

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 and
AMNESTY INTERNATIONAL CANADA and NISHNAWBE ASKI NATION**

Interested Parties

**JOINT NOTICE OF MOTION of the FIRST NATIONS CHILD AND FAMILY CARING
SOCIETY, ASSEMBLY OF FIRST NATIONS, CHIEFS OF ONTARIO and
NISHNAWBE ASKI NATION**

Jordan's Principle Compliance and Implementation of 2025 CHRT 6

TAKE NOTICE THAT THE COMPLAINANTS, the First Nations Child and Family Caring Society of Canada (the “**Caring Society**”), the Assembly of First Nations (the “**AFN**”), and the **INTERESTED PARTIES** Chiefs of Ontario (“**COO**”) and Nishnawbe Aski Nation (“**NAN**”) will make a motion to the Canadian Human Rights Tribunal located at 240 Sparks Street, 6th Floor West, Ottawa, Ontario, on a date to be determined by the Canadian Human Rights Tribunal (the “**Tribunal**”) or as soon thereafter as it may be heard.

This motion is for further relief to ensure that this Tribunal’s orders are effective, including: 2016 CHRT 2, 2016 CHRT 10, 2016 CHRT 16, 2017 CHRT 14 (as amended by 2017 CHRT 35), 2019 CHRT 7, 2020 CHRT 20, 2020 CHRT 36, 2021 CHRT 41, and 2025 CHRT 6 (collectively, the “**Jordan’s Principle Orders**”).

Pursuant to section 53(2) of the *Canadian Human Rights Act*, this motion seeks relief to address non-compliance by the Government of Canada (“**Canada**”) arising from 2025 CHRT 6 and necessary measures to secure compliance with the Jordan’s Principle Orders, inclusive of the following issues: (i) monitoring, compliance and corrective action; (ii) urgent requests triage process; (iii) the definition of “qualified professionals” for the purposes of urgent requests; (iv) the determination clock; (v) elimination of the backlog and safeguards to prevent its recurrence; (vi) coordination between Jordan’s Principle and other emergency services; (vii) redressing the hardship imposed on individuals and families by reimbursement and payment delays; (viii) an independent appeals process; (ix) complaints procedure; (x) referrals with safeguards to First Nation; and (xi) Canada’s reliance on the February 10, 2025 Jordan’s Principle Operational Bulletin: Updates to the Implementation of Jordan’s Principle (the “**Operational Bulletin**”).

This motion is made under Rule 3 of the *Canadian Human Rights Tribunal Rules of Procedure* (Proceedings Prior to July 11, 2021), pursuant to Rules 1(6), 3(1), 3(2), and 5(2); pursuant to the Canadian Human Rights Tribunal’s continuing jurisdiction in this matter; and pursuant to the Tribunal’s direction of August 21, 2026. The proposed motion will be heard virtually.

AND TAKE NOTICE THAT THIS JOINT MOTION IS FOR:

Required Compliance with the Jordan’s Principle Orders

1. An order that Canada shall, in reviewing each Jordan’s Principle request, consider and implement all of the Tribunal’s orders and reasons together in alignment with the best interests of the child and the legal requirements of substantive equality, which demand Canada consider the full social, political and historical context of the request; the child’s individual and group circumstances, including the child’s age, culture, vulnerability, remoteness, geography, rural location and other distinct community circumstances; and the lack of access to professional services in relation to each Jordan’s Principle request. Such an approach also requires consideration of Canada’s colonial conduct and legacy, and resulting stereotyping and prejudice, including the harms of Canada’s conduct in the Indian Residential Schools System, the Sixties Scoop, and Canada’s systemic discrimination substantiated in this proceeding.

2. An order that Jordan’s Principle does not require evidence, documentation or confirmation that the child¹ has attempted to access another government or department service or that the child has experienced gaps, delays or denials in another government or department service before accessing Jordan’s Principle. Within 15 days of this order, Canada shall advise the public

¹ Throughout the requested orders and the grounds for relief, “child” should be interpreted to include youth up to the age of majority in the child’s province or territory, and the singular should be interpreted to include the plural.

accordingly and disseminate corresponding internal direction to Indigenous Services Canada staff responsible for intake, review and communications with requestors.

