

**T.L. CLASS ACTION
SETTLEMENT AGREEMENT**

Between

T.L. (by his/her litigation guardian the Public Guardian and Trustee)

– and –

Her Majesty the Queen in right of the Province of British Columbia (Ministry of Children
and Family Development)

– and –

Interior Savings Credit Union

Dated for reference July 9, 2020

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Recitals

WHEREAS:

- A. Robert Riley Saunders (“**Saunders**”) was employed as a social worker by Her Majesty the Queen in right of the Province of British Columbia (Ministry of Children and Family Development) (the “**Province**”) and delegated duties by the director designated under the *Child, Family and Community Service Act*, [RSBC 1996], c.46 (the “**CFCSA**”) (the “**Director**”) from 1996 until his employment was suspended and then terminated in 2018. From April 1, 2001 until his termination in 2018, Saunders acted as a social worker in a guardianship role in Kelowna, British Columbia and nearby areas. A majority of the children on his case load were Indigenous children.
- B. Interior Savings Credit Union (“**Interior Savings**”) is a financial institution in British Columbia. Saunders opened bank accounts at Interior Savings with some children in care and deposited funds allocated to children in care in the joint bank accounts and then transferred the funds to his own individual account at Interior Savings.
- C. On November 6, 2018, action S1811960 was commenced in the British Columbia Supreme Court, Vancouver Registry, on behalf of R.O., a minor in the continuing custody of the Director, by his/her litigation guardian the Public Guardian and Trustee of British Columbia (“**PGT**”), as a proposed class proceeding against Saunders, the Province and Interior Savings that advances claims on behalf of current and former youth for whom Saunders acted as a social worker (the “**Action**”).
- D. On June 4, 2020, the Honourable Mr. Justice A. Ross ordered, by consent, that the minor T.L. as represented by his/her litigation guardian, the PGT (the “**Plaintiff**”), be substituted as the representative plaintiff in the Action, and that Interior Savings be removed as a defendant in the Action.
- E. As a guardianship social worker, Saunders had guardianship responsibilities for children who were in the custody of the Director pursuant to temporary custody orders and continuing custody orders under the *CFCSA*. Saunders’ responsibilities included planning for and providing services to Indigenous and non-Indigenous children in a manner that aligned with the *CFCSA* guiding and service delivery principles and upheld their rights as children in care. Under the provisions of the *CFCSA* in effect while Saunders was a guardianship worker, Saunders had a responsibility to ensure that Indigenous children received guidance and encouragement to maintain their cultural identity and should have taken steps to preserve their kinship ties and cultural identities. Saunders did not do so.

- F. The Province admits that Saunders harmed children in the Director's care for whom he had responsibility in his capacity as a social worker and that the Province is vicariously liable for the harm caused by Saunders. This harm includes neglect, misappropriation of funds and failure to plan for the children's welfare and, with respect to Indigenous children, failure to take steps to preserve their cultural identities.
- G. The Province acknowledges the importance of the Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous People and further acknowledges the importance of reconciliation.
- H. The Province has commenced an action against Saunders for recovery of provincial funds in British Columbia Supreme Court Victoria Registry Action No. 181560.
- I. A number of potential class members who are adults have filed individual civil actions against the Province, Interior Savings, Saunders, and others arising from acts or omissions of Saunders. Some of these adults have signed agreements with the Province, which include a term requiring them to opt out of this class proceeding.
- J. Two individuals, who were otherwise potential class members, are known to be deceased.
- K. Unless otherwise indicated, the term "**Parties**" refers to the Plaintiff and the Province but does not refer to Interior Savings.
- L. The Parties agree that the safety and well-being of children are paramount, and children are entitled to be protected from abuse, neglect, harm and threat of harm. The Parties agree that the process for compensating class members harmed by Saunders should avoid causing further harm.
- M. The Parties and Interior Savings desire a fair, comprehensive and lasting resolution of the proposed class proceeding.

TERMS

Now therefore, in consideration of the mutual agreements, covenants and undertakings set out herein, the Parties and Interior Savings hereby agree as follows:

Definitions

1. In addition to those terms defined in the recitals and the body of this Settlement Agreement, the following terms are defined in this agreement and have the same meaning if plural or singular, or if a different tense of the word is used:
 - a. "Action" means Action No.S1811960 filed in the Supreme Court of British Columbia, Vancouver Registry;
 - b. "Adjudicator" means a member of the Law Society of British Columbia who appears in the list attached as Schedule A to this Settlement Agreement;
 - c. "Basic Payment" is as defined in paragraph 40 of this Settlement Agreement;
 - d. "Basic Payment Cheque" means the form of payment for a Basic Payment amount minus Legal Fees;
 - e. "Certification Date" means the date the Certification Order is made by a Judge of the Supreme Court of British Columbia;
 - f. "Certification Order" means the order certifying the Action as a class proceeding pursuant to the *Class Proceeding Act*, [RSBC 1996], c. 50;
 - g. "Class Action" refers to the Action after certification by the Court under the *Class Proceeding Act*, [RSBC 1996], c. 50;
 - h. "Class Counsel" means Jason Gratl, a practicing member of the Law Society of British Columbia, and includes staff employed or contracted by Jason Gratl, Jason Gratl Law Corporation or Gratl & Company;
 - i. "Class Member" is as defined in paragraph 3(a) of this Settlement Agreement, and includes Indigenous Sub-class Members;
 - j. "Court" means a Judge of the Supreme Court of British Columbia;
 - k. "Deposit" includes cashing, endorsing, or otherwise negotiating a cheque, bank draft, money order or other negotiable instrument, accepting an electronic transfer of funds, and includes a direct deposit;
 - l. "Director" means the director designated under the *CFCSA*;
 - m. "Elevated Damages Adjudication Form" means the form appended to this Settlement Agreement as Form G;
 - n. "Elevated Damages Application Form" means the form appended to this Settlement Agreement as Form C;

- o. "Elevated Psychological Damages Assessment Form" means the form appended to this Settlement Agreement as Form E;
- p. "Form A – Class Membership Application Form" means the form appended to this Settlement Agreement as Form A;
- q. "Form A Application Deadline" means a date that is 24 months from the date of the Settlement Order, or whichever period of time the Court orders, to submit the Form A Application;
- r. "Indigenous Basic Payment" means the amount payable to Class Members who are also Indigenous Sub-class Members as set out in paragraph 3(b) of this Settlement Agreement;
- s. "Indigenous Child" has the same meaning as defined in section 1(1) of the *CFCSA* as it read on September 18, 2019;
- t. "Indigenous Sub-class Member" is as defined in paragraph 3(b) of this Settlement Agreement;
- u. "Interior Savings Account List" means the list of individuals who had accounts with Saunders at Interior Savings, including the name of each individual and the account number of each account;
- v. "Legal Fees" means legal fees in the amount of 12.5% of any amounts agreed upon or awarded to a Class Member as provided for by this Settlement Agreement (excluding PGT management fees), plus any applicable Goods and Services Tax and Provincial Services Tax or any alternative amount approved as legal fees by the Court. Legal fees payable under this agreement are inclusive of disbursements;
- w. "Notice of Dispute Form" means the form appended to this Settlement Agreement as Form D;
- x. "Opt Out Form" means the form appended to this Settlement Agreement as Form B;
- y. "Opt Out Period " means the period commencing from the date of the Certification Order and ending 24 months after the date of the Settlement Order, or whichever period of time the Court orders;
- z. "Opt Out List" means a list of the names and birthdates of:
 - i. any individuals eligible for class membership who have signed agreements with the Province to opt out of this Class Action;
 - ii. any Class Member who delivers the Opt Out Form in Form B to the Province within the Opt Out Period, provided the individual

has not Deposited any payment under this Settlement Agreement; and

iii. any individuals who are deemed by the Court to have opted out of participation in this Class Action;

aa. "PGT" is the Public Guardian and Trustee of British Columbia;

bb. "Settlement Order" means the order the Court makes approving the material terms of this Settlement Agreement, if such an order is made.

Court Approval

2. The Parties and Interior Savings acknowledge that this Settlement Agreement is subject to Court approval pursuant to the *Class Proceedings Act*, [RSBC 1996], c. 50, and the *Infants Act*, [RSBC 1996], c. 223.

Certification of Class Action

3. The Parties consent to and support the certification of the proposed class action, and agree to the following:

- a. the class consists of all individuals subject to any of the following under the *CFCSA* as it read on or before January 1, 2018;
 - i. continuing custody order;
 - ii. temporary custody order;
 - iii. agreement with a youth as set out in section 12.2 of the *CFCSA*;
 - iv. voluntary care agreement as set out in section 6 of the *CFCSA*;
or
 - v. special needs agreement as set out in section 7 of the *CFCSA*;
and

and who, commencing on or after April 1, 2001, were assigned to the caseload of Saunders for at least 90 consecutive days and who were under the age of 19 at all times during those 90 consecutive days. Assignment to Saunders' caseload consists of express or implicit delegation to Saunders as a case for which he was responsible while the orders or agreements above were in effect.

