminatory delays or denials of child welfare services to First Nations children living on reserve through Jordan's Principle (**Complaint**). The Canadian Human Rights Commission (**Commission**) referred the Complaint to the Tribunal for an inquiry.

2. In June 2012, the AFN filed a motion requesting that the Tribunal's Acting Chairperson assign a three-member panel to the inquiry on the basis that the Complaint raised novel and highly complex issues that would benefit from multi-member adjudication.
3. In *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, the Tribunal's Acting Chairperson granted the AFN's motion, assigning a three-member panel to the inquiry, which included Members Marchildon, Bélanger and Lustig (**Panel**).
4. Following Member Bélanger's death in 2015, Members Marchildon and Lustig continued to hear the inquiry, issuing the 2016 Merit Decision, *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, and over 35 subsequent remedial decisions.
5. On July 7, 2026, Member Lustig resigned, leaving Member Marchildon as the sole remaining Panel member of the three-member decision-making body. As such, the Panel became inquorate and could no longer exercise the authority assigned to it.
6. On July 28, 2026, Canada requested that the Tribunal Chairperson restore the Panel to its previous three-member composition.

7. On July 29, 2026, the Tribunal Chairperson directed written submissions from Member Marchildon, the AFN, the Caring Society, the Commission and select interested parties, followed by a reply from Canada.
8. On August 18, 2026, the Tribunal Chairperson issued the Decision, with reasons to follow, dismissing Canada's request to restore the Panel to its previous three-member composition.
9. In issuing the Decision, the Tribunal breached natural justice and the duty of fairness.
10. The Decision was unreasonable because the Tribunal:
 - a. did not base its decision on an internally coherent reasoning that is both rational and logical;
 - b. unreasonably interpreted its statutory authority;
 - c. unreasonably exercised its discretion; and
 - d. unreasonably failed to consider the evidence and submissions before it.
11. *Federal Courts Act*, RSC 1985, c F-7, sections 18 and 18.1.
12. *Federal Courts Rules*, SOR/98-106.
13. *Canadian Human Rights Act*, RSC 1985, c H-6.
14. *Interpretation Act*, RSC 1985, c I-21.
15. Such further and other grounds as counsel may advise and this Honourable Court may permit.

This application will be supported by the following material:

1. The Certified Tribunal Record of the Tribunal.
2. The Tribunal's Decision, dated August 18, 2026.
3. The Tribunal's written reasons for the Decision, when available.
4. The affidavits to be filed in support of this application and the exhibits attached.
5. Such other materials as this Honorable Court may request and allow.

THE ATTORNEY GENERAL OF CANADA REQUESTS, pursuant to Rule 317 of the *Federal Courts Rules*, SOR/98-106, that the Tribunal provide a certified copy of all material relevant to this application that are not in Canada's possession, including relevant materials that were before the Tribunal at the time it rendered the Decision dated August 18, 2026 and its reasons to follow.

September 17, 2026

THE ATTORNEY GENERAL OF CANADA



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I hereby certify that the above document is a true copy of the original issued out of/ filed in the Court on September 17, 2026.

Certified on: September 17, 2026

Certified by: Moses Imonikhe

Counsel for the Applicant,
the Attorney General of Canada