

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 and Northern Affairs Canada)

Respondent

-and-

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

Interested Parties

-and-

FEDERATION OF SOVEREIGN INDIGENOUS NATIONS

Moving Party

MOTION RECORD

of the proposed interested party Federation of Sovereign Indigenous Nations
for involvement specific to the motion filed by the Assembly of First Nations July 22, 2022

August 24th, 2022

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Tab 1

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NOTICE OF MOTION

TAKE NOTICE that the Applicant Federation of Sovereign Indigenous Nations (the “FSIN”) makes a motion to the Canadian Human Rights Tribunal located at 160 Elgin Street, 11th floor, Ottawa, Ontario.

THE MOTION IS FOR:

1. An Order granting FSIN leave to intervene as a limited interested party in this

proceeding on the following terms, or such other terms as the Tribunal deems just:

- a. Interested party status for FSIN is specifically limited to participation in the Motion filed by the Assembly of First Nations on July 22nd, 2022 (“July 22nd Motion”).
- b. In the July 22nd Motion, FSIN shall be permitted to:
 - i. make oral and written arguments, as may apply in the course of the July 22nd Motion, of a length that may be fixed by the Tribunal, and according to the timeline set by the Tribunal; and
 - ii. participate in case conferences, mediation, negotiation or other dispute resolution or administrative processes further to this case, only to the extent specifically connected to the July 22nd Motion and only in dealing with that subject matter.
- c. FSIN’s participation shall be on a without costs basis.

AND FURTHER TAKE NOTICE that the said motion shall be made on the following grounds:

1. FSIN’s expertise will be of assistance to the Tribunal in determining the July 22nd Motion;
2. FSIN’s involvement will add to the legal positions of the parties with respect to the July 22nd Motion; and
3. The proceedings in the July 22nd Motion will have an impact on FSIN’s interests.

AND FURTHER TAKE NOTICE that the following documents will be referred to in support of this motion for leave to intervene as a proposed interested party:

1. The Affidavit of Karen Pelletier; and

2. The written argument of the applicant FSIN.

All of which is respectfully submitted this 24th Day of August, 2022.



Michael Seed
Counsel for the Moving Party

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Tab 2

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AFFIDAVIT OF KAREN PELLETIER

I Karen Pelletier of the City of Saskatoon in the Province of Saskatchewan, **MAKE OATH AND SAY:**

1. I am the Director of Child Welfare Social Development at the Federation of Sovereign Indigenous Nations (“FSIN”) and as such I have knowledge of the matters herein deposed to by me.
2. Where my knowledge is indirect, I am informed of the matters and I honestly believe them to be true.

Background of the FSIN

3. The FSIN is a political organization representing the 74 First Nations in Saskatchewan and pursuing the interests of First Nations people in Saskatchewan.
4. The FSIN and its member First Nations are constituted of a diverse group of cultural and linguistic groups including the Dakota, Dene, Nahkawe (Saulteaux), Nakota, Swampy Cree, Lakota, Plains Cree and Woodland Cree Nations in Saskatchewan.
5. The FSIN and its member First Nations also represent a significant population of First Nations rightsholders with diverse socio-economic, geographic, and demographic circumstances.
6. The FSIN is committed to honouring the spirit and intent of the Treaties, as well as the promotion, protection and implementation of the inherent rights to which its diverse member First Nations are entitled.
7. The FSIN is further committed to strengthening First Nation communities and families by establishing peaceful and harmonious relationships through the restoration of our traditional education, child welfare, justice and governance processes, and community based strategies that promote healing, reunification, unification and the strengthening of families.
8. I understand that on July 22nd, 2022 the Assembly of First Nations (“AFN”) filed a motion at the *Canadian Human Rights Tribunal* (the “Tribunal”) seeking a Declaration from the Tribunal that the First Nations Child and Family Services, Jordan’s Principle, Trout Class Settlement Agreement (“FSA”) fully satisfies the terms of the Tribunal’s Compensation Decision, the Compensation Framework, and other compensation related orders (“July 22nd Motion”).
9. I understand that the July 22nd Motion raises a number of issues the Tribunal will consider including the needs, perspectives, and best interests of First Nations children in the context of child welfare and Jordan’s Principle.

10. I believe the FSIN has considerable experience and unique expertise in this regard that will aid the Tribunal in its consideration of the issues it must determine in the July 22nd Motion.

The FSIN's Mandate

11. The FSIN derives its mandate and directives from the Chiefs-in-Assembly which is a duly called and properly constituted meeting of the elected Chiefs of 74 Saskatchewan First Nations.
12. Through consensus the Chiefs-in Assembly of the FSIN has been given broad and expanding mandate to address issues faced by First Nations people and communities in the context of First Nations child health and welfare including prevention, removal and Jordan's Principal.
13. The FSIN also receives this mandate through its Health and Social Development Commission ("HSDC").
14. The HSDC consists of the Chiefs of all Saskatchewan Agency/Grand/Tribal Councils, as well as the chiefs of the Independent First Nations in Saskatchewan. The HSDC provides guidance and direction to the FSIN with respect to its mandate in the sector of First Nations child welfare and health.
15. Through the HSDC the FSIN has also been given a clear mandate to address issues concerning First Nations people and communities in the context of First Nations child health and welfare including prevention, removal and Jordan's Principal. This includes the Final Settlement Agreement subject to the July 22nd, 2022 Motion.
16. On July 12th, 2022 the HSDC passed "Motion 2022-07-12-002" which directed, among other things that:
 - a. the Final Agreement on Compensation, including all details regarding eligibility and any provisions that may result in First Nations children, youth and caregivers not receiving the full \$40,000 they are currently entitled to receive under the existing CHRT orders be brought before the Chiefs-in- Assembly for full review and for their free, prior and informed consent; and,

- b. AFN negotiators and lawyers working on AFN's behalf are not authorized to reduce the CHRT compensation amounts for eligible victims or limit the scope of eligible victims and must respect the compensation framework agreement and compensation entitlement order as a minimum standard as set out in 2019 CHRT 39 and 2021 CHRT 7.
17. Hereto attached as Exhibit "A" to this my Affidavit, is a copy of "Motion 2022-07-12-002"
18. On July 13th, 2022 the HSDC passed Motion 2022-07-01 directing the FSIN to intervene on the final compensation settlement agreement and the Canadian Human Rights Tribunal. Hereto attached as Exhibit "B" to this my Affidavit is a copy of Motion 2022-07-01.
19. It is the FSIN's mandate to advocate for the rightsholders it represents and to ensure that the terms of the FSA for compensating survivors of discrimination in child welfare and under Jordan's Principle are sufficiently adequate to respond to their needs, and the needs and capacities of their communities and families while ensuring the benefits and rights they are entitled to are delivered.

Work and Engagement Conducted by the FSIN's Health and Social Development Secretariat

20. The FSIN has developed considerable experience and unique expertise in the areas of First Nations child welfare and Jordan's Principle through a number of forums, initiatives, structures, and collaborations.
21. First Nations child welfare and Jordan's Principle are matters within the portfolio of the Health and Social Development Secretariat ("HSDS") at FSIN. The HSDS operates to provide information, guidance, resources and services to individuals, families and First Nations, and to carry out the mandates of the FSIN Chiefs in Assembly and the HSDC with respect to social development, child welfare, health and Jordan's Principle.
22. Within its child welfare portfolio the FSIN provides secondary supports to First Nations communities, leadership, families and individuals. For example, the FSIN conducts intake for individuals and families in need of support in the child welfare system and directs them, or acts as a liaison, to the appropriate First Nation, Tribal/Grand/Agency

Councils, service provider or government. The FSIN will also provide advocacy on behalf of individuals and families at the appropriate level where appropriate.

