

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
JUSTICE PERELL

TUESDAY, THE 14TH  
DAY OF JANUARY, 2014

**BETWEEN:**

**LARRY PHILIP FONTAJNE** in his personal capacity and in his capacity as the Executor of the estate of Agnes Mary Fontaine, deceased, MICHELLINE AMMAQ, PERCY ARCHIE, CHARLES BAXTER SR., ELIJAH BAXTER, EVELYN BAXTER, DONALD BELCOURT, NORA BERNARD, JOHN BOSUM, JANET BREWSTER, RHONDA BUFFALO, ERNESTINE CAIBAIOSAI-GIDMARK, MICHAEL CARPAN, BRENDA CYR, DEANNA CYR, MALCOLM DAVISON, ANN DENE, BENNY DOCTOR, LUCY DOCTOR, JAMES FONTAINE in his personal capacity and in his capacity as the Executor of the Estate of Agnes Fontaine, deceased, VINCENT BIADLEY FONTAINE, DANA EVA MARIE FRANCEY, PEGGY GOOD, FRED KELLY, ROSEMARIE KUPTANA, ELIZABETH KUSIAK, THERESA LAROCQUE, JANE McCULLUM, CORNELIUS McCOMBER, VERONICA MARTEN, STANLEY THOMAS NEPETAYPO, FLORA NORTHWEST, NORMAN PAUCHEY, CAMBLE QUATELL, ALVIN BARNEY SAULTEAUX, CHRISTINE SEMPLE, DENNIS SMOKEYDAY, KENNETH SPARVIER, EDWARD TAPIA TIC, HELEN WINDERMAN and ADRIAN YELLOWKNEE

