

Federal Court



Cour fédérale

Date: 20220624

Docket: T-402-19

T-141-20

T-1120-21

Ottawa, Ontario, June 24, 2022

PRESENT: The Honourable Madam Justice Aylen

CLASS PROCEEDING

BETWEEN:

**XAVIER MOUSHOOM, JEREMY MEAWASIGE (by his
litigation guardian, Jonavon
Joseph Meawasige) AND JONAVON JOSEPH MEAWASIGE**

Plaintiffs

and

THE ATTORNEY GENERAL OF CANADA

Defendant

T-141-20

BETWEEN:

**ASSEMBLY OF FIRST NATIONS, ASHLEY DAWN LOUISE BACH, KAREN
OSACHOFF, MELISSA WALTERSON, NOAH BUFFALO-JACKSON (by his litigation
guardian, Carolyn Buffalo), CAROLYN BUFFALO AND DICK EUGENE JACKSON also
known as RICHARD JACKSON**

Plaintiffs

and

HER MAJESTY THE QUEEN

Defendant

T-1120-21

BETWEEN:

ASSEMBLY OF FIRST NATIONS and ZACHEUS JOSEPH TROUT

Plaintiffs

and

THE ATTORNEY GENERAL OF CANADA

Defendant

ORDER

UPON MOTION by the Plaintiffs, heard at a special sitting of the Court on June 22, 2022, for an order approving the Short-Form and Long-Form Notices of Certification and Settlement Approval Hearing, and the Opt-out Form;

CONSIDERING the Plaintiffs' motion record and the submissions of counsel for the parties at the hearing of the motion;

AND CONSIDERING that the Defendant consents to the relief sought;

THIS COURT ORDERS that:

1. The Short-Form Notice of Certification and Settlement Approval Hearing, the Long-Form Notice of Certification and Settlement Approval Hearing, and the Opt-out Form substantially in the forms attached respectively hereto as Schedules “A”, “B”, and “C” are hereby approved, subject to the right of the parties to make non-material amendments as may be necessary or desirable, and subject to necessary language translations of the Short-Form Notice of Certification and Settlement Approval Hearing, the Long-Form Notice of Certification and Settlement Approval Hearing, and the Opt-out Form into Cree, Ojibwe, Dene and Mi’kmaq prior to publication, as agreed on by the parties.
2. Individuals seeking to opt out of the class proceedings in Court File Numbers T-402-19 and T-141-20, or the class proceeding in Court File Number T-1120-21, shall do so by either sending the Opt-out Form to the Claims Administrator, postmarked on or before the opt-out deadline, or by opting out online using the opt-out coupon on the class website at www.fnchildcompensation.ca. The opt-out deadline shall be six months from the date on which the notices are published.
3. Where the postmark is not visible or legible, the request to opt out shall be deemed to have been postmarked four (4) business days prior to the date that it is received by the Claims Administrator.

4. The election to opt out, whether in paper format or online, must be signed by the person or the person's designee, and must include the following information as prescribed in Schedule "C" to this Order:
 - a. The person's full name, current address, telephone number, and Indian Registry/Status Number (if available);
 - b. The approved statement to the effect that the person wishes to be excluded from the class action and understands that opting out of the class action means the individual will not receive payment under the class action; and
 - c. The reason for wanting to opt out.
5. Any class member who opts out of the proceedings shall have no further right to participate in the proceedings or to share in the distribution of any funds received as a result of a judgment or settlement in the proceedings.
6. Within thirty (30) days of the opt-out deadline, the Claims Administrator shall provide to class counsel and the Defendant a report containing the names of each person who has validly and timely opted out of the proceedings and a summary of the information delivered by such persons pursuant to paragraph 4 above.
7. Any person exercising the opt-out right on behalf of a person under the applicable age of majority or otherwise lacking legal capacity shall seek approval of this Court, and such opt-out is not valid without the Court's approval. The procedure

for obtaining such Court approval shall be the subject of a further order of the Court.

8. The notice plan and the appointment of the Claims Administrator shall be the subject of a further order of this Court.

