

2024 01G CP 0064
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
GENERAL DIVISION

BETWEEN:

INNU NATION INC., GREGORY RICH,
MARIE MARTHA ANDREW, AND
MAGDALINE BENUEN

PROPOSED REPRESENTATIVE
PLAINTIFFS

AND:

ATTORNEY GENERAL OF CANADA

FIRST DEFENDANT

AND:

HIS MAJESTY THE KING IN RIGHT OF
THE PROVINCE OF NEWFOUNDLAND
AND LABRADOR

SECOND DEFENDANT

Brought under the *Class Actions Act*, SNL 2001, c C-18.1

AFFIDAVIT OF GREGORY RICH

I, Gregory Rich, of the Innu Community of Natuashish, in the Province of Newfoundland and Labrador, make oath and say as follows:

1. I am a Proposed Representative Plaintiff for the Survivor Class in this proposed class action. I have personal knowledge of the matters to which I depose in this affidavit, except where stated to be on information and belief, in which case I disclose the source of my information, and I believe that such information is true.

2. This affidavit is sworn in support of the Proposed Representative Plaintiffs' motion for certification for this proposed class action.

My Background

3. I was born on December 25, 1968. I grew up mainly in Davis Inlet, as well as spending periods of time on the land, until about 1984 when I moved to Happy Valley-Goose Bay. I returned to Davis Inlet in or about 1985.
4. The Mushuau Innu community located in Davis Inlet was relocated to Natuashish in 2002-2003. I was part of this relocation and moved with the rest of my community to Natuashish. I continue to live in Natuashish to this day. I commute regularly to Happy Valley-Goose Bay for my work.
5. My current job is as the CEO of Innu Development Limited Partnership (IDLP). IDLP is the economic arm for the Innu of Labrador. The main focus of IDLP is to generate employment opportunities and bring economic and social benefits to Labrador's Innu population.
6. I am a member of Mushuau Innu First Nation. I was elected the Chief of Mushuau Innu First Nation from November 2013 to November 2016.

7. I was then elected Grand Chief of Innu Nation and held that position from August 2017 to August 2020.
8. It was an honour to lead my people as Chief and Grand Chief, and share my knowledge and firsthand experiences to improve lives within our community.

My Experiences in School

9. I started going to school in Davis Inlet when I was about 5 or 6, which would have been 1973 or 1974.
10. In those days, Innu people including my parents were being pressured to live full time in Davis Inlet and to send their children to school. This pressure included threatening to withdraw financial support for the family, religious pressure from the priests and nuns, and using threats of violence and actual violence to compel parents to send their children to school and compel children to attend. I really had no choice but to go to school.
11. When I started school, I first went to an old building in Davis Inlet until it later burned down in 1977.

12. For a while after that fire there was no school, but then trailers were brought in. I went to school in the trailers while they built a new school. That new school was called Nukum Mani Shan.
13. In school, we were not taught about Innu culture, language, practices, traditions, or history. The schools were strict and there was no involvement of Innu culture and ways of life. We were taught in the English language, and we were punished for speaking our language. We were taught that Innu ways and culture were wrong. This created a lot of shame for me, over who I am as an Innu person.
14. For many of the years I was there, the school principal was a nun, Sister Joan Baldwin.
15. Over the years I witnessed a lot of children getting beaten up at school by teachers, priests, nuns, and other adults running the school in Davis Inlet. Some of the people who were beaten up were my relatives and friends. It was not a big community. Witnessing this violence has affected me and caused fear within the community.
16. One incident that I recall witnessing was seeing a classmate being thrown into a wall by a teacher. I recall the student's head hitting the wall.
17. Another incident that had a major effect on me was in grade 8 or 9. It involved a teacher named Gordon Casey, who beat me severely. He was my homeroom teacher.

18. It was in gym class, my friends and I were playing basketball. Our class was coming to an end and Mr. Casey told me to put my ball away on the rack. I didn't listen right away, and he started towards me with a mean look on his face.
19. I dropped the ball and started running to the gym exit. I was trying to get out of the school but he caught me in the hallway. He grabbed my shirt and pushed me towards the wall. He punched me twice in the face. I was very scared. I recall my head hitting the cement. I think I was knocked out and lost consciousness for part of this incident, due to the severity of my injuries.
20. I was taken to see the principal, Sister Joan Baldwin. I was crying.
21. Before this incident I was a top student, usually earning "A" grades. I was good at sports. I enjoyed sports at school as well as the academics. But this incident changed everything for me. I was traumatized and I was no longer interested in any of it. I soon left the school. I turned to alcohol and to drugs such as sniffing gas.
22. Eventually, I left the community to attend high school in 1984. I moved to Happy Valley-Goose Bay. However, I dropped out after almost a year and never went back. I was not able to complete my education.

