

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
TRIAL DIVISION

BETWEEN

Carol Anderson, Allen Webber and Joyce Webber  
-and-  
The Attorney General of Canada  
-and-  
Her Majesty in Right of Newfoundland and Labrador  
-and-  
The International Grenfell Association

2007 01T4955 CP  
Plaintiffs  
Defendant  
Third Party  
Second Third Party

BETWEEN

Sara Asivak and James Asivak  
-and-  
The Attorney General of Canada  
-and-  
Her Majesty in Right of Newfoundland and Labrador

2008 01T 0845 CP  
Plaintiffs  
Defendant  
Third Party

BETWEEN

Rosina Holwell and Rex Holwell  
-and-  
The Attorney General of Canada  
-and-  
Her Majesty in Right of Newfoundland and Labrador  
-and-  
The International Grenfell Association

2008 01T 0844 CP  
Plaintiffs  
Defendant  
Third Party  
Second Third Party

BETWEEN

Edgar Lucy and Dominic Dickman  
-and-  
The Attorney General of Canada  
-and-  
Her Majesty in Right of Newfoundland and Labrador

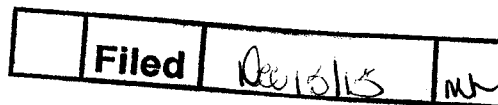
2008 01T 0846 CP  
Plaintiffs  
Defendant  
Third Party

BETWEEN

Toby Obed, William Adams and Martha Blake  
-and-  
The Attorney General of Canada  
-and-  
Her Majesty in Right of Newfoundland and Labrador  
-and-  
The International Grenfell Association

2007 01T 5423 CP  
Plaintiffs  
Defendant  
Third Party  
Second Third Party

Brought under the *Class Actions Act*, S.N.L., 2001, c. C-18.1



**ORDER**

**BEFORE THE HONOURABLE JUSTICE STACK:**

**UPON IT APPEARING THAT** the Plaintiffs are representatives of the Survivor Class and Family Class in each of the within class actions, which classes are defined in the Order of the Honourable Justice Fowler dated June 7, 2010 in each action (attached hereto as Schedule "A" and referenced herein as the "Certification Orders");

**UPON HEARING** the applications made by the Plaintiffs and Her Majesty in Right of Newfoundland and Labrador (also referred to herein as the "Province of Newfoundland and Labrador") on November 16 and 17, 2015;

**AND UPON READING** the records and materials submitted by the Plaintiffs, the Defendant and Her Majesty in Right of Newfoundland and Labrador, for each application;

**AND UPON HEARING** the submissions of counsel for the Plaintiffs, counsel for the Defendant, and counsel for Her Majesty in Right of Newfoundland and Labrador; and counsel for the International Grenfell Association not making any submissions;

**IT IS ORDERED THAT:**

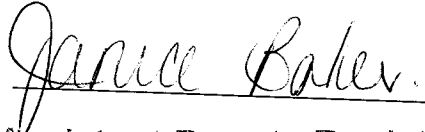
1. Leave is granted to the Plaintiffs to discontinue the claims on behalf of the Family Class as defined in the Certification Orders, with no order as to costs.
2. Each of the Certification Orders is amended by removing the claims on behalf of the Family Class described in subparagraph 7(c) thereof.
3. Notice to the Family Class of the discontinuance of their claims is to be provided following the determination of the common issues trial.
4. The Family Class representative plaintiffs, the members of the Family Class, and their respective heirs, assigns, and successors, are barred from commencing or maintaining any action against Canada, the Province of Newfoundland and Labrador, or the International Grenfell Association alleging that they breached a fiduciary duty owed to the families and siblings of the students of the Lockwood School, Cartwright Dormitory, Yale School, Northwest River Dormitories (including the Junior and Senior Dormitories), Nain Boarding School, St. Anthony Orphanage (Dormitory), St. Anthony School, and Makkovik Boarding School (the "Facilities").
5. The settlement agreement between the Plaintiffs, the Province of Newfoundland and Labrador and the International Grenfell Association dated October 27, 2015, attached as Schedule "C" to this Order (the "Settlement Agreement"), is approved and binds the parties as well as the members of the Family Class and the Survivor Class as defined in the Certification Orders.
6. The Survivor Class representative plaintiffs, the members of the Survivor Class, and their respective heirs, assigns, and successors, release the Province of Newfoundland and Labrador and the International Grenfell Association from any proceedings in respect of

