

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

AFFIDAVIT OF MS. MARJOLAINE SIOUI

I, the undersigned, **Marjolaine Sioui**, Executive Director of the First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC), having its place of business at 250 place Chef-Michel-Laveau, suite 102, Wendake, province of Quebec, G0A 4V0,

SOLEMNLY AFFIRM AS FOLLOWS:

1. I am a Wendat, from the community of Wendake.
2. I have been Executive Director of the FNQLHSSC since January 2022.
3. I previously held the positions of Operations Manager, Early Childhood Sector Manager and Communications Agent with the FNQLHSSC, as well as various functions within federal departments.
4. In the context of my current duties, I take part in furthering priority files relating to governance, health, social services, social development, early childhood, informational resources and research, thereby contributing to advancing and protecting the interests of First Nations in Quebec.
5. As Executive Director, I answer directly to the board of directors and have full authority to represent the FNQLHSSC, its management and mandates being governed by its general assembly, its board of directors and the Assembly of First Nations Quebec-Labrador (AFNQL) Chiefs.
6. The FNQLHSSC's board of directors is formed of seven experienced directors of health and social services, who are elected by the FNQLHSSC's delegates in accordance with its chart and general by-laws (**Exhibit MS-1**).
7. Created in 1994 by the AFNQL Chiefs, the FNQLHSSC must have all important changes to its organizational structure ratified by the AFNQL. It supports the AFNQL at the political and technical levels, and the AFNQL entrusts it with mandates relating to its mission. As is presently the case, the FNQLHSSC frequently intervenes, jointly with the AFNQL, before various political, parliamentary and judicial bodies (**Exhibit MS-2**).
8. Indeed, the AFNQL and the FNQLHSSC have contributed to the amendment of many laws passed by the government of Quebec, including the *Act to amend the Youth Protection Act and other legislative provisions* (Bill 99), the *Act to amend the Civil Code and other legislative provisions as regards adoption and the disclosure of information* (Bill 113), the *Act to amend the Youth Protection Act and other legislative provisions* (Bill 15), and the *Act respecting the governance of the health and social services system*. It should be noted that Bill 113 recognized the legal effects of customary Indigenous adoptions and tutorships within Quebec's legal framework.
9. Our observations and memoranda are regularly cited and studied by governments and opposition

parties when bills impacting First Nations are being discussed.

10. The FNQLHSSC accompanies and supports the First Nations in Quebec.

11. Notably, it ensures that they freely exercise their inherent rights to control the delivery of health and social services, including services to children and families, to the members of their respective Nations.

12. Equitable access to quality care and services, and the exercise, by First Nations people, families, communities and organizations, of their self-government and cultural autonomy, are at the core of the FNQLHSSC's vision and spheres of action.

13. The FNQLHSSC service offer is composed of four streams: accompaniment (**Exhibit MS-3**), training, tools and information management. These services are aimed at people who work with First Nations populations, including professionals and intervenors.

14. The FNQLHSSC builds partnerships with First Nations and Inuit organizations in Quebec and Canada. It is responsible for supporting the efforts of First Nations in Quebec relating to the exercise of their inherent jurisdiction in the field of health and social services in a preventive and culturally appropriate manner. It also forms different kinds of partnerships with various government bodies, public organizations, universities and other organizations of interest on all levels.

15. To this end, the FNQLHSSC is involved and tangibly supports First Nations in the defence of their rights and interests, as well as in the context of consultations, negotiations and forums on the administrative, financial and clinical aspects of health and social services. While playing these roles, it often interacts with the governments of Quebec and Canada and their various bodies. It sometimes also acts in an advisory capacity regarding the mandates it receives from the AFNQL Chiefs in relation to questions regarding state jurisdictions and legislative amendments.

16. This affidavit aims to clarify the approach of the First Nations in Quebec and explain the issues which are specific to our region. It excludes the Cree and Naskapi Nations, as well as the Inuit.

17. Therefore, in accordance with the FNQLHSSC's interests, I will cover the following subjects:

- (1) Linguistic issues
- (2) The health and social services governance process

18. The FNQLHSSC is regularly called upon to interact with the Quebec and Canadian governments and their institutions, as well as with legislative bodies.

19. We use both English and French in our oral and written communications with the federal and provincial governments, while First Nations use their own languages, or either French or English, as their working language.

20. Besides, the FNQLHSSC's Charter and general by-laws require it to produce all documentation in both French and English. Likewise, unless otherwise indicated in a job description, most of the FNQLHSSC personnel and consultants must be bilingual.

