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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

STATEMENT OF CLAIM

I. Definitions

1. In this Statement of Claim, in addition to terms defined elsewhere herein, the following terms have the following meanings:
  - a) "Class" and "Class Members" means members of the **Survivor Class** and members of the **Innu Governments Class**.
  - b) "Class Period" means the period from and including March 31, 1949 and ending on August 1, 2009.

- c) **“Indian Day Schools”** means such schools whose students were or are eligible for compensation through the Federal Indian Day Schools Settlement Agreement, which received court approval in 2019.
- d) **“Indian Residential Schools”** means such schools whose students were eligible for compensation through the Indian Residential Schools Settlement Agreement, which received court approval in 2006.
- e) **“Innu”** means Innu of Labrador, as a people inclusive of its members, who are anyone registered or eligible to be registered as a member of Sheshatshiu Innu First Nation or of Mushuau Innu First Nation, or who is otherwise a member of the Innu Nation of Labrador.
- f) **“Innu Day Schools”** means such schools in Sheshatshiu, Old Davis Inlet, Davis Inlet, and Natuashish, that operated during the Class Period.
- g) **“Innu Governments Class”** means the Innu government organizations that formally represent the Innu of Labrador, this class being composed of the Innu Nation, Sheshatshiu Innu First Nation, and Mushuau Innu First Nation.
- h) **“NL Residential Schools”** means such schools and facilities whose students were eligible for compensation through the Newfoundland and Labrador Residential Schools Settlement Agreement, which received court approval in 2016.
- i) **“Survivor Class”** and **“Survivor Class Members”** means all Innu persons wherever they may reside or be domiciled, who attended an **Innu Day School**

during the **Class Period** or such persons as the Court otherwise recognizes or directs.

## II. Parties

2. The Proposed Representative Plaintiff, Innu Nation Inc. (“Innu Nation”), acts as the Representative Plaintiff for the Innu Governments Class. The Innu Governments Class represents the collective interests and authority of the Innu as a whole and within each Innu community.
3. Innu Nation is a not-for-profit corporation incorporated under the laws of Newfoundland and Labrador to organize and unite the Innu, act on their behalf, and represent their rights and interests. It is authorized to, among other things, protect, promote, and advance the legal, constitutional, and Aboriginal rights of the Innu, including their Aboriginal rights protected under s. 35 of the *Constitution Act, 1982*. It represents the Innu as a collective, including in land claim and self-government negotiations with Canada and the Province. Its head office is situated at Sheshatshiu, NL A0P 1M0.
4. The Innu of Labrador are a people with a population of approximately 3200 who now primarily reside in two communities: Natuashish, a reserve set aside for Mushuau Innu First Nation, and Sheshatshiu, a reserve set aside for Sheshatshiu

Innu First Nation. The members of these First Nations are also members of Innu Nation. In 2002 these First Nations were declared to have the capacity of bands within the meaning of the *Indian Act*, RSC 1985, c I-5; their existence as Innu government organizations pre-dates 2002 and goes back many generations. The Innu are an Aboriginal people within the meaning of s. 35 of the *Constitution Act*, 1982, and an Indigenous people within the meaning of the *United Nations Declaration on the Rights of Indigenous Peoples*.

5. Gregory Rich lives in the community of Natuashish and has lived in Davis Inlet and Natuashish at all times material to the within action. In or about 1981, Nukum Mani Shan School was built in Davis Inlet. Gregory Rich attended Nukum Mani Shan School from approximately 1981 to 1984, after which he left the community to attend high school in Happy Valley-Goose Bay. Prior to the construction of Nukum Mani Shan School, there was a variety of other settings where schooling took place in Davis Inlet. He attended at the available school settings in Davis Inlet from approximately 1973 to 1981.

6. Marie Martha Andrew lives in the community of Sheshatshiu and has at all times material to the within action. Peenamini McKenzie School in Sheshatshiu was built in or about 1968. Marie Martha attended Peenamini McKenzie School from 1968 to 1975. Prior to the construction of Peenamini McKenzie School, there was a variety of

other settings where schooling took place in Sheshatshiu. She attended at the available school settings in Sheshatshiu from approximately 1965 to 1968.

