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F I L E D	FEDERAL COURT COUR FÉDÉRALE		D É P O S É
May 15, 2026 15 mai 2026			
Priscilla Lam			
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FEDERAL COURT
PROPOSED CLASS PROCEEDING

Between

BRAELYN CATCHEWAY AND FAWN WAPIOKE

Plaintiffs

and

HER MAJESTY THE QUEEN

Defendant

Brought pursuant to the *Federal Court Rules*, SOR/98-106

REPLY TO AMENDED STATEMENT OF DEFENCE
(First Nations Schools)

1. The Plaintiff admits the allegations contained in paragraphs 13, 19, 22, 25, 27-32, 42-47 of the Amended Statement of Defence.
2. The Plaintiff denies the allegations contained in paragraphs 20, 21, 23, 24, 26, 51-73, 76, 77 of the Amended Statement of Defence.
3. The Plaintiff has no knowledge of the allegations contained in paragraphs 33-41, 48-50 of the Amended Statement of Defence.
4. Unless specifically admitted below, the Plaintiff denies the remaining allegations in the Amended Statement of Defence.
5. In response to paragraph 51, “Common Conduct” – as defined in the court’s April 26, 2023 Certification Order – includes the Defendant’s failure to ensure that reserve schools provide education comparable to the education provided in provincial schools. Accordingly, Common

Conduct includes, but is not limited to, the Department (“DIAND”¹) failing to collect and analyze data regarding provincial schools and reserve schools, failing to review and analyze provincial education funding formulae, failing to fund the true cost of education in reserve schools, failing to provide predictable and stable funding, failing to use appropriate methods to calculate graduation rates, and underfunding reserve schools in comparison to provincial schools.

6. In response to paragraphs 52 and 53, DIAND’s stated objective was to ensure that reserve schools provide education comparable to education provided in provincial schools. The Plaintiff’s allegations do not challenge that objective. Rather, the Plaintiff alleges that the Defendant negligently implemented and operated the policy, as pleaded at paragraphs 5, 6, 17, and 18 of the Further Amended Statement of Claim.

7. In response to paragraph 72, among other things, the Plaintiff challenges DIAND’s decision to provide inaccurate and misleading data to Parliament. For example, DIAND misleadingly altered graduation data by removing approximately half of all dropouts from the calculation of reserve school graduation rates. DIAND then provided those graduation rates to Parliament.

8. In response to paragraphs 74 and 75, the limitation periods applicable to Class Members’ claims will vary depending on their personal circumstances. Individuals within the proposed class definition are in every Canadian province and territory. The defendant’s actions did not occur in a single province. Pursuant to section 32 of the *Crown Liability and Proceeding Act*, RSC 1985, c C-50 and section 39 of the *Federal Courts Act*, RSC 1985, c F-7, the applicable prescription period for an individual Class Member is at least 6 years. Legal disability and other personal circumstances of Class Members will also result in postponement of the prescription period as provided in the applicable legislation or at common law. The plaintiffs do not know the personal circumstances of every Class Member who may assert an individual claim if the class is successful at the common issues trial. The plaintiffs plead equitable postponement on the basis that the true

¹ As noted in the Further Amended Statement of Claim, DIAND stands for the Department of Indian Affairs and Northern Development and its successor ministries including, but not limited to, Aboriginal Affairs and Northern Development Canada (“AANDC”), Indigenous and Northern Affairs Canada (“INAC”), Crown-Indigenous Relations and Northern Affairs Canada (“CIRNAC”), and Indigenous Services Canada (“ISC”).

funding levels were concealed or intentionally opaque such that the plaintiffs and class members could not discover their claim.

Date: May 15, 2026



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