"Mandy Aylen"

Judge

SCHEDULE “A”

Short Form Notice of Certification and Settlement

Federal Child Welfare and Jordan’s Principle Class Action

The Federal Court of Canada has approved this notice.

The plaintiffs and Canada have reached a \$20 billion settlement of this class action taken on behalf of First Nations children and some of their family members. If you qualify, you may be entitled to payment under this settlement.

This notice provides information about the lawsuit and the settlement. More detailed information is available [online here](#). You can also sign up to receive updates on the compensation process at the same link.

This notice also gives you a chance to remove yourself (opt out) from the class action. You should only remove yourself from the class action if you do not want to receive payment in this settlement and be bound by the settlement.

If you want to stay in the class action and be eligible to submit a claim for payment in this settlement, you do not need to do anything now.

If you would like help to better understand this notice, there is contact information below. You can make an appointment for a call with someone who will explain it to you and answer your questions.

What is the class action about?

The class action claims that from April 1, 1991 until March 31, 2022, Canada discriminated against First Nations children living on reserves or in the Yukon who were removed from their homes by child welfare agencies operating in First Nations communities and placed in out-of-home care.

The class action also covers claims that between 1991 and November 2, 2017, where Canada failed to provide (or delayed in providing) essential services to First Nations children who had a confirmed need for such essential services. This treatment discriminated against the children and broke a legal rule known as Jordan’s Principle.

Are you included in the class action?

In general, you are included in the class action if you are in one of the following groups:

Category 1: First Nations children living on-reserve or in the Yukon who were removed from their homes by child welfare agencies and placed into state care, foster care or group homes at any time between April 1, 1991 and March 31, 2022. This group also includes First Nations children who were not living on-reserve but one of their parents was ordinarily resident on a reserve at the time of their removal.

Category 2: First Nations children (living both on-reserve and off-reserve) who were confirmed to need an essential service but faced a delay, denial or a gap in receiving that essential service between April 1, 1991 and November 2, 2017;

Category 3: The parents, grandparents or siblings of one of the individuals above.

More details about who is included in the class action can be found [here](#).

What is the proposed settlement?

The plaintiffs and Canada have agreed to a settlement that requires that Canada pay \$20 billion in compensation. The settlement must be approved by the court before it becomes effective.

If the settlement is approved by the court, each removed child described in Category 1 may receive \$40,000 or more in compensation depending on how many people are approved for compensation. Parents or grandparents who were caring for a person in Category 1 at the time of removal may also be entitled to up to \$40,000 or up to a maximum of \$60,000 in cases of multiple removed children. Siblings of a removed child will not be entitled to any payment under the settlement.

Each person in Category 2 who:

- (a) lacked timely access to, or experienced a denial or gap in receiving an essential service that they were confirmed to have needed between December 12, 2007 and November 2, 2017 (under Jordan's Principle) are entitled to compensation. Those who suffered significant impact as a result of this may receive \$40,000 or more. Others may receive less than \$40,000 and up to \$40,000, depending on how many claimants are approved. The actual amounts that each claimant will receive cannot be determined until a later date when the number of people making a claim is known.

OR

- (b) lacked timely access to, or experienced a denial or gap in receiving an essential service that they were confirmed to have needed between April 1, 1991 and December 11, 2007 are entitled to receive compensation. Those who suffered significant impact as a result of this may receive \$20,000 or more. Others may receive less than \$20,000 and up to \$20,000, depending on how many claimants are approved. The actual amounts that each claimant will receive cannot be determined until a later date when the number of people making a claim is known.

Caregiving parent(s) or caregiving grandparent(s) of the persons in Category 2 who suffered the most significant hardship may also be entitled to compensation, under Category 3.

A fund of \$50 million will be established to assist First Nations children and families impacted by Canada's discrimination.

What are my options?

1. **Stay in the class action:** If you wish to stay in the class and be eligible to submit a claim for payment under the settlement, you do not need to do anything at this time.
2. **Remove yourself from the class action (opt out):** If you do not want to participate in this class action, and you do not want to receive a payment under the settlement, you need to remove yourself by submitting an Opt-Out Form by this date:
_____.

