

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and
ASSEMBLY OF FIRST NATIONS**

Complainants

-and-

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

**ATTORNEY GENERAL OF CANADA
(representing the Minister of Indigenous Services Canada)**

Respondent

-and-

**CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION**

Interested Parties

**AFFIDAVIT OF GRAND CHIEF ALVIN FIDDLER
(Affirmed March 7, 2025)**

I, Alvin Fiddler, of the City of Thunder Bay, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Grand Chief of Nishnawbe Aski Nation (“NAN”) and as such have knowledge of the information contained herein. Further, I have reviewed the affidavit of Grand Chief Joel Abram, sworn March 6, 2025, and adopt for the truth of its contents, the information contained therein.

2. I am a member of Muskrat Dam First Nation and a former Deputy Chief of Muskrat Dam. I served as Health Director of NAN from 1998 until 2003. In 2003, I was first elected Deputy Grand Chief of NAN. I served two (2) terms as Deputy Grand Chief from 2003 to 2009 and was re-elected from 2012 to 2015. Between 2015 and 2021, I served two (2) terms as the Grand Chief of NAN. I was acclaimed as Grand Chief again on August 16, 2023, and was elected for a further 3-year term as Grand Chief on August 14, 2024.
3. As Grand Chief of NAN, I communicate extensively with all forty-nine (49) NAN First Nations and government stakeholders on a variety of issues regarding child and family services, including the unique challenges of service delivery in remote and northern communities in Northwestern Ontario. I have also been in various leadership roles for NAN since 2003, with few and short exceptions. This includes the period from the Canadian Human Rights Tribunal's ("CHRT" or the "Tribunal") initial findings of discrimination in 2016¹ until today's date.
4. This affidavit is made in support of the joint motion to end the Tribunal's jurisdiction over long-term reform of the First Nations Child and Family Services Program ("FNCFS" or the "Program") in Ontario, based on the negotiated agreements as between NAN, Chiefs of Ontario ("COO"), and Canada, culminating in the Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario (the "Ontario Final Agreement" or "OFA"), and the Trilateral Agreement Respecting Reform of the 1965 Agreement (the "Trilateral Agreement").
5. The OFA has been drafted to address the discrimination, as found by the Tribunal in the 2016 decision,² with the long-term reform of the FNCFS Program in Ontario and the continued work that needs to be done on behalf of, and in the best interests of, First Nations children. The Trilateral Agreement has been drafted to outline how NAN, COO, and Canada will work together to address the same discrimination by reforming the 1965 Agreement.

¹ See *First Nations Child and Family Caring Society v Canada*, 2016 CHRT 2 ["2016 CHRT 2"].

² *Ibid.*

6. This affidavit describes how the OFA and Trilateral Agreement were carefully negotiated by NAN and COO, ratified by the Chiefs of NAN and COO, and executed by NAN, COO, and Canada following two (2) separate Special Chiefs Assemblies held on February 25 and 26, 2025. The affidavit outlines the terms of the OFA and Trilateral Agreement and how these agreements are intended to address the discrimination found by the CHRT in respect of Canada's discriminatory practices in the FNCFS Program and the 1965 Agreement.
7. Finally, and for ease of reference, the Exhibits identified and referenced in this affidavit have been organized separately into an Exhibit Book, split into volumes. This is due to the length and number of documents. The specific documents/exhibits are referenced herein by Exhibit letter, with the necessary information to identify the document. All documents in the Exhibit Book volumes are verily believed to be true copies of the originals.

I. The CHRT's Findings on Discrimination in the FNCFS Program

8. To explain how the OFA addresses the findings of discrimination arising from the FNCFS Program, it is necessary to briefly review the Tribunal's findings.
9. On February 23, 2007, the First Nations Child and Family Caring Society ("Caring Society") and the Assembly of First Nations ("AFN") filed a human rights complaint with the Canadian Human Rights Commission (the "Commission"), asserting that the Government of Canada was providing inequitable child welfare funding to First Nations children on-reserve and failing to fully implement Jordan's Principle. The Commission referred the complaint to the Tribunal in 2008 for an inquiry.
10. On January 26, 2016, the Tribunal determined that the Indigenous and Northern Affairs Canada ("INAC") FNCFS Program was discriminatory under s. 5 of the *Canadian Human Rights Act*. It ordered Canada to cease its discriminatory practices and to reform both the Program and the 1965 Agreement.³ It was found that immediate and long-term reform would

³ 2016 CHRT 2, at para 481.

be needed to ensure equitable levels of service, including funding for First Nations child and family services on-reserve.

