

**PROPOSED SETTLEMENT OF NEWFOUNDLAND  
RESIDENTIAL SCHOOLS CLASS ACTIONS**

**If you attended the Schools in Cartwright,  
North West River, Makkovik, Nain or St. Anthony  
run by the International Grenfell Association or the  
Moravian Church, please read this notice carefully.**

*The Supreme Court of Newfoundland and Labrador authorized this notice.  
This is not a solicitation from a lawyer.*

- Former students have sued the Federal Government of Canada (“Canada”) about the management and operation of the schools in Cartwright, North West River, Makkovik, Nain and St. Anthony run by the International Grenfell Association (“IGA”) or the Moravian Church and the harms and abuses committed against the children who attended them.
- The representative former students and Canada have now reached a \$50 million settlement (“Settlement”) that provides compensation for former students who attended.
- The Court has not decided whether Canada did anything wrong. The Settlement must be approved by the Court before there is any money available.

**Your legal rights are affected even if you do nothing. Please read this notice carefully.**

<b>YOUR LEGAL RIGHTS AND OPTIONS FOR THIS PROPOSED SETTLEMENT</b>	
<b>OBJECT</b>	Write to the Court if you do not like the Settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the Settlement on <b>September 27, 2016</b> .
<b>DO NOTHING</b>	Give up any right you might have to object to the Settlement.

- These rights and options—and the deadlines to exercise them—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. The Court will hear submissions about approval **at 10:00 a.m. on September 27, 2016 at the Supreme Court of Newfoundland and Labrador in St. John’s, Newfoundland and Labrador**. Payments will only be made if the Court approves the Settlement and after any appeals are resolved. Please be patient.

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## **BASIC INFORMATION**

### **1. Why did I get this notice?**

The Supreme Court of Newfoundland and Labrador authorized this notice to let you know about a proposed Settlement and about all of your options before the Court decides whether to give final approval to the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

The Honourable Justice Robert Stack is overseeing these class actions. The lawsuits are known as: *Anderson v. Attorney General of Canada* (IGA school in Cartwright), No. 2007 01T4955CP; *Obed v. Attorney General of Canada* (IGA school in North West River), No. 2007 01T5423CP; *Lucy v. Attorney General of Canada* (Moravian school in Makkovik), No. 2008 01T0846CP; *Asivak v. Attorney General of Canada* (Moravian School in Nain), No. 2008 01T0845CP; and *Holwell v. Attorney General of Canada* (IGA school in St. Anthony), No. 2008 01T0844CP.

Former students are called the "Plaintiffs." The Federal Government of Canada is called "Canada" or the "Defendant" or the "Government."

**QUESTIONS? CALL TOLL-FREE 1-866-542-0369, EMAIL [ADMIN@NEWFOUNDLANDRESIDENTIALSCHOOLSSETTLEMENT.CA](mailto:ADMIN@NEWFOUNDLANDRESIDENTIALSCHOOLSSETTLEMENT.CA)  
OR VISIT [WWW.NEWFOUNDLANDRESIDENTIALSCHOOLSSETTLEMENT.CA](http://WWW.NEWFOUNDLANDRESIDENTIALSCHOOLSSETTLEMENT.CA)**

## 2. What were the schools at Cartwright, North West River, Makkovik, Nain and St. Anthony?

The IGA and Moravian schools in Cartwright, North West River, Makkovik, Nain and St. Anthony schools were schools for the education of children, and included boarding facilities. All of these schools received funding from the Government.

## 3. Weren't these schools included in the 2006 settlement with the Government of Canada?

No. The application to have these schools added to the 2007 Indian Residential Schools Settlement Agreement ("IRSSA") was denied. These schools are not considered eligible Indian Residential Schools in IRSSA, and former students are not able to get compensation for attendance or pursue abuse claims as part of the Individual Assessment Process in that settlement. Eligible Class Members in the case are not excluded from this settlement if they received compensation through IRSSA for attendance or harm suffered at another school covered by IRSSA.

