

Court File Nos. T-402-19/T-141-20/T-1120-21

FEDERAL COURT
CLASS PROCEEDING

B E T W E E N:

XAVIER MUSHOOM, JEREMY MEAWASIGE (by his litigation
guardian, Jonavon Joseph Meawasige), JONAVON JOSEPH
MEAWASIGE

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA

Defendant

FEDERAL COURT
CLASS PROCEEDING

B E T W E E N:

ASSEMBLY OF FIRST NATIONS, ASHLEY DAWN LOUISE BACH,
KAREN OSACHOFF, MELISSA WALTERSON, NOAH BUFFALO-JACKSON
by his Litigation Guardian, Carolyn Buffalo, CAROLYN
BUFFALO and DICK EUGENE JACKSON also known as RICHARD
JACKSON

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA

Defendant

FEDERAL COURT

CLASS PROCEEDING

B E T W E E N:

ASSEMBLY OF FIRST NATIONS and ZACHEUS JOSEPH TROUT

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA

Defendant

This is the Cross-Examination of DIANNE CORBIERE, a
non-party deponent, on her Affidavits Affirmed April 15,
2024 and May 13, 2024, taken via Zoom Video Conferencing
on the 15th day of May 2024

A P P E A R A N C E S :

Sarah Clarke
David Taylor and
Logan Stack

For the non-party First
Nations Child & Family Caring
Society

David Sterns
Mohsen Seddigh and
Robert Kugler

For the non-party deponent Dianne
Corbiere

Sarah-Dawn Norris

For the Attorney General of
Canada

1 TABLE OF CONTENTS

2
3 INDEX OF EXAMINATIONS

4
5 DIANNE CORBIERE, AFFIRMED 6
6 CROSS-EXAMINATION BY MS. CLARKE 6

7
8
9 INDEX OF UNDERTAKINGS

10
11 Undertakings are found on the following pages: None
12 noted.

13
14 INDEX OF REFUSALS

15
16 Refusals are found on the following pages: 20, 24, 38.

17
18 INDEX OF UNDER ADVISEMENTS

19
20 Under AdviseMENTS are found on the following pages:
21 None noted.

22
23
24 *** The list of undertakings, refusals and under
25 adviseMENTS is provided as a service to counsel and does
not purport to be complete or binding upon the parties.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TABLE OF CONTENTS (continued)

INDEX OF EXHIBITS

EXHIBIT	PAGE NO.
<hr/>	
EXHIBIT A: Screenshot of E-Mail.....	44

1 ---Upon Commencing at 2:06 p.m.

2 DIANNE CORBIERE, AFFIRMED

3 CROSS-EXAMINATION BY MS. CLARKE

4 MS. CLARKE:

5 1 Q. Good afternoon, Ms. Corbiere. My name is
6 Sara Clarke and I'm counsel for the First Nations Child
7 & Family Caring Society. I'm joined today by my
8 co-counsel David Taylor as well as our counsel Logan
9 Stack.

10 You're counsel for the Assembly of First
11 Nations in the Mushoom class action proceeding, correct?

12 A. Yes.

13 2 Q. And you've provided two affidavits in
14 support of the plaintiff's motion for an order approving
15 the claims process?

16 A. Yes.

17 3 Q. And the claims process that is being put
18 before the Court on this motion is focused only on the
19 Removed Child Class and the Removed Child Family Class,
20 correct?

21 A. Yes.

22 4 Q. And your affidavits in support of that
23 motion are dated April 15th and May 13th of this year?

24 A. Yes.

25 5 Q. Do you have those with you today?

1 A. I do.

2 6 Q. And do you also have the Responding Motion
3 Record of the Caring Society?

4 A. Yes.

5 7 Q. Okay. We'll probably look at some of those
6 today but I don't intend to take you through everything
7 as we go. Would it be fair to assume that in your
8 affidavits, when you're using terms -- when you're using
9 the term Removed Child Class and Removed Child Family
10 Class, those are defined terms in the final settlement
11 agreement?

12 A. Yes.

13 8 Q. And those definitions also appear in
14 Appendix C of the claims process?

15 A. Hm-mm. Can you explain that? Can you show
16 me what you mean?

17 9 Q. Yes. I just want to make sure that we're
18 looking --

19 A. Can you put it on screen?

20 10 Q. I'm happy to put it on screen. Mr.
21 Taylor's helping me out with that today. It's on page 51
22 of the Motion Record which is Appendix C to the claims
23 process found at Schedule A to the Notice of Motion.

24 A. For me it's easier if you put it on screen
25 because I'm -- I have old eyes and trying to look at

1 paper and look at you --

2 11 Q. No problem. No problem. We're just pulling
3 it up.

4 A. I'm still probably going to be like this
5 and --

6 12 Q. That's okay. If you have the physical
7 Motion Record in front of you it's on page 51 of the
8 Motion Record which is Appendix C to the claims process
9 document itself.

10 So my understanding is that the claims process
11 document has definitions that are specific to the claims
12 process itself which is what David just had up on -- as
13 Appendix B but then the claims process document also has
14 the defined terms from the settlement agreement at the
15 back in Appendix C, so that's what we're looking at
16 right now.

17 A. Okay. So what's the question again?

18 13 Q. So I just wanted -- I didn't mean for this
19 question to be a tricky one. I just wanted to confirm
20 that the definitions in Appendix C of the claims process
21 are the -- are from the final settlement agreement.

