

ONTARIO SUPERIOR COURT OF JUSTICE
BETWEEN: CHARLES BAXTER, SR., ELJIAH BAXTER, WALTER BAXTER,
RORY SIMON JOSEPH AND ROY IGNACE

Plaintiffs
- and -THE

ATTORNEY GENERAL OF CANADA, THE UNITED CHURCH OF CANADA, THE
TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE
ANGLICAN CHURCH OF CANADA AND THE ROMAN CATHOLIC EPISCOPAL
CORPORATION FOR THE DIOCESE OF SAULT STE. MARIE, IN ONTARIO,
CANADA

Defendants
Proceeding under the Class Proceedings Act, 1992

STATEMENT OF CLAIM
TO THE DEFENDANTS
A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU
by the Plaintiffs. The claim made against you is set out in the following pages. IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by

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rules of court, serve it on the Plaintiffs' lawyer or, where the Plaintiffs do not have a lawyer, serve it on the Plaintiffs, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the rules of court. This will entitle you to ten more days within which to serve and file your Statement of Defence. IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

DATE: Issued by _____
Local Registrar
Address of court office:
10 th Floor
393 University Avenue
Toronto, Ontario M5G 1E6

-3-TO:
ATTORNEY GENERAL OF CANADA
c/o Mr. George Thomson
Deputy Minister of Justice
Justice Building
239 Wellington Street
Ottawa, Ontario
K1A 0H8
AND TO: THE UNITED CHURCH OF CANADA
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Suite 300
Etobicoke, Ontario
M8X 2Y4
AND TO: THE TRUSTEE BOARD OF
THE PRESBYTERIAN CHURCH IN CANADA
50 Wynford Drive

Toronto, Ontario
M3C 1J7
AND TO: THE ANGLICAN CHURCH OF CANADA
Church House
600 Jarvis Street
Toronto, Ontario
M4Y 2J6
AND TO:
THE ROMAN CATHOLIC EPISCOPAL CORPORATION FOR THE DIOCESE OF SAULT STE.
MARIE, IN ONTARIO, CANADA
Bishop Jean-Louis Plouffe
387 Algonquin Avenue
P.O. Box 510
North Bay, Ontario

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L A I M

1. THE PLAINTIFFS, CHARLES BAXTER, SR., ELIJAH BAXTER, WALTER BAXTER, RORY SIMON JOSEPH, ROY IGNACE, on their own behalf, and on behalf of the members of the CLASS OF PERSONS, (the "Alumni Class") described in paragraphs 9 and 10 who were transported to and/or confined in Aboriginal Residential Schools as defined below between January 1, 1920 and December 31, 1996 (the "Class Period"), claim:

(a) an Order certifying this proceeding as a Class Proceeding and appointing them representative Plaintiffs for the Alumni Class and any appropriate Sub-Class thereof;

(b) an Order appointing the Roman Catholic Episcopal Corporation for the Diocese of Sault Ste. Marie, in Ontario, Canada or Bishop Jean-Louie Plouffe of the Diocese of Sault Ste Marie, or such other person or entity as as this Honourable Court deems appropriate as the representative Defendant for all Roman Catholic Dioceses and Catholic Religious Orders which are affiliates, predecessors and/or successors of entities which owned, operated, managed, supervised or controlled Aboriginal Residential Schools in Canada.

(c) a Declaration that the Defendants or any one or more of them owed and were in breach of fiduciary, statutory and/or common law duties to the Plaintiffs and the other Alumni Class Members in relation to the establishment, funding, operation, supervision, maintenance and support of the Aboriginal Residential School system and the individual schools therein (the "Residential Schools"), in Ontario and elsewhere in Canada and the confinement of Alumni Class Members within the schools;

(d) a Declaration that the Defendants were negligent in the establishment, funding, operation, supervision, maintenance and/or support of the Residential Schools in Ontario and elsewhere in Canada;

(e) a Declaration that the Defendant Crown is in breach of it's statutory duties pursuant to the Indian Act and it's Treaty obligations to the Plaintiffs and the other Class Members as a consequence of it's establishment, funding, operation, supervision, maintenance, and/or support of the Residential Schools in Ontario and elsewhere in Canada;

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f) a Declaration that the Defendants are liable to the Plaintiffs and other Alumni Class Members for the damages caused by their breach of fiduciary, statutory and/or common law duties and for negligence in relation to the establishment, funding, operation, supervision, maintenance and/or support of the Residential Schools in Ontario and elsewhere in Canada;

