

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

WARWICK BROWN

Plaintiff

- and -

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF ONTARIO

Defendant

Proceeding under the *Class Proceedings Act, 1992*

SETTLEMENT AGREEMENT

WHEREAS the Plaintiff brought this class action under the *Class Proceedings Act, 1992* for alleged negligence and breach of fiduciary duty in respect of the Defendant's operation and management of the following training schools (the "Training Schools"):

- a) Pine Ridge School, Bowmanville (formerly The Ontario Training School for Boys), including the Cold Springs Forestry Camp;
- b) Hillcrest School, Guelph (formerly known as Ontario Training School for Boys, Guelph);
- c) Brookside School, Cobourg (formerly Ontario Training School for Boys, Galt, and Ontario Training School for Boys Northumberland, and Ontario Training School for Boys, Cobourg);
- d) Trelawney House, Port Bolster (formerly known as Ontario Training School for

Girls, Port Bolster Trelawney House);

- e) Kawartha Lakes School, Lindsay (formerly Ontario Training School for Girls, Lindsay);
- f) Glendale School, Simcoe (formerly Ontario Training School for Boys, Simcoe);
- g) White Oaks Village, Hagersville (formerly Ontario Training School for Boys, Hagersville (Junior School));
- h) Sprucedale School, Hagersville (formerly Ontario Training School for Boys, Hagersville (Senior School));
- i) Cecil Facer School, Sudbury;
- j) Project DARE-Portage Lake;
- k) Project DARE-Wendigo Lake; and
- l) Syl Apps Youth Centre (formerly Ontario Training School for Girls, Galt (Reception and Diagnostic Centre); Reception and Diagnostic Centre, Galt; Reception, Diagnostic Treatment Centre, Galt; and the Reception and Assessment Centre, Oakville);

AND WHEREAS counsel for the parties to this Agreement have conducted a thorough analysis of the claims, and they have also taken into account the extensive burdens and expense of litigation, including the risks of going to trial;

AND WHEREAS in consideration of all of the circumstances that are unique to this class proceeding, including but not limited to the individual claims that have been brought against HMKO to date in relation to the operation of Training Schools in Ontario, and after extensive

arms' length negotiations, both directly and with the assistance of a mediator, the parties to this Agreement wish to settle any and all issues among themselves in any way relating to the Action;

AND WHEREAS after their investigation, the parties and their respective counsel have concluded that this Settlement Agreement provides substantial benefits to the Class Members and is fair, reasonable and in the best interests of the Class Members;

NOW THEREFORE the parties to this Agreement agree to settle the issues in dispute in this Action relating to the operation and management of the Training Schools on the following terms and conditions:

DEFINITIONS

1. For the purposes of this Settlement Agreement, the following definitions apply:

- a) "Action" means the class proceeding in the Superior Court of Justice against His Majesty the King in right of Ontario as Court File No. CV-25-7421-00CP, and certified as a class proceeding by this Court;
- b) "Administration Costs" means all costs to implement the Notice Plan and to administer and distribute the Settlement Fund including all costs and professional fees of the Claims Administrator, and all applicable taxes;
- c) "Approval Hearing" means the hearing at the Court to approve the Settlement of the Action;
- d) "Approval Order" means the Order of the Court approving the Settlement;

- e) “Approved Claims” means Claims assessed by the Claims Administrator pursuant to the Compensation Plan, including Support Reimbursement Claims and, after the conclusion of all Requests for Reconsideration, approved by the Claims Administrator for payment from the Settlement Fund;
- f) “Claim” means a claim made by a Claimant by filing a Claim Form with the Claims Administrator in accordance with the procedure in this Settlement Agreement;
- g) “Claimant” means any Class Member who resided at at least one of the Training Schools during the time periods set out in the Certification Order, who files a Claim Form pursuant to the terms of this Settlement Agreement;
- h) “Claims Administrator” means the persons or entities agreed by the parties or appointed by the Court to administer the Notice Plan and the claims process in accordance with the Compensation Plan;
- i) “Claims Deadline” means midnight on the date that is fifteen (15) months from the Court Approval Date;
- j) “Claims Period” means the time period beginning on the Court Approval Date and ending at midnight on the Claims Deadline;
- k) “Claim Form” means a form for the written claim from a Class Member seeking compensation from the Settlement Fund agreed to by the parties and to be approved by the Court;

- l) “Class” or “Class Members” is defined as per the Certification Order of Justice Newton dated November 30, 2018 (the “Certification Order”), being all persons, who were alive as of December 8, 2015, who resided at any of the Training Schools during the time periods set out in the Certification Order for each Training School, except that it excludes any person who validly opted out of the Action pursuant to that Order or as otherwise approved by the Court;
- m) “Class Counsel” means Koskie Minsky LLP;
- n) “Compensation Plan” means the plan detailing how compensation to Class Members shall be made, attached as Schedule “A” to this Settlement Agreement;
- o) “Court” means the Ontario Superior Court of Justice;
- p) “Court Approval Date” means the later of:
 - i) 31 days after the date on which the Court issues the Approval Order; and
 - ii) The date of disposition of any appeals from the Approval Order or the expiry of any applicable appeal periods if no appeal is initiated;
- q) "CPF Levy" means the Class Proceedings Fund levy applicable to compensation payable to the Class Members pursuant to O. Reg. 771/92, based on the Fixed Settlement Amount, plus any amounts paid to Class Members in respect of Approved Claims over and above the Fixed Settlement Amount;
- r) “HMKO” means His Majesty the King in right of Ontario;

- s) "Honorarium" means an honorarium of up to \$15,000 to be paid to the Plaintiff as approved by the Court;
- t) "Initial Counsel Fees" means an amount awarded to Class Counsel as approved by the Court, to be calculated as a percentage of the Fixed Settlement Amount, plus applicable taxes and disbursements approved for reimbursement by the Court;
- u) "Maximum Settlement Amount" means the maximum amount of \$60,000,000 that HMKO may pay under this Settlement Agreement;
- v) "Mediator" means the Honourable Justice Todd Archibald;
- w) "Fixed Settlement Amount" means the amount of \$54,000,000 that HMKO has agreed to pay under this Settlement Agreement, subject to any reversion of funds to HMKO in accordance with paragraph 13;
- x) "Notice of Approval of Settlement" means the Court approved notice to the Class Members advising that the Court has approved the Settlement and advising of the claims process;
- y) "Notice of Settlement Approval Hearing" means the notice to the Class Members that the proposed Settlement will be considered by the Court, as agreed to by the parties and approved by the Court;
- z) "Notice Plan" means the plan and notices created by agreement of the parties and approved by the Court to disseminate the Notice of Approval of Settlement and Notice of Settlement Approval Hearing to the Class. Any dispute between the parties in reaching an agreement on a Notice Plan shall be referred to the Mediator for mediated assistance;

- aa) "Opt-Out Form" means a document to be completed and delivered by a Class Member to opt out of the Action in a form agreed to by the parties and to be approved by the Court;
- bb) "Releasees" means HMKO and each of its employees, servants, agents, Ministers, members of the Executive Council under the *Executive Council Act*, insurers, representatives and assigns;
- cc) "Second Counsel Fees" means an amount awarded to Class Counsel representing the product of the percentage of the Fixed Settlement Amount approved by the Court as Initial Counsel Fees and the sum total of the funds HMKO must pay above the Fixed Settlement Amount, as calculated in accordance with paragraph 7 below;
- dd) "Second Opt-Out Deadline" means the date that is nine (9) months from the Court Approval Date;
- ee) "Second Opt-Out Period" means the time period from the Court Approval Date to the Second Opt-Out Deadline;
- ff) "Settlement" or "Settlement Agreement" or "Agreement" means this agreement, as executed by the parties or their representatives, including the recitals and attached schedules;
- gg) "Settlement Fund" means the up to \$60,000,000 HMKO has agreed to pay to settle the Action, inclusive of payment of Approved Claims, CPF Levy, the Initial and Second Counsel Fees, Administration Costs, any Honorarium approved by the Court, any approved Support Reimbursement Claims, interest, and all applicable taxes;
- hh) "Support Reimbursement Claim" means a claim delivered by a Claimant for reimbursement for all or part of a fee charged by a doctor, psychologist, social worker,

counsellor, or therapist for the provision of support services provided in relation to the preparation and delivery of a Claim.

NOTICE PLAN COSTS

2. The Notice Plan will provide for Notice of Settlement Approval Hearing and Notice of Approval of Settlement, Opt-Out Form, Claim Form and Support Reimbursement Claim Form, all of which will be mutually agreed upon by the parties and approved by the Court. Any dispute between the parties in reaching an agreement in this respect shall be referred to the Mediator for mediated assistance.
3. The costs of the Notice of Settlement Approval Hearing shall be paid by HMKO up front, and if the Settlement is approved by the Court, shall be deductible from the Settlement Fund in accordance with this Settlement Agreement. For greater clarity, in the event the Settlement is not approved, any Administration Costs paid by HMKO in respect of the Notice of Settlement Approval Hearing incurred up to the date of the Approval Hearing shall not be reimbursed by Class Counsel and/or the Plaintiff.

THE SECOND OPT-OUT PERIOD

4. A Class Member may opt out of the Action by delivering a signed Opt-Out Form to the Claims Administrator by email or mail postmarked no later than the Second Opt-Out Deadline.
5. Within thirty (30) days of the Second Opt-Out Deadline, the Claims Administrator shall serve on the parties an affidavit listing all of the Class Members who validly opted out of the Action during the Second Opt-Out Period.