their direct or indirect responsibility for the Facilities, as further particularized in executed releases, copies of which are attached as Schedule "D" to this order, which releases are approved by this Honourable Court and bind the members of the Survivor Class.

7. The Survivor Class representative plaintiffs, the members of the Survivor Class, and their respective heirs, assigns, and successors are barred from commencing or maintaining any action or claiming any relief against, or in respect of the Province of Newfoundland and Labrador or the International Grenfell Association relating to, or arising out of, their responsibility, direct or indirect, for the Facilities, including but not limited to the management, operation, control, supervision, and oversight of the Facilities.
8. The Survivor Class representative plaintiffs, the members of the Survivor Class, and their respective heirs, assigns, and successors are barred from asserting or maintaining any claims, direct or indirect, against any third party that seeks contribution or indemnity from the Province of Newfoundland and Labrador or the International Grenfell Association relating to, or arising out of, their responsibility, direct or indirect, for the Facilities, including but not limited to the management, operation, control, supervision, and oversight of the Facilities.
9. Leave is granted to the Plaintiffs to discontinue the claims in negligence, with no order as to costs.
10. Each of the Certification Orders is amended by removing the negligence common issue described in subparagraph 7(a) thereof.
11. The Survivor Class representative plaintiffs, the members of the Survivor Class, and their respective heirs, assigns, and successors are barred from commencing or maintaining any action against Canada claiming that it breached a duty of care owed to students of the Facilities.
12. Canada's Third Party Claim against Her Majesty in Right of Newfoundland and Labrador is struck, with no order as to costs.
13. Her Majesty in Right of Newfoundland and Labrador's Fourth Party Claim against the International Grenfell Association is struck, with no order as to costs.
14. Notice of the approval of the Settlement Agreement and its consequential effects shall be provided to the Survivor Class following the determination of the common issues trial.
15. Leave is granted to the Plaintiffs to amend the Amended Statements of Claim in these actions and to file a Fresh as Amended Statement of Claim in the form attached as Schedule "B" to this Order for each action.

16. Canada is to pay the incremental costs of the other parties on the application by Her Majesty in Right of Newfoundland and Labrador to be taxed in accordance with Column 1 of the Scale of Costs.

**DATED** at St. John's, in the Province of Newfoundland and Labrador this 25<sup>th</sup> day of November, 2015.

  
Assistant Deputy Registrar

**SCHEDULE "A"**

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
TRIAL DIVISION (GENERAL)

THE HONOURABLE MR. JUSTICE ) MONDAY THE 7<sup>TH</sup>  
 )  
ROBERT A. FOWLER ) DAY OF JUNE, 2010

BETWEEN:

EDGAR LUCY and DOMINIC DICKMAN

PLAINTIFFS

AND:

THE ATTORNEY GENERAL OF CANADA

DEFENDANT

BROUGHT UNDER THE *CLASS ACTIONS ACT*, S.N.L. 2001, C. C-18.1  
BEFORE THE HONOURABLE JUSTICE ROBERT A. FOWLER,  
CASE-MANAGEMENT JUDGE

ORDER

THIS APPLICATION, brought by the Plaintiffs for an order certifying this action as a class action pursuant to the *Class Actions Act*, S.N.L. 2001, c. C-18.1, and other ancillary orders, was heard June 1, 2 and 3, 2009, at St. John's, Newfoundland and Labrador, with written reasons released June 7, 2010.