11. On April 26, 2016, the Tribunal ordered INAC – now, herein referred to as Indigenous Services Canada (“ISC”) – to immediately take measures to address how it determines funding for remote FNCFS agencies.⁴ Specifically, that funding would have to be determined based on an assessment of actual numbers, including accounting for remoteness, and not on assumptions about children in care, families in need, population levels, and remote or small agencies.
12. The Tribunal found that the 1965 Agreement had not been updated to ensure that on-reserve communities in Ontario could fully comply with the legislated standards for providing child and family services. This resulted in the Federal government meeting with the Government of Ontario to review the 1965 Agreement, setting the stage for more substantive discussions with First Nations. As will be seen below, NAN filed a motion seeking Interested Party status to address the design and implementation of the Panel’s orders for remote and northern communities in Ontario.⁵

II. NAN’s Intervention: To Ensure Substantive Equality for Remote Communities

13. NAN was established in 1973 as a political-territorial organization with a mandate to represent the socioeconomic and political interests of its forty-nine (49) First Nation communities to all levels of government, on a nation-to-nation basis. NAN has a total population of membership estimated at around 45,000 people (on- and off-reserve). NAN’s territory encompasses James Bay Treaty No. 9 and Ontario’s portion of Treaty No. 5, covering two-thirds of Ontario, with a total land mass spanning 210,000 square miles. The NAN Chiefs-in-Assembly meet two (2) to three (3) times a year to mandate, by resolution, the direction and initiatives of NAN. NAN’s Board of Directors is comprised of a Grand Chief and three (3) Deputy Grand Chiefs.

⁴ *First Nations Child and Family Caring Society v Canada*, 2016 CHRT 10, at paras 20-23.

⁵ *Ibid*, at paras 26-28.

A. The Chiefs Committee on Children, Youth, and Families

14. The NAN Chiefs Committee on Children, Youth, and Families (the “CCCYF”) was established by NAN in 2013 to develop a NAN-specific Aboriginal Child and Youth Strategy. It later revised its mandate to include generally supporting the development of First Nations laws and governance mechanisms, as well as developing a Children and Youth Services Model. The NAN CCCYF Terms of Reference is marked as Exhibit A, located at Tab 1 of the Exhibit Book.
15. The CCCYF is mandated by NAN Chiefs-in-Assembly to provide guidance to the NAN Executive Council with respect to all advocacy and policy matters that impact children, youth, and families, on behalf of all NAN-affiliated First Nations.
16. The CCCYF meets regularly, at a minimum of four (4) times per year, to facilitate open discussion, debate, and sharing of insights on the efficacy of social programs and initiatives in NAN First Nations. The CCCYF carries out other functions, such as conducting broad policy discussions with explicit input from NAN First Nations communities, receiving and reviewing reports on policy development, and providing regular updates to community leadership on the activities of the NAN Social Services Departments.
17. Under the direction of the CCCYF, NAN sought intervention and was granted status as an Interested Party of the remedies phase of the *First Nations Child and Family Caring Society v Canada* proceedings before the Tribunal.⁶ NAN sought standing as an Interested Party to address issues facing remote Indigenous communities in Northwestern Ontario. This work was soon seen to apply to remote Indigenous communities more generally.
18. NAN’s experience with child and welfare issues in remote communities arises from their participation in several policy initiatives that were related to the long-term reform of Jordan’s Principle and the FNCFS Program in Ontario. NAN sought to ensure that any remedies

⁶ *First Nations Child and Family Caring Society v Canada*, 2016 CHRT 11 [“2016 CHRT 11”].

ordered by the Tribunal were designed with the unique considerations of service delivery in Northwestern Ontario.