Impacts of Day Schools Today

23. The impacts of my time at school in Davis Inlet have been long lasting and significant.

24. These schools instilled shame in me about my Innu culture and identity. We were taught to believe that our way of life as Innu was wrong and inferior, and that the white/Western/Christian culture was superior. These schools eroded our culture and way of life. As a result, there is noticeable loss of language within our communities. I continue to speak Innu-aimun, but many of my friends and family do not, especially those from younger generations. I fear our children and future generations may lose our language as a result of the intergenerational impacts of the schools in our communities that we were forced to attend.
25. At a personal level, I sank into substance abuse. I could not find my way in life as a young person.
26. I experienced an enormous tragedy in 1992 when a fire at my home killed my five children and another child. I was not home at the time, and I was still struggling with the substance abuse that began after my time in school from my trauma. This tragedy had a devastating impact on me and my wife, and on our whole community. If it was not for the support and guidance my wife and I received from an Elder, I would have taken my own life in the wake of this incident.
27. Instead, I found a path to healing and to pride in my identity as an Innu person, despite the abuses I suffered in school. I have been sober for many years now. I may

be willing to share further information about what I went through at school and its impact on me with the protection of a pseudonym or sealing order.

28. I have dedicated my life to helping my community. As noted above, I became Chief of Mushuau Innu First Nation in November 2013, and I later became Grand Chief of Innu Nation in August 2017. During those years I worked hard to lead our people. I have worked in a number of other roles trying to help my people, including my current role as CEO of Innu Development Limited Partnership.

Innu Have Been Left Out of Other Settlements

29. The Innu experience is sadly not unique: courts have acknowledged that many First Nations people across the country suffered similar abuses in schools.
30. There have been many class actions where survivors of these types of schools have sought recognition of and compensation for the harms done at these schools. All of the class actions about these schools that I am aware of have settled. But the Innu were left out of many of these claims and settlements. For example:
- a) **Indian Residential Schools:** There were several class action claims brought on behalf of survivors who attended residential schools on reserves. These class actions were settled all together in 2006. This settlement included Indigenous people who had attended certain residential schools. So, survivors who attended schools during the day, but didn't stay at school overnight were left out. Innu survivors of our community schools were left

out of this settlement, both because our schools were not residential and because we were not under the *Indian Act* for most of that time. A copy of the Indian Residential Schools Settlement Agreement is attached as Exhibit "A".

- b) **Day Schools:** After the Indian Residential Schools settlement, there was a class action brought for Indigenous survivors who had attended day schools. This class action was settled in 2019. However, the Innu were also excluded from this settlement as the schools we attended did not operate under the *Indian Act*. This is a legacy of Canada's discriminatory treatment of the Innu: the Innu had to file human rights claims to show that we were discriminated against by not being recognized as "Indians" under the *Indian Act* and Indian Act bands, and advocate for many years to be recognized under the *Indian Act*. We were recognized as "Status Indians" under the *Indian Act* in 2002, but apparently this was not soon enough for the day schools in Innu communities to meet the definition "Indian Day Schools" within the Day Schools settlement definition. A copy of the Day Schools Class Action Settlement Agreement is attached as Exhibit "B".
- c) **Day Scholars:** Another group of survivors that were left out of these settlements were Indigenous students who attended residential schools but didn't stay there overnight. These survivors are known as "Day Scholars". Day Scholars could make claims for specific abuses they suffered under the Residential Schools settlement, but they didn't get any compensation for

the harms they suffered simply by being forced to attend these schools. A class action was brought on their behalf, and it settled in 2021. The Innu were also excluded from this settlement, since it only applied to schools that had also operated as residential schools, and operated under the *Indian Act*. A copy of the Day Scholars Settlement Agreement is attached as Exhibit “C”.

d) **Band Class Action:** There was also a class action brought on behalf of First Nations that had a residential school on their reserve or had members who attended a residential school. This class action was certified, and then settled in 2023. A copy of the Band Class Action Settlement Agreement is attached as Exhibit “D”. The Innu were also excluded from this settlement, since it only included First Nations impacted by the “Indian residential schools” set out in (a) above.

31. The only schooling settlement the Innu were included in was the Newfoundland and Labrador Residential Schools Settlement Agreement in 2016. Class members under this settlement were composed of persons who attended and lived at residential schools in Newfoundland and Labrador. It included some Indigenous survivors, including some Innu, and included non-Indigenous survivors. A copy of the Newfoundland and Labrador Residential Schools Settlement Agreement is attached as Exhibit “E”. Since most Innu went to day schools in our communities, this settlement only recognized a very small part of the Innu experience. It did not include

compensation for Innu people who attended day schools in our communities and did not address the harms that Innu survivors of day schools suffered.