23. The FSIN, in urgent circumstances, will even provide direct support where children, individuals or families present urgent health or welfare needs and concerns.
24. The FSIN will also support First Nations and First Nations child and family services agencies in the development of strategies, policy, planning and implementation of child and family services reflective of the First Nation's priorities, needs, resources and circumstances.
25. In providing this support the FSIN is able to deliver the most recent information, updates, strategy and policy innovations for First Nations to make informed decisions regarding the best interests of their children and families in accordance with their culture, values, traditions and language.
26. Within its child welfare portfolio the FSIN also routinely conducts engagement forums with First Nations representatives and leadership to gather feedback and information for the purposes of developing strategies and policies that will benefit First Nations agencies, children, families and communities in Saskatchewan.
27. Within its Jordan's Principle portfolio, the FSIN directly supports First Nations communities, families and individuals. The FSIN provides help and assistance directly to individuals and families applying for assistance, funding and services under Jordan's Principle. This includes conducting intake, providing advice and assistance, preparing appeals, and issuing guidance and direction.
28. The FSIN will also support individuals and families facing the delays or denials of services where necessary through direct advocacy, support and guidance to those individuals and families.
29. The FSIN also assists service providers and vendors under Jordan's Principle. This direct support includes educating and informing service providers about Jordan's Principle and its content and scope.

30. Within its Jordan's Principle portfolio the FSIN also routinely conducts engagement forums with First Nations representatives and leadership to gather feedback and information for the purposes of developing strategies and policies that will benefit First Nations children, families and communities in Saskatchewan.
31. For example, the HSDS conducted a Jordan's Principle Forum in Saskatoon in January of 2019 which included over 390 participants including parents, grandparents, workers and managers from various First Nation agencies, leaders and others. Among other things, the Forum focused on identifying the programs and services that are essential in their communities, identifying needs and priorities, and addressing gaps and denials in the current Jordan Principle implementation. From its engagement sessions the HSDS produces reports and recommendations reflecting insights, needs and priorities of First Nations families and communities in Saskatchewan.
32. In addition to engagement forums the HSDS has also commissioned, and contributed to, a number of research and reports related to First Nations child welfare and Jordan's Principle. For example the FSIN has consistently advocated for the establishment of a First Nation Child and Family Advocate in Saskatchewan. In 2020 the FSIN commissioned a report which consolidated data and information gleaned from significant community engagement processes conducted by Dr. Caroline Tait; and, a 2020 survey of children, parents experts and leadership conducted by the FSIN itself.
33. Through the HSDS's research, support framework and engagement network the FSIN has developed considerable direct insight and expertise into child welfare cases and matters including discrimination, removal, unification and reunification.
34. The FSIN has also developed considerable direct insight and expertise into Jordan's Principle including the nature of Jordan's Principle, the need for services, the circumstances in which it applies, the nature of services that are provided, and the harm to children and families caused by delays and denials of services.

FSIN's Development of Technical Working Groups and Committees

35. The FSIN has also created and contributed to robust working groups and committees focused on First Nations child welfare and Jordan's Principle. For example the FSIN

developed the First Nations Child and Family Services Technical Advisory Group for Health and Social Development (“TAG”).

36. TAG’s role has been to, among other things:

- a. Provide the HSDC with technical advice and assistance on the process, relevance and direction of new initiatives in child welfare, health and social development;
- b. provide the HSDC, Executive of the FSIN and Tribal/Grand/Agency Councils and Independent First Nations with recommendations about current and new initiatives in child welfare, health and social development;
- c. Advise and assist First Nations responses to provincial and federal initiatives which have an impact on the health and social conditions of First Nations people;
- d. Provide and support one First Nations child and family services representative, and one alternate, for the National Advisory Committee on First Nation Child and Family (FNCFS) Program Reform, Assembly of First Nations; and,
- e. Provide advice to Executive of the FSIN and Tribal/Grand/Agency Councils and Independent First Nations on the implementation of the Agreement in Principle on Long Term Reform and related Final Settlement Agreement on First Nations child and family services.
- f. Further, TAG researched, developed, and launched the First Nations Family and Community Institute in 2008 and has formed partnerships with Agencies and the Province of Saskatchewan and Academic Institutions and provides advice to TAG and works in partnership in the areas of programs, administration and networking with professional services that the agencies provide to their First Nations.

37. The FSIN facilitates, arranges meeting logistics, develops agendas, records decisions and ensures all pertinent information is provided for TAG meetings.

38. FSIN 1st Vice Chief David Pratt is currently the Chairperson of TAG. TAG is a forum that gathers data and information related to First Nations child and family services and Jordan’s Principle directly from First Nations leadership, child welfare agencies and

experts. The FSIN and TAG analyse and consolidate this information to develop strategy, policy, regional priorities and innovation.

39. The FSIN also developed the Transition and Implementation Committee for Self-Determination in Children and Families (“TIC”). TIC is constituted of representatives of and alternatives from the First Nations and Tribal/Grand/Agency Councils in Saskatchewan.
40. TIC with the technical support of the TAG and by direction from the Chiefs of Saskatchewan oversees the development of an approach to First Nations children and families, Saskatchewan First Nation child welfare and preventative family services system and any other related work.
41. TIC also provides the Chiefs Political Task Force on Child Welfare (“CPTF”), HSDC, Executive of the FSIN, Tribal/Grand/Agency Councils, and Independent First Nations in Saskatchewan with technical advice on child welfare case practice.
42. FSIN 1st Vice Chief David Pratt is currently the Chairperson of TIC. TIC is a robust forum that gathers data, insight and information related to First Nations child and family services directly from First Nations leadership, child welfare agencies and experts which is then analysed and consolidated to develop strategy, policy, regional priorities and innovation.
43. FSIN also established the Regional Social Development Advisory Group (“RSDAG”). The purpose of RSDAG, among other things, is to: provide the HSDC with technical advice and assistance on the process, relevance, and direction of new and existing initiatives in Income Assistance, Disabilities, Social Development, Homelessness, Assisted Living, and Social Safety Net; and, advise and assist the FSIN responses to provincial and federal initiatives that impact the social development conditions of Indigenous people.
44. RSDAG is an advisory group that is geopolitically representative of all 74 Saskatchewan First Nations.

45. RSDAG is a forum which is intended to address capacity issues and resource limitations within First Nations to respond to the economic and social realities of First Nations individuals, communities and families in Saskatchewan.
46. RSDAG enables the FSIN to develop considerable insight and expertise into the needs and capacities of First Nations communities and the impacts of socio-economic and geographic realities on individuals, families and communities.
47. The FSIN also established the CPTF. The CPTF supports full jurisdiction and autonomy of First Nations over child welfare as determined by each First Nation in Saskatchewan and its purpose is to develop an enhanced Framework that has an approach, structure and process for our children and Saskatchewan First Nations family services that is reflective of the needs of First Nations children and families regardless of residency. The CPTF also makes recommendations in the best interests of the children and families involved in the child welfare system.
48. FSIN 1st Vice Chief David Pratt is the Chairperson of CPTF and the CPTF reports to the HSDC.
49. Through its various technical working groups and committees the FSIN has developed, and can draw from, robust institutional knowledge, expertise and experience in matters of child health and welfare, Jordan's Principle, and the socio economic circumstances of First Nations communities, families and individuals in Saskatchewan.