22 A. Yes, but I'm not sure that they're 100
23 percent the same. We tried to make the claims process
24 more user friendly as is our mandate with the final with
25 the settlement agreement.

1 14 Q. Are you aware whether the definition of
2 Removed Child Class in the claims process is different
3 from the definition of the Removed Child Class in the
4 final settlement agreement?

5 A. No, I'm not aware if it's different.

6 15 Q. Okay.

7 A. Like everyone I go back and forth between
8 documents.

9 16 Q. Okay. Okay. That's okay. Were you also
10 counsel for the Assembly of First Nations at any point
11 during the Human Rights complaint before the Canadian
12 Human Rights Tribunal?

13 A. I was at the minor times but more in the
14 background.

15 17 Q. Do you remember when that was?

16 A. Well, my firm has been retained since 2007
17 but the main people working for the Assembly of First
18 Nations from my firm were David Nahwegahbow and Thomas
19 Milne, so I was engaged just on strategy so I wasn't
20 actually in appearance at the tribunal.

21 18 Q. Okay. Thank you. Okay. I'd like to ask
22 some questions around the eligibility and how that
23 intersects with the ISC database in the claims process.
24 Could you please turn up the claims process document, or
25 I can also have David put it back up on the screen if

1 that's helpful.

2 A. Yeah. David can put it up.

3 19 Q. Sure. That would be great. So we're going
4 to start with Section 4 of the claims process which
5 starts on page 14 of the Motion Record so if you can
6 just scroll down, David, to Section 4.

7 So Section 4, Ms. Corbiere, this is the
8 section that the administrator will look to to determine
9 eligibility for class members who submit claims as a
10 removed child, is that correct?

11 A. Yes. The administrator will first review
12 the claims form and any supporting documentation.

13 20 Q. Okay. And if we turn over the page to
14 Section 4.4, the claims process provides that: "In
15 order to make an eligibility decision, the administrator
16 will review the database to determine whether:

17 A. The claimant is located on the ISC
18 database; and

19 B. Information available for the claimant on
20 the ISC database allows the administrator to make an
21 eligibility decision."

22 So first, when we're talking about ISC
23 database, is it fair to say that we're using the
24 definition in the claims process and not necessarily the
25 definition that you set out in your affidavit which is

1 slightly different?

2 A. I don't know what you mean.

3 21 Q. Okay. So in -- in the -- I can read the
4 definition to you of ISC Database in the claims process.
5 It means: "A confidential database of records that
6 identified certain details of removal for certain
7 individuals who may be Removed Child Class members.
8 Where the removal and placement were funded by ISC,
9 Canada will provide the ISC database to the
10 administrator to be used exclusively and relied upon by
11 the administrator for the purpose of administrating the
12 claims process. The administrator may not provide any
13 data or records included in the ISC database to any
14 party."

15 In paragraph 25 of your April affidavit the
16 ISC database is defined -- is a defined term in
17 paragraph 25 where you say: "Additionally, the adopted
18 approach capitalizes on Federal Government accounting
19 records kept with Indigenous Services Canada of funds
20 paid by Canada during the class period toward each
21 Removed Child Class member.", and that's where you
22 define ISC database.

23 A. And what do I say is the definition of the
24 ISC database?

25 22 Q. That sentence that I just read to you,

1 "Additionally, the adopted approach", et cetera, that's
2 defined as the ISC database in your affidavit.

3 A. I don't know if that's a definition. I'm
4 just explaining my understanding of the ISC database.
5 It's not -- I'm not going to replicate exactly what's in
6 the final settlement agreement or the claims process
7 forms so all -- my understanding of the ISC database is
8 what's in my affidavit. It is the accounting records
9 that Indigenous Services Canada, where they funded the
10 Removed Child Class. Yeah, I don't see the word
11 "definition" anywhere. I'm just italicizing ISC
12 database.

13 23 Q. Okay. Does the definition of ISC database
14 in the claims process apply to all of the Removed Child
15 Class cohort from 1991 to 2022?

16 A. It's intended to apply to everyone that
17 would be eligible under -- under this final settlement
18 agreement.

19 24 Q. And the ISC database is made up of records
20 received by the Federal Government, correct?

21 A. The ISC database is made up of documents
22 that the Federal Government has in its possession that
23 they were able to share with the administrator.

24 25 Q. Is your understanding that the records
25 that generate the ISC database is based on information

1 received from First Nations Child and Family Services
2 agencies or -- and/or provincial and territorial
3 governments?

4 A. Yes.

5 26 Q. And those records or information are
6 provided to the Federal Government in relation to the
7 in-care costs of First Nations children ordinarily
8 resident on reserve who have been removed from their
9 homes and placed in care.

10 A. Probably more broad than that. It's any
11 kind of record where a First Nation individual is
12 identified to be paid for child welfare services by the
13 Federal Government's funding program for child welfare.

14 27 Q. So is your understanding that the records
15 include services outside of the in-care costs in
16 relation to those children?

17 A. I don't know. I haven't seen the records.
18 The only one who's seen the records is the administrator
19 and Canada, but it's intended to cover the Removed Child
20 Class as defined in the final settlement agreement. I
21 haven't seen the records.

22 28 Q. Okay. I just want to come back to your
23 answer though just to make sure that we're clear
24 together that the database is constructed of records
25 received by the Federal Government in relation to

1 in-care costs, sometimes called maintenance costs. I
2 just want to clarify, I had understood your answer to
3 say that it may include information in relation to other
4 child welfare services.