If you submit the Opt-Out Form, you will not receive compensation from the settlement.

To remove yourself from the lawsuit, please visit [URL] to fill out and submit an Opt-Out Form online, or mail a print copy of the Opt-Out Form to [ADDRESS] requesting to be removed from this class action. You can also receive a copy of the Opt-Out Form from the Administrator by contacting [1-800 NUMBER].

The deadline to submit an Opt-out Form and remove yourself from the lawsuit is **[DATE]**.

What if I want to object to or comment on the settlement?

The Federal Court will hold a hearing to decide if the \$20 billion settlement and the lawyers' fees should be approved. It is expected that the hearing will take place on **September 19-23, 2022** in Ottawa, but it is possible that this date might change. If the date changes, a new date will be posted here. Register here to receive notification by email of any change to the hearing date and/or place.

The hearing will take place in person and will be broadcasted online. Details of the hearing will be posted here.

You do not have to attend the hearing or provide any comments on the settlement in order to be eligible to receive compensation.

If you want to object to or comment on the settlement or the lawyers' fees that will be requested, you have two options:

1. **Object or provide comments in writing:** You may send any comments to _____ . Your comments will be sent to the Federal Court before the hearing.
2. **Object in person:** Ask to speak in court about the proposed settlement or the lawyers' fees on September 19-23, 2022, either in person at the Federal Court in Ottawa or by videoconference.

If you want to object, you must send your written comments or request to speak at the hearing by **September 12, 2022**.

Canadian Human Rights Tribunal decision

The settlement of the lawsuit will also be reviewed by the Canadian Human Rights Tribunal (Tribunal). A hearing before the Tribunal is expected to take place in June or July of 2022.

The Tribunal will be asked to make a ruling that the \$20 billion settlement of the lawsuit satisfies its previous compensation [order against Canada \(2019 CHRT 39\)](#). If the Tribunal finds that the \$20 billion settlement satisfies its compensation order against Canada, then the \$20 billion settlement will replace the compensation order, and you will not be allowed to claim a payment under the Tribunal's order. Also, if the Tribunal finds that the \$20 billion settlement of this lawsuit satisfies its compensation order, and if the Federal Court approves the settlement, then you will not be able to claim compensation under the Tribunal's compensation order even if you opt out of this lawsuit.

If the Tribunal does not find that the settlement satisfies its compensation order, then the settlement will come to an end and the September hearing before the Federal Court will not proceed. If that happens, you will receive another notice.

It is possible that some people who are entitled to a payment under the Tribunal's compensation order, in particular those persons in Category 3 above, may not receive direct compensation under the settlement of this lawsuit, or they may receive less money than they would be entitled to under the Tribunal's compensation order.

Are there any negative consequences of staying in the class action?

By staying in the class action, you will be eligible to submit a claim for compensation. However, by staying in the class action you will not be able to sue Canada. You can still sue an agency, foster parent or group home. You cannot apply to the Canadian Human Rights Tribunal for compensation, about the same discriminatory conduct that is the subject of the class action.

Who is representing the class?

The class is represented by the following plaintiffs: Xavier Moushoom, Jeremy Meawasige (by his litigation guardian, Jonavon Joseph Meawasige), Jonavon Joseph Meawasige, Ashley Dawn Louise Bach, Karen Osachoff, Melissa Walteson, Noah Buffalo-Jackson (by his litigation guardian, Carolyn Buffalo), Carolyn Buffalo, Dick Eugene Jackson, and Zacheus Joseph Trout. The Assembly of First Nations is also a plaintiff in the class action.

The plaintiffs are represented by five law firms from across Canada: [Sotos LLP](#), [Kugler Kandestin LLP](#), [Miller Titerle + Co.](#), [Nahwegahbow Corbiere](#) and [Fasken Martineau Dumoulin LLP](#).

You do not have to pay the lawyers, or anyone else, to be a part of this lawsuit or to receive payment in the settlement.

How will the lawyers be paid?

The lawyers will be paid by Canada. No amount paid to the lawyers will be taken from the \$20 billion settlement or from any payments that are made to class members.