FSIN's Historic and Ongoing Contribution to Child Welfare and Policy and Legislation

50. The FSIN's expertise and experience has positioned it to influence and contribute to the development of legislation and policy designed to improve First Nations child and family services in Saskatchewan.
51. For example, in 1990 the FSIN developed *The Indian Child Welfare and Family Support Act* ("ICWFSA"); the act includes general standards for First Nations child welfare agencies and a provision allowing individual agencies to develop their own standards. The Saskatchewan government responded to the ICWFSA by inserting special considerations for Aboriginal children in the Provincial *Child and Family Services Act*.

52. The ICWFSA has not been passed by the Saskatchewan legislature however, the Saskatchewan Ministry of Social Services has recognized ICWFSA standards as being consistent with the framework of provincial legislation and, therefore, "equivalent to ministerial policies, practices and standards".
53. The FSIN routinely revisits the ICWFSA to ensure that it continues to reflect current circumstances, developments and changes in the First Nations child welfare and health landscape.
54. Additionally, during the early development of formal First Nations child welfare agencies in Saskatchewan, the FSIN also signed a Memorandum of Understanding (MOU) with the Government of Saskatchewan allowing for the development of First Nations child welfare agencies. Indigenous and Northern Affairs Canada (as it then was) and the Saskatchewan Ministry of Child and Family Services subsequently developed "models of delegated authority for child welfare," formalizing the existence of First Nations child welfare agencies in Saskatchewan through delegation agreements. Many First Nations agencies included language from the FSIN MOU into the agreements they signed.
55. In 2007 the FSIN and representatives from First Nations child and family service agencies Saskatchewan created the Saskatchewan First Nations Family and Community Institute Inc ("FNFCI"). FNFCI was established to assist First Nations child and family service agencies, providing research, policy analysis and development, training and standards development.
56. In 2007 the FSIN, along with, Saskatchewan Child and Family Service Agencies, the Saskatchewan region of INAC, and the Saskatchewan Community Resources developed the Saskatchewan First Nations Prevention Services Model and Accountability Framework Agreement. This presented a child welfare prevention model complementary to the shift in federal funding for First Nations child welfare services in Saskatchewan.
57. I believe the FSIN's continued contribution to the development of policy and legislation demonstrates its ability to be an effective advocate with expertise and experience in the area of child and family services, child welfare and health, and Jordan's Principle.

FSIN's Representation, Collaboration and Advocacy in Other Forums

58. In addition to its own established committees, commissions, internal structures and working groups, the FSIN participates in, and advocates within, various other forums and organizations related to First Nations child welfare and Jordan's Principle.
59. For example the FSIN supports two regional experts as representatives to the National Advisory Committee ("NAC") of the AFN to advocate for and provide information and expertise with respect to regional priorities, needs and perspectives of First Nations child health and welfare in Saskatchewan.
60. The FSIN also supports its representative at the Jordan's Principal Action Table ("JPAT") created under NAC to provide on the ground subject matter expertise required to develop policy options for the long-term implementation of Jordan's Principle.
61. Additionally, the FSIN supports its representative at the Jordan's Principle Operation Committee ("JPOC") created under NAC for the purposes of information sharing and operational monitoring at the national, regional and community level.
62. The FSIN also sits on The Saskatchewan First Nations Child and Family Services Regional Tripartite Table ("Tripartite Table"). FNFCI hosts the Regional Tripartite Table, which meets quarterly and includes representatives from Saskatchewan First Nations Child and Family Service Agency (FNCFSA) Executive Directors, Indigenous Services Canada, FSIN and the Saskatchewan Ministry of Social Services.
63. The FSIN is also a founding member of the National Assembly of Remote Communities ("NARC") which was established in the context of the Global Resolution Discussions around the settlement of outstanding claims against Canada in the context of child welfare. NARC was established in the spirit of a united voice on issues impacting remote communities and is intended to represent an advocacy voice across sectors, including but not limited to health, education, and community safety. This includes advocacy based on the unique challenges and increased costs of child and family services in remote communities.
64. The FSIN also participates in First Nation and Inuit Child Care Initiative by providing regional advocacy and second level support to Independent First Nation childcare operations.

65. The FSIN also has a Management Agreement with Saskatchewan Indian Training Assessment Group Inc (“SITAG”) for the provision of second level services to Independent First Nations in Saskatchewan. The FSIN, in collaboration with Tribal Councils, developed a set of standards and regulations, which meets, or in some circumstances, exceeds the childcare standards of the Province of Saskatchewan. The Tribal Councils, the FSIN, and SITAG utilize these standards to monitor community programs focusing on aspects of facility safety and program quality.
66. The FSIN also works collaboratively with the Saskatchewan Advocate for Children and Youth. The Saskatchewan Advocate for Children and Youth is an independent office of the Legislative Assembly of Saskatchewan. The mandate of the office is to advocate and investigate matters affecting children who are receiving or have been denied a service from Saskatchewan. FSIN and Saskatchewan Advocate for Children and Youth signed a Letter of Understanding on September 18, 2012. Through the Letter of Understanding, both the FSIN and the Advocate are solidifying shared aspirations, interests and goals to keep children safe, to foster a system that nurtures children and families, that breaks down the stigma associated with asking for help, and to promote the rights and entitlements of First Nations children and youth, on and off-reserve.

The FSIN’s Engagement with Day School, Residential School and Sixties Scoop Survivors

67. In addition to its work with, and on behalf, of Saskatchewan First Nations people in the context of child health and welfare, the FSIN has also consistently engaged with, supported and advocated on behalf Saskatchewan survivors of Indian Residential School, Indian Day Schools and the Sixties Scoop.
68. This engagement, support and advocacy by the FSIN has developed within the context of Class Action Settlement Agreements such as the Indian Residential Schools Settlement Agreement (“IRSSA”), Sixties Scoop Settlement Agreement (“SSSA”), and the McLean Indian Day School Settlement Agreement (“IDSSA”).
69. For example, prior to the approval of the IDSSA FSIN consulted experienced IRSSA legal counsel for the purposes of identifying limitations and concerns with the IDSSA. The FSIN then conducted dozens of community engagement sessions with survivors and leadership across Saskatchewan to discuss the IDSSA and to elicit feedback and

information respecting the needs and priorities of survivors and communities that would be impacted by the IDSSA.