7. Magdaline (alternatively spelled Madeline) Benuen lives in the community of Sheshatshiu and has at all times material to the within action. She attended Peenamini McKenzie School in Sheshatshiu from approximately 1968 to 1975.
8. The Proposed Representative Plaintiffs Gregory Rich, Marie Martha Andrew, and Magdaline Benuen propose to act as Representative Plaintiffs on behalf of the Survivor Class which includes every person who:
  - a. is or was registered or eligible to be registered as a member of Sheshatshiu Innu First Nation or of Mushuau Innu First Nation, or who is or was otherwise a member of the Innu Nation of Labrador, wherever they may reside or be domiciled; and
  - b. attended a school in Sheshatshiu, Old Davis Inlet, Davis Inlet, and/or Natuashish, anytime from and including March 31, 1949 and ending on August 1, 2009.
9. The Proposed Representative Plaintiff Innu Nation proposes to act as the Representative Plaintiff on behalf of the Innu Governments Class which includes the government organizations that formally represent the Innu of Labrador, this

class being composed of the Innu Nation, Sheshatshiu Innu First Nation, and Mushuau Innu First Nation.

10. The First Defendant, the Attorney General of Canada (hereinafter referred to as "Canada") represents His Majesty in right of Canada and the Departments of Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) and Indigenous Services Canada (ISC) and their predecessor departments, who at all times material to this matter, had exclusive legislative authority for "Indians" under s. 91(24) of the *Constitution Act, 1867*, and who participated in funding and in other roles with respect to Innu Day Schools as further set out below. Canada's address for service is Atlantic Regional Office, Department of Justice Canada, Suite 1400, Duke Tower, 5251 Duke Street, Halifax, Nova Scotia, B3J 1P3. In accordance with rule 6.07(3), and based on the facts pleaded herein, this proceeding is brought: in respect of a breach of contract committed within the province (rule 6.07(g)); and founded on a tort committed within the province (rule 6.07(h)).
  
11. The Second Defendant, His Majesty in right of Newfoundland and Labrador (hereinafter referred to as the "Province") represented by the Minister of Education and Early Childhood Education, the Minister for Children, Seniors and Social Development, and their predecessor Ministers, was at all times material to this matter responsible for the education and social development of children in the Innu communities of Newfoundland and Labrador, and allowed, established, operated,

designated, funded, oversaw, regulated, or was otherwise involved in the Innu Day Schools as further set out below. The Province's address for service is Civil Division, Department of Justice & Public Safety, P.O. Box 8700, Confederation Building, 4<sup>th</sup> Floor, East Block, St. John's, NL, A1B 4J6.

### III. Innu Day Schools

12. From the time Newfoundland and Labrador joined the Canadian federation in 1949 until the delivery of education shifted to the Innu school board of Mamu Tshishkutamashutau Innu Education (MTIE) in September 2009, the Province oversaw non-residential Innu Day Schools in Sheshatshiu, Old Davis Inlet, Davis Inlet, and Natuashish to serve the local Innu population. The Innu Day Schools were administered indirectly with the support of Canada and the Province until in or around the 1960s, after which point administration of the Innu Day Schools was carried out by various school boards, all of which were creations and agents of the Province for which they and Canada are wholly responsible.
13. Canada owed the Class Members the highest fiduciary, constitutional, statutory, and common law duties. Although Canada was not responsible for the day-to-day operations of the Innu Day Schools, the fiduciary, constitutional, statutory, and common law duties between Canada and the Innu of Newfoundland and Labrador

arose at Confederation in 1949. On November 21, 2002, by Order in Council, the Innu were granted status as First Nations under the *Indian Act*, with reserves being established. By virtue of the relationship between Innu and Canada, being one of trust, reliance, and dependence, the Class Members were owed a duty by Canada to provide an education in an environment free of abuse, neglect, and maltreatment, and that honoured and protected their culture.

14. Innu children, specifically, members of the Survivor Class who attended Innu Day Schools, were regularly and frequently subjected to abuse while under the control and supervision of those who were responsible for their safety and care. In particular, they were subjected to systematic abuse including but not limited to misconduct of a sexual nature, neglect, maltreatment, and generally deprived of the essential components of a healthy childhood. These physical, emotional, psychological, cultural, and spiritual abuses were systematically perpetrated upon them by teachers, adults in positions of authority, and/or other students. Innu children who attended Innu Day Schools were beaten and were in constant fear of being assaulted, both physically and sexually. They were generally unable to tell their parents of the abuse they were suffering, out of intimidation, fear, and threat of reprisal and further abuse. Many parents passed away never knowing about the abuse their children were experiencing.