Plaintiffs

-and-

**THE ATTORNEY GENERAL OF CANADA**, THE PRESBYTERIAN CHURCH IN CANADA, THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE UNITED CHURCH OF CANADA, THE BOARD OF HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH, THE BAPTIST CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN CANADA, THE CANADA IMPACT NORTH MINISTRIES OF THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE DIOCESE OF SASKATCHEWAN, THE DIOCESE OF THE SYNOD OF CARIBOO, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, THE INCORPORATED SYNOD OF THE DIOCESE OF HURON, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE METHODIST CHURCH OF CANADA (ALSO KNOWN AS THE METHODIST MISSIONARY SOCIETY OF CANADA), THE INCORPORATED SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE ANGLICAN CHURCH OF THE DIOCESE OF QUEBEC, THE SYNOD OF THE DIOCESE OF ATHBASCA, THE SYNOD OF THE DIOCESE OF BRANDON, THE ANGLICAN SYNOD OF THE DIOCESE OF BRITISH COLUMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE SYNOD OF THE DIOCESE OF NEW WESTMINSTER, THE 2 SYNOD OF THE DIOCESE OF YUKON, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE BOARD OF HOME MISSIONS AND SOCIAL SERVICE OF THE PRESBYTERIAN CHURCH OF CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA, SISTERS OF CHARITY, A BODY CORPORATE ALSO KNOWN AS SISTERS OF CHARITY OF ST. VINCENT DE PAUL, HALIFAX, ALSO KNOWN AS SISTERS OF CHARITY HALIFAX, ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX, LES SOEURS DE NOTRE DAME-AUXILIATRICE, LES SOEURS DE ST. FRANCOIS D'ASSISE, INSITUT DES SOEURS DU BON CONSEIL, LES SOEURS DE SAINT-JOSEPH DE SAINT-HYACINTHE, LES SOEURS DE JESUSMARIE, LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE, LES SOEURS DE L'ASSOMPTION DE LA SAINT VIERGE DE L'ALBERTA, LES SOEURS DE LACHARITE DE ST. HYACINTHE, LES OEUVRES OBLATES DE L'ONTARIO, LES RESIDENCES OBLATES DU QUEBEC, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE LA BAIE JAMES (THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF JAMES BAY), THE CATHOLIC DIOCESE OF MOOSONEE, SOEURS GRISES DE MONTREAL/GREY NUNS OF MONTREAL, SISTERS OF CHARITY (GREY NUNS) OF ALBERTA, LES SOEURS DE LACHARITE DES T.N.O., HOTEL-DIEU DE NICOLET, THE GREY NUNS OF MANITOBA INC.-LES SOEURS GRISES DU MANITOBA INC., LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE LA BAIE D'HUDSON- THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HUDSON'S BAY, MISSIONARY OBLATES- GRANDIN PROVINCE, LES OBLATS DE MARIE IMMACULEE DU MANITOBA, THE ARCHIEPISCOPAL CORPORATION OF REGINA, THE SISTERS OF THE PRESENTATION, THE SISTERS OF ST. JOSEPH OF SAULT ST. MARIE, SISTERS OF CHARITY OF OTTAWA, OBLATES OF MARY IMMACULATE-ST. PETER'S PROVINCE, THE SISTERS OF SAINT ANN, SISTERS OF INSTRUCTION OF THE CHILD JESUS, THE BENEDICTINE SISTERS OF MT. ANGEL OREGON, LES PERES MONTFORTAINS, THE ROMAN CATHOLIC BISHOP OF KAMLOOPS CORPORATION SOLE, THE BISHOP OF VICTORIA, CORPORATION SOLE, THE ROMAN CATHOLIC BISHOP OF NELSON, CORPORATION SOLE, ORDER OF THE OBLATES OF MARY IMMACULATE IN THE PROVINCE OF BRITISH COLUMBIA, THE SISTERS OF CHARITY OF PROVIDENCE OF WESTERN CANADA, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE GILQUARD, ROMAN CATHOLIC EPISCOPAL CORPORATION OF KEEWATIN, LA CORPORATION ARCHIEPISCOPALE CATHOLIQUE ROMAINE DE ST. BONIFACE, LES MISSIONNAIRES OBLATES SISTERS DE ST. BONIFACE-THE MISSIONARY OBLATES SISTERS OF ST. BONIFACE, ROMAN CATHOLIC ARCHIEPISCOPAL CORPORATION OF WINNIPEG, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE PRINCE ALBERT, THE ROMAN CATHOLIC BISHOP OF THUNDER BAY, IMMACULATE HEART COMMUNITY OF LOS ANGELES CA, ARCHDIOCESE OF VANCOUVER- THE ROMAN CATHOLIC ARCHBISHOP OF VANCOUVER, ROMAN CATHOLIC DIOCESE OF WHITEHORSE, THE CATHOLIC EPISCOPALE CORPORATION OF MACKENZIEFORT SMITH, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF PRINCE RUPERT, EPISCOPAL CORPORATION OF SASKATOON, OMI LACOMBE CANADA INC. and MT. ANGEL ABBEY INC.

Defendants

Proceedings under the *Class Proceedings Act*, 1992, S.O. 1992. C.6

**ORDER**

THESE REQUESTS FOR DIRECTIONS, made by

- a. the Applicants, who are 60 IAP claimants as former students of St. Anne's Indian Residential School ("St. Anne's IRS"), for a direction from the Court that the Government of Canada

("Canada") shall produce all documents currently in the possession of Canada that are relevant to sexual or physical abuse at St. Anne's IRS, shall seek and produce the documents of the non-party Ontario Provincial Police ("OPP"), shall amend the narrative and other heads of relief, in the Independent Assessment Process ("IAP") of the Indian Residential Schools Settlement Agreement ("IRSSA");

- b. the Truth and Reconciliation Commission of Canada ("TRC") for a direction from the Court as to whether Canada is required to produce to the TRC records of an OPP criminal investigation concerning St. Anne's IRS, pursuant to Schedule N of the IRSSA; and,
- c. the Defendant Attorney General of Canada for a direction from the Court as to whether under the IAP, Canada must seek to have the non-party OPP provide OPP documents about its investigation concerning St. Anne's Indian Residential School to the Applicants, and as to whether Canada is under a deemed undertaking with respect to OPP documents already in the possession of Canada;

were heard December 17 and 18, 2013, at Osgoode Hall, 130 Queen St. W, Toronto, ON, M5H 4G1,