(g) a Declaration that the Defendants are strictly liable to the Plaintiffs and the other Alumni Class Members for any injuries and damages caused to them resulting from or by their transport to and/or confinement in the Residential Schools and/or from the establishment, funding, operation, supervision, maintenance and/or support of Residential Schools in Ontario and elsewhere in Canada;

(h) non-pecuniary general damages for negligence, breach of fiduciary, statutory, treaty and common law duties in the amount of three billion dollars (\$3,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(j) pecuniary general damages and special damages for negligence, breach of fiduciary, statutory, treaty and common law duties in the amount of three billion dollars (\$3,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(k) aggravated, exemplary and punitive damages in the amount of three billion dollars (\$3,000,000,000.00) or such other sum as the Honourable Court finds appropriate;

(l) prejudgment and post judgment interest pursuant to the provisions of the Courts of Justice Act, R.S.O. 1990, c. C.43, Sections 128 and 129 as amended; and

(m) costs of this action on a solicitor/client scale.

2. ELIJAH BAXTER, on his own behalf, and on behalf of the members of the CLASS OF PERSONS (the “Family Class”) described in paragraphs 11 and 12 who are related to Alumni Class Members, claim:

(a) an Order certifying this proceeding as a Class Proceeding and appointing him representative Plaintiff for the Family Class and any appropriate Sub-Class thereof;

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b) damages in the amount of one billion dollars (\$1,000,000,000.00), or such other sum as this Honourable Court finds appropriate, pursuant to the Family Law Act, R.S.O. 1990, c. F. 3, Section 61;

(c) general damages in the sum of one billion dollars (\$1,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(d) special and pecuniary damages in the amount of five hundred million dollars (\$500,000,000.00) or such other sum as this Honourable Court finds appropriate;

(e) aggravated, exemplary and punitive damages in the amount of one billion dollars (\$1,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(f) prejudgment interest pursuant to the provisions of the Courts of Justice Act, R.S.O. 1990, c. C.43, Sections 128 and 129 as amended; and

(g) costs of this action on a solicitor/client scale.

3. The Plaintiff CHARLES BAXTER SR. (DOB November 24, 1950) was born a member of the Marten Falls First Nation (Ogoki Post). He is now a member of, and presently lives on the Constance Lake First Nation near Calstock, Ontario where he is employed as the Residential School Coordinator. He attended two Residential Schools including Pelican Falls near Sioux Lookout (from approximately 1958 to 1966) and Shingwauk Hall in Sault Ste. Marie (from approximately 1966 to 1968).

4. The Plaintiff ELIJAH BAXTER (DOB January 27, 1923) is a member of the Marten Falls First Nation (Ogoki Post). He presently lives in the Town of Geraldton in the Province of Ontario. He attended the Pelican Falls Residential School near Sioux Lookout from approximately 1933 to 1936. He is the father of Walter Baxter who attended Residential School at Shingwauk Hall in Sault Ste. Marie.

5. The Plaintiff WALTER BAXTER (DOB March 24, 1950) is a member of the Marten Falls First Nation (Ogoki Post) and presently lives in the Town of Geraldton in the Province of Ontario. He attended the Shingwauk Hall Residential School from approximately 1966 to 1968.

6. The Plaintiff RORY SIMON JOSEPH (DOB May 17, 1955) is a member of the Whitefish Bay First Nation near Sioux Narrows, Ontario. He presently lives on the Whitefish Bay First Nation in the Province of Ontario where he is employed as a Justice Coordinator. He attended the

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Jeffrey Residential School for approximately two years when he was approximately 13 years of age.

7. The Plaintiff ROY IGNACE (DOB July 8, 1948) is a member of the Lac des Milles First Nation. He presently lives in the City of Thunder Bay in the Province of Ontario. He attended the St. Joseph’s Residential School from approximately 1956 to 1961.

8. All of the Plaintiffs are Indians as defined in S. 6 of the Indian Act, R.S.C. 1985, c. 1-5 and are variously described in this Statement of Claim as “aboriginal persons” “the Alumni Class” or “the Family Class” Description of the Alumni Class and Class Period

9. CHARLES BAXTER SR., ELIJAH BAXTER, WALTER BAXTER, RORY SIMON JOSEPH and ROY IGNACE bring this action on their own behalf and on behalf of the Class of Persons described in paragraph 10 who attended and/or were confined to Residential Schools in Canada during the period January 1, 1920 to December 31, 1996 (“the Class Period”) The year 1920 was the date school attendance was made mandatory by The Crown for Aboriginal children aged 7 to 15. 1996 is the year in which the last Federally operated Residential School was closed.