5 A. No. I'm saying I didn't see any of the
6 records. My understanding is it is if the Federal
7 Government has funded services of First Nations children
8 on reserve, that's what's in the database.

9 29 Q. And that's what I'm trying to just make
10 sure we're on the same page. When you say services, do
11 you mean all child welfare services or in-care costs?

12 A. I guess it's in-care costs. I mean, I'm
13 not in -- a social worker in child welfare but it's
14 those that were funded by ISC for their child welfare
15 care.

16 30 Q. Okay. And the information --

17 A. From on reserve.

18 31 Q. Correct. That's also my understanding. And
19 the information that was provided to the Federal
20 Government was then used to reimburse agencies and
21 provincial and territorial governments for those in-care
22 costs, correct?

23 A. Yes.

24 32 Q. And you would agree with me that the
25 removed child has no role in generating the report or

1 the accounting record that ultimately gets used for the
2 purposes of reimbursement.

3 A. That's right.

4 33 Q. And the child does not have any direct
5 contact with the Federal Government to ensure that the
6 Federal Government has received their accounting record
7 or their reimbursement request.

8 A. That's right.

9 34 Q. So you'll agree with me that it's possible
10 that there could be a Removed Child Class member whose
11 information is not put into the ISC database if there
12 were gaps, for example, in the information received by
13 the Federal Government.

14 A. I don't know that the database is
15 incomplete. I would not agree.

16 35 Q. Would you agree with me that it's possible
17 that there could be a Removed Child Class whose
18 information is not on the ISC database because the
19 provincial agency -- the province - pardon me - or the
20 provincial agency failed to send a report to Indigenous
21 Services Canada?

22 A. I understand from your experts that that
23 -- that might be possible.

24 36 Q. And it's also possible that a Removed
25 Child Class member may not appear on the ISC database if

1 the child's individual information was inaccurately
2 recorded, either on the child protection side or on the
3 side of the Federal Government.

4 A. I don't agree with that either because
5 there's a lot of line items for individual persons.
6 There could be 50 entries so they -- they might --
7 they're going to be on the database so I don't agree
8 with that. I think that once we get to the end of
9 getting the database we'll be in a better position, you
10 know, to be able to make the statement that you're
11 making now.

12 37 Q. But if a child was in care for one month
13 and their date of birth and name was incorrectly
14 provided to the Federal Government, is it not possible
15 that that child's name and date of birth will then not
16 be on the ISC database?

17 A. Again, I'm not sure that they're not on
18 the ISC database. We are not complete in this process.

19 38 Q. The approach taken in the claims process
20 is in order for a Removed Child Class member to be
21 deemed eligible to receive compensation, their
22 identifying information must be located on the ISC
23 database, correct?

24 A. You're going to have to break that down
25 for me. Chunk it up.

1 39 Q. Okay. So in order for a Removed Child
2 Class member to receive compensation under the claims
3 process, their identifying information must be on the
4 ISC database.

5 A. Yes.

6 40 Q. Okay. And if their information is not on
7 the ISC database, either now or to your point later when
8 the database is complete, that Removed Child Class
9 member will be found ineligible.

10 MR. STERNS: Just wait a second before you
11 answer that question. So you're talking about a
12 speculative time in the future. What we're talking about
13 right now is if the child is on the ISC database they
14 will get their payment. You're asking if they're not on
15 the ISC database. You provided no example of anyone
16 who's not on the ISC database and the witness has
17 already answered that the database is incomplete and it
18 is the -- it is the expectation -- sorry. It's the
19 expectation that any such child, if such child, if there
20 is such an example, will be considered -- I just want to
21 make sure --

22 THE DEPONENT: Excuse me, Robert Kugler.
23 You're not on mute.

24 MR. STERNS: Rob, can you --

25 MR. KUGLER: Sorry.

1 MR. STERNS: So I just want to make sure that
2 we're all under the same understanding. As it stands
3 now, if you were going to get paid you have to be on the
4 ISC database. If in the future there's a person who fits
5 the example that you've mentioned and that is the case,
6 then that -- they'll -- and if it's one person, I don't
7 know what's going to happen. If it's more than one
8 person, that will be considered and then there will be a
9 separate -- there will be a separate discussion about
10 that. I just don't want the witness to be misled because
11 you seem to be trying to pin them down and we're dealing
12 with both actual facts, which we know there's almost
13 150,000 children on the ISC database currently, and then
14 you're dealing with hypothetical facts which I could
15 stop you but if you want to ask the question based on
16 hypothetical, I just want to make sure that we're all on
17 the same understanding.

18 MS. CLARKE: So I'm not asking a hypothetical
19 question and I probably should have situated my question
20 directly in the claims process document itself. Under
21 Section 4.4 and 4.5 of the claims process, which I will
22 happily ask Mr. Taylor to pull up again, the only -- I
23 had understood from Ms. Corbiere's earlier evidence that
24 the only way to make an eligibility decision under 4.4
25 is for the administrator to look at the ISC database.

1 There is no mechanism -- there is no other mechanism in
2 the claims process for the administrator to approve
3 eligibility for a Removed Child Class member unless they
4 are located on the ISC database.