The amount that the lawyers will be paid will be negotiated between the plaintiff lawyers and Canada. If they agree to an amount of fees, then the lawyers will ask the Court to approve the amount at the hearing currently scheduled for September 19-23, 2022.

More details on the legal fees that will be requested will be posted [here](#) after the negotiations have concluded.

Want more information about the class action or the settlement?

More information about the case _____

Need support or assistance?

Support services are available _____

To learn more about your options and determine if you are included, please visit: [URL] or call [1-800 NUMBER].

For more information about the settlement and your options, please contact:

SCHEDULE “B”

Long Form Notice of Certification and Settlement

Federal Child Welfare and Jordan’s Principle Class Action

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INTRODUCTION

The Federal Court of Canada has approved this notice.

The plaintiffs and Canada have reached a \$20 billion settlement of this class action taken on behalf of First Nations children and some of their family members. If you qualify, you may be entitled to payment under this settlement.

This notice provides information about the lawsuit and the settlement. More detailed information is available [online here](#). You can also sign up to receive updates on the compensation process at the same link.

This notice also gives you a chance to remove yourself from the class action. **You should only remove yourself from the class action if you do not want to receive payment in this settlement.**

If you want to stay in the class action and be eligible to submit a claim for payment in this settlement, you do not need to do anything now.

If you would like help to better understand this notice, there is contact information below. You can make an appointment for a call with someone who will explain it to you and answer your questions.

THE CLASS ACTION

WHAT IS A CLASS ACTION?

A class action is a lawsuit brought by one or more persons on behalf of a large group of people.

WHAT IS THIS CLASS ACTION ABOUT?

This class action is about discrimination by the Canadian government against First Nations children in providing child welfare, health care, and other essential services.

The class action claims that from 1991 until 2022, Canada discriminated against First Nations children living on reserves who were removed from their homes and placed in out-of-home care.

The class action also claims that between 1991 and 2017, Canada failed to provide (or delayed in providing) essential services to First Nations children who had a confirmed need for such essential services. This treatment discriminated against the children and broke a legal rule known as Jordan's Principle.

In the winter of 2022, the parties' intensive negotiations led to Canada committing **\$20 billion** to victims of discrimination to resolve the class action (the **Settlement**). The goal of the Settlement is to offer compensation to survivors and their families in recognition of the harms they've endured – while knowing that no amount of money can make up for their pain and suffering.

WHO IS INCLUDED IN THE CLASS ACTION?

Three (3) groups may receive compensation under the Settlement:

Category 1 First Nations children who were removed from their homes on reserve and placed in care at any time between April 1, 1991 and March 31, 2022.

Category 2 First Nations children who faced a service gap or were denied or delayed access to an essential service between April 1, 1991 and November 2, 2017.

Category 3 Their caregiving parents or caregiving grand-parents.

CATEGORY 1: REMOVED CHILDREN

Under the Settlement, First Nations children on reserve or those who had at least one parent living on reserve, or lived in the Yukon, and who were placed in care between April 1, 1991 and March 31, 2022 may be able to receive money. To find out more about compensation under the Settlement, click [here](#).

You may qualify for payment if you:

- Are First Nations;
- Lived on reserve or had at least one parent living on reserve, or in the Yukon as a child (except in the Northwest Territories)
- Were placed into care as a child between April 1, 1991 and March 31, 2022; and
- Your placement was funded by Canada.

Covered	Not Covered
First Nations children	Non- First Nations children
Children living on reserve or had at least one parent living on reserve, or lived in the Yukon	Children living off-reserve, or in the Northwest Territories
Children who were placed into care between April 1, 1991 and March 31, 2022, including in: <ul style="list-style-type: none"> • Foster Homes • Assessment Homes • Non-kin Foster Homes 	Children who were placed into care <i>prior</i> to April 1, 1991, or who were placed into: <ul style="list-style-type: none"> • Non-paid Kin Homes • Non-paid Community Homes

<ul style="list-style-type: none"> • Paid Kinship Homes • Group Homes • Residential Treatment Facilities • Others 	
Funded by Canada	Funded by a province

Children who were removed from their homes prior to 1991 are the subject of other class actions such as the “Sixties’ Scoop” settlement. These are separate class actions, distinct from this one.

