

Federal Court



Cour fédérale

Ottawa, August 10, 2023 – A decision in file T-2169-16 was issued today by Justice Sébastien Grammond of the Federal Court:

**IN THE MATTER OF GARY LESLIE MCLEAN, ROGER AUGUSTINE,
CLAUDETTE COMMANDA, ANGELA ELIZABETH SIMONE SAMPSON,
MARGARET ANNE SWAN AND MARIETTE LUCILLE BUCKSHOT**

v.

**HIS MAJESTY THE KING IN RIGHT OF CANADA AS REPRESENTED BY
THE ATTORNEY GENERAL OF CANADA**

and

**AUDREY HILL AND SIX NATIONS OF THE GRAND RIVER ELECTED
COUNCIL**

Summary: A class action was instituted on behalf of survivors of Indian Day Schools. Canada and representatives of the survivors entered into an agreement to settle the class action. Pursuant to the settlement agreement, survivors could claim compensation.

In the initial version of the settlement agreement, survivors had only one year to file their claims. Many survivors expressed the opinion that this period was too short. In response to this criticism, Canada and the representative plaintiffs agreed to extend that period to two and a half years. This Court then approved the settlement agreement. As a result, survivors had until July 13, 2022 to claim compensation.

The Moving Parties, Audrey Hill and the Six Nations of the Grand River Elected Council, are asking this Court to extend this deadline to December 31, 2025. They say that insufficient efforts were made to inform survivors about the details of the claims process. They criticize the lack of support for survivors who wish to file a claim. They argue that the COVID-19 pandemic compounded these difficulties and prevented many survivors from making a claim.

The Court dismisses the motion and refuses to extend the deadline.

The Court rejects the Moving Parties' contention that the settlement agreement gives the Court a general power to extend the deadline. The agreement only provides for extensions in individual cases for a maximum of six months. The intention of the parties was that the claims process would then be closed.

The Court also declines to exercise its supervisory jurisdiction to extend the deadline for filing claims. Supervisory jurisdiction can only be used in exceptional circumstances where the settlement agreement is not being implemented. It cannot be used to change the agreement. The Court carefully reviewed the evidence brought by the Moving Parties and found that the measures provided by the agreement with respect to notice and class member assistance were implemented. While additional forms of assistance could have been provided to survivors who wish to make a claim, this was not required by the agreement. The Moving Parties' contention that large numbers of survivors have been prevented from filing a claim is not supported by the evidence. Rather, approximately 185,000 survivors have made a claim within the deadline or the six-month extension period.

A copy of the decision can be obtained via the Federal Court [website](https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/523945/index.do):
<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/523945/index.do>.