Monitoring, Compliance and Corrective-Action Orders

3. An order that Canada shall, until further order of the Tribunal, file with the Tribunal, and post prominently on the Indigenous Services Canada home page and the Minister of Indigenous Services Canada's homepage monthly compliance reports on Canada's implementation of the Jordan's Principle Orders ("**Compliance Report**"), which shall include the following aggregate information, broken down by region and nationally:

Part One: Data Reporting

- a. Regarding the total number of individual and group requests in ISC's backlogs:
 - i. The total number of urgent and non-urgent individual and group requests in ISC's backlog;
 - ii. The total number of urgent and non-urgent individual and group requests at each stage of ISC's process (e.g., intake, decision-making process); and
 - iii. Data on the time that requests have been in process.
- b. Regarding requests received and/or determined in the prior month:
 - i. The number of urgent and non-urgent individual and group requests received in the month prior;

- ii. The status of the requests received that month (adjudicated, paused, escalated);
 - iii. The outcomes of the requests adjudicated that month (approved, denied, referred); and
 - iv. Data on the timeline for the determination of the requests adjudicated in the prior month.
- c. Data for the timeline for payment or reimbursement of each request approved in the prior month, categorized by payee type (e.g., family, vendor, First Nation, service provider).
- d. Regarding appeals:
 - i. The number of urgent and non-urgent individual and group appeals received in the month prior;
 - ii. The status of the appeals received that month (adjudicated, paused, re-reviewed);
 - iii. The outcomes of the appeals adjudicated that month (approved, denied); and
 - iv. Data on the timeline for the determination of the requests adjudicated in the prior month. (including average time since the request was received, median time, standard deviation and data distribution of disposition times).

Part Two: Non-Compliance and Corrective Action

- e. The aggregate number of requests that have not been adjudicated pursuant to the Jordan's Principle Orders, the specific areas of non-compliance identified in the prior month, the cause of the non-compliance, the corrective action taken; remaining steps required, and any harm in the aggregate (and not specific to identifiable children and families) experienced by the children and families impacted by Canada's non-compliance;
 - f. Changes made to correct Canada's non-compliance, including anticipated timelines and deliverables; and
 - g. Transparent and clear explanations linking the information in paragraphs 3(e) and 3(f) to the Jordan's Principle Orders.
4. An order that each Compliance Report shall include the names and titles of the author(s) of the report, the data and evidence relied upon to complete the report and contact information identifying who within the Department of Indigenous Services Canada can answer questions from First Nations and First Nations-authorized service providers about the Compliance Report.
5. Canada shall prepare the Compliance Report without delaying, reducing or interfering with the timely determination, approval, funding, reimbursement, payment or delivery of any Jordan's Principle product, service or support.
6. An order that, within 90 days of the Tribunal's order, Canada shall consult with the Parties in keeping with the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4) to develop the terms and content of the Compliance Reports,

inclusive of the minimum requirements set out in paragraph 3 above. Any agreed upon template related to the terms and content of the Compliance Reports shall be filed for approval with the Tribunal. In the interim, Canada shall file monthly Compliance Reports inclusive of the requirements set out in paragraph 3.

Compliant Definition of Substantive Equality and Decision-Making Framework

7. An order that, pending Tribunal approval of the definition of substantive equality and framework for making decisions regarding Jordan's Principle requests, Canada shall immediately apply an interim Tribunal-aligned definition of substantive equality and interim Tribunal-aligned decision-making framework to all requests in the backlog and new requests received. These will be consistent with the Jordan's Principle Orders and shall govern Canada's assessment of urgency of requests, determinations of requests (approvals, denials, referrals, reclassifications or closures), and payments or reimbursements following approved requests. Canada shall publicly post on the Indigenous Services Canada homepage, in both Official Languages, the definition and framework within 48 hours of the Order.

8. An order that, within 30 days of the Tribunal's order, Canada shall consult with the Parties in keeping with the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4) and file for Tribunal approval a definition of substantive equality and a framework for making decisions regarding Jordan's Principle requests. Within 5 days of Tribunal approval, Canada shall circulate the approved substantive equality definition and decision-making framework to all relevant staff, apply the definition and process nationally, post the definition and framework through a prominent and direct link visible from the Indigenous Services Canada home page, and maintain each in a permanent and publicly accessible archive.

9. An order that, on request by a First Nations family or First Nation who received a denial or partial denial, or delayed payments or reimbursements on or after November 21, 2024, Canada shall review the case to ensure compliance with the Jordan's Principle Orders.