WHAT DOES “FIRST NATIONS” MEAN UNDER THE SETTLEMENT WITH RESPECT TO REMOVED CHILDREN?

Under the Settlement, “First Nations” means Indigenous peoples who:

- (i) Are registered under the *Indian Act*;
- (ii) Were entitled to be registered under the *Indian Act* as of February 11, 2022; or
- (iii) Met band membership requirements as of at least February 11, 2022 (i.e., they were included on the Band List of their community)

I AM FIRST NATIONS BUT WAS NOT LIVING ON RESERVE AT THE TIME THAT I WAS REMOVED FROM MY HOME. CAN I STILL RECEIVE COMPENSATION?

If one or both of your parents were ordinarily resident on a reserve when you were placed into care, you may be able to get compensation. But, if neither you nor your parents were living on reserve, you are not entitled to compensation unless Canada funded your removal under an agreement with a province or territory.

Take this quiz to find out if you qualify in this category:

1. Are you First Nations?

Yes No

2. Did you live on a reserve or had at least one parent living on reserve, or lived in the Yukon?

(N.B. if you lived in the Northwest Territories, select “No”)

Yes No

4. Were you placed in care at any time between April 1, 1991 and March 31, 2022?

Yes No

If you answered “Yes” to all of these questions, you may qualify for payment. Contact the Assembly of First Nations Helpline at **[contact]** to learn more.

CATEGORY 2: JORDAN’S PRINCIPLE / TROUT

Under the Settlement, First Nations children who faced a service gap or were denied or delayed access to an essential service between 1991 and 2017 may be able to receive money. This group is commonly referred to as “Jordan’s Principle” class, in honour of Jordan River Anderson. (Although Jordan’s Principle did not exist until 2007, this category dates back to April 1, 1991 under the name of Trout.)

WHAT IS “JORDAN’S PRINCIPLE”?

“Jordan’s Principle” is a legal rule that requires the government to treat First Nations children in the same manner as non-First Nations children, and not deprive them of important services that they need. The government must put the interests of the child first, before any jurisdictional or funding dispute.

This principle was named in honour of Jordan River Anderson, who did not receive the services he desperately needed because the governments were arguing about who should pay for Jordan’s needs. Jordan’s Principle is intended to ensure that what happened to Jordan does not happen to other First Nations children.

To find out more about compensation under the Settlement, click [here](#).

You may qualify for payment if:

- You are First Nations (whether you lived on or off reserve, including in the Yukon and Northwest Territories);
- You needed an essential service between April 1, 1991 and November 2, 2017; and
- You requested the service but were denied or delayed access to this service, or you did not request the service but there was a service gap, because of a:
 1. lack of funding
 2. lack of jurisdiction
 3. jurisdictional dispute between Canada and the provincial / territorial government
 4. other reasons

Covered	Not Covered
First Nations children	Non-First Nations children
Children who were confirmed by a professional with relevant expertise to have needed an essential service	Children who needed a non-essential service
Were denied or delayed access to this service or faced a service gap	Were denied or delayed access to this service
Because of a: <ul style="list-style-type: none"> • lack of funding • lack of jurisdiction • service gap • jurisdictional dispute • other 	For any reason
Between April 1, 1991 and November 2, 2017	Before April 1, 1991 or after November 2, 2017

WHAT DOES “FIRST NATIONS” MEAN UNDER THE SETTLEMENT WITH RESPECT TO JORDAN’S PRINCIPLE CHILDREN?

Under the Settlement, “First Nations” means Indigenous peoples across Canada (including the Yukon and Northwest Territories) who:

- (i) Are registered under the Indian Act;
- (ii) Were entitled to be registered under the Indian Act as of February 11, 2022; or
- (iii) Were recognized as citizens or band members of a First Nations community as of February 11, 2022, and faced a delay, denial or service gap with respect to an essential service between January 26, 2016 and November 2, 2017.