19. In granting NAN intervenor status, the Panel recognized the issues arising from the circumstances and challenges faced by remote communities in Ontario:

The Panel identified various factors which impact the performance and quality of the child and family services delivered to those communities and which can result in more children being sent outside the community to receive those services. Those factors include the added time and expense for Children's Aid Societies to travel to remote communities; the challenges remote communities face in terms of recruiting and retaining staff while dealing with larger case volumes; the lack of suitable housing, which makes it difficult to find foster homes in remote communities; the lack of surrounding health and social programs and services available to remote communities and their limited access to court services; and the lack of infrastructure and capacity building for remote communities to address all these issues.⁷

B. The Development of a Remoteness Quotient

20. NAN began the work of ensuring remoteness was considered within immediate and long-term reform by submitting to the Tribunal that a new remoteness quotient ("RQ") should be developed. The RQ was intended to ensure that funding to remote northern communities more accurately reflects the true cost of providing services in those communities.⁸
21. The Panel agreed with NAN that an RQ ought to be developed as a part of medium to long-term relief and that data would need to be appropriately collected. Further, this quotient should not only apply to Ontario. Rather, the application of remoteness factors ought to be considered across Canada. This was because "a standardized, one-size-fits-all approach to determining

⁷ *Ibid.*, at para 9.

⁸ *First Nations Child and Family Caring Society v Canada*, 2016 CHRT 16, at paras 75-77 ["2016 CHRT 16"].

funding for remote agencies affects their overall ability to provide services and results in adverse impacts for many First Nations children and families.”¹³

22. In early March 2017, NAN brought a motion concerning the development of an RQ, and ISC and NAN worked together to set out a Terms of Reference for a Remoteness Quotient Table. These Terms of Reference set out the context, guiding principles, mandate, scope, membership, and procedure that established the NAN-Canada Remoteness Quotient Table (“RQ Table”). The Terms of Reference for the Remoteness Quotient Table is marked as Exhibit B, located at Tab 2 of the Exhibit Book.
23. On March 29, 2017, the Tribunal issued a consent order directing ISC and NAN to “work to develop and implement an immediate relief funding formula for the three [FNCFS] agencies that serve NAN communities”.¹⁴ Further, the consent order adopted the Terms of Reference for the RQ Table to develop a remoteness quotient.
24. The intention of the RQ Table was to “allow NAN and Canada to collaborate in the spirit of reconciliation on solutions to the deficiencies in remoteness funding for Indigenous child welfare” as found by the Tribunal.¹⁵ ISC funded the development of the quotient. The other Parties supported this work but waited for the development and implementation of the RQ in NAN before taking a position on its application across the country.¹⁶
25. NAN and ISC agreed that Dr. Tom Wilson and the Barnes Management Group, of which David Barnes was the principal, would be hired as experts to further the work of the RQ Table.
26. The RQ Table met regularly until March 2019, inclusive.
27. During this time, ISC and NAN jointly filed the experts’ Phase I report with the Tribunal on September 8, 2017. The Phase I report provided calculations on what immediate relief funding

¹³ *Ibid*, at para 81.

¹⁴ *First Nations Child and Family Caring Society v Canada*, 2017 CHRT 7, at para 24(2) [“2017 CHRT 7”].

¹⁵ See Exhibit B, Terms of Reference for Remoteness Quotient Table (Mandate), at Tab 2.

¹⁶ 2017 CHRT 7.

for the NAN agencies should look like. Included for the convenience of the Hearing Tribunal, and found in a separate volume, is a copy of the Phase I Report. An Executive Summary was previously attached as Exhibit “C” to the affidavit of Dr. Thomas A. Wilson & David Barnes, affirmed on December 3, 2019.