SETTLEMENT FUND

6. The Settlement Fund will be used to pay the Approved Claims, the CPF Levy, the Initial Counsel Fees, the Second Counsel Fees, any Honorarium approved by the Court, Administration Costs and all applicable taxes, in accordance with this Settlement Agreement in full and final settlement of the Action.
7. The Settlement Fund shall be reduced by \$60,000 for each Class Member who validly opts out of the Action between the Court Approval Date and the Second Opt-Out Deadline by delivering an Opt-Out Form that is accepted by the Claims Administrator, subject to a maximum total reduction of \$6,000,000.
8. The Settlement Fund shall be paid as follows:
 - a) First, to satisfy the Initial Counsel Fees and the Second Counsel Fees in the amounts approved by the Court;
 - b) Second, to pay any Honorarium that is approved by the Court;
 - c) Third, to pay Administration Costs and applicable taxes arising under this Settlement Agreement;
 - d) Fourth, to pay the CPF Levy; and
 - e) The remainder of the Settlement Fund will then be used to compensate Claimants in accordance with the Compensation Plan.
9. From the Settlement Fund, HMKO shall pay:

- a) to Class Counsel, the Initial Counsel Fees as approved by the Court within thirty (30) days of the Court Approval Date or within fourteen (14) days of the Court's approval of the Initial Counsel Fees, whichever is later;
 - b) to the representative plaintiff, any Honorarium that may be approved by the Court within thirty (30) days of the Court Approval Date;
 - c) to Class Counsel, the Second Counsel Fees within forty-five (45) days of the Second Opt-Out Deadline;
 - d) to the Claims Administrator, Administration Costs as the payments become due to implement this Settlement;
 - e) one cheque for payment of the CPF Levy, when calculated and determined; and
 - f) one cheque to the Claims Administrator for the payment of global compensation to all Claimants in accordance with the Compensation Plan when calculated and determined.
10. The Settlement Fund shall accrue interest at the rate of 2% per annum, commencing on the Court Approval Date, forming part of the Settlement Fund, to the date that HMKO delivers final payment of the total Approved Claims amount to the Claims Administrator.
11. The Claims Administrator shall ensure sufficient reserve of the Settlement Fund is maintained in order to satisfy full payment of all Administration Costs and applicable taxes. The Claims Administrator will be mutually agreed upon by the parties and approved by the Court.
12. In the event the Court approves the Settlement of the Action, all Administration Costs incurred to the Court Approval Date shall be paid from the Settlement Fund. The Claims Administrator appointed will account for these costs in this manner.
13. Any amounts remaining in the Settlement Fund after all of the above payments have been made will be returned to HMKO.

14. Under no circumstances will the HMKO pay more than the Maximum Settlement Amount in respect of Approved Claims, the CPF Levy, the Initial Counsel Fees, the Second Counsel Fees, Honorarium, Administration Costs, and all applicable taxes. If the amounts payable from the Settlement Fund are determined to exceed the Maximum Settlement Amount, then the Approved Claims will be reduced *pro rata* to the extent required such that all payments from the Settlement Fund will not, in the aggregate, exceed the Maximum Settlement Amount.
15. The parties acknowledge and agree that compensation received by Class Members pursuant to this Settlement Agreement is compensation for general damages sustained by Class Members and is not compensation for lost income.

RECONCILIATION AND COMMEMORATION

16. Within five days of the Court Approval Date, the parties shall issue a joint press release in the form attached as Schedule “B” to this Agreement containing an acknowledgment by HMKO of the harm experienced by Class Members at the Training Schools.
17. HMKO shall erect a plaque commemorating the history and legacy of the Training Schools, the size and content of which will be agreed to by the parties, at the former site of one of the Training Schools, or at another site to be mutually agreed upon by the parties. The cost of the plaque shall be paid from the Settlement Fund.

COMMUNICATIONS

18. The parties, counsel and representative plaintiff agree that, in the event they are commenting publicly on the Action or this Settlement Agreement, they shall:
- a) Inform the inquirer that the Action has been settled to the satisfaction of all parties;

- b) Inform the inquirer that it is the view of the parties that the settlement of the Action is fair, reasonable and in the best interests of the Class; and
- c) Decline to comment in a manner that casts any party's or their representatives' conduct in the Action in a negative light or reveals anything said during the settlement negotiations.

19. Any dispute over compliance with the agreement on communications or breach of these terms may be referred to the Mediator for mediated assistance.

COURT APPROVAL

20. It is understood and agreed that Court Approval of this Settlement Agreement and Compensation Plan is required.

21. As soon as practical after execution of this Settlement Agreement, the parties shall immediately advise the Court, seek to schedule a motion to approve the Settlement and to seek court approval of the Notice Plan and timing of the dissemination of Notice of Settlement Approval Hearing. The parties shall move before the Court with the greatest dispatch to have the Settlement approved by the Court at the earliest possible opportunity.

22. The parties agree to file motion materials, as necessary, with respect to the motion to approve the Settlement and counsel shall act reasonably and in good faith on the content of such motion materials.

23. Class Counsel shall bring a motion for court approval of their requested Initial Counsel Fees and Second Counsel Fees at the time of Settlement approval or shortly thereafter.

RELEASES

24. On the date of the Second Opt-Out Deadline, each Class Member who has not delivered a valid Opt-Out Form to the Claims Administrator, whether or not he or she submits a claim for compensation or otherwise receives compensation in accordance with the Compensation Plan, will be deemed by this Settlement Agreement to have completely and unconditionally released, remised and forever discharged the Releasees of and from any and all actions, counterclaims, causes of action, claims, whether statutory or otherwise and demands for damages, indemnity, contribution, costs, interest, loss or harm of any nature and kind whatsoever, known or unknown, whether at law or in equity, and howsoever arising which they may heretofore have had, may now have or may hereafter have whether commenced or not in connection with all claims arising out of the Second Fresh as Amended Statement of Claim with respect to the operation and management of Training Schools ("Released Claims"), except for any Claimant's entitlement to be paid in respect of an Approved Claim pursuant to the terms hereof. The Second Fresh as Amended Statement of Claim is attached as Schedule "C".

25. On the date of the Second Opt-Out Deadline, each Class Member who has not delivered a valid Opt-Out Form to the Claims Administrator will be forever barred and enjoined from commencing, instituting, prosecuting, or continuing any action, litigation, investigation or other proceeding in any Court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum or any other forum, directly, representatively, or derivatively, asserting against the Releasees any Released Claims.

26. On the date of the Second Opt-Out Deadline, each Class Member who has not delivered a valid Opt-Out Form to the Claims Administrator will be forever barred and enjoined from commencing, instituting, prosecuting or continuing any action, litigation, investigation or other

proceeding in any Court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum or any other forum, directly, representatively, or derivatively, against any person or entity that could or does result in a claim over against the Releasees or any of them for contribution, indemnity in common law, or equity, or under the provisions of the *Negligence Act* and the amendments thereto, or under any successor legislation thereto, or under the *Rules of Civil Procedure*, any Released Claims. It is understood and agreed that if such Class Member commences such an action or takes such proceedings, and the Releasees or any of them, are added to such proceeding in any manner whatsoever, whether justified in law or not, such Class Member will immediately discontinue the proceedings and claims or otherwise narrow the proceedings and claims to exclude the several liability of the Releasees. This Agreement shall operate conclusively as an estoppel in the event of any claim, action, complaint or proceeding which might be brought in the future by such Class Member with respect to the matters covered herein. This Agreement may be pleaded in the event that any such claim, action, complaint or proceeding is brought, as a complete defence and reply, and may be relied upon in any proceeding to dismiss the claim, action, complaint or proceeding on a summary basis and no objection will be raised by such Class Member in any subsequent action that the parties in the subsequent action were not privy to the formation of this Agreement.

27. On the Court Approval Date, Class Counsel undertakes not to commence or advise on any future class proceedings in respect of anything that may have occurred at a Training School up to the Court Approval Date and undertakes not to represent or advise on the claims of any individuals who opted out of the Action in any other action, claim, application, or matter against or involving Training Schools in respect of any claim arising out of the Second Fresh

as Amended Statement of Claim. Nothing in this agreement prevents Class Counsel from assisting with the administration of the Settlement Agreement, informing Class Members of the provisions of the Settlement Agreement or assisting Class members with their Claims under the Settlement Agreement.

NO ADMISSIONS, NO USE

28. This Settlement Agreement, whether or not consummated, and any proceedings taken pursuant to this Settlement Agreement, are for settlement purposes only. Neither the fact of, nor any provision contained in this Settlement Agreement or its Schedules, or any action taken hereunder, shall be construed as, offered in evidence as, and/or deemed to be evidence of a presumption, concession or admission of any kind by the parties of the truth of any fact alleged or the validity of any claim or defence that has been, could have been or in the future might be asserted in any litigation, Court of law or equity, proceeding, arbitration, tribunal, government action, administrative forum, or any other forum, or of any liability, responsibility, fault, wrongdoing or otherwise of any parties except as may be required to enforce or give effect to the Settlement and this Settlement Agreement. For greater clarity, HMKO denies the truth of the allegations in the Action and denies any liability whatsoever.

TERMINATION

29. This Settlement Agreement shall, without notice, be automatically terminated if the Court does not approve this Settlement Agreement. In the event of termination, this Settlement Agreement shall have no further force or effect, save and except for this section, which shall survive termination.

GENERAL

30. This Settlement Agreement shall be governed, construed and interpreted in accordance with the laws of the Province of Ontario.

31. The Court shall retain exclusive and continuing jurisdiction over the parties to resolve any matter that may arise regarding the performance, interpretation, administration, enforcement, or termination of the Settlement Agreement and Compensation Plan.

32. This Settlement Agreement constitutes the entire agreement between the parties and may not be modified or amended except in writing, on consent of the parties.

33. This Settlement Agreement may be signed by the parties in counterpart which shall have the same effect and enforceability as a single executed document.

IN WITNESS WHEREOF, each of the parties has caused this Settlement Agreement to be executed on his/her/their behalf by his/her/their duly authorized counsel of record, effective as of January 21, 2026.

January 20, 2026
Date

01/21/2026
Date

Date



KOSKIE MINSKY LLP
Counsel for the Plaintiff

Warwick Scott Brown

Warwick Scott Brown (Jan 21, 2026 07:40:39 PST)

Warwick Brown, Representative
Plaintiff



Per: Lisa Brost
Counsel for the Defendant HMKO

Schedule “A” – Compensation Plan

Definitions

1. All defined terms in the Settlement Agreement are applicable to the Compensation Plan. In addition, the following definitions apply in this Schedule:
 - a) “Excluded Claim” means a Claim by an individual:
 - i) who did not attend a Training School during the time periods set out in the Certification Order for each Training School;
 - ii) who has validly opted out of the Action; or
 - iii) who has previously settled claims against HMKO and has executed a release in favour of HMKO, or whose claims against HMKO have been otherwise released, in relation to matters that are the subject of this Action.
 - b) "Compensation Allocation System" means the method of determining the compensation to be allocated to a Track 2 Claimant, if any, as set out in paragraphs 22 to 38, inclusive, of this Compensation Plan.
 - c) "History Cards" means all history cards in HMKO's possession.
 - d) "Productions" means all documents produced by HMKO in this Action pursuant to the *Rules of Civil Procedure*, R.R.O. 190, Reg. 194.
 - e) “Serious Physical Injury” means:
 - i) physical injury that led to hospitalization;
 - ii) permanent or demonstrated long-term physical injury, impairment or disfigurement;
 - iii) broken bones; or
 - iv) a serious but temporary incapacitation such that bed rest or infirmary care of four or more days' duration was required.

f) "Serious Sexual Assault" means non-consensual oral, vaginal or anal penetration.

