

NEWFOUNDLAND COURT GIVES GO AHEAD TO FIVE CLASS ACTIONS RELATED TO RESIDENTIAL SCHOOLS IN NEWFOUNDLAND AND LABRADOR

The plaintiffs are Inuit persons or Metis who attended certain residential schools on the coast of Labrador and the northern tip of Newfoundland from 1949 to the date of closure of these schools. The residential schools in question are the Lockwood School, Yale School, Makkovik School, Nain School and St. Anthony School.

The plaintiffs say that because of this forced attendance at these schools they have experienced cultural deprivation, physical and emotional abuse and in some cases sexual abuse.

In reasons released today, Mr. Justice Robert A. Fowler of the Supreme Court of Newfoundland and Labrador (Trial Division) held that the action met all of the requirements for a class action under the Newfoundland Class Actions Act.

The plaintiffs argued that Canada, having a constitutional duty of care in relation to all aboriginal peoples in this country, systematically failed to live up to that duty and were specifically negligent in failing to live up to that duty in relation to the aboriginal peoples of coastal Labrador. The plaintiffs claim that Canada, at the moment of Confederation in 1949, assumed a fiduciary duty towards the aboriginal children who attended the residential schools named in this case.

“In its most simple narrative,” the judge stated “ it has been accepted as a historical fact that Inuit people...existed and occupied the coast of Labrador as well as other northern parts of Canada as aboriginal people from time immemorial; and were there for hundreds of years prior to any contact with European people....These were the people of the land.” The judge also stated “They were here first, they had a culture, a language, and the means of survival in a hostile environment.”

Canada subsequently assumed jurisdiction over all the aboriginal peoples with the possible exception of the Inuit of Labrador. “It is not surprising then,” the judge went on, “that there would be a conflict of cultures and the development of relationships to resolve such conflict. In our case, the Crown, originally the British Crown, now the Crown in right of Canada, assumed the dominant role of protecting these first inhabitants.”

“Many of the class members are elderly and unlikely to survive protracted litigation and the inevitable appeals on an individual basis,” said Steve Cooper, one of the co-counsel for the class.

“Requiring the plaintiffs to sue individually would be an enormous financial burden on any one of the plaintiffs and would have the potential to bar an entire group from court and prevent access to justice,” said Kirk Baert, another co-counsel for the class.

For more information on this class proceeding, please visit <http://www.kmlaw.ca> or call:

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