(the "**Class Members**")

b. There will be a sub-class consisting of any Class Members who:

- i. were Indigenous Children, as that term (i.e.: Indigenous Child) is defined by the *CFCSA* as it read on September 18, 2019; and
- ii. were the subject of a continuing custody order or temporary custody order while on Saunders' caseload

(the "Indigenous Sub-class Members").

4. The Parties agree for the purpose of certification under the *Class Proceedings Act* that the following issues are appropriate common issues:
 - a. whether Saunders owed a duty of care to the Class Members and/or Indigenous Sub-class Members;
 - b. if so, whether Saunders breached the duty of care owed to the Class Members and/or Indigenous Sub-class Members; and
 - c. if so, whether the Province is vicariously liable to the Class Members and/or Indigenous Sub-class Members for the actions or omissions of Saunders?

(the "Common Issues").

Applications for Orders

5. The Plaintiff shall apply to the Court for an order certifying this Action as a class proceeding against the Province (for settlement purposes only) on the above definitions of Class Members, Indigenous Sub-Class Members and Common Issues and seek approval of the notification forms set out as Appendices A and B to this Settlement Agreement, within a reasonable time of this Settlement Agreement being executed. The Certification Order sought shall be in the manner and form appended to this Settlement Agreement as Appendix C.
6. After the Certification Order has been granted and notice to the Class Members has been provided in accordance with the Certification Order, the Plaintiff shall make best efforts to apply within a reasonable time to the Court for an order approving this Settlement Agreement in the form appended as Appendix D, including seeking an order approving this Settlement Agreement on behalf of all Class Members who are minors pursuant to the *Infants Act*.
7. The Parties and Interior Savings agree to recommend approval of this settlement by the Court. The Parties and Interior Savings agree to make their best efforts to obtain Court approval for and implement this Settlement Agreement without delay.

Preparation of Basic Payment List

8. The Province will prepare and maintain a list of Class Members to whom Basic Payments are to be made and will also indicate which Class Members are Indigenous Sub-class Members to whom an Indigenous Basic Payment will be made (the “**Basic Payment List**”). The Basic Payment List shall include the names, birthdates, the type of order or agreement the individual was subject to while on Saunders’ case load, and last known contact information including mailing address, email addresses and telephone number(s) (if known) and information about the dates on which the Class Member was on Saunders’ caseload.
9. Individuals who were deceased before the Certification Date are not eligible to be Class Members, and neither they nor their estates shall be included on the Basic Payment List. The names, birthdates and date of death of deceased individuals who might otherwise be Class Members will be provided to Class Counsel.
10. The Basic Payment List shall not include individuals who:
 - a. have signed agreements with the Province to opt out of this Class Action, whether or not these individuals submit an Opt Out Form;
 - b. have submitted an Opt Out Form;
 - c. are deceased at any time prior to the Certification Order; or
 - d. are deemed under this Settlement Agreement or the Court to have opted out.
11. If ordered by the Court, the Province shall deliver a copy of the Basic Payment List and Opt Out List to Class Counsel forthwith after the Certification Order. The Province shall deliver updated versions of the Basic Payment List and Opt Out List on a timely basis and within a reasonable time of any request by Class Counsel for updated lists.
12. The Public Guardian and Trustee shall be entitled to receive copies of the Basic Payment List, the Opt Out List and a list of any deceased individuals who would otherwise be Class Members from Class Counsel or the Province upon request, if ordered by the Court.
13. The Province shall take no position on applications regarding the disclosure of the Basic Payment List, Opt Out List and the names of any deceased individuals to Class Counsel, the PGT, or Interior Savings that are in accordance with the terms of this agreement.

14. If Class Counsel and the Province do not agree on whether an individual is properly included on the Opt Out List, either Party may apply to the Court for determination of the issue.
15. Interior Savings shall provide the Province with the Interior Savings Account List and the Province shall notify Interior Savings in writing whether the name of any given individual is on the Basic Payment List or on the Opt Out List, and whether the individual has Deposited a Basic Payment Cheque under this Settlement Agreement or is deceased. Subject to paragraph 39 of this Settlement Agreement, Interior Savings is otherwise not entitled to a copy of the Basic Payment List, Opt Out List or other information about Class Members or the implementation of the Settlement Agreement.

Adjudicators

16. Adjudications under this Settlement Agreement are to be conducted by the Adjudicators listed in Schedule A to this Settlement Agreement. The Province and Class Counsel may amend Schedule A by written agreement.
17. Unless otherwise indicated or agreed by Class Counsel and the Province in writing, the Adjudicator listed first on Schedule A will be the Adjudicator to whom the parties will submit forms and supporting documents to initiate an adjudication (the "First Adjudicator"). The First Adjudicator may refer matters to the other Adjudicators on Schedule A for adjudication at his or her discretion. Unless the First Adjudicator requests the input of Class Counsel and the Province, all decisions regarding the assignment of Adjudicators are to be decided by the First Adjudicator.
18. The Adjudicators may communicate among themselves regarding adjudication workload, the adjudication process, and may have discussions to assist in consistency of adjudication determinations.
19. Adjudicators are at liberty to apply to the Court for directions.
20. The Province will pay the reasonable fees and costs of the Adjudicators, including travel costs and costs associated with hearings.

Application for Inclusion on the Basic Payment List

21. Any individual who is:
 - a. not listed on the Basic Payment List; or
 - b. is not indicated on the Basic Payment List as being entitled to the Indigenous Basic Payment

may apply for inclusion on the Basic Payment List and/or for indication on the Basic Payment List as being entitled to the Indigenous Basic Payment by completing Form A and delivering it to the representative of the Province at

the email address set out on the Form A, along with any submissions by the individual (an “**Applicant**”).

22. Form A must be delivered to the Province on or before the Form A Application Deadline at the email address set out on the form.
23. If the Province does not object to the Applicant’s inclusion on the Basic Payment List or, as the case may be, for eligibility for Indigenous Basic Payment, within 45 days of delivery of the Form A to the Province, then the Province is deemed to accept the Applicant’s inclusion on the Basic Payment List or, as the case may be, for eligibility for Indigenous Basic Payment. This deadline may be extended with the consent of Class Counsel or by order of the Court.
24. If the Province objects to the Applicant’s inclusion on the Basic Payment List or eligibility for Indigenous Basic Payment within 45 days after receipt of the Form A (unless this deadline is extended with the consent of Class Counsel or by order of the Court) the Province will initiate adjudication regarding those issues by delivering:
 - a. a written notice of objection with reasons for the objection; and
 - b. the Applicant’s Form Ato the First Adjudicator and Class Counsel.
25. Within 60 days of the delivery of the Province’s notice of objection to the Applicant’s Form A, the Province will provide the Applicant and/or Class Counsel with sufficient access to documents in the possession and control of the Ministry of Children and Family Development (“MCFD”) and the Province to advocate for the eligibility of the Applicant for inclusion on the Basic Payment List and/or eligibility for the Indigenous Basic Payment. The Applicant may request further documents or categories of documents and the Province will provide reasonable and timely access to any documents or categories of documents requested, subject to any claims for relevance or privilege. This deadline may be extended with the consent of Class Counsel or by order of the Court.
26. The following timelines apply but may be extended by agreement of the Province and Class Counsel or upon direction of the Adjudicator:
 - a. The Applicant shall have 60 days after the receipt of information from the Province with respect to eligibility for inclusion on the Basic Payment List and/or eligibility for the Indigenous Basic Payment to make written submissions to the Adjudicator, which will include an affidavit(s) setting out all facts upon which the Applicant relies;

- b. The Province shall have 60 days from receipt of the Applicant's written submissions to provide its written responding submissions, which will include an affidavit(s) of all disputed facts or other facts upon which the Province relies.
- c. The Applicant shall have 21 days after receipt of the Province's written responding submissions to make any written reply submissions.

Copies of all written submissions must be delivered to the Adjudicator, Class Counsel and the Province within the timelines, unless the timelines are modified by the Adjudicator or by written agreement of the Province and Class Counsel.