10. The proposed Alumni Class Members are:

(a) Aboriginal persons, resident in Ontario, who attended Residential Schools in Ontario during the Class Period;

- (c) Aboriginal persons, resident in Ontario, who attended Residential Schools elsewhere in Canada during the Class Period;
- (c) Aboriginal persons, wherever resident in Canada who attended Residential Schools in Ontario during the Class Period;
- (d) Aboriginal persons, wherever resident in Canada, who attended Residential Schools in Canada other than in the Provinces of Ontario, British Columbia and Quebec during the Class Period;
- and
- (e) Such other persons as the Court recognises or directs.

-8-Description of the Family Class

11. ELIJAH BAXTER brings this action on his own behalf and on behalf of the Class of Persons who are the relatives and family of the Alumni Class and who are described in paragraph 12.

12. The proposed Family Class Members are:

- (a) the spouse, child, grandchild, parent, grandparent or sibling of an Alumni Class Member;
- (b) the spouse of a child, grandchild, parent, grandparent or sibling of an Alumni Class Member;
- (c) a former spouse of an Alumni Class Member;
- (d) a child or other lineal descendent of a grandchild of an Alumni Class Member;
- (e) a person of the same or opposite sex to an Alumni Class Member who cohabited for a period of at least one year with that Alumni Class Member immediately before his or her death;
- (f) a person of the same or opposite sex to an Alumni Class Member who was cohabiting with that Alumni Class Member at the date of his or her death and to whom that Alumni Class Member was providing support or was under a legal obligation to provide support on the date of his or her death;
- and
- (g) any other person to whom an Alumni Class Member was providing support for a period of at least three years immediately prior to his or her death; and
- (h) Such other persons as the Court recognizes or directs. The Defendants and Their Duties

13. The Defendant, Attorney General of Canada, represents the Federal Crown ("The Crown") which created, planned, established, set up, initiated, operated, financed, supervised, and regulated all Residential Schools in Canada during the Class Period. All Aboriginal persons who attended Residential Schools did so as Wards of The Crown and were persons to whom The Crown owed the highest fiduciary, statutory and common law duties. The Crown was responsible:

- (a) for the administration of the Indian Act, R.S.C. 1985, c. I-5, as amended, and its predecessor statutes as well as all Regulations promulgated under that Act and its predecessors during the Class Period;

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- b) for the promotion of the health, safety and well being of Aboriginal persons in Canada during the Class Period;
- (c) for the management, operation and administration of the Department of Indian Affairs and Northern Development and its predecessor Ministries and Departments during the Class Period;
- (d) for decisions, procedures, regulations promulgated, operations and actions taken by the Department of Indian Affairs and Northern Development, its employees and Agents in Canada and their predecessors during the Class Period;
- (e) for the construction, operation, ownership, financing, administration, supervision, inspection and auditing of Residential Schools in Canada and for the creation, design and implementation of the program of education for Aboriginal persons confined therein during the Class Period;
- (f) for the selection, control, supervision and regulation of the designated operators, including the other named defendants and their employees, servants and agents, and for the care and education, control and well being of Aboriginal persons confined in Residential Schools in Canada during the Class Period;
- (g) for the provision of all educational services and opportunities to Aboriginal persons in Canada, including Alumni Class members, pursuant to the provisions of the Indian Act during the Class Period; and
- (h) for transportation of Alumni Class Members to and from their homes while attending Residential Schools during the Class Period.

14. The United Church of Canada, The Trustee Board of the Presbyterian Church in Canada, and The Anglican Church of Canada are corporate entities which are the successors to all religious organizations and entities of Protestant denomination which owned, operated, managed, supervised or controlled Residential Schools in Canada for Aboriginal persons.

15. The Roman Catholic Episcopal Corporation for the Diocese of Sault Ste. Marie, in Ontario, Canada is a corporate entity representing the Class of all Roman Catholic Dioceses and Catholic Religious Orders in Canada which are affiliates, predecessors and/or successors of entities which owned, operated, managed, supervised or controlled Residential Schools in Canada for Aboriginal persons.

