

FEDERAL COURT

BETWEEN

Attorney General of Canada

Applicant

and

First Nations Child and Family Caring Society of Canada, Assembly of First Nations, Canadian Human Rights Commission, Chiefs of Ontario, Nishnawbe Aski Nation and Amnesty International Canada

Respondents

**WRITTEN REPRESENTATIONS OF THE MOVING PARTY
CONFEDERACY OF TREATY No. 6 FIRST NATIONS
(re: motion for leave to intervene)**

DATED: September 1, 2026

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(re: motion for leave to intervene)

OVERVIEW

1. The Confederacy of Treaty Six First Nations (“**CT6FN**”) seeks leave to intervene in this application for judicial review, including leave to file a memorandum of fact and law not exceeding twenty (20) pages in length and to make oral submissions at the hearing.
2. The Attorney General of Canada (“**Canada**”) seeks to overturn a critically important procedural decision of the Canadian Human Rights Tribunal (“**CHRT**” or “**Tribunal**”), *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2025 CHRT 80¹ (“**CHRT 80**”). This stands to impact First Nations across Canada, including CT6FN and its member Nations. Among other things, CHRT 80 safeguards the CT6FN’s regional distinctions, including member Nations’ cultural and

¹ *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2025 CHRT 80](#) [CHRT 80].

practical perspectives, in the negotiation of national long-term reform (outside of Ontario) of the federal First Nations Child and Family Services Program (“**FNCFS Program**”).

3. If CHRT 80 is quashed, it would, among other things, permit Canada to disregard the Treaty rights and unique circumstances of CT6FN member Nations with respect to their Treaty-protected jurisdiction over child and family services (“**CFS**”). Additionally, federal-provincial/territorial bilateral agreements regarding First Nations CFS would be impacted, without regard to how these agreements continue to shape CFS provision across the country, including for CT6FN’s member Nations. Finally, CT6FN’s member Nations’ inherent right to self-determination in CFS matters would be impacted, including the right to decide which organizations advocate on their behalf during the negotiation of the reform of the FNCFS Program.

4. In intervening, CT6FN seeks to safeguard its member Nations’ continued involvement in the process of long-term reform of the FNCFS Program, as mandated by the Tribunal in CHRT 80. Given that the future of their children and families is at stake, as well as the engagement of their rights of self-government when it comes to their children and families, it is crucial that the CT6FN’s member Nations be involved and provide their free, prior, and informed consent in any reforms to the FNCFS Program.

PART I – STATEMENT OF FACTS

The Moving Party

5. CT6FN is a non-profit Treaty rights advocacy organization that was created in the Spring of 1993 to serve as the united political voice for affiliated Treaty No. 6 Nations in what is now called Alberta for the continued protection of the fundamental Treaty, inherent, and human rights of the Treaty Peoples of Treaty No. 6. CT6FN is dedicated to ensuring that the terms, spirit, and intent of Treaty No. 6 and the rights of the Treaty No. 6 First Nations to self-determination are honoured and respected.²

² Affidavit of Sam Hull, commissioned on August 17, 2026 (“**Hull Affidavit**”) at para 10.

6. CT6FN represents a total of 15 Treaty No. 6 First Nations, including Cree, Dene, Nakota, and Saulteaux/Anishinaabe peoples located in present-day Alberta: Alexander First Nation, Alexis Nakota Sioux Nation, Beaver Lake Cree Nation, Cold Lake First Nations, Enoch Cree Nation, Ermineskin Cree Nation, Frog Lake First Nation, Heart Lake First Nation, Kehewin Cree Nation, Louis Bull Tribe, Montana First Nation, Paul First Nation, Samson Cree Nation, Sunchild First Nation, and Whitefish Lake First Nation #128.³