ON READING the affidavits filed <sup>in</sup> support of this application by the plaintiffs and in response by the defendant, the facts of the parties, filed, and on hearing the submissions of counsel for the parties,

1. THIS COURT ORDERS that this action be and hereby is certified as a class action pursuant to the *Class Actions Act*, S.N.L. 2001, c. C-18.1.

Filed June 24, 2010 [Signature]

RAF June 24/10

2. **THIS COURT ORDERS AND DECLARES** that:

(a) The "Survivor Class" shall be defined as:

(i) All persons who attended the Makkovik Boarding School, located in Makkovik, Newfoundland and Labrador, between March 31, 1949 and the date of closure of the Makkovik Boarding School.

(b) The "Family Class" shall be defined as:

(i) the spouse, child, grandchild, parent, grandparent or sibling of a Survivor Class Member;

(ii) a former spouse of a Survivor Class Member;

(iii) a child or other lineal descendent of a grandchild of a Survivor Class Member;

(iv) a person of the same or opposite sex to a Survivor Class Member who cohabited for a period of at least one year with that Survivor Class Member immediately before his or her death;

(v) a person of the same or opposite sex to a Survivor Class Member who was cohabiting with that Survivor Class Member at the date of his or her death and to whom that Survivor Class Member was providing support or was under a legal obligation to provide support on the date of his or her death;  
or

(vi) any other person to whom a Survivor Class Member was providing support for a period of at least three years immediately prior to his or her death.

3. **THIS COURT ORDERS AND DECLARES** that Edgar Lucy and Dominic Dickman be and are hereby appointed as the representative plaintiffs for the Classes and that Koskie Minsky LLP and Ahlstrom Wright Oliver & Cooper LLP be and hereby are appointed as class counsel ("Class Counsel").

*MM*  
June 24/14

4. **THIS COURT ORDERS** that within 45 days of the date of this Order, the defendant shall make its best efforts to deliver to Class Counsel a list of all known members of the Survivor Class and Family Class, including their last known addresses and contact information.

5. **THIS COURT ORDERS AND DECLARES** that the claims asserted on behalf of the Classes to be breach of fiduciary duty and negligence.

6. **THIS COURT ORDERS AND DECLARES** that the relief sought by Class are issues of the defendant's liability and damages, specifically:

- (a) declarations with respect to breaches of fiduciary duty and/or negligence;
- (b) general damages in the amount of \$500,000,000;
- (c) special damages in an amount of \$500,000,000;
- (d) exemplary and punitive damages in the amount of \$100,000,000;
- (e) damages in the amount of \$100,000,000, on behalf of the Family Class;
- (f) prejudgment and postjudgment interest pursuant to the provisions of the *Judicature Act*, R.S.N. 1990, c. J-4 ; and
- (g) costs of this action.

7. **THIS COURT ORDERS AND DECLARES** that the common issues for the Class are:

- (a) by its operation or management of the Makkovik Boarding School did the defendant breach a duty of care owed to the students of the Makkovik Boarding School to protect them from actionable physical or mental harm?;
- (b) by its purpose, operation or management of the Makkovik Boarding School, did the defendant breach a fiduciary duty owed to the students of the Makkovik Boarding School to protect them from actionable physical or mental harm?;
- (c) by its purpose, operation or management of the Makkovik Boarding School, did the defendant breach a fiduciary duty owed to the families and siblings of the students of the Makkovik Boarding School;

X  
June 24/10




- (d) if the answer to any of the above common issues is "yes", can the court make an aggregate assessment of the damages suffered by all class members as part of the common trial?;
- (a) if the answer to any of these common issues is "yes", was the defendant guilty of conduct that justifies an award of punitive damages?; and
- (b) if the answer to common issue (e) is "yes", what amount of punitive damages ought to be awarded?