16. The United Church of Canada, The Anglican Church of Canada, The Trustee Board of the Presbyterian Church in Canada, and the Defendant

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represented by the Roman Catholic Episcopal Corporation for the Diocese of Sault Ste. Marie, in Ontario, Canada, their predecessors, affiliates, agents and/or successors (the "Defendant Churches") operated Residential Schools in partnership with The Crown and as contracting agents to The Crown from the beginning of the Class Period until April 1, 1969 and thereafter in certain cases as contracting agents to The Crown until the end of the Class Period. The Defendant Churches are the current successor corporate, institutional and representative entities to various Religious organizations which operated all Residential Schools in Canada during the Class Period. The Defendant Churches were guardians of all Aboriginal children who attended the Residential Schools during the Class Period and owed to members of the Alumni Class the highest fiduciary, moral, statutory and common law duties during the Class Period. The Defendant Churches were responsible:

- (a) for the operation and maintenance of Residential Schools in Canada during the Class Period;
- (b) for the care and supervision of all members of the Alumni Class while they were in attendance at Residential Schools during the Class Period and for the supply of all the necessities of life to Alumni Class Members, in loco parentis, during the Class Period;
- (c) for the provision of educational and recreational services to the Alumni Class while in attendance at Residential Schools during the Class Period;
- (d) for the selection, supply and supervision of teaching and non-teaching staff at the Residential Schools during the Class Period;
- (e) for inspection and supervision of Residential Schools and all activities that took place therein during the Class Period and for full and frank reporting to The Crown with respect to conditions in the Residential Schools and all activities that took place therein during the Class Period;
- (f) for transportation of Alumni Class Members to and from Residential Schools during the Class Period; and
- (g) for communication with and reporting to members of the Family Class with respect to the activities and experiences of Alumni Class Members while attending Residential Schools during the Class Period.

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Residential School System

17. Residential Schools were established by the Defendant Churches as early as 1820 and by The Crown as early as 1874. The Crown removed Aboriginal persons, usually young children, from their homes and home communities and transported them to Residential Schools which were often long distances away. The Crown controlled all aspects of the admission of Aboriginal persons to the schools including arrangements for the care of such persons over holiday periods and the methods of transporting children to and from Residential Schools. Aboriginal persons were often taken from their families without the consent of their parents or guardians. The stated purpose of the Residential Schools from their inception was the education of Aboriginal children. In fact, the true purpose was the complete integration of Aboriginal children into main stream Canadian society and the obliteration of their traditional language, culture and Religion.

18. It is estimated that there have been in excess of one hundred (100) Residential Schools in operation in Canada in every Province and Territory except New Brunswick and Prince Edward Island with a peak of 74 schools in operation in 1920. The Crown has estimated that approximately one hundred thousand (100,000.00) children between the ages of 6 and 15 years attended Residential Schools in Canada. A large percentage of those children are members of the Alumni Class.

19. During the Class Period, children who were forcibly confined in Residential Schools were systematically deprived of the essential components of a healthy childhood. They were subjected to physical, emotion, psychological and sexual abuse by those who were responsible for their well being. Their accommodation was crowded, cold, and sub-standard. They were underfed and ill nourished. They were forbidden to practice the customs and traditions of their culture and discouraged from speaking their native language. They were deprived of love and affection from their families and of the support that a child would normally expect to have from those in positions

of trust and authority. They were subjected to corporal punishment, assaults and systematic sexual abuse.

20. Attempts to provide educational opportunities to children confined to Residential Schools were ill conceived and poorly executed by inadequately trained teaching staff. The result was to effectively deprive the children of any useful or appropriate education. Very few survivors of Residential Schools went on to any form of higher education.

21. The conditions and abuses in the Residential Schools during the Class Period were well known to the Defendant Churches and to The Crown. Information about the misconduct of the persons operating the Residential Schools was suppressed and covered up.

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In 1969 The Crown formally ended its partnership with the Defendant Churches and assumed complete and pervasive control of the Residential School system. The Crown began to close schools and by 1979 only twelve (12) schools remained with a total resident population of one thousand, eight hundred and ninety nine (1,899) students. The Defendants' Breach of Duty

23. The defendant Crown was, through its servants, employees and agents, negligent and in breach of its fiduciary, moral, statutory, and common law duties of care to the Alumni Class and the Family Class during the Class Period. Particulars of the negligence and breach of duty of the Crown are as follows:

- (a) it undertook a systematic program of forced integration of the Aboriginal persons through the institution of Residential Schools when it knew or ought to have known that doing so would cause profound and permanent cultural, psychological, emotional and physical injury to the members of the Alumni Class and the Family Class during and following the Class Period;
- (b) it conspired with various Religious organizations including the defendant Churches to eradicate Aboriginal culture in Canada through the implementation of a Residential Schools program in Canada;
- (c) it delegated to and contracted with the defendant Churches and other Religious organizations to implement its program of forced integration, confinement and abuse;
- (d) it failed to adequately screen and select the organizations and individuals to which it delegated the implementation of its Residential School program;
- (e) it failed to adequately supervise and control Residential Schools under its jurisdiction in Canada;
- (f) it deliberately and chronically deprived the Alumni Class Members of the education they were entitled to or were led to expect from the Residential Schools or of any adequate education;
- (g) it designed, constructed, maintained and operated Residential School buildings which were sub-standard, inadequate to the purpose for which they were intended and detrimental to the emotional, psychological and physical health of the Alumni Class;

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- h) it failed to provide funding for the operation of Residential Schools that was sufficient or adequate to supply the necessities of life to Aboriginal children confined to them;
- (i) it failed to respond appropriately or at all to disclosure of abuses in the Residential Schools during the Class Period;
- (j) it conspired with the operators of the schools to suppress information about abuses taking place in the Residential Schools during the Class Period;
- (k) it assaulted and battered the Alumni Class Members and/or permitted them to be assaulted and battered during the Class Period;
- (l) it forcibly confined the Alumni Class Members and/or permitted them to be forcibly confined during the Class Period;
- (m) it was in breach of its fiduciary duty to its Wards the Alumni Class Members by reason of the misfeasances, malfeasances and omissions set out above;
- (n) it failed to inspect or audit the Residential Schools adequately or at all;
- (o) it failed to implement an adequate system of evaluation, monitoring and control of teachers, administrators and non-teaching staff of the Residential Schools during the Class Period;
- (p) it failed to periodically reassess its regulations, procedures and guidelines for Residential Schools when it knew or ought to have known of serious systemic failures in the Residential Schools during the Class Period;
- (q) it failed to close the Residential Schools in Canada and/or otherwise protect and care for those persons confined therein when it knew or ought to have known that it was appropriate and essential to do so in order to preserve the health, welfare and well being of the Alumni Class Members and Family Class Members;
- (r) from May 21, 1952 it was in breach of the United Nations Genocide Convention and in particular Article 2(b), (c) and (e) of the convention;

(s) it was in breach of its obligations to the Aboriginal Class Members and the Family Members as set out in the Indian Act, R.S.C. 1985, c. I-5 and its Treaties with various First Nations.

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The Defendant Churches, through their servants, employees and agents, were negligent and in breach of their fiduciary, moral and common law duties to the Alumni Class and the Family Class during the Class Period. Particulars of the negligence and breach of duty of the defendant Churches are as follows:

- (a) they selected and employed incompetent and immoral persons as teaching and non-teaching staff in Residential Schools during the Class Period;
- (b) they failed to adequately train or supervise teaching and non-teaching staff employed at Residential Schools;
- (c) they failed to report to the Crown or other authorities the physical, psychological, emotional and sexual abuses to which children in their care were being subjected at Residential Schools during the Class Period;
- (d) they failed to provide the necessities of life to Alumni Class Members in their care in Residential Schools during the Class Period;
- (e) they knowingly covered up the existence of systematic and widespread abuse of Aboriginal persons at Residential Schools during the class Period;
- (f) they deprived Alumni Class Members in their care of their languages, as well as their religious and cultural beliefs and practices;
- (g) they failed to provide Alumni Class Members with an adequate or useful education;
- (h) they deprived Alumni Class members of contact with their families and of the essential elements of a healthy childhood;
- (i) they conspired with the Crown to eradicate aboriginal culture through the Residential School System;
- (j) they failed to adequately or properly administer, manage and operate the Residential Schools;
- (k) they assaulted and battered Alumni Class Members and/or permitted Alumni Class Members to be assaulted and battered during the Class Period; and
- (l) they were in breach of their fiduciary duties to the Alumni Class members by reason of the misfeasances, malfeasances and omissions set out above.