15. The implementation of the Innu Day Schools was a cornerstone of colonial efforts to force the Innu to settle permanently in villages and end their way of life on the land, efforts which Canada and the Province supported or condoned. Innu children at the Innu Day Schools returned to their homes at the end of the school day having been taught that the cultural beliefs, values, and teachings of their parents, grandparents, and elders were of no value. The children were taught to be ashamed of their Innu culture, spirituality, identity, language, and practices. The Innu Day Schools fostered an institutionalized culture that was hostile and harmful to Innu culture and spiritual practice, including the Innu way of life. Innu language and culture were strictly suppressed and consistently denigrated by the school administrators, teachers, and other staff, and were treated as inherently inferior. They were forced to discard their Innu identities. The Innu Day Schools attempted to replace the Innu way of life, traditions, culture, language, and spiritual practices with the identity and culture imposed upon the Innu by Canada and the Province.
16. Through the establishment and operation of the Innu Day Schools, Canada and the Province allowed and/or failed to curtail the systematic abuses from occurring, and supported and encouraged the undermining of Innu values, cultures, and practices that were critical to the very existence of the Innu as a group. Innu children were deprived of their heritage, their support networks, and their way of life. They were forced to adopt a foreign language and culture, and were severely punished for non-compliance.

17. As it was with Indian Day Schools, Indian Residential Schools, and NL Residential Schools, the purpose of establishing Innu Day Schools was to facilitate the assimilation of Innu into the culture which Canada and in this case the Province wished to impose upon them, resulting in the elimination of their traditional language, culture, religion, and way of life. The intent of Innu Day Schools was not primarily or only to educate them, but rather, to break the relationship between Innu and their culture and identity. Canada and the Province set out and intended to cause the damage which has harmed the Proposed Representative Plaintiffs and the Class Members, or were negligent and reckless as to that damage.

18. Through the pursuit of their education policy, which was a policy of assimilation, Canada and the Province in whole or in part, sought to eradicate what they saw as a problem. Canada and the Province sought to relieve themselves of their moral, legal, and financial responsibilities for Innu, the expense and inconvenience of dealing with cultures, languages, habits, and values different from Canada's and the Province's predominant Euro-Canadian heritage, and the challenges arising from land claims, treaties, and other obligations toward Innu and other Indigenous peoples. Through the implementation of these education policies, Canada and the Province severely damaged the identities of those Innu children who attended Innu Day Schools, as well as subsequent generations of Innu, causing irreversible harm to individuals, families, and communities.

19. The Truth and Reconciliation Commission on Indian Residential Schools, in its Final Report, Part 1, Volume 1, states at p. 200:

*[...] statements from government and church officials make it abundantly clear that the overall purpose of residential schooling was to separate children from their parents and their culture so they could be "civilized" and "Christianized." Once so transformed, they could be enfranchised. They would no longer be "Indians," either culturally or legally, and would have no special claim on the state for support.*

20. This intentional assumption of control over Indigenous children in Indian Residential Schools applied equally to students at Innu Day Schools. The goal was to strip these children of their culture, language, and identity, and end the Innu way of life, thereby removing their ability to pass on to succeeding generations their spiritual, cultural, and linguistic heritage.

21. On June 11, 2008, Prime Minister Stephen Harper on behalf of Canada, delivered an apology that acknowledged the harm done by Canada's Indian Residential Schools:

*Two primary objectives of the Residential Schools system were to remove and isolate children from the influence of their homes, families, traditions and cultures, and to assimilate them into the dominant culture. These objectives were based on the assumption Aboriginal cultures and spiritual beliefs were inferior and unequal. Indeed, some sought,*

*as it was infamously said, "to kill the Indian in the child". Today, we recognize that this policy of assimilation was wrong, has caused great harm, and has no place in our country.*

22. Later, on November 24, 2017, Prime Minister Justin Trudeau apologized to students of NL Residential Schools. Neither of those apologies applied to Innu Day Schools. No apology has been made in respect of Innu Day Schools, nor have Canada or the Province provided compensation to the survivors of Innu Day Schools and their communities.

23. The Truth and Reconciliation Commission and Prime Minister Harper, on behalf of Canada, acknowledged the extreme miscarriage of justice through the settlement of the claims of those who attended Indian Residential Schools. Subsequently, a settlement was reached in 2019 with the many Indigenous persons in Canada who attended Indian Day Schools. However, both the Indian Residential Schools settlement and Indian Day Schools settlement excluded the Innu of Labrador by their exclusion of Innu Day Schools from their lists of eligible schools.

24. In 2023 an additional settlement was reached by Canada with the First Nations whose members attended Indian Residential Schools, known as the Band Reparations or Band Class settlement. However, it excluded the Innu of Labrador because the Innu Day Schools are not in the eligible lists of Indian Residential Schools.