Claims for Compensation

2. Any Class Member who wishes to claim compensation shall deliver to or otherwise provide the Claims Administrator with a completed Claim Form and all supporting documentation no later than the Claims Deadline or other such date as provided for in this Agreement. If the Claims Administrator does not receive a complete Claim Form from a Class Member by the Claims Deadline, or other such date as provided for in this Agreement then, subject to paragraph 38, the Class Member shall not be eligible for any compensation whatsoever.
3. The Claims Administrator shall review each Claim Form that it receives to confirm that the Claimant did not opt out of the Action or is not otherwise an Excluded Claim. Individuals who opted out of the Action are not eligible for any recovery under the Settlement. As set out in paragraph 39 below, the Claims Administrator shall confirm that the Claimant did not opt out of the Action during the Second Opt-Out Period before making any payment of compensation to such Claimant.
4. A Claimant shall submit one Claim Form that comprises all claims that he or she may have individually at any of the Training Schools. If more than one Claim Form is submitted by a Class Member by the Claims Deadline, the Claims Administrator will treat all claim materials submitted as one Claim Form.
5. If a Class Member is unable to execute a Claim Form due to lack of legal capacity, a Claim Form may be executed by the Public Guardian and Trustee as authorized to act on behalf of the Class Member or other legally recognized guardian.
6. For an individual claiming on behalf of a Class Member or a Class Member's estate, the individual must provide the Claims Administrator with sufficient documentation establishing

legal authority to act on behalf of the Class Member or the Class Member's estate in respect of financial affairs, including:

- a) Certificate of Appointment of Estate Trustee or Small Estate Certificate (previously called Letters Probate or Letters of Administration);
 - b) A copy of the Class Member's will appointing the individual as estate trustee;
 - c) A declaration witnessed by one other person who knew the deceased Class Member personally, affirming that the deceased Class Member did not have a will and that no estate trustee has been appointed by a court, together with proof that the individual was either spouse or kin to the deceased Class Member in a form reasonably acceptable to the Claims Administrator; or
 - d) Any other documentation that is acceptable to the Claims Administrator.
7. If the Claims Administrator is not satisfied that an individual claiming on behalf of a Class Member or Class Member's estate has the legal authority to make the Claim, then that Claim shall be disallowed in its entirety.
8. The Claims Administrator shall review each Claim Form for completeness and shall advise a Claimant, no later than fifteen (15) business days after receipt of the Claim Form, or other such time period as agreed upon by the parties under the circumstances, if their Claim Form is incomplete, and the steps they must take to cure any deficiencies in their Claim Form ("Deficiency Notice"). The Claimant shall deliver a complete Claim Form rectifying any deficiencies in their Claim within the later of (i) thirty (30) days from the date the Deficiency Notice is delivered, or (ii) the Claims Deadline.
9. In the absence of reasonable grounds to the contrary, Claimants shall be assumed to be acting honestly and in good faith. Where a Claim Form contains minor omissions or errors, the Claims

Administrator shall correct such omissions or errors if the information necessary to correct the error or omission is readily available or obvious to the Claims Administrator. The Claims Administrator shall nonetheless require that each Claimant meet the documentary and evidentiary requirements in respect of each Claim.

10. The Claims Administrator shall take reasonable measures to verify that the Claimants are eligible under the Compensation Plan and that the information in the Claim Form is accurate. The Claims Administrator may make inquiries of the Claimant or HMKO in the event of any concerns, ambiguities or inconsistencies in the Claim Form, the Claimant's supporting documents or any documents submitted by HMKO.
11. The Compensation Plan is intended to prevent fraud and abuse. If, after reviewing any Claim Form, the Claims Administrator believes that the claim contains intentional errors which would materially exaggerate the amount of compensation to be awarded to the Claimant, then the Claims Administrator may disallow the claim in its entirety or make such adjustments so that an appropriate amount of compensation is awarded to the Claimant. If the Claims Administrator believes that the claim is fraudulent or contains intentional errors which would materially exaggerate the amount of compensation to be awarded to the Claimant, then the Claims Administrator shall disallow the claim in its entirety.

Training School Records

12. The Class Member's Training Schools records ("TS Records") will not be required to make a claim. While TS Records will not be required to make a claim, it may be that Class Members will wish to obtain a copy of their TS Records in order to support their claim. Any TS Records requests made within four (4) months of the Court Approval Date will be considered a request under the Record Request Process as defined below.

13. The Parties will seek to implement the following system to expedite the processing of requests and the delivery of TS Records during the Claims period herein as follows ("Record Request Process"):

- a) The Parties will jointly seek an Order of the Youth Court permitting delivery of the TS Records substantially in the form attached as Schedule "D" ("Youth Court Order");
- b) HMKO shall be responsible for the preparation of any motion record and affidavit relating to seeking and obtaining the Youth Court Order. Class Counsel will prepare the factum and make submissions with respect to same. HMKO will consent to this motion;
- c) The Plaintiff shall not be required to appeal a refusal by the Youth Court to provide the Youth Court Order;
- d) The Parties will seek permission from the Court in the Approval Order to deliver the TS Records to Class Counsel, the Class Member and representatives of HMKO in accordance with rule 30.1.01(3) of the *Rules of Civil Procedure* ("TS Record Production Order");
- e) Class Member requests for TS Records pursuant to this Record Request Process must be made to the Claims Administrator by the Claimant or their legal guardian in writing. These requests must be made within four (4) months after the Court Approval Date; and
- f) If a Class Member requests their TS Records within the timeframe set out in subparagraph (e), HMKO will produce the TS Records to the Class Member (in electronic format) or the Public Guardian and Trustee, if appropriate, in accordance with the TS Record Production Order and the Order of the Youth Court within nine (9) months of the Court Approval Date, on a rolling basis as requests are received and processed. If HMKO does not produce TS Records to a Class Member who makes a timely request under this Record Request Process within nine (9) months of the Court Approval date, the Claims Administrator shall have

discretion to extend such Class Member's time for submitting a Claim Form beyond the Claims Deadline as necessary; and

- g) In the event that the Youth Court Order or the TS Records Production Order are not granted by the respective courts, such records will not be delivered to Class Members under the Settlement.

14. The paragraphs above are not intended to impact any individual's ability to request his/her TS Records under any other legislation outside of this proceeding.

Claim Tracks and Requirements

15. The Claim Form requires the Claimant to provide identifying information and to specify whether they are claiming compensation under Track 1 or Track 2. A Claimant may only seek compensation under one of the two tracks.

16. Class Members who only attended a Training School prior to September 1, 1963 will only be eligible to make claims for compensation under Track 1. They are not eligible to claim compensation under Track 2.

Track 1 Claims

17. Class Members seeking compensation under Track 1 must deliver a Claim Form in which they affirm:

- a) that they are a Class Member;
- b) that they have not previously commenced an individual claim and/or executed a release in favour of HMKO regarding the subject matter of the Action;
- c) that they have not opted out of the Action;

- d) by way of checking a box on the Claim Form, that they experienced harm while a resident of one of the Training Schools during the time periods set out in the Certification Order for each Training School;
 - e) the Training School(s) that they attended; and
 - f) their best knowledge of the dates or time periods during which they suffered harm while at a Training School.
18. On the first day of each month following the Court Approval Date until the first day of the month following the Claims Deadline, the Claims Administrator shall deliver a list of Track 1 Claimants to HMKO that shall include all of the information provided on the Claim Form delivered by the Track 1 Claimant. Within thirty (30) days of receipt of each such list, HMKO shall review, in the following order, the History Cards, TS Records, the Productions, and then any other relevant record in its possession and advise Class Counsel and the Claims Administrator whether any of the Claims on such list is an Excluded Claim and provide the reason and/or records demonstrating that the Claim is an Excluded Claim, to the extent that such records are available. For clarity, if HMKO locates a History Card confirming a Claimant is not an Excluded Claim, it will have no obligation to review any further records under this section.
19. Within sixty (60) days of HMKO advising a Track 1 Claim is an Excluded Claim following a review of its records, Class Counsel and/or the Claimant may provide the Claims Administrator with information and/or supporting documentation relevant to the Claims Administrator's determination of whether a Track 1 is an Excluded Claim.
20. The Claims Administrator shall review each Track 1 Claim Form, along with any records, information, and/or supporting documentation provided by HMKO, Class Counsel and/or the Claimant and verify whether each Track 1 Claimant is an Excluded Claim. If the Claims

Administrator determines that a Track 1 Claim is an Excluded Claim, the Claims Administrator shall provide written notice to the Claimant of this determination, which shall include the reason that the Claim was found to have been an Excluded Claim (“Notice of Ineligibility”).

21. A Track 1 Claimant who has been determined to be eligible to recover under Track 1 by the Claims Administrator shall be paid \$5,000, subject to the conditions in paragraph 39.

Track 2 Claims

22. Class Members seeking compensation under Track 2 are required to deliver a Claim Form that contains an oath or affirmation (the “Witnessed Declaration”) that is witnessed by:

- a) a lawyer, paralegal, commissioner of oaths, or any other person authorized to commission an affidavit under the law of any province;
- b) a notary public;
- c) where the Claimant is Indigenous, a member of a band council, an elected or hereditary chief, or an elder; or
- d) any other person agreed between the parties or ordered by the Court.

23. The Witnessed Declaration of a Track 2 Claimant must set out, to the best of their knowledge or recollection:

- a) their date of birth, contact information, all names that they may have been known by in their lifetime, time frame of wardship, all Training Schools they resided at during the Class Period and associated time frames of such attendance;
- b) If the Claim is based on placement(s) in dissociation or solitary confinement, details of the circumstances of each placement including:
 - i) the length of time for each placement;

- ii) the approximate date or time of each placement including the length of time between multiple placements (if applicable); and
- c) the time frame of assault(s) that they suffered, including the dates of the assault(s), and/or the Claimant's age range and/or school grade(s) at the time of the assault(s);
- d) the nature of the incident(s) alleged to have been experienced by the Claimant and the basic details of the incident(s) including:
 - i) the type of assault(s) and its timing, frequency and location;
 - ii) the identity of the perpetrator(s) if known;
 - iii) any witnesses to the assault, if any, and;
 - iv) any other pertinent information that the Claimant chooses to include to support their claim.

24. Track 2 Claims shall not be rejected for failing to include all the details listed above, provided there is sufficient information to support the Claim. Track 2 Claimants shall not be required to self-select their claimed level of compensation under the Compensation Allocation System.

25. A Track 2 Claimant may include with their Claim Form any supporting documentation ("Optional Supporting Documentation") that may assist in the Claim Administrator's verification and assessment of the Claim and which could reasonably confirm or otherwise corroborate the information provided in the Claim Form. Documentation supporting that the Claimant attended one or more Training Schools during the Class Period may be presented. No negative inference will be drawn from a Claim Form which does not include Optional Supporting Documentation.