7. CT6FN plays a vital role in advocating on behalf of its member First Nations through a variety of channels. CT6FN has a long history of interest and involvement in matters concerning the health and safety of children, as well as the provision of CFS in Treaty No. 6 territory. Examples of this include:

a. On January 25, 2017, the Chiefs of CT6FN approved and ratified the *Declaration of the Rights of Treaty No 6 First Nations Child and Family Wholistic Wellness*, enshrining principles for the protection of children from harm and discrimination, for “as long as the sun shines, the rivers flow, and the grass grows.”⁴

b. CT6FN was involved in the preparation of a template CFS law for use by its member Nations in exercising jurisdiction under *An Act respecting First Nations, Inuit and Métis children, youth and families*.⁵ This work was led and completed by Dr. Wilton Littlechild, who has been recognized for his work at the United Nations (“UN”). Some of CT6FN’s member Nations are currently in the process of developing their own sovereign child welfare laws.⁶

c. Six of CT6FN’s member Nations, through local tribal council Tribal Chiefs Ventures Inc., intervened in *Reference re An Act respecting First Nations, Inuit*

³ Hull Affidavit at para 11. At the time of filing, the O’Chiese First Nation is no longer represented by the CT6FN.

⁴ Hull Affidavit at para 14.

⁵ *An Act Respecting First Nations, Inuit and Métis children, Youth and Families*, [SC 2019, c 24](#).

⁶ Hull Affidavit at paras 15.

*and Métis children, youth and families*⁷ in 2024 at the Supreme Court of Canada with the support of the Chiefs of CT6FN.

8. CT6FN has also been instrumental in ensuring that its member Nations are kept updated on proposed long-term reforms to the FNCFS Program and the CHRT proceedings that are driving reform. CT6FN has hosted engagement sessions and participated as speakers at conferences on these potential reforms to elicit feedback from member Nations and have assisted First Nations in other Treaty areas in Alberta with technical expertise to do the same.⁸

9. The Grand Chief of CT6FN is a sitting Chief of a Treaty No. 6 member Nation, a situation unique among provincial Treaty organizations, which facilitates direct cultural and practical perspectives on the issue of reform of the FNCFS Program through leadership selected directly by the Nations.⁹

10. Additionally, CT6FN's advisor, Dr. Wilton Littlechild, has worked nationally and internationally to advance Indigenous rights and Treaties, including at the UN. Dr. Littlechild is a Cree Chief, a former Grand Chief of the CT6FN, a residential school survivor, a former member of Parliament and a lawyer. Dr. Littlechild was also a Commissioner of the Truth and Reconciliation Commission and worked on the *United Nations Declaration on the Rights of Indigenous Peoples* at the UN, specifically on economic and social issues.¹⁰

CHRT Background

11. In January 2016, the CHRT released its merits decision in the matter of *First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada*, 2016 CHRT 2¹¹ (the “**Merits Decision**”). The Tribunal found that the federal government's

⁷ *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#).

⁸ Hull Affidavit at paras 5-7, 9.

⁹ Hull Affidavit at para 18.

¹⁰ Hull Affidavit at para 15.

¹¹ *First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada*, [2016 CHRT 2](#) [Merit Decision].

underfunding and management of its FNCFS Program was discriminatory under the *Canadian Human Rights Act* and ordered, *inter alia*, that Canada cease its discriminatory practices and take measures to redress them and prevent them from reoccurring.¹² In light of the complexity and far-reaching effects of the relief sought, the Tribunal determined it would proceed in phases to ensure additional orders made were appropriate for the immediate short and long-terms.¹³

12. The Tribunal's decision in *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2025 CHRT 86¹⁴ ("**Interested Party Status Decision**") provides a timeline of proceedings that are applicable to this motion. On March 7, 2025, the Chiefs of Ontario and the Nishnawbe Aski Nation brought a joint motion for approval of the Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario ("**OFA**") and the Trilateral Agreement in Respect of Reforming the *1965 Agreement*.¹⁵ On August 11, 2025, Canada filed an amended joint motion ("**OFA Joint Motion**"), including Canada as a co-moving party.¹⁶

13. On April 15, 2025, CT6FN and a number of other parties applied to the Tribunal for interested party status in the OFA Joint Motion proceedings.¹⁷ CT6FN applied for interested party status to ensure that the Tribunal determinations concerning the OFA do not set legal precedents that may infringe Treaty rights or restrict the CT6FN's ability to negotiate independent and tailored agreements aligned with its treaty obligations.¹⁸ CT6FN ultimately wants to ensure that treaty-protected jurisdiction over CFS remains intact.¹⁹

¹² Merit Decision at paras [474-484](#).