- 27. At the election of the Province or the Applicant, an oral hearing may be held with cross-examination on affidavits by the Province or the Applicant at the discretion of the Adjudicator. At the discretion of the Adjudicator, the oral hearing may be held in-person or by telephone or videoconference. A transcript may be made of the oral hearing. Expenses of the hearing will be paid by the Province.
- 28. Subject to paragraph 29, the Adjudicator shall have 30 days from the date of the conclusion of the hearing or receipt of the affidavits, whichever is later, to make a written determination of whether the Applicant should be included on the Basic Payment List and/or eligibility for Indigenous Basic Payment. The 30-day timeline may be extended by agreement of the Province and Class Counsel.
- 29. The Adjudicator may request additional written submissions from the parties after the conclusion of the hearing, on such deadlines as the Adjudicator may determine, in which case the Adjudicator shall have 30 days from the date by which all additional written submissions are to be received to make a written determination of whether the Applicant should be included on the Basic Payment List and/or eligibility for Indigenous Basic Payment
- 30. The determination of the Adjudicator on this issue of inclusion on the Basic Payment List and/or eligibility for Indigenous Basic Payment shall be reviewable to the Supreme Court of British Columbia on the standard of reasonableness on all questions of fact or mixed fact and law, and the standard of correctness on all questions of law. If review is sought, Class Counsel or the Province must apply for review of the Adjudicator's decision within 30 days of receipt of the Adjudicator's determination.
- 31. Subject to a waiver or extension of time as provided in this Settlement Agreement, individuals who do not deliver a completed Form A to the Delivery Email Address of the Province before the Form A Application Deadline will not be considered for and will not be eligible for inclusion as a Class Member.

32. If an individual who is not on the Basic Payment List brings a proceeding in respect of claims that relate to the actions or omissions of Saunders, before or after the Form A Application Deadline, the Province is not limited in any defences it may advance, including under the *Limitation Act*, subject to section 39 of the *Class Proceedings Act*. However, the Province agrees the Province will not argue that the individual was actually a Class Member and is estopped from bringing a proceeding in respect of claims that relate to the actions or omissions of Saunders.

Opt Out

33. Any Class Member on the Basic Payment List may opt out of this Settlement Agreement by filing an Opt Out Form in Form B and delivering it to the Delivery Email Address of the Province during the Opt Out Period.
34. A Class Member may not opt out of this Settlement Agreement if the Class Member:
 - a. has Deposited a payment; or
 - b. submitted an Elevated Damages Application Form in Form C to the Delivery Email Address of the Province

under this Settlement Agreement.

35. All actions filed in the Supreme Court of British Columbia that name both Saunders and the Province as defendants are stayed during the Opt Out Period, unless the claimant in that proceeding has delivered to the Province an Opt Out Form in Form B to the email address set out on the Form B within the Opt Out Period. If the Court does not approve this Settlement Agreement, then this stay of proceedings ceases to be of any force or effect as of the date the Court denies the application to approve this Settlement Agreement, unless the Court orders otherwise. The Parties, Interior Savings and any claimant in a proceeding that names Saunders as a defendant and seeks substantially the same relief as sought in this Action are at liberty to apply to the Court at any time to vary the terms of this stay of proceedings in the interests of justice.
36. The Province may apply to the Court to stay, strike out, or dismiss any actions that relate to the conduct of Saunders, or for an order that a Class Member has by word or conduct opted out of this Settlement Agreement. Any individual deemed by the Court to have opted out will be added to the Opt Out List.
37. Any individual who has delivered an Opt Out Form within the Opt Out Period or has been deemed to have opted out of this Settlement Agreement will be added to the Opt Out List and removed from the Basic Payment List and shall not be eligible for payment of any funds under this Settlement Agreement.

38. The Province will update the Opt Out List and the Basic Payment List within a reasonable time of receipt of Opt Out Forms or if an individual is deemed by the Court to have opted out as provided in this Settlement Agreement, and will provide an updated Opt Out List, Basic Payment List, and Opt Out Forms to Class Counsel.
39. For individuals on the Interior Savings Account List, within a reasonable time the Province will provide updates in writing to Interior Savings of any changes to the Opt Out List, Basic Payment List, and the names of individuals who had Deposited a payment under this Settlement Agreement. Interior Savings is otherwise not entitled to a copy of the Basic Payment List, Opt Out List or other information about Class Members or the implementation of the Settlement Agreement.

Basic Payments

40. In this Agreement, “**Basic Payment**” means:
 - a. for Class Members who are not also Indigenous Sub-class Members, payment to each in the amount of \$25,000;
 - b. for Class Members who are also Indigenous Sub-class Members, payment to each in the amount of \$69,000, consisting of the sum of \$25,000 plus an additional \$44,000.
41. The Parties agree that all Class Members on the Basic Payment List will receive a Basic Payment from the Province, without proof of loss, in recognition of Saunders’ breach of trust and negligence and the vicarious liability of the Province for the actions and inactions of Saunders.
42. The Parties agree that the Basic Payment from the Province to all members of the Indigenous Sub-class who are noted as such on the Basic Payment List, without proof of loss, is in recognition of Saunders’ failure to plan for, and provide services to, Indigenous children in a manner that aligned with the *CFCSA* and the vicarious liability of the Province for the actions and inactions of Saunders.
43. Within 30 days of Settlement Approval, the Province shall:
 - a. issue a cheque to Class Counsel in trust comprising Basic Payments to all individuals on the Basic Payment List; and
 - b. provide Class Counsel with an itemization of the Basic Payment payable to each Class Member on the Basic Payment List;
44. Within 30 days of a final determination that an Applicant is eligible for inclusion on the Basic Payment List and/or is an Indigenous Sub-class

Member, the Province will issue a cheque for the Applicant's Basic Payment to Class Counsel.

45. Class Counsel will be responsible for distributing the Basic Payment Cheques to Class Members on the Basic Payment List after deduction of Legal Fees. Depositing a Basic Payment Cheque disqualifies a Class Member from thereafter opting out of this Settlement Agreement. Class Counsel shall advise the Province upon confirmation that a Basic Payment Cheque has been Deposited by a Class Member.
46. If a Class Member opts out after the Basic Payment Cheque is issued to Class Counsel but before the Class Member Deposits the Basic Payment Cheque, Class Counsel must return all the funds paid to Class Counsel in respect of that Class Member (including any portion allocated for Legal Fees) to the Province.

Elevated Damages

47. In this Settlement Agreement, "**Elevated Damages**" are payments to which Class Members on the Basic Payment List may be entitled in the following categories. A Class Member is eligible if the acts or omissions of Saunders caused or contributed to the harm suffered by the Class Member in the applicable category as defined below, and if such harm resulted from acts or omissions of Saunders that occurred while the Class Member was a minor and on the case load of Saunders:
 - a. Sexual Exploitation;
 - b. Psychological Harm;
 - c. Homelessness;
 - d. Educational Delay; and/or
 - e. Bodily Harm.
48. Subject to the Maximum Total Award payable to a Class Member on the Basic Payment List as provided in this Settlement Agreement, a Class Member on the Basic Payment List may apply for one or more, or all, of the categories of Elevated Damages. Eligibility for a particular category of Elevated Damages is not dependent upon eligibility for any other category of Elevated Damages.
49. In this Settlement Agreement, the following categories of Elevated Damages have the following definitions, which must also be considered and applied by the Adjudicator in the adjudication of any claim for Elevated Damages:

- a. **“Sexual Exploitation”** includes experiencing sexual assault and engaging in sex work, including exchange of sexual activity for food, clothing, shelter, funds or other comparable exchange. The Province agrees to pay \$75,000 to any Class Member eligible under this category.
- b. **“Psychological Harm”** means serious symptoms of self-harm, substance use disorder, psychological trauma or analogous symptoms. A clinical diagnosis is not required to establish eligibility under this heading of Elevated Damages, but symptoms under this category will be considered serious only if they involve substantial adverse effects on the well-being or social functioning of a Class Member. The Province agrees to pay \$45,000 to any Class Member eligible under this category.
- c. **“Homelessness”** means any one of the following:
 - i. sleeping outdoors for more than 7 days, cumulatively;
 - ii. sleeping at an emergency shelter or transition house for more than 21 days, cumulatively;
 - iii. sleeping at a non-authorized resource (e.g. a friend or relative) for more than 90 days, cumulatively; or
 - iv. any equivalent combination or permutation of any of the above (e.g. sleeping outdoors for 4 days and at an emergency shelter for 11 days).

A Class Member is not eligible for Elevated Damages for Homelessness if the Homelessness resulted from a Class Member unreasonably refusing a placement at an approved Ministry resource. Group homes and transition houses are not an approved Ministry resource for the purposes of this category. The Province agrees to pay \$25,000 to any Class Member eligible under this category;

- d. **“Educational Delay”** means the delay or postponement of a Class Member’s education. This category includes aspects of both non-pecuniary damages and income loss. The capacity of the Class Member to complete or advance their education is a relevant factor in considering whether the acts or omissions of Saunders caused or contributed to the delay. The Province agrees to pay the following amounts to any Class Member eligible under this category:
 - i. \$20,000 if a Class Members’ education was delayed for 1 – 3 years; or

- ii. \$50,000 if a Class Members' education was delayed for more than 3 years,

For clarity, a Class Member is only eligible to receive \$20,000 or \$50,000, but not both.