8. **THIS COURT ORDERS** that further orders shall be issued, and a time and place be scheduled for a hearing, to be heard by September 30, 2010, to determine the issues, relating to notice to the Class, opting out and such other matters as may be appropriate under the *Class Actions Act*, and in particular:

- (a) the form and content of notice to the Classes;
- (b) the appropriate method of dissemination of such notice;
- (c) the liability for the cost of the dissemination of such notice;
- (d) the form, content, and method for Class Members to opt out;
- (e) a deadline for Class Members to opt out of the class action; and
- (f) the form, content, method and deadline for Class Members who are not residents of the Province of Newfoundland and Labrador to opt in to the class action.

TJH  
June 24/10

9. **THIS COURT ORDERS** that costs of the certification application may be spoken to at a time to be arranged between counsel and this court.

  
Asst. Deputy Registrar

EDGAR LUCY et al  
Plaintiffs and  
ATTORNEY GENERAL OF CANADA  
Defendant

IN THE SUPREME COURT OF  
NEWFOUNDLAND AND LABRADOR TRIAL  
DIVISION (GENERAL)

Proceeding commenced at the City of St. John's

BROUGHT UNDER THE CLASS ACTIONS ACT,  
S.N.L. 2001, C. C-18.1, BEFORE THE  
HONOURABLE JUSTICE ROBERT A. FOWLER,  
CASE MANAGEMENT JUDGE

ORDER

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St. John's, NL A1C 1B1  
Chesley F. Crosbie, Q.C.

Solicitors for the Plaintiffs

*AKH*  
*June 24/10*

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
TRIAL DIVISION (GENERAL)

THE HONOURABLE MR. JUSTICE ) MONDAY THE 7<sup>TH</sup>  
 )  
ROBERT A. FOWLER ) DAY OF JUNE, 2010

BETWEEN:

TOBY OBED, WILLIAM ADAMS  
and MARTHA BLAKE

PLAINTIFFS

AND:

THE ATTORNEY GENERAL OF CANADA

DEFENDANT

BROUGHT UNDER THE *CLASS ACTIONS ACT*, S.N.L. 2001, C. C-18.1  
BEFORE THE HONOURABLE JUSTICE ROBERT A. FOWLER,  
CASE-MANAGEMENT JUDGE

ORDER

THIS APPLICATION, brought by the Plaintiffs for an order certifying this action as a class action pursuant to the *Class Actions Act*, S.N.L. 2001, c. C-18.1, and other ancillary orders, was heard June 1, 2 and 3, 2009, at St. John's, Newfoundland and Labrador, with written reasons released June 7, 2010.

RAF  
June 27/10

ON READING the affidavits filed <sup>in</sup> support of this application by the plaintiffs and in response by the defendant, the facts of the parties, filed, and on hearing the submissions of counsel for the parties,

1. THIS COURT ORDERS that this action be and hereby is certified as a class action pursuant to the *Class Actions Act*, S.N.L. 2001, c. C-18.1.

Filed June 24, 2010 [Signature]

2. **THIS COURT ORDERS AND DECLARES** that:

(a) The "Survivor Class" shall be defined as:

(i) All persons who attended the Yale School, located in Northwest River, Newfoundland, between March 31, 1949 and the date of closure of the Yale School.

(b) The "Family Class" shall be defined as:

(i) the spouse, child, grandchild, parent, grandparent or sibling of a Survivor Class Member;

(ii) a former spouse of a Survivor Class Member;

(iii) a child or other lineal descendent of a grandchild of a Survivor Class Member;

(iv) a person of the same or opposite sex to a Survivor Class Member who cohabited for a period of at least one year with that Survivor Class Member immediately before his or her death;

(v) a person of the same or opposite sex to a Survivor Class Member who was cohabiting with that Survivor Class Member at the date of his or her death and to whom that Survivor Class Member was providing support or was under a legal obligation to provide support on the date of his or her death;  
or

(vi) any other person to whom a Survivor Class Member was providing support for a period of at least three years immediately prior to his or her death.

3. **THIS COURT ORDERS AND DECLARES** that Toby Obed, William Adams and Martha Blake be and are hereby appointed as the representative plaintiffs for the Classes and that Koskie Minsky LLP and Ahlstrom Wright Oliver & Cooper LLP be and hereby are appointed as class counsel ("Class Counsel").