¹³ Merits Decision at para [483](#).

¹⁴ *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, [2025 CHRT 86](#) [Interested Party Status Decision].

¹⁵ Interested Party Status Decision at paras [13](#), [15](#).

¹⁶ Interested Party Status Decision at para [18](#).

¹⁷ Interested Party Status Decision at paras [16](#), [19](#) and [76](#).

¹⁸ Interested Party Status Decision at para [38](#).

¹⁹ Interested Party Status Decision at para [39](#).

14. The Tribunal, in the Interested Party Status Decision, denied CT6FN's interested party status motion, as well as those of 11 other First Nations and tribal councils, based on the Tribunal's decision in CHRT 80. The Interested Party Status Decision stated that the basis for denying these motions was because "the OFA joint motion proceeding will not have an impact on" any of the moving parties.²⁰ The Tribunal further stated that the OFA Joint Motion "is limited to long-term reform within the Ontario region", and that the OFA Joint Motion "will not impact the moving parties' treaty-protected authority, as the proceeding is limited to long-term reform within the Ontario region, in accordance with the Tribunal's recent ruling in CHRT 80."²¹ These findings were premised on determinations made by the Tribunal in CHRT 80, which was made after the submissions of the interested party motions but issued just prior to the Tribunal's denial of the moving parties' requests for interested party status.

Decision under Judicial Review

15. On August 20, 2025, and as amended on September 17, 2025, the CHRT issued its most recent substantive order in relation to the Merits Decision, CHRT 80, relating to the long-term reform of the FNCFS Program.

16. The Tribunal in CHRT 80 determined that: "The OFA will not apply to other regions, and the Tribunal will not rely on the OFA to determine a federal FNCFS long-term reform remedy."²²

17. In CHRT 80, the Tribunal ordered, *inter alia*, that:

- (a) within four months of the Order, the First Nations Child & Family Caring Society ("**Caring Society**") and the Assembly of First Nations ("**AFN**") shall consult with the National Children's Chiefs Commission ("**NCCC**"), First Nations Chiefs and other experts, both within and outside of Ontario, and those parties who have

²⁰ Interested Party Status Decision at para [87](#).

²¹ Interested Party Status Decision at para [91](#).

²² CHRT 80 at para [98](#). See also para [100](#).

filed interested party motions, to develop a comprehensive plan for long-term reform of the FNCFS program;²³

(b) if Canada agrees to consult with the Caring Society and the AFN going forward, it must do so in accordance with the parameters set out by the Tribunal relating to long-term reform and what that reform must achieve;²⁴ and

(c) if Canada does not agree to consult with the Caring Society and the AFN regarding national long-term reform going forward, or if those consultations do not produce an agreement on national long-term reform, then Canada shall, within four months of this Order, file its national plan for long-term reform of the FNCFS Program with the Tribunal, which must be supported by affidavit evidence.²⁵

18. As noted above, the CHRT, approximately two weeks after the CHRT 80 decision was released, rendered the Interested Party Status Decision, which denied CT6FN's (and others') motions for interested party status in the OFA Joint Motion on the premise that the CHRT 80 decision confirmed and ordered that the OFA will focus solely on the Ontario region and not on the national long-term reform outside of Ontario.²⁶ The decision also relied upon the fact that CHRT 80 provided a mechanism for CT6FN and other Indigenous groups nation-wide to be consulted and have their feedback incorporated into the CHRT process and development of national long-term reform of the FNCFS Program.²⁷

19. Canada filed an application for judicial review of CHRT 80 on September 19, 2025. Canada, without providing any further particulars of its objections, is seeking judicial review of CHRT 80 on the basis that:

(a) the Tribunal breached natural justice and the duty of fairness; and

²³ CHRT 80 at para [120](#). Emphasis added.