70. Since the implementation of the IDSSA the FSIN continues to conduct intake with respect to the concerns of survivors, their families and leadership in Saskatchewan First Nations who face obstacles in understanding and applying to the Claims Process.
71. Similarly, since the implementation of the SSSA the FSIN continues to conduct intake with respect to the concerns of survivors, their families and leadership in Saskatchewan First Nations who face obstacles in understanding and applying within that process.
72. FSIN continues to publicly advocate for Indian Day School and Sixties Scoop survivors based on their needs and priorities. In the context of Indian Day School survivors, for example, the FSIN continues to lobby for additional supports and the extension of the 2.5 year deadline to submit a claim to the IDSSA based on the input and interests of survivors, and their families and communities.
73. In May 2022 the FSIN also hosted a gathering for Sixties Scoop and Indian Day School survivors to provide updates and information with respect to ongoing developments, as well as to facilitate discussions around supports, healing and wellness.
74. Before, during, and after the implementation of the IRSSA the FSIN engaged with, supported, and advocated on behalf of Residential School Survivors as well. FSIN has consistently supported Saskatchewan Residential School survivors by hosting forums, workshops and gatherings to support survivors to tell their stories and to heal.
75. The FSIN has played a key role, since the discovery of unmarked graves at former Indian Residential Schools, in delivering funding, support and guidance with respect to the search for unmarked graves, healing, and memorialization efforts.
76. FSIN continues to engage and support Residential School survivors. In 2022 the FSIN participated in and supported the delegation to attend with Pope Francis at the Vatican, Vatican City. In this capacity the FSIN worked closely with Elders, survivors and experts to present a uniform message from Saskatchewan survivors while ensuring necessary mechanisms were in place to support survivors in attendance.

77. In July of 2022 the FSIN also participated in and supported a delegation to Edmonton, Alberta to observe Pope Francis' visit to Canada. Again, in this capacity the FSIN worked closely with Elders, survivors and experts to present a uniform message from Saskatchewan survivors while ensuring necessary mechanisms were in place to support survivors in attendance.
78. In the context of Indian Residential Schools the FSIN continues to lobby for mechanisms to support survivors of Residential Schools who were ineligible under the IRSSA or who missed the deadlines under the IRSSA, as well as to support those communities that had Residential Schools that were not listed as eligible under the IRSSA.
79. Through the Chiefs in Assembly, leadership, working groups, direct consultation with survivors and other forums the FSIN has consistently been informed about concerns, issues and obstacles faced by survivors applying for compensation within settlement agreements as well as the capacity and resource issues faced by First Nations in Saskatchewan seeking to support their survivors.
80. FSIN has also developed considerable knowledgeable of the cultural, linguistic, and spiritual supports required to effectively enable survivors to apply for compensation for abuse and discrimination by the state.
81. The FSIN has, and continues to, work closely with communities and survivors and has observed the impact implementation and administration of class action settlement agreements has had on individuals and communities.
82. I believe, as a result of its engagement and advocacy on behalf of survivors, the FSIN has developed significant insight and expertise respecting compensation frameworks and processes for First Nations claims as well as the realities of trauma and the risk of re-traumatization faced by First Nations survivors.

The FSIN's Expertise and Unique Perspective

83. The FSIN remains one of the largest and most long-standing Indigenous political organizations of its kind in Canada representing a large proportion of First Nations rightsholders from diverse socio-economic, geographic, cultural and linguistic backgrounds.

84. The FSIN has, and continues to be, an effective and influential advocate for Saskatchewan First Nations people in a variety of forums as a result of its consultation with, and representation of, a diverse group of First Nations with complex and dynamic interests and priorities.
85. Through its historic and ongoing efforts described earlier the FSIN has developed considerable expertise and insight into the unique experience of the First Nations people of Saskatchewan within the child welfare system and with respect to Jordan's Principal.
86. This experience and expertise relates to, among other things:
- a. the complexity and nuance of First Nations family structures and family and community connections, including the realities of removal, unification and reunification;
 - b. the needs and perspectives of First Nations leadership, children and families in Saskatchewan;
 - c. the nature and extent of harm suffered by First Nations children and families through child welfare and health discrimination;
 - d. the nature and extent of harm suffered by delays and denials in services to First Nations children;
 - e. the positions and needs of First Nations child welfare agencies in Saskatchewan;
 - f. the capacity and resources of First Nations communities in Saskatchewan as well as their unique socio-economic, geographic, demographic, cultural and linguistic differences;
 - g. appropriate and adequate cultural programs and supports for victims of trauma and discrimination;
 - h. how socio-economic and regional variations, and cultural and linguistic differences impact on needs and perspectives of First Nations individuals, families and communities, including with respect to issues of remoteness;

- i. experiences of disproportionate levels of victimization, discrimination and disadvantage faced by First Nations children in health and child welfare;
 - j. the intersectionality of different vulnerable groups within First Nations communities;
 - k. the capacities and resources of First Nations governments and organization in Saskatchewan; and,
 - l. the enduring impact of colonial legacies that contribute to these experiences including the Indian Residential School System, the Indian Day School System and the Sixties Scoop.
87. The FSIN has also developed through its historic and ongoing efforts, considerable insight into the experiences underlying trauma and how to mitigate re-traumatization and re-victimization in the context of child welfare and Jordan's Principal.
88. The FSIN has also developed unique insight into the impacts current and ongoing Class Action settlement agreements have on First Nations survivors and their families through its historic engagement with, and support of, survivors of the Sixties Scoop, Day Schools and Residential Schools prior to and during the implementation and administration of settlement agreements.
89. This includes insight into appropriate supports and mechanisms necessary to deliver the promises of settlement agreements to those vulnerable individuals and groups settlements intend to benefit as well as insight into the impact of evidentiary requirements on survivors and their families, the necessity for adequate procedural fairness safeguards, and the capacity of First Nations organizations and governments in Saskatchewan to address the needs of survivors and class members.

Conclusion

90. If granted leave to intervene as an interested party, I believe the FSIN's participation in the July 22nd Motion will be useful to the Tribunal because it will bring that unique and informed perspective on the very significant implications that the Final Settlement Agreement will have on First Nations people in Saskatchewan.

91. The FSIN would also not raise any new issues on the July 22nd Motion.

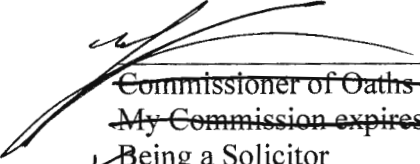
92. The FSIN would not seek costs and asks only that it not be liable to pay costs of any other party or interested party.

93. I make this affidavit in support of the FSIN's motion for leave to intervene in this proceeding for the limited purpose of participating as an interested party in the July 22nd Motion.

SWORN BEFORE ME at)
the City of Saskatoon)
in the Province of Saskatchewan)
this 23rd Day of August 2022)

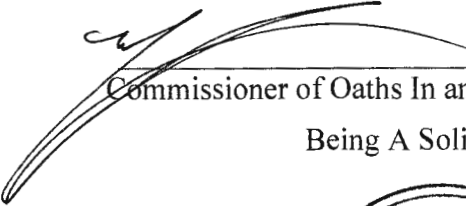


KAREN PELLETIER

 _____, Being a
~~Commissioner of Oaths for Saskatchewan~~
~~My Commission expires on _____ or~~
 Being a Solicitor



This is Exhibit "A" referred to in the
Affidavit of Karen Pelletier
SWORN BEFORE ME this 23rd day of
August, 2022



Commissioner of Oaths In and For Saskatchewan
Being A Solicitor



**Health and Social Development Secretariat
Health & Social Development Commission
MOTION RECORD**

MOTION NUMBER: 2022-07-12-002

PURPOSE: **Support for 2022 AFN Resolution Regarding Compensation for Children and Families Who Suffered Discrimination**

MEETING DATE: **July 12, 2022**

That the Health and Social Development Commission support the actions outlined in the resolution submitted to the 2022 Assembly of First Nations – General Assembly regarding compensation for children and families who suffered discrimination in the delivery of First Nations Child & Family Services and Jordan’s Principle services as follows:

1. Direct that the Final Agreement on Compensation, including all details regarding eligibility and any provisions that may result in First Nations children, youth and caregivers not receiving the full \$40,000 they are currently entitled to receive under the existing CHRT orders be brought before the Chiefs-in-Assembly for full review and for their free, prior and informed consent;
2. Call upon Canada to immediately pay the compensation owed to eligible victims and provide necessary supports pursuant to the Canadian Human Rights Tribunal orders;
3. Direct that AFN negotiators and lawyers working on AFN’s behalf are not authorized to reduce the CHRT compensation amounts for eligible victims or limit the scope of eligible victims and must respect the compensation framework agreement and compensation entitlement order as a minimum standard as set out in 2019 CHRT 39 and 2021 CHRT 7;
4. Seek the free, prior, and informed consent of First Nations chiefs before filing submissions to the Canadian Human Rights Tribunal regarding any of the compensation orders;
5. Direct that any negotiations with Canada on any matters arising from 2016 CHRT 2 and subsequent orders affecting First Nations children, youth, and families must be conducted in an open and transparent manner consistent with free, prior, and informed consent of First Nations;
6. Direct that negotiations of the Final Agreement on Long-Term Reform of FNCFS and Jordan’s Principle and negotiations of the Final Agreement on Compensation remain mutually independent and non-contingent;

7. Direct that there be full disclosure on the amount of legal fees sought by class action legal counsel;

8. Direct that decision-making regarding the class action is free of any conflict of interest or the appearance of conflict of interest arising from legal fees legal counsel will receive upon completion of the Final Agreement on Compensation.

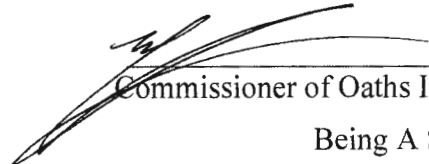
MOVED BY: Chief Roberta Soo-Oyewaste, FHQ

SECONDED BY: Councillor Barry Sanderson, PAGC

11 in Favour

OPPOSED: **ABSTENTIONS:** **CARRIED:** **DEFEATED:**

This is Exhibit "B" referred to in the
Affidavit of Karen Pelletier
SWORN BEFORE ME this 23rd day of
August, 2022



Commissioner of Oaths In and For Saskatchewan
Being A Solicitor



**Health and Social Development Secretariat
HEALTH AND SOCIAL DEVELOPMENT COMMISSION
MOTION RECORD**

MOTION NUMBER: 2022-07-01
PURPOSE: Compensation settlement Agreement & CHRT
MEETING DATE: July 13, 2022

That the Health and Social Development Commission (HSDC) direct the FSIN to intervene on the final compensation settlement agreement and the Canadian Human Rights Tribunal.

MOVED BY: Chief Christine Longjohn, PAGC

SECONDED BY: Tribal Chief Jeremy Fourhorns, FHQ
All in Favour – 9

OPPOSED: **ABSTENTIONS:** **CARRIED:** **DEFEATED:**

Tab 3

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 and Northern Affairs Canada)

Respondent

-and-

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

Interested Parties

-and-

FEDERATION OF SOVEREIGN INDIGENOUS NATIONS

Moving Party

**FACTUM OF THE FEDERATION OF SOVEREIGN INDIGENOUS NATIONS
on its motion for interested party status
in the motion filed by the Assembly of First Nations on July 22nd, 2022**

I. INTRODUCTION

1. The Federation of Sovereign Indigenous Nations (“FSIN”) is a political organization representing 74 First Nations in Saskatchewan comprised of the Dakota, Dene, Nahkawe (Saulteaux), Nakota, Swampy Cree, Lakota, Plains Cree and Woodland Cree Nations.

2. The FSIN is committed to honouring the spirit and intent of the Treaties, as well as the promotion, protection and implementation of the inherent rights to which its diverse member First Nations are entitled.
3. The FSIN receives its mandate from the Chiefs-in-Assembly, the legislative body of the Chiefs of 74 First Nations in Saskatchewan. The Chiefs-in-Assembly define the FSIN's priorities and actions based on consensus among Saskatchewan First Nations.
4. The FSIN also receives its mandate from the FSIN Health and Social Development Commission ("HSDC") which is a body comprised of the Chiefs of all Saskatchewan Agency/Grand/Tribal Councils, as well as the Chiefs of the Independent First Nations in Saskatchewan.
5. The FSIN is not yet a party to these proceedings. FSIN is not seeking to join this proceeding writ large. It is proposing to participate in a defined way only with respect to the motion filed by the Assembly of First Nations ("AFN") on July 22nd, 2022 ("July 22nd Motion").¹
6. In its July 22nd Motion the AFN asks this Tribunal to make one of the following Orders:
 - a. a declaration that the Compensation Final Settlement Agreement is fair, reasonable, and satisfies the Tribunal's Compensation Order 2019 CHRT 39, and all related clarifying orders; or,
 - b. In the alternative, the AFN and Canada seek a variation of the Tribunal's Compensation Decision, Compensation Framework, and other compensation related orders, to conform to the proposed Final Settlement Agreement.²
7. As provided by the AFN the issue to be determined in the July 22nd Motion is:

Whether the terms of the FSA [Final Settlement Agreement] satisfies the Compensation Decision and related Compensation Orders which are intended to provide compensation to the survivors of Canada's discrimination for the pain and suffering they experienced as a result of Canada's discriminatory practices, in addition to the willful and reckless nature of the discriminatory practices.³
8. The AFN states that there is no precedent in Canadian history of such an historic settlement, providing for the payment of such substantial compensation to so many thousands of historically disadvantaged individuals. As a result, the AFN concedes that in this unique

¹ Notice of Motion for Approval of the Final Settlement Agreement of the Assembly of First Nations, dated Jul 22nd, 2022 ("AFN Notice of Motion").

² AFN Notice of Motion, at para 14.

³ Factum of the Complainant, Assembly of First Nations, dated July 22nd, 2022 ("AFN Factum"), at para 82.

context there is no effective precedential “road map” for the evaluation of the Final Settlement Agreement in relation to the Compensation Decision and Compensation Orders.⁴

9. The AFN suggests that the most appropriate pathway for this Tribunal is an analysis of whether Final Settlement Agreement, in a “reasonable and in a principled manner”, satisfies its Compensation Decision and Compensations Orders.⁵
10. Accordingly, the AFN proposes factors that the Tribunal ought to consider in the determination of the issue in the July 22nd, 2022 Motion which raise questions as to, among other things:
 - a. Whether the Final Settlement Agreement is culturally safe and appropriate and takes into consideration the vulnerability of the survivors;
 - b. Whether the funding and delivery of supports to survivors contemplated in the Final Settlement Agreement are sufficient; and,
 - c. Whether the compensation amounts and eligibility for compensation proposed are adequate.
11. The AFN further submits that the Tribunal ought to consider the test for approval of class action settlement agreements which looks at the reasonableness of a settlement agreement and includes the consideration of such factors as:
 - a. The terms and conditions of the settlement;
 - b. the risks of not unconditionally approving the settlement; and,
 - c. the participation of the Representative Plaintiffs.⁶
12. The FSIN would bring a meaningful contribution to the Tribunal’s determination of the July 22nd Motion by bringing valuable expertise which informs the FSIN’s position and sheds light on these factors from a regional perspective.
13. The AFN admits in its July 22nd Motion materials that the Final Settlement Agreement required compromise that deviates from the Compensation Decision and Compensation

⁴ AFN Factum, at para 107.