5 MR. STERNS: Well, sorry. You should actually
6 read the section because I -- are you interpreting the
7 section or are you asking about --

8 MS. CLARKE: I'm --

9 MR. STERNS: -- the section?

10 MS. CLARKE: I had understood that my
11 interpretation was the same as the witness' and if it's
12 not then I'm happy to obviously hear her evidence on
13 that, but I'd like to hear her evidence on that --

14 MR. STERNS: No, I understand, but you're
15 asking about interpretation of a document that we're all
16 reading and if you look at 4.5(b) it talks about if the
17 administrator is unable to locate the claim on the ISC
18 database or if the administrator locates -- so that's an
19 inconclusive eligibility so I'd prefer it if you would
20 actually take the witness to the actual document instead
21 of asking hypothetical questions not rooted in the
22 document.

23 And I'm not trying to be -- I'm not trying to
24 be difficult, I'm trying to be clear because you're
25 trying to pin down answers that don't seem to align with

1 the -- with the agreement or with the intention.

2 MS. CLARKE: Okay. Well, let me ask the
3 witness this direct question.

4 41 Q. Can a Removed Child Class member be
5 approved for compensation if they are to not on the ISC
6 database?

7 MR. STERNS: Sorry. That is -- you have to
8 take the witness to the actual process --

9 MS. CLARKE: Well, let me ask it in this way.
10 Perhaps it would be helpful if Ms. Corbiere could review
11 4.5 -- pardon me. 4.4, 4.5, 4.6 and 4.7 together because
12 the answer to the question I think is rooted in a step
13 by step analysis of what the administrator can and
14 cannot do when they are provided with a completed claims
15 form.

16 MR. STERNS: I'm not going to allow the
17 question for the following reason: The document speaks
18 for itself. This witness is here to answer your
19 questions and not to -- not to interpret the document
20 that we can all read.

21 ---REFUSAL

22 MS. CLARKE: Okay. I'll put a pin in that one
23 now. I may come back to it at the end.

24 42 Q. So we'll look now at your April 15th
25 affidavit and I'll just ask Mr. Taylor to pull that up.

1 Excellent. So we're looking at paragraph 30 of your
2 April 15th affidavit and specifically I want to ask you
3 some questions about the first bullet of paragraph 30
4 which is about de-duplication.

5 So it says here: "Pending some de-duplication
6 which may reduce the number the administrator has been
7 able to identify, approximately 131,632 individuals are
8 on the ISC database as of April 4, 2024." Do you see
9 that there?

10 A. Hm-mm.

11 43 Q. And not -- we don't need to pull that up
12 right now but in your May affidavit that number has been
13 updated to 149,638, is that correct?

14 A. Yes.

15 44 Q. Okay. Can you explain the de-duplication
16 process?

17 A. I cannot. It's just my understanding is
18 that, you know, they work on a process to be more
19 specific about the individuals that are in the database.
20 Apparently it's a common term but my focus has been just
21 making sure that we're precise getting, you know, as
22 many people in the database as possible and now we have
23 149,000 people which has far exceeded what our original
24 estimate was in 2021.

25 45 Q. Okay. So you're not sure how either ISC or

1 the administrator is going about the de-duplicating of
2 the data in order to identify unique children as opposed
3 to individuals.

4 A. No, that is not my responsibility and I
5 just accept and will accept that once we have a final
6 database, all these details will be available, and they
7 are currently available, it's just I'm just giving
8 information and belief from what I was hearing from
9 Deloitte about a database that they're building for this
10 claims process that I don't have access to.

11 46 Q. Okay. We'll turn now to your May 13th
12 affidavit, and while Mr. Taylor's pulling that up, we're
13 going to be looking at paragraph 9 mostly where you talk
14 about information that you've received from Mr.
15 Bouthillette. Do you know, Ms. Corbiere, what his title
16 is at Indigenous Services Canada?

17 A. I do not.

18 47 Q. Okay. And we're going to go to paragraph
19 9. Okay. And we're looking at paragraph 9(b) which is
20 about the paper files. Do you know, Ms. Corbiere,
21 whether those paper records were scanned and digitized
22 first or whether the records were reviewed for
23 duplication and then scanned?

24 A. I don't know that. Similarly, I'm giving
25 information and belief from another party. I'm not part

1 of the ISC team. I get the reports like yourselves on --
2 on the process and what they've been doing to get all of
3 these individual records more specific so that we could
4 all get the benefit of making sure that it will be a
5 user friendly, informed process for claimants. Get as
6 much information on our end before a claimant process
7 even begins.

8 48 Q. Okay. Just scrolling back up to paragraph
9 6. Sorry about that. I just want to look at the chart
10 that you have for the Summary of Unique Number of
11 Individuals contained in the ISC database. Are you able
12 to share with us today, Ms. Corbiere, the specific years
13 for which these numbers represent?

14 A. This is the specific information. I just
15 ask for generalities and, again, I haven't seen any of
16 the database so I was just receiving the update from
17 Guillaume.

18 49 Q. Do you know -- sorry. I'm sorry. Do you
19 know whether or not Deloitte has access to the years as
20 well as the numbers you've provided here?

21 A. I don't know.

22 50 Q. Would that be information you'd be
23 prepared to share as part of this process --

24 MR. STERNS: No.

25 MS. CLARKE: -- if it does exist?

1 MR. STERNS: No, we're not providing the
2 undertaking.

3 ---REFUSAL

4 MS. CLARKE: Okay.

5 51 Q. Do you know whether or not the 149,638
6 number here represents 149,638 unique children?

