

Federal Court



Cour fédérale

**Ottawa, August 19, 2019** – Two decisions were issued today by the Honourable Michael L. Phelan of the Federal Court in file T-2169-16:

**IN THE MATTER OF GARRY MCLEAN ET AL v. HER MAJESTY THE QUEEN IN RIGHT OF CANADA**

**Summary:** This was a class action brought on behalf of former students and families of students who attended Indian Day Schools established, funded, controlled and maintained by the federal government. The class action was certified on consent on June 21, 2018.

The parties concluded a Settlement Agreement [Settlement] on March 12, 2019, which was amended on May 13, 2019. The Settlement provides compensation to Indian Day School survivors based on the level of harm suffered and establishes a Legacy Fund to support commemoration events, wellness/healing projects, and the restoration of Indigenous languages and culture.

The Settlement, which included the legal fees to be paid to the plaintiffs' counsel, had to be approved by the Federal Court to be given effect. The Court has issued two sets of reasons and orders today, one approving all parts of the Settlement except the legal fees and one approving the legal fees.

The Plaintiffs, with the consent of the Defendant, filed a motion seeking an Order of the Federal Court approving the Settlement and ancillary orders to facilitate the Settlement Agreement. The motion was heard on May 13, 14, and 15, 2019 in Winnipeg. The Court received approximately 3,360 statements of support and 2,485 objections in writing from class members across the country. The Court also heard oral submissions from the supporters and objectors during the hearing.

Upon consideration of the submissions of the parties and individual class members, the Court approved the Settlement, finding that it is “fair and reasonable and in the best interests of the class as a whole”. The Court retained supervisory jurisdiction to ensure that the Settlement is implemented as contemplated.

In a separate order and reasons, the Court assessed whether the fees to be paid to the Plaintiffs' counsel under the Settlement were “fair and reasonable”. The Court appointed an independent lawyer, called an *amicus curiae*, to assist the Court in reviewing the legal fees. After considering submissions from the parties, class members, former counsel, and the *amicus curiae*, the Court approved the legal fees and the payment of honorariums to the named Plaintiffs.

A copy of the decisions can be obtained via the [Web site](#) of the Federal Court:

Settlement approval (Order): <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/420068/index.do>

Settlement approval (Reasons): <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/420069/index.do>

Fee approval (Order): <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/420064/index.do>

Fee approval (Reasons): <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/420071/index.do>