

Federal Court



Cour fédérale

Date: 20190530

Docket: T-2212-16

Ottawa, Ontario, May 30, 2019

PRESENT: Mr. Justice Phelan

CLASS PROCEEDING

BETWEEN:

**JESSICA RIDDLE, WENDY LEE WHITE
AND CATRIONA CHARLIE**

Plaintiffs

and

HER MAJESTY THE QUEEN

Defendant

ORDER

UPON MOTION of the Plaintiffs, in writing, and with the consent of the Defendant, for an Order amending the Settlement Agreement in this class proceeding, dated November 30, 2017, and on reading the Motion Record of the Plaintiffs and Memorandum of Fact and Law of the Plaintiffs;

AND UPON CONCLUDING that by virtue of Justice Shore declining to be appointed to the Exceptions Committee and the Chief Justice of this Court declining to appoint another

judge to replace Justice Shore, an amendment similar to this is a necessity to give effect to the Settlement Agreement;

AND UPON CONSIDERING that the proposed amendment will result in the appointment of former Justice Robert Blair to the position of Chair of the Exceptions Committee;

AND HAVING CONCLUDED that the amendment and resulting appointment is in the best interests of the Class;

THIS COURT ORDERS that:

1. Sections 9.02(1) and (4) of the Settlement Agreement are hereby amended by inserting at both sections the words “or a retired judge or arbitrator agreed to by the Parties” after the word “continue”.
2. Canada shall pay 1) the reasonable costs of retaining the Chair of the Exceptions Committee where such chair is a retired judge or arbitrator agreed to by the Parties pursuant to section 9.02(1)(d) of the Settlement Agreement as amended, and 2) the reasonable costs of the Indigenous Representative on the Exceptions Committee under section 9.02(1)(c) of the Settlement Agreement [the Committee Costs].
3. If, after the Determination Date under section 6.04(3) of the Settlement Agreement, there exists an Excess Designated Amount pursuant to section 6.05 of the Settlement Agreement, then Canada may bring a motion to the Courts, upon notice to the Parties and the Sixties Scoop Healing Foundation, seeking reimbursement or offset, whether in whole or in part, from the Excess Designated Amount for the Committee Costs it paid.

4. This Order is conditional upon the Ontario Superior Court of Justice also approving, without material difference, the above amendment to section 9.02(1) and (4) of the Settlement Agreement.

“Michael L. Phelan”

Judge