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## Assembly of First Nations

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## Assemblée des Premières Nations

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April 11, 2024

***By Email***

Registry Office  
Canadian Human Rights Tribunal  
240 Sparks Street, 6<sup>th</sup> Floor West  
Ottawa, ON K1A 1J4

Dear Madame Register:

**Re: First Nations Child and Family Caring Society of Canada et al v. Attorney General of Canada (File No. T#1340/7008)**

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Further to your correspondence to the Parties on April 8, 2024, we write on behalf of the Assembly of First Nations, Chiefs of Ontario and Nishnawbe Aski Nation (the “First Nations Parties”).

The First Nations Parties request a case management conference in order to discuss the Panel’s direction on the “shift in proceedings” of the Jordan’s Principle motion brought by the First Nations Child and Family Caring Society of Canada (the “Caring Society”) on December 12, 2023, and the cross motion brought by Canada on March 15, 2024 (the “motions before the Panel”). The First Nations Parties would propose that at the case management conference, all parties be permitted to ask questions and seek clarification about the Panel’s direction.

In order to make best use of the case management time available to all parties and to promote a productive dialogue during case management, the First Nations Parties request that the Panel address the following questions, and reserve the right to raise additional questions in case management:

- It has always been the First Nations Parties’ intention to pursue a final settlement agreement to resolve all issues with respect to Jordan’s Principle. Is this new process proposed by the Panel intended to supplant the negotiations?
- Is the Panel’s direction intended to be a path to resolve only those matters pertaining to the Jordan Principle motions before the Panel, or is the direction intended to act as a path to a final order on all matters relating to the administration of Jordan’s Principle?

- Is the Panel’s direction intended to be akin to a final offer arbitration process?
- Does the Panel direct that each party’s closing submissions in the Jordan’s Principle motions before the Panel include the described scenarios, or does the Panel direct that the closing submissions proceed as a distinct process from the one in the Panel’s direction?
- If the former, is the Panel’s direction that the scenarios can be different from or expand upon the relief requested by the moving party in its initial motion materials?
- The Panel has included a direction that the scenarios presented need to be supported by evidence and best practices. Is the Panel envisioning an additional hearing where that supporting evidence would be led before it? If yes, what effect would this have on the existing record?
- When the Panel refers to a plan to “manage risks” under the requested orders, what kinds of risks was the Panel envisioning that the parties could identify as requiring management?
- The Panel has directed that where other parties bring a motion and/or request orders do so having regard to the Panel’s direction. Can the Panel explain this direction further? Is this direction in relation to future motions that may be brought by any party in relation to Jordan’s Principle? Does it also apply to future motions in relation to the FNCFS program?

The First Nations Parties are very concerned about the new direction proposed by the Tribunal at this advanced stage of this proceeding. We look forward to the Panel’s response and to discussing the Panel’s direction further at case management.

Respectfully,



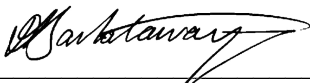

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Christopher Rapson  
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