Complaints Mechanism and Appeals Process

10. An order that, within 10 days of the Tribunal's order, Canada shall file with the Tribunal a report, with evidence, identifying all steps taken since November 21, 2024, to develop, operate and/or evaluate any Jordan's Principle complaints mechanism. The report shall include non-identifying aggregate data on any complaints received, resolved, or outstanding, and shall not disclose information that could reasonably identify a child, family, service provider, or community.

11. An order that, within 30 days of the Tribunal's order and in keeping with the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4), Canada shall consult with the Parties and file with the Tribunal for approval an interim credible, transparent, independent and effective national Jordan's Principle complaints mechanism. The complaints mechanism shall be separate from, and not duplicative of, the appeals process. The complaints mechanism shall receive and resolve complaints arising before a determination, after an approval, or otherwise outside the scope of an appeal, including complaints about delays in the determination of a request, staff conduct, access barriers, payment or reimbursement delays, referrals, closures, reclassifications, failures to communicate, and failure to provide interim or crisis supports; include protections against reprisal and culturally safe intake options through First Nations and trusted First Nations-authorized service providers; track and publicly report non-identifying aggregate complaint data, trends, timelines, outcomes, remedies and corrective

measures; and identify systemic issues requiring inclusion in Canada's Compliance Reports. Canada shall not disclose information that could reasonably identify a child, family, service provider, or community.

12. An order that, within 90 days of the Tribunal's order and in keeping with the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4), Canada shall consult with the Parties and file with the Tribunal for approval a revised appeals process that is independent from Indigenous Services Canada to provide timely review of denials of Jordan's Principle requests and includes outside expertise. The appeals process must permit requestors to know the case to be met and include arm's length assistance to facilitate requestors in bringing their appeals. In the interim, appeals shall be adjudicated by a qualified official outside of Jordan's Principle pursuant to the Jordan's Principle Orders and this order.

Urgent Request Triage

13. An order that the categories identified by the Tribunal in 2025 CHRT 6, including cases involving end-of-life/palliative care, risk of suicide, the risk to physical safety, no access to basic necessities, risk of entering the child welfare system, and caregivers and children fleeing from domestic violence are presumptively urgent.

14. An order that where Canada has received a request identified as urgent that is aligned with the definition of "urgent" in the Jordan's Principle Orders and any orders from this motion, and Canada has not confirmed its urgency pursuant to the Jordan's Principle Orders within six (6) hours of receipt, the request shall be deemed urgent.

15. An order that where an urgent request remains undetermined after 12 hours in the case of an individual request or 48 hours in the case of a group request, Canada shall approve the request in the interim and fund the service, support, or product from a minimum of 48 hours to 2 weeks to meet the child's urgent needs.

16. An order that where a Qualified Professional (defined below at paragraph 25) confirms or communicates that a request is urgent (verbally or in writing) and the necessary consent has been provided, Canada shall determine the request as urgent.

No Access to Basic Necessities: Criteria and Guidelines

17. An order that “**Basic Necessities**” means any product, service or support reasonably necessary to prevent or address a serious and immediate risk to a child's health, safety, dignity, development, family integrity, cultural continuity, best interests, or to meet a child's essential needs.

18. An order that Canada shall determine requests where there is no access to Basic Necessities, including no access to adequate food, water, shelter (including heat and electricity), healthcare, medication and medical products, newborn and infant products, hygiene products and/or any other service, product or support consistent with the **Urgent Request Triage**. Any ambiguity shall be resolved in favour of ensuring access to supports for the child.

Risk of Entering the Child Welfare System

19. An order that “**Risk of Entering the Child Welfare System**” shall be interpreted broadly and in keeping with the Tribunal's orders and reasons regarding prevention and least disruptive measures. This includes circumstances where the absence, inadequacy, delay or denial of a

Jordan's Principle product, service or support creates, contributes to, or fails to mitigate a reasonably foreseeable risk of child welfare involvement, family separation, removal from the child's current home environment, out-of-home placement, or continued out-of-home placement.

Cases Involving Caregivers and Children Fleeing from Domestic Violence (Urgent Requests): Objective Criteria and Guidelines

20. An order that “**Domestic Violence**” shall be construed broadly and include a wide array of circumstances, such as coercive control, criminal harassment, emotional/psychological abuse, financial abuse, physical abuse, reproductive coercion, sexual violence, spiritual abuse, and technology-facilitated violence.