26. The Claims Administrator shall provide a copy of each Claim Form along with any supporting documentation received from a Track 2 Claimant who has not opted out of the Action to HMKO within five (5) business days of receipt of the Claim.
27. Within thirty (30) days of receiving each Track 2 Claim:
- a) HMKO will review in the following order, the History Cards, TS Records, the Productions, and then any other relevant record in its possession and advise the Claims Administrator and Class Counsel whether the Claimant is eligible to make a Track 2 Claim because: (i) the Claimant attended a Training School after September 1, 1963; and (ii) the Claim is not an Excluded Claim. For clarity, if HMKO locates a History Card confirming a Claimant is eligible to make a Track 2 Claim, it will have no obligation to review any further records under this section
 - b) HMKO may, for all Track 2 Claims, submit to the Claims Administrator any responding documentation (without argument or submissions) that HMKO determines in its sole discretion is relevant to the determination of the Track 2 Claim pursuant to the Compensation Allocation System ("Responding Documents") within sixty (60) days of receiving a Track 2 Claim. Any Responding Documents submitted by HMKO to the Claims Administrator shall be copied to the Claimant and Class Counsel at the same time as they are submitted to the Claims Administrator.
28. Within sixty (60) days of HMKO either (i) advising a Claimant is ineligible to make a Track 2 Claim in accordance with paragraph 27(a), or (ii) submitting Responding Documents in accordance with paragraph 27(b), Class Counsel and/or the Claimant may provide the Claims Administrator with information and/or supporting documentation relevant to the Claims Administrator's verification of Track 2 eligibility or in reply to any Responding Documents.

29. The Claims Administrator shall review each Track 2 Claim Form, along with any records, information, and/or supporting documentation provided by HMKO, Class Counsel and/or the Claimant and verify whether each Claimant is eligible to make a Track 2 Claim. If the Claims Administrator determines that a Claimant is ineligible to make a Track 2 Claim, the Claims Administrator shall provide the Track 2 Claimant with a Notice of Ineligibility.

30. Once the Claims Administrator has verified that the Claimant is eligible for Track 2 compensation in accordance with paragraphs 3 and 29 and the Claim Form is complete, the Claims Administrator shall review the Claim Form, any supporting documentation, and the documentation submitted, if any, by HMKO and Class Counsel to determine the compensation level, if any, for which a Claimant is eligible pursuant to the Compensation Allocation System. The Claims Administrator shall make its determination by determining the highest level of harm, if any, that the Claim Form and/or any supporting documentation supports in the following grid:

Level	Categories of Physical and Sexual Assault	Compensation Amount
PA1	<p>One or more physical assaults while the Claimant was at a Training School not causing a Serious Physical Injury, but resulting in an observable injury such as a black eye, bruise or laceration.</p> <p>Placement in dissociation or solitary confinement for 24 or more consecutive hours, on more than one occasion within a 30-day period or for 48 or more hours on any one occasion.</p>	\$7,500
PA2	<p>One or more physical assaults while the Claimant was at a Training School causing a Serious Physical Injury.</p>	\$25,000

SA1	Any non-consensual sexual touching of a Claimant by staff of a Training School that is not a Serious Sexual Assault.	\$15,000
SA2	<ul style="list-style-type: none"> • Repeated non-consensual sexual touching of a Claimant while the Claimant was at a Training School, of the Claimant’s breasts, genitals or buttocks that is not a Serious Sexual Assault; OR • A single non-consensual act of forceable sexual touching to attempt oral, vaginal or anal penetration of a Claimant while the Claimant was at a Training School that is not a Serious Sexual Assault. 	\$50,000
SA3	One or more incidents of Serious Sexual Assault on a Claimant while the Claimant was at a Training School	\$100,000

31. In the event that a Claim Form and/or any supporting documentation supports more than one level of Track 2 compensation, the Claimant shall only receive the value of the highest level of compensation for which the Claim qualifies.

Reimbursement for Support Costs

32. A Track 2 Claimant may deliver a Support Reimbursement Claim to the Claims Administrator at any time before the Claims Deadline. A Support Reimbursement Claim must include a receipt(s) or invoice(s) establishing that the Claimant has paid for and/or incurred the support services delivered in relation to making a Claim. If the Claims Administrator determines that the Claimant is entitled to compensation under Track 2 of this Settlement Agreement, the Claims Administrator may approve the payment of additional compensation to the Claimant in an amount not to exceed \$1,500, for those amounts sought in the Support Reimbursement Claim that the Claims Administrator determines to be reasonable.

Reconsideration

33. The Claims Administrator shall send to the Claimant at the Claimant's postal or email address as indicated in the Claim Form and to Class Counsel, a notice advising the Claimant of the Claims Administrator's decision and that he or she may make a Request for Reconsideration, defined below, to the Claims Administrator.
34. Where a Track 2 Claimant is of the view that the Claims Administrator improperly disallowed or failed to properly assess their Claim under the Compensation Allocation System, the Claimant may make a request for reconsideration of their Claim (a "Request for Reconsideration") to the Claims Administrator. Any Request for Reconsideration must be submitted to the Claims Administrator within sixty (60) days of the date of the notice advising of the Claims Administrator's determination of the Claim, or other such date as determined by the Claims Administrator in applying its discretion under the circumstances. If no Request for Reconsideration is received by the Claims Administrator within this time period, the Claimant shall be deemed to have accepted the Claims Administrator's determination and the determination shall be final and binding and not subject to further appeal or review by any court or other tribunal.
35. Where a Track 2 Claimant files a timely Request for Reconsideration with the Claims Administrator in accordance with paragraph 34, the Claims Administrator shall advise Class Counsel and HMKO of the request and conduct a review of the Claimant's Request for Reconsideration. Reviews of Requests for Reconsideration shall be conducted by a more senior member of the Claims Administrator's team other than the individual(s) who assessed the Claim at first instance. The Claims Administrator must issue its decision on the Request for

Reconsideration to the Claimant, Class Counsel and HMKO within thirty (30) days of receipt of the Request for Reconsideration.

36. Following its determination on a Request for Reconsideration, the Claims Administrator shall advise the Claimant of its determination of the Request for Reconsideration. In the event the Claims Administrator reverses a disallowance or revises its determination of the amount payable on the Claim, the Claims Administrator shall send the Claimant at the Claimant's postal or email address as indicated in the Claim Form (copied to Class Counsel), a notice specifying the revision to the Claims Administrator's disallowance or decision.
37. The determination of the Claims Administrator in response to a Request for Reconsideration is final and binding and is not subject to further review by or appeal to any court or other tribunal.

Late Claims

38. The Claims Administrator shall consider a Claim Form submitted on a date later than the Claims Deadline if:
- a) the completed Claim Form and all necessary supporting documentation are received by the Claims Administrator within three (3) months after the Claims Deadline;
 - b) the Claimant has provided written reasons for failing to submit the Claim Form by the Claims Deadline and is able to demonstrate that he/she intended to submit the Claim Form before the Claims Deadline; and
 - c) the Claims Administrator is satisfied, based on the written reasons provided by the Claimant, that the Claimant was unable to submit their Claim by the Claims Deadline due to:

- i) disability or effects of trauma impacting the ability to file the claim or supporting documentation by the Claims Deadline;
- ii) lack of notice until after the Claims Deadline;
- iii) the fault or carelessness of a third party;
- iv) time elapsed following a request for supporting documentation from a third party made before the Claims Deadline; or
- v) other exceptional circumstances.

Payments to Approved Claimants

39. As soon as possible after (i) all timely Claim Forms have been processed; (ii) the time to request a reconsideration has expired; and (iii) all Requests for Reconsideration have concluded, the Claims Administrator shall allocate amounts to Track 1 and Track 2 Claimants from the Settlement Fund subject to the following limitations:

- a) There will be no compensation for an Excluded Claim and before making payment, the Claims Administrator will confirm that none of the Claimants who have delivered a Claim Form that has been approved for payment of compensation has opted out of the Action during the Second Opt-Out Period or otherwise; and
- b) If there are not enough funds in the Settlement Fund to compensate all Claimants on the basis of the Compensation Allocation System, the amount of compensation for all Claimants shall be adjusted downward on a *pro rata* basis such that each Claimant receives the proportionate share of the Settlement Fund based on the relative values of their Approved Claim.

40. After the allocation provided for in paragraph 39, the Claims Administrator shall provide to HMKO, Class Counsel and the Class Proceedings Fund a report detailing the global

compensation amount required to satisfy payment of Approved Claims in accordance with paragraph 39 and the amount of the CPF Levy. Upon approval of the Claims Administrator's report by the parties and the Class Proceedings Fund, HMKO shall provide the global compensation amount to the Claims Administrator and the Claims Administrator shall make payment to the Claimants by either cheque or email money transfer, in accordance with each Claimant's election in their Claim Form, within 30 days, and shall provide a copy to Class Counsel. If, for any reason, a Claimant does not cash a cheque or otherwise accept payment within six (6) months after the date of the payment, the Claimant shall forfeit the right to compensation and the funds shall be returned to HMKO. Thirty (30) days prior to the expiry of the six (6) month period described above, the Claims Administrator shall:

- a) Provide Class Counsel with a list of Claimants who have not cashed their cheques or otherwise accepted payment; and
- b) Send the Claimant a further notice, to both email and mailing address provided in their Claim Form or to some other address as advised by the Claimant or Class Counsel, as well as attempt to contact the Claimant by phone, advising the Claimant that they have thirty (30) days to cash their cheque or otherwise accept their payment.

41. Upon the expiry of the six (6) month period described above, the Claims Administrator shall provide an accounting to HMKO of any interest accrued by the Claims Administrator in relation to any monies it has held pending the clearance of expiration of all cheques and direct all interest accrued back to HMKO.

Schedule "B" – Joint Press Release

Social media tags and handles

News release

For immediate release

Settlement agreement reached in Ontario Training Schools class action

[DATE]

Today, the Honourable XXXXXX Minister of YYYYYYYYY, and Warwick (Rick) Brown, court-appointed representative plaintiff, jointly announce that a proposed Settlement Agreement has been reached in the Ontario Training Schools class action.

Over the past three years, while preparing the case for trial, the Government of Ontario and counsel for the plaintiff have also been engaged in mediation to attempt to resolve this litigation. With the signing of this proposed Settlement Agreement, Ontario has agreed to pay up to \$60 million to compensate individuals who suffered harm while living at 13 Ontario Training Schools during the following time periods ("Class members"):

1. Pine Ridge School, Bowmanville between January 1, 1953 and 1979;
2. Cold Springs Forestry Camp between January 1, 1963 and 1976;
3. Hillcrest School, Guelph between January 1, 1953 and 1978;
4. Brookside School, Cobourg between January 1, 1953 and April 2, 1984;
5. Trelawney House, Port Bolster between August 1959 and 1973;
6. Kawartha Lakes School, Lindsay between 1962 and 1979;
7. Glendale School, Simcoe between 1962 and July 30, 1974;
8. White Oaks Village, Hagersville between 1966 and 1978;
9. Sprucedale School, Hagersville between 1966 and April 2, 1984;
10. Cecil Facer School, Sudbury between 1971 and April 2, 1984;
11. Project DARE – Portage Lake between June 1971 and 1976;
12. Project DARE – Wendigo Lake, South River between 1972 and April 2, 1984; and
13. Syl Apps Youth Centre between 1958 and April 2, 1984.