21. On July 11, 2024, National Chief Cindy Woodhouse Nepinak announced that the *Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program* (hereinafter the "Agreement") will receive the Chiefs' approval during a special assembly, which was held on September 17 through 19, 2024, in Winnipeg (**Exhibit MS-4**).

22. On July 11, 2024, the Assembly of First Nations (AFN), the Chiefs of Ontario, the Nishnawbe Aski Nation and the Attorney General of Canada (representing the Minister of Indigenous Services Canada [ISC]) executed the Agreement. The same was made available in English on the AFN's website the same day.

23. On July 24, 2024, social services sector manager Richard Gray and myself met on Teams with Pascal Dubé and Dany Vallerand, respectively Director and Manager for ISC – Regional operations, regional office of Quebec. At this meeting, we expressed our concerns regarding the lack of a French version of the Agreement. Mr. Dubé informed me that a French summary of the Agreement was being prepared.

24. On July 30, 2024, we received only the French and English drafts of a summary of the Agreement. There was still no full French version of the Agreement (**Exhibit MS-5**).

25. On August 6, 2024, we received the final versions of the French and English drafts of the Agreement summary from ISC. Again, no full French version of the Agreement was then available (**Exhibit MS-6**).

26. On August 13, 2024, the director of educational and social partnerships at ISC, Pascal Dubé, advised in an email that the French version of the Agreement may contain errors (**Exhibit MS-7**).

27. On August 19, 2024, we received an email from ISC and the AFN indicating that the French version was available, although a revised version containing minor amendments was to be released shortly after, as appears from the August 19, 2024 email (**Exhibits MS-8 and MS-9**).

28. This is an issue, as numerous communities and organizations, and more specifically health and social services centres in Quebec that focus on community health services, work in French. The health and social services directors had to make do with a summary of a few pages, instead of the full Agreement.

29. It should be noted that many First Nations members in Quebec have their ancestral language as their first language, and use either English or French as second languages at work.

30. At its regional meetings and annual general assemblies, the FNQLHSSC makes sure to provide participants with simultaneous interpretation services in both English and French.

31. It also ensures that all documents provided or accessible on its website are available in both of these languages.

32. Consequently, failing a proper French version of the Agreement, the FNQLHSSC foresees having to hold working sessions with health and social services directors without the required information, which is discriminatory compared to other communities across Canada.

33. Furthermore, health and social services directors must collaborate with elected officials from band councils to ensure diligent follow-ups on files requiring their expertise.

34. The Agreement falls under the health and social services directors' expertise, as they receive funding under the First Nations Child and Family Services (FNCFS) Program, which, as the Canadian Human Rights Tribunal (hereinafter the "CHRT") recognized in 2016, was the source of many instances of discrimination.

35. Failing a French version of the Agreement, First Nations communities and organizations in Quebec are unable to confer properly regarding the Agreement, since for matters of this type, they meet to exchange information and identify issues. This Agreement will have a considerable impact on their work with First Nations children and families.

36. While health and social services directors who master English may consult the English version, they are unable to confer with their counterparts who work in French.

37. Yet, dialogue is among the working methods employed by First Nations health and social

services directors in Quebec.

38. Indeed, meetings are frequently convened by the AFNQL and the FNQLHSSC to inform First Nations and obtain their perspectives.

39. The lack of a full French version of the Agreement caused difficulties with stakeholder engagement, specifically when stakeholders had to work with documents that were only available in a language they did not master.

40. This is plain and simple discrimination, and contrary to the right to substantive equality under section 15 of the *Canadian Charter of Rights and Freedoms*.

41. When the time to submit resolutions in relation to the Agreement at the mid-September special assembly had elapsed, the First Nations in Quebec still had not received a Final French version of the Agreement.

42. On August 22, 2024, I asked the communications sector of the FNQLHSSC to proceed with the linguistic revision of the Agreement.

43. On August 26, we retained the services of the firm Elite Communication for this purpose.

44. On August 28, we received their observations on and analysis of the Agreement. They revised random sections of the Agreement,

45. and deemed the translation to be of uneven quality. Certain parties were acceptable, while others seemed to have been translated negligently. They also identified omissions and semantic mistakes.

46. Following the exertion of pressure, notably by the AFNQL, the vote on the Agreement was postponed to mid-October to allow the First Nations in Quebec to confer and analyze the Agreement and its possible impacts on their populations.

47. In the same vein, on January 17, 2025, the Department of Justice Canada, in the name of ISC, filed a letter (**LEX-5000166425**) with the CHRT to present Canada's report to the Tribunal, as required by the November 21, 2024 summary decision and the instructions issued on December 18, 2024.

48. This report provided an update on the ISC process regarding outstanding requests made consecutively to Canada's report, dated December 10, 2024, as well as Canada's answers to the Tribunal and the Child Caring Society's questions concerning the backlog after the December 18

instructions.

49. To my knowledge, this letter was filed with the CHRT in English only.

50. On January 21, 2025, I asked Mr. Julien Castonguay, Senior Assistant Deputy Minister at ISC, for the French version of the report filed by the Department of Justice Canada (**Exhibit MS-10**).

51. On January 27, 2025, Mr. Castonguay advised he was unable to do so because he had to coordinate with the Department of Justice Canada.

52. To this day, I am still to be provided with the French report.

53. And so, we come back to the same problem: many communities use French as their working language. Mastery of English is quite rare in remote communities, where French is sometimes a second language, and English, a third one.

54. I believe that substantial changes must be brought to prevent such a situation from recurring in the future.

55. Obviously, we do not need to obtain French translations of all exchanges and discussions from the CHRT. However, translating certain important documents is an issue that needs to be addressed quickly to ensure the coherence of our actions and approaches with First Nations communities that work in French.

The health and social services governance process

56. First Nations affirm and exercise their rights and self-government by promoting their vision, priorities and needs, including in the cultural sphere, considering they are the best placed to make decisions that concern them.

57. Incidentally, one of the priority areas of the FNQLHSSC's 2024-2027 strategic plan focuses on the governance and self-determination of First Nations in Quebec (**Exhibit MS-11**).

58. The health and social sciences governance process is part of the reappropriation and repatriation of health and wellness responsibilities to ensure that they truly take into account the cultures, languages, values and global vision of the wellness of populations. Such a global vision of the wellness of populations is essential to the First Nations. Though culture is a major social determinant, family support and youth protection cannot be dissociated from other determinants and risk

factors, such as the living conditions and physical and social environment in which youth live, as well as poverty, socio-economic conditions and available community and other infrastructures, resources and capacities. All these cultural and social elements are interconnected, which is why a more global approach to managing the wellness of children and families is a priority for the First Nations in Quebec.

59. In 2015, the FNQLHSSC produced a report to document the rationale for improving governance, as well as the way to go for making the types of changes that will allow First Nations in Quebec to improve their health and wellness: FNQLHSSC, *First Nations in Quebec Health and Social Services Governance Project – Better Governance, Greater Wellbeing*, 2015 (**Exhibit MS-12**), pp. 11 to 17.

This report states the following:

From the United Nations, the World Bank and many other experts in the field comes an acknowledgement that “evidence has correlated self-governance advancement with improved socio-economic conditions in Indigenous populations. [...] One influential study showing the correlation between improved health outcomes and self-determination in First Nations communities found lower suicide rates in communities that exhibit higher levels of “cultural continuity”: a higher level of sustained control over the cultural and political processes in the community. (pp. 11-12).

60. By advocating for better governance for First Nations, the FNQLHSSC supports the autonomy of First Nations communities and organizations through the lens of self-government and wellness. This approach aims at improving service offer and access at the community and collective levels, by means of the development and implementation of an effective governance model by and for First Nations.

61. The governance model put forward by this First Nations initiative, which is currently in its third phase (**Exhibit MS-13**), includes four components of effective governance, i.e., authority, actor engagement, regulation and intervention.

62. The concept of effective governance hinges on accomplishing collective goals through the implication of all stakeholders in management, responsibility sharing, decision-making and service delivery.

63. We envision clear benefits with regard to this approach:

- 1) The recognition of our skills and our capacity to self-govern.
- 2) Active participation, and the freedom to act.
- 3) The support of First Nations local governments and organizations appointed by regional bodies.

- 4) Services that are adapted, of better quality and more accessible, notably through global planning that fulfills the population's real and priority needs.
- 5) More flexible funding that allows for the recruitment, hiring, training and retention of personnel, including qualified and diversified professionals.
- 6) The valorization of our cultural and traditional practices through the recognition and use of traditional knowledge.
- 7) Increased control over data and information.
- 8) Increased global health and wellness for the population.

64. In 2019, these benefits were documented in a guide entitled *The Benefits of Health and Wellness Governance by and for the First Nations* (**Exhibit MS-14**).

65. In 2019, the *Department of Indigenous Services Act* was sanctioned. Under its provisions, the Minister of ISC may transfer responsibilities of their Department regarding the development and delivery of these services by means of agreements with Indigenous organizations.

66. That same year, the AFNQL and the federal and provincial governments signed a tripartite memorandum of understanding (**Exhibit MS-15**).

