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**VIA EMAIL: [Registry.Office@chrt-tcdp.gc.ca](mailto:Registry.Office@chrt-tcdp.gc.ca)**

September 29, 2022

Canadian Human Rights Tribunal  
c/o Judy Dubois, Registry Operations  
240 Sparks Street, 6th Floor West  
Ottawa, ON K1A 1J4

Dear Panel:

**Re: FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA ET AL v  
ATTORNEY GENERAL OF CANADA – T#1340/7008 – Compensation FSA Questions**

In response to the Panel’s letter dated September 21, 2022, with respect to the motion jointly brought by the Assembly of First Nations (“AFN”) and Canada on July 22, 2022, seeking the Tribunal’s endorsement of the Compensation Final Settlement Agreement (“FSA”), Nishnawbe Aski Nation (“NAN”) makes the following submissions.

The Panel has raised the important question of collective and individual rights in the context of this motion. NAN agrees that this question is important. In addressing this question, NAN relies upon and adopts the submissions of the Chiefs of Ontario (“COO”) and the AFN and makes the following additional submissions.

The systemic discrimination perpetrated by Canada, as found by the Tribunal, grievously violated both the collective rights of First Nations and the individual rights of First Nations’ citizens, including children, youth, and family members. However, in the context of this motion, NAN submits that the question before this Panel is less one of balancing competing rights and more one of recognizing harmony between corresponding rights.

NAN understands that the Compensation FSA addresses both individual rights to receive compensation (including the right to opt out) and collective rights to negotiate an agreement for such compensation. The Panel is right to acknowledge that collective and individual rights must be balanced. However, the parties to the Compensation FSA have already found and struck that balance.

The other means by which collective and individual rights are being respected in these proceedings is through the ongoing negotiation of an FSA for Long-Term Reform of the First Nation Child and Family Services (“FNCFS”) Program and Jordan’s Principle. Those negotiations respect the individual rights of First Nations children, youth, and family members to receive substantively equal, culturally appropriate child and family services in their communities. Those negotiations also respect the collective rights of First Nations to determine their future by shaping, through representatives, the reform of the FNCFS Program, Jordan’s Principle, and Indigenous Services Canada (“ISC”).



Read together, *UNDRIP*, *UNDRIPA*, the *Convention on the Rights of the Child*, and the *CHRA* fundamentally call for the recognition and respect of both collective and individual human rights, including Indigenous rights. That is precisely what the Compensation FSA has achieved.

This motion to endorse the First Nations-led and First Nations-supported Compensation FSA presents the Panel with an historic opportunity to uphold the collective rights of self-determining First Nations while also respecting the individual rights of First Nations children, youth, and families. NAN respectfully urges the Panel to seize this monumental moment and endorse the Compensation FSA.

NAN is neither a party to the class actions underlying the Compensation FSA nor a signatory to the Compensation FSA. Therefore, NAN makes no submission with respect to the premises on which the Compensation FSA was negotiated. We leave that matter to the parties to the Compensation FSA.

Thank you for your consideration.

Yours,

Falconers LLP



Julian Falconer

cc. Deputy Grand Chief Bobby Narcisse  
*Nishnawbe Aski Nation*

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