⁵ AFN Factum, at para 109.

⁶ AFN Factum, at paras 113-114.

Orders.⁷ The FSIN will advance that matters with respect to the quantum of compensation and eligibility for compensation presented in the Final Settlement Agreement derogate from this Tribunal's Compensation Decision and Compensation Orders in a manner that does not reflect the experience, knowledge and expertise of Saskatchewan First Nations.

14. The FSIN will further advance that, in determining whether to vary its Orders to conform to the Proposed Settlement Agreement and its compromises, the Tribunal ought to accord significant weight to factors that: capture the extent the Final Settlement Agreement accommodates and responds to regional needs, circumstances and resources; and, limit the input and participation from regional organizations and First Nations, as these are matters which influence Saskatchewan First Nations support for any compromise.
15. The FSIN would therefore add to the legal positions of the Parties. First, as a representative of Rights-holders the FSIN will assist the panel in understanding the views of Saskatchewan First Nations including where they reinforce or diverge from other positions presented in the July 22nd Motion with respect to compensation.
16. Second, as a representative of Rights-holders that has not signed the Final Settlement Agreement, or is party to the class actions, the FSIN can deliver unique arms-length, regional insight into the evidence and the "road map" proposed by the parties in evaluating the Final Settlement Agreement in relation to this Tribunal's Orders.
17. Finally, the FSIN's interests also stand to be directly affected by the disposition of the July 22nd Motion. It will impact on the FSIN's mandate and the First Nations communities, individuals and families the FSIN supports and provides direct and secondary services to.

II. FACTS

18. This Tribunal ordered Canada to compensate certain First Nations victims of discrimination under its First Nations Child and Family Services Program and its application of Jordan's Principle.

First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada),

⁷ AFN Factum, page 58.

2019 CHRT 39 (“[Compensation Decision](#)”)

19. A series of Tribunal decisions were subsequently issued which modified and impacted the Compensation Decision (“Compensation Orders”).
20. On June 30, 2022, the Complainants and Respondents executed the Final Settlement Agreement respecting compensation.
21. As stated by the AFN in its motion materials, the scope of the Final Settlement Agreement is impressive as the compensation will be delivered to hundreds of thousands of survivors of Canada’s discriminatory practices. The AFN further advances that the individual amounts of compensation will have life-changing impacts for many of our most vulnerable and marginalized First Nations members.⁸
22. It follows that the Final Settlement Agreement will impact on a significant proportion of our First Nations members in Saskatchewan.
23. On July 12th, 2022 the FSIN HSDC passed Motion Number 2022-07-12-002 which directed, among other things that:
 - a. the Final Agreement on Compensation, including all details regarding eligibility and any provisions that may result in First Nations children, youth and caregivers not receiving the full \$40,000 they are currently entitled to receive under the existing CHRT orders be brought before the Chiefs-in- Assembly for full review and for their free, prior and informed consent; and,
 - b. AFN negotiators and lawyers working on AFN’s behalf are not authorized to reduce the CHRT compensation amounts for eligible victims or limit the scope of eligible victims and must respect the compensation framework agreement and compensation entitlement order as a minimum standard as set out in 2019 CHRT 39 and 2021 CHRT 7.⁹
24. On July 13, 2022 the FSIN HSDC passed Motion 2022-07-01 directing the FSIN to intervene on the final settlement compensation agreement at this Tribunal.¹⁰
25. As set out in the affidavit of Karen Pelletier, sworn August 23rd, 2022:

⁸ AFN Factum, at para 84.

⁹ The Affidavit of Karen Pelletier, sworn August 23rd, 2022 (“Pelletier Affidavit”), Exhibit B.

¹⁰ Pelletier Affidavit, Exhibit A.

- a. Through the Chiefs-in Assembly and the HSDC, the FSIN is given a broad and expanding mandate to address issues faced by First Nations people and communities in the context of First Nations child health and welfare in Saskatchewan including prevention, removal and Jordan's Principle.
- b. The Health and Social Development Secretariat of the FSIN ("HSDS") operates to carry out the mandates of the FSIN Chiefs-in-Assembly and the HSDC with respect to social development, child welfare, health and Jordan's Principle.
- c. Within its child welfare and Jordan's Principle portfolios the HSDS provides secondary and direct supports to First Nations, individuals, families, communities and leadership including, among other things:
 - i. providing information, guidance, resources and services to individuals, families, First Nations and service providers;
 - ii. providing help and assistance directly to individuals and families applying for assistance, funding and services under Jordan's Principle. This includes conducting intake, providing advice and assistance, preparing appeals, and issuing guidance and direction;
 - iii. supporting individuals and families facing the delays or denials of services where necessary through direct advocacy, support and guidance to those individuals and families;
 - iv. conducting intake for individuals and families in need of support in the child welfare system;
 - v. providing direct support where children, individuals or families present urgent health or welfare needs and concerns;
 - vi. supporting First Nations and First Nations child and family services agencies in the development of strategies, policy, planning and implementation of child and family services; and,
 - vii. conducting engagement forums with First Nations representatives and leadership to gather feedback and information for the purposes of developing strategies and policies related to First Nations child welfare and health.

- d. The FSIN also created and contributed to active working groups and committees focused on First Nations child welfare and Jordan's Principle in Saskatchewan including:
- i. the First Nations Child and Family Services Technical Advisory Group for Health and Social Development ("TAG");
 - ii. the Transition and Implementation Committee for Self-Determination in Children and Families ("TIC");
 - iii. the Chiefs Political Task Force on Child Welfare ("CPTF"); and,
 - iv. the Regional Social Development Advisory Group ("RSDAG").
- e. Through its various technical working groups and committees the FSIN works directly with leadership, communities and experts in matters of child health and welfare, Jordan's Principle, and the socio economic circumstances of First Nations communities, families and individuals in Saskatchewan.
- f. The FSIN's role and experience positions it to influence and contribute to the development of legislation and policy designed to improve First Nations child and family services and the application of Jordan's Principle in Saskatchewan. For example:
- i. FSIN developed The Indian Child Welfare and Family Support Act ("ICWFSA"); which influenced the Province of Saskatchewan's *Child and Family Services Act*;
 - ii. the FSIN signed a Memorandum of Understanding (MOU) with the Government of Saskatchewan allowing for the development of First Nations child welfare agencies. Indigenous and Northern Affairs Canada (as it then was) and the Saskatchewan Ministry of Child and Family Services subsequently developed "models of delegated authority for child welfare," formalizing the existence of First Nations child welfare agencies in Saskatchewan through delegation agreements, many of which incorporated language from the MOU;
 - iii. In 2007 the FSIN and representatives from First Nations child and family service agencies Saskatchewan created the Saskatchewan First Nations

