

June 2024

# Compensation

## Pathway from Canadian Human Rights Tribunal to the Class Action Proceeding

**Proceedings before the Canadian Human Rights Tribunal:** *First Nations Child and Family Caring Society et al. v. Attorney General of Canada T1340/7008*

**Class Action Proceedings before the Federal Court:** *Xavier Moushoom et al v. Attorney General of Canada T-402-19*

**1**  
**2016 CHRT 2** The Canadian Human Rights Tribunal (CHRT or Tribunal) substantiates Canada's discrimination toward First Nations children, youth and families in child and family services and Jordan's Principle. The Tribunal retains jurisdiction over compensation and ensures the discrimination stops and does not recur.

**2**  
**2019 CHRT 39** The Tribunal orders Canada to pay the maximum amount allowable of \$40,000 per eligible victim in human rights compensation dating back to 2006.

**3**  
**2019** Moushoom and Assembly of First Nations (AFN) file class actions that will include the Tribunal compensation and dates back to 1991.

**4**  
**2021** Moushoom/AFN reach a Final Settlement Agreement (FSA) but the Tribunal and First Nations Chiefs-in-Assembly direct revisions to ensure the FSA does not disentitle victims already entitled to the Tribunal-ordered human rights compensation.

**5**  
**2022** The Tribunal and First Nations Chiefs-in-Assembly approve the Revised FSA, and the Tribunal ceases jurisdiction over compensation and retains jurisdiction over long-term reform of the First Nations Child and Family Services program and Jordan's Principle. The Federal Court now oversees the Revised FSA. The Caring Society retains the right to make representations in Federal Court regarding victims entitled to the Tribunal-ordered human rights compensation.

**6**  
**2023** The Settlement Implementation Committee (SIC) is confirmed by the Federal Court. The AFN appoints Stuart Wuttke (Chair), Derek Nepinak and Duke Pelletier, who join class action lawyers David Sterns and Rob Kugler.

**7**  
**2024** The class action lawyers and the SIC develop a distribution protocol for children in care, also known as a claims process. The Caring Society seeks clarification regarding supports for victims, reliance on Indigenous Services Canada (ISC) data to identify eligible children in care, and the process for identifying ineligible caregivers.

**8**  
**May 2024** Caring Society cross-examines Diane Corbiere (AFN Class Counsel) and Joelle Gott (Deloitte) and finds: (1) there is no plan regarding supports for victims, although the SIC is working on one; and (2) there is no information on whether class counsel is only relying on ISC data to identify children in care.

**9**  
**June 19, 2024** Federal Court hearing to review the distribution protocol. Read submissions on [fnwitness.ca](https://fnwitness.ca).

### Next Steps

- 1 Claims process for children in kith placements
- 2 Claims process for Jordan's Principle for children, parents and grandparents
- 3 Claims process for enhancements for children in care
- 4 Claims process for parents and caregiving grandparents of children in care



**Caring Society**  
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