

**CANADIAN HUMAN RIGHTS TRIBUNAL**

BETWEEN:

**THE FIRST NATIONS CHILD AND FAMILY CARING SOCIETY**

– and –

**THE ASSEMBLY OF FIRST NATIONS**

Complainants

– and –

**THE CANADIAN HUMAN RIGHTS COMMISSION**

Commission

– and –

**THE ATTORNEY GENERAL OF CANADA**

**(representing the Honourable Minister of Indigenous Services)**

Third Party

– and –

**THE CHIEFS OF ONTARIO**

**AMNESTY INTERNATIONAL CANADA**

**THE NISHNAWBE ASKI NATION**

**THE FIRST NATIONS LEADERSHIP COUNCIL**

Intervenors

– and –

**THE FIRST NATIONS OF QUEBEC AND LABRADOR HEALTH AND SOCIAL SERVICES COMMISSION**

Applicant

– and –

**THE ASSEMBLY OF FIRST NATIONS QUEBEC-LABRADOR**

Co-Applicant

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**AFFIDAVIT OF MR. GHISLAIN PICARD**

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I, the undersigned, Ghislain Picard, the Assembly of First Nations Quebec-Labrador (AFNQL) Chief, having a place of business at 250 place Chef-Michel-Laveau, suite 201, Wendake, Quebec, G0A 4V0, **SOLEMNLY AFFIRM AS FOLLOWS:**

1. Nite Pessamit nutshin Nitassinat ilnu-assi meshekut miam e uluitshut Pessamiu-shipu nite mishta-shipu St-Laurent. In English, this means: “I am an Innu, originally from the community of Pessamit in Nitassinan, the Innu territory located at the mouth of Pessamit River, along the Saint-Lawrence River.

2. Kie ne nitashimin eshk ilnu-aimun. In English, this means: “My first language is Innu Aimun.”
3. French is my second language, and English, my third.
4. From 1976 to 1992, I occupied various functions, which taught me about many aspects of the experiences and struggles of Indigenous peoples in Quebec and Canada.
5. Since 1992, I am the AFNQL Chief and spokesperson.
6. I was elected to this office 11 times in a row, each time for three-year mandates, by the Chiefs Assembly of the 43 First Nations who are members of the AFNQL.
7. As the AFNQL Chief, I am answerable to the Chiefs Assembly, and I exercise authority according to the mandates entrusted to me by the AFNQL.
8. My office also makes me part of the executive committee of the Assembly of First Nations (AFN) on the Canadian level. As such, I am responsible for the conduct of certain national files, notably those relating to public security and justice.
9. Furthermore, as the AFNQL Chief, I serve as an intermediary between the First Nations and the governments of Quebec and Canada, as well as concerning the development of other governments’ legal regimes that may impact First Nations. I am also charged with the development and maintaining of efficient communications between various parties.
10. Consequently, through my role with First Nations and various Quebec and Canadian government bodies, I acquired knowledge of the struggle of Indigenous Nations and governments to have their rights, territories and inherent government powers respected.
11. More specifically, my more than 30 years of experience have taught me the history of First Nations’ grievances concerning the support of their children and families, of the experiences and hardships they experience daily, and of the negative impacts of policies, laws and programs of other governments on First Nations families and children.
12. As the AFNQL Chief, and given my role and functions with the First Nations, including on the AFN executive, as well as my personal experience, I know of the issues raised in the AFNQL and the First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC)’s motion to intervene, notably those outlined in the *Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program* (hereinafter the “Final Agreement”), as well as issues relating to the lack of

genuine consultation regarding the same.

