Opening Statement by Cindy Blackstock, PhD
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Canadian Human Rights Tribunal on First Nations Child Welfare,
11th floor, 160 Elgin Street, Ottawa, Canada

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On behalf of the First Nations Child and Family Caring Society of Canada and the Assembly of First Nations it is a great honour to stand before you today to represent First Nations children and families living in First Nations communities across this great country. We filed this complaint on behalf of all First Nations children who want the same opportunity to live safely in their family homes as other children. As you know Mr. Chair, provincial child welfare laws apply both on and off reserve in Canada, but typically the provinces expect the federal government through its funding service to meet child welfare needs on reserve. It is important to note Mr. Chair that the provincial child welfare statutes to which the respondent ties their funding do not allow for any differential service on the basis of funding disputes between Canada and the respective provinces and territories. The paramount consideration of child welfare law is the safety and well being of the children.

When the federal government's funding service does not provide the same level of benefit as children served by the provinces, the provinces typically do not top up those funding level resulting in a two tiered child welfare service where one child who is on reserve, even across the street from a non-reserve community, will receive less child welfare services than another child across the street off reserve who is serviced and funded by the province. The federal government has been shown in the reports by the Auditor General and the Standing Committee on Public Accounts report and numerous expert reports to provide lesser funding for child welfare services on reserve even though First Nations children have higher needs than non-Aboriginal children.

It is important to underscore that this case was not our first choice. It was filed simply as a last resort after ten years of trying to work cooperatively with the federal government to get them to treat First Nations children equitably. Our first job dated back to the turn of the millennium in what is called the Joint National Policy Review completed in 2000. This report found that the federal child welfare funding was 22% less than that received by other children. Four years the Wen:de series of reports found that the funding on reserve needed to be increased by 109 million dollars per year to achieve basic equity (excluding Ontario). The Auditor General in 2008 found the federal government's old funding formula known as "the directive" to be inequitable and their new formula to be inequitable and not tied to the needs of First Nations children on reserve. Since the time of the Directive, the federal government has advanced something called the "enhanced funding formula" which was also reviewed by the Honourable Auditor General of Canada and in her report she find that too to be inequitable. So we have had numerous solutions that have been affordable to the government and these solutions were announced at times when the federal government was running a surplus budget in the billions of dollars

and at times when the federal government was spending billions to stimulate the economy using "shovel ready projects." But it seems no matter what the financial situation of the government; the equality of First Nations children did not receive the attention that was required.

What is most important for me, and the Caring Society and the Assembly of First Nations is that the children could no longer wait. There are more First Nations children in care today, Honourable Chair, than there were in residential schools at the height of their operations by a factor of three. Taken from their families and placed in foster care either on or off reserve. You will be hearing evidence from some of the witnesses who run services on and off reserve in terms of child welfare and they can tell you first hand Mr. Chair, that there are not the resources on reserve to keep the children safely in their homes when their family goes through a crisis to the same degree as they are available off reserve. So if you are an on reserve family and you go through a difficult time, as all families do, there is almost no funding provided by the Department of Indian Affairs in its funding service to help that family keep that child safely in their family home. Those services are required by statute and are often termed least disruptive measures which mean that, as a social worker, you do everything possible to keep the child in the family home before you consider removal but these services are simply not available on reserve. The federal government's own documents link problems with its funding formula to growing numbers of First Nations children going into child welfare care and the reality that First Nations agencies servicing them are unable to meet their mandated responsibilities.

On June 11, 2008, the Honourable Prime Minister Stephen Harper for the wrongs that were done to Aboriginal peoples during the residential school era. He particularly referred to the wrongful removal of Aboriginal children. We all know about the loss of culture, of language and the disruption of family and the difficulties that come from children being in child welfare care. They are less likely to graduate from high school, more likely to have mental health issues, more likely to have addictions problems and more likely to be in justice. It is not that we, as First Nations, do not believe our children should be safe. We absolutely and fundamentally believe they deserve to be safe but we also believe that government has a responsibility to provide their families with the same opportunity to keep them safe as is already provided to other Canadians.

At a time when federal leaders are meeting a few blocks away to discuss issues that matter the most to Canadians – this case calls them back to the conscience of the Nation. Great governments or leaders are not measured by interests or issues; they are measured by whether they stand on guard for the values of our country. The ones that define us the most- equality, freedom, justice and an unwavering commitment to human rights-especially when it comes to children. In this case, the federal government has relied on a series of legal technicalities to question the jurisdiction of the tribunal to hear the case. They may be successful and if they are what happens to these First Nations children who are denied equitable treatment by yet another Canadian government? Who stands up for them and their right to equality in this great nation? And what happens to our Canada if vulnerable children can be denied

equitable government services simply because of their race or some other discriminatory ground because the government feels that their funding is not a service? The implications of this case reach into the households of all Canadians and into the hearts of all caring Canadians who believe in the equality and sacred treatment of all children. It also reaches into the conscience of this great nation and as the United Nations Convention on the Rights of the Child and the United Nations Declaration on the Rights of Indigenous Peoples have asserted, when the children win – when the children receive equity and are able to grow up in their families proud of who they are – we all win. In this case Honourable Chair, if the children win then Canada wins too.

Thank you very much

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