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Six Nations in Court to Challenge Unfair Timeline for Indian Day School (IDS) Class Action Claims

Six Nations and IDS survivor Audrey Hill move forward with legal action against Government of Canada to extend unrealistic claims deadline for IDS class action

OHSWEKEN, March 2, 2023 – Today marks the grim start of the journey for justice by the Six Nations of the Grand River Elected Council (Six Nations) and Indian Day School survivor Audrey Hill (Ms. Hill) against the Federal Liberal Government.

This morning will be the first attendance before the court in the legal challenge initiated against the federal government by Six Nations and Ms. Hill, calling for the Federal Liberal Government to do the right thing and extend the time for Indian Day School survivors to get compensation for the abuse and trauma they suffered.

"We are disappointed to be forced to take these steps by the Federal Liberal Government to seek justice for IDS survivors, who have suffered long-lasting trauma as a result of the abuse they faced at these schools," said Chief of Six Nations Mark Hill. "We cannot be silent as members of our communities are left uncompensated for the wrongs committed against them by Canada. IDS survivors must have a fair and meaningful opportunity to make a claim—that is what reconciliation requires."

The legal journey kicked off this morning with a Federal Court case conference convened to deal with procedural matters in the lawsuit, which concerns a class action settlement intended to compensate survivors of systemic abuse at government-run schools for Indigenous children.

Six Nations and Ms. Hill have filed statements that set out how the process for IDS survivors to seek compensation, which ended on January 13, 2023, was derailed by the COVID-19 pandemic. They believe a significant number of survivors have not been able to make a claim before the deadline due to the lack of culturally sensitive supports and the unfairly short timeline. To give class members a true opportunity to seek compensation, Six Nations and Ms. Hill argue the deadline should be extended to December 31, 2025.

The federal government has not yet filed materials responding to Six Nations and Ms. Hill's legal action.

The COVID-19 pandemic hit almost immediately after the IDS claims process opened in January 2020 and had a massive impact on Indigenous communities like Six Nations. Information and assistance regarding the claims process were largely provided online, but approximately two-thirds of households in Indigenous communities do not have access to high-speed internet. Six Nations and Ms. Hill also identify several other barriers facing IDS survivors, such as the lack of culturally sensitive and trauma-informed supports.

"People who saw abuse at the day schools need to have support and time in order to engage with their memories and disclose the things that happened to them," said Ms. Hill. "There was a 1-800 number for support and assistance but that is not a meaningful support for our people, many of whom went through unspeakable things. You can't rush the process. There are people out there who are eligible for a claim but haven't made one because they are not ready to talk about what happened to them."

To date, no extension to the claims process has been granted in response to the COVID-19 pandemic, despite Canada's agreement to extensions in other class action settlements such as the First Nations drinking water class action.

"Indigenous leaders have been raising concerns and calling for an extension for over a year, but the Federal Liberal Government has not addressed our concerns at all," said Chief Hill. "The government needs to move quickly to extend the claims process. It is long past time for mere acknowledgments and empty words about reconciliation. We need a systemic solution so no survivors are left out."

Through the courts, Six Nations and Ms. Hill are seeking an extension of the claims deadline to December 31, 2025. The same class action settlement is also being challenged in another proceeding before the Federal Court of Appeal, where survivors are seeking a declaration that they may amend claims that have already been made to be more fully compensated for their harms.

Background

- Generations of Indigenous children suffered systemic emotional, physical, and sexual abuse at Indian Day Schools (IDS) operated and controlled by the Government of Canada for over a century
- IDS survivors launched a class action lawsuit against the federal government. In 2019, a settlement agreement was established to compensate class members (Agreement).
- The Agreement arbitrarily set the claims period at two and a half years, compared to five for the Indian Residential School Settlement Agreement, which affected approximately half as many class members.
- The claims period began on January 13, 2020, and was quickly derailed by the COVID-19 pandemic, which had a disproportionate impact on Indigenous communities. Claims for compensation stopped being accepted after January 13, 2023.
- The Agreement specifically called for cultural sensitivity to minimize the risk that class members would be retraumatized when claiming compensation. This did not happen. Class members did not receive adequate notice and assistance to complete their claims, and the claims period was too short for a trauma-based case, particularly in light of the pandemic.
- On December 20, 2022, Six Nations and Audrey Hill launched a court challenge to extend the time for making a claim for compensation to December 31, 2025.

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