- e. **"Bodily Harm"** means any physical hurt or injury to a Class Member that interfered with the health or comfort of the individual and that was more than merely transient or trifling in nature. The Province agrees to pay \$15,000 to any Class Member eligible under this category.

Maximum Total Award

- 50. The Parties agree that the maximum cap on total Elevated Damages payment for any Class Member shall be \$181,000 (even if the Elevated Damages awarded would otherwise add up to a higher amount).
- 51. The Parties agree that the maximum combined total award, including both Basic Payments and Elevated Damages payments, that a Class Member may be entitled to under this agreement is \$250,000 ("**Maximum Total Award**").
- 52. The Parties agree that this table summarizes their agreement regarding amounts:

Item	Amount
Basic Payments	
All Individuals on Basic Payment List	\$25,000
All Individuals on Basic Payment who are also Indigenous Sub-class Members	\$44,000 (for a total Basic Payment of \$69,000)
Elevated Damages	
Sexual Exploitation	\$75,000
Psychological Harm	\$45,000
Homelessness	\$25,000
Educational Delay	\$50,000 over 3 years; or \$20,000 1-3 years
Bodily Harm	\$15,000
Aggregate total prior to Maximum Cap being applied	\$180,000 - \$210,000
Maximum Elevated Damages	\$181,000
Maximum Total Award	\$250,000

Assessment Process for Elevated Damages

53. Class Members may seek eligibility for Elevated Damages by delivering an Elevated Damages Application Form in Form C to the Province's Delivery Email Address. The completed Form C must contain the Class Member's brief description of the harms they suffered under each claimed category of Elevated Damages and how Saunders caused or contributed to the harm for each category. The Class Member will attest to the truth and accuracy of the descriptions in the Form C - Elevated Damages Application Form to the best of their knowledge. Subject to a waiver or extension of time as provided in this Settlement Agreement, the completed Form C must be delivered to the Province's Delivery Email Address within:

- a. 24 months of the pronouncement of the Settlement Order; or
- b. 90 days of a final determination that an Applicant is a Class Member on the Basic Payment List

whichever comes later, failing which the Class Member is not eligible to apply for or to receive a payment for Elevated Damages.

54. If the Province contests any of the categories of Elevated Damages claimed in the Form C - Elevated Damages Application Form:

- a. within 60 days of receipt of a completed Form C, the Province will deliver a Notice of Dispute in Form D to Class Counsel; and
- b. within 90 days of receipt of the Class Member's Form C, the Province will deliver a copy of relevant documents from the Class Member's MCFD file to Class Counsel. This deadline may be extended with the consent of Class Counsel. Class Counsel may request further documents or categories of documents from the Province and the Province will provide Class Counsel with reasonable and timely access to the requested documents or categories of documents, subject to any claims for relevance or privilege.

55. The Province will issue payment in respect of all non-contested categories of Elevated Damages within 90 days of the Province's receipt of the Class Member's completed Form C - Elevated Damages Application Form by means of a cheque payable to Class Counsel in trust and delivered to the office of Class Counsel. Class Counsel will be responsible for delivering the Elevated Damages amounts to the Class Member after deduction of Legal Fees. The Province's payment with respect to a non-contested category is without prejudice to the Province's right to contest eligibility for the remaining categories of Elevated Damages being claimed by the Class Member.

Contested Eligibility for Elevated Damages for Sexual Exploitation or Psychological Harm

56. If the Province contests in a Form D - Notification of Dispute any Class Member's eligibility for payment under the Elevated Damages categories of Sexual Exploitation and/or Psychological Harm, the Class Member must attend an assessment by a qualified psychologist chosen by the Class Member from the list of qualified psychologists attached as Schedule B to this Settlement Agreement, subject to the availability of that psychologist (if unavailable, another psychologist listed in Schedule B to the Settlement Agreement must be chosen). If no psychologist listed on Schedule B is located within 50 kilometers of the Class Member's residence, the Province will pay the reasonable travel costs of the psychologist and/or the Class Member to attend the assessment. If Class Counsel and the Province agree, the assessment may be conducted by videoconference.
57. The qualified psychologist will assess whether the Class Member has experienced harm in either or both (if both are claimed) of the categories of Sexual Exploitation and Psychological Harm and set out the result of the assessment and a brief description or summary of their opinion respecting the nature of the harm or harms, the circumstances in which the harm occurred, and how Saunders may have caused or contributed to that harm on an Elevated Psychological Damages Assessment Form in Form E. The assessment will be conducted in accordance with the psychologist's professional obligations, acknowledging that the psychologist is retained to provide their expert opinion and is bound by a duty not to be an advocate for either party. The assessing psychologist's reasonable fees will be paid directly by the Province, and Class Counsel will receive a copy of the psychologist's account.
58. The psychologist will deliver the Form E - Elevated Psychological Damages Assessment Form (which includes any appended reports or documents) to Class Counsel and the Province at their Delivery Email Addresses. Apart from the Form E - Elevated Psychological Damages Assessment Form, the work product and notes of the psychologist will remain the confidential information of the Class Member.
59. The Form E - Elevated Psychological Damages Assessment Form and attached documents may only be used for the adjudication of this claim or in any actions in which the Class Member is seeking damages against the Province. Otherwise, the Form E - Elevated Psychological Damages Assessment Form and attached documents are subject to litigation privilege and the implied undertaking in respect of compelled information.
60. If the Province continues to dispute a Class Member's eligibility for Elevated Damages for Sexual Exploitation and/or Psychological Harm, the Province must deliver a completed Form F – Psychological Assessment Dispute Form

to Class Counsel within 30 days of receipt of the Form E - Elevated Psychological Damages Assessment Form from the psychologist. This deadline may be extended with the consent of Class Counsel or by order of the Court. The Province or the Class Member may dispute any findings, opinions, or assessments of the psychologist in the Form E – Elevated Damages Assessment Form in the adjudication of the claims for eligibility.

61. If the Province does not deliver the completed Form F to Class Counsel within 30 days (or within such time as agreed by Class Counsel or ordered by the Court), the amounts for the categories of Elevated Damages for Sexual Exploitation and/or Psychological Harm assessed by the Psychologist are payable by the Province to Class Counsel in trust for the Class Member as soon as practicable and, in any event, within 60 days of the Province's receipt of the Form E - Elevated Psychological Damages Assessment Form, or within such time as agreed by Class Counsel or ordered by the Court.

Initiating Adjudications for Elevated Damages

62. The Class Member or Class Counsel shall initiate the adjudication process by delivering the following documents to the First Adjudicator, with a copy to the Province's Delivery Email Address:
 - a. the Class Member's completed Form C - Elevated Damages Application Form and any attached documents;
 - b. the Province's Form D - Notification of Dispute and any attached documents;
 - c. the Form E - Elevated Psychological Damages Assessment Form and any attached documents;
 - d. the Province's Form F; and
 - e. any supporting affidavits, documents and written submissions of the Class Member.
63. The intent of the Parties is for simultaneous adjudication of all disputed categories of Elevated Damages. If the Province is disputing a claim for eligibility for sexual exploitation and/or psychological harm, the Class Member will not initiate adjudication until after receipt of Form F from the Province. If the Province is not disputing a claim for eligibility for sexual exploitation and/or psychological harm, the Class Member may initiate adjudication of disputed categories after receipt of Form D from the Province.
64. If Class Counsel does not initiate the adjudication process within 60 days of the Province delivering the

- a. Form D - Notification of Dispute regarding Homelessness, Bodily Injury and/or Educational Delay; or
- b. the Form F

whichever is last, the Province may initiate adjudication by delivering the documents set out in paragraph 62, above, to the First Adjudicator and Class Counsel. The Adjudicator may consider affidavits, documents and written submissions from the Class Member even if the Province initiates the adjudication process.

Adjudications of Elevated Damages

65. Within 30 days of an adjudication being initiated, the Province may deliver affidavits, documents and written submissions to the Adjudicator and Class Counsel.
66. The Adjudicator will then determine whether the Class Member is eligible for a payment in respect of any of the disputed categories of Elevated Damages as those categories are defined in this agreement, and in particular whether the Class Member is eligible for payment on the basis that the acts or omissions of Saunders caused or contributed to the harm suffered by the Class Member in the applicable category of Elevated Damages, and whether such harm resulted from acts or omissions that occurred while the Class Member was a minor, and while he or she was on the case load of Saunders.
67. In making the determination of eligibility, the Adjudicator will consider the Forms, affidavits, documents and written submissions delivered to the Adjudicator.
68. The Adjudicator should be guided by the principles articulated in respect of vulnerable or child witnesses in *R. v. W.R.*, [1992] 2 SCR 122 at pp.132-134.
69. The Adjudicator may determine the claimant's eligibility within categories of Elevated Damages with or without resort to an oral hearing but may invite the parties to make submissions on whether an oral hearing should be held.
70. If the Adjudicator requires an oral hearing, the Province and the Class Member and/or Class Counsel may provide the Adjudicator with documents, written submissions (regarding the process or outcome) and proposed questions, but only the Adjudicator may ask questions of the Class Member and any other witness.
71. It is anticipated that the Adjudicator should be able to determine eligibility for Elevated Damages payments by reviewing any documents provided, but if the Adjudicator believes herself or himself to be unable to determine the issues on that basis, then the Adjudicator may request the Province or the Class

Member provide the Adjudicator with further documents and may examine the Class Member or other witnesses.