²⁴ CHRT 80 at para [125](#). See also para [113](#).

²⁵ CHRT 80 at para [126](#).

²⁶ Interested Party Status Decision at paras [84-85](#).

²⁷ CHRT 80 at para [110](#).

(b) CHRT 80 was unreasonable because the Tribunal:

- i. unreasonably interpreted its statutory authority;
- ii. ordered unreasonable remedies;
- iii. unreasonably exercised its discretion; and
- iv. unreasonably failed to consider evidence and submissions.

20. It is based on the above that the CT6FN seeks leave to intervene in Canada's application for judicial review of CHRT 80.

PART II – POINTS IN ISSUE

21. The point in issue in this motion is whether the CT6FN meets the test for intervention, and in particular:

- a. Will CT6FN's participation in these proceedings be useful to the Court?
- b. Does CT6FN have a genuine interest in the issues raised in the proceedings; and
- c. Will granting leave to intervene to CT6FN be in the interests of justice?

PART III – SUBMISSIONS

Overview

22. As set out in Rule 109(2)(b), a proposed intervenor must describe how it wishes to participate in the proceeding, and how that participation will assist the Court in determining factual or legal issues related to the proceedings.²⁸

23. The Federal Court of Court in *Le-Vel Brands LLC v Canada (Attorney General)*²⁹ set out the three elements of the test for intervention at the Federal Court:

²⁸ *The Rules*, paragraph 109(2)(b).

²⁹ *Le-Vel Brands LLC v Canada (Attorney General)*, [2023 FCA 66](#) [*Le-Vel Brands*] at para 7.

- a. The usefulness of the intervener's participation pertaining to the issues the Court must decide;
- b. A genuine interest in the issues raised by the appeal on the part of the intervener; and
- c. A consideration of the interests of justice.

24. CHRT 80 is integral to ensuring that First Nations outside of Ontario are represented and included in the discussions and/or negotiations concerning reform of the FNCFS Program. The unique circumstances of CT6FN's member Nations, and the important perspective they can contribute to the determination of the review of CHRT 80 will be of assistance to this Court. The history of the CHRT proceedings shows clearly that Canada has resisted reform every step of the way and that judicial oversight is necessary to hold Canada to account and to ensure that it meets its legal obligations to Indigenous children, families, and communities.

25. The impacts to CT6FN's member Nations should CHRT 80 be overturned stem, broadly, from two overarching issues:

- a. use of the OFA (and by extension the Draft Final Agreement that was rejected in October, 2024³⁰) as a template for long-term reform of the FNCFS Program outside of Ontario would be inappropriate because:
 - i. it would not account for important regional distinctions among First Nations, particularly those under Treaty, including cultural and practical perspectives, as well as federal-provincial bilateral agreements that deal with First Nation CFS matters;
 - ii. it would infringe the Treaty rights of CT6FN member Nations with respect to their Treaty-protected jurisdiction over CFS; and

³⁰ CHRT 80 at para [31](#).

iii. it would infringe upon CT6FN's member Nations' inherent right to self-determination, including the right to decide which organizations advocate on their behalf.

b. CT6FN must be part of discussions and/or negotiations in relation to these reforms to ensure its member Nations' perspectives are represented and that their free, prior, and informed consent is obtained prior to implementation of any proposed reforms.

26. These two overarching issues form the basis of this motion for intervenor status, and tie directly into the underlying proceeding – CHRT 80 – that underpins Canada's judicial review application.

CT6FN will make useful submissions pertaining to the issue the Court must decide

27. If granted leave to intervene, CT6FN will provide the Court with the unique perspectives of its 16 member First Nations located in Treaty No. 6 territory in what is now Alberta, all of whom will be impacted by the outcome of the Court's decision on this judicial review application. CHRT 80 restricts Canada from using the OFA as a precedent for national reform of the FNCFS Program outside of Ontario. This is enormously important given the diversity of challenges that First Nations experience regionally, based on their own unique Treaties, histories, and relationships with federal, provincial and territorial governments in the provision of CFS.