Under the proposed Settlement Agreement, Class members who submit a claim could be eligible for individual compensation of up to \$100,000. The process is designed to be trauma-informed and survivor-centric.

The parties will seek approval of the proposed Settlement Agreement from the Ontario Superior Court of Justice on ●. The Court will consider whether the Settlement is fair, reasonable, and in the best interests of the Class. If approved by the Court, compensation and other benefits will be available to eligible Class members. Class members will have an opportunity to review the proposed Settlement Agreement and provide their comments to the Court. More information on this process and timelines are available at <https://kmlaw.ca/cases/ontario-training-schools/>.

Quotes

"Victims of abuse at Ontario Training Schools were just ordinary kids. They were removed from their families and placed in these schools, where many of them suffered terrible abuse – both physical and sexual. I was about ten years old when I was sent to Brookside Training School. The abuse I suffered there forever altered the course of my life.

I have been involved in this action since 2018. I have been the representative plaintiff since 2022. I am so glad we have finally reached a settlement that will bring this action to an end for all Class members.

I agreed to be the representative plaintiff because I know that so many children suffered in the Training Schools. So many kids left those schools broken. This settlement is about giving those kids a voice. It was extremely important to me that the compensation process be trauma informed. I'm proud of what we achieved with this process. It is survivor centric and user-friendly. It is an extremely streamlined process that does everything possible to avoid retraumatization.

Warwick Brown
Court-appointed Representative Plaintiff

"These schools operated in the 1950s, 60s, 70s and 80s. Any abuse that kids suffered at these schools was wrong. It was wrong then. It is wrong now. We acknowledge and regret the harm that kids experienced in these institutions. One goal of this settlement is to assist former Training Schools residents to move forward with their lives.

This settlement is similar to other settlements regarding historical harms at other institutions. While we cannot change the past, we can compensate victims today and hopefully help them as they heal. Moving forward, we must remain vigilant to ensure that these harms become a relic of the past.

This action was started in 2017; this government is proud to have been able to resolve it fairly."

The Honourable XXXXX
Attorney General of Ontario or Minister of YYYYYY

Quick Facts

- Thousands of Ontario children were sent to Training Schools established and operated by the Government of Ontario between January 1, 1953 to April 2, 1984.
- Filed in 2017 and certified in 2018, *Brown v. Ontario* is a province-wide class action brought on behalf of former residents of the Training Schools.
- In the 1990's, the Government of Ontario reached settlement agreements to compensate survivors of Grandview Training School, the St. Joseph's Training School, and St. John's Training School. Former residents of those Training Schools are not included in this proposed Settlement Agreement.
- Over the past three years, the Government of Ontario and counsel for the plaintiff have been engaged in discussions to resolve this litigation outside of the courts.

Associated links

[Ontario Training Schools Class Action](#)

For more information, media may contact:

[Class Counsel contact info]

[Ontario press contact info]

Schedule "C" – Second Fresh as Amended Statement of Claim

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN :



WARWICK BROWN

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Amended this 13th day of May, 2021
pursuant to Rule 26.02(a)

Defendant

Proceedings under the *Class Proceedings Act, 1992*
SECOND FRESH AS AMENDED STATEMENT OF CLAIM

Registrar Superior Court of Justice

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: December 8, 2017
~~XXXXXXXXXXXX~~
~~XXXXXXXXXXXX~~

Issued by "Y.Hinterbrandner"

Local registrar

Address of
court office

TO: Her Majesty the Queen in Right of the Province of Ontario
Crown Law Office
720 Bay Street
8th Floor
Toronto, ON M7A 2S9

CLAIM

1. The plaintiff claims:
 - (a) an order certifying this action as a class proceeding and appointing the plaintiff as representative plaintiff for the class;
 - (b) a declaration that the defendant was negligent and breached its fiduciary duty to the plaintiff and the class through the establishment, funding, operation, management, administration, supervision and control of:
 - (1) Pine Ridge School, Bowmanville (formerly The Ontario Training School for Boys), including the Cold Springs Forestry Camp;
 - (2) Hillcrest School, Guelph (formerly known as Ontario Training School for Boys, Guelph);
 - (3) Brookside School, Coburg (formerly Ontario Training School for Boys, Galt, and Ontario Training School for Boys Northumberland, and Ontario Training School for Boys, Coburg);
 - (4) Trelawney House, Port Bolster (formerly known as Ontario Training School for Girls, Port Bolster Trelawney House);
 - (5) Kawartha Lakes School, Lindsay (formerly Ontario Training School for Girls, Lindsay);
 - (6) Glendale School, Simcoe (formerly Ontario Training School for Boys, Simcoe);
 - (7) White Oaks Village, Hagersville (formerly Ontario Training School for Boys, Hagersville (Junior School));
 - (8) Sprucedale School, Hagersville (formerly Ontario Training School for Boys, Hagersville (Senior School));
 - (9) Cecil Facer School, Sudbury;
 - (10) Project DARE – Portage Lake;
 - (11) Project DARE – Wendigo Lake;
 - (12) Syl Apps Youth Centre (formerly Ontario Training School for Girls, Galt (Reception and Diagnostic Centre); Reception and Diagnostic Centre, Galt; Reception, Diagnostic Treatment Centre, Galt; and the Reception and Assessment Centre, Oakville);

(the "**Training Schools**")

- (c) a declaration that the defendant is liable to the plaintiff and the class members for damages caused by its negligence and breach of fiduciary duty in relation to the establishment, funding, operation, management, supervision, and control of the Training Schools;
- (d) a declaration that the defendant is vicariously liable to the plaintiff and the class members for the physical, sexual and psychological abuse by its servants, employees, representatives and agents;
- (e) damages for negligence, breach of fiduciary duty, and vicarious liability in the amount of \$500 million, or such other sum as this Honourable Court may find appropriate;
- (f) punitive damages in the amount of \$100 million or such other sum as this Honourable Court may find appropriate;
- (g) prejudgment and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1995, c. C. 43, as amended;
- (h) costs of the action on a substantial indemnity basis or in an amount that provides full indemnity;
- (i) pursuant to section 26 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes; and
- (j) such further and other relief as to this Honourable Court may seem just and appropriate in all the circumstances.

A. OVERVIEW

2. The Training Schools were juvenile detention facilities that were established and operated by the defendant Her Majesty the Queen in Right of the Province of Ontario (the "**Crown**"). The children who resided there were vulnerable and powerless and due to the Crown's systemic failure, were subjected to a toxic environment in which physical, sexual, and psychological abuse was widespread.

3. The Training Schools were located in geographically isolated areas. They were overcrowded and understaffed. The staff that was in place was neither qualified nor

appropriately trained. There was an absence of policies and procedures in place in respect of reporting, investigating, and preventing physical, sexual and psychological abuse. Staff discipline was practically non-existent.

4. In consequence, the Training Schools contained a toxic environment in which degrading and humiliating treatment of children in the Crown's care was the norm, physical, sexual, and psychological abuse was rampant, and residents of the Training Schools were systematically denied their dignity and basic human rights.

5. Through the Crown's systemic negligence and breach of fiduciary duty, this improper conduct continued for decades. By providing its servants, employees, representatives and agents with the opportunities to abuse their power over these children in acts directly related to the physical and psychological intimacy inherent in their roles, the Crown is also vicariously liable for the physical, sexual and psychological abuse perpetrated by its servants, employees, agents and representatives on residents of the Training Schools.

B. THE PARTIES

(i) The Plaintiff

6. The plaintiff, Warwick Brown (hereinafter referred to as "**Rick**") is an individual residing in the City of Kitchener, in the Province of Ontario.

7. Rick was born on February 17, 1953.

8. Rick was admitted to Reception Centre for Boys – Bowmanville ("**Reception Centre, Bowmanville**") in or about 1963 at the age of 10 years old.

9. He resided at Reception Centre, Bowmanville for approximately 2 nights before being transferred to Ontario Training School for Boys – Cobourg (Brookside School ("**Brookside**"). Rick continued to reside at Brookside as a ward of the Crown, for approximately one (1) year.

(ii) The Defendant

10. The defendant, Her Majesty the Queen in right of the Province of Ontario is named in these proceedings pursuant to the provisions of the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P. 27, and the amendments thereto.

11. At all material times, the Crown owned and was responsible for the operation, funding and supervision of the Training Schools.

12. The Crown retained, employed and/or authorized servants, agents, representatives and employees to operate the Training Schools and gave instructions to such servants,

agents, representatives and employees as to the manner in which the Training Schools were to function and operate.

13. The Training Schools were created pursuant to the *The Ontario Training Schools Act, 1931*, S.O. 1931, c. 60 successor legislation (the "**Act**").

14. The Training Schools were under the sole jurisdiction and control of, and were operated by, the Crown.

15. The plaintiff brings this action pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 on his own behalf and on behalf of:

All persons who were alive as at December 8, 2015 who resided at any of the Training Schools between January 1, 1953 and April 2, 1984 during the time periods set out for each facility:

- (1) Pine Ridge School, Bowmanville (formerly The Ontario Training School for Boys) between January 1, 1953 and its closure in 1979;
- (2) Cold Springs Forestry Camp between January 1, 1963 and its closure in 1976;
- (3) Hillcrest School, Guelph (formerly known as Ontario Training School for Boys, Guelph) between January 1, 1953 and its closure in 1978;
- (4) Brookside School, Coburg (formerly Ontario Training School for Boys, Galt, and Ontario Training School for Boys, Northumberland and Ontario Training School for Boys, Coburg) between January 1, 1953 and April 2, 1984;
- (5) Trelawney House, Port Bolster (formerly known as Ontario Training School for Girls, Port Bolster Trelawney House) between August 1959 and its closure in 1973;
- (6) Kawartha Lakes School, Lindsay (formerly Ontario Training School for Girls, Lindsay) between 1962 and its closure in 1979;
- (7) Glendale School, Simcoe (formerly Ontario Training School for Boys, Simcoe) between 1962 and July 30, 1974;

- (8) White Oaks Village, Hagersville (formerly Ontario Training School for Boys, Hagersville (Junior School)) between 1966 and its removal from the regulations under the training schools legislation in 1978;
- (9) Sprucedale School, Hagersville (formerly Ontario Training School for Boys, Hagersville (Senior School)) between 1966 and April 2, 1984;
- (10) Cecil Facer School, Sudbury between 1971 and April 2, 1984;
- (11) Project DARE – Portage Lake between June 1971 and 1976;
- (12) Project DARE – Wendigo Lake, South River (formerly Project DARE Wendigo Lake) between 1972 and April 2, 1984;
- (13) Syl Apps Youth Centre (formerly Ontario Training School for Girls, Galt (Reception and Diagnostic Centre and the Reception and Assessment Centre, Oakville) between 1958 and April 2, 1984.