21. An order that “**Fleeing Domestic Violence**” shall be construed broadly to include circumstances where a caregiver and child need to leave their residence and situations in which the caregiver and child remain at home, but require products, services and supports to address a threat of Domestic Violence.

Coordination Between Jordan's Principle and Other Emergency Services

22. An order that “**Emergency Circumstances**” shall be defined to include environmental emergencies such as wildfires, floods, landslides, severe weather events; public health emergencies (including civil unrest, evacuation or displacement); community infrastructure emergencies; environmental emergencies, and includes states of emergencies declared by First Nations, Federal, Provincial/Territorial and Municipal governments.

23. An order that within 120 days of the Tribunal's order, Canada shall file a coordination plan accompanied by evidence, developed in consultation with the Parties, demonstrating how Jordan's

Principle requests related to Emergency Circumstances will be coordinated with other services and programs.

24. An order that, pending Tribunal approval of a final coordination plan developed with the Parties pursuant to the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4), Canada shall immediately triage and determine all Jordan's Principle requests arising from or related to Emergency Circumstances as urgent.

Qualified Professional for the Purposes of Urgent Requests

25. An order that a “**Qualified Professional**” is an individual with relevant competence and training who can identify urgent Jordan's Principle requests and means:

- a. a **health/medical professional, a social worker/social services professional, and/or an educational professional** who maintains good standing, licensure/registration or certification, or has a statutory exemption, from the appropriate regulatory body in their province and territory of practice, or has relevant training, credentials or experience related to their scope of practice and recommendations; and/or
- b. a **community professional** who is an employee of a First Nation or an authorized First Nation service provider, or is an employee of a community-based organization that addresses community needs (including shelters, emergency services, friendship centres), and who can identify an urgent request connected to a First Nations child's needs and circumstances; and/or

- c. a **community authorized Elder or Knowledge Keeper** who can identify an urgent request connected to a First Nations child's needs and circumstances as it relates to a request for culture, language or wellness supports.
- d. For the purposes of **Risk of Entering the Child Welfare System**, means a child protection worker, police officer and/or any other professional authorized under provincial, territorial, federal or Indigenous child and family services legislation, community professionals who are (a) employees of a First Nation or (b) employees of an authorized First Nations Child & Family Service Agency, and includes Qualified Professionals referenced in (a) – (c) above.

Determination Clock

26. An order that for both individual and group requests, the determination clock shall start on the date and time the requestor submits the minimum required information: one recommendation from a **Qualified Professional** (verbal in the case of an urgent request or otherwise in writing) and necessary consent (verbal in the case of an urgent request) to any method of submitting a request publicized or used by ISC. This shall be defined as the **Determination Clock**.

Redressing the hardship imposed on individuals and families (requestors) by reimbursement and payment delays

27. An order that Canada shall utilize acquisition cards or other immediate payment mechanisms for urgent requests and shall otherwise issue final reimbursement or payment within 3 calendar days for urgent individual requests and within 5 calendar days for urgent group requests.

28. An order that Canada shall issue payment or reimbursement:

- a. Within 5 calendar days for approved non-urgent individual requests; and
- b. Within 15 calendar days for approved non-urgent group requests.

29. An order that, within 120 days of the Tribunal's order, in keeping with the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4), Canada shall co-develop with the Parties a payment and reimbursement guide that will be used by Canada to process payment and reimbursements, in both Official Languages, and will include the following: (i) payment / reimbursement requirements, (ii) options for payment / reimbursement (iii) reimbursement and payment service standards; and (iv) a process for addressing delayed reimbursements / payments (the "**Payment and Reimbursement Guide**"). The **Payment and Reimbursement Guide** will be publicly available and accessible to those requiring accommodation.

30. An order that, within 60 days of the Tribunal's order, in keeping with the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4), Canada and the Parties will co-develop an approach for the expanded use of acquisition cards to facilitate timely and accessible access to Jordan's Principle.

Solutions to Eliminate the Backlog and Prevent Its Recurrence

31. An order that any request in the backlog that meets the urgent criteria, or becomes urgent while awaiting determination, shall be determined within 12 hours.

32. An order that Canada shall identify, triage, and eliminate the Jordan's Principle backlog in accordance with the Tribunal-approved definition of substantive equality and decision-making framework, and the Jordan's Principle Orders.