72. Oral hearings may be conducted by the Adjudicator in person or by telephone or video conference. The Province (including legal counsel and a representative from MCFD) and the Class Member, one support person and Class Counsel ("**Hearing Participants**") are entitled to be present at any oral hearing but may not ask questions of witnesses. No other persons may attend without permission from the Adjudicator. At the request of the Adjudicator, the Hearing Participants may provide the Adjudicator with any questions the parties wish the Adjudicator to pose or topics the parties wish the Adjudicator to address. The decisions whether to call witnesses, to request questions from Hearing Participants, and the decision whether to ask any requested questions of a witness, are at the sole discretion of the Adjudicator.
73. The Parties agree that the adjudication process is to be as cost-effective, non-adversarial, expeditious and fair as reasonably possible.
74. The Parties agree that it is of heightened importance that the adjudication process be adapted to the extent possible to ensure that it does not revictimize the Class Member. The Adjudicators may propose modifications to the adjudication process for Elevated Damages on a case-by-case basis, which may be implemented by consent of all parties to the adjudication provided the modifications are not inconsistent with this Settlement Agreement.

Eligibility Determinations after Adjudication

75. The eligibility determination of the Adjudicator will be recorded by the Adjudicator in an Elevated Damages Adjudication Form in Form G. The Form G - Elevated Damages Adjudication Form will be delivered to Class Counsel and the Province at their Delivery Email Addresses. Apart from the Form G - Elevated Damages Adjudication Form, the work product and notes of the Adjudicator will remain the confidential information of the Adjudicator.
76. The determinations of Elevated Damages eligibility set out in the completed Form G - Elevated Damages Adjudication Form will be final and binding on the Class Member and the Province.
77. The Province will calculate the Class Member's amount of Elevated Damages based upon the Adjudicator's determinations in the Form G - Elevated Damages Adjudication Form in accordance with the table amounts set out in this agreement to maximum total of \$181,000 for Elevated Damages.
78. The Province will issue a cheque for the Elevated Damages payments to Class Counsel as soon as practicable and in any event within 60 days of the Province's receipt of the Form G - Elevated Damages Adjudication Form. This deadline may be extended with the consent of Class Counsel. Class Counsel

will be responsible for delivering the Elevated Damages amounts to the Class Member after deduction of Legal Fees.

Nature of the Payments

79. Amounts paid to Class Members in this Class Action are in respect of a claim for injury, loss or damage caused or contributed to by an employee of the Province, for the purposes of the *Employment and Assistance Act*, [SBC 2002], c. 40, the *Employment and Assistance for Individuals with Disability Act*, [SBC 2002], c. 41 and regulations thereunder.

Financial Literacy

80. The Province agrees to pay a maximum of \$100,000 inclusive of all taxes, in total, for the benefit of the Class, for financial literacy services directly to the service provider. The Parties anticipate that financial literacy services and workshops will be provided by the Aboriginal Financial Officers Association of British Columbia. Class Members and individuals on the Opt Out List may participate in the financial literacy services.

Legal Fees

81. On the basis of an understanding between the Parties that there may be approximately 100 people on the initial Basic Payment List, Class Counsel agrees that Legal Fees shall be no more than 12.5% of all payments made to Class Members under this Settlement Agreement, plus any applicable Goods and Services Tax and Provincial Services Tax. These Legal Fees are inclusive of all disbursements.
82. Provided Legal Fees do not exceed 12.5% plus applicable taxes noted above, the Province will take no position on the amount of Legal Fees.
83. Legal Fees shall be deducted from the Basic Payments and Elevated Damages amounts paid to Class Members under this Settlement Agreement and shall be held in trust by Class Counsel. Legal Fees are payable to Class Counsel:
- a. with respect to Basic Payments,
 - i. when the Basic Payment Cheque is Deposited by the Class Member; or
 - ii. when the Opt Out Period expires, whether or not the Class Member on the Basic Payment List has Deposited the Basic Payment Cheque;
- whichever comes first;

- b. with respect to Elevated Damages Payments, when such funds are deposited into Class Counsel's trust account.
84. For clarity, no Legal Fees are payable on any of the following:
- a. funds that must be returned to the Province (including Basic Payments or Indigenous Basic Payments for individuals who are removed from the Basic Payment List and placed on the Opt Out List);
 - b. funds paid in error;
 - c. funds to which the Class Member is not eligible because the Class Member is deceased before the Certification Order;
 - d. payments made to the PGT for management fees; or
 - e. payments for financial literacy services.
85. Class Counsel agrees to provide legal advice and assistance with any application for Class Membership and/or Indigenous Sub-class Membership or application for Elevated Damages and to provide legal advice and assistance to any individual who believes himself, herself, or themselves to be a Class Member, without any further payment for legal fees or disbursements throughout the administration and implementation of the Settlement Agreement.
86. Any amounts returned to the Province must include any interest that has accrued on those funds while in Class Counsel's trust account, but only if that interest is or was not remitted to the Law Foundation pursuant to the *Legal Profession Act* and Rule 3-60 of the *Law Society Rules*.

Administration of Funds

87. Class Counsel maintains and shall continue to maintain a pooled trust account (the "Trust Account"). Any interest payable on funds in the trust account are remitted to the Law Foundation by the financial institution holding the trust account.
88. All amounts payable under this Agreement for Class Members are to be paid by cheque made out to "Jason Gratl Law Corporation in trust". The Province may issue cheques that include Basic Payments, Indigenous Basic Payments (as applicable) and Elevated Damages payments for two or more Class Members. The Province shall provide an itemization of the name of each Class Member and the amount designated for each Class Member with each cheque.
89. Class Counsel will endeavour to deliver the settlement funds in a fashion that encourages Class Members to avail themselves of financial literacy services.
90. Class Counsel shall not pay out all or any part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Court obtained after notice to the Parties.

Notice of Proposed Settlement

91. A Notice of Proposed Settlement as set out in Appendix A (the “**Long Form NPS**”) will be disseminated to potential class members as follows, or as otherwise directed by the Court, at the cost of Class Counsel:
 - a. The Long Form NPS will be delivered by Canada Post to the last known address of each individual listed in the Basic Payment List delivered by the Province following certification.
 - b. Class Counsel will take reasonable steps to deliver copies for public posting to support and advocacy groups for current and former children in care.
 - c. The Long Form NPS will be posted to the website of Class Counsel.
 - d. For all Class Members who are minors, the Long Form NPS will be delivered by Canada Post to the Public Guardian and Trustee at the Vancouver office.
92. A Notice of Proposed Settlement as set out in Appendix B (the “**Short Form NPS**”) will be disseminated to potential class members as follows, or as otherwise directed by the Court, with the cost of dissemination to be borne by the Province:
 - a. the Short Form NPS will be published in the Province newspaper and Kelowna Courier once within 14 days of court approval of notice or as soon as reasonably practicable;
 - b. the Short Form NPS will be published or otherwise disseminated on the Kelowna-based online news services Castanet and Infotel; and
 - c. the Short Form NPS will be published online on platforms such as Facebook, Instagram and Google Ads with the total cost inclusive of taxes not to exceed a maximum of \$10,000, within 14 days of court approval or as soon as is reasonably practicable.
93. Class Counsel will take reasonable steps to deliver copies of the Short Form NPS for public posting to support and advocacy groups for current and former children in care.
94. Class Counsel will endeavor to disseminate the Short Form NPS as widely as reasonably possible by means of social media, including Facebook and Twitter.
95. Should this Settlement Agreement be approved by the Court, Notices of Settlement Approval shall be disseminated as directed by the Court, in

substantially the same manner and form as the Long Form NPS and Short Form NPS.

Direct Liability

96. The Parties agree that this Settlement Agreement or any actions to obtain Court approval of this Settlement Agreement do not constitute an admission of direct liability by the Province or liability on the part of any employee or officer of the Province other than Saunders.
97. The Parties and Interior Savings agree that this Settlement Agreement or any actions to obtain Court approval on this Settlement Agreement do not constitute an admission of liability by Interior Savings or liability on the part of any employee, director, representative, servant, agent, predecessor, affiliate, partner and insurer, and its successors or assigns.