7 A. Yes.

8 52 Q. Or what --

9 A. Individuals.

10 53 Q. Is it possible that the figure is the
11 result of adding together the yearly totals of children
12 in care for each year?

13 A. I don't know that but my understanding is
14 they're unique individuals. It says number of
15 individuals.

16 54 Q. I just wanted to see whether or not,
17 because there had been in your previous affidavit
18 questions around the de-duplication process, and I just
19 wanted to know whether or not it's your understanding
20 that these are unique individuals or whether or not it's
21 possible that there is a duplication here.

22 A. Summary of Unique Number of Individuals.

23 55 Q. Okay.

24 A. So I assume, and again, in the other
25 process, you know, the goal from our reports from

1 Guillaume at Deloitte is that they are getting focused,
2 working on the database. It's still not complete in
3 making sure we're talking about a unique number of
4 individuals.

5 56 Q. Let's go back to paragraph 9(b) if we
6 could. Do you know whether all of the physical records
7 have now been digitized or whether or not that process
8 of digitization is ongoing?

9 A. I don't know. I -- I assume the region's
10 still -- they're working as a team and making sure that
11 by the end of this, and their goal is the end of 2025,
12 that all the records they have are going to be shared
13 with the administrator and it will be a part of this
14 database.

15 57 Q. Were physical records located in all
16 regions starting in 1991?

17 A. Yes, they had the regions all involved.
18 They worked with Regional Records Office to gather all
19 the relevant records.

20 58 Q. But do you know whether or not each region
21 had physical records going back to 1991?

22 A. Like I said, they -- I just go with the
23 reports that I receive and they tell me that they have
24 shared and will continue to share the data from April 1,
25 1991 to March 31, 2022 and that process is scheduled to

1 be complete at the end of 2025.

2 59 Q. Did any of the physical records include
3 recordings or informations from agencies that did not
4 include identifying child information?

5 A. I don't know that.

6 MR. STERNS: I didn't understand the question.
7 Sorry. Maybe the witness did but let me see if I can
8 understand the question before you answer it. What was
9 the question?

10 MS. CLARKE: Did any of the physical records
11 include information or records from agencies that did
12 not include identifying child information.

13 MR. STERNS: Did they include information that
14 did not include?

15 MS. CLARKE: So my understanding, for example,
16 is in some regions, what they were providing to the
17 Federal Government was children in care numbers on a
18 monthly basis but they were not providing their name,
19 date of birth. So they might say, for example, we have
20 14 new children in care this month who are ordinarily
21 resident on reserve but they did not include to
22 Indigenous Services Canada their names and their dates
23 of birth.

24 MR. STERNS: Well, I don't know where you're
25 coming up with this information, Sarah, and I, you know,

1 you say you've understood that and, you know, I don't
2 know. You understood -- if that's what -- I don't know.
3 Is that a question? I mean, she's reporting on the
4 information that's been provided to her and you've given
5 her a question that sort of -- I'm struggling to
6 understand quite frankly and is -- you know, so I don't
7 think it's a fair question to ask this witness.

8 MS. CLARKE: Okay.

9 THE DEPONENT: But I said I don't know.

10 MS. CLARKE:

11 60 Q. Yeah. That's okay.

12 A. Because I don't, and I don't share your
13 understanding.

14 61 Q. If we can go down to paragraph 9(d) where
15 your affidavit explains the quality controls. How was
16 the accuracy of the manual data entry being assessed?

17 A. I think they -- well, terrible term to use
18 but they double, triple checked. They had layers of
19 validations and teams that, especially on the manual
20 entries, verified that they all had the same information
21 before we received the data at the administrator. Not
22 we, I mean the administrator, because again, I have
23 never seen the data.

24 62 Q. Would that include then comparing one
25 person's data entry of a set of cases compared to

1 another set of entries by another person? When you say
2 the layers of validation, I'm trying to understand what
3 you mean by that.

4 A. I'm just trying to explain what
5 information I received from -- from Canada on, you know,
6 the process to getting the data together for us, so when
7 I look at it, you know, they talk about reviewing, spot
8 checking, you know, so a very robust verification
9 process before they send the information to Deloitte.

10 63 Q. If we can look at 9(f), you state: "The
11 quality control team compares the automated" -- oh.
12 Thanks. Provides the -- oh, I just lost my spot. "The
13 quality control team compares the automated file against
14 the original file and confirms all the relevant
15 information has been imported from the original
16 document; i.e., reporting period, care costs, other
17 costs, all identifying information, et cetera."

18 Can you expand a bit on what "et cetera"
19 includes? Does it include, for example, date of entry
20 into care?

21 A. I cannot -- probably shouldn't have wrote
22 "et cetera" but I assume there's more information and
23 there's only so much you can remember from the reports
24 you receive at -- at these sessions.

25 64 Q. Do you know whether or not it includes the

1 date of exit from care?

2 A. Well, I do know from the report that all
3 enhancements, there's enough data in the database to
4 address them except for where I say the other two, which
5 is if they were removed, you know, for Jordan's
6 Principle-like situations or if they were -- how many
7 homes were in there, so any of the other data that would
8 be relevant to the enhancements, Deloitte has identified
9 that it's in the database.