*7/1*  
*June 24/10*

4. **THIS COURT ORDERS** that within 45 days of the date of this Order, the defendant shall make its best efforts to deliver to Class Counsel a list of all known members of the Survivor Class and Family Class, including their last known addresses and contact information.


5. **THIS COURT ORDERS AND DECLARES** that the claims asserted on behalf of the Classes to be breach of fiduciary duty and negligence.

6. **THIS COURT ORDERS AND DECLARES** that the relief sought by Class are issues of the defendant's liability and damages, specifically:

- (a) declarations with respect to breaches of fiduciary duty and/or negligence;
- (b) general damages in the amount of \$500,000,000;
- (c) special damages in an amount of \$500,000,000;
- (d) exemplary and punitive damages in the amount of \$100,000,000;
- (e) damages in the amount of \$100,000,000, on behalf of the Family Class;
- (f) prejudgment and postjudgment interest pursuant to the provisions of the *Judicature Act*, R.S.N. 1990, c. J-4 ; and
- (g) costs of this action.

7. **THIS COURT ORDERS AND DECLARES** that the common issues for the Class are:

- (a) by its operation or management of the Yale School did the defendant breach a duty of care owed to the students of the Yale School to protect them from actionable physical or mental harm?;
- (b) by its purpose, operation or management of the Yale School, did the defendant breach a fiduciary duty owed to the students of the Yale School to protect them from actionable physical or mental harm?;
- (c) by its purpose, operation or management of the Yale School, did the defendant breach a fiduciary duty owed to the families and siblings of the students of the Yale School;

  
June 24/10

- (d) if the answer to any of the above common issues is "yes", can the court make an aggregate assessment of the damages suffered by all class members as part of the common trial?;
- (e) if the answer to any of these common issues is "yes", was the defendant guilty of conduct that justifies an award of punitive damages?; and
- (f) if the answer to common issue (e) is "yes", what amount of punitive damages ought to be awarded?

8. **THIS COURT ORDERS** that further orders shall be issued, and a time and place be scheduled for a hearing, to be heard by September 30, 2010, to determine the issues, relating to notice to the Class, opting out and such other matters as may be appropriate under the *Class Actions Act*, and in particular:

- (a) the form and content of notice to the Classes;
- (b) the appropriate method of dissemination of such notice;
- (c) the liability for the cost of the dissemination of such notice;
- (d) the form, content, and method for Class Members to opt out;
- (e) a deadline for Class Members to opt out of the class action; and
- (f) the form, content, method and deadline for Class Members who are not residents of the Province of Newfoundland and Labrador to opt in to the class action.

*[Handwritten signature]*  
June 24/10

9. **THIS COURT ORDERS** that costs of the certification application may be spoken to at a time to be arranged between counsel and this court.

*Daphne Dennis*  
asst. Deputy Registrar

TOBY OBED et al  
Plaintiffs

ATTORNEY GENERAL OF CANADA  
and  
Defendant

Court File No: 2007 01T5423CP

IN THE SUPREME COURT OF  
NEWFOUNDLAND AND LABRADOR TRIAL  
DIVISION

Proceeding commenced at the City of St. John's

BROUGHT UNDER THE CLASS ACTIONS ACT,  
S.N.L. 2001, C. C-18.1, BEFORE THE  
HONOURABLE JUSTICE ROBERT A. FOWLER,  
CASE MANAGEMENT JUDGE

ORDER

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Solicitors for the Plaintiffs

*RF*  
June 21/10

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
TRIAL DIVISION (GENERAL)

THE HONOURABLE MR. JUSTICE ) MONDAY THE 7<sup>TH</sup>  
 )  
ROBERT A. FOWLER ) DAY OF JUNE, 2010

BETWEEN:

SELMA BOASA and REX HOLWELL

PLAINTIFFS

AND:

THE ATTORNEY GENERAL OF CANADA

DEFENDANT

BROUGHT UNDER THE *CLASS ACTIONS ACT*, S.N.L. 2001, C. C-18.1  
BEFORE THE HONOURABLE JUSTICE ROBERT A. FOWLER,  
CASE-MANAGEMENT JUDGE

*RAF*  
*June 24/10*

ORDER

THIS APPLICATION, brought by the Plaintiffs for an order certifying this action as a class action pursuant to the *Class Actions Act*, S.N.L. 2001, c. C-18.1, and other ancillary orders, was heard June 1, 2 and 3, 2009, at St. John's, Newfoundland and Labrador, with written reasons released June 7, 2010.

*RAF*

ON READING the affidavits filed <sup>in</sup> support of this application by the plaintiffs and in response by the defendant, the facts of the parties, filed, and on hearing the submissions of counsel for the parties,

1. THIS COURT ORDERS that this action be and hereby is certified as a class action pursuant to the *Class Actions Act*, S.N.L. 2001, c. C-18.1.

Filed June 24, 2010 *gn*



2. **THIS COURT ORDERS AND DECLARES** that:

(a) The "Survivor Class" shall be defined as:

(i) All persons who attended the St. Anthony Orphanage and Boarding School, located in St. Anthony, Newfoundland and Labrador, between March 31, 1949 and the date of closure of the St. Anthony Orphanage and Boarding School.

(b) The "Family Class" shall be defined as:

(i) the spouse, child, grandchild, parent, grandparent or sibling of a Survivor Class Member;

(ii) a former spouse of a Survivor Class Member;

(iii) a child or other lineal descendent of a grandchild of a Survivor Class Member;

(iv) a person of the same or opposite sex to a Survivor Class Member who cohabited for a period of at least one year with that Survivor Class Member immediately before his or her death;

(v) a person of the same or opposite sex to a Survivor Class Member who was cohabiting with that Survivor Class Member at the date of his or her death and to whom that Survivor Class Member was providing support or was under a legal obligation to provide support on the date of his or her death;  
or

(vi) any other person to whom a Survivor Class Member was providing support for a period of at least three years immediately prior to his or her death.

3. **THIS COURT ORDERS AND DECLARES** that Selma Boasa and Rex Holwell be and are hereby appointed as the representative plaintiffs for the Classes and that Koskie Minsky LLP

*RF*  
*June 24/11*

and Ahlstrom Wright Oliver & Cooper LLP be and hereby are appointed as class counsel ("Class Counsel").

4. **THIS COURT ORDERS** that within 45 days of the date of this Order, the defendant shall make its best efforts to deliver to Class Counsel a list of all known members of the Survivor Class and Family Class, including their last known addresses and contact information.

5. **THIS COURT ORDERS AND DECLARES** that the claims asserted on behalf of the Classes to be breach of fiduciary duty and negligence.

6. **THIS COURT ORDERS AND DECLARES** that the relief sought by Class are issues of the defendant's liability and damages, specifically:

- (a) declarations with respect to breaches of fiduciary duty and/or negligence;
- (b) general damages in the amount of \$500,000,000;
- (c) special damages in an amount of \$500,000,000;
- (d) exemplary and punitive damages in the amount of \$100,000,000;
- (e) damages in the amount of \$100,000,000, on behalf of the Family Class;
- (f) prejudgment and postjudgment interest pursuant to the provisions of the *Judicature Act*, R.S.N. 1990, c. J-4 ; and
- (g) costs of this action.

*RO*  
*June 24/10*

7. **THIS COURT ORDERS AND DECLARES** that the common issues for the Class are:

- (a) by its operation or management of the St. Anthony Orphanage and Boarding School (the "St. Anthony School") did the defendant breach a duty of care owed to the students of the St. Anthony School to protect them from actionable physical or mental harm?;
- (b) by its purpose, operation or management of the St. Anthony School, did the defendant breach a fiduciary duty owed to the students of the St. Anthony School to protect them from actionable physical or mental harm?;