Inclusivity of Compensation and Release of the Province

98. Any compensation paid to Class Members on the Basic Payment List under this Settlement Agreement is inclusive of general damages, damages for breach of fiduciary duty, pecuniary losses, past and future income loss, cost of care, punitive damages, aggravated damages and any other claims that could be advanced against:
 - a. Saunders, his team leaders, his supervisors, Directors, Assistant Deputy Ministers, Deputy Ministers, the Ministers, Her Majesty the Queen in Right of the Province of British Columbia and any provincial employees, agents or servants;
 - b. Interior Savings and any employee, director, representative, servant, agent, predecessor, affiliate, partner or insurer, and its successors or assigns, for their role in allowing Saunders to open bank accounts for and with children in his care; or
 - c. Caregivers, societies, corporations and persons, and any of their respective employees, agents or servants, who provided care or services to any Class Members;

only in respect of claims that relate to the actions or omissions of Saunders ("**Saunders Claims**"), with the exception that nothing in this Settlement Agreement constitutes a release granted by any person to Saunders from personal liability for punitive damages payable as an individual

99. Without prejudice to their right to seek eligibility for an Elevated Damages payment through the mechanism provided for in this Settlement Agreement, each Class Member on the Basic Payment List:
 - a. upon Depositing a Basic Payment Cheque,

- b. upon delivering a Form C – Elevated Damages Application, or
- c. upon the expiry of the Opt Out Period without having delivered a Form B – Opt Out Form

does, for themselves, their heirs, executors, administrators and assigns, release from liability:

- i) Saunders, his team leaders, his supervisors, Directors, Assistant Deputy Ministers, Deputy Ministers, the Ministers, Her Majesty the Queen in Right of the Province of British Columbia and any provincial employees, agents or servants;
- ii) Interior Savings and any employee, director, representative, servant, agent, predecessor, affiliate, partner and insurer, and its successors and assigns;
- iii) Caregivers, societies, corporations and persons, and any of their respective employees, agents or servants, who provided care or services to any class members;
- iv) Any third party who could bring a claim for contribution and indemnity against the Province or any provincial employees, agents or servants;
- v) Any third party who could bring a claim for contribution and indemnity against Interior Savings or any employee, director, representative, servant, agent, predecessor, affiliate, partner and insurer, and its successors or assigns

(collectively, the “**Released Parties**”)

in relation to the Saunders Claims as if there had been a trial on the merits, with the exception that nothing in this Settlement Agreement constitutes a release granted by any person to Saunders from personal liability for punitive damages payable as an individual.

100. Any claims brought by Class Members against Saunders for punitive damages payable as an individual must be pursued as an individual action against Saunders and must be commenced by an action separate from this action and each Class Member shall expressly waive in their pleadings, by amendment if necessary, any right of recovery from Saunders for any portion of their damage which is attributable to the Province’s or Interior Savings’ fault or any person for whom the Province or Interior Savings is, in law, responsible, and for which Saunders can claim for contribution or indemnity, pursuant to the *Negligence Act*, R.S.B.C. 1996, c. 333, under common law, or otherwise..

101. Nothing in this Settlement Agreement affects the Province's right to file or continue proceedings against Saunders.
102. Class members are not precluded from bringing claims against the Province that do not relate to the actions or omissions of Saunders (a "Non-Saunders Claim").
103. Amounts payable to Class Members under this Settlement Agreement are subject to the common law principles against double-recovery and avoiding substantive and procedural unfairness in respect of overlapping Non-Saunders Claims. The Released Parties will be at liberty to raise the common law principles aimed at preventing double-recovery and substantive and procedural unfairness in respect of overlapping claims or damages at the hearing of any Non-Saunders Claims. The Province may rely on any forms, affidavits, adjudicator determinations, or any other documents created under this Settlement Agreement in Non-Saunders Claims.
104. The Province and Interior Savings release any Class Members on the Basic Payment List with a Saunders Claim filed in the Supreme Court of British Columbia as of the Certification Date from any claim for costs or disbursements in that Saunders Claim incurred prior to the Certification Date, provided the Class Member discontinues the Saunders Claim or relevant portion of the claim as against the Province and any individually-named provincial employees and Interior Savings and any of its individually-named employees, and provided the Class Member has Deposited a Basic Payment Cheque, delivered a Form C - Elevated Damages Application to the Province or the Opt Out Period has expired. This release does not apply if the Class Member files a Form B - Opt Out Form or is otherwise deemed to have opted out as provided in this Settlement Agreement.
105. The Province and Interior Savings release each other from any claims that could be advanced against the other in respect of the subject matter of this Settlement Agreement and will enter into a mutual release in such form to be agreed upon between the Province and Interior Savings.

Release of Interior Savings Credit Union

106. By Depositing a Basic Payment Cheque or the Opt Out Period expiring without the Class Member having opted out, Class Members on the Basic Payment List release and forever discharge Interior Savings and any employee, director, representative, servant, agent, affiliate, partner and insurer, and its successors and assigns, from any and all actions, causes of action, claims, demands, damages, interest, costs, expenses, and compensation of whatever kind and howsoever arising, whether known or unknown, whether in contract or in tort, and which any party now has or at any time hereafter can, shall, or may have in any way resulting from or arising out of Saunders' use of bank accounts at Interior Savings (the "Interior

Savings Release”) The Interior Savings Release is for the benefit of Interior Savings and for the benefit of the Province.

Deceased Class Members

107. After the Certification Order is made, any amounts payable to a Class Member who dies after his or her eligibility for a Basic Payment or an Elevated Damages Payment has been agreed to by the Province or finally determined as provided for in this Settlement Agreement shall form part of the deceased Class Member’s estate, unless the Class Member had opted out of the Class Action in the manner provided in this Settlement Agreement prior to his or her death.
108. If a Class Member dies, whether before or after the expiry of the Opt Out Period, without having opted out of the Class Action in the manner as provided in this Settlement Agreement, the deceased Class Member’s estate may not opt out of the Class Action, and has released the Released Parties from any liability for Saunders Claims on the terms as provided for in this Settlement Agreement.
109. An estate may not submit a:
- a) Form A application on behalf of a deceased person for either Class Membership or eligibility as an Indigenous Sub-Class Member; or
 - b) Form C - Elevated Damages Application Form on behalf of a deceased person
- or continue an adjudication for Class Membership, Indigenous Sub-class Membership or Elevated Damages.
110. The Parties agree that any claims or potential claims for eligibility for an Elevated Damages Payment that have not been agreed to by the Province or finally determined as provided for in this Settlement Agreement prior to the death of the Class Member are considered to be a claim for damages in respect of non-pecuniary loss or loss of future income for a period following the death of the Class Member for the purposes of section 150(4) of the *Wills, Estates and Succession Act*, [SBC 2009], c 13, and any equivalent succeeding legislation.
111. If any funds forming part of a deceased Class Member’s estate as set out in this Agreement are not claimed by the estate of the deceased Class Member within two years of the Class Member’s death, Class Counsel may deduct Legal Fees, and Class Counsel will apply to court pursuant to s.36.2 of the *Class Proceedings Act*.

Payments to Minors and Administration of Funds

112. All payments under this Settlement Agreement to Class Members who are minors shall be paid by Class Counsel to the PGT. The Province agrees to pay all applicable fees set out in the *Public Guardian and Trustee Fees Regulation*, B.C. Reg/312/2000 for the duration of the funds managed, including fees payable under the Post Majority Program for Class Members who are minors or who may participate in the Post Majority Program.
113. Potentially vulnerable Class Members over the age of 19 may be referred to the PGT for assessment and investigation to determine whether assistance or protective services are required. In any case where authority is granted to the PGT to act as the representative of a vulnerable Class Member, the Province agrees to pay all applicable fees set out in the *Public Guardian and Trustee Fees Regulation*, B.C. Reg/312/2000 for the service provided.
114. From time to time, the PGT shall remit statements to the Province dealing with the amounts of these fees and funds under management.
115. If Class Counsel is unable to locate an individual on the Basic Payment List within two years of receipt of the Basic Payment or Elevated Damages Payment into his Trust Account, Class Counsel may deduct Class Counsel Legal Fees, and Class Counsel will apply to court pursuant to s.36.2 of the *Class Proceedings Act*.

