

Court File No. T-1417-18

**FEDERAL COURT****CLASS PROCEEDING**

B E T W E E N:

**REGINALD PERCIVAL, ALLAN MEDRICK MCKAY,  
IONA TEENA MCKAY AND LORNA WATTS**

Plaintiffs

- and -

**HIS MAJESTY THE KING IN RIGHT OF CANADA  
as represented by THE ATTORNEY GENERAL OF CANADA**

Defendant

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**AFFIDAVIT OF KIMBERLEE FORD**

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I, **KIMBERLEE FORD**, of the City of Ottawa, in the Province of Ontario,**AFFIRM AS FOLLOWS:**

1. I am a Senior Case Manager with the Resolution and Partnership Sector of the Department of Crown-Indigenous Relations and Northern Affairs Canada ("CIRNA"). Prior to assuming my current position in July 2018, I have worked on Indigenous Childhood Claims litigation since September 2009. I am the Senior Case Manager responsible for the management of this class action, and have been since 2018.
2. In my position, I am responsible for:
  - Management of class action, individual and multi-plaintiff actions relating to Indigenous Childhood Claims Litigation (federal day schools, provincial schools and boarding homes and Indian Hospitals and sanatoria). In this capacity I am responsible for:

- The strategic management of litigation by assessing the implications of the litigation and developing Canada's position;
  - Management of settlement implementation for settled Childhood Claims class actions;
  - Provision of advice and recommendations to the Minister, Deputy Minister, Assistant Deputy Minister and other senior officials regarding Indigenous Childhood Claims Litigation, including information relevant to Final Settlement Agreements;
  - Representing the department at negotiations, including negotiations leading to Final Settlement Agreements;
  - Consulting my colleagues within CIRNA and externally with other government departments in the management of Childhood Claims Litigation;
  - Management of multiple, complex research projects for the purpose of responding to this litigation; and,
  - Providing direction to departmental staff and Department of Justice counsel.
3. Through my position and experience, I have become particularly familiar with the Indigenous Childhood Claims Litigation claims. These claims stem from historic policies and programs related to Indigenous child educational and care settings. This includes litigation related to: Indian Residential School day scholars, federal day schools, provincial schools, boarding homes, non-federal residential schools and hostels, individuals involved in "the Sixties Scoop" and Indian Hospitals and sanatoria.
  4. As a result of my position and experience, I have knowledge of the matters addressed herein. If I reference information from third parties, I believe that information to be true.

### Negotiations between the Representative Plaintiffs and Canada

5. The parties came to an Agreement in Principle on December 7, 2022, after dispute resolution sessions with Justice Strickland of the Federal Court from November 14 – 16, 2022 and December 6 – 7, 2022. I was present at the meetings where the parties discussed settlement, including at the Judicial Dispute Resolution Conferences, in my capacity as the departmental client representative for CIRNA. I attended these discussions, along with representatives of the Attorney General of Canada, in good faith, and with the aim to achieve a fair and lasting settlement acceptable to all parties and which would avoid the need for costly and prolonged litigation.
6. The negotiations required to reach an Agreement in Principle and then ultimately a Final Settlement Agreement were complex and challenging. Many issues were raised and canvassed thoroughly by the parties, at times with information from outside experts and sources. Each party was able to fully develop and voice their positions, including Canada, and there was vigorous debate. These issues were ultimately resolved to the satisfaction of the parties, and are reflected in the Final Settlement Agreement.

### CIRNA Research on the Federal Boarding Home Program

7. CIRNA began its research of the Federal Boarding Home Program in 2018, though some work had initially began for Quebec residents who were billeted by the Government of Canada as part of the action in *Wiichihiiwewin Centre of Waskaganish and Anne Smith v. Attorney General of Canada* (500-06-00812-160).
8. CIRNA contracted with independent research firms to undertake research, document collection, and to draft reports related to the federal policies and program operations, the devolution of program administration to First Nation, Tribal Council or provincial government control, and student placement records. Over the course of six years, CIRNA has spent over \$2.6 Million for two firms (The History Group and Canadian Development Consultant International) to complete this work.

9. This work included supporting the development of a chart intended to track the dates of program transfer from Canada to First Nation, Tribal Council or provincial government control. A spreadsheet was created listing all First Nations, Tribal Councils, Education Authorities and independent research firms were asked to locate archival documents that would identify the date of transfer.
10. While the research firms were able to locate dates of transfer for some First Nations and Indigenous Organizations, most of the records located were inconclusive and/or incomplete and not reliable to determine a specific devolution date. These issues were considered in the design and content of the Final Settlement Agreement.
11. Due to the difficulties in locating archival documents to support the date of transfer, Canada provided funding to support the work of Melanie Vincent, who was asked to reach out directly to Indigenous governments directly to see if they had documents related to the devolution of responsibility for the Boarding Home Program from federal to Indigenous control.

#### Government of Canada Indigenous Mental Wellness Initiatives

12. Indigenous Services Canada's (ISC) First Nations and Inuit Health Branch (FNIHB) has had a longstanding role of supporting the delivery of health services to First Nations and Inuit.
13. ISC, through FNIHB, works with First Nations, Inuit, provinces and territories to advance collaborative models of health and health care that support individuals, families and communities in achieving their health and wellness goals.
14. The Government of Canada has made significant recent investments to improve mental wellness in Indigenous communities, with an approximate annual investment of \$650 million in 2022-23.
15. These investments are flexible to meet the immediate mental wellness needs of communities by supporting Indigenous-led, culturally-relevant community-based mental wellness promotion, on-the-land initiatives, suicide prevention, life

promotion, crisis response, and substance use treatment and prevention services in Indigenous communities. This funding also supports the provision of essential mental health, cultural, and emotional support to Survivors of Indian Residential Schools and their families, former students of federal Indian Day Schools and their families as well as those affected by the issue of Missing and Murdered Indigenous Women and Girls.

16. The Hope for Wellness Help Line was launched in 2016 and offers support, including crisis intervention, and referrals to community-based services to all Indigenous people. Trained counsellors are available by phone or online chat. This service is available in English and French, and, upon request, in Cree, Ojibway, and Inuktitut.
17. The Hope for Wellness Line is administered through a contract with Donna Cona, an Indigenous service firm. Donna Cona is an Indigenous-owned and operated business, technology, strategic planning and health services consulting service company in Canada. In addition to the Hope for Wellness Line, Donna Cona also administers the Indian Residential Schools Crisis Line, which has been in operation since 2008, and operates a line which supports all those impacted by the ongoing issue of Missing and Murdered Indigenous Women, Girls and 2SLGBTQQIA+ people.
18. ISC also funds mental wellness services through the Non-Insured Health Benefits Program's Mental Health Counselling Benefit. This Benefit provides coverage to mental health counselling from registered health professionals including coverage for medical transportation, where mental health counselling is not available locally, as part of federally-funded mental wellness services for First Nations and Inuit people.
19. As of October 1, 2013, the First Nations Health Authority in British Columbia took on responsibility for the design, management and delivery of all Indigenous Service Canada-funded health programs and services for First Nations in British Columbia.

ISC no longer has any day-to-day operational responsibilities in British Columbia for First Nations health.

20. I make this affidavit for the purposes of the motion to approve the Final Settlement Agreement in this matter and for no improper purpose.

Affirmed before me at  
the City of Ottawa  
in the Province of Ontario  
this 11<sup>th</sup> day of August 2023

  
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Commissioner for Taking Affidavits

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**KIMBERLEE FORD**

**Sarah-Dawn Norris**