## 4. What is a class action?

In a class action, one or more people called "Class Representatives" sue on behalf of people who have similar claims. All of these people are called a "Class" or "Class Members." One Court resolves the issues for everyone affected, except for those who exclude themselves from the lawsuits.

## 5. What do the lawsuits complain about?

The lawsuits claim that the Government exposed former students to child abuse, neglect, and physical, emotional, psychological and sexual abuse. The Plaintiffs claim that the Government did not protect students' physical and mental well-being even though it was its duty to do so. The lawyers for the Plaintiffs began presenting their claims at the trial which started in September 2015.

The claims were based in negligence and breach of fiduciary duties owed by the Government. At trial, the negligence claims against the Government were discontinued by order of the Honourable Justice Stack on November 25, 2015, which streamlined and simplified the trial and the evidence required to be presented by the Plaintiffs. The only claims that remained were the claims that the Government owed and breached a fiduciary duty to the Class Members.

The Government denies that it had a responsibility to protect the children who attended these schools. It claims that all it did was provide money to the Province of Newfoundland and Labrador to be used for the educational needs of Aboriginal persons. It further states that the Province of Newfoundland and Labrador was responsible for the protection of students.

No decision has been made or will be made about whether the Plaintiffs or the Government are right.

## 6. Why is there a Settlement?

The Court has not decided in favour of the Plaintiffs or the Government. Instead, both sides have agreed to a Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, delays in obtaining judgment and Class Members receive the benefits described in this present notice. In this case, it also means that the Class Members will not need to testify in Court. The proposed Settlement does not mean that any law was broken or that the Government did anything wrong. The Government denies all legal claims in this case. The Representative Plaintiffs and their lawyers think the proposed Settlement is best for eligible Class Members.

# WHO IS INCLUDED IN THE SETTLEMENT?

## 7. Who is Included in the Settlement?

Unless they have previously removed themselves from the lawsuit, the Settlement is available for anyone who was alive as of November 23, 2006 and who attended the IGA or Moravian schools in the following locations between the dates listed:

- i. Cartwright - April 1, 1949 to June 30, 1964
- ii. Northwest River - April 1, 1949 to June 30, 1980
- iii. Nain - April 1, 1949 to June 30, 1973
- iv. Makkovik - April 1, 1949 to June 30, 1960
- v. St. Anthony - April 1, 1949 to June 30, 1979

#### **8. Do family members of former residents get anything in this Settlement?**

Previously, the class action included claims for the “Family Class”, being family members of the former students. However claims of the Family Class were discontinued at trial by order of the Honourable Justice Stack on November 25, 2015 at the Plaintiffs’ request. The Plaintiffs sought to streamline and simplify the trial and the evidence required to be presented by them and did not want to interfere with or delay the trial of the claims of the former resident Class Members, which were the primary claims in this case.

The Court determined that there was little or no prejudice to the Family Class in having their claims discontinued as such claims had little likelihood of success, were based on claims that had not been prosecuted before and that such claims would be difficult to prove at trial. The Court found that the continued inclusion of the Family Class claims would delay and prejudice the trial of the claims of the former resident Class Members, which were the primary claims asserted in this action. The claims of the Family Class were therefor discontinued and, as a result, there is no compensation available for the Family Class in this Settlement.

#### **9. What if I am not sure whether I am included in the Settlement?**

If you are not sure whether you are included in the Settlement, you may call 1-866-542-0369 with questions or visit [www.NewfoundlandResidentialSchoolsSettlement.ca](http://www.NewfoundlandResidentialSchoolsSettlement.ca) or email [Admin@NewfoundlandResidentialSchoolsSettlement.ca](mailto:Admin@NewfoundlandResidentialSchoolsSettlement.ca).