25. The physical and sexual abuse, pain, and distress, and the damages to way of life, language, learning, culture, and heritage, that have been acknowledged by Canada, were also suffered by students who were forced to attend Innu Day Schools, their descendants, and their communities. Innu who were forced to attend Innu Day Schools suffered these same abuses as children. For many of them, as they became parents, they were, in the same way, unable to protect their own children from suffering the same experiences. Yet, they were denied an apology, compensation, or any kind of reconciliation.

26. In its Final Report, the Truth and Reconciliation Commission specifically acknowledged the exclusion of certain students from the Indian Residential Schools Settlement Agreement and the lawsuits against Canada based upon these exclusions. At page 170 of *Honouring the Truth, Reconciling the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, the Commission “urges all parties to seek expedited means of resolving this litigation.” The Commission issued a call to action which reads as follows:

*Call to Action*

29) *We call upon the parties and, in particular, the federal government, to work collaboratively with the plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.*

This statement of the Truth and Reconciliation Commission rings particularly true in this case. Call to Action 29 has not been achieved with respect to Innu Day Schools.

#### IV. The Claims

##### **Canada's Breach of Duties**

27. Canada owed the highest fiduciary, constitutional, statutory, and common law duties to Class Members. Canada had the obligation to uphold the Honour of the Crown in all of its dealings with Innu and Innu Governments Class. Canada was responsible, during the Class Period for:

- a) the promotion of the health, safety, and well-being of Innu as Indigenous persons in Canada;
- b) the provision of resources including funding, supporting Innu, and services to Innu including educational services;
- c) the management, operation, and administration of CIRNAC and ISC, and predecessor departments;
- d) decisions, procedures, regulations promulgated, operations, and actions taken by CIRNAC and ISC, and predecessor departments, as well as the decisions taken by Ministers and other Departments, and their respective employees, servants, officers, and agents in Canada;

- e) the selection, control, training, supervision, and regulation of the designated operators and their employees, servants, officers, and agents and for the care and education, control, and well-being of Aboriginal peoples sent to an Innu Day School during the Class Period;
- f) the provision of educational services to the Class Members, pursuant to the provisions of the *Indian Act*;
- g) administration of the *Indian Act*, as amended, and its predecessor statutes as well as all regulations promulgated under the *Indian Act* and its predecessors;
- h) inspection and supervision of the Innu Day Schools and all activities that took place and for full and frank reporting to Departmental officials and to the families with respect to conditions in all Innu Day Schools and all activities that took place therein;
- i) preserving, promoting, maintaining, and not interfering with Aboriginal rights, including the rights of the Innu to retain and practice their culture, spirituality, language, and traditions and the right to fully learn their culture, spirituality, language, and traditions from their families, extended families, and communities;
- j) ensuring its dealings with Innu were at all times in accordance with the Honour of the Crown; and
- k) preferring the interests of Innu to its own interests, in recognition of the fiduciary duty owing by the Crown to Aboriginal peoples.

28. Canada was negligent and in breach of its fiduciary, statutory, constitutional, and common law duties to the Class Members and such breaches include the following:

- a) it allowed a systemic program of forced integration of Innu children through the institution of Innu Day Schools when it knew or ought to have known that doing so would cause profound and permanent cultural, psychological, emotional, and physical injury to Class Members;
- b) it failed to properly screen and select the organizations and individuals which it funded and to which it delegated (implicitly or explicitly, and directly or indirectly) the implementation of the Innu Day School system;
- c) it failed to properly monitor and properly oversee the provision of funding it provided to the Province with respect to the Innu Day Schools, knowing or having ought to have known that the operation of those Innu Day Schools was in conflict with its fiduciary duty to protect the safety and cultural identity of the Class Members;
- d) it failed to take proper steps to ameliorate the harmful effects of the Innu Day Schools;
- e) it failed to adequately supervise and control Innu Day Schools and agents operating under its jurisdiction;
- f) it deliberately and chronically deprived the Survivor Class Members of the education they were entitled to, or were led to, expect from Innu Day Schools or of any adequate education;