33. An order that Canada shall not reduce backlog numbers through closure, denial, referral, reclassification, suspension, withdrawal or administrative removal unless it records and discloses to the requestor the basis for the action, including how the action is in compliance with the Tribunal-approved definition of substantive equality and decision-making framework, and the Jordan's Principle Orders.

First Nations and First Nations authorized organizations delivering Jordan's Principle services

34. An order that, pending Tribunal approval of a final funding approach developed pursuant to the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4), Canada shall fund First Nations and First Nations-authorized organizations delivering Jordan's Principle services at the actual costs incurred in delivering those services.

35. An order that, within 120 days of the Tribunal order, in keeping with the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4), Canada shall co-develop with the Parties and file with the Tribunal a plan to develop an evidence-based funding approach that fully and sustainably resources First Nations and First Nations authorized organizations to deliver Jordan's Principle services to the First Nations children they serve. The plan shall include consideration of a funding approach that shall ensure funding at actual cost, timely advance funding where required, administrative and coordination capacity, and sufficient flexibility to meet children's needs without delay, disruption or underfunding. For clarity, Canada shall not transfer, or undertake to transfer, its legal obligations under the Jordan's Principle Orders to First Nations and First Nations authorized organizations.

36. An order that, within 120 days of the Tribunal order, in keeping with the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4),

Canada shall co-develop with the Parties a mechanism with appropriate safeguards to refer requestors to First Nations and First Nations authorized organizations who are involved in facilitating Jordan's Principle requests and report back to the Tribunal.

Operational Bulletin

37. An order that Canada shall immediately withdraw and cease reliance on the Operational Bulletin and any related guidance or practices that are inconsistent with the Jordan's Principle Orders and these orders.

38. An order that, within 1 week of the Tribunal's order, Canada shall file with the Tribunal written confirmation that it has advised its partners, navigators and service providers and has publicly posted on its website and social media the Tribunal order and that the Operational Bulletin no longer governs Jordan's Principle requests. Canada shall include with its filing the text of the notice provided in both Official Languages, the date and method of distribution the location of the public posting(s) and confirmation that all inconsistent internal or public guidance has been withdrawn.

Accountability in Implementation

39. An order that Canada shall consult with the Parties, in accordance with the Consultation Protocol and the Tribunal's Consultation Order (set out at paragraph 400 of 2018 CHRT 4), before making substantive changes to Jordan's Principle decision-making processes and decision-making tools (such as operational bulletins) that affect the assessment, adjudication or determination of requests, unless otherwise set out in the Jordan's Principle Orders or further order of the Tribunal.

AND TAKE NOTICE THAT THE GROUNDS FOR THE MOTION ARE:

1. In its decision dated January 26, 2016 (2016 CHRT 2), this Tribunal found that Canada's failure to properly implement Jordan's Principle was discriminatory on the grounds of race and national or ethnic origin contrary to the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6. Since then, the Tribunal has issued numerous orders to ensure Canada properly and fully implements the spirit and intent of Jordan's Principle.
2. Despite those orders, Canada has not maintained or applied a clear, public and Tribunal-compliant definition of substantive equality for Jordan's Principle. This failure permits Canada to invoke substantive equality while applying criteria to determine Jordan's Principle requests that are not demonstrably grounded in the Jordan's Principle Orders.
3. Canada has also failed to maintain a transparent Tribunal-compliant decision-making framework to guide Jordan's Principle determinations. In the absence of such a framework, Canada's decisions are vulnerable to arbitrary, inconsistent and discriminatory decision-making. These failures have been consistent throughout these proceedings, to the detriment of First Nations children.
4. In 2016 CHRT 10, this Tribunal found that Canada had not taken sufficient measures to implement the full meaning and scope of Jordan's Principle and ordered Canada to immediately consider Jordan's Principle as including all jurisdictional disputes and involving all First Nations children. The Tribunal further ordered that pursuant to the purpose and intent of Jordan's Principle, the government organization that is first contacted should pay for the service without the need for policy review or case conferencing before funding is provided.