Termination of Settlement Agreement

116. In the event that any Court declines to certify the Class Action for the purposes of this Settlement Agreement, or declines to approve or modifies any material portion of this Settlement Agreement, the Parties shall have the right to terminate this Settlement Agreement by delivering a written notice of termination within 30 days.
117. A material modification or non-approval of a material portion of this Settlement Agreement shall include modification or non-approval of any amount payable to Class Members and any change to the definition of Class Member or Indigenous Sub-class Member under this Settlement Agreement and any other comparable modification inconsistent with the fundamental intention of the Parties.
118. Except as provided for in the above, if the Settlement Agreement is terminated, the Settlement Agreement shall be null and void and have no further force or effect and shall not be binding and shall not be used as evidence in any litigation.
119. Any order, ruling or determination made by any Court with respect to:

- a. Legal Fees;
- b. time periods and deadlines;
- c. the Opt Out process; or
- d. notification of potential Class Members

shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

120. If any material part of this Settlement Agreement is not approved by the Court:

- a. no motion to certify this Action as a class proceeding based on this Settlement Agreement or to approve this Settlement Agreement shall proceed;
- b. the Parties and Interior Savings agree to apply by consent to set aside and declare of no force and effect any order certifying the Action as a class proceeding on the basis of the Settlement Agreement or approving this Settlement Agreement; and
- c. any prior certification of this Action as a class proceeding on the basis of this Settlement Agreement, including definitions of the Settlement Class and the Common Issues pursuant to this Settlement Agreement, shall be without prejudice to any position any of the Parties and Interior Savings may later take on any issue in the Action or any other litigation.

Delivery and Receipt

121. Any forms and any documents (unless the documents are lengthy) will be delivered to:

- a. the Province by email at tclassaction@gov.bc.ca; and
- b. Class Counsel by email at saundersclassaction@gratlandcompany.com ("**Delivery Email Addresses**")

and any forms and documents are deemed to be received if sent to the Delivery Email Address.

122. Lengthy documents and cheques may be delivered by regular mail or courier to:

- a. the Province at:

Ministry of Attorney General
Legal Services Branch, 1001 Douglas Street
PO Box 9280 Stn Prov Govt
Victoria, BC V8W 9J7
Attn: Darcie Suntjens/Graham Rudyk

b. Class Counsel at:

Gratl & Company
511 – 55 East Cordova Street
Vancouver, BC V6A 0A5
Attn: Jason Gratl

(“Mail Delivery Address”)

and are deemed to be received seven days after the date of mailing by regular mail or the date of delivery indicated by the courier.

123. If a form or document is received before 4 p.m. on a business day, it is deemed to be received that day. If a document is received after 4 p.m., then it is deemed to be received on the next business day.

124. The Province and Class Counsel may change their Delivery Email Address or Delivery Address upon 28 days written notice to the other.

General Terms

125. The Form A Application Deadline or the deadline to submit an Elevated Damages Application Form in Form C for an Applicant or Class Member, as the case may be, may be extended on a case-by-case basis by:

- a. written agreement between the Province and Class Counsel; or
- b. order of the Court after application, if the Court finds the extension to be in the interest of justice;

126. The Province and the claimant shall provide timely advance notice to Interior Savings in respect of any deadline extension or application for deadline extension in respect of any Class Member on the Interior Savings Account List.

127. Nothing in this Settlement Agreement requires the Province to produce the following documents or information:

- a. the names of any informants under s.14 of the *Child, Family and Community Service Act* or any information tending to disclose the identity of informants;

- b. information conveyed to the Director or to the Ministry of Children and Family Development by third parties in confidence on the basis that it would not be disclosed;
 - c. information with respect to which a claim of privilege is otherwise advanced, such as information subject to solicitor/client privilege, a claim of public interest immunity or litigation privilege;
 - d. any records created after the date of this order;
 - e. information respecting any person or child who is not the subject of or involved in this proceeding where disclosure would be an unreasonable invasion of that person's personal privacy;
 - f. information respecting any criminal proceedings or past criminal records created under the *Young Offenders Act* or *Youth Criminal Justice Act* regarding a person other than the class member unless specifically authorized by a Youth Justice Court Judge; or
 - g. videotapes or audiotapes of interviews with a child except those of the Class Member if related to Saunders' conduct.
128. Time is to be calculated in accordance with the *Interpretation Act*, [RSBC 1996], c. 238.
129. The Province and Class Counsel will provide notice of any application to Court to each other and to Interior Savings, if their interests may be affected by the orders sought, in accordance with the *Supreme Court Civil Rules*.
130. The Parties and Interior Savings agree that, whether or not it is terminated, this Settlement Agreement (except for applications for orders for settlement and certification) and anything contained herein, and all negotiations, documents, discussions and proceedings associated with this settlement agreement are subject to settlement privilege and will assert a claim of settlement privilege.
131. This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of British Columbia.
132. This Settlement Agreement constitutes the entire agreement among the Parties and Interior Savings and supersedes all prior and contemporaneous undertakings, negotiations or discussions between the Parties and Interior Savings.
133. This Settlement Agreement may be executed in counterparts, all of which, taken together will be deemed to constitute one and the same agreement, and a facsimile or PDF signature shall be deemed an original signature for the purpose of executing this Settlement Agreement.

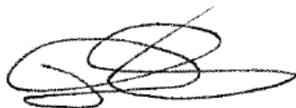
Appendices and Forms

134. The following forms, appendices, and schedules form part of this Settlement Agreement:

- a. Schedule A “List of Adjudicators”;
- b. Schedule B “List of Psychologists”;
- c. Form A – Class Membership Application Form;
- d. Form B – Opt Out Form;
- e. Form C – Elevated Damages Application Form;
- f. Form D – Notice of Dispute Form;
- g. Form E – Elevated Psychological Damages Assessment Form;
- h. Form F – Psychological Assessment Dispute Form;
- i. Form G – Elevated Damages Adjudication Form;
- j. Appendix A Long Form Notice of Proposed Settlement;
- k. Appendix B Short Form Notice of Proposed Settlement;
- l. Appendix C draft Certification Order;
- m. Appendix D draft Settlement Order;

135. The Province and Class Counsel may amend Schedule A and Schedule B by written agreement.

All of which is agreed and dated for reference this 9th day of July, 2020



Darcie Suntjens

For Her Majesty the Queen in right of the
Province of British Columbia



Jason Gratl

For the Plaintiff T.L. by her litigation
guardian the Public Guardian and
Trustee



Joel Morris

For Interior Savings Credit Union

SCHEDULE A

First Adjudicator: Halie (Kwanxwa'logwa) Bruce

Additional Adjudicators: Ardith (Walpetko We'dalx) Walkem, QC

SCHEDULE B

Qualified Psychologists: Dr. Peggy Koopman (Vancouver)

Dr. William L. Reimer (Okanagan)

(Form A)

SAUNDERS CLASS ACTION
CLASS MEMBERSHIP APPLICATION FORM

Attn: Ministry of Children & Family
Development

Delivery Email: tclassaction@gov.bc.ca

**This form must be delivered to the delivery email above within 24 months of
Court Approval of the Settlement Agreement**

Full Legal Name:	
Date of Birth:	
Current Address:	
Address of Third Party (if without fixed address):	
Telephone Number(s):	
Email:	

[check the box that applies]

- I am claiming Class Membership in the Saunders Class Action and I am not Indigenous, or
- I am claiming Class Membership in the Saunders Class Action and I am Indigenous; or
- I am an existing class member in the Saunders Class Action and I am claiming Indigenous status.

**The Affidavit of _____ sworn/affirmed on _____
is attached to this Form.**

Submissions (optional) (attach additional page if necessary);

The above information is correct to the best of my knowledge at this time.

I consent to the disclosure of my personal information pursuant to section 33.1 of the *Freedom of Information and Protection of Privacy Act* regarding records in the control of the Ministry of Children and Family Development to *Gratl & Company* for the purpose of my application to participate in the class action of *T.L. v. Her Majesty the Queen in right of British Columbia, Robert Riley Saunders, Vancouver Registry S1811960*.

Date: _____

Name (Please Print): _____

Signature _____

Note Carefully:

A Class member is a person subject to any of the following under the *Child, Family and Community Service Act*, [R.S.B.C. 1996] ("*CFCSA*"):

- i. continuing custody order;
 - ii. temporary custody order;
 - iii. agreement with a youth as set out in section 12.2 of the *CFCSA*;
 - iv. voluntary care agreement as set out in section 6 of the *CFCSA*; or
 - v. special needs agreement as set out in section 7 of the *CFCSA*; and
- and who, commencing after April 1, 2001, was assigned to Robert Riley Saunders ("Saunders") for more than 90 consecutive days and was under the age of 19 during the 90 consecutive days.
Assignment to Saunders consists of express or implicit delegation to or assumption of responsibility by Saunders during the period that the orders or agreements above were in effect.

An Indigenous Class Member is a person who is a Class Member and who:

- i. Was an Indigenous Child, as that term is defined by the *CFCSA* as that section reads as of January 1, 2018; and
- ii. Was the subject of a continuing custody order or temporary custody order.