28. The inclusion of the perspectives of CT6FN's member Nations is of particular importance since CHRT 80 specifically calls for consultation on long-term reform of the FNCFS Program with CT6FN (and other parties that applied for and were subsequently denied interested party status in that proceeding), and its member Nations. This requirement for consultation on FNCFS Program reform was in large part also premised and linked to the fact that the Tribunal had denied interested party status to First Nations and organizations representing First Nations outside of Ontario in the OFA Joint Motion.

CHRT 80, issued around the same time, ensured that there would be mechanisms for consultation of these parties in long-term reform where they stood to be impacted.

29. In addition, CT6FN has been without representation at the AFN Executive level since 2021,³¹ meaning that the AFN does not and cannot represent the specific interests of and realities faced by CT6FN's member Nations. The AFN Executive has not requested input from CT6FN or its member Nations and has not identified a method for the AFN member Nations in Treaty No. 6 territory in Alberta to provide feedback on this issue. This renders CT6FN's role as an advocacy organization for its member Nations imperative in the circumstances.³²

30. CT6FN's participation will not introduce new issues or re-argue the merits of CHRT 80.³³ Rather, its submissions will be distinct and provide the Court with useful context about the operation of CHRT 80 within Treaty No. 6 territory in Alberta, which will be of assistance to the Court in determining the issues in this proceeding. A key theme of CT6FN's submissions will be the need to ensure that regional First Nations' considerations are represented in any discussion and/or negotiation with the named parties concerning long-term reform of the FNCFS Program.

31. Specifically, if granted leave to intervene, CT6FN anticipates making submissions regarding the following:

- a. Emphasizing the need for regional considerations to be at the forefront of long-term reform of the FNCFS Program;
- b. That rights holders, including CT6FN's member Nations, be involved in the implementation of reform, once accepted (particularly since CT6FN and First Nations in the Alberta region are not represented by the AFN at the Executive level, or any other named party to this proceeding on this issue);

³¹ Hull Affidavit at para 17.

³² Hull Affidavit at paras 21, 36, 37.

³³ *Le-Vel Brands* at para [19](#).

- c. The difficulty First Nations outside of Ontario may have in light of the willingness, or lack thereof, of different provincial or territorial governments to negotiate reform of the FNCFS Program, and therefore the inappropriateness of using the OFA as a template for the unique situations of First Nations located in other jurisdictions;
- d. Consideration of the fact that there is a wide variety of CFS issues within individual First Nations, including Treaty No. 6 Nations, and the importance of all Nations and representative organizations, such as the CT6FN, whether or not delegated or affiliated with a named party to the proceeding, being involved in the long-term reform of the FNCFS Program; and
- e. The need to ensure any agreement and/or reform of the FNCFS Program be consistent with the orders of the CHRT, the federal *United Nations Declaration on the Rights of Indigenous Peoples Act*³⁴ and similar provincial and territorial statutes where such legislation is in place.

32. The CT6FN's participation as an intervenor would assist the Court in ensuring that the views of CT6FN's member Nations, which are not currently represented by the AFN who is a party to the proceeding, and the views of rights-holders and non-Ontario First Nations, are adequately represented in these crucial proceedings which stand to impact the implementation of federal CFS reform for First Nations across all regions. CT6FN's intervention in this judicial review will be useful to this Court to understand why the preservation of regional First Nations' voices and perspectives, and particularly those of CT6FN's member Nations, is of vital importance in reviewing CHRT 80.

33. Additionally, CT6FN has a deep history of advocacy in the area of CFS provision on behalf of its member Nations. CT6FN has particular skills and knowledge concerning the unique circumstances of its member Nations in Treaty No. 6, including the challenges wrought by the federal-provincial First Nations CFS agreement – the Alberta

³⁴ *United Nations Declaration on the Rights of Indigenous Peoples Act*, [SC 2021, c 14](#).