***The AFNQL***

13. Created in 1985, the AFNQL is a collective of First Nations governments.
14. The Chiefs of the 43 communities located in Quebec and in Labrador form the Chiefs Assembly, and are brought together under the auspices of the AFNQL.
15. Quebec Native Women, the Regroupement des centres d'amitié autochtones du Québec and the First Nations Quebec-Labrador Youth Network also sit at the Chiefs Assembly, where they may speak, but not vote.
16. Incidentally, it bears noting that the reason why the AFNQL chose to use "Quebec-Labrador" in its name instead of "of Quebec and of Labrador" is, quite simply, that historically, the vast territory still occupied by our Innu brothers and sisters had no borders. The concept of borders is a byproduct of colonialism.
17. The tracing of an artificial line between the Innu in Quebec and those in Labrador is a direct result of colonization, the consequences of which we all know, including land claims and territory overlap issues. This is part of the challenges we face today.
18. The Innu know their territory as Nitassinan, on which there is no border between what you know as Quebec and Labrador.
19. The 10 First Nations in Quebec-Labrador are the Abenaki (W8banakis), the Anishnabeeg (Algonquins), the Atikamekw, the Eeyou (Cree), the Huron-Wendat, the Innu, the Wolastoqiyik (Malecites), the Naskapi, the Mi'gmaq and the Kanien'kehà:ka (Mohawks), each having their own territory, history, language, culture and governance approach.
20. The AFNQL is a place of dialogue, connection and consultation between the Chiefs and Grand Chiefs of the 43 First Nation governments in Quebec-Labrador.
21. The AFNQL's commitments include:
  - a) Ensuring the defence and respect of the title and inherent ancestral and treaty rights of all First Nations in Quebec-Labrador.
  - b) Improving the living conditions of all First Nations members in Quebec-Labrador, no matter where they reside.

- c) Protecting and defending all First Nation members, whatever their gender or place of residence may be, especially First Nations women and girls.
  - d) Safeguarding Elder teachings and ensuring their transmission to succeeding generations.
  - e) Preserving, developing, defending and promotion First Nation languages and cultures.
  - f) Protecting the territory and its resources, as well as the quality of the air and water.
22. Acting through its Secretariat, which I lead, the AFNQL has the remit of facilitating and promoting the work and collaboration of the Chiefs in different matters, so that common positions may be established and asserted fully, including with regard to self-government in fields such as education and ancestral languages.
23. The existence of the Chiefs Assembly and of its Secretariat is entirely and collectively governed by the decisions made, and powers exercised, by the Chiefs-in-Assembly.
24. In this context, the AFNQL's main mission is to promote and defend the political interests of its members, i.e., the 43 First Nations governments, as represented by their respective Chiefs.
25. More specifically, its goals are the following:
- a) The affirmation, respect and defence of the First Nations' inherent rights.
  - b) The recognition of First Nations governments.
  - c) The recognition of First Nations languages and cultures.
  - d) Increased financial autonomy for First Nations governments.
  - e) The coordination of the First Nations' position-taking mechanism.
  - f) The representation of the First Nations' positions and interests in various forums. The definition of action strategies to advance common positions.
26. Consequently, the AFNQL Chiefs worked together to create a number of entities called regional commissions and organizations.
27. The AFNQL, through the Chiefs Assembly and its five regional commissions and

organizations, studies all questions of common interest and makes decisions accordingly, in collaboration with other First Nations organizations. For example, it actively interests itself in the policies and laws of other governments that are liable to impact the territory, resources, rights, ancestral practices, customs and ways of life of First Nations, including with regard to their languages and cultures.

28. Depending on the subject matter, regional commissions and organizations are called upon to play an active role in planning the AFNQL's implication in all matters, in accordance with the mandate given by the Chiefs.

***The FNQLHSSC***

29. One of the aforementioned regional commissions and organizations is the FNQLHSSC.

30. The FNQLHSSC is responsible for health, social services, social development, early childhood and other similar subjects. For these purposes, it works with communities to ensure that services are cohesive in respect to their autonomy.

31. The FNQLHSSC thus supports First Nations Child and Family Services (FNCFS) agencies and Jordan's Principle coordinators, as its personnel has expertise in these matters and is regularly consulted by the AFNQL regarding the same.

32. Per resolution 01/2025, passed on January 16, 2025 (**Exhibits GP-1**, bundled), the AFNQL represents all Chiefs in these proceedings, in collaboration with the FNQLHSSC.

***The AFN***

33. The AFN is a national organization to defend the First Nations' interests. It seeks to advance the First Nations' inherent and treaty rights through policy, public education and, as applicable, the co-development of laws to reinforce First Nations capacities.