## **SETTLEMENT BENEFITS?**

#### **10. What does the Settlement provide?**

If the Settlement is approved and becomes final, it will provide benefits to eligible Class Members. Canada has agreed to pay \$50 million to a Settlement Fund to make payments to eligible Class Members, as well as to pay for notice to the class, administration of the Settlement and legal fees, costs, and expenses. The remaining settlement funds will be distributed in accordance with the distribution plan described in the sections below. If there are funds left over after all claims are paid, Class Members who lived at the residence at the schools will share the remaining funds.

Canada has also agreed to separately fund initiatives to commemorate the history of schools, which initiatives will be determined in consultation with representatives of the class.

More details are in a document called the Proposed Distribution Plan, which is available at [www.NewfoundlandResidentialSchoolsSettlement.ca](http://www.NewfoundlandResidentialSchoolsSettlement.ca).

#### **11. How will the lawyers be paid?**

Class Counsel will not be paid until the Court declares that the fees being paid are fair and reasonable. Class Counsel will ask for 33% of the Settlement Fund (\$16.5 million) as legal fees plus its disbursements and all applicable taxes. The fees and disbursements awarded by the Court will be paid out of the Settlement Fund. The Court will decide the amount of fees and disbursements to award.

#### **12. How much will my payment be?**

The amount of your payment will depend on how long you lived at the residence at the schools and/or the level of harm you suffered.

Class Members who lived at the residence at the schools will receive a general compensation payment (“GCP”) based on how many years they lived at the residence at the schools. For those who lived at the residence at the schools for less than five academic years, or parts thereof, a GCP of \$15,000 will be paid. For those who lived at the residence at the schools for five or more academic years, a GCP of \$20,000 will be paid. Class Members who did not live at the residence at the schools – who were not boarders – will not receive a GCP.

All eligible Class Members, who meet the criteria, may be entitled to an abuse compensation payment (“ACP”) depending on the level of harm they suffered. Such claimants may receive up to a maximum of \$200,000 depending on the number of people who submit a valid ACP claim and the harm they suffered. The Claims Administrator will determine the amount of compensation provided to ACP claimants based on categories of harm set out in the Proposed Distribution Plan. The actual amount available for each eligible Class Member will not be determined until after all claim forms have been received and assessed. An eligible Class Member may receive a GCP and an ACP.

The chart below outlines the categories of harm that will be compensated in this Settlement.

Level	Description	Compensation Amount
1	<ul style="list-style-type: none"> <li>• One or more incidents of fondling or kissing.</li> <li>• Nude photographs taken of the Survivor.</li> <li>• The act of an adult exposing themselves.</li> <li>• Any touching of a student, including touching with an object, by an adult which exceeds recognized parental contact and which subjectively violates the sexual integrity of the Survivor.</li> <li>• One or more incidents of simulated intercourse.</li> <li>• One to three incidents of masturbation.</li> </ul>	\$50,000.00
2	<ul style="list-style-type: none"> <li>• One to three incidents of oral intercourse.</li> <li>• One to three incidents of digital, anal or vaginal penetration.</li> <li>• One to three incidents of attempted anal or vaginal penetration.</li> <li>• Four or more incidents of masturbation.</li> <li>• One or more physical assaults causing a physical injury that:               <ul style="list-style-type: none"> <li>○ led to or should have led to hospitalization or serious medical treatment by a physician;</li> <li>○ caused permanent or demonstrated long-term physical injury;</li> <li>○ impaired or disfigured;</li> <li>○ caused loss of consciousness;</li> <li>○ caused broken bones;</li> <li>○ caused serious but temporary incapacitation requiring bed rest or infirmary care for several days. Examples include severe beating, whipping, and second-degree burning.</li> </ul> </li> </ul>	\$100,000.00
3	<ul style="list-style-type: none"> <li>• One to three incidents of anal or vaginal intercourse.</li> <li>• Four or more incidents of oral intercourse.</li> <li>• One to three incidents of anal or vaginal penetration with an object.</li> </ul>	\$150,000.00
4	<ul style="list-style-type: none"> <li>• Four or more incidents of anal or vaginal intercourse.</li> <li>• Four or more incidents of anal or vaginal penetration with an object.</li> </ul>	\$200,000.00

### 13. When will I receive my payment?

Class Members who are entitled to payments will receive their payments after their claims are assessed. Before anyone can apply or be assessed, the Court must decide whether to grant final approval of the Settlement and any appeals must be resolved (see “The Approval Hearing” below). If there are appeals, resolving them can take time. Please be patient.

