

Federal Court



Cour fédérale

**Date: 20200117**

**Docket: T-143-18**

**Citation: 2020 FC 73**

**Ottawa, Ontario, January 17, 2020**

**PRESENT: Mr. Justice Favel**

**PROPOSED CLASS PROCEEDING**

**BETWEEN:**

**ANN CECILE HARDY**

**Plaintiff**

**and**

**THE ATTORNEY GENERAL OF CANADA**

**Defendant**

**ORDER**

**UPON MOTION** in writing pursuant to Rules 369 and 334.12(2) of the *Federal Courts Rules*, SOR/98-106, seeking an order:

- a) Certifying this action as a class proceeding;
- b) Certifying the classes;
- c) Appointing the representative plaintiff;
- d) Setting out the common issues of fact or law for the classes; and
- e) Appointing class counsel;

**AND UPON** considering that this actions concerns allegations by the Plaintiff that Canada breached duties owed to persons admitted to Indian Hospitals;

**AND UPON** considering that the Plaintiff and the Defendant have consented to the form of a draft order;

**AND UPON** considering the certification conditions that must be met and the matters to be considered as set out in Rule 334.16;

**AND UPON** being satisfied that this is an appropriate proceeding for certification as a class proceeding on the proposed terms;

**THIS COURT ORDERS that:**

1. This action is hereby certified as a class proceeding against the Attorney General of Canada.
2. The Classes are defined as follows:

Primary Class means all persons who were admitted to an Indian Hospital during the Class Period; and

Family Class means all persons who are a spouse or former spouse, child, grandchild or sibling of a member of the Primary Class and the spouse of a child, grandchild or sibling of a member of the Primary Class.

(“Class Members”)

3. The Class Period means the period from and including the date on which Canada assumed management and control of any particular Indian Hospital, which shall be no earlier than January 1, 1936 and ending on the earlier of the following dates:

- a) The date of closure of any particular Indian Hospital; or
  - b) The date on which management and control of any particular Indian Hospital was effectively transferred from Canada; or
  - c) December 31, 1981.
4. The representative Plaintiff of the Primary Class hereby appointed is Ann Cecile Hardy.
  5. The representative Plaintiff of the Family Class hereby appointed is Cecil Hardy.
  6. This proceeding is certified on the basis of the following common issues:
    - a) Did Canada owe duties to Class Members in respect of Indian Hospitals?
    - b) If the answer to a) is yes, did Canada breach any of those issues?
  7. Koskie Minsky LLP, Cooper Regel, a member of Masuch Law LLP, Klein Lawyers LLP and Merchant Law Group LLP are appointed as Class Counsel.
  8. The relief sought by the Class Members is damages and declarations.
  9. The Parties shall, as part of a joint litigation plan, specify the time and manner for Class Members to opt out of the class proceeding, and shall bring a motion in writing seeking to amend this Order to reflect the opt out provisions, all pursuant to Rules 334.17(1)(f) and 334.19 of the *Federal Courts Rules*.
  10. No costs are payable on this motion for certification in accordance with Rule 334.39 of the *Federal Courts Rules*.

"Paul Favel"

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Judge