10 65 Q. Do you know --

11 A. Again, it's incomplete so -- and we're not
12 focused on that right now in the claims process so we
13 haven't been drilling down with Deloitte all that
14 information.

15 66 Q. Do you know whether the information
16 includes placement type?

17 A. Again, I don't know. I haven't seen the
18 data. I just take the reports and know that we have all
19 identifying child information records, reporting period,
20 care costs, other costs.

21 67 Q. Okay. In 9(g) you state: "The above
22 extracted data is uploaded to a database to standardize
23 it, run validations and then extract it and upload it to
24 Deloitte who in turn uploads it to its database."

25 How is completeness being assessed?

1 A. Well, the work is incomplete. Canada
2 admits that, so does Deloitte, and that's why they're --
3 they have meetings amongst themselves and that's why
4 they're anticipating their goal is to be complete, this
5 database to be fully complete, by the end of 2025.

6 68 Q. Has the data that Deloitte has received to
7 date, the 149,000, et cetera, has that information been
8 compared to the aggregate data provided to Trocmé and
9 Gorham for their report?

10 A. By -- this data was not available to
11 Trocmé and Gorham for their report fully. This
12 individualized process that has been undertaken by
13 Canada only started after the Trocmé and Gorham Report
14 and after the taxonomy report in January. We -- you
15 know, and I can't talk about settlement privilege but we
16 were talking about the ISC database even before the
17 taxonomy report so they only started this work and
18 gathering all the records and doing all the work that
19 they're describing after we received the taxonomy report
20 at the end of January 2022.

21 69 Q. I understand that. I'm asking whether or
22 not the information that is now available, which I
23 understand was not available at the time of the Trocmé
24 and Gorham Report, whether or not that data has now gone
25 back and been compared to the aggregate data that was

1 provided to Trocmé and Gorham.

2 MR. STERNS: Sorry. This is your own witness,
3 right? I mean, Professor Trocmé is your own witness so
4 I don't know. You might have done that. I don't know.
5 Did we do that? No.

6 MS. CLARKE: Okay.

7 70 Q. Has ISC or Deloitte to your knowledge
8 taken a sample of the --

9 MR. STERNS: I'm sorry. Sorry to interrupt. I
10 shouldn't have said no. I should have said we don't
11 know. We don't know, I don't think Dianne knows and if
12 it's been done by anybody, it might have been done by
13 you, that I don't know either, so scratch my no and just
14 replace it with an I don't know.

15 MS. CLARKE: Okay.

16 THE DEPONENT: I was going to say I don't know
17 but thanks, David.

18 MR. STERNS: Yeah. I should have just let you
19 say it. We'd get out of here faster.

20 MS. CLARKE:

21 71 Q. Do you know whether or not ISC or Deloitte
22 has taken a sample of the data it's received and
23 compared it against agency records to ensure
24 completeness?

25 A. We're not accessing agency records.

1 72 Q. Scrolling down to paragraph 10(d), you
2 state: "Throughout the project ISC has worked with
3 business consulting firm Donna Cona and with Deloitte to
4 contract appropriate individuals to assist with the
5 project and quality control, template creation and
6 manual entry."

7 Who on the team to your knowledge has child
8 welfare expertise?

9 A. I don't know. I didn't ask that question.

10 73 Q. What did the training look like for the
11 coders to understand the child welfare placement
12 process?

13 A. I don't know that either.

14 74 Q. In assembling the ISC database so far, has
15 ISC to your knowledge in your discussions with Mr.
16 Bouthillette found any gaps in the data in the years
17 reviewed to date?

18 A. It's an incomplete process. We don't have
19 any gaps identified until we'll have a complete database
20 by the end of 2025 and I hope we meet that timetable
21 because the Removed Child Class is waiting.

22 75 Q. So your understanding is that there have
23 been no gaps identified by ISC or Deloitte up until this
24 point?

25 A. That's my understanding. We don't know.

1 There may be at the end but to date we haven't
2 identified any gaps because the information is not
3 complete and it will be complete at the end of 2025.

4 76 Q. Okay. Let's turn to the issue of supports.
5 So if we can go back to the claims process document and
6 we're going to go to page 11 of the record. I can just
7 read the section to you, Ms. Corbiere, while Mr.
8 Taylor's pulling it up.

9 Section C under "General" says: "Claimants
10 will be supported by claims helpers free of charge in
11 navigating the claims process as provided for in the
12 settlement agreement, specifically Article 3.02(1)(j)
13 and consistent with Schedule I, Framework for Supports
14 for Claimants in Compensation Process."

15 Just a few general questions about this.
16 You're aware that Youth in Care and former Youth in Care
17 have been calling for mental health supports to be put
18 in place before, during and after applying for
19 compensation, correct?

20 A. No. What I know about the supports in
21 Schedule I is that all parties agreed to Schedule I,
22 which sets out the supports, including the non-party
23 Caring Society. The supports are being worked on. We
24 don't have a claims process so we will be updating the
25 parties. We have a working group. I said we have working

1 groups for everything in implementation. We will have an
2 update very soon on Schedule I. The parties are working
3 together to develop the communication materials, you
4 know, and the communication materials are pretty
5 important because what we have heard is communication is
6 everything. People want to know and be ready before the
7 claims process begins. We have been offering supports to
8 the claimants when they call in if they -- they have
9 traumatic experiences, which they do. So this Schedule I
10 has been approved by the Court so we will be
11 implementing it and working with the parties prior to
12 the claims process, it will be communicated to the First
13 Nations across Canada and regional offices, et cetera,
14 of what the more details are about the supports.