C. LEGISLATIVE HISTORY OF THE TRAINING SCHOOLS

16. In 1931, *An Act respecting Training Schools* was enacted by the Crown to establish the Training Schools. The Training Schools were purportedly established to provide boys and girls admitted therein with a mental, moral and vocational education and training with profitable employment.

17. The children admitted to the Training Schools became wards of the Crown.

18. When children were sentenced to reside at the Training Schools, the length of their sentences was indeterminate.

19. The Act permitted members of the Executive Council charged with the administration of the Training Schools to make regulations for care and control of residents of the Training Schools, including for:

- (a) the appointment of superintendents, officers, servants and employees of training schools as may be necessary;

- (b) fixing the age at which and the conditions under which boys and girls may be admitted to a training school and the period during which any boy or girl may be kept at a training school;
- (c) the conditions under which a boy or girl may leave or be discharged from a training school;
- (d) regulating the conduct, discipline, training and education of boys and girls admitted in residents to a training school; and
- (e) the management and direction of the affairs and maintenance of training schools.

20. Finally, the Act established the Ontario Training Schools Board (the "**Board**"), the members of which were appointed by the Lieutenant-Governor in Council and which was an agent of the Crown. The Board was given the responsibility to visit and inspect training schools and to investigate and ascertain the conditions of training schools and the welfare of girls and boys therein with respect to, among other things, their wardship, care, treatment, conduct and discipline.

21. In 1939, the Act was amended to require the Training Schools to be inspected by an officer of the Crown who was given free access to all parts of the Training Schools.

22. The Act was also amended to state the reasons children were admitted to the Training Schools, including any boy or girl under the age of sixteen who:

- (a) was found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms;
- (b) was found wandering and has not any home or settled place of abode or proper guardianship;
- (c) was found destitute, either being an orphan or having a surviving parent who is undergoing imprisonment;
- (d) was a habitual truant and whose parent or teacher represents that he is unable to control the boy or girl;

- (e) was by reason of the neglect, drunkenness or other vices of his parents suffered to grow up without salutary parental control and education, or in circumstances exposing him, to lead an idle and dissolute life;
- (f) has been accused or found guilty of petty crime; or
- (g) proved unmanageable or incorrigible.

23. In addition to these criteria, the Act provided the following admissions criteria:

- (a) any person under the age of sixteen (16) years that was convicted of an offence punishable by imprisonment may be sent to a Training School; and
- (b) any ward of a children's aid society, or any boy or girl whose parents or guardians consent thereto, and who was, in the opinion of the Minister, in need of training and discipline, could be admitted to a Training School.

24. Finally, discretion was granted to the Minister to make regulations concerning the

Training Schools, including:

- (a) prescribing the powers and duties of the Board;
- (b) prescribing the powers and duties of superintendents, including the control which they may exercise over girls and boys;
- (c) prescribing the vocational education, training and employment to be provided and setting standards of instruction; and
- (d) regarding the management, discipline, government and control of the Training Schools and the maintenance of the buildings, premises and equipment thereof.

25. In 1960, the "incorrigible" criterion was removed from the Training School admissions criteria.

26. In 1965, the Training Schools admission criteria was amended to provide that a judge may order a child under sixteen years of age to be sent to a Training School where:

- (a) the parent or guardian of the child is unable to control the child or to provide for his social, emotional or educational needs;

- (b) the care of the child by any other agency would be insufficient or impracticable; and
- (c) the child needs the training and treatment available at a Training School.

27. In addition, the Act was amended to permit a child between the ages of twelve (12) and sixteen (16) to be sent to a Training School if the child contravened any statute in force in Ontario, which contravention would be punishable by imprisonment if committed by an adult.

28. The Training Schools operated under the auspices of the Ministry of Reform Institutions until 1968, the Ministry of Correctional Services from 1968 until 1977 and the Ministry of Community and Social Services from 1977 to 1984.

29. On April 2, 1984, the Act was repealed and the Training Schools era ended.

D. MISTREATMENT AND ABUSE OF THE CLASS MEMBERS

30. The environment at the Training Schools was one of fear, intimidation and brutality.

31. Every aspect of the Class members' lives was dictated and controlled by the Crown. The Class members' abilities to make choices or have any control over their daily lives were extremely limited or non-existent.

32. Residents who were admitted to the Training Schools were cut off from their families. Residents were not permitted to visit or communicate with their families.

33. Staff members hired by the Crown to work at the Training Schools were not qualified, nor did they receive appropriate training. At all material times staff at the Training Schools were unskilled and unsuitable for dealing with children in their care.

34. Training School staff members did not receive appropriate supervision.

35. The Training Schools facilities were not suitable or appropriate for residential facilities for troubled youth.

36. Children were committed to the Training Schools for indeterminate sentences. So-called "bad behavior", including the reporting of physical, sexual and psychological abuse, served to lengthen Class members' sentences. This institutional barrier caused and contributed to the Training Schools' toxic environment.

37. The Training Schools did not have appropriate procedures for reporting or investigating physical, sexual or psychological abuse. Adequate internal safeguards were not put into place to adequately prevent physical, sexual or psychological abuse of Class members or improve the conditions that led to their abuse.

38. The Crown did not act to prevent or ensure that abuse was reported which was occurring and being perpetrated upon the Class members. The Crown was aware of the Class members' extreme vulnerability and ought to have established appropriate policies and procedures to ensure individuals resided in an inherently safe environment. The Crown failed to do so.

39. Inappropriate, cruel and degrading punishment perpetrated on Class members was a frequent and excessive feature of Training Schools discipline imposed by the staff. For example:

- (a) when staff members accused a Class member of misbehaving, staff members would force other Class members to physically abuse the accused, causing physical injury to the accused and psychological injury to his or her peers;
- (b) staff members themselves regularly physically assaulted Class members both as punishment and for their amusement;
- (c) the blanket treatment was often applied to Class members, whereby a blanket was placed over a resident and that resident was physically abused by staff members and peers;
- (d) lengthy terms in solitary confinement – the "hole" - was frequently used as a form of punishment for Class members, in which Class members were confined, often with their feet shackled and wrists cuffed;
- (e) Class members were not permitted to go to the washroom and instead were forced to soil themselves; and
- (f) Class members were forced to scrub floors with toothbrushes and sleep on the floor.

40. Finally, as detailed below, staff members frequently demanded that Class members engage in sexual acts with them, often for the provision of privileges.

41. At all material times, the Crown had knowledge of its failures in establishing, funding, operating, managing, supervising, and controlling the Training Schools. The Crown failed to reasonably consider or act upon its knowledge of these problems that had been provided to it through its own commissioned reports, residents, family members of Class members and its own professional staff.

42. In addition to failing to provide proper resident care, in all respects, the Crown was also aware of the abuse occurring at the Training Schools, and the conditions that led to

such abuse, yet failed to take any reasonable action to prevent it from continuing or occurring.

43. As a result of the toxic environment arising from systematic breaches, all members of the Class suffered damage.

E. THE PLAINTIFF'S EXPERIENCES AT THE TRAINING SCHOOLS

44. Rick was sent to Reception Centre, Bowmanville before being sent to Brookside for one (1) year at the age of ten (10), pursuant to court order. Rick was not convicted of any crime before being sent to Reception Centre, Bowmanville or Brookside.

45. At Brookside, Rick frequently experienced and witnessed physical abuse by staff members. Rick lived in constant fear that he would face retribution from the staff, either in response to his actions or the actions of another resident.

46. One staff member frequently took residents to the locker room and forced them to stand with their backs to the lockers while holding their arms out in front of their bodies for long periods of time. When Rick and the other children dropped their arms due to the pain of keeping them held up, the staff member would punch them in the stomach.

47. The same staff member also frequently forced residents to stand with their heads in their lockers and their hands behind their backs. The staff member would then quietly pace around the locker room and shove students head first into the lockers.

48. On another occasion, Rick was told to rake leaves outside the front of the school building. While performing this work, the same staff member took the rake and broke the handle over Rick's head, permanently scarring him.

49. Rick suffered a similar assault while waxing the washroom floors of the residence. A staff member came up behind him and kicked his legs out from underneath him causing Rick to fall down and split his knee open to the bone. Rick was sent to the Brookside infirmary. The nurse who treated him did not ask how he was injured. He was later forced to go on a 10-mile march while his knee was still healing, causing him a significant amount of pain.

50. This same staff member assaulted Rick on another occasion as punishment for "horsing around". The staff member took Rick and another resident by their ears to the gymnasium. He put the two boys in separate corners and then repeatedly hit the other resident while Rick watched. The staff member then turned to Rick and punched him in the stomach, sending him flying into the wall. He repeatedly punched Rick over his body and head, and then switched to slapping Rick's ears. After Rick fell onto his side, the staff member kicked him in the stomach and knocked him unconscious.

51. When Rick awoke in the infirmary, he was unable to hear. While his hearing improved over time, he still has scar tissue on his eardrums. The nurse who treated Rick did not ask him how he was injured.

52. Rick also saw staff members physically abusing other residents on a number of occasions. Residents were punched, kicked, and thrown into lockers by staff members. On one occasion, a staff member entered the student dorm around 9:30 or 10:00 p.m. He

approached a child and told him to get out of bed. When he refused, the staff member pulled him out of bed and beat him repeatedly. After the child was carried out of the room, Rick and another resident were told to clean the blood off of the floor.

53. In addition to the physical abuse he sustained while at Brookside, Rick frequently observed staff members placing residents in solitary confinement as punishment for small forms of misbehaviour. On at least one occasion, a resident was sent to solitary confinement for thirty (30) days.

54. Rick never felt safe or secure while he was at Brookside. He lived in a constant state of fear from physical and psychological abuse. Due to this climate of fear, Rick did not feel safe enough to report the abuse he experienced and observed.

55. Rick now suffers from anxiety, depression, and post-traumatic stress disorder. He continues to have nightmares and flashbacks of the abuse he experienced at Brookside.

56. In addition, Rick has difficulty maintaining relationships with family members and friends, and suffers from trust issues with authorities.