5. On July 6, 2016, Canada announced the Child First Initiative, which it described as a child-first approach that addresses in a timely manner the needs of First Nations children living on reserve with a disability or a short-term condition.
6. In 2016 CHRT 16, the Tribunal ordered Canada to immediately apply Jordan's Principle to *all* First Nations children, not only to those residing on reserve. The Tribunal also requested an explanation from Canada regarding the restriction of Jordan's Principle only to First Nations children with a disability or a short-term condition.
7. On November 22, 2016, the Caring Society brought a non-compliance motion regarding Canada's implementation of Jordan's Principle. In its decision on the Caring Society's motion, 2017 CHRT 14, the Tribunal found, among other things, that Canada's definition of Jordan's Principle did not fully address the findings in its January 26, 2016 decision (2016 CHRT 2) and was not sufficiently responsive to the Tribunal's previous orders.
8. In 2017 CHRT 14 the Tribunal ordered Canada to base its definition and application of Jordan's Principle on five key principles, one of which was that Jordan's Principle is a child-first principle that applies equally to all First Nations children, whether resident on or off reserve. Canada filed an application for judicial review of this order. However, the Complainants and Canada were able to reach a consent order that resulted in the Tribunal amending its orders in 2017 CHRT 35. As a result, Canada's application for judicial review was discontinued.
9. Between 2018 and 2020, the Caring Society published concerns it received from families and Jordan's Principle service providers experiencing difficulty in accessing Jordan's Principle. These publications also included itemized implementation-related concerns.

10. Further concerns were raised between 2018-2019 during cross-examinations of key ISC officials, and between 2018-2020 at the Consultation Committee on Child Welfare. Since 2018 the Caring Society has repeatedly raised these concerns at meetings of the Jordan's Principle Operations Committee and in bilateral discussions with ISC staff.

11. Following discussions between Canada, the AFN, and the Caring Society at the end of 2021, ISC implemented a "Back to Basics" approach, agreed to as part of an Agreement in Principle regarding long-term reform of First Nations child and family services and Jordan's Principle. The Agreement in Principle also contained a detailed work plan to improve outcomes under Jordan's Principle, but this work plan was never implemented by ISC.

12. The Agreement in Principle also led Canada, the AFN, and the Caring Society to request a consent order from the Tribunal requiring Canada to fund a two-phase research project from the Institute of Fiscal Studies and Democracy ("IFSD") related to Jordan's Principle. The first phase would assess the Jordan's Principle data Indigenous Services Canada had collected throughout the course of its operations, and the second phase would conduct a needs assessment. Both phases of the project took longer than expected due to repeated delays by Indigenous Services Canada in delivering data to the IFSD. The data assessment was completed in September 2022, while the needs assessment was completed in September 2025.

13. Since 2023, there has been a significant increase in the number of Jordan's Principle requests (as predicted in the IFSD data assessment), which led to a stark increase in the number and severity of compliance concerns.

14. On December 12, 2023, the Caring Society brought a motion alleging that Canada was not complying with the Jordan's Principle Orders. The Caring Society sought relief to ensure those

orders were effective, specifically regarding Canada's wilful: (i) narrowing of the Tribunal's orders by imposing additional eligibility and request processing criteria; (ii) ineffective methods for receiving and processing Jordan's Principle requests; (iii) chronic failure to adhere to the Tribunal's timelines for determining requests including in urgent cases; (iv) failure to adhere to reasonable timeframes to fund approved requests; (v) failure to adopt sufficient accountability measures to ensure that the Tribunal's orders are upheld; and (vi) attempting to shield itself from non-compliance by relying on the *Financial Administration Act* and administrative rationales.

15. On March 15, 2024, Canada brought a cross-motion seeking an order requiring the Caring Society, the AFN, Canada, COO, and NAN to co-develop objective criteria for urgent Jordan's Principle requests; an order supporting Canada's approach to urgent requests; an order extending timelines ordered in 2017 CHRT 35; an order that Canada may refer requestors to existing Jordan's Principle requests or to applicable community organizations, depending on whether or not referring the requestor will ensure faster access to the service, product or support; and an order that First Nations entering into a contribution agreement with Canada are not bound by the procedural terms of Tribunal orders on Jordan's Principle which are directed at Canada.

16. On November 21, 2024, the Tribunal issued a summary ruling granting in part both the motion by the Caring Society and the cross-motion by Canada. On January 29, 2025 (2025 CHRT 6) the Tribunal provided further detailed reasons for its summary ruling. Canada was ordered to:

- a. immediately deal with the backlog and return back to the Tribunal with its detailed plan with targets and deadlines by December 10, 2024.
- b. report back to the Tribunal and the parties by December 10, 2024, to identify the total number of currently backlogged cases both nationally and in each region,

including the intake backlog, the in-progress backlog, and the reimbursement backlog, including with information regarding the cumulative number of backlogged cases at month's end, dating back 12 months.