15 77 Q. Did you have an opportunity to review the
16 Caring Society's Responding Motion Record?

17 A. Not in extensive details.

18 78 Q. Did you have an opportunity in particular
19 to look at the affidavit of Jasmine Kaur?

20 A. I didn't focus on supports because, as I
21 said, the supports in Schedule I have already been
22 approved by the Court and we are going to be rolling out
23 that process, including continuing to talk to all
24 parties in the Caring Society prior to the claims
25 process being launched about the supports that will be

1 available so I didn't really focus, because the real
2 focus of this matter is -- is the claims process for the
3 Removed Child Class.

4 79 Q. I just wondered if you had any familiarity
5 with Exhibit C to Ms. Kaur's affidavit which is the
6 Youth in Care Canada, November 22, 2019 report by Ashley
7 Bach and Gabriel Fayant on compensation and supports in
8 the process of rolling out compensation?

9 A. Are you going to turn me to a section that
10 you want me to --

11 80 Q. Yes. So Mr. Taylor's trying to pull it up.
12 So Mr. Taylor is showing you Exhibit C to Ms. Kaur's
13 affidavit and I'm just wondering if you have any
14 familiarity with this report.

15 A. I'm familiar that this report was done and
16 I do know, based on information and belief from AFN,
17 that it's relevant to their work in long-term reform,
18 child welfare as well as it became part of what their
19 thinking was on supports. It also became part of the
20 cy-près fund thinking so -- but I have not read the
21 report because that wasn't an area I was focused on as
22 part of the team for the Assembly of First Nations.

23 81 Q. Thank you. Are the supports that we were
24 just talking about under Schedule I, are those going to
25 be available to all class members including, for

1 example, brothers and sisters who may not be eligible
2 for direct compensation but may have access to the
3 cy-près fund?

4 A. Again, I don't know -- like, I talked
5 about the relevance of the supports. We are dealing with
6 the Removed Child Class claims process as well as the
7 Family Class. When we consulted on this process with the
8 regions and the issue of supports came up we said this
9 is something that's already been agreed to and we will
10 work with the parties and finalize in detail what that
11 support -- what that support -- what those supports will
12 be so I haven't focused on that for this specific motion
13 because it's premature.

14 We will, and I said this when I went to the
15 regions, we have agreed to the supports in Schedule I
16 and the Court has approved them, and if -- and if after
17 the claims process is launched that systemic issues are
18 identified as problems or lack of supports or problems
19 with the supports, and I said this to First Nations,
20 then you bring it to the SIC, the Settlement
21 Implementation Committee, so this has not been a part of
22 preparations in that much detail. We were consistent in
23 going to the regions and talking about the claims
24 process and we -- the only supports talked about was
25 Deloitte's. Deloitte's support responsibilities which I

1 think you're going to have the opportunity to discuss
2 with...

3 82 Q. Just -- just to finish off on this issue
4 though, the claim helpers that are referenced in the
5 claims process document, they're not going to be
6 delivering direct supports to class members, correct?

7 A. Well, they're going to help them with the
8 claims process and they are intended to refer them as
9 required.

10 83 Q. So their -- yeah. Their role is really to
11 connect class members with services in the community but
12 they're not going to be doing individual counselling,
13 for example, or providing individual mental health
14 support.

15 A. No. They're there to be a kind hand to
16 lead anybody that needs help to go through that process
17 of filling out the claims form. That's what they're for.
18 And if the claimant needs help, they're to make
19 referrals where they can.

20 84 Q. And the plan on the supports is not to
21 build new services, except maybe for the dedicated phone
22 line, but instead to connect class members with existing
23 services in the community in line with the framework
24 that's been approved by the Federal courts.

25 MR. STERNS: I'm sorry. I'm not going to allow

1 the witness to answer that question. It just seems to
2 come out of -- seems to come out of nowhere. The -- the
3 supports are in schedule to the FSA. If you want to ask
4 something about that, go right ahead, but I just don't
5 know where that came from.

6 ---REFUSAL

7 MS. CLARKE: Okay. It comes from Schedule I
8 but that's okay.

9 MR. STERNS: Oh. Okay. Well, we can all
10 read --

11 THE DEPONENT: Again --

12 MR. STERNS: We can all read Schedule I and I
13 don't know if there's anything you're asking in addition
14 to it, or if it's in Schedule I show us where it says
15 that in Schedule I.

16 MS. CLARKE: No, it's okay. I'm just trying to
17 make sure that we're all on the same page but if we're
18 taking the approach of the document says what it says
19 I'm happy to go down that route.

20 85 Q. My --

21 A. And again, as I said, it has not been
22 the --

23 MR. STERNS: Dianne, just --

24 THE DEPONENT: Oh, sorry.

25 MR. STERNS: Just -- thank you.

1 MS. CLARKE:

2 86 Q. My understanding is that there is a
3 working group looking at the issues on supports called
4 the Compensation Wellness Supports Task Team. Are you
5 familiar with the work of the Task Team?

6 A. No.

7 87 Q. I shared with your counsel, or counsel
8 this morning, which Mr. Taylor will pull up now, a
9 screenshot of a calendar invite and some of the
10 documents that were attached to the calendar invite in
11 relation to the Supports Task Team. Did you have an
12 opportunity to review those today?

