



**Department of Justice
Canada**

Prairie Regional Office
(Winnipeg)
National Litigation Sector
601-400 St. Mary Avenue
Winnipeg, MB R3C 4K5

**Ministère de la Justice
Canada**

Bureau régional des Prairies (Winnipeg)
Secteur national du contentieux
400, avenue St. Mary, pièce 601
Winnipeg (Manitoba) R3C 4K5

Telephone/Téléphone: 204-294-5563
Fax /Télécopieur: 204-983-3636
Email/Courriel: Dayna.Anderson@justice.gc.ca

VIA EMAIL

Our File Number: LEX-500166425

June 25, 2024

Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, Ontario K1A 1J4

Dear Registry and Parties,

**Re: First Nations Child and Family Caring Society of Canada et al. v.
the Attorney General of Canada et al
Tribunal File: T1340/7008**

Attorney General of Canada's response to First Nations Leadership Council's motion

These are the Attorney General of Canada (AGC)'s submissions in response to the First Nations Leadership Council (FNLC)'s motion to be added as a late interested party.

We have considered and fully respect the positions articulated by the Assembly of First Nations (AFN), the Chiefs of Ontario (COO) and the Nishnawbe Aski Nation (NAN), filed June 20, 2024, all of which do not object to the FNLC's participation. In support of those parties, the AGC also does not oppose the granting of interested party status to the FNLC. The AGC acknowledges the FNLC may have an interest in the issues raised and may provide a unique perspective on the issues before the Panel.

While the AGC would not necessarily articulate the law in the same manner as the First Nations Child and Family Caring Society of Canada (Caring Society) has done in its submissions, the AGC agrees that the Tribunal's rulings on similar past interested party motions are the most relevant to these proceedings.

If the Tribunal is satisfied that the test for interested party status has been met, then the AGC submits that FNLC's participation should be granted on the following terms, to ensure that the proceedings continue to move forward as efficiently and expeditiously as possible:

1. the FNLC's participation should be strictly limited to the issues raised in Caring Society's non-compliance motion¹ and the AGC's cross motion;²

¹ Filed December 12, 2023.

² Filed on March 15, 2024.

2. the FNLC should be required to take the record as constituted by the parties, and not be permitted to adduce any further evidence, raise new issues, or otherwise supplement the record of the parties;
3. the FNLC's submissions should not be duplicative of positions already taken by other parties, but should provide its different and unique perspective only, with a view to furthering the Panel's determination of this matter;
4. the FNLC's written submissions should not exceed 15 pages, to minimize the risk of further procedural delays due to the time otherwise needed for the parties to prepare responses;
5. all parties should be afforded an opportunity to file a written response to the FNLC's written submissions, not to exceed 15 pages in length;
6. the FNLC should not be permitted to file any written reply submissions; and
7. all remaining steps in the proceedings should be scheduled to ensure that the hearing proceeds without undue delay on August 20 and 21, 2024.

The AGC submits that the August 7 and 8 hearing dates should be vacated. All parties, including the AGC, require a reasonable amount of time to develop and draft their positions, and to obtain necessary instructions, following receipt of the other parties' positions. The original schedule was already extremely challenging in this regard. The AGC submits that the late filing of the FNLC's motion has delayed matters, such that it is no longer possible to maintain the early August hearing dates. Forging ahead with those dates will not permit a fair opportunity for the parties to consider, draft and instruct on responses, and would therefore not provide the Panel with the most thoughtful and articulate submissions.

The AGC submits using the first three weeks of August for preparation of written submissions would be a much better use of time. Further, the AGC submits that hearing dates of August 20 and 21 provide sufficient time for the entire hearing of this matter, even with the FNLC's participation.

Sincerely,



Dayna Anderson, Kevin Staska, and Samantha Gergely
Counsel for the Attorney General of Canada

CC:

David Taylor and Kevin Droz
Conway Baxter Wilson LLP
400-411 Roosevelt Avenue
Ottawa, ON K2A 3X9
Email: dtaylor@conwaylitigation.ca
kdroz@conwaylitigation.ca

Sarah Clarke
Clarke Child and Family Law
36 Toronto Street, Suite 950
Toronto, ON M5C 2C5
Email: sarah@childandfamilylaw.ca

Maggie Wente, Jessie Stirling and Ashley Ash
Olthuis Kleer Townshend LLP
Email: mwente@oktlaw.com
jstirling@oktlaw.com
aash@oktlaw.com

Julian N. Falconer, Christopher Rapson
and Natalie Posala
Falconers LLP
Email: julianf@falconers.ca
christopherr@falconers.ca
nataliep@falconers.ca
michaelh@falconers.ca

Justin Safayeni and Stephen Aylward
Stockwoods LLP
Email: justins@stockwoods.ca
stephenA@stockwoods.ca

Stuart Wuttke, Lacey Kassis
and Adam Williamson
Assembly of First Nations
Email: swuttke@afn.ca
kassis@afn.ca
awilliamson@afn.ca

Brian Smith and Jessica Walsh
Canadian Human Rights Commission
Email: brian.smith@chrc-ccdp.gc.ca
jessica.walsh@chrc-ccdp.gc.ca