28. ISC and NAN jointly filed the experts’ Phase II Interim Report (the “Interim Report”) with the Tribunal on August 22, 2018. The Interim Report established that the formula being used by ISC to distribute various pools of child-welfare-related monies to First Nations in Ontario is inequitable and inappropriate. The formula used was the Ontario First Nations Limited Partnership Formula, known as the “Casino Rama Formula”. The Casino Rama Formula does not sufficiently account for the increased costs of providing child and family services in remote communities. Included for the convenience of the Hearing Tribunal, and found in a separate volume, is a copy of the Phase II Interim Report. The Phase II Interim Report was never formally included as an exhibit to an affidavit but is referenced in the affidavit of Anne Scotton, affirmed on February 12, 2020, at paragraphs 14 and 15.
29. NAN filed the experts’ Phase II Final Report (the “Final RQ Report”) on March 29, 2019. The process of having the Phase II Interim Report reviewed was done after ISC suggested, and NAN agreed, to have an independent third-party reviewer assess the experts’ work to validate its findings. NAN hired Dr. Martin Cook, whose name was provided by ISC, to conduct this review. The Final RQ Report passed third-party review on February 22, 2019, and NAN asked Dr. Cooke to prepare one (1) further report to validate the experts’ calculations. Dr. Cook completed this in early March of 2019. Included for the convenience of the Hearing Tribunal, and found in a separate volume, is a copy of the Final RQ Report. The Final RQ Report was never formally included as an exhibit to an affidavit but is referenced in the affidavit of Martin Cooke, affirmed on November 28, 2019, at paragraphs 1, 2, 8, 15, 18, 20, and 21.
30. A crucial part of the Final RQ Report was the calculation of remoteness coefficients for forty-three (43) child and family services agencies in Ontario. An agency’s remoteness coefficient represents the degree to which additional funding is required to provide the agency with

funding equivalent to comparable non-remote agencies to account for increased remoteness costs.

31. Following the filing of the Final RQ Report, the leadership of remote First Nations in other jurisdictions were interested in quantifying the increased costs their communities face due to remoteness. NAN engaged with multiple parties about the potential of applying the RQ model elsewhere, which led to the creation of a National RQ Table.
32. The implementation of the RQ work required a compliance motion before the Tribunal, dated October 4, 2019, seeking relief that the Tribunal:
 - Apply the RQ to all funding distributed within Ontario;
 - Order Canada to stop distributing child welfare funding according to the Casino Rama Formula to NAN First Nations;
 - Provide direction about how to proceed with work relating to remoteness in the rest of Canada; and
 - Implement the Missing and Murdered Indigenous Women and Girls Report Calls to Justice throughout Canada.
33. This compliance motion was settled between NAN and Canada in December 2020.

III. The Progress of Negotiations towards Long-Term Reform

34. On November 8, 2021, the Caring Society, AFN, COO, NAN, and Canada entered Global Resolution Discussions to negotiate Long-Term Reform of the FNCFS Program as well as Jordan's Principle.
35. On December 31, 2021, the Caring Society, AFN, COO, NAN, and Canada ("Parties to the AIP") signed an Agreement-in-Principle ("AIP") on the Long-Term Reform of the FNCFS Program as well as Jordan's Principle. The AIP outlined reforms to address underfunding, prioritize prevention services, and broaden Canada's interpretation of Jordan's Principle, as well as commit Canada to address issues related to remoteness, supporting the Choose Life

initiative, and funding the National Assembly of Remote Communities (“NARC”). A true copy of ISC’s Executive Summary of the AIP is marked as Exhibit C, located at Tab 3 of the Exhibit Book. This document was obtained online via the following link: [Executive Summary of Agreement-in-Principle on Long-Term Reform](#)

36. The AIP established a date of December 31, 2022, to conclude a Final Settlement Agreement (“FSA”) on Long-Term Reform of the FNCFS Program as well as Jordan’s Principle. While the Parties to the AIP did not reach an FSA by December 2022, the mandate was extended until March 31, 2023.
37. In March 2023, the Caring Society and the AFN proposed a “*Joint Path Forward*” that split the reform of the FNCFS Program and Jordan’s Principle into two (2) separate FSA negotiation tracks. The proposed *Joint Path Forward* meant that Canada would be required to secure a new mandate, and this would require additional time. However, the Parties to the AIP continued to negotiate and agreed to focus on the reforms of the FNCFS Program in the interim.
38. On December 8, 2023, the Caring Society officially withdrew from the negotiations which had been commenced under the AIP and the *Joint Path Forward*, citing its desire for negotiations under a new approach. The rest of the Parties (AFN, COO, NAN, and Canada) continued to negotiate the reforms outlined under the AIP.
39. Between January and July 2024, the Parties NAN, COO, AFN, and Canada intensively negotiated the draft Final Settlement Agreement (the “draft FSA”). NAN continuously worked to inform its Chiefs, providing as much detail as they could to explain the terms of the draft FSA and what it would mean to not only reach a settlement but what a reformed FNCFS Program would entail. NAN passed Resolution 24/08 on February 7, 2024, directing their Executive Council, to the best of its ability, to achieve an FSA without delay. The NAN Resolution 24/08 is marked as Exhibit D, located at Tab 4 of the Exhibit Book.