Administrative Reform Agreement.³⁵ As noted above, given the lack of representation at the AFN Executive level, CT6FN has worked hard to ensure that its member Nations are well informed on the various CHRT orders that have arisen from the proceeding concerning long-term reform of the FNCFS Program.³⁶ This was particularly the case for the orders in CHRT 80, which safeguarded the preservation of regional and cultural considerations in the reform of the FNCFS Program. CT6FN is well-versed on the proceedings and would provide useful and contextual submissions that would not only benefit its member Nations, but that of all First Nations outside of Ontario.

CT6FN has a genuine interest in the issues raised on this application

34. CT6FN has a genuine and demonstrated interest in the outcome of this judicial review, with the necessary knowledge, skills, and resources that will be dedicated to this matter proceeding.³⁷ The member Nations that it advocates on behalf of stand to be adversely impacted by the outcome of this Court's decision if it overturns or modifies CHRT 80. Such a decision will threaten the opportunity of CT6FN's member Nations to participate in the consultative process that has been ordered by the Tribunal with respect to national reform of the FNCFS Program. This, in turn, will prevent proper consideration and implementation of the unique regional considerations that must be taken into account to ensure adequate provision and funding of CFS by CT6FN's member Nations.

35. CT6FN had originally sought interested party status in the OFA Joint Motion proceedings, which concerned the approval of the OFA,³⁸ due to the prospective impact of the outcome of the motion on CT6FN's member Nations. Canada submitted to the Tribunal that, in their view, the OFA should inform the national reform of the FNCFS Program.³⁹ The Tribunal, upon receipt of CT6FN's motion for interested party status, along with those filed by other First Nations and CFS stakeholders, ordered the Caring

³⁵ Hull Affidavit at paras 24-28.

³⁶ Hull Affidavit at paras 19-20.

³⁷ *Le-Vel Brands* at para [19](#).

³⁸ Interested Party Status Decision at para [17](#).

³⁹ CHRT 80 at paras [45-46](#).

Society and AFN to consult with all parties that filed applications for interested party status through CHRT 80, which Canada now asks this Court to overturn. Notably, the denial of CT6FN's interested party status in the OFA Joint Motion was premised on CHRT 80, which confirmed and ordered that the OFA apply solely to the Ontario region and not on the national long-term reform outside Ontario.⁴⁰

36. Canada's application for judicial review threatens to disrupt the Tribunal's orders and oversight of long-term reform, thereby halting the consultative process required to be undertaken with all interested parties, including CT6FN. CT6FN has in fact already completed its own consultation on long-term reform with its member Nations, from September to December 2025, without any financial support for the regions.⁴¹

37. This application also threatens the Tribunal's direction to ensure that regional cultural and practical perspectives be considered when undertaking long-term reform of the FNCFS Program, as well as First Nations' self-government rights regarding their children and families. As set out by the Tribunal in the Merits Decision:

[106] The legal and substantial practical interests of First Nations children, families, and communities stand to be adversely affected by AANDC's discretion and control over the FNCFS Program and other related provincial/territorial agreements. The Panel agrees with the AFN, Caring Society and the COO that the specific Aboriginal interests that stand to be adversely affected in this case are, namely, indigenous cultures and languages and their transmission from one generation to the other. Those interests are also protected by section 35 of the *Constitution Act, 1982*. The transmission of indigenous languages and cultures is a generic Aboriginal right possessed by all First Nations children and their families.⁴²

⁴⁰ Interested Party Status Decision at paras [84-85](#).

⁴¹ Hull Affidavit at para 23.

⁴² Merits Decision at para [106](#).

38. CT6FN's unique position as a representative organization for its member Nations, which stand to be impacted by this proceeding, led by a sitting Chief of a member Treaty No. 6 Nation, and the fact that CT6FN is not represented by the AFN Executive, creates a genuine interest in the outcome of this judicial review.