13 A. I had a quick look but it is not something
14 I'm familiar with and I asked Karen, because she was on
15 the e-mail, Karen Osachoff from my firm, and she was on
16 a personal leave for a couple of months up until the
17 Federal Court approval so she's not aware of this either
18 and she didn't get the report that you asked me to look
19 at so yeah, I'm not aware of this.

20 88 Q. It's my understanding that a number of
21 folks from the Assembly of First Nations have been
22 attending these meetings in relation to supports. Is
23 that your understanding?

24 A. The Assembly of First Nations have
25 different meetings for different purposes but as far as

1 the implementation of Schedule I it is no longer the
2 Assembly of First Nations people identified here that
3 are responsible. It is now part of the working group
4 that is now being managed by and we're now reporting to
5 the Settlement Implementation Committee since they've
6 been approved since November 16th, so the work of this
7 group I am not aware of and if they did meet it hasn't
8 come to the working group presently or maybe it has, but
9 there are definitely a working group on Schedule I.

10 89 Q. Okay. And so that working group that
11 you're speaking about working on Schedule I, that is a
12 class action working group or can you explain what that
13 working group is?

14 A. Yes. It is the parties. It's the Mushroom
15 group, the AFN legal team and management, as well as
16 Canada, and after we're finished -- oh. After we're
17 finished, and for specific Deloitte stuff we've been
18 meeting with Deloitte, after we're finished, and I think
19 we've been reporting this to the parties and the Caring
20 Society, we intend to come back as a full group and
21 discuss, you know, Schedule I in more detail and we will
22 definitely be including the Caring Society.

23 90 Q. So I do -- I appreciate that you saw this
24 document today for the first time but I do have some
25 questions about what's in the minutes from October 20th

1 and it would seem to me, based on your --

2 A. But I'm wondering, I don't even know if
3 they're real minutes. I've never seen them before. Like,
4 I can't verify any of this information so I'll be
5 reading something that you tell me is intended for
6 whatever purpose but I don't know what it is, and you
7 also see that nobody from the legal team attended this
8 meeting. That's not in this record, including AFN
9 in-house counsel.

10 91 Q. Yes. My understanding is that there have
11 been four meetings of this Task Force and that no
12 lawyers were participating in those meetings but that
13 multiple folks from the Assembly of First Nations were
14 in attendance.

15 A. Again...

16 92 Q. The action items that are listed in this
17 -- these minutes of -- these minutes - I was going to
18 call them minutes of settlement but that's not what they
19 are. They're just minutes from the meeting - seem to
20 discuss the various services and supports that are set
21 out in Schedule I. Do you have any information about the
22 action items that are found in these?

23 A. No.

24 93 Q. Okay.

25 A. We have our own separate process, since

1 the final settlement has been approved by the Court, and
2 we have our own process with action items, et cetera, so
3 on and so forth. I have not been to all those meetings.
4 Again, I didn't make it a part of my affidavit because
5 it's not part of our motion, the plan for the supports.
6 Just that we're working on it.

7 94 Q. Can you, Mr. Taylor, scroll to the next
8 document? The holistic wellness supports relating to
9 compensation? Is this a document you've seen before,
10 Ms. Corbiere?

11 A. No.

12 95 Q. In this document there are funding
13 allocations for the various components related to the
14 delivery of supports so, for example, under component
15 one, the funding allocation is 6.34 million over the
16 first year. Do you see that?

17 A. For the first time.

18 96 Q. So this component of the schedule is not
19 something that you're familiar with?

20 A. No.

21 97 Q. And the funding allocation, do you know
22 where that comes from?

23 A. I'm not aware of the funding allocations
24 that are identified here. So you're just going to get me
25 to walk through a document that I haven't seen before

1 until today.

2 98 Q. In the work that the class action parties
3 group is doing on supports, is there a component for
4 surge capacity for service coordination?

5 A. I am not prepared and I didn't prepare in
6 my affidavit to turn my mind to the details of the
7 supports because it's premature, it's still a work in
8 progress. We will be coming to the table with a supports
9 plan, communication materials, and all of your questions
10 can be answered then and that is not happening today. It
11 will be able to happen very soon though because what
12 we're hearing is, as you said, people want, you know,
13 clarity and more supports and they want them to be clear
14 and rolled out before the claims process begins and
15 we're now looking at a claims process that might not
16 begin for six months, so we have a lot of work to do to
17 get ready to deliver on these supports.

18 99 Q. Okay. Can we just go off the record for
19 five minutes? I'm just going to review my notes, Ms.
20 Corbiere, and subject to some small followups we may be
21 done so if we can just go off, please.

22 ---Off the Record at 3:06 p.m. to 3:09 p.m.

23 MS. CLARKE: So we'd just like to mark the
24 last exhibit, just for identification purposes only, and
25 we can provide that to you, Madam Reporter, after we're

1 done here. Subject to any reply, questions from my
2 friends, Mr. Sterns, I'm finished.

3 EXHIBIT A: Screenshot of E-Mail.

4 MR. STERNS: No questions from me. Thank you.
5 ---Whereupon the Examination Adjourned at 3:10 p.m.

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7
8
9 I HEREBY CERTIFY THE FOREGOING
10 to be a true and accurate
11 transcription of my shorthand notes
12 to the best of my skill and ability.

13 

14 _____
15 Marcy Lancaster, C.S.R.

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