- Family and Community Institute Inc (“FNFCI”); and,
- iv. In 2007 the FSIN, along with, Saskatchewan Child and Family Service Agencies, the Saskatchewan region of INAC, and the Saskatchewan Community Resources developed the Saskatchewan First Nations Prevention Services Model and Accountability Framework Agreement.
 - g. The FSIN also participates in, and advocates within, various other forums and organizations related to First Nations child welfare and Jordan’s Principle in Saskatchewan, including:
 - i. Supporting regional experts as representatives to the National Advisory Committee (“NAC”) of the AFN;
 - ii. Supporting its representative at the Jordan’s Principal Action Table (“JPAT”) created under NAC;
 - iii. Supporting its representative at the Jordan’s Principle Operation Committee (“JPOC”) created under NAC;
 - iv. Participating in the Saskatchewan First Nations Child and Family Services Regional Tripartite Table (“Tripartite Table”) which meets quarterly and includes representatives from Saskatchewan First Nations Child and Family Service Agency (FNCFS) Executive Directors, Indigenous Services Canada, FSIN and the Saskatchewan Ministry of Social Services;
 - v. Being a founding member of the National Assembly of Remote Communities (“NARC”);
 - vi. Participating in a Management Agreement with Saskatchewan Indian Training Assessment Group Inc (“SITAG”) for the provision of second level services to Independent First Nations in Saskatchewan; and,
 - vii. working collaboratively with the Saskatchewan Advocate for Children and Youth.
 - h. The FSIN also consistently engaged with, supported and advocated on behalf Saskatchewan survivors of Indian Residential School, Indian Day Schools and the Sixties Scoop. within the context of Class Action Settlement Agreements such as the

Indian Residential Schools Settlement Agreement (“IRSSA”), Sixties Scoop Settlement Agreement (“SSSA”), and the McLean Indian Day School Settlement Agreement (“IDSSA”). This engagement and support included, among other things:

- i. Conducting dozens of community engagement sessions with survivors and leadership across Saskatchewan;
- ii. conducting intake with respect to the concerns of survivors, their families and leadership in Saskatchewan First Nations who face obstacles during the implementation of settlement agreements;
- iii. publicly advocating for survivors based on their needs, perspectives and experiences;
- iv. providing updates and information with respect to ongoing developments, as well as facilitating discussions around supports, healing and wellness;
- v. hosting forums, workshops and gatherings to support survivors to tell their stories and to heal; and,
- vi. by continuing to lobby for additional supports and mechanisms to support survivors.

26. Through its historic and ongoing efforts described above the FSIN developed considerable expertise and insight into the unique experience of the First Nations people of Saskatchewan within the child welfare system and with respect to Jordan’s Principal; and, unique insight into the impacts current and ongoing Class Action settlement agreements have on First Nations survivors, families and communities.

III. ISSUES

27. The sole issue in this motion is whether FSIN should be granted limited interested party status to participate in the July 22nd Motion, and if so, under what terms.

IV. LAW & ARGUMENT

28. The Tribunal has a broad jurisdiction to allow any interested party to intervene in an inquiry further to a complaint.

[Canadian Human Rights Act](#), RSC 1985, c H-6, section 50

Canadian Human Rights Tribunal’s *Rules of Procedure*, section 8(1)

29. The Tribunal outlined the test for parties seeking interested party status, which considers:
- a. Whether the proposed interested party brings expertise that will be of assistance to the Tribunal;
 - b. Whether the involvement of the proposed interested party will add to the legal positions of the other parties; and
 - c. Whether the proceeding will have an impact on the proposed interested party's interests.

Letnes v. Royal Canadian Mounted Police, 2021 CHRT 30, para. 10

30. The Tribunal adopts a case-by-case holistic approach in considering requests for interested party status. A person or organization may be granted interested party status if they are impacted by the proceedings and can provide assistance to the Tribunal in determining the issues before it. In determining the extent of an interested party's participation, the Tribunal also considers its responsibility under s. 48.9(1) of the Act to conduct proceedings as expeditiously and informally as the requirements of natural justice and rules of procedure allow.

First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada, 2016 CHRT 11, para. 3

FSIN has expertise that will assist the Tribunal

31. The FSIN remains one of the largest and most long-standing Indigenous political organizations in Canada—representing a large proportion of First Nations Rights-holders from diverse socio-economic, geographic, cultural and linguistic backgrounds.
32. The FSIN is able to draw from its extensive institutional knowledge and experience as advocate, representative and support provider of First Nations in Saskatchewan.
33. This knowledge and experience spans decades and comprises of crucial projects, initiatives and partnerships intended to examine and address class actions for harms against First Nations children and systemic discrimination in Canadian child health and welfare systems including the direct impacts on First Nations individuals, families and communities.
34. On the July 22nd Motion this Tribunal is to evaluate whether an appropriate process is presented to deliver compensation in light of historical patterns of discrimination, the vulnerability of victims and survivors who are minors or adults who lack legal capacity,

access to justice, a clear and equitable process across Canada, and the avoidance of unnecessary administrative burdens.

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, para 6.

35. The AFN proposes a pathway for this Tribunal to evaluate the Final Settlement Agreement. In so doing, the AFN expressly invites this Tribunal to consider the terms and conditions of the Final Settlement Agreement.
36. Where the Tribunal is being asked to vary its previous Compensation Decision and Compensation Orders to conform to the Final Settlement Agreement, the evaluation of factors including its terms and conditions is an especially important exercise.
37. It also raises issues of consideration for the Tribunal to which FSIN has robust and meaningful expertise.
38. First, the FSIN has unique direct expertise and insight into the nature of the harms caused by Canada's historical patterns of discrimination in child welfare and under Jordan's Principle, including the psychological harms, socio-economic impacts and its contribution to the ongoing marginalization of First Nations children, families and communities in Saskatchewan.
39. This expertise will be of use to this Tribunal in evaluating the terms reflecting the adequacy of the supports framework envisioned in the Final Settlement Agreement as well as the features of the Final Settlement Agreement intended to mitigate traumatization and re-traumatization.
40. FSIN's expertise will also be of benefit to this Tribunal in evaluating the compensation scheme, including the amounts and eligibility, and the effect on survivors that any concessions or compromises made with respect to the amounts of compensation under the Final Settlement Agreement will have.
41. Second, the FSIN has unique expertise and insight related to the needs and capacity of First Nations communities, families, and children, including access to mental health and wellness resources, logistical and technological resources and cultural, linguistic and spiritual supports.
42. This expertise will be of use to this Tribunal in evaluating the adequacy of the supports

framework envisioned in the Final Settlement Agreement and whether it is sufficient to respond to regional needs.

43. This expertise will also be of benefit to the Tribunal in analyzing and evaluating the amount and distribution of funding for supports contemplated in the Final Settlement Agreement.
44. Third, the FSIN has expertise and direct insight into the socio-economic circumstances of First Nations communities and families in Saskatchewan including issues of poverty, over-incarceration, homelessness, disability, and assisted living. This expertise will be of use to this Tribunal in evaluating a number of features of the Final Settlement Agreement in addition to the supports framework, such as the adequacy of deadlines and notices and the extent of regional participation.
45. Fourth, the FSIN has experience and expertise in the impact large class actions settlement agreements have had on First Nations communities, families and survivors. This expertise will be of use to this Tribunal in evaluating a number of features of the Final Settlement Agreement. This includes eligibility requirements, administrative burdens, safeguards for procedural fairness, and evidentiary requirements which have similarities and differences with prior settlement agreements.
46. This Tribunal is tasked with evaluating a settlement agreement of a scale that is yet to be seen in Canada. It is one which impacts on a collective that experienced historical patterns of discrimination contributing to vulnerability and marginalization.
47. Within this collective, however, there is a beautiful and vibrant diversity of culture, demographics, geography, language and traditions. There is also a diversity of experiences and circumstances.
48. To fulfill the intended purpose of the Compensation Decision and Compensation Orders to right wrongs and deliver redress, the Final Settlement Agreement must reflect this diversity and accommodate it. If not, the Final Settlement Agreement may only have the effect of fostering resentment, grief and further harm.
49. The FSIN has the regional expertise and the demonstrated ability to help ensure that some of the most diverse experiences, perspectives and circumstances of First Nations people in Canada are not overlooked in the evaluation of the terms and conditions of the Final

Settlement Agreement by this Tribunal.