- g) it failed to design, construct, maintain, and operate the Innu Day School buildings, which were not adequate for the purpose for which they were intended and detrimental to the emotional, psychological, and physical health of the Survivor Class;
- h) it failed to respond appropriately, or at all, to disclosure of abuses in Innu Day Schools;
- i) it permitted Survivor Class Members to be assaulted and battered, including but not limited to sexual assaults and sexual batteries;
- j) it permitted an environment which allowed student-on-student abuse;
- k) it failed to inspect or audit the Innu Day Schools adequately, or at all;
- l) it failed to implement an adequate system of evaluation, monitoring, and control of teachers, administrators, and non-teaching staff of Innu Day Schools;
- m) for most of the Class Period, it failed to recognize Survivor Class Members as Indians under the *Indian Act*, and thus failed to recognize its duty to the Survivor Class Members to the same entitlements as other Indians in Canada;
- n) it failed to close the Innu Day Schools and/or otherwise protect and care for those persons confined therein, when it knew, or ought to have known, that it was appropriate and essential to do so in order to preserve the health, welfare, and well-being of the Survivor Class Members;
- o) it failed to protect the Survivor Class Members from physical and/or sexual abuse while attending the Innu Day Schools; and

- p) it interfered with the rights of the Innu to retain and exercise their culture, spiritual practices, language, and traditions, and in doing so, Canada breached the Class Members' Aboriginal Rights and caused the Class Members cultural, linguistic, and social harm.

### **Province's Breach of Duties**

29. The Province allowed, created, designed, established, funded, operated, supervised, controlled, maintained, oversaw, and/or regulated all Innu Day Schools. The Province owed the highest fiduciary, constitutional, statutory, and common law duties to Class Members. The Province was responsible, during the Class Period for:

- a) the promotion of the health, safety, and well-being of Innu in the Province;
- b) the management, operation, and administration of the Department of Education and Early Childhood Education (hereinafter "EECE") and the Department of Children, Seniors and Social Development (hereinafter "CSSD") and their predecessor Departments;
- c) decisions, procedures, regulations promulgated, operations, and actions taken by the Departments of EECE and CSSD, as well as the decisions taken by Ministers of these Departments, and their respective employees, servants, officers, and agents in the Province;

- d) the selection, control, training, supervision, and regulation of the designated operators and their employees, servants, officers, and agents and for the care and education, control, and well-being of Innu attending an Innu Day School;
- e) the provision of all educational services and opportunities to the Class Members;
- f) the care and supervision of all members of the Survivor Class while they were in attendance at an Innu Day School;
- g) the provision of educational and recreational services to the Survivor Class while in attendance at Innu Day School;
- h) inspection and supervision of the Innu Day Schools and all activities that took place therein and for full and frank reporting to Departmental officials and to the families with respect to conditions in all Innu Day Schools and all activities that took place therein;
- i) preserving, promoting, maintaining, and not interfering with Aboriginal rights, including the Innu right to retain and practice their culture, spirituality, language, and traditions and the right to fully learn their culture, spirituality, language, and traditions from their families, extended families, and communities;
- j) ensuring its dealings with Innu were at all times in accordance with the Honour of the Crown; and
- k) preferring the interests of Innu to its own interests, in recognition of the fiduciary duty owing by the Province to Aboriginal peoples.

30. The Province was negligent and in breach of its fiduciary, statutory, constitutional, and common law duties to the Class Members, and the Province's breaches include the following:

- a) it allowed a systemic program of forced integration of Innu children through the institution of Innu Day Schools when it knew or ought to have known that doing so would cause profound and permanent cultural, psychological, emotional, and physical injury to Class Members;
- b) it failed to properly screen and select the organizations and individuals to which it delegated the implementation of the Innu Day School system;
- c) it failed to properly monitor and properly oversee the provision of funding it made for the Innu Day Schools, knowing or having ought to have known that the operation of those Innu Day Schools was in conflict with its fiduciary duty and other obligations to protect the safety and cultural identity of the Class Members;
- d) it failed to take proper steps to ameliorate the harmful effects of the Innu Day Schools;
- e) it failed to adequately supervise and control Innu Day Schools and agents operating under its jurisdiction;
- f) it deliberately and chronically deprived the Survivor Class Members of the education they were entitled to, or were led to, expect from Innu Day Schools or of any adequate education;

- g) it failed to respond appropriately, or at all, to disclosure of abuses in Innu Day Schools;
- h) it permitted Survivor Class Members to be assaulted and battered, including but not limited to sexual assaults and sexual batteries, at Innu Day Schools or by persons employed by or whose access to victims was facilitated or empowered by Innu Day Schools;
- i) it permitted an environment which allowed student-on-student abuse;
- j) it failed to inspect or audit the Innu Day Schools adequately, or at all;
- k) it failed to implement an adequate system of evaluation, monitoring, and control of teachers, administrators, and non-teaching staff of Innu Day Schools;
- l) it failed to close the Innu Day Schools and/or otherwise protect and care for those students therein, when it knew, or ought to have known, that it was appropriate and essential to do so in order to preserve the health, welfare, and well-being of the Survivor Class Members;
- m) it failed to protect the Survivor Class Members from physical and/or sexual abuse while attending the Innu Day Schools; and
- n) it interfered with the rights of the Innu to retain and exercise their culture, spiritual practices, language, and traditions, and in doing so, the Province breached the Class Members' Aboriginal Rights and caused the Class Members cultural, linguistic, and social harm.