- c. triage all backlogged requests for urgency and review all self-declared urgent requests and evaluate if the requests are in fact urgent as per the tribunal clarifications and if not, reclassify them as non-urgent by December 10, 2024.
- d. communicate with all requestors with undetermined deemed urgent cases as per the Tribunal's clarifications to take interim measures to address any reasonably foreseeable irreparable harms within fourteen days of the Tribunal's order and report back to the Tribunal by December 10, 2024.²

17. The Tribunal also provided a series of clarifications regarding the existing Jordan's Principle Orders. The Tribunal's clarifications include the following:

- a. The following cases are considered "urgent": end of life/palliative care, risk of suicide, risk to physical safety, no access to food or basic necessities, risk of entering the child welfare system, and caregivers and children fleeing domestic violence.³

² 2025 CHRT 6 at para 566

³ 2025 CHRT 6 at para 555.

- b. The Tribunal determined that self-declaration of urgent cases is no longer accepted when these requests do not include recommendation from a health or other qualified professional.⁴
 - c. Canada may refer Jordan’s Principle requestors to First Nations, so long as Canada does not transfer its legal obligations to them or set them up to fail. The Tribunal underscored that Canada cannot transfer its obligations to First Nations who are not fully resourced to serve their children.⁵
 - d. Canada must avoid unnecessary delays in reimbursements once a request has been approved.⁶
18. The Tribunal ordered Canada to consult with the Parties through the dialogic approach to co-develop solutions that address the following issues:
- a. Objective criteria to be used to identify urgent Jordan’s Principle requests.⁷
 - b. Definition of “no access to basic necessities”.⁸
 - c. Objective criteria and guidelines for cases involving caregivers and children fleeing from domestic violence, which the Tribunal agreed are included in the definition of “other urgent cases requiring action within 12 hours”.⁹

⁴ 2025 CHRT 6 at para 565.

⁵ 2025 CHRT 6 at para 570.

⁶ 2025 CHRT 6 at para 581.

⁷ 2025 CHRT 6 at para 552.

⁸ 2025 CHRT 6 at para 557.

⁹ 2025 CHRT 6 at para 556.

- d. Guidelines for coordination between Jordan's Principle and other emergency services meant to support fire evacuation, including how to triage and respond to multifaceted requests that involve Jordan's Principle and other services.¹⁰
- e. Objective criteria to determine who is a "qualified professional" with relevant competence and training to identify urgent cases.¹¹
- f. Guidelines on when the determination clock starts to run, in keeping with 2017 CHRT 14 and 2017 CHRT 35.¹²
- g. Interim practical and operational solutions supported by a rationale and available evidence to redress the hardship imposed on individuals and families (requestors) by reimbursement and payment delays.¹³
- h. Solutions to reduce and eventually eliminate the backlog that are efficient, effective and can work within the government context.¹⁴
- i. Options supported by rationale and available evidence in regards to timelines for non-urgent Jordan's Principle requests.¹⁵

19. The Parties were not able to come to a consensus, and the above issues remain unresolved. On August 21, 2026, the Tribunal issued its direction setting out the process by which the Tribunal

¹⁰ 2025 CHRT 6 at para 558.

¹¹ 2025 CHRT 6 at para 561.

¹² 2025 CHRT 6 at para 579.

¹³ 2025 CHRT 6 at para 580.

¹⁴ 2025 CHRT 6 at para 566.

¹⁵ 2025 CHRT 6 at para 577.

will address the above issues and the issues that have arisen since 2025 CHRT 6 regarding Canada's failure to comply with the Jordan's Principle Orders.

20. In addition, Canada has recently announced its elimination of the appeal process on which it relied in its submissions leading up to 2025 CHRT 6 (the External Expert Review Committee), and its intention to replace the former arms-length process with an appeals process that relies on decision-makers internal to ISC and opaque decision-making criteria and processes.

