

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN

**MARCIA BROWN and ROBERT COMMANDA**

Plaintiff

and

**THE ATTORNEY GENERAL OF CANADA**

Defendant

**AGREEMENT IN PRINCIPLE**

THE FOUNDATION

1. Canada shall establish a Foundation in accordance with the guidelines in the *Canada Not For Profit Corporations Act*. Canada shall fund the Foundation to the extent of \$50M (the "Initial Funding"); however, the Initial Funding may be augmented from other sources. The Parties agree that they will convene a separate negotiation table to particularize the objects of the Foundation (the "Foundation Table"); however, the Parties agree that the main purpose of the Foundation is to enable change and reconciliation and, in particular, access to education, healing/wellness and commemoration activities for communities and individuals. The Parties also acknowledge that the Foundation is a living entity and may be amended from time to time to respond to the challenges of current and future needs. The Foundation is intended to complement and not duplicate government programs.
2. The Foundation Table shall consist of three (3) representative plaintiffs; two (2) plaintiffs' counsel, the Assistant Deputy Minister, Resolution and Individual Affairs for INAC or his agreed-upon designate Krista Robertson, one (1) counsel from Canada, and Justice Shore.

CLASS DEFINITION

3. All "Indians" (as per the *Indian Act* – registered or entitled to be registered) and "Inuit" who were removed from their homes in Canada from 1951 to 1991 and placed in the care of non-Indigenous foster or adoptive parents.

## APPROVED CLAIMANTS

4. All "Indians" (as per the *Indian Act* – registered or entitled to be registered) and "Inuit" who were removed from their homes in Canada from 1951 to 1991 and who were adopted or made Crown wards or permanent wards and placed in the care of non-Indigenous foster or adoptive parents.
5. Individual Payments shall be made to Approved Claimants as follows:
  - Canada shall pay \$500M to the Administrator (the "Designated Amount");
  - The Administrator shall pay \$25,000 to each Approved Claimant (the "Base Payment");
  - Any residue after the Base Payments are made shall be distributed equally among the Approved Claimants to a maximum total payment of \$50,000 to each Approved Claimant (the "Augmented Payment");
  - After payment of the Augmented Payments, any further residue shall be applied to the Foundation described in paragraphs 1 and 2.

## UNLESS

- The Designated Amount is insufficient to make a Base Payment to each Approved Claimant THEN, Canada shall pay an amount sufficient to make a Base Payment to each Approved Claimant (the "Enhanced Amount")

## HOWEVER

- In no circumstances shall Canada be required to pay any amount in excess of a total of \$750M for individual payments to Approved Claimants; and,
- If the Enhanced Amount is not sufficient to make a Base Payment to each Approved Claimant, then the Enhanced Amount shall be divided equally among the Approved Claimants.

For greater certainty; if the number of Approved Claimants is:

- 10,000, each individual will receive \$50,000;
- 15,000, each individual will receive \$30,000  $\{(15,000 \times \$25,000) + (\$125 \text{ M} / 15,000 = \$5,000)\}$
- 20,000, each individual will receive \$25,000;
- 25,000, each individual will receive \$25,000 and Canada will pay an additional \$125M  $\{25,000 \times \$25,000 = \$625\text{M} - \$500\text{M}(\text{Designated Amount}) = \$125\text{M}\}$
- 35,000, each individual will receive \$21,400  $(\$750\text{M} / 35,000)$

## NOTICE AND ADMINISTRATION

6. The Parties shall jointly agree on a notice program and administration process to be paid for by Canada to an agreed-upon maximum amount.

## RELEASES

7. The class members agree to release Canada from any and all claims that have been pleaded or could have been pleaded with respect to their placement in foster care, Crown wardship or permanent wardship, and/or adoption. Such release shall include, but not be limited to, claims for: loss of language, culture, and identity, claims for sexual and physical abuse, Charter or constitutional claims, etc.

## SETTLEMENT APPROVAL

8. The Parties agree that the settlement agreement shall be approved:
  - a) In *Brown v Canada* in the Ontario Superior Court of Justice; and,
  - b) In an action constituted in the Federal Court consistent with the terms of the settlement agreement.
9. Furthermore, the Parties agree that class counsel shall amend all other actions to eliminate claims which will be settled in this action and seek bar orders with respect to any actions that have or may be brought against any other party where Canada may be added as a third party.

## EXCEPTIONAL CIRCUMSTANCES

10. The Parties agree to establish a mechanism to consider class members who are not Approved Claimants but whose circumstances are such that they should be considered for individual payment or other relief.

## OPT-OUTS

11. For each opt out who is eligible to receive an individual payment, Canada shall deduct \$25,000 from the Enhanced Amount.
12. Should 2,000 class members opt out, Canada, in its sole discretion, may decide not to proceed with the settlement agreement and shall have no further obligations in this regard.
13. The Parties agree to work together to minimize the number of opt outs.

## SOCIAL BENEFITS AND TAXATION

14. Canada shall make best efforts ensure that any Approved Claimant's entitlement to federal social benefits or social assistance benefits will not be negatively affected by receipt of an individual payment and that individual payments will not be considered taxable income within the meaning of the *Income Tax Act*.

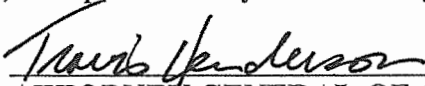
15. Canada will use its best efforts to obtain agreement with provincial and territorial governments to the effect that the receipt of any individual payments will not affect the amount, nature, or duration of any social benefits or social assistance benefits available or payable to any class member.

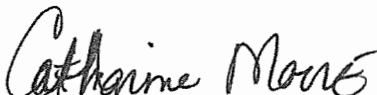
LEGAL FEES


16. Canada shall pay to class counsel 15% of the Designated Amount plus applicable GST/PST/HST as legal fees. Class counsel agree that no amount shall be taken from any payments made to Approved Claimants on account of fees. Class counsel further agree to perform any additional work required on behalf of class members at no additional charge.

Signed at Vancouver this 30th day of August 2017.


CANADA, as represented by the Attorney General of Canada

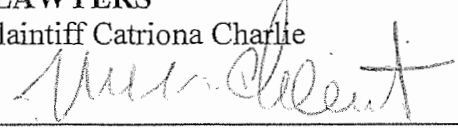
BY:   
ATTORNEY GENERAL OF CANADA  
For the Defendant

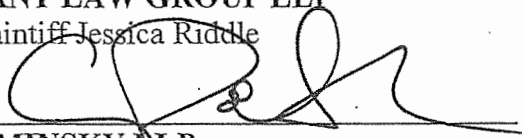
BY:   
ATTORNEY GENERAL OF CANADA  
For the Defendant

BY:   
ATTORNEY GENERAL OF CANADA  
For the Defendant

THE PLAINTIFFS, as represented by Class Counsel

BY:   
KLEIN LAWYERS  
For the Plaintiff Catriona Charlie

BY:   
MERCHANT LAW GROUP LLP  
For the Plaintiff Jessica Riddle

BY:   
KOSKIE MINSKY LLP  
For the Plaintiff Wendy Lee White

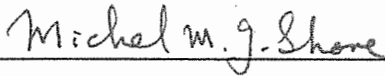
BY:

  
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**WILSON CHRISTEN LLP**  
For the Plaintiff Marcia Brown

BY:

  
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**MORRIS COOPER**  
For the Plaintiff Marcia Brown

Mediated, authorized and approved by Justice Michel M.J. Shore of the Federal Court –  
Mediator of the matter, known as the Sixties Scoop, 1951-1991.

  
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