## **Breach of Aboriginal Rights**

31. The Class Members are among the Aboriginal peoples of Canada within the meaning of the *Constitution Act, 1982*, s. 35. These Class Members had existing Aboriginal rights at all relevant times, rights which were given constitutional protection in 1982 pursuant to the *Constitution Act, 1982*, s. 35.
  
32. The Class Members exercised laws, customs, and traditions integral to their distinctive societies prior to contact with Europeans. In particular, and from time immemorial prior to contact with Europeans, the Innu communities have sustained their distinctive cultures through their own way of life, speaking their language Innu-aimun, and practicing their customs and traditions.
  
33. The interference in the Aboriginal rights of the Survivor Class has resulted in losses being suffered by their descendants and their communities as a whole, as represented by the Innu Governments Class. This result was integral to the assimilatory goal of Canada and the Province.
  
34. Both Canada and the Province had at all material times, and continue to have, a duty not to impair the Class Members' Aboriginal rights, including the exercise of their spiritual practices, languages, traditions, and cultures. Both Canada and the Province have failed in these duties, without justification.

V. Damages

35. As a consequence of the negligence and/or breaches of fiduciary, constitutional, statutory, and/or common law duties, including the breaches of Aboriginal rights, by Canada and the Province and their agents, for whom Canada and the Province are vicariously liable, Survivor Class Members have suffered injury and damages including:

- a) assault and battery;
- b) sexual assaults and batteries;
- c) severe emotional, psychological pain and suffering;
- d) loss of language, culture, spirituality, and Innu identity;
- e) interference in the exercise of their Aboriginal rights;
- f) an impairment of mental and emotional health, in some cases amounting to a permanent disability;
- g) an impaired ability to trust other people, to form or sustain intimate relationships, to participate in normal family life, or to control anger;
- h) a propensity to addiction;
- i) alienation from community, family, spouses, and children;
- j) harm to parenting and family functioning;
- k) an impaired ability to enjoy and participate in recreational, social, cultural, athletic, and employment activities;

- l) an impairment of the capacity to work and a permanent impairment in the capacity to earn income;
- m) deprivation of an education, including basic literacy and skills necessary to obtain gainful employment;
- n) sexual dysfunction, confusion, and disorientation;
- o) depression, anxiety, and emotional dysfunction;
- p) suicidal tendencies and ideation;
- q) loss of self-esteem and feelings of degradation, shame, fear, and loneliness;
- r) nightmares, flashbacks, and sleeping problems;
- s) fear, humiliation, and embarrassment as a child and as an adult;
- t) impaired ability to express emotions in a normal and healthy manner; and
- u) loss of ability to participate in, or fulfill, cultural practices and duties.

36. As a consequence of the negligence and/or breaches of fiduciary, constitutional, statutory, and/or common law duties, including the breaches of Aboriginal rights, by Canada and the Province and their agents, for whom Canada and the Province are vicariously liable, the Innu Governments Class Members have suffered injury and damages as a result of the direct impacts from the Innu Day Schools and from the high levels of intergenerational trauma within the Innu communities flowing



from the harms caused to the Survivor Class from the Innu Day Schools. The resulting losses include:

- a. higher levels of addictions, mental health challenges, suicide, crime rates, and child protection intervention;
- b. labour pool impacts within the Innu communities due to intergenerational trauma, both from its direct impact and its impacts on educational attainment, causing losses in economic vitality and harms to the functioning of the Innu Governments Class as organizations; and
- c. loss of ability to fully exercise Aboriginal rights collectively, including losses to language, culture, teachings, spiritual practices, land-based practices, functioning of self-government, and loss to pride and integrity in the sense of collective identity.

37. The Proposed Representative Plaintiffs repeat the foregoing and state that Canada failed to take action to remedy harm and to assist and reconcile with Class Members, despite Call to Action 29 made by the Truth and Reconciliation Commission, and despite settling several other actions based on parallel circumstances, notably with respect to Indian Residential Schools, NL Residential Schools, and Indian Day Schools plus the Band Reparations settlement.