34. I have been sitting on the AFN's executive committee since 1992.

35. Though the AFN's internal activities essentially take place in English, French interpretation is typically offered during general and special assemblies.

***Roles and functions within the AFNQL and the AFN***

36. My role as Regional Chief appointed by the AFNQL, to whom I am answerable, consists of functions in two specific domains: policy and administration.

37. On the regional level, I am the official spokesperson for the Chiefs of the First Nations in Quebec-Labrador in matters that are specifically entrusted to me by the Chiefs through resolutions.

38. I support First Nation communities in matters of public policy, at the invitation of the concerned Nation or community.

39. I assume the public and political representation of the AFNQL with elected officials of First Nations, and provincial and federal governments.

40. I also liaise between the regional commissions and organizations and the AFNQL to maintain a constant flow of information and coherent, concerted action with them in relation to the matters entrusted to me.

41. I am also the authorized spokesperson of the Chiefs Assembly with the media.

42. On the national level, per the Charter of the AFN, the AFNQL Chief and spokesperson is also the regional Chief for Quebec-Labrador. I inform the Chiefs of the decisions made and resolutions passed by the AFN.

43. On the international level, I am the representative of the First Nations in Quebec-Labrador, and my role and function is to promote and defend their rights and interests.

***Declarations of the AFNQL on the rights of children and on self-determination***

44. The AFNQL and the First Nations in Quebec and Labrador have a sacred responsibility toward their children.

45. Colonization in Canada has had and still has profound repercussions on Indigenous children. They are often the first victims of colonization, notably through the forcible destruction of the family unit.

46. It is partly in response to these issues that the AFNQL Chiefs-in-Assembly, on June 10, 2015, adopted the *Declaration of the Rights of First Nations Children* (**Exhibits GP-2**, bundled).

47. Furthermore, on September 28, 2023, the AFNQL Chiefs-in-Assembly adopted the *Declaration of First Nations' Rights to Self-Determination and Cultural Safety* to affirm the inherent right of First Nations in Quebec to cultural self-determination, notably with regard to public services (**Exhibits GP-3**, bundled), to which effect sections 5 paragraph 2, and 17, paragraph 1 thereof set out as follows:

Notwithstanding the first paragraph, at all times, First Nation members have the right to receive services in the colonial language in which they are most fluent, whether English or French.

(...)

Quebec and Canada have a duty to collaborate with First Nations, in a manner that respects their right to self-determination and self-government, to ensure the realization of the right to access culturally safe public services.

***The Final Agreement is the result of efforts sustained throughout many years to address and, ideally, abolish systemic discrimination.***

48. The Final Agreement results from a major engagement process, enacted on the political and judiciary scenes, in which AFNQL participated essentially from the outset.

49. Notably, the key steps of the process are outlined in Appendix 7 of the Final Agreement.

50. The Final Agreement results from a complaint submitted to the Canadian Human Rights Commission by the AFN and the First Nations Child and Family Caring Society (the “Caring Society”), leading to a landmark decision of the Canadian Human Rights Tribunal (CHRT) in 2016, *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, **2016 CHRT 2**.

51. In its decision, the CHRT concluded that the funding of the FNCFS Program was discriminatory, and ordered Canada to reform the program.

52. It is therefore mainly to remedy this discrimination and abide by the order that the Final Agreement was executed, and the Chiefs’ ratification sought, but the consultation process was flawed.

***The consultation process and lack of translation for the Final Agreement***

53. On July 11, 2024, during the AFN annual general assembly, National Chief Cindy Woodhouse Nepinak announced the holding of a special assembly in Winnipeg, from September 17 through 19, 2024, to ratify the Final Agreement. No additional details were given about the nature and goals of that assembly.

54. On July 11, at 8:50 p.m., I received an email from Briana Moss-Pate, senior

executive assistant at the AFN, affirming that the Final Agreement was available on the AFN's website. This email included the Final Agreement in its English version "for review" only, and referred to the AFN's web page where the Final Agreement was published in English only.

55. This July 11, 2024, email also announced the launch of "regional engagement sessions to discuss the draft settlement agreement in detail and obtain" feedback from First Nations leaders (**Exhibit GP-4**).