If the Settlement is approved, GCP claimants will be paid after all GCP claims have been assessed and the amount payable determined. ACP payments will only be distributed after GCP payments have been made, all ACP claims have been assessed and after a determination is made as to the remaining Settlement Fund available to satisfy ACP claims. Both GCP and ACP payments may be pro-rated to reflect the amount of the Settlement Fund that is available for payment.

### 14. What am I giving up in the Settlement?

Unless you previously excluded yourself from the Settlement, once the Settlement becomes final, you will give up your right to sue Canada for the claims being resolved by this Settlement. You will be “releasing” Canada and all related people from any claims related to the five schools. If you have any questions you can talk to the law firm listed in Question 20 or you can, of course, talk to your own lawyer if you have questions about what this means.

### 15. Can I remove myself from the Settlement?

No. The deadline to remove yourself from the action was November 30, 2012. If you previously removed yourself from the action, you cannot receive a payment from this Settlement unless a provision is approved to permit you to opt back in to the action. However, you may still file an objection if you are a member of the class (see Question 21).

## HOW TO RECEIVE A PAYMENT

### 16. How can I receive a payment?

You can only make a claim under the Settlement if the Settlement is approved by the Court. If the Settlement is approved, to ask for a payment, simply complete and submit the required claim form. Any claims will be assessed by the Claims Administrator. Class Members will not need to testify in Court. Claim forms will be available at [www.NewfoundlandResidentialSchoolsSettlement.ca](http://www.NewfoundlandResidentialSchoolsSettlement.ca) or by calling 1-866-542-0369.

### 17. How will payments be calculated?

The Claims Administrator will review your claim form and determine if you qualify for a GCP or ACP payment. If you do, then the Claims Administrator will determine your GCP based on the years you lived at the residence at the school and your ACP payment amount based on the level of harm you suffered.

Only those Class Members who lived at the residence at the schools will be eligible to receive a general compensation payment (“GCP”) based on how many years they lived at the residence at the schools. For those who lived at the residence at the schools for less than five academic years, or parts thereof, a GCP of \$15,000 will be paid. For those who lived at the residence at the schools for five or more academic years, a GCP of \$20,000 will be paid. Class members who did not live at the residence at the schools – who were not boarders – will not receive a GCP.

If there are insufficient funds in the Settlement Fund to pay all GCP payments, a determination will be made, in consultation with Class Counsel, as to how the distribution of such funds shall proceed. In that case, the primary intention shall be to pay GCP to eligible claimants on a pro-rata basis, unless there are circumstances which would warrant a departure from that intention.

All eligible Class Members, who meet the criteria, may be entitled to an abuse compensation payment (“ACP”) depending on the level of harm they suffered. Such claimants may receive up to a maximum of \$200,000 depending on the number of people who submit a valid ACP claim and the harm they suffered. The Claims Administrator will

determine the amount of compensation provided to ACP claimants based on categories of harm set out in the Proposed Distribution Plan. The actual amount available for each eligible Class Member will not be determined until after all claim forms have been received and assessed. An eligible Class Member may receive a GCP and an ACP.

If there are insufficient funds to pay all ACP payments after the GCP payments are made, the ACP claimants shall share pro rata as between each eligible ACP claimant based upon the amount of the ACP award and the amount remaining in the Settlement Fund.