21. The most significant development in Canada's non-compliance with the Jordan's Principle Orders that has arisen since the Tribunal issued 2025 CHRT 6 is the introduction of the Operational Bulletin. The Operational Bulletin was introduced by Canada on February 10, 2025. It was issued unilaterally and without consultation or consent of the other parties. Some of the critical aspects of the Operational Bulletin that are not in compliance with the Tribunal's Orders are:

- a. Severe restriction of access to educational services, supports, or products.
- b. Requiring requestors to demonstrate how the child either experienced gaps or delays in accessing government services or was denied an existing government service because of their identity as a First Nations child.
- c. Denying, deterring or discouraging Jordan's Principle requests on the basis that there is no existing or comparable provincial or territorial government service, support, or product.
- d. Subjecting requests from First Nations children residing off reserve to presumptive ineligibility for services, supports and products, subject to exception-based arbitrary decision-making.

- e. Unreasonably restrictive and burdensome approaches to supporting documentation resulting in administrative and accessibility burdens on applicants.

22. Moreover, the Operational Bulletin was applied *retroactively* to requests that have not been processed or received, including those that were and continue to be in backlog. This raises procedural fairness concerns, particularly given that the Operational Bulletin contemplates that “certain types of requests will no longer be approved based on [its] criteria”. While the Operational Bulletin professes to require Canada to take a case-by-case approach and to consider requests pursuant to substantive equality, the Caring Society, AFN, COO and NAN have all received alarming accounts regarding the discriminatory, and in many cases devastating, impact of the Operational Bulletin.

23. The Operational Bulletin’s discriminatory effect is heightened by Canada’s lack of a definition of substantive equality and decision-making framework. Together, these failures permit Canada to approve, deny, delay, refer, reclassify, close or reimburse requests without a transparent standard capable of ensuring substantive equality, culturally appropriate services and the best interests of First Nations children.

24. The relief sought on this motion is necessary to give practical effect to the Jordan’s Principle Orders, protect the rights of First Nations children, prevent arbitrary and discriminatory decision-making, remedy Canada’s non-compliance with the Jordan’s Principle Orders and ensure First Nations children receive the products, services and supports required by substantive equality without denial, delay or underfunding. While the level of detail of the proposed remedies is high, this reflects the breadth of Canada’s arbitrary approach to implementing this Tribunal’s orders to cease and desist its discrimination towards First Nations children.

25. The evidence makes clear the detrimental impacts of Canada's reliance on the Operational Bulletin: children going without medically necessary products, mental health supports, safe shelter, food, clean water, transportation, disability supports, family-preservation services, cultural supports and other necessities; caregivers being left to carry financial hardship they cannot bear; children being placed at increased risk of family separation, institutional involvement, deteriorating health, loss of safety and dignity; and, in urgent cases involving suicide risk, serious medical need, domestic violence, lack of basic necessities or emergency circumstances, and death.

26. Canada has acknowledged that it does not maintain a publicly available operational definition of substantive equality or a public decision-making framework explaining how that standard is applied in practice. In this void, the Operational Bulletin occupies a central role in Canada's implementation of Jordan's Principle. The Operational Bulletin, and its reliance on Canada's unpublished substantive equality definition, is therefore also central to the Tribunal's assessment of Canada's assertions regarding backlog management and operational decision-making (including heightened documentation requirements, greater emphasis on individual assessment, and unilateral imposition of limits on certain categories of requests).

27. Consistent with the Tribunal's dialogic approach, the relief sought by the Caring Society, AFN, COO, and NAN identifies the further clarifications required to ensure the effective implementation of the Jordan's Principle Orders.

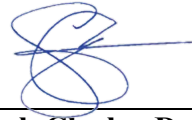
28. The immediate need for relief arises from the foreseeable risk of preventable harm to children if those orders are not implemented transparently, consistently and without delay. Whether Canada's conduct is wilful, reckless or otherwise non-compliant is a matter for Tribunal determination on the record.

29. Section 53(2) of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6;
30. Rules 1(6), 3(1), 3(2), and 5(2) of the *Canadian Human Rights Tribunal Rules of Procedure* (Proceedings Prior to July 11, 2021); and
31. Such further and other grounds as counsel may advise and the Tribunal may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion.

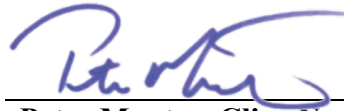
1. Will-says and viva voce evidence, pursuant to the Tribunal's August 21, 2026, direction;
and
2. Further evidence as counsel may advise and the Tribunal may permit

Dated: September 9, 2026



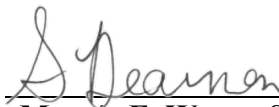
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