ON READING the Amended Amended Request for Directions of the Applicants dated November 28, 2013, the Request for Directions of the TRC dated October 18, 2013, the Request for Directions of the Defendant Attorney General of Canada dated September 5, 2013, and the materials filed by the Applicants, the TRC, the Attorney General of Canada, the Chief Adjudicator of the Indian Residential Schools Adjudication Secretariat, the Assembly of First Nations, the OPP and Les Soeurs de la Charite d'Ottawa and on hearing the submissions of the lawyer(s) for the Applicants, the TRC, the Attorney General of Canada, the Chief Adjudicator of the Indian Residential Schools Adjudication Secretariat, the Assembly of First Nations, the OPP and Les Soeurs de la Charite d'Ottawa:

1. THIS COURT ORDERS that by April 30, 2014, the OPP produce to the TRC the documents from the criminal investigation of abuse at St. Anne's IRS (the "OPP documents"), including documents for which the OPP makes claims for privilege and/or for the privacy interests of individuals, in the same manner that Canada is obliged to produce documents to the TRC under the Indian Residential Schools Settlement Agreement ("IRSSA");

2. THIS COURT ORDERS that by April 30, 2014, Canada produce to the TRC the OPP documents, including documents for which the OPP makes claims for privilege and/or for the privacy interests of individuals, in the same manner that it is obliged to produce documents to the TRC under the IRSSA;

3. THIS COURT ORDERS that by April 30, 2014 and subject to the procedure described below, the OPP produce to Canada, for the IAP, the OPP documents in its possession or control, excluding documents protected under solicitor and client privilege and/or investigation privilege, and the OPP also provide a list of documents for which it makes claims of privilege or immunity from production;
4. THIS COURT ORDERS that Canada or an Applicant can request that the comi's lawyer appointed under the IRSSA, which lawyer shall have the powers of a Master under the Ontario *Rules of Civil Procedure*, review the OPP documents, and rule as to production for the IAP, with such decision subject to an appeal to an administrative judge under the IRSSA;
5. THIS COURT ORDERS that Canada shall produce all transcripts of criminal or civil proceedings in its possession or control about incidents of abuse at St. Anne's IRS and deliver such transcripts to the TRC within 20 days of the date hereof;
6. THIS COURT ORDERS that Canada shall by June 30, 2014, produce for the IAP:
  - (a) the OPP documents in its possession and/or received from the OPP about the sexual and/or physical abuse at St. Anne's IRS;
  - (b) the transcripts of criminal or civil proceedings in its possession about the sexual and/or physical abuse at St. Anne's IRS; and
  - (c) any other relevant and non-privileged documents in the possession of Canada to comply with the proper reading and interpretation of Canada's disclosure obligations under Appendix VIII;
7. THIS COURT ORDERS that that Canada shall by August 1, 2014 revise its Narrative and POI Repmts for St. Anne's IRS;
8. THIS COURT ORDERS THAT the courts under the IRSSA have the exclusive jurisdiction to open settled IAP claims on a case-by-case basis;
9. THIS COURT ORDERS THAT the adjudicators of the IAP have the exclusive jurisdiction with respect to the admission of and use to be made of evidence for the IAP;
10. THIS COURT ORDERS that the Applicants and the TRC are entitled to claim costs for the legal services that identified that there was a problem associated with the operation of the IRSSA and also for the legal services associated with the RFDs designed to find a solution for the problem; and

II. THIS COURT ORDERS that if the parties cannot agree with respect to costs, including the scale of costs, they may make submissions in writing by March 31, 2014.

Paul J

LARRY PHILIP FONTAINE et al.

and

THE ATTORNEY GENERAL OF CANADA et  
at.

Court File No: OO-CV-192059CP

*ONTARIO*  
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER

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