39. CT6FN's mandate includes a broad variety of relevant duties and responsibilities, which include assisting member Nations in navigating the FNCFS Program. Additionally, CT6FN has undertaken numerous engagement sessions, not just with Treaty No. 6 member Nations, but also by speaking at engagement sessions hosted by organizations in Treaty No. 7 and Treaty No. 8, to disseminate information on CHRT decisions and orders to First Nations and CFS technicians to gather their feedback.⁴³ Not only will CT6FN's submissions be useful, but its work in advocacy in the area of CFS for its member Nations demonstrates a genuine history of interest and engagement in the issues at stake in this application. CT6FN thus possesses direct, practical knowledge of the issues at stake in this application for judicial review and has the resources to dedicate them to the matter before this Court.⁴⁴

The interests of justice will be served by CT6FN's intervention

40. In addition to the utility of its participation, and its genuine and demonstrated interest in the issues raised in this proceeding, CT6FN's participation in this application will serve the interests of justice more generally. The outcome of this Court's decision is of significant public importance and complexity as it involves nationwide strategies to redress systemic discrimination against First Nations children and families, and the design and implementation of national long-term reform to the FNCFS Program. Canada's challenge of CHRT 80 represents a genuine threat to CT6FN's member Nations' treaty and self-government rights in respect of their children and families.

41. As demonstrated by CT6FN's motion to intervene in the CHRT's OFA Joint Motion proceedings, the CT6FN is serious about ensuring that its member Nations' perspectives

⁴³ Hull Affidavit at paras 6, 19-21.

⁴⁴ Hull Affidavit at para 22.

are represented and that it is able to advance its viewpoint and expertise in the forum in which these issues are being adjudicated, to ensure that the important and complex project of long-term reform is appropriately consulted on and implemented.⁴⁵

42. CHRT 80 provides an opportunity to positively influence the wellness of Indigenous Peoples for generations, including member Nations of CT6FN, after generations of harmful policies enacted by Canada. In determining whether the Tribunal was reasonable in issuing its recent orders, the Court should consider the perspectives of those First Nations and representative First Nations organizations that are directly impacted by the Tribunal's orders, such as CT6FN. As noted, the Tribunal was clear in CHRT 80 that the OFA must not be used as a template for long-term reform of the FNCFS Program.⁴⁶

43. The Tribunal also set out in CHRT 80 a process and guidelines for consultation with Indigenous groups nation-wide to ensure that their perspectives would be reflected in the Tribunal's orders and national long-term reform of the FNCFS Program, without unduly burdening the Tribunal or slowing the process down. The Nations accepted that opportunity and poured their own resources and time into undertaking a significant effort to meaningfully engage on this complex issue.⁴⁷ As this judicial review application will affect these determinations by the Tribunal in particular, as well as CT6FN's member Nations' treaty rights, the CT6FN ought to be permitted to intervene in this application to speak to the reasonableness of the Tribunal's decision in CHRT 80.

44. CT6FN's participation will provide additional, distinct context and insight that promotes fair, informed and effective adjudication of the issues. Its involvement is consistent with Rule 3 of the *Rules* and will assist the Court in achieving a just, expeditious and economic resolution of this matter.⁴⁸

⁴⁵ *Le-Vel Brands* at para [26](#).

⁴⁶ CHRT 80 at paras [98](#), [100](#).

⁴⁷ Hull Affidavit at para 23.

⁴⁸ *Le-Vel Brands* at para [19](#).

45. CT6FN's involvement will not disrupt or delay the judicial review. CT6FN will comply with all timelines and play a limited role in the proceeding.

PART IV – RELIEF SOUGHT

46. For the above reasons, the CT6FN respectfully requests that the Court grant an Order for the following:

- (a) leave to intervene in the application for judicial review filed by the Attorney General of Canada pursuant to Rule 109(1) of the *Rules*;
- (b) leave to file a memorandum of fact and law not exceeding twenty (20) pages in length;
- (c) leave to present oral submissions at the hearing of the judicial review;
- (d) the CT6FN will not seek costs and no costs shall be awarded against it; and
- (e) such further and other relief as counsel may advise and this Court may allow.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

- 47. Affidavit of Sam Hull, affirmed August 17, 2026; and
- 48. Such further and other material as counsel may advise and this Court may permit.

ALL OF WHICH IS RESPECTFULLY SUBMITTED September 1, 2026



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PART V – TABLE OF AUTHORITIES

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