

Court File No. \_\_\_\_\_

**FEDERAL COURT**

BETWEEN:

**THE ASSEMBLY OF FIRST NATIONS**

APPLICANT

-and-

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

RESPONDENTS

**NOTICE OF APPLICATION FOR JUDICIAL REVIEW**

**TO THE RESPONDENTS:**

**A PROCEEDINGS HAS BEEN COMMENCED** by the Applicant. The relief claimed by the Applicant appears on the following page.

**THIS APPLICATION** will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this Application be heard at **Ottawa, Ontario**.

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

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

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

November 23, 2022

Issued by: \_\_\_\_\_

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## APPLICATION

This is an application for judicial review in respect of the Canadian Human Rights Tribunal's ("Tribunal") summary decision in File No. T1340/7008, dated October 24, 2022 (the "**Summary Decision**"). In the Summary Decision, the Tribunal refused to grant the order sought in the Applicant's motion that the Final Settlement Agreement agreed to by the parties ("**FSA**") in the related class proceedings, Federal Court File Nos. T-402-19, T-141-20, T-1120-21, satisfied its orders in decisions 2019 CHRT 39, 2020 CHRT 7, 2020 CHRT 15, 2021 CHRT 6 and 2021 CHRT 7 (the "**Compensation Decisions**"), or in the alternative, that the Tribunal vary its Compensation Decision, Compensation Framework, and other compensation related orders to, to conform to the terms of the proposed FSA.

The Summary Decision was intended to convey the results of the Panel's deliberations to the parties immediately, as the full decision and supporting analysis was determined to be lengthy and would take more time to complete. The Panel confirmed in the Summary Decision that it was continuing to work on the reasons and authorities supporting its conclusions in the hopes of releasing its full reasons for judgment (the "**Final Decision**") in short order.

The Applicant makes application for:

1. An order quashing or setting aside the Summary Decision and confirming that the Tribunal has the jurisdiction to adopt the FSA to satisfy its orders in the Compensation Decisions;
2. In the alternative, an order setting aside the Summary Decision and referring the matter to a differently constituted Panel for determination in accordance with the directions of this Court;
3. The costs of this Application; and
4. Such further and other relief as this Honourable Court may deem appropriate and just in the circumstances.

The grounds for the application are that the Tribunal erred in:

1. Determining that it could not find that the FSA satisfies the Tribunal's orders, on the basis which included, but is not limited to, that the FSA compromised categories of victims from the Tribunal's Compensation Decisions, despite the Tribunal's jurisdiction to consider the FSA as satisfactory as these issues remained under dispute and appeal;
2. Determining that it could not amend its Compensation Decisions to conform to the terms of the proposed FSA;
3. Incorrectly and unreasonably determining that the principle of free, prior, and informed consent ("**FPIC**") applies to the Assembly of First Nations;
4. Drawing a negative inference from the fact that a resolution by the First Nations-in-Assembly was not obtained by the Assembly of First Nations;

5. The foregoing errors were made without jurisdiction or beyond the Tribunal's jurisdiction, reflect errors in law and the interpretation of the *Canadian Human Rights Act*, erroneously relied on factual material, failed to observe procedural fairness and were otherwise unreasonable, and thus there are permissible grounds for review under s. 18.1 of the *Federal Courts Act*;
6. Such further and other grounds as counsel may advise and this Honourable Court may permit.

This application will be supported by the following material:

1. The Certified Tribunal Record;
2. Such further and other material as counsel may advise and this Honourable Court should permit.

The Applicant requests:

1. Leave to amend this Notice of Application within 30 days of the release of the Final Decision by the Tribunal;
2. That the Canadian Human Rights Tribunal send a certified copy of the record upon which its decision was based to the Applicant and to the Registry within 20 days;
3. That a case management judge be assigned to this matter; and,
4. That this matter be heard in Ottawa, Ontario.

DATED AT OTTAWA, ONTARIO, the 23<sup>rd</sup> day of November, 2022.



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**THE ASSEMBLY OF FIRST NATIONS**

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