50. It is from this expertise that the FSIN will advance its positions with respect to the issues described. And, its positions will add to the legal positions of the parties.

FSIN's involvement will add to the legal positions of the parties

51. AFN states in its Motion Materials that,

The AFN contends that the FSA continues to reflect First Nations experience, knowledge and expertise, and squarely reflects the best interests of FN rights-holders ... Rights-holders who have ultimately endorsed the terms of the FSA by way of their duly elected representatives, and reconciliation would dictate that the Tribunal is ultimately under an onus to give significant and due consideration to the endorsement of the FSA as the embodiment of the FN perspectives on compensation, derived from nation-to-nation negotiations.¹¹

52. This Tribunal previously reasoned that:

While we understand that reform needs to be done in partnership with all the Indigenous rights holders, provinces and territories, there is also no indication in the evidence before us that the absent partners disagree with the AFN, the Caring Society, the COO, the NAN, the Commission and this Panel on immediate relief orders or general orders made so far...The Panel encourages Canada in the future to provide evidence to the Tribunal if a province, territory or First Nation resists or acts as a roadblock to Canada's implementation of the Panel's rulings. This will assist the Panel in understanding their views and Canada's efforts to comply with our orders and, will provide context and may refrain us to make orders against Canada.

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 440-443.

53. While the above passage relates to long-term reform, it highlights this Tribunal's desire to hear and understand the diverse voices of First Nations. Indeed, the Indigenous community in Canada is not a monolith. Its diversity produces a complex and nuanced body of experience, knowledge, and expertise. What might be good at the national level might not capture and accommodate regional variations, processes and expectations such as those in Saskatchewan.
54. The FSIN only represents First Nations Rights-holders from Saskatchewan, of which it has unique expertise and perspective. The FSIN will therefore add to the legal position of

¹¹ AFN Factum, at para 230.

the parties by representing a more local perspective and a more diverse opinion which informs this Tribunal of the different views within the body of First Nations knowledge, experience and expertise.

55. For example, the FSIN's position, as reflected in Motion 2022-07-12-022, is that AFN lawyers and negotiators are not authorized to make concessions or deviations regarding the amount of, or eligibility for, compensation from the Compensation Decision and Compensation Orders proposed in the Final Settlement Agreement; and, that the Final Agreement on Compensation should be brought before the Chiefs-in-Assembly for full review for their free, prior and informed consent.
56. This position is different from the other parties and it is one that captures the unique perspectives, concerns, needs and governance processes of Saskatchewan First Nations.
57. It is also important to note that the FSIN is not a signatory to the Final Settlement Agreement, and it does not have the burden of seeking approval from the Federal Court of Canada in the context of the class action litigation. As a result, the FSIN is in a position to provide a fresh and independent First Nations perspective on the relevance and suitability of applying factors, typically reserved for class action settlement agreements, within this context. This would also include positions with respect to the relative weight given to these factors based on regional perspectives.
58. Again, the Tribunal, if it considers varying its previous Orders to conform to the Final Settlement Agreement, will have to weigh and balance identified compromises against the proposed benefits of the Final Settlement Agreement.
59. The FSIN takes a different position than the other parties with respect to whether the proposed benefits of the Final Settlement Agreement are sufficient justification for this Tribunal to vary its existing Orders to conform to it.
60. The FSIN will advance that this Tribunal ought to prioritize and consider ongoing regional input and participation in such areas as the development of the Claims Process, ongoing oversight, and the development and funding of supports to survivors and communities to ensure the Final Settlement Agreement is sufficiently flexible to respond to regional needs and capacities, where it might decide to amend its prior Orders.

61. In so doing, the FSIN will also draw attention to the terms and conditions of the Final Settlement Agreement which consist of, among other things, the administrative burdens, evidentiary requirements, deadlines, legal releases, eligibility requirements and procedural safeguards and provide insight into how these features will impact on the accessibility of compensation for Saskatchewan First Nations children and families.
62. In advancing these positions the FSIN is not duplicating the positions of other parties, but providing a unique regional opinion on expectations, priorities and realities that inform whether the perceived benefits of the Final Settlement Agreement offset the compromises made in arriving at it.
63. This diversity of opinion will help ensure at least two things in the July 22nd Motion: That the Tribunal has the opportunity to draw from a more diverse range of First Nations knowledge, experience and expertise in evaluating whether the Final Settlement Agreement is the embodiment of First Nations perspectives on compensation; and, that the Tribunal will be able to compare and contrast different First Nations perspectives to critically evaluate the terms and conditions of the Final Settlement Agreement if it is inclined to vary its prior Orders to conform to it.

The proceedings will have an impact on FSIN's interests

64. The FSIN and its institutions will be directly impacted by the July 22nd Motion. As previously stated the FSIN provides direct and secondary support and advocacy to First Nations at the regional, community, family and individual level in relation to child welfare, health and Jordan's Principle. The Final Settlement Agreement will have a profound and significant impact on our families, children and communities.
65. In particular, FSIN has a keen interest in ensuring that the right to compensation for victims of discrimination and Rights-holders as provided by the Tribunals Compensation Order and Compensation Orders is upheld. This will inform and dictate the expectations of FSIN's mandate and its capacity to perform that mandate.
66. The most expeditious, efficient and fair approach is to allow FSIN to participate in a defined way in the July 22nd Motion to elucidate and address regional perspectives on the Final Settlement Agreement.

V. RELIEF REQUESTED

67. FSIN seeks an order granting it leave to intervene as an interested party in this proceeding, on the following terms, or such other terms as the Tribunal deems just:

- a. Interested party status for FSIN, specifically limited to participation in the July 22nd Motion.
- b. In the July 22nd Motion FSIN shall be permitted to:
 - i. make oral and written arguments, as may apply in the course of the July 22nd Motion, of a length that may be fixed by the Tribunal, and according to the timeline set by the Tribunal;
 - ii. participate in case conferences, mediation, negotiation or other dispute resolution or administrative processes further to this case, only to the extent connected to the July 22nd Motion; and,
 - iii. FSIN's participation will be on a without cost basis.

All of which is respectfully submitted this 24th Day of August, 2022.



Michael Seed
Counsel for the Moving Party

**Federation of Sovereign
Indigenous Nations**
10-134 Kahkewistahaww Cres,
Saskatoon, Sk
S7R 0M9
Tel: 306-441-1473
Fax: 306-937-6110

VI. AUTHORITIES

	PRIMARY SOURCES
	Legislation
1.	<i>Canadian Human Rights Act</i> , RSC 1985, c H-6, section 50
	Jurisprudence
2.	<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada</i> , 2016 CHRT 11
3.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2018 CHRT 4
4.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2019 CHRT 39
5.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2021 CHRT 7
6.	<i>Letnes v. Royal Canadian Mounted Police</i> , 2021 CHRT 30