

Federal Court



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	Dockets: T-402-19		
	T-141-20		
	Alexander, Petranski,		
	T-1120-21		
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Vancouver, British Columbia, April 1, 2026

PRESENT: The Honourable Madam Justice Ayles

Docket: T-402-19

BETWEEN:

**XAVIER MOUSHOOM, JEREMY
MEAWASIGE (BY HIS LITIGATION
GUARDIAN, JONAVON JOSEPH
MEAWASIGE) AND JONAVON JOSEPH
MEAWASIGE**

Plaintiffs

and

THE ATTORNEY GENERAL OF CANADA

Defendant

Docket: T-141-20

AND 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

**HIS MAJESTY THE KING AS
REPRESENTED BY THE ATTORNEY
GENERAL OF CANADA**

Defendant

Docket: T-1120-21

AND BETWEEN:

**ASSEMBLY OF FIRST NATIONS AND
ZACHEUS JOSEPH TROUT**

Plaintiff

and

THE ATTORNEY GENERAL OF CANADA

Defendant

ORDER AND REASONS

(Incarcerated Class Members Process)

[1] Before the Court is a motion brought by the Settlement Implementation Committee [SIC], on behalf of the Plaintiffs, for an order approving the proposed incarcerated class member claims process and notice plan [Incarcerated Class Members Process], in the form attached as Schedule “A” to the Notice of Motion, subject to the right of the SIC to make non-material amendments thereto as may be necessary or desirable.

[2] None of the Defendants nor the First Nations Child and Family Caring Society have taken a position on the motion, despite having been served therewith.

[3] By way of background, the Plaintiffs and the Defendant executed a Final Settlement Agreement in respect of the underlying class proceedings on April 19, 2023, which was amended by way of an Addendum dated October 10, 2023 [FSA], and approved by this Court on October 24, 2023, pursuant to Rule 334.29(1) of the *Federal Courts Rules*, SOR/98-106 [see *Moushoom v Canada (Attorney General)*, 2023 FC 1466]. My Reasons approving the settlement detail the nature of the class action proceeding and the key provisions of the FSA [see *Moushoom v Canada (Attorney General)*, 2023 FC 1533]. For the purpose of these Reasons, the capitalized terms set out herein shall have the same meanings as set out in the FSA.

[4] Due to the complexity of this proceeding, the FSA did not prescribe the manner in which the claims processes for the nine classes would be administered. Rather, the FSA left the determination of the claims processes for future development by the SIC and approval by the Court. This Court has already approved the claims process for the Removed Child Class and the Removed Child Family Class. This is the second motion brought by the SIC for approval of a claims process and there are a number that remain to be brought.

[5] It is of note that Incarcerated Class Members is not a stand-alone Class. Rather, the term is used to refer to Class Members belonging to any of the Jordan's Principle Class, Jordan's Principle Family Class, Removed Child Class, Removed Child Family Class, Trout Child Class, Trout Family Class, Kith Child Class, Kith Family Class and Essential Services Class, who are

incarcerated in federal penitentiaries, provincial prisons and other penal and correctional institutions or institutions where individuals are held involuntarily due to matters such as a lack of criminal responsibility due to a mental disorder. The Incarcerated Class Members Process is required by the FSA and establishes a process for communicating the various claims processes to Class Members who are incarcerated as, and when, the various claims processes are approved by the Court.

[6] The Incarcerated Class Members Process is not akin to the claims processes contemplated for the specific Classes. However, the FSA includes the Incarcerated Class Members Process in the definition of Claims Process as set out in Article 1.01 therein:

“Claims Process” means the process, including a distribution protocol, to be further designed and detailed in accordance with this Agreement for the distribution of compensation under this Agreement to eligible Class Members. The Claims Process also includes the Incarcerated Class Members Process and such other processes as may be recommended by the Administrator and experts, agreed to by the Plaintiffs and approved by the Court, for the submission of Claims, determination of eligibility, assessment, verification, determination of possible enhancement, payment of compensation to Class Members, and the role of the Third Party Assessor. [...]

[Emphasis added.]

[7] As such, I am satisfied that the same legal principles applicable to the approval of a claims process apply on this motion.

[8] The legal test to be applied in approving a claims process is analogous to the test applied by the Court when approving a class action settlement; namely, whether the claims process is “fair, reasonable and in the best interests of the class as a whole” [see *Wenham v Canada (Attorney*

General), 2020 FC 588 at para 96, aff'd 2020 FCA 186, leave to appeal ref'd 2021 CanLII 49683 (SCC); *Brazeau v Canada (Attorney General)*, 2020 ONSC 7229 (CanLII) at para 73]. The test for approving claims processes is not one of perfection [see *Wenham, supra* at para 51; *McLean v Canada*, 2019 FC 1075 at para 76; *Merlo v Canada*, 2017 FC 533 at para 18].

[9] Like settlements, claims processes must be looked at as a whole. It is not open for this Court to rewrite the substantive terms of a claims process or assess the interests of the individual class members in isolation from the whole class [see *Tataskweyak Cree Nation v Canada (Attorney General)*, 2021 FC 1415 at para 62; *McLean, supra* at para 68]. Ultimately, when approving a claims process, this Court cannot modify nor alter the claims process; it must approve it as is or reject it [see *McLean v Canada (Attorney General)*, 2023 FC 1093 at para 37; *Tataskweyak Cree Nation, supra* at para 62].