40. On July 11, 2024, at the AFN’s Annual General Assembly in Montreal, NAN, COO, AFN, and Canada concluded negotiations and endorsed the draft FSA. This historic agreement committed 47.8 billion over a 10-year period to the reform of the FNCFS Program. This was intended to address the discrimination found by the CHRT. The draft FSA is marked as Exhibit E, located at Tab 5 of the Exhibit Book.

A. Remoteness in the draft FSA

41. Remoteness was accounted for in the draft FSA in several ways, which will be explained below in paragraphs 42-45.
42. First, the draft FSA was presented as a reformed FNCFS funding approach over a 10-year period. The draft FSA funding framework is briefly described below:
- Baseline funding for FNCFS agencies (i.e. operational costs, protection services, and maintenance of children in care);
 - Funding for prevention services;
 - First Nations Representative Services (“FNRS”) funding for supporting representatives of First Nations in addressing matters related to the delivery of services to their citizens by a child welfare agency;
 - Post-Majority Support Services (“PMSS”) funding for youth aging out of care and young adults formerly in care;
 - Capital funding for capital infrastructure to support the delivery of FNCFS programming;
 - Household Supports funding to be provided to First Nations to support them in meeting the basic needs of families, keeping them together and out of care wherever possible;
 - Information Technology (“IT”) funding to support the IT needs related to the implementation of the reformed FNCFS Program;
 - Results funding to support a performance measurement framework and related indicators as well as capturing and reporting data related to First Nations well-being;
 - Emergency funding to support responses to unanticipated circumstances affecting the provisions of services; and

- Housing funding to support housing creation for the purposes of preventing First Nations children from being taken into care.
43. From the above list of items, and as set out in the draft FSA, a remoteness adjustment was to be applied to prevention, FNRS, PMSS, household supports, IT, results, and emergency funding.
44. The inclusion of the remoteness adjustments in the draft FSA was groundbreaking. The draft FSA provided remote First Nations and FNCFS agencies with remoteness quotient adjustment funding based on the full implementation of the RQ adjustment methodology, resulting in a national average RQ adjustment of 30%. This represented the first time that a First Nations sighted, evidence-based methodology for estimating the increased costs associated with remoteness had been applied to adjust funding for First Nations to account for those increased costs.
45. In addition to increased funding to account for remoteness, the following reform measures were also included in the draft FSA:
- The Remoteness Secretariat (see paragraphs 128-131 of the draft FSA): to be established by NAN and NARC, to serve as a centre of expertise on the impact of remoteness, provide technical support to the NARC-Canada Remoteness Table, and coordinate data collection, analysis, research, and the dissemination of best practices related to remoteness;
 - The NARC-Canada Remoteness Table (see paragraphs 119-125 of the draft FSA): to develop an evidence-based, statistical approach to estimate the increased costs of services in remote communities, further developing the RQ adjustment for a national application, integrating region-specific data, and collaborating with Statistics Canada on the Index of Remoteness; and
 - NAN-Canada RQ Table (see paragraphs 126-127 of the draft FSA): the continuation of the NAN-specific RQ work and processes.