Take this quiz to find out if you may qualify in this category:

1. Are you First Nations?

Yes No

2. Did a professional with relevant expertise confirm that you needed an essential service between April 1, 1991 and November 2, 2017? (For more information on the list of essential services, click [here](#))

Yes No

3. Were you denied access to this service, or did you experience a delay in receiving this service?

Yes No

4. Were you unable to obtain this service due to a service gap?

Yes No

If you answered “Yes” to these questions, you may qualify for payment.

CATEGORY 3: FAMILIES

The caregiving parents or the caregiving grandparents of children who were removed from their homes or denied access to an essential service may also be able to receive compensation. This includes the biological or adoptive parent(s), or grand-parent(s), of the child. Foster parents are not included.

Covered	Not Covered
Caregiving biological parent(s)	Foster parent(s)
Caregiving adoptive parent(s)	
Step-parent(s)	
Caregiving biological grand-parent(s)	
Caregiving adoptive grand-parent(s)	

Importantly, only those parent(s) or grand-parent(s) who were caring for the child at the time of removal are entitled to compensation – i.e., the *primary caregivers* – to a maximum of two (2) caregivers.

Siblings and other family members of the affected children will not receive direct compensation under this Settlement.

THE SETTLEMENT

OVERVIEW

Under the settlement Canada will pay committing **\$20 billion** to class members. In addition, Canada pledged an additional **\$20 billion** to fund long-term reform to eliminate systemic discrimination against First Nations children. However, that pledge is not part of this settlement.

The Settlement must be approved by the courts. If it is approved by the courts, individuals falling within Category 1, Category 2, or Category 3 may be able to receive compensation.

Is this case different from the Canadian Human Rights Tribunal compensation decision ordering Canada to pay \$40,000 to each affected individual?

The Settlement of the class action partly overlaps with the Tribunal compensation decision. The Tribunal will be asked to confirm that this settlement satisfies its compensation order. If the Federal Court then approves the Settlement, this Settlement will cover all claims under both the Tribunal and the class action. You will only need to make one application for compensation.

HOW MUCH COMPENSATION CAN I GET?

The amount of money you may receive will vary based on different factors. Each Category provides for an estimated minimum base payment. In addition, you may be able to receive additional payments, if certain factors are present.

CATEGORY 1: REMOVED CHILDREN

Minimum Payment

Under the Settlement, individuals who were removed from their homes and placed into care as children, between April 1, 1991 and March 31, 2022, are each entitled to a minimum payment of **\$40,000**.

Additional Payments

Some individuals will also be able to get more compensation, based on several factors. These include, for example:

- The age when you were first placed into care;
- The total amount of time spent in care;
- Whether you were removed from your home due to lack of access to an essential service;
- Whether you lived in a Northern or remote community;

- The number of times you were placed into care; and
- The number of out of home placements.

These factors are intended to acknowledge the harm suffered by each child, in light of their individual circumstances.

The availability and the amount of additional payments may vary depending on the number of applicants.

CATEGORY 2: JORDAN’S PRINCIPLE / TROUT

Minimum Payment

The minimum amount available for members of Category 2 depends on *when* the essential service gap or the denial or delay of an essential service happened:

Between April 1, 1991 – December 11, 2007 **up to \$20,000 or more**

Between December 12, 2007 – November 2, 2017 **up to \$40,000 or more**

The actual amount each person can receive will depend on the severity of the impact on the child, the number of approved claimants, and the availability of funds.

Additional Payments

Individuals may also be able to get more money, in certain circumstances, if the denial or delay of an essential service had a severe impact on them. Any additional payments will depend on the severity of the impact, the number of approved claimants, and the availability of funds.

CATEGORY 3: FAMILIES

The caregiving parents or the caregiving grandparents of children who were removed from their homes or denied access to an essential service may also be able to receive compensation. The amount of money a caregiver may be entitled to depends on the Category.