[10] In support of its request that the Court approve the Incarcerated Class Members Process, the SIC has provided an affidavit from Jordan Carrier, Director of Settlements at Believeco:Partners, doing business as Castlemain. Castlemain is the communications agent for Deloitte LLP in its role as Administrator of the Settlement. Ms. Carrier's evidence details the efforts undertaken to develop the Incarcerated Class Members Process, which included fourteen meetings with corrections departments from ten provinces and territories between June 2024 and July 2025; and fourteen meetings with representatives from Litigation Case Management of Correctional Service Canada between December 2023 and December 2025. These consultations were intended to ensure that the process would be realistic and responsive to the needs of incarcerated individuals. Topics discussed during these consultations included: (a) restrictions

related to prison phone systems and calls; (b) adding the Administrator's call centre phone number to common access lists (which are lists of approved phone numbers that incarcerated individuals can call for free from correctional facilities); (c) the ability of the Administrator to broadcast videos or other materials on in-facility televisions; (d) preferred methods of receiving information (i.e., on CD-ROM for some facility libraries); (e) access to facilities for in-person workshops; (f) supports available for incarcerated individuals within correctional facilities; (g) the ability of incarcerated individuals to receive mail; (h) the ability of incarcerated individuals to receive compensation payments; (i) limitations related to the sending of and content of toolkits to correctional facilities; (j) the inclusion of youth detention facilities in outreach by the Administrator (i.e., distributing informational toolkits); and (k) the types and forms of personal identification to which incarcerated individuals have access.

[11] Ms. Carrier also details a survey that was distributed to certain provincial and territorial correctional authorities between October 2024 and May 2025, which sought information on the number of incarcerated First Nations individuals, procedures for sending communications materials, preferred delivery methods, opportunities for virtual and in-person service by Special Populations Claims Helpers, the types and quantities of communication materials required and considerations related to compensation.

[12] The Incarcerated Class Members Process provides a comprehensive framework for facilitating claims by incarcerated individuals eligible to make a claim under the FSA, which recognizes and addresses the unique barriers faced by Class Members in federal, provincial and

territorial correctional facilities (including those held for mental health reasons). The framework includes:

- A. The distribution of printed, paper copies of Claims Forms and postage-paid envelopes to correctional facilities, with quantities determined based on the estimated First Nations population at each facility and restocked as need be. Incarcerated individuals may also request direct mailings of forms and envelopes.
- B. Communications and notice methods rely heavily on printed materials in English, French, Cree, Mi'kmaq, Dene and Ojibway, with digital versions on CD-ROMs/USBs for use in common areas where computers are available. Educational videos and interactive modules made available in facility libraries. Toolkits are distributed to organizations supporting incarcerated individuals and directly to individuals/families upon request.
- C. Outreach strategies include collaboration with Indigenous organizations and community groups specializing in providing support to incarcerated Indigenous peoples (including youths). The messaging emphasizes trauma-informed approaches and mental health supports, as well as the importance of keeping contact information up-to-date due to frequent transfers or releases.
- D. Alternative forms of identification in support of a claim, in recognition of the reality that many incarcerated individuals may lack standard forms of identification.
- E. Focus on the submission of Claims Forms and communications from the Administrator to incarcerated claimants by mail, in recognition that online or

electronic submissions and communications are generally not feasible due to restricted internet access.

- F. Payments are made to Class Members in such a manner that respects the facility restrictions on trust account deposits and Class Member preferences.
- G. Various other unique provisions, including privacy accommodations and those that recognize limited literacy and restricted internet access, with the potential for other measures of accommodation, such as deadline extensions.
- H. Special Populations Claims Helpers trained to assist incarcerated claimants with Claims Forms and documentation and who staff a dedicated, toll-free support line accessible from federal and most provincial/territorial facilities.

[13] Ms. Carrier provided evidence that various elements of the proposed Incarcerated Class Members Process (including the dedicated phone lines) have been implemented on an *ad hoc* basis without problems, since the Claims Process opened on March 10, 2025, for the Removed Child Class and Removed Child Family Class.

[14] Having reviewed the Incarcerated Class Members Process, I am satisfied that it meets the requirements of the FSA as a whole. Importantly, I find that it meets the requirements of Article 5.01(3) of the FSA in that, as designed, the Incarcerated Class Members Process is expeditious, cost-effective, user-friendly, culturally sensitive, trauma-informed and non-traumatizing, with necessary accommodations for persons with disabilities or vulnerabilities. The

evidence demonstrates that extensive efforts have been undertaken since approval of the FSA to design and develop the Incarcerated Class Members Process; and that it is consistent with the governing principles and terms of the FSA.

[15] I am satisfied that the Incarcerated Class Members Process is fair, reasonable and in the best interests of the Class as a whole. Accordingly, it is hereby approved.

ORDER in T-402-19, T-141-20, T-1120-21

THIS COURT ORDERS that:

1. The Incarcerated Class Members Process, substantially in the form appended as Schedule “A” to the Notice of Motion, is hereby approved, subject to the right of the Settlement Implementation Committee to make non-material amendments thereto as may be necessary or advisable.
2. There shall be no costs of this motion.

“Mandy Aylen”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKETS: T-402-19, T-141-20 AND T-1120-21

DOCKET: T-402-19

STYLE OF CAUSE: XAVIER MOUSHOOM, JEREMY MEAWASIGE (BY HIS LITIGATION GUARDIAN, JONAVON JOSEPH MEAWASIGE) AND JONAVON JOSEPH MEAWASIGE v THE ATTORNEY GENERAL OF CANADA

AND DOCKET: T-141-20

STYLE OF CAUSE: 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 v HIS MAJESTY THE KING AS REPRESENTED BY THE ATTORNEY GENERAL OF CANADA

AND DOCKET: T-1120-21

STYLE OF CAUSE: ASSEMBLY OF FIRST NATIONS AND ZACHEUS JOSEPH TROUT v THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: MARCH 31, 2026

ORDER AND REASONS AYLEN J.

DATED: APRIL 1, 2026

APPEARANCES:

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