38. The Proposed Representative Plaintiffs repeat the foregoing and state that during the time when Class Members attended Innu Day Schools, they were punished for

using their traditional languages and were made ashamed of their traditional language and way of life. Consequently, by reason of the attendance at Innu Day Schools, the Class Members' ability to speak their traditional languages and practice their spiritual, religious, and cultural activities was seriously impaired. The Class Members were denied the ability to exercise and enjoy their Aboriginal rights, both individually and in the context of their collective expression within their communities.

39. The Proposed Representative Plaintiffs repeat the foregoing and state that the interference in the Aboriginal rights of the Class has resulted in the losses referred to above being suffered by their descendants and communities, a result which was integral to the assimilatory goal of Canada and the Province.

#### **Punitive, Exemplary, and Aggravated Damages**

40. The Proposed Representative Plaintiffs plead that Canada and the Province deliberately planned the Innu Day Schools and knew or ought to have known that Innu Day Schools would involve systemic eradication or denigration of the language, religion, and culture of Class Members. The actions were deliberate, malicious, and intended to cause harm, and in the circumstances punitive, exemplary, and aggravated damages are appropriate and necessary.

41. The Proposed Representative Plaintiffs plead that Canada and the Province and their agents, for which the defendants are vicariously liable, had specific knowledge of the systemic and widespread physical, psychological, emotional, cultural, and sexual abuses of Survivor Class Members that were occurring at Innu Day Schools.

42. In the alternative, the Proposed Representative Plaintiffs plead that both Canada and the Province were grossly negligent or negligent and/or willfully blind to the abuses.

43. Despite this knowledge, actual or imputed, Canada and the Province continued to operate the Innu Day Schools and allow them to be operated, and to support their operation, and took no reasonable steps to protect the Survivor Class Members from these severe abuses and the damage that arose as a result. In the circumstances, the failure to act on that knowledge and to protect vulnerable children in Canada and the Province's care amounts to a wanton and reckless disregard for their safety and renders punitive, exemplary, and aggravated damages, both appropriate and necessary.

44. The Proposed Representative Plaintiffs plead that the Statement of Reconciliation and the Apology by Canada are admissions by Canada of many of the facts and

duties set out herein and that they are supportive of punitive, exemplary, and aggravated damages.

45. At all material times, Canada owed the Class Members a special duty of care, good faith, honesty, and loyalty, pursuant to Canada's constitutional obligations towards Aboriginal peoples and especially Aboriginal children, who were particularly vulnerable. Canada breached those duties, causing severe harm.

46. Canada and the Province breached their fiduciary duties to act in the best interests of Innu, and in particular Innu children, and breached their duties to act in accordance with the Honour of the Crown.

47. The Proposed Representative Plaintiffs repeat the foregoing and further assert that the fiduciary, constitutional, statutory, and common law duties owed by the Defendants to the Plaintiffs were not, at law, delegable to other parties.

48. Any liability of third parties not attributable to the Defendants, directly or vicariously, is excluded from this action.

## VI. Statutes Relied Upon

49. The Proposed Representative Plaintiffs plead and rely upon the following:

- a) *Class Actions Act*, SNL 2001, c C-18.1;

- b) *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, Appendix II, No 5;
- c) *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11;
- d) *Indian Act*, RSC 1985, c I-5;
- e) *The Education Act, 1960*, SNL 1960, c 50, all amendments thereto, and all predecessor and all successor legislative regimes;
- f) *The Department of Education and Youth Act*, RSNL 1970, c 80, all amendments thereto, and all predecessor and all successor legislative regimes;
- g) *Schools Act, 1997*, SNL 1997, c S-12.2, all amendments thereto, and all predecessor and all successor legislative regimes;
- h) *Survival of Actions Act*, RSNL 1990, c S-32;
- i) *Judgment Interest Act*, RSNL 1990, c J-2;
- j) And such other legislation, if applicable, as this Honourable Court may allow.

## VII. Relief Sought


50. The Proposed Representative Plaintiffs repeat the foregoing and therefore claim the following damages for which the Defendants are jointly and severally liable:

- a) special damages to be ascertained;
- b) general damages to be ascertained;
- c) aggravated damages to be ascertained;
- d) punitive damages to be ascertained;

- e) constitutional damages to be ascertained;
- f) costs as may be awarded; and
- g) such further and other relief as Counsel for the Plaintiff may seek and this Honourable Court deems just.