Category 1: \$40,000 per child up to a maximum of \$60,000
Caregivers of removed children

Category 2: The amount is not determined at this time. It is expected that the caregiving **Caregivers of** parents or caregiving grandparents of the children who were most **Jordan's** significantly impacted will receive direct compensation. The amount each **Principle and** caregiver may receive will depend on the number of approved claimants.
Trout children

Siblings and other family members of the affected children will not receive direct compensation under this Settlement.

To find out how you can get money, click [here](#).

WILL MY MONEY BE TAXED?

Money received under the Settlement is not subject to federal income tax. In addition, Canada has agreed to work with provinces and territories to exempt these amounts from provincial taxes or other deductions.

ARE THERE ADDITIONAL SUPPORTS FOR CHILDREN & FAMILIES?

In addition to the above, a **\$50 million** trust fund will be created to support First Nations children and families in different ways. This includes, for example:

- Grants to facilitate culture, community and healing-based services to class members and their children;
- Supports for children in care, or formerly in care, including funding for family and community reunification;
- Funding to facilitate access to cultural programs, activities and supports (ex. youth groups, ceremonies, languages, Elders and Knowledge Keepers, mentors, land-based

- activities, and culturally-based arts and recreation);
- Supports for children transitioning out of care (ex. safe and accessible housing, life skills and independent living, financial literacy, continuing education, health and wellness supports, etc.);
 - Facilitating the creation of a scholarship for the Jordan's Principle Class and their children; and
 - The creation of a national network for First Nations children in care.

APPROVAL OF SETTLEMENT

WHEN WILL THE SETTLEMENT BE APPROVED?

FEDERAL COURT

The Federal Court will hold a hearing to decide if the Settlement should be approved. This hearing will take place in Ottawa on **September 19 to 23, 2022**. Details of the hearing will be posted [here](#) as well as details on how to attend a virtual hearing if available.

It is possible that this date might change. Sign up [here](#) to receive notifications by email of any change to the time and place of the hearing.

CANADIAN HUMAN RIGHTS TRIBUNAL

The Settlement must also be reviewed by the Canadian Human Rights Tribunal. A hearing before the Tribunal is expected to take place before the hearing at the Federal Court.

At this hearing, the Tribunal will be asked to confirm if the Settlement satisfies its [previous compensation order against Canada](#) (the **Compensation Order**). If it does, the Settlement will replace the Compensation Order. This means that claimants will have to seek compensation through the Settlement rather than the Compensation Order.

CAN I COMMENT OR OBJECT TO THE SETTLEMENT?

You do not have to attend the hearing to provide any comments on the Settlement, but you can if you want to.

If you want to provide comments or object to the Settlement, there are two (2) ways you can do so:

In writing: You can provide comments in writing to this address: [insert]. Your comments will be sent to the Federal Court before the hearing. To be included, all written comments must be received by **September 12, 2022**.

In person: You can ask to speak in court about the Settlement on September 19 to 23, 2022 in person or by videoconference. If you want to comment or object in person, you must send your request to speak at the hearing by **September 12, 2022**.

You will also have an opportunity to comment on the fees for the lawyers who worked on the class action. For more information about the lawyers and their fees, click [here](#).

WHAT HAPPENS AFTER THE SETTLEMENT IS APPROVED?

Participation in the Settlement is voluntary. You can decide if you would like to participate and make a claim for payment. The following are your options:

OPTION 1: STAY IN THE CLASS ACTION

If you want to stay in the class and submit a claim for payment under the Settlement, you do not need to do anything at this time. Once the Settlement is approved by the court, you will be provided with information about how to make a claim.

ARE THERE ANY NEGATIVE CONSEQUENCES OF STAYING IN THE CLASS ACTION?

Staying in the class action will not impact any government supports that you may be receiving or may be entitled to receive in the future from any government.

By staying in the class action, you can submit a claim for compensation under the Settlement. But, you will not be able to sue Canada again, or make an application to the Canadian Human Rights Tribunal, regarding the same discriminatory conduct.

Nothing in the Settlement prevents you from taking legal action for any other harms not included in this class action, or starting a claim against a province, territory or agency.

