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By email

**Re: *Gottfriedson v. Canada Day Scholars Class Action***

I hope that you and your communities are staying healthy in these difficult times. I am writing as one of Class Counsel in the *Gottfriedson v. Canada Day Scholars* class action lawsuit to explain the settlement for you and your constituents.

This settlement, which has been agreed to by Canada and the Survivor and Descendant Class representatives, but is subject to court approval, would finally bring recognition to Day Scholars (who went to Residential Schools but went home at night) that they too suffered from the attack on their languages and cultures. They were left out of the original Indian Residential School Settlement Agreement Common Experience Payment given to residential students at those Schools.

As you may be aware, the Day Scholars class action was brought on behalf of three groups:

- the “Survivor Class”, which consists of Day Scholar Survivors;
- the “Descendant Class”, which consists of Survivors’ children; and
- the “Band Class”, which consists of certain First Nations which chose to be added (to “opt in”) to the class action.
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The Band Class is not part of this settlement and we will take their case to trial, likely in late 2022 or in 2023.

*Settlement of Survivor and Descendent Class claims*

The Survivor and Descendant Class Settlement Agreement provides that every eligible Survivor who attended a Residential School as a Day Scholar for even part of a school year will be able to make a claim for a \$10,000 payment as compensation for loss of their Indigenous language and culture. For eligible Day Scholar Survivors who were alive as of May 30, 2005, but have died since, heirs can make claims on behalf of estates. There is no cap on the number of these payments—all approved claims will be paid—and no deductions whatsoever will be made from these payments.

Canada will also pay \$50 million to establish the Day Scholars Revitalization Fund to support healing, wellness, education, language, culture, heritage and commemoration for the benefit of Day Scholars and their descendants. The Fund will be governed and administered by the Day Scholars Revitalization Society, an Indigenous-led, not-for-profit organization which will be

completely independent of Canada.

The settlement approval court hearing will begin in Federal Court on September 7, 2021. Survivors and Descendants can attend the hearing virtually and advise the court of their views of the settlement. The Court has set aside two weeks for the settlement approval hearing, to ensure that all who wish to speak will have an opportunity to do so. More information about how to attend the settlement approval hearing, as well as additional details about the settlement and the court's settlement approval process can be found on our website: [www.justicefordayscholars.com](http://www.justicefordayscholars.com).

We have worked hard to arrive at a settlement which is respectful of Survivors' needs, and which is as easily accessible as possible, particularly the claims process. Claimants will only have to fill out a short form and will not be required to provide a narrative disclosing details of their Day Scholar School experience. For those claimants who were previously denied all or some of their Common Experience Payment claim on the ground that they were Day Scholars, they will have their claims in this settlement presumptively validated. All claimants will receive the benefit of the doubt wherever possible, and mechanisms are built in to support memory gaps and to account for the likelihood that some documents will be missing or difficult to find. Claimants will have the right to seek reconsideration if their claims are denied, but Canada will not. Canada will be subject to strict timelines to respond to claims, meaning that compensation will flow as quickly as possible.

All of our lawyers and staff who work on this file are committed to working with, and supporting, Survivors with respect and empathy. As part of this commitment, they have been educated on the history of Residential Schools and the Day Scholar experience

We recognize that you and your member Nations may still have questions or concerns, particularly in light of lessons learned from previous class action settlements. Please do not hesitate to raise those questions or concerns with us – we want to make sure they are addressed, and we are happy to set up phone calls or virtual meetings at your convenience.

#### *Band Class claims continuing*

Over 100 First Nations chose to join the Band Class in 2015 when the class action was first approved by the Federal Court to proceed. The Settlement Agreement does not include the Band Class claims, which will continue, no matter what happens with the settlement.

After many years of fighting for recognition, and in light of the fact that many Day Scholar Survivors and their children are aging, it was important to split up the case and pursue this settlement. This way, the remaining Day Scholar Survivors and their children can get some justice in their lifetimes. At the same time, the continuation of the Band Class claims means that First Nations can continue to work to hold Canada accountable for the collective losses caused by Residential Schools. We are proud and honoured to represent them in this important fight.

Finally, as John Phillips, Peter Grant and I have argued in this court case, this settlement would mean that Day Scholars will be recognized for suffering damages just from attending Residential Schools and having their languages and cultures attacked.

We trust that this information is of assistance.

Yours truly,

Diane Soroka