G. CAUSES OF ACTION

(i) Negligence

57. The Crown had sole jurisdiction over residents of the Training Schools. The Crown owed a duty of care to the plaintiff and to the Class.

58. At all material times, the Crown was the legal guardian of the plaintiff and the Class, who were wards of the Crown.

59. The Crown accepted control over the plaintiff and the Class. The Crown operated, managed, controlled and ought to have properly supervised the Training Schools.

60. The duty of care is informed by the power imbalance between the Crown and the Class, and in particular, the vulnerability of such children vis-à-vis the Crown. The Crown had exclusive power and influence over these children who were vulnerable and dependent on the Crown for all of their needs, including their sustenance, shelter, and their developmental, educational, and recreational needs.

61. The Crown had direct contact and daily interaction with the plaintiff and the Class.

62. The Crown knew or ought to have known that its servants, employees, agents and representatives were physically and sexually abusing the plaintiff and the Class.

63. The reasonable standard of care expected in the circumstances required the Crown to:

- (a) have in place and follow appropriate standards of conduct, policies and procedures to adequately, properly and effectively staff the Training Schools, including adequate levels of professional staff;
- (b) properly screen, investigate, and vet its servants, employees, agents and representatives' background and character prior to accepting them as servants, employees, agents or representatives of the Training Schools;
- (c) have in place and follow appropriate standards of conduct, policies and procedures to adequately, properly and effectively train its servants, employees, agents and representatives;
- (d) have in place and follow appropriate standards of conduct, policies and procedures to ensure that only qualified servants, employees, agents and representatives are employed, appointed, or otherwise utilized by the Crown;
- (e) have in place and follow appropriate standards of conduct, policies and procedures to adequately, properly and effectively supervise its servants, employees, agents and representatives;

- (f) have in place and follow appropriate standards of conduct, policies and procedures to ensure that the Training Schools were not overcrowded;
- (g) have in place and follow appropriate standards of conduct, policies and procedures to ensure that the Training Schools' facilities were adequately maintained and in suitable condition for residential life;
- (h) have in place and follow appropriate standards of conduct, policies and procedures to ensure that its servants, employees, agents and representatives would not endanger the health or well-being of the plaintiff and the Class;
- (i) have in place and follow appropriate standards of conduct, policies and procedures to prevent physical, sexual or psychological abuse and to investigate and pursue physical, sexual, and psychological abuse allegations against its servants, employees, agents and representatives with due diligence;
- (j) have in place and follow appropriate standards of conduct, policies and procedures to prevent and end physical, sexual or psychological abuse upon learning of a complaint;
- (k) have in place and follow appropriate standards of conduct, policies and procedures to take appropriate disciplinary action, including termination, following incidents of physical, sexual or psychological abuse;
- (l) have in place and follow appropriate standards of conduct, policies and procedures to use reasonable care to ensure the safety, well-being and protection of the plaintiff and the Class;
- (m) have in place and follow appropriate standards of conduct, policies and procedures to provide the plaintiff and the class with a program and system through which abuse would be recognized and reported;
- (n) ensure that the standards of conduct, policies and procedures, and any changes in standards of conduct, policies and procedures were communicated and properly understood throughout the Training Schools, and in particular, to the Crown's servants, employees, agents and representatives;
- (o) ensure that the decision making process concerning the management of incidents of physical, sexual and psychological abuse is consistently applied;
- (p) ensure that the investigative processes concerning incidents of physical, sexual, and psychological abuse is consistently applied; and
- (q) have in place and follow appropriate standards of conduct, policies and procedures to communicate incidents of suspected physical, sexual and psychological abuse and criminal acts against the plaintiff and the Class to the authorities.

64. The Crown breached the standard of care on a class-wide, systemic basis, in the following respects:

- (a) failing to have in place and follow appropriate standards of conduct, policies and procedures to adequately, properly and effectively staff the Training Schools, including adequate levels of professional staff;
- (b) failing to properly screen, investigate, and vet its servants, employees, agents and representatives' background and character prior to accepting them as servants, employees, agents or representatives of the Training Schools;
- (c) failing to have in place and follow appropriate standards of conduct, policies and procedures to adequately, properly and effectively train its servants, employees, agents and representatives;
- (d) failing to have in place and follow appropriate standards of conduct, policies and procedures to ensure that only qualified servants, employees, agents and representatives are employed, appointed, or otherwise utilized by the Crown;
- (e) failing to have in place and follow appropriate standards of conduct, policies and procedures to adequately, properly and effectively supervise its servants, employees, agents and representatives;
- (f) failing to have in place and follow appropriate standards of conduct, policies and procedures to ensure that the Training Schools were not overcrowded;
- (g) failing to have in place and follow appropriate standards of conduct, policies and procedures to ensure that the Training Schools facilities were adequately maintained and in suitable condition for residential life;
- (h) failing to have in place and follow appropriate standards of conduct, policies and procedures to ensure that its servants, employees, agents and representatives would not endanger the health or well-being of the plaintiff and the Class;
- (i) failing to have in place and follow appropriate standards of conduct, policies and procedures to prevent physical, sexual or psychological abuse and to investigate and pursue physical, sexual, and psychological abuse allegations against its servants, employees, agents and representatives with due diligence;
- (j) failing to have in place and follow appropriate standards of conduct, policies and procedures to prevent and end physical, sexual or psychological abuse upon learning of a complaint;

- (k) failing to have in place and follow appropriate standards of conduct, policies and procedures to take appropriate disciplinary action, including termination, following incidents of physical, sexual or psychological abuse;
- (l) failing to have in place and follow appropriate standards of conduct, policies and procedures to use reasonable care to ensure the safety, well-being and protection of the plaintiff and the Class;
- (m) failing to have in place and follow appropriate standards of conduct, policies and procedures to provide the plaintiff and the class with a program and system through which abuse would be recognized and reported;
- (n) failing to ensure that the standards of conduct, policies and procedures, and any changes in standards of conduct, policies and procedures were communicated and properly understood throughout the Training Schools, and in particular, to the Crown's servants, employees, agents and representatives;
- (o) failing to ensure that the decision making process concerning the management of incidents of physical, sexual and psychological abuse is consistently applied;
- (p) failing to ensure that the investigative processes concerning incidents of physical, sexual, and psychological abuse is consistently applied; and
- (q) failing to have in place and follow appropriate standards of conduct, policies and procedures to communicate incidents of suspected physical, sexual and psychological abuse and criminal acts against the plaintiff and the Class to the authorities.

65. At all material times, the Crown had knowledge of these failures.

66. Appropriate internal safeguards were not put into place to adequately prevent or report abuse of the Class or improve the conditions that led to abuse of Class, and adequate steps were not taken to improve the quality of care or living at the Training Schools.

67. The Crown knew or ought to have known that, as a consequence of the above-documented failures, that the plaintiff and the Class would suffer immediate and long-term damages.

68. These damages were not too remote as they were a direct consequence of the Crown's failures.

(ii) Breach of Fiduciary Duty

69. The Crown owed the Class members, as individuals in its sole care and control, a fiduciary duty, which included a duty to care for and protect them and to not put its interests ahead of the interests of the plaintiff and the Class.

70. The Crown created, planned, established, set up, initiated, operated, financed, supervised, controlled, and regulated the Training Schools.

71. All individuals who resided at the Training Schools did so as wards of the Crown, with the Crown as their guardian, and were persons to whom the Crown owed the highest non-delegable, fiduciary, moral, statutory and common law duties, which included, but were not limited to:

- (a) the duty to ensure that reasonable care was taken of the Class members;
- (b) the duty to protect the Class members while at the Training Schools;
- (c) the duty to protect the Class members from intentional torts perpetrated on them while at the Training Schools; and
- (d) the special responsibility to ensure the safety of the Class members while at the Training Schools.

72. Amongst other things, the Crown was solely responsible for:

- (a) decisions, procedures, regulations promulgated, operations and actions taken by the Crown and its servants, employees, representatives and agents;

- (b) the construction, operation, maintenance, ownership, financing, administration, supervision, inspection, and auditing of the Training Schools;
- (c) the promotion of the health, safety and well-being of the plaintiff and the Class members;
- (d) for the care and supervision of all members of the Class while they resided at the Training Schools during the class period and for the supply of all the necessities of life to Class members, *in loco parentis*, during the class period;
- (e) for inspection and supervision of the Training Schools and all activities that took place therein and for full and frank reporting to the Class members' families with respect to conditions at the Training Schools and all activities that took place therein during the class period; and
- (f) for communication with and reporting to the Class members' families with respect to the activities and experiences of Class members while residing at the Training Schools during the Class period.

73. At all material times, the plaintiff and the Class members were entirely and exclusively within the power and control of the Crown or its servants, employees, representatives or its agents, and were subject to the unilateral exercise of the Crown's or its delegate's power or discretion.

74. By virtue of the relationship between the plaintiff and the Class members as children and the Crown, being one of trust, reliance and dependence, the Crown owed a fiduciary obligation to ensure that the plaintiff and the class members were treated in all ways consistent with the obligations of a party standing in *loco parentis* to an individual under his or her care or control.

75. The plaintiff and the class members were entitled to rely and did rely upon the Crown to their detriment to fulfill its fiduciary obligations, the particulars of which include, but are not limited to, those duties set out in paragraph 64, above.

76. At all material times, the Crown owed a fiduciary duty to the plaintiff and the class members to act in the best interests of those individuals and to protect them from physical, sexual and psychological abuse.

77. In failing to give proper consideration and to take reasonable steps to protect the plaintiff and the class members from physical, sexual and psychological abuse, the Crown breached its fiduciary duty on a class-wide and systemic basis by failing to meet its obligations set out in paragraph 65, and by breaching the Class members' trust by putting its own interests ahead of the interests of the plaintiff and the class by ignoring, remaining wilfully blind and permitting the conduct of its servants, employees, agents and representatives in order to avoid trouble, scrutiny and unwanted publicity.

78. By having knowledge of the circumstances of the abuse of Class members and foresight of the consequences of such abuse, the Crown also breached its fiduciary duty by intentionally acting to the detriment of the Class.

(iii) Vicarious Liability

79. The Crown is vicariously liable for the physical, sexual and psychological sexual abuse committed by its servants, employees, agents and representatives to the Class members.

80. By virtue of its quasi-parental, or in *loco parentis*, responsibility for the safety, care and control of residents, the Crown is vicariously liable for the harms perpetrated upon residents by the Crown's servants, employees, representatives and agents.

81. The relationship between the Crown and its servants, employees, agents and representatives was close and direct. The Crown exercised or ought to have exercised control over its employees, agents and representatives including the power of assignment and supervision, the power to remove and the power to discipline them.