(Form B)

SAUNDERS CLASS ACTION

OPT OUT FORM

Attn: Ministry of Children & Family
Development

Delivery Email: tclassaction@gov.bc.ca

**This form must be delivered to the delivery email above within 24 months of
Court approval of the settlement agreement**

Full Legal Name:	
Date of Birth:	
Current Address:	
Address of Third Party (if without fixed address):	
Telephone Number(s):	
Email:	

I would like to opt out of the class action:

[please tick one]

Yes

No

Reason for opting out of the class action (optional):

Date: _____

Name (Please Print): _____

Signature _____

(Form C)

SAUNDERS CLASS ACTION
ELEVATED DAMAGES APPLICATION FORM

Attn: Ministry of Children & Family
Development

Delivery Email: tlclassaction@gov.bc.ca

**This form must be delivered to the delivery fax number or delivery email above
within 24 months of Court approval of the settlement agreement**

Full Legal Name:	
Date of Birth:	
Current Address:	
Address of Third Party (if without fixed address):	
Telephone Number(s):	
Email:	

I am claiming for the following elevated damages:

[check each box that applies; explanation at page 4]

Sexual Exploitation

The acts or omissions of Robert Riley Saunders caused or contributed to my sexual exploitation, the details of which are set out as follows (attach separate sheet if necessary):

Psychological Injury

The acts or omissions of Robert Riley Saunders caused or contributed to my psychological injury either directly or indirectly, by contributing to my vulnerability or my exposure to predation, the details of which are set out as follows (attach separate sheet if necessary):

Homelessness

The acts or omissions of Robert Riley Saunders caused or contributed to my homelessness, the details of which are set out as follows (attach separate sheet if necessary):

Educational Delay

The acts or omissions of Robert Riley Saunders caused or contributed to my educational delay, the details of which are set out as follows (attach separate sheet if necessary):

Bodily Harm

The acts or omissions of Robert Riley Saunders caused or contributed to my bodily harm, either directly or indirectly by contributing to my vulnerability or my exposure to predation, the details of which are set out as follows (attach separate sheet if necessary):

GRATL & COMPANY

BARRISTERS AND SOLICITORS

111 11 EAST CORDOVA STREET • VANCOUVER, BC • V6A 0A3

PHONE 604.684.1910 • FAX 604.682.5110

www.gratlandcompany.com • A Law Corporation

I hereby attest that the above information is true, correct and accurate to the best of my knowledge at this time. I have not had an opportunity to review my MCFD file. I understand that I may be questioned about the information set out above by an independent adjudicator and that the information set out above may be used in assessing my claim for elevated damages.

I consent to the disclosure of my personal information pursuant to section 33.1 of the *Freedom of Information and Protection of Privacy Act* regarding records in the control of the Ministry of Children and Family Development to *Gratl & Company* for the purpose of my application for Elevated Damages in the class action of *T.L. v. Her Majesty the Queen in right of British Columbia, Robert Riley Saunders*, Vancouver Registry S1811960.

Date: _____

Name (Please Print): _____

Signature _____

GRATL & COMPANY

BARRISTERS AND SOLICITORS

111-11 EAST CORDOVA STREET • VANCOUVER, BC • V6A 0A3

PHONE 604.684.1919 • FAX 604.684.1910

www.gratlcompany.com • A Law Corporation

Explanation of Categories of Elevated Damages

Violation of Sexual Integrity/Sexual Exploitation

Violation of sexual integrity/sexual exploitation of a class member includes experiencing sexual assault and engaging in sex work including exchange of sexual activity for food, clothing, shelter, funds or other comparable exchange.

Psychological Harm

Psychological harm includes serious symptoms of self-harm, substance use disorder, psychological trauma or analogous symptoms.

A clinical diagnosis is not required to establish payment under this heading of elevated damages, but symptoms under this category will be considered serious only if they involve substantial adverse effects on the well-being or social functioning of a class member.

Homelessness

Homelessness of a class member consists of:

- a. Sleeping outdoors for more than 7 days, cumulatively;
- b. Sleeping at an emergency shelter for more than 21 days, cumulatively;
- c. Sleeping at a non-authorized resource (eg. a friend or relative) for more than 90 days cumulatively; or
- d. Any equivalent combination or permutation of any of the above of (a), (b), or (c) above. (eg. sleeping outdoors for 4 days at and at an emergency shelter for 11 days)

A Class Member is not eligible for Elevated Damages for Homelessness if the Homelessness resulted from a Class Member unreasonably refusing a placement at an approved Ministry resource. Group homes and transition houses are not an approved Ministry resource for the purposes of this category.

Educational Delay

Educational Delay means the delay or postponement of a Class Member's education either between 1-3 years or greater than 3 years.

The capacity of the Class Member to complete or advance their education is a relevant factor in considering whether the acts or omissions of Saunders caused or contributed to the delay.

Bodily Harm

Bodily Harm consists of any hurt or injury to a person that interferes with the health or comfort of the person and that is more than merely transient or trifling in nature.

GRATL & COMPANY

BARRISTERS AND SOLICITORS
1111 EAST CORDOVA STREET • VANCOUVER, BC • V6A 0A3
PHONE 604.681.3210 • FAX 604.681.1170
www.gratlcompany.com • A Law Corporation

GRATL & COMPANY

BARRISTERS AND SOLICITORS

111-15 EAST CORDOVA STREET • VANCOUVER, BC • V6A 0A5

PHONE: 604-683-3410 • FAX: 604-683-3419

www.gratlandcompany.com • A Law Corporation

(Form D)

SAUNDERS CLASS ACTION
NOTICE OF DISPUTE FORM

Attn: Class Counsel

Delivery Fax: 604-608-1919

Delivery Email:

saundersclassaction@gratlandcompany

**TAKE NOTICE THAT THE PROVINCE OF BRITISH COLUMBIA DISPUTES
ELIGIBILITY FOR ELEVATED DAMAGES AS FOLLOWS:**

**This form must be delivered to Class Counsel within 60 days of receipt of the
corresponding Form C for this Claimant.**

Claimant:	
Date of Birth:	

**The Province disputes eligibility for elevated damages in the following
categories: [check each box that applies]**

- Sexual Exploitation
- Psychological Injury
- Homelessness
- Educational Delay
- Bodily Harm

Date:

**Representative of the Province:
(Please Print):**

Signature

(Form E)

SAUNDERS CLASS ACTION
ELEVATED PSYCHOLOGICAL DAMAGES ASSESSMENT FORM

Attn: Ministry of Children & Family
Development

Delivery Email: tclassaction@gov.bc.ca

Attn: Class Counsel

Delivery Email:
saundersclassaction@gratlandcompany

Claimant:	
Date of Birth:	

I have conducted an assessment of the above-noted claimant in accordance with my professional obligations. I acknowledge that I am retained to provide my expert opinion and that I am bound by a duty not to be an advocate for any party.

**In my opinion, the claimant has experienced harm in the following categories:
[check each box that applies]**

- Sexual Exploitation
- Psychological Injury

I have attached a document hereto setting out a brief description or summary of my opinion respecting:

- the nature of the harm or harms;
- the circumstances in which the harm occurred; and
- how Saunders may have caused or contributed to that harm

Date: _____

**Assessing Psychologist:
(Please Print):** _____

Signature _____

Explanation of Categories of Elevated Damages

Sexual Exploitation

Sexual exploitation of a class member includes sexual assault and engaging in sex work including exchange of sexual activity for food, clothing, shelter, funds or other comparable exchange.

Psychological Injury

Psychological Injury means serious symptoms of self-harm, substance use disorder, psychological trauma or analogous symptoms.

A clinical diagnosis is not required to establish payment under this heading of elevated damages, but symptoms under this category will be considered serious only if they involve substantial adverse effects on the well-being or social functioning of a class member.

GRATL & COMPANY

BARRISTERS AND SOLICITORS

110 11 EAST CORDOVA STREET • VANCOUVER, BC • V6A 0A3

PHONE 604.681.0101 • FAX 604.681.0101

www.gratlandcompany.com • A Law Corporation

(Form F)

SAUNDERS CLASS ACTION
PSYCHOLOGICAL ASSESSMENT DISPUTE FORM

Attn: Class Counsel

Delivery Email:
saundersclassaction@gratlandcompany.com

**TAKE NOTICE THAT THE PROVINCE OF BRITISH COLUMBIA DISPUTES THE
PSYCHOLOGICAL ASSESSMENT SET OUT IN THE FORM E
DATED _____:**

**This form must be delivered to Class Counsel within 30 days of receipt of the
corresponding Form E for this Claimant.**

Claimant:	
Date of Birth:	

**The Province disputes the Psychological Assessment in the following categories:
[check each box that applies]**

Sexual Exploitation

Psychological Injury

Date: _____

**Representative of the Province:
(Please Print):** _____

Signature _____

(Form G)

SAUNDERS CLASS ACTION
ELEVATED DAMAGES ADJUDICATION FORM