32. These settlements are a kind of acknowledgement of the harms that were suffered in the schools they address. Some of them have included apologies. For example, on June 11, 2008, Prime Minister Stephen Harper apologized on behalf of Canada for the harm done by residential schools. In 2017, Prime Minister Justin Trudeau apologized to students of Newfoundland and Labrador Residential Schools for the harms done there. But no one has ever acknowledged or apologized for the harms the Innu suffered in our community schools, which we've referred to in this proposed class action as Innu Day Schools.
33. I was Grand Chief when the Day Schools settlement was finalized. When I realized that the Innu had been left out, I wrote to the Minister of Crown-Indigenous Relations and Northern Affairs, who at that time was the Hon. Carolyn Bennett. A copy of the letter to Minister Bennett, dated March 20, 2019, is attached as Exhibit "F".
34. I expressed my frustration at the Innu being excluded from the Day Schools settlement, and pointed out how our exclusion was a continuation of the discrimination we faced for years as a result of Canada's refusal to recognize the Innu as Indigenous peoples. I urged the Minister to work with the Innu to include us in the settlement, and was clear that all the Innu were looking for was fair treatment: we just

wanted to be included, and get the same acknowledgment and compensation that other First Nations were getting through that settlement.

35. The Minister never even bothered to respond. At this point, it became clear to me that if the Innu were going to get any acknowledgement and compensation for what happened to us in those schools, we would have to fight for it. This blatant disregard for the harms I and other Innu people have suffered because of the Innu Day Schools is part of what pushed me to be a Representative Plaintiff in this class action.

36. The Innu have suffered deeply because of the schools in our communities. The survivors deserve justice for the hardships they have faced. The communities deserve justice. Though nothing can undo the suffering survivors have had to endure, compensation for, and acknowledgement of, the harms done by Canada and the Province in these schools will help our people heal.

My Involvement in This Action

37. As a Proposed Representative Plaintiff in this proposed class action, I am aware that I have certain duties and responsibilities to the Court and to the Classes. I am aware of the responsibilities of acting as a Representative Plaintiff and am committed to meeting them. These responsibilities include, among other things:

- a. becoming familiar with the issues to be decided by the Court;
- b. reviewing the Statement of Claim and any amendments;

- c. assisting in the preparation and execution of this affidavit in support of the application for certification;
- d. if necessary, attending with counsel for cross-examination on my affidavit;
- e. if necessary, attending with counsel for an examination for discovery where I will be asked questions;
- f. if necessary, assisting in the preparation and execution of a list of documents;
- g. if necessary, attending with counsel at trial and giving evidence regarding this action;
- h. receiving briefings from class counsel;
- i. expressing my opinion to class counsel and to this Court if settlement positions are to be formulated;
- j. expressing my opinion to class counsel and to this Court if offers to settle are made; and
- k. assisting in the preparation and execution of an affidavit in support of this Court's approval of any settlement.

38. To date, I have taken the following steps in this action:

- a. I have retained the law firms of Olthuis Kleer Townshend LLP ("OKT") and Budden & Associates to act as class counsel;
- b. As a Proposed Representative Plaintiff, I have met with class counsel to discuss this action;
- c. I have agreed to act as a Representative Plaintiff and to work with class

counsel on this action;

- d. I have provided information for the Statement of Claim with the court file number 2024 01G CP 0064;
- e. I reviewed the Statement of Claim; and
- f. I provided information for the drafting of this affidavit.

39. Budden & Associates is a law firm based in St. John's with expertise in civil litigation including abuse claims relating to abuse in schools. OKT is a firm dedicated to advancing Indigenous rights, with expertise in Aboriginal law. OKT has worked with the Innu for many years. OKT represents First Nations and their members in class actions respecting clean drinking water on reserves and housing on reserves.

40. If I am appointed as a Representative Plaintiff, I intend to work with the other Representative Plaintiffs to ensure the following steps are taken to represent the interests of the class members fairly and adequately:

- a. Interact with other class members, receive their input, and generally act as a conduit for information for class counsel;
- b. Monitor the class counsel websites with respect to this Class Action; and
- c. Instruct class counsel in keeping with my obligations as a Representative Plaintiff.

41. I do not have any interest which is in conflict with the interests of any other class member.

42. I believe that I can fairly and adequately represent the interests of the class members if I am appointed as a Representative Plaintiff, and I am committed to assisting other class members in fulfilling those responsibilities.
43. I do not know the exact size of the Survivor Class, but I do believe that nearly all Innu young people attended an Innu Day School from early village life starting in the late 1940s until the Innu took over the delivery of K-12 education with the creation of an Innu school board, Mamu Tshishkutamashutau Innu Education ("MTIE"). MTIE's first school year was in 2009-2010. A rough estimate of this population is 2,000 people. Members of the Survivor Class live mostly in Newfoundland and Labrador, with some living in Quebec and elsewhere.
44. The Innu Governments Class is comprised of Innu Nation, Sheshatshiu Innu First Nation, and Mushuau Innu First Nation.
45. I am not aware of any other class or representative proceeding in this province or any other province relating to all or part of the class proposed to be certified. I am not aware of any fact important to the certification application that has not been disclosed in this affidavit.
46. I swear this affidavit conscientiously believing it to be true and knowing that it is a criminal offence to falsely swear an affidavit.

7

AFFIRMED remotely via audio-visual technology in accordance with the *Commissioners for Oaths Act* R.S.N.L. 1990 c. C-25 and *NL Reg* 98/23, this 17th day of June, 2024, before me at the City of St. John's, in the Province of Newfoundland and Labrador:


Barrister-NL


GREGORY RICH