B. Remoteness Reform Measures

i. The National Assembly of Remote Communities

46. I have been informed by Deputy Grand Chief Bobby Narcisse, a current Deputy Grand Chief of NAN, former Director of Social Services at NAN, and a co-chair of the NARC at its inception, and I verily do believe that the NARC was born of a presentation by NAN and technical experts involved in the NAN-Canada RQ Table. This presentation was given to the other parties regarding the RQ Table and its work on November 9, 2021, at the start of the Global Resolution Discussions.
47. During the presentation, the technical experts advised the parties that the RQ Table had created the only economic model to account for remoteness that was currently in development or available. The presentation generated interest in using the RQ beyond NAN territory.
48. Discussions following NAN's presentation recognized the need for a united voice of remote communities to advocate for equitable funding to properly account for the costs of remoteness. The NARC was established to address that need, as is reflected in the NARC Constitution. The NARC Constitution is marked as Exhibit F, located at Tab 6 of the Exhibit Book.
49. NAN and Canada jointly recognized the unique challenges and increased time and expense required to deliver child welfare services in remote communities. With this recognition in mind, the Parties to the AIP agreed to establish the NARC-Canada Remoteness Table during the AIP negotiations (see paragraphs 93-98 of the AIP), acknowledging it was a separate and independent body from the NAN-Canada RQ Table (see paragraph 108 of the AIP).
50. While this national body was born from NAN's advocacy and enshrined in the draft FSA, members of the Board of the NARC did not have consensus when the Chiefs voted to ratify the approval of the draft FSA. Further, as the Chiefs in Assembly did not approve the FSA

in October 2024, and there is no national platform for reform, the NARC is not part of the reforms outlined under the OFA today.

ii. The NARC-Canada Remoteness Table

51. In recognizing the above-mentioned unique challenges and increased time and expense required to deliver child welfare services in remote communities, Canada, in collaboration with the NARC, was set to establish the NARC-Canada Remoteness Table to address issues of remoteness, including increased costs associated with remoteness, at a national level.
52. Primarily, the NARC-Canada Remoteness Table was to consider the work of the NAN-Canada RQ Table, including the RQ adjustment, and adopt and/or develop a First Nations sighted, evidence-based, statistical approach to estimate the increased costs (i.e. remoteness) associated with child and family services and to account for those costs in the funding provided under the reformed FNCFS Program on a national basis.
53. As stated above, while this national body was born out of NAN's advocacy and enshrined in the draft FSA, members of the Board of the NARC did not have consensus when the Chiefs voted to ratify the approval of the draft FSA. Further, as the Chiefs in Assembly did not approve the FSA in October 2024, and there is no national platform for reform, the NARC is not part of the reforms outlined under the OFA today.

iii. The NAN-Canada RQ Table

54. The work of the NAN-Canada RQ Table continues to develop the initial NAN-specific RQ work, the RQ adjustment, and other NAN-specific approaches to addressing remoteness issues. This includes accounting for the increased costs to deliver child and family services that are impacted by a First Nation's remoteness to NAN communities as well as the FNCFS agencies that serve them.

55. As the work remains ongoing, the NAN-Canada RQ Table may collaborate with Statistics Canada to further develop/refine the Index of Remoteness, as well as model approaches to address remoteness issues.
56. As this body was regional in nature, rather than a national platform, this work was preserved within the efforts to negotiate the Ontario-specific agreement, which is outlined further at paragraph 65 below.

C. The Final Agreement is Not Ratified

57. Reaching an agreement amongst the Parties did not mean that the process towards long-term reform had concluded. Rather, it signified that the negotiation teams had signed off on the draft FSA as an agreement to be supported and recommended to First Nations leadership.
58. The Parties who remained in the negotiations to reach a Final Agreement, NAN, COO, and AFN, undertook their own process to educate their constituents on what the draft FSA included, including lengthy reviews and discussions prior to a decision being made to ratify and approve the agreement.
59. NAN's process included an information package posted online with all relevant documents, as well as several online Information Sessions to discuss the draft FSA (July 29 and August 19, 2024), as well as Town Hall meetings (August 1 and 22, 2024) to answer questions stemming from Information Sessions. At both the Information Sessions and Town Hall meetings, NAN leadership, technicians, and legal counsel were present to speak to the terms of the draft FSA, with a presentation and discussion, and then to answer questions. The Information Sessions and Town Hall meetings were recorded and posted online for the purpose of being accessible to Chiefs, Councils, technicians, and community members.
60. In addition to the Information Sessions and information packages provided by NAN, NAN leadership, technicians, and stakeholders were provided with information from COO and AFN, who had held their own Information Sessions. Our legal team was asked to attend and

present at two (2) AFN Information Sessions (August 20 and September 17, 2024), specifically on remoteness.