If any funds remain after all GCP and ACP payments are distributed, the remaining funds shall be shared equally by all GCP claimants.

#### 18. What if my claim is denied?

If your claim is denied in whole or in part, you will receive notice and may request a hearing before a Hearing Officer. During that hearing you may be questioned under oath by the Hearing Officer. The Hearing Officer will then decide your claim. The Hearing Officer's decision is final.

#### 19. What if I disagree with my payment amount?

Payment amounts will be determined by the Claims Administrator. If your claim is denied in whole or in part, you will receive notice and may request a hearing before a Hearing Officer. During that hearing you may be questioned under oath by the Hearing Officer. The Hearing Officer will then decide your claim. The Hearing Officer's decision is final. Otherwise, a Class Member cannot dispute the payment amounts or categories once their claims have been submitted.

## THE LAWYERS REPRESENTING YOU

#### 20. Who are the lawyers for the Plaintiffs?

The Court appointed Koskie Minsky LLP of Toronto, Ontario, and Ahlstrom Wright Oliver & Cooper LLP of Sherwood Park, Alberta, to represent the Class Members as "Class Counsel." If you want to be represented by or receive advice from another lawyer, you may hire one to appear in Court for you at your own expense.

## OBJECTING TO THE SETTLEMENT

#### 21. How do I tell the court if I do not like the Settlement?

You can object to the Settlement if you don't like some part of it. The Court will consider your views. To object, you must submit a letter that includes the following:

- Your name, address, and telephone number;
- A statement saying that you object to the Newfoundland Residential Schools Settlement;
- The reasons you object to the Settlement, along with any supporting materials; and
- Your signature.

You must mail your objection, postmarked by **September 12, 2016** to:

Newfoundland Residential Schools Class Actions Notice Administrator, c/o Koskie Minsky LLP  
20 Queen Street West, Suite 900  
Toronto, Ontario  
M5H 3R3

email: [nfldresidentschools@kmlaw.ca](mailto:nfldresidentschools@kmlaw.ca)

## THE APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement and any requests for fees and expenses. You may attend and you may ask to speak, but you do not have to.

### 22. When and where will the court decide whether to approve the Settlement?

The Court will hold an Approval Hearing at **10:00 a.m. on September 27, 2016 at the Supreme Court of Newfoundland and Labrador in St. John's, Newfoundland and Labrador**. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.NewfoundlandResidentialSchoolsSettlement.ca](http://www.NewfoundlandResidentialSchoolsSettlement.ca) or call 1-866-542-0369 in advance if you are planning to attend. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and in the best interests of the Class. If there are objections, the Court will consider them and will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. It is not known how long these decisions will take.

### 23. Do I have to attend the hearing?

No. Class Counsel will answer questions the Court may have. However, you or your own lawyer are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also have your own lawyer attend, but it is not necessary.

### 24. May I speak at the hearing?

You may ask the Court for permission to speak at the Approval Hearing.

### 25. What if I do nothing?

If you do nothing, you are choosing not to object to the Settlement. The Approval Hearing will proceed and the Court will consider whether the Settlement is fair, reasonable, and in the best interests of the Class. If there are objections, the Court will consider them and will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement.

## GETTING MORE INFORMATION

### 26. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Proposed Distribution Plan. You can get a copy of the Proposed Distribution Plan at [www.NewfoundlandResidentialSchoolsSettlement.ca](http://www.NewfoundlandResidentialSchoolsSettlement.ca). You can send your questions to

Newfoundland Residential Schools Cases Class Actions Notice Administrator, c/o Koskie Minsky LLP  
20 Queen Street West, Suite 900  
Toronto, Ontario M5H 3R3

or by email at [Admin@NewfoundlandResidentialSchoolsSettlement.ca](mailto:Admin@NewfoundlandResidentialSchoolsSettlement.ca). You may also call the toll-free number, 1-866-542-0369.

DATE: May 18, 2016