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- m) they failed to inspect or audit the Residential Schools adequately or at all;
- (n) they failed to implement an adequate system of evaluation, monitoring and control of teachers, administrators and non-teaching staff of the Residential Schools during the Class Period;
- (o) they failed to periodically reassess their procedures and guidelines for Residential Schools when they knew or ought to have known of serious systemic failures in the Residential Schools during the Class Period; Damages

25. As a consequence of the negligence and/or breach of duty and/or breach of fiduciary duty and/or intentional infliction of harm by The Crown and Defendant Churches the Alumni Class Members suffered injury and damages including:

- (a) isolation from family and community;
- (b) prohibition of the use of Aboriginal language and the practice of Aboriginal religion and culture;
- (c) forced confinement;
- (d) assault and battery;
- (e) sexual abuse;
- (f) emotional abuse;
- (g) psychological abuse;
- (h) deprivation of the fundamental elements of an education;
- (i) an impairment of mental and emotional health amounting to a severe and permanent disability;
- (j) an impaired ability to trust other people or to form or sustain intimate relationships;
- (k) a propensity to addiction;
- (l) an impaired ability to participate in normal family life;
- (m) an impaired ability to control anger and rage;

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- (n) alienation from family, spouses and children;
- (o) an impaired ability to enjoy and participate in recreational, social, athletic and employment activities;
- (p) an impairment of the capacity to function in the work place and a permanent impairment in the capacity to earn income;
- (q) the need for ongoing psychological, psychiatric and medical treatment for illnesses and other disorders resulting from the Residential School experience;
- (r) sexual dysfunction;

- (s) depression, anxiety and emotional dysfunction; and
- (t) pain and suffering.

26. As a consequence of the negligence and/or breach of duty and/or breach of fiduciary duty and/or intentional infliction of harm by The Crown and the Defendant Churches, the Family Class Members suffered injury and damages as follows:

- (a) they were separated and alienated from Alumni Class Members for the duration of their confinement in Residential Schools;
- (b) their relationships with Alumni Class Members were impaired, damaged and distorted as the result of the experiences of Alumni Class members in Residential Schools;
- (c) they suffered abuse from Alumni Class members as a direct consequence of their Residential School experience;
- (d) they were unable to resume normal family life and experience with Alumni Class Members after their return from Residential Schools;
- (e) they were deprived of pecuniary support from Alumni Class Members as the direct and indirect consequence of impairments caused by the Residential School experience;
- (f) they incurred special and out of pocket expenses in their care of Alumni Class Members and were required to provide support and medical care to Alumni Class Members as a direct or indirect consequence of the Residential School experience; and

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- g) their culture and language was undermined and in some cases eradicated by the forced assimilation of Alumni Class Members into non-aboriginal culture through the Residential Schools.
- Strict Liability

27. The Plaintiffs plead that the Defendants are strictly liable in tort for the damages particularised in paragraphs 25 and 26 above in that:

- (a) they knew that the systematic and widespread physical, psychological, emotional and sexual abuse of Alumni Class Members was a dangerous condition which existed in Residential Schools under their control and supervision; and
 - (b) the Defendants continued to transport and confine aboriginal children in Residential Schools to their detriment and to the detriment of their families.
- Vicarious Liability

28. The Plaintiffs state that the Crown is vicariously liable for the negligence, malfeasances and misfeasances of the Defendant Churches and their servants, agents and employees.

29. The Plaintiffs state that the Defendant Churches are vicariously liable for the negligence, malfeasances and misfeasances of their servants, agents and employees. Res Ipsa Loquitur

30. The Plaintiffs plead and rely on the doctrine of res ipsa loquitur. Grounds for Aggravated and Exemplary and Punitive Damages

31. The Plaintiffs plead that the Defendants had specific and complete knowledge of the widespread physical, psychological, emotional, and sexual abuses of Alumni Class Members which were occurring at Residential Schools during the Class Period. Despite this knowledge, the Defendants continued to operate the schools and permit the perpetration of grievous harm to the Alumni Class Members. In addition, the Defendants deliberately planned the eradication of the language, religion and culture of Alumni Class Members. The Defendants' actions were deliberate and

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and in the circumstances punitive, exemplary and aggravated damages are appropriate and necessary. Statutes

32. The Plaintiffs plead and rely upon the following: Crown Liability and Proceedings Act, R.S.C. 1985, c. C-50, ss. 3, 21, 22, and 23; The Family Law Act, R.S.O. 1990, c. F. 3, s. 61; The Negligence Act, R.S.O. 1990, c. N. 1; The Class Proceedings Act, S.O. 1992, c. 6; and The Indian Act, R.S.C. 1985, ss. 2(1), 3, 18(2), 114-122. Place of Trial
The Plaintiffs propose that this action be tried at the City of Toronto, in the Province of Ontario.

DATE OF ISSUE: The day of , 2000.

THOMSON, ROGERS and RICHARD W. COURTIS

Barristers and Solicitors Barrister and Solicitor

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Court File No.
ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding Commenced at Toronto
STATEMENT OF CLAIM
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