82. The Crown's servants, employees, agents and representatives were afforded the opportunity to abuse their power over and to physically, sexually, and psychologically abuse Class members by virtue of their relationship with the Crown:

- (a) they were constantly placed in direct contact with Class members;
- (b) they were provided with opportunities to physically, sexually, and psychologically abuse Class members by virtue of their employment or representation of the Crown;
- (c) the physical, sexual, and psychological abuse committed by the Crown's employees, agents and representatives took place while the Class members were participating in programs or activities required by the Crown;
- (d) they were permitted to be alone with the Class members and supervise them in intimate activities, such as bathing and toileting;
- (e) by virtue of their roles with the Crown, its servants, employees, agents and representatives were conferred with power over Class members, including power to organize, discipline, and train them; and
- (f) by virtue of their power and authority as servants, employees, agents and representatives of the Crown, they were allowed and encouraged to exercise a degree of control over the Class members that was parental in nature.

83. The Crown's servants, employees, agents and representatives' physical, sexual, and psychological abuse was directly related to the friction, confrontation and psychological intimacy inherent in their roles:

- (a) the Crown was responsible for disciplining the Class members;

- (b) the Crown encouraged physical and psychological intimacy between its servants, employees, agents and representatives and the Class members;
- (c) the Crown's servants, employees, agents and representatives and the Class members were in a parent-like and role-model relationship;
- (d) the Crown's servants, employees, agents and representatives taught the plaintiff and the Class members the differences between right and wrong and they represented authority figures to them; and
- (e) this psychological intimacy encouraged the plaintiff and the Class members' submission to the Crown's servants, employees, agents and representatives abuse increased their opportunity to physically, sexually, and psychologically abuse the plaintiff and the Class members.

84. The Crown conferred significant power on its servants, employees, agents and representatives relative to the Class members who were vulnerable to the wrongful exercise of their power, in part because:

- (a) the Class members were children;
- (b) the length of the Class members' detention was indeterminate;
- (c) the Crown required the exercise of power and authority for its own successful operation, and it required and encourages its servants, employees, agents and representatives to stand in a position of respect, which was required for the successful operation of the Training Schools; and
- (d) the Training Schools were located in geographically isolated areas, which enhanced the opportunity for, extent, and frequency of physical, sexual, and psychological abuse remaining unchecked for years.

85. The relationship between the Crown's servants, employees, agents and representatives and the Crown was close and direct. The connection between the Crown's servants, employees, agents and representatives and the Crown created and enhanced the risk of physical, sexual and psychological abuse.

H. DAMAGES SUFFERED BY THE CLASS

86. The Crown knew, or ought to have known, that as a consequence of its negligence, breach of fiduciary duty and vicarious liability, the plaintiff and the Class members would suffer significant physical, mental, emotional, psychological and spiritual harm which would adversely affect their relationships with their families and the community at large.

87. As a result the defendants' negligence, breach of fiduciary duty and vicarious liability, the Class members suffered and continue to suffer damages which include, but are not limited to the following:

- (a) physical consequences such as vaginal and anal lacerations, bleeding, and broken bones and skin;
- (b) emotional and psychological damages;
- (c) exacerbation of mental disability and deprivation of healing opportunities;
- (d) impairment of mental and emotional health and well-being;
- (e) an impaired ability to trust other persons;
- (f) an impaired ability to participate in normal family affairs and relationships;
- (g) alienation from family members;
- (h) depression, anxiety, emotional distress and mental anguish;
- (i) pain and suffering;
- (j) a loss of self-esteem and feelings of humiliation and degradation;
- (k) an impaired ability to obtain and sustain employment, resulting either in lost or reduced income and ongoing loss of income;
- (l) an impaired ability to deal with persons in positions of authority;
- (m) an impaired ability to trust other individuals or to sustain relationships;
- (n) a sense of isolation and separateness from their community;
- (o) a requirement for medical or psychological treatment and counselling;

- (p) an impaired ability to enjoy and participate in recreational, social and employment activities;
- (q) an impaired ability to engage in spiritual communities and beliefs;
- (r) loss of friendship and companionship;
- (s) suicide attempts and suicide;
- (t) alcoholism and drug dependency;
- (u) sexual disorientation; and
- (v) loss of general enjoyment of life.

88. As a result of the injuries referred to above, the Class members have required and will continue to require further medical treatment, rehabilitation, counselling and other care. The plaintiff and other Class members will require future medical care and rehabilitative treatment, or have already required such services, as a result of the Crown's conduct.

I. PUNITIVE DAMAGES

89. The high handed and callous conduct of the Crown warrants the condemnation of this Honourable Court. The Crown conducted its affairs with wanton and callous disregard for the class members' interests, safety and well-being. In all the circumstances, the Crown breached, and continued to breach, their duty of care and fiduciary duty owed to the plaintiff and class members.

90. In these circumstances, the plaintiff and the class request punitive damages to demonstrate to other institutions that such wilfully irresponsible and tortious behaviour will not be tolerated and will act as a deterrent to other institutions in Canada who are

responsible for the physical, developmental, and spiritual well-being and development of youth.

91. This action is commenced pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6

92. Notice of this action pursuant to the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P.27 was provided to the Crown by letter dated July 26, 2017.

93. The trial of the action should take place in the city of Thunder Bay, in the Province of Ontario.

May 6, 2021

KOSKIE MINSKY LLP

20 Queen Street West

Suite 900

PO Box 52

Toronto ON M5H 3R3

Jonathan Ptak LS#: 45773F

Tel: (416) 595-2149 / Fax: (416) 204-2903

Lawyers for the Plaintiff

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Thunder Bay
Proceedings under the *Class Proceedings Act, 1992*

**FRESH AS AMENDED STATEMENT OF
CLAIM**

KOSKIE MINSKY LLP
20 Queen Street West
Suite 900
PO Box 52
Toronto ON M5H 3R3

Jonathan Ptak LS#: 45773F
Tel: (416) 595-2149 / Fax: (416) 204-2903

Lawyers for the Plaintiff

Schedule "D" – Youth Court Order

IN THE YOUTH JUSTICE COURT OF ONTARIO

Sitting under the provisions of the
Youth Criminal Justice Act, SC 2002, c. 1

IN THE MATTER OF an application by Warwick Brown, representative plaintiff in a class action bearing Superior Court File No. CV-25-742100-CP (the "**Class Action**"), on behalf of the members of the class he represents (the "**Class Members**"), for an Order, pursuant to paragraph 119(1)(s) and section 123 of the *Youth Criminal Justice Act*, S.C. 2002, c.1, ("**YCJA**"), for access to, disclosure of and use of records.

AND IN THE MATTER OF certain records retained or prepared pursuant to, or which are otherwise subject to, the *YCJA* or predecessor statutes, specifically section 116 records, relating to members of the above-mentioned Class Action held in the custody and control of the His Majesty the King in Right of the Province of Ontario (the "**HMKO**").

ORDER

WHEREAS, pursuant to the Order of the Ontario Superior Court of Justice dated December 4, 2018 (the "**Certification Order**"), the class represented by the Applicant was certified to include "all persons who were alive as at December 8, 2015 who resided at any of the Training Schools between January 1, 1953 and April 2, 1984 during the time period set out for each facility" (the "**Class**" or "**Class Members**").

AND WHEREAS an application has been made by the Applicant, Warwick Brown, on behalf of the Class Members he represents in the Class Action, for an Order pursuant to paragraphs 119(1)(s) and (6) and section 123 of the *YCJA*, that Class Members, and others as specified in this Order be permitted to have access to, disclosure of and be permitted to use copies of records as defined by subsection 2(1) and kept pursuant to section 116, including records made pursuant to section 34 of the *YCJA* (or any similar records under predecessor legislation), created pursuant to or otherwise subject to the *YCJA* arising from or related to their attendance, detention or residency at any of the Training Schools included in the Certification Order (the "**Records**").

AND WHEREAS an Order is necessary to ensure timely access to the Records for Class Members who wish to rely on them in submitting a claim pursuant to the claims process established pursuant to a proposed settlement reached by the parties in the Class Action ("**Settlement**"), which is subject to the approval of the Superior Court.

AND WHEREAS the representative plaintiff does not have access to this information about himself or other Class Members.

AND WHEREAS I am satisfied that the persons to whom access to these Records would be given have a valid and substantial interest in these Records or are necessary recipients in order to produce Records to the Class Members.

AND WHEREAS I am satisfied that it is desirable and necessary that these Records be made available in the interest of the proper administration of justice.

AND WHEREAS I am informed that these Records will not be used in any public proceeding in the Class Action bearing Ontario Superior Court of Justice Court File No CV-25-742100-CP without further application to this Court.

1. **IT IS ORDERED** that in accordance with the provisions of paragraph 119(1)(s) and (6) and section 123 of the *YCJA*, the Records may be accessed and disclosed to the persons identified in paragraph 3 below, subject to the following conditions:
 - a) this Order is conditional on the Superior Court of Justice approving the Settlement in the Class Action bearing Ontario Superior Court of Justice Court File No CV-25-742100-CP. The Settlement provides a process for the production of the Class Members' respective Records upon request pursuant to the deemed undertaking rule contained in rule 30.1.01(3) of the *Rules of Civil Procedure*. If the proposed Settlement is not approved by the Ontario Superior Court, this Order shall be immediately rendered null and void;
 - b) the Records are to be accessed, disclosed, and copied only for the purpose of permitting Class Members to submit a claim pursuant to the claims process pursuant to the Settlement in the Class Action. This Order shall be placed before the Superior Court of Justice at the settlement approval hearing of the Class Action;
 - c) the Records shall be maintained in conditions of strict confidentiality and shall not be reproduced, disclosed, or published in any way except as provided for in this Order or as authorized under the *YCJA*; and
 - d) within 120 days of the conclusion of the administration process pursuant to the Settlement, if approved by the Superior Court of Justice in this Class Action, the recipients of the Records under this Order, except for class members, shall ensure that all copies of the Records are destroyed.
2. **IT IS FURTHER ORDERED** that in accordance with subsection 123(4) of the *YCJA*, the requirement that the Applicant give notice to the individuals to whom the Records relate is hereby waived.
3. **IT IS FURTHER ORDERED** that the following persons are permitted access, disclosure and may use the Records for the sole purpose of carrying out the terms of the Settlement if approved by the Superior Court:
 - a) each Class Member who requests his or her records for the purpose of making a claim in the claims process prescribed by the Settlement as approved by the Superior Court of

Justice in the Class Action;

- b) the solicitors for the Applicant herein and their employees;
- c) HMKO and its employees, legal representative and insurers;
- d) third party document management service providers retained by either HMKO or Class Counsel; and
- e) the claims administrator as appointed by the Superior Court of Justice in accordance with the Settlement in the Class Action.

4. IT IS FURTHER ORDERED that there will be no costs ordered on this application.

DATE:
