

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
(MINISTER OF INDIGENOUS AND NORTHERN AFFAIRS CANADA)

Respondent,

- and -

CHIEFS OF ONTARIO

- and -

NISHNAWBE ASKI NATION

- and -

AMNESTY INTERNATIONAL

Interested Parties.

**MOTION FOR INTERESTED PARTY STATUS – WRITTEN SUBMISSIONS
SOUTHERN CHIEFS' ORGANIZATION INC.**

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I. Introduction

1. The Southern Chiefs' Organization Inc. ("**SCO**") brings this motion for interested party status in the within proceedings pursuant to sections 48.9(2)(b) and 50(1) of the *Canadian Human Rights Act* ("**CHRA**") and rule 8(1) of the *Canadian Human Rights Tribunal Rules of Procedure* (03-05-04) ("**CHRT Rules**").

2. SCO is an independent political organization comprised of the Chiefs of the 32 member Anishinaabe and Dakota Nations located in southern Manitoba. SCO advocates on behalf of its member Nations, and more than 87,000 citizens, to promote and enhance the inherent and Treaty rights of these rights-holders.

3. SCO engages in advocacy on behalf of its member First Nations through various channels, including both formal advocacy efforts in court, and political advocacy at the provincial and national levels. Most recently, SCO, along with a group of Indigenous child and family services agencies and authorities in Manitoba, pursued a constitutional challenge against Manitoba in relation to the clawing back of Children's Special Allowances from Indigenous children in care, including citizens of SCO, which ultimately resulted in a historic \$530 million settlement award for current and former Indigenous children in care in Manitoba.¹

4. In light of recent developments relating to the within proceeding, including the joint motion for approval of the Ontario Final Settlement Agreement on Long-Term Reform of the First Nation Child and Family Services ("**FNCFS**") Program (the "**OFA**" or the "**Agreement**") brought by the Chiefs of Ontario ("**COO**"), Nishnawbe Aski Nation ("**NAN**"), and Canada, SCO brings this motion on behalf, and at the direction of, its member First

¹ See *Flette et al. v The Government of Manitoba*, 2022 MBQB 104 and *Flette et al. v The Government of Manitoba*, 2024 MBKB 146.

Nations, who stand to be impacted significantly by the outcome of not only the joint approval motion, but the within proceedings more generally.

5. As will be detailed below, SCO's expertise will be of assistance to the Tribunal, its involvement will add to the legal positions of the parties, and these proceedings stand to have a substantial impact on the 32 member First Nations that SCO advocates on behalf of.

II. Issue

6. The sole issue to be determined on this motion is whether SCO should be granted interested party status in the within proceedings, and if so, on what terms.

III. Legal Principles

7. This motion is governed by rule 8(1) of the *CHRT Rules* and sections 48.9(2)(b) and 50(1) of the *CHRA*.² The onus is on the moving party to establish how its expertise will be of assistance in the determination of the issues, and specifically, to demonstrate that:

- a. the prospective interested party's expertise will be of assistance to the Tribunal;
 - b. its involvement will add to the legal positions of the parties; and
 - c. the proceeding will have an impact on the moving party's interests.³
8. In considering the above, the Tribunal should undertake a flexible, holistic analysis of the factors when considering a moving party's motion for interested party status, as

² *Canadian Human Rights Act*, RSC 1985, c. H-6 at s. 48.9(2)(b) and 50 [**CHRA**]; and *Canadian Human Rights Tribunal Rules of Procedure*, (03-05-04) at 8(1) [**CHRT Rules**].

³ *Walden v Canada (Treasury Board)*, 2011 CHRT 19 at para 23 [**Walden**]; see also *Canadian Association of Elizabeth Fry Societies and Acoby v Correctional Service of Canada*, 2019 CHRT 30 at para 34.

opposed to a rigid analysis of each of the identified criteria.⁴ Further, a party is not required to explicitly meet all three of the above-noted criteria, but rather, if a holistic analysis supports the participation of the party as an interested party, then interested party status may be granted where some, but not all, of the criterion are specifically met.⁵

IV. SCO Meets the Threshold to be Granted Interested Party Status

a) Holistic Analysis of the Criteria Supports Granting Interested Party Status

9. A holistic analysis of the above criteria and the contribution that SCO will be able to provide in these proceedings supports granting SCO interested party status. SCO will provide a perspective that differs from the perspective to be provided by each of the parties – specifically, that of its 32 member First Nations – and its expertise relevant to these Nations and the administration of child and family services to its citizens will be of assistance to the Tribunal as these proceedings progress.

10. Further, each of the First Nations that SCO advocates on behalf of stands to be adversely impacted by the outcome of these proceedings, both in relation to the joint approval motion relating to the OFA and going forward. It is imperative that the perspectives of First Nations in southern Manitoba, which SCO will be able to provide, be before the Tribunal as these proceedings progress and important determinations are made respecting the reform of the FNCFS program and the future of the delivery of child and family services to First Nations children and families in Manitoba. These

⁴ *Attaran v Citizenship and Immigration Canada*, 2018 CHRT 6 at paras 12 and 22 [**Attaran**]; see also *First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada (for the Minister of Indian and Northern Affairs of Canada)*, 2016 CHRT 11 at para 3 [**2016 CHRT 11**].

⁵ *First Nations Child & Family Caring Society of Canada et al. v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs of Canada)*, 2020 CHRT 31 [**2020 CHRT 31**]. See also 2016 CHRT 11 at paras 3 and 8-11; *First Nations Child & Family Caring Society of Canada et al. v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 11 [**2019 CHRT 11**].

determinations should not be made without the voices and perspectives of those that stand to be impacted by them being heard.

b) SCO Will Bring a Unique Perspective That Will Assist the Tribunal

11. SCO will bring the important perspectives of its 32 member First Nations and their citizens to the proceedings, which without the addition of SCO as an interested party, would not otherwise be before the Tribunal. Further, as set out in the Notice of Motion, SCO will also bring the important perspectives of 11 child and family services agencies providing services to First Nations in southern Manitoba, the majority of whom receive funding through the FNCFS program. These perspectives will not only be unique and add to those brought by the parties to the proceedings, but they will also provide the Tribunal with assistance as the proceedings progress.

12. As with other regions across the country, there are intricacies and unique factors impacting the delivery of child and family services to First Nations children and families in southern Manitoba, which SCO is specifically familiar with and uniquely situated to shed light on for the Tribunal. These factors should be at the forefront of any determinations respecting reform that will impact the delivery of child and family services in SCO's region.

c) The Proceedings Will Impact SCO's Interests

13. The First Nations that SCO advocates on behalf of, along with their children and families, will be directly impacted by these proceedings and any orders that are made by the Tribunal in relation to the long-term reform of the FNCFS program and Jordan's Principle.

14. SCO was established as an independent political organization specifically tasked with advocating on behalf of its member First Nations and their citizens, particularly as it

relates to protecting and preserving the inherent rights of its members. Accordingly, SCO has a direct interest in these proceedings on behalf of its member First Nations.

15. Furthermore, as it relates to the joint approval motion specifically, Canada has made it clear that any agreement reached at the regional level in Ontario, if approved by the Tribunal, will inform long-term reform of the FNCFS program across the country. This enhances the direct impact of these proceedings on SCO and its members, as any order made by the Tribunal in relation to long-term reform will have an impact on the reform of the FNCFS program as it relates to First Nations in southern Manitoba. Accordingly, it is imperative that the perspectives of these Nations be before the Tribunal for consideration when making these determinations, which SCO is in the best position to do.

V. Conclusion

16. SCO respectfully requests that its motion for interested party status in the within proceedings be granted in accordance with the terms set out in the accompanying Notice of Motion. As detailed above, SCO satisfies the requirements to be granted interested party status and accordingly, the motion should be granted.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 24th day of July, 2025.



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