

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

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

Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

ATTORNEY GENERAL OF CANADA

(representing the Minister of Indigenous and Northern Affairs Canada)

Respondent

- and -

CHIEFS OF ONTARIO and

AMNESTY INTERNATIONAL CANADA and NISHNAWBE ASKI NATION

Interested Parties

AFFIDAVIT OF RUBY MILLER

I, Ruby Miller, of Six Nations of the Grand River in Ontario, DO SOLEMNLY AFFIRM:

1. I am the Director of Social Services of the Chiefs of Ontario ("COO") and therefore have knowledge of the facts I have sworn to in this affidavit. Where I do not have direct knowledge of the facts, I have identified the source of the acquired knowledge and believe it to be true.
2. I have had a long career in social services for Indigenous peoples prior to my appointment to this position, primarily in health care with urban Indigenous organizations and with Six Nations, my First Nation. I was previously Director of Health for Six Nations. I am trained as a nurse.
3. The implementation of the Canadian Human Rights Tribunal orders related to First Nations child welfare is a part of my work as COO's Director of Social Services.
4. COO operates under the guidance of the Chiefs-in-Assembly, who meet several times a year. In between Chiefs-in-Assembly meetings, COO takes direction from the Leadership Council which includes the leaders from the Association of Iroquois and Allied Indians ("AIAI"), the Anishinabek Nation (c.o.b. as Union of Ontario Indians), Nishnawbe Aski Nation ("NAN"), Grand Council Treaty #3, representation from the Independent First Nations (those First Nations who do not have a political-territorial organizational affiliation), Six Nations of the Grand River, and Mohawk Council of Akwesasne.
5. COO also has a "Chiefs' Committee on Social Services", which is comprised of Chiefs who advise on matters related to social services which affect First Nations in Ontario. Chiefs' Committee on Social Services provides advice and direction to the Leadership Council and to the Chiefs-in-Assembly.
6. COO also has a "Social Services Coordination Unit" ("SSCU"), a committee comprised of "technicians", that is, persons with expertise in social services from among the political-territorial organizations and Independent First Nations. The SSCU provides advice and direction to COO staff and the Chiefs' Committee on Social Services. I regularly attend the SSCU and Chiefs' Committee on Social Services meetings.
7. The Leadership Council nominates from among its members individuals who hold portfolios relating to subject matters of concern to COO. I work very closely with Grand Chief Joel Abram of AIAI who is the "Social Services Portfolio" holder, which includes child welfare. I receive political guidance in my work through Grand Chief Abram, who in turn receives his direction and information from the other groups mentioned above Chiefs' Committee on Social and SSCU.
8. As COO's Director of Social Services I provide technical support and information to the Chiefs-in-Assembly, Leadership Council and the Chiefs' Committee on Social Services on matters related to social services, including child welfare.
9. In my role, I provide information and technical support to the Chiefs' Committee on Social Services and regularly attend and coordinate the Committee's meetings.

10. Throughout my work as the Director of Social Services I have discussed the Canadian Human Rights Tribunal's orders regarding compensation for children in care and their caregivers who were subject to discrimination. I have discussed these matters with members of the SSCU, the Leadership Council and the Chiefs' Committee on Social Services as well as representatives from First Nations child and family services agencies in Ontario. In my discussions with First Nations leadership and technicians the following issues have been identified with the compensation process:
- (a) First Nations are always expected by their membership to serve their members and assist them with processes relating to compensation. In the past, this has included residential schools payments, 60s scoop payments, and other class action payments. It is an expected role for First Nations. However, there is normally never any dedicated position to deal with such requests and it adds burdens onto First Nations. The kind of assistance asked for is to help them understand eligibility, to fill out forms, to follow up and to assist when they receive money.
 - (b) First Nations bear the brunt of the negative outcomes that arise when large payouts are provided to the Nation's citizens. In the past, spikes in substance use, suicide and suicidal ideation, lateral violence, physical violence, and other crises have arisen when large cash payouts are made to First Nations citizens who have been victims of government abuse. First Nations need to be involved in compensation notification, application and administration so as to mitigate these harms.
 - (c) Community-based supports are best placed to provide culturally-safe care and "harm reduction" for victims of discrimination. First Nations should receive resources to deliver community-based support for individuals undergoing the process of seeking compensation. In the past (i.e. with Indian Residential Schools payments) First Nations were not adequately resourced to deal with the significant emotional and spiritual toll that re-living past traumas caused to its citizens.
 - (d) Issues with the registration of children under the Indian Act should not be a barrier to receiving compensation. In particular, the government should be accountable to children who are adopted and lose (or have lost) their Indian status or have their Indian status "suspended" until they turn 18, or were never registered. There are many situations in which children are not registered with their Nations because of the onerous registration process. Issues of registration are particularly acute in the North due to the inaccessibility of services.
 - (e) The process for identifying victims must respect First Nations citizenship laws and processes. The process should be flexible, First Nations directed, and reflective to communities actual needs and realities.
 - (f) I understand that there have been potential difficulties identified with identification of people in the child welfare system in Ontario because there was no requirement for agencies to keep records of those people apprehended, or whether they were Indigenous or not. This is highlighted in the Ontario Human Rights Commission's 2018 Report titled Interrupted Childhoods.

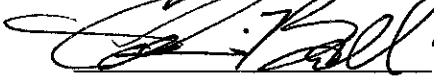
- (g) There should not be a big administrative burden put onto First Nations to help identify victims or if there is, capacity funding should follow.
- (h) Eligible victims for compensation in Ontario should be compensated, whether they were apprehended while residing on-or-off-reserve. Discrimination did not stop at the borders of First Nations reserves.
- (i) The Tribunal's definition of caregivers is not culturally-sensitive. The definition of caregiver should be expanded to include Aunties, Uncles, older siblings, and other individuals within the kin network who were caregiving for children that were apprehended and are eligible for compensation.
- (j) Resources should be put aside to enable community-based programming to assist individuals who are receiving compensation with optional financial management services. For example, a First Nation could set-up a mortgage-matching program where individuals who receive compensation are able to put their compensation funds toward a mortgage for a house on-reserve. The First Nation could then contribute some funds as well, or otherwise help with the process.
- (k) It is not effective to send written information to people or to place radio ads. Overwhelmingly, people need to have information presented to them in person, sometimes more than once. Child welfare involvement is a highly sensitive topic and in my work in this field I have learned that any discussion about child welfare involvement usually leads to enormous emotional and spiritual strain. It should be done in person, with supports available in person.

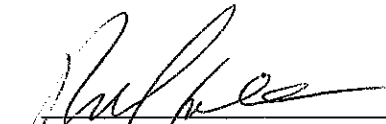
11. I make this affidavit to support COO's submissions on the compensation process and for no other purpose.

AFFIRMED BEFORE ME this)

20th day of February, 2020,)

in the Province of Ontario:)


A Commissioner etc.)


Ruby Miller