51. The Proposed Representative Plaintiffs propose that this action be tried in the City of St. John's, in the Province of Newfoundland and Labrador.

**DATED** at the City of St. John's, in the Province of Newfoundland and Labrador, this 11<sup>th</sup> day of January 2024.

  
\_\_\_\_\_  
**WILLIAM A. F. HISCOCK**  
**BUDDEN & ASSOCIATIES**  
**Solicitors for the Representative Plaintiffs**  
**Whose Address for Service is:**  
**5 Hallett Crescent, Unit 4**  
**St. John's, NL A1B 4C4**  
will@buddenlaw.com

**AND**

**JUDITH RAE and JACLYN MCNAMARA**  
**OLTHUIS KLEER TOWNSHEND LLP**  
**Solicitors for the Representative Plaintiffs**  
**Whose Address for Service is:**  
**250 University Ave, 8<sup>th</sup> Floor**  
**Toronto, ON M5H 3E5**  
jrae@oktlaw.com  
jmcnamara@oktlaw.com

ISSUED at the City of St. John's, in the Province of Newfoundland and Labrador, this  
11 day of Jan, 2024.

Sgt D Power

Court Officer/Officer de Cour

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**

**NOTICE TO THE FIRST DEFENDANT**

You are hereby notified that the plaintiff(s) may enter judgment in accordance with the statement of claim or such order as, according to the practice of the Court, the plaintiff is entitled to, without any further notice to you unless within Thirty (30) days, after service hereof upon you, you cause to be filed in the Registry of the Supreme Court of Newfoundland and Labrador at St. John's a defence and unless within the same time a copy of your defence is served upon the plaintiff(s) or the plaintiff(s) solicitor(s) at the plaintiff's solicitor(s) stated address(es) for service.

Provided that if the claim is for a debt or other liquidated demand and you pay the amount claimed in the statement of claim and the sum of \$ \_\_\_\_\_ (or such sum as may be allowed on taxation) for costs to the plaintiff(s) or the plaintiff's solicitors within ten days from the service of this notice upon you, then this proceeding will be stayed.



TO: **The First Defendant**  
**Atlantic Regional Office**  
**Department of Justice Canada**  
**Suite 1400, Duke Tower, 5251 Duke Street**  
**Halifax, NS B3J 1P3.**

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**

**NOTICE TO THE SECOND DEFENDANT**

You are hereby notified that the plaintiff(s) may enter judgment in accordance with the statement of claim or such order as, according to the practice of the Court, the plaintiff is entitled to, without any further notice to you unless within Ten (10) days, after service hereof upon you, you cause to be filed in the Registry of the Supreme Court of Newfoundland and Labrador at St. John's a defence and unless within the same time a copy of your defence is served upon the plaintiff(s) or the plaintiff(s) solicitor(s) at the plaintiff's solicitor(s) stated address(es) for service.

Provided that if the claim is for a debt or other liquidated demand and you pay the amount claimed in the statement of claim and the sum of \$ \_\_\_\_\_ (or such sum as may be allowed on taxation) for costs to the plaintiff(s) or the plaintiff's solicitors within ten days from the service of this notice upon you, then this proceeding will be stayed.

**TO: The Second Defendant  
Government of Newfoundland and Labrador  
Department of Justice, Civil Division  
Confederation Building, 4<sup>th</sup> Floor, East Block  
P.O. Box 8700  
St. John's, NL A1B 4J6**

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

**Endorsements**

RECEIVED on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_,  
2024.

This statement of claim and attached notice to defendant(s) was served by me on  
the defendant(s), at \_\_\_\_\_, on \_\_\_\_\_ the \_\_\_\_\_ day of  
\_\_\_\_\_, 2024, before the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon.

Endorsed on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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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**

**Affidavit of Service**

I, \_\_\_\_\_ of \_\_\_\_\_,  
\_\_\_\_\_, Newfoundland and Labrador, \_\_\_\_\_ make oath  
(or affirm) and say that I did on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2024,  
at approximately \_\_\_\_\_m. serve \_\_\_\_\_, with the within  
statement of claim by leaving a true copy of the same with  
\_\_\_\_\_ personally at \_\_\_\_\_, and that I  
endorsed the date of service thereon on \_\_\_\_\_, the \_\_\_\_\_ day of  
\_\_\_\_\_, 2024.

SWORN (OR AFFIRMED) to at \_\_\_\_\_ in the Province of  
\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2024,  
before me

\_\_\_\_\_