61. In October 2024, the NAN Chiefs-in-Assembly and Ontario Chiefs in Assembly voted to ratify the draft FSA. However, on October 19, 2024, at the AFN's Special Chiefs Assembly ("SCA"), the First Nations in Assembly voted to reject the draft FSA.
62. In November 2024, Ontario Chiefs in Assembly directed that a regional agreement be pursued by passing a resolution at COO's Fall Assembly.
63. On December 23, 2024, Canada communicated to NAN and COO that Canada had received a mandate to negotiate an Ontario-specific agreement. Correspondence from Canada is marked as Exhibit G, located at Tab 7 of the Exhibit Book.
64. On December 27, 2024, Ontario Regional Chief Abram Benedict and I wrote to the Chiefs in Ontario to provide this update on Canada's new mandate and that our organizations would enter negotiations to achieve a reformed FNCFS Program in Ontario. Correspondence to the Chiefs in Ontario from Ontario Regional Chief Abram Benedict and myself is marked as Exhibit H, located at Tab 8 of the Exhibit Book.

IV. The Ontario Final Agreement

65. Canada, NAN, and COO formally began negotiations on January 7, 2025, to pursue a regionalized agreement. The Parties at the negotiations table understood the Ontario Final Agreement was not to be a new agreement, but a modification of the existing work done on the draft FSA to apply only in Ontario, in combination with the Trilateral Agreement.
66. The Trilateral Agreement outlines how Canada, COO, and NAN will work together to pursue comprehensive reform of all program areas covered under the 1965 Agreement, aligning policy and funding with the Tribunal's order in 2016 CHRT 2 to cease all discriminatory

practices related to on-reserve FNCFS funding. A copy of the Trilateral Agreement is marked as Exhibit I, located at Tab 9 of the Exhibit Volume.

67. Overall, the OFA generally provides for \$8.5 billion dollars to reform the FNCFS Program in Ontario over nine (9) fiscal years. Additional funding will be provided for other items such as the Ontario Reform Implementation Committee, program assessment costs, and cultural humility training.
68. In addition to funding reforms, other reforms are provided for in the OFA, such as a dispute resolution process, a reform implementation committee, program assessments and greater accountability between First Nations and the FNCFS agencies that serve them.
69. With specific regard to remoteness, the OFA provides for the following:
 - Remoteness Adjustment Funding: Where a First Nation's Index of Remoteness score is 0.40 or greater, ISC shall adjust funding upwards using the RQ adjustment for prevention, FNRS, IT, results, emergency, household supports, and PMSS. The RQ adjustment calculation methodology is detailed in Appendix 10 of the OFA. A copy of Appendix 10 of the OFA is marked as Exhibit J, located at Tab 10 of the Exhibit Book.
 - Transitional Fiscal Year (see paragraphs 54-56 of the OFA): For the 2025-2026 fiscal year, ISC will implement the reformed FNCFS funding approach, including allocating remoteness adjustment funding based on an agreed transitional approach for prevention funding. After the effective date, ISC shall provide a prorated remoteness adjustment for results, IT, emergency, household supports, and eligible post-majority services based on the RQ adjustment calculation above in paragraph 44.
 - NAN-Canada RQ Table (see paragraphs 95-97 of the OFA): This joint body will continue working on NAN-specific remoteness approaches like the RQ adjustment and will collaborate with Statistics Canada on the Index of Remoteness. Their input will inform how remoteness is addressed under the reformed FNCFS Program in Ontario through the Ontario Reform Implementation Committee. Further, the NAN Canada RQ Table will establish an Ontario Remoteness Secretariat as outlined below.

- Ontario Remoteness Secretariat (see paragraphs 98-103 of the OFA): This new body will be a centre of expertise on remoteness impacts in Ontario, coordinating data, analysis, research, and sharing best practices among First Nations and agencies. It will collaborate with the Ontario FNCFS Data Secretariat and may inform NAN's input to the Ontario Reform Implementation Committee on remoteness issues.
- Remoteness Research and Collaboration: The purpose is to account for remoteness issues and increased costs in Ontario through research and collaboration with remote First Nations. The NAN-Canada RQ Table and the Ontario Remoteness Secretariat will work on developing evidence-based best practices, data collection, analysis, and disseminating research on remoteness costs. ISC shall provide \$13.5 million to support these bodies over the agreement term.

70. The references identified above are significant advancements toward substantive equality and are wide-ranging. I understand that eighty-five (85) of the one hundred and thirty-three (133) First Nations in Ontario will have their funding adjusted for remoteness, with forty-three (43) being NAN communities and forty-two (42) representing communities outside of NAN. Further, I understand that several NAN communities will see an increase of up to 120% in funding to account for remoteness.

71. Despite the regionalization of the draft FSA, the OFA preserves the ability to continue researching and collaborating with remote communities and organizations, nationally and internationally, to ensure evidence-based best practices are derived to address issues of remoteness in Ontario.

A. The OFA is Ratified

72. On February 25, 2025, NAN held a SCA to vote on the approval of the Ontario Final Agreement.

73. Resolution 25/07 (the “Resolution”) was moved by Chief Merle Loon of Mishkeegogamang First Nation and seconded by Chief Elizabeth Kataquapit of Fort Albany First Nation. The

Resolution detailed the timeline of the initial complaint brought forward by the AFN and the Caring Society. Additionally, it laid out the process by which NAN was granted status to intervene and the establishment of the RQ Table. The Resolution also discussed how the Parties reached a national draft FSA that was approved by NAN and COO but ultimately was rejected by the First Nations in Assembly at the AFN SCA on October 19, 2024. Finally, the Resolution explained what has happened since the rejection, how the Ontario Chiefs in Assembly passed a resolution directing that a regional Final Agreement be pursued for Ontario, confirming that Canada received a mandate for a regional agreement, and concluding that NAN, COO, and Canada reached a draft Ontario Final Agreement, as well as a draft Trilateral Agreement in respect of reforming the 1965 Indian Welfare Agreement. The Resolution was carried with a vote of thirty (30) in favour, one (1) opposition, and two (2) abstentions. A copy of the Resolution is marked as Exhibit K, located at Tab 11 of the Exhibit Book.


74. Shortly there after, Resolution 25/08 was also passed by the NAN SCA on February 25, 2025, concerning the ratification of the OFA. Within this resolution, the NAN Chiefs-in-Assembly called upon all Parties outside of the OFA to refrain from any interference in the ratification and implementation of the OFA, and/or to refrain from taking any steps that could delay the effective date of the OFA. A copy of Resolution 25/08 is marked as Exhibit L, located at Tab 12 of the Exhibit Book.
75. Furthermore, on February 26, 2025, COO held a SCA to vote on the approval of the Ontario Final Agreement. The COO's resolution was carried with a vote of seventy-six (76) in favour, four (4) opposed, and three (3) abstained.
76. In a display of unity, NAN and COO leadership voted by a nearly unanimous support to ratify the Ontario Final Agreement.
77. The Ontario Final Agreement was signed by Grand Chief Alvin Fiddler, Ontario Regional Chief Abram Benedict, and Minister of Indigenous Services Patty Hajdu, on February 26, 2025. A copy of the OFA is marked as Exhibit M, located at Tab 13 of the Exhibit Book.

Further Evidence


- 78. It is my understanding that further affidavits are intended to be filed on this matter, specifically to outline the methodology behind the RQ adjustment. I rely on those affidavits as expert explanations of how remoteness is accounted for within the funding mechanisms of the OFA.

- 79. I make this affidavit in support of the motion to end the Tribunal’s jurisdiction over long-term reform of the First Nations Child and Family Services Program in Ontario and for no other or improper purpose.

AFFIRMED BEFORE ME by video-) conference on March 7, 2025, by Chief Grand Chief Alvin Fiddler of Nishnawbe Aski Nation,) at the City of Thunder Bay, in the Province of Ontario before me at the City of Toronto, in the Province of Ontario, in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely.*



Commissioner for Taking Affidavits, etc.
Asha James
L.S.O. #56817K



Grand Chief Alvin Fiddler
(signed electronically over video-conference)