67. The FNQLHSSC was charged with carrying out this tripartite memorandum of understanding.

68. The goals of the tripartite memorandum of understanding are the following:

- 1) Consolidate and clarify a tripartite collaboration and coordination partnership aiming at improving the health and wellness of First Nations in Quebec.
- 2) Participate in the development of a health and social services governance model that provides more autonomy and control to First Nations in Quebec with regard to federal health and social services programs, in order to bridge gaps and improve their living conditions vis-à-vis those of the Quebec and Canadian populations.
- 3) Collaborate on the analysis of problems related to jurisdictional issues, in accordance with each party's roles and responsibilities, and to the making of changes where required, in order to better respond to the realities of First Nations in Quebec.
- 4) With respect to its responsibilities, and in partnership with all parties, the government of Quebec will identify possible collaborations under the new governance model.

69. The Agreement made available last July impacted existing structures put in place by the AFNQL Chiefs, as well as impeding the ongoing governance process.

70. The Agreement also provided for the creation of national and regional secretariats.

71. Indeed, the Agreement provided that regional secretariats would be constituted by the national secretariat without regional input, which was problematic considering that the latter is unaware of the realities of First Nations in Quebec and of their modes of governance and operation. The First Nations in Quebec must preserve their self-governance and governance models.

72. Concerning the national secretariat, there was a risk of overlap with the First Nations Information Governance Centre.

73. According to the Agreement, the national secretariat would receive its data directly from FNCFS agencies and ISC.

74. The relevant indicators were listed under section 139 of the Agreement. It was up to communities and organizations to define these indicators according to their relevancy to social services and coherence with community plans, which was not the case under the Agreement.

75. Consequently, work is currently underway to create a regional information governance centre for the First Nations in Quebec and in every region of Canada.

76. In our opinion, the FNCFS Program reform must be respectful of existing and future processes for the purpose of transferring responsibilities from ISC to First Nations, of which transfer the Final Agreement makes no mention. The transfer of responsibilities requires that programs and services be transformed to respond to community and collective needs.

77. We have trouble understanding why our regional structures were not considered. In November 2022, we presented a final report on the FNCFS reform, in which we recommended, among other things, that roles, responsibilities and reporting obligations be clearly defined through cooperation with the First Nations in order to avoid overlaps, as well as to ensure that the secretariat be complementary to the roles, responsibilities and reporting obligations of First Nations regional organizations and local governments with regard to the development and reinforcement of capacities, information management, operations and programming.

78. All the facts exposed in this affidavit are true.

SOLEMNLY AFFIRMED before me in Wendake, on this 30th day of January 2025.

Marc-Olivier Brousseau

Marc-Olivier Brousseau

*Commissioner of Oaths for the
Province of Quebec*

Marjolaine Sioui

Marjolaine Sioui

Executive Director, FNQLHSSC

No. 245727

LIST OF EXHIBITS IN SUPPORT OF THE AFFIDAVIT OF MS. MARJOLAINE SIOUI

- Exhibit MS-1:** FNQLHSSC *Charter and General By-Laws*, dated July 13, 2017
- Exhibit MS-2:** Resolutions 3/94 and 6/94 of the AFNQL, respectively dated April 14 and 15, 1994
- Exhibit MS-3:** *Accompaniment Framework for Quebec First Nation Communities/Organizations*, 2015
- Exhibit MS-4:** Press release of the AFN concerning the *Final Agreement on the Long-Term Reform of the First Nations Child and Family Services Program*, dated July 11, 2024
- Exhibit MS-5:** Email entitled “*Matériel préparé par SAC – Résumé de l’Entente sur la réforme du programme des SEFPN*,” dated July 30, 2024
- Exhibit MS-6:** Email entitled “*TR: Final Agreement Executive Summary*,” dated August 6, 2024
- Exhibit MS-7:** Email entitled “*TR: Version française – entente définitive – APN*,” dated August 13, 2024
- Exhibit MS-8:** Email entitled “*TR: Version française – entente définitive – SAC*,” dated August 19, 2024
- Exhibit MS-9:** Email entitled “*RE: IMPORTANT – AFN Letter to QC Region re: Regional Engagements on Reform of the FNCFS Program*”
- Exhibit MS-10:** Email entitled “*Question*,” dated January 21, 2025
- Exhibit MS-11:** FNQLHSSC *2024-2027 Strategic Plan*
- Exhibit MS-12:** Document entitled *First Nations in Quebec Health and Social Services Governance Project – Better Governance, Greater Wellbeing*, 2015
- Exhibit MS-13:** Document entitled *Descriptive of Phase III: Realization of the model*, 2019
- Exhibit MS-14:** Document entitled *The Benefits of Health and Wellness Governance by and for the First Nations*, 2019
- Exhibit MS-15:** *Tripartite memorandum of understanding within the framework of the health and social services governance process for the First Nations in Quebec*, dated May 2019