56. On July 12, 2024, I emailed Briana Moss-Pate to ask her if a French version of the Final Agreement existed, and if not, when one would be made.

57. On July 15, 2024, she answered that the AFN was waiting for Canada to provide a French version of the Final Agreement, as appears from the communications dated July 12 through 15 (**Exhibit GP-5**).

58. In this email, she said she would ask Craig Gideon, an AFN executive member.

59. On July 25, 2024, I received a letter from Craig Gideon, speaking for the AFN, asking me to choose dates for my region's regional engagement session, giving me certain administrative details about it, and outlining its

"key objectives": 1) "Increased understanding of the suite of reforms."

2) "Provide information on proposed funding streams" and 3) "Supports that will be available to First Nations children and families," as appears from the July 25, 2024, letter (**Exhibits GP-6**, bundled).

60. Of note, this July 25, 2024, letter stated that Indigenous Services Canada (ISC) is taking part in the negotiation process.

61. What I understood from this letter, and more specifically from these "key objectives," is that the consultation session's main objective was not to foster a genuine consultation process, but rather to sell the Final Agreement to the concerned communities.

62. Ironically, this letter, according to which the consultation sessions supposedly aimed to "ensure that all Chiefs are provided with detailed information on the proposed suite of reforms, the reformed funding approach, and other operational aspects of the program" contained a hyperlink to a copy of the Final Agreement on the AFN's website, which is in English only.

63. On July 25, 2024, I was stunned to find out that the consultation process was



proceeding with the Agreement remaining untranslated. I therefore addressed a joint letter to the AFN Executive Committee, cosigned by the Regional Chiefs of New Brunswick, Saskatchewan and British Columbia, outlining the issues relating to consultation and the lack of translation for the Agreement, among others. This July 25 joint letter is appended to the motion to intervene.

64. On July 26, 2024, I was informed by the FNQLHSSC executive that Richard Gray was intending to file a complaint with the Commissioner of Official Languages of Canada regarding the translation of the Final Agreement.

65. On August 1, 2024, after several emails between the AFN and the AFNQL, Stuart Wuttke, senior lawyer for the AFN, informed my Chief of Staff, Francis Verreault-Paul, that the French version of the Final Agreement would be available on August 9, 2025, as appears from the email exchanges between Francis Verreault-Paul and the AFN from July 25 to August 1, 2024 (**Exhibit GP-7**).

66. On August 12, 2024, I received an email from Stuart Wuttke, with a French version of the Final Agreement (**Exhibit GP-8**).

67. On August 13, 2024, observing that the parties to the Final Agreement appeared determined to proceed with the so-called consultation and the ratification of the Final Agreement in September despite the delayed access to a French version of the Final Agreement, I addressed a memorandum to the AFNQL Grand Chiefs and Chiefs.

68. In this memorandum, I informed them of the issue, as well as of my intent to obtain an injunction postponing the consultation and ratification process to allow for the genuine consultation of French-speaking communities with regard to this major issue.

69. The memorandum included a copy of the receipt of a senior interim investigator of the Commissioner of Official Languages of Canada for a complaint filed against ISC in relation to the lack of translation for the Final Agreement, the whole as appears from said memorandum, dated August 13, 2024, and from its appendix (**Exhibit GP-9**).

70. On August 22, the AFNQL held an information meeting on the draft Agreement (**Exhibits GP-10**, bundled).

71. Following this information meeting, it was plain to see that the Agreement's ratification had to be postponed to give communities that use French enough time to read and analyze it. During said meeting, the AFNQL Chiefs also shared their concerns

regarding the Agreement.

72. On August 23, 2024, the Regional Chiefs passed resolution 10/2024, which is appended to the motion to intervene, through digital means. This resolution reaffirms the linguistic specificities of First Nations in Quebec, who notably use French as their working language, and emphasizes the necessity of an official and adequate French version of the Agreement. It also denounces the lack of time afforded to First Nations in Quebec to analyze the Agreement.

73. On August 24, 2024, I spoke with National Chief Cindy Woodhouse Nepinak and the Minister of ISC, Patty Hajdu, through digital means. They accepted postponing the ratification for 30 more days to allow French-using communities to read and analyze the Agreement.

74. On August 29, 2024, there was a regional information session on the Agreement between the AFNQL Chiefs, ISC and the AFN at Lac-Beauport. There, the Chiefs shared their concerns regarding the draft agreement.

75. On October 15, 2024, these concerns were put in writing in resolution 11/2024, and a letter was addressed to National Chief Cindy Woodhouse Nepinak and the Honourable Minister Patty Hajdu. These documents are submitted in support of our motion.

***The French and English languages among the First Nations of the AFNQL***

76. The use of French and English among the First Nations of the AFNQL is a complex and delicate topic. It must be acknowledged that every First Nation and community is unique, and may present a distinct linguistic profile.

77. If I may give my own example, my proud first language is Innu. I learned French by necessity, and English at school. That said, mastering three languages is far from the norm among First Nations. In Quebec, there are First Nations individuals who have trouble mastering French and don't know English, but nevertheless are active members of their community, sometimes at a managerial level.

78. However, a common point throughout these communities is the profound impact of successive colonial politics on the use of Indigenous languages, of French and of English by the First Nations in Quebec-Labrador.

79. The First Nations in Quebec-Labrador use either English or French as a working language, as well as their respective languages whenever possible. About half of them mainly use French, and the other half, English. This is one of the unfortunate consequences of their colonial history, which includes events outlined hereinbefore.

80. French colonization imposed French as the language of administration and education within what today is Quebec. The British conquest introduced a second phase of colonization, this time with English as the dominant language. For many Indigenous communities, this new linguistic imposition created a situation where two colonial languages, French and English, compete to dominate all aspects of public life, from education to administration, reducing all the more the space available for Indigenous languages.

81. Thus, colonization has imposed not only French, but also English, on the First Nations of the AFNQL.

82. Certain Indigenous languages, such as that of the Abenaki and the Wendat, have essentially disappeared due to these colonial practices. Though efforts are underway to revitalize their languages, these two nations are now essentially francophone.

83. The marginalization of Indigenous languages, which are often pushed into the background by Canada's official languages, persists to this day.

***Practices of the AFNQL to address these linguistic challenges***

84. To respect the linguistic preferences of each community and taking into account the colonial reality with which they are confronted, the AFNQL uses both French and English in its operations and its interactions with First Nations in Quebec-Labrador.

85. In fact, the AFNQL places such importance on using both English and French that no decision requiring the consultation of concerned communities may be made without the latter having had access to the relevant information in one of these languages, save in case of extreme urgency.

86. Of note, AFNQL presentations are simultaneously interpreted, making them systematically bilingual. All AFNQL written documents are also available in both languages.

87. These practices enable us to ensure that AFNQL communities have the means necessary to fully participate in the decision-making process. Based on logic and reason, this approach promotes the genuine consultation and engagement of all communities concerned, fosters better decision-making and promotes the acceptance of decisions.

88. On the linguistic side, these practices also limit, as far as possible, the negative impacts of colonialism, allowing concerned communities to choose a single colonial language, rather than being forced to use both.

89. In an ideal world, the First Nations in Quebec-Labrador would express themselves and work in their Indigenous languages. As this is not yet possible vis-à-vis the federal government, the second option that allows us to limit the impact on First Nations' identity and culture is to impose no official language in particular, since many communities work and communicate with only one of those.

***The division of francophone and anglophone communities due to the so-called consultation***

90. The AFNQL cannot play its role of consultation, liaison and consultation between the Chiefs and Grand Chiefs of the 43 First Nations governments in Quebec-Labrador without first obtaining equivalent English and French versions of important documents provided to the various communities.

91. Indeed, it is impossible to work toward reaching and fully advocating for a common position when at least half of the First Nations in Quebec are unable to express themselves on important documents.

92. This hastiness and disregard for French are the source of tensions within the AFNQL and the AFN.

93. Having sat on the AFN executive and been the AFNQL Chief for over 32 years, I have no desire to instigate a linguistic conflict with my Indigenous brothers and sisters. This Agreement must be negotiated appropriately in a manner respectful to everyone, to the autonomy of peoples and to their right to be duly consulted. The wellness of First Nations children is at stake.

94. This same hastiness and disregard for French are preventing the AFNQL from

properly protecting and promoting the interests of the most vulnerable segment of its population before more powerful bodies, i.e., the federal government.

95. You now understand the hardship the AFNQL faces when official Canadian government documents are not provided in French, and when they are only available in English. What's more, we cannot assume that the Canadian government would provide good French translations.

96. The honour of the Crown is sullied by this inability to translate important documents, which results in the inadequacy of consultations with First Nations who work in French. I would hope that the CHRT can react appropriately to this situation.

*Canada's rejection of First Nations democratic processes*

97. Following its rejection of the Agreement on October 16 through 18, 2024, the AFN Chiefs-in-Assembly passed resolutions 60/2024 and 61/2024, setting out the Chiefs' decision to implement a new negotiating framework. Copies of these resolutions are provided with the motion to intervene.

98. This framework is defined in resolutions 87/2024, 88/2024 and 90/2024, passed on December 3 through 5, 2024, copies of which are also provided with the motion to intervene.

99. More specifically, resolutions 60/2024 and 88/2024 have led to the creation of a national committee of First Nations Chiefs charged with supervising a negotiating committee and renewing the legal team supporting negotiations. This committee is commonly called "NCCC" (National Children's Chief Committee).

100. The AFNQL charged Chief Vicky Chief, of the Timiskaming First Nation, with the conduct of regional representations.

101. I personally addressed to AFN Chief Cindy Woodhouse Nepinak a letter dated November 10, 2024, to confirm Chief Vicky Chief's mandate with the committee (**Exhibits GP-11**, bundled).

102. I am aware that the committee began its work, and is now ready to negotiate with the Canadian government.

103. I was deeply surprised to learn, upon coming back to work on January 6, 2025, that

the government of Canada admitted, in a letter addressed to AFN lawyers, that it was pretending not to have the remit to negotiate with the committee. This, in my eyes, constitutes a rejection of our democratic processes.

104. To my knowledge, all the facts exposed in this affidavit are true.

SOLEMNLY AFFIRMED by digital means, on this 29<sup>th</sup> day of January 2025.

*Marc-Olivier Brousseau*

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**Marc-Olivier Brousseau**

*Commissioner of Oaths for the Province of  
Quebec*

No. 245727

***Ghislain Picard***

Ghislain Picard (Jan. 29, 2025, 16:58 EST)

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**Ghislain Picard**

*AFNQL Chief*

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**LIST OF EXHIBITS IN SUPPORT OF THE AFFIDAVIT OF  
MR. GHISLAIN PICARD**

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**Exhibits GP-1:** AFNQL Resolution 01/2025, in French and English (bundled)

**Exhibits GP-2:** *Declaration of the Rights of First Nations Children*, in French and English (bundled)

**Exhibits GP-3:** *Declaration of First Nations' Rights to Self-Determination and Cultural Safety*, in French and English (bundled)

**Exhibit GP-4:** July 11, 2024 email entitled *Settlement Agreement on Reforms to the FNCFS Program*

**Exhibit GP-5:** Email exchanges, dated July 12 and 15, 2024

**Exhibits GP-6:** Joint letter of the Chiefs, dated July 25, 2024, and the receipt email (bundled)

**Exhibit GP-7:** Email exchanges between Mr. Francis Verreault-Paul and the AFN, from July 25 to August 1, 2024

**Exhibit GP-8:** Email from general counsel Mr. Stuart Wuttke with a French version of the Final Agreement, dated August 12, 2024

**Exhibit GP-9:** Memorandum of August 13, 2024, to the AFNQL Chiefs, with its appendix

**Exhibits GP-10:** Documents from the August 22, 2024 information session on the *Final Agreement on the Long-Term Reform of the FNCFS Program*, in French and English (bundled)

**Exhibits GP-11:** November 10, 2024 letter to National Chief Cindy Woodhouse Nepinak to confirm the mandate of Chief Vicky Chief, in French and English (bundled)












# Affidavit Ghislain Picard

Final Audit Report

2025-01-29

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