OPTION 2: REMOVE YOURSELF FROM THE CLASS ACTION

If you do not want to participate in the class action, you can ask to be removed from the lawsuit. You can do so by filling out an Opt-Out Form online or mailing a copy to this address: [insert]. **If you remove yourself from the class action, you will NOT receive any compensation under this Settlement.**

You can also contact the Administrator of the Settlement by contacting [1-800-NUMBER].

The last day to remove yourself from the class action is: **[date]**.

IF I OPT-OUT OF THE SETTLEMENT, CAN I STILL GET MONEY FROM THE CANADIAN HUMAN RIGHTS TRIBUNAL COMPENSATION ORDER?

No. If approved by the Canadian Human Rights Tribunal, the Settlement will replace the Compensation Order process altogether. This means that claimants can only request money through the Settlement. If you opt-out of the Settlement, you will not be able to claim compensation for this discriminatory conduct.

CLASS ACTION TEAM

WHO IS REPRESENTING THE CLASS?

YOUR REPRESENTATIVE PLAINTIFFS

The Assembly of First Nations is a plaintiff. The class action was brought by the following individuals on behalf of affected First Nations across Canada:

- Xavier Moushoom
- Jeremy Meawasige
- Jonavon Joseph Meawasige
- Ashley Dawn Louise Bach
- Karen Osachoff

- Melissa Walterson
- Noah Buffalo-Jackson
- Carolyn Buffalo
- Dick Eugene Jackson
- Zacheus Joseph Trout

These are your representative plaintiffs. They act as representatives of the entire class.

YOUR LEGAL TEAM

The class is represented by five (5) law firms across Canada:

- Sotos LLP
- Kugler Kandestin LLP
- Miller Titerle + Co.
- Nahwegahbow Corbiere
- Fasken Martineau Dumoulin LLP

HOW WILL THE LAWYERS BE PAID?

You do not have to pay the lawyers, or anyone else, to be a part of this lawsuit or to receive payment in the Settlement.

The lawyers will be paid by Canada, separate and apart from the Settlement. These fees will not be taken from the Settlement, or from any payments to be made to class members. The settlement funds (\$20 billion) have been set aside for the class *only*.

The amount to be paid to the lawyers will be negotiated separately between the lawyers and Canada, and will be subject to court approval. The amount will have no impact on your ability to get money under the Settlement.

More details on the legal fees that will be requested will be posted here after the negotiations have concluded.

CONTACT US

WANT MORE INFORMATION ABOUT THE CLASS ACTION OR THE SETTLEMENT?

More information about the case _____

NEED SUPPORT OR ASSISTANCE?

Support services are available _____

You can contact the class action administrator for help at: [**contact**]

You can also contact the Assembly of First Nations Helpline at: [**contact**]

To learn more about your options and determine if you are included, please visit: [URL] or call [1-800 NUMBER].

For more information about the Settlement and your options, please contact:

You can contact the class action administrator for help at: [**contact**]

You can also contact the Assembly of First Nations Helpline at: [**contact**]

SCHEDULE "C"

OPT-OUT FORM

TO: [CLASS ACTION ADMINISTRATOR]

[Address]

[Email]

[Fax]

[Phone number]

I do not want to participate in the class actions styled as *Xavier Moushoom et al v. The Attorney General of Canada* and *Zacheus Trout et al v. The Attorney General of Canada* regarding the claims of discrimination against First Nations children and families. I understand that by opting out, **I will NOT be eligible for the payment of any amounts** awarded or paid in the class actions, and those associated with the Canadian Human Rights Tribunal File No.: T1340/7008. If I want an opportunity to be compensated, I will have to make a separate individual claim and if I decide to pursue my own claim, and I want to engage a lawyer this will be at my own expense.

Please state your reason for opting out: _____

If you are sending this form on behalf of someone else, what is your full name and relationship to that person: Full Name: _____ Relationship: _____

Date: _____

Signature

Full Name of the Person Opting Out

Date of Birth of the Person Opting Out

Indian Registry/Status Number (if available)
of the Person Opting Out

Address of the Person Opting Out

Reserve/Town/City, Province, Postal Code

Telephone

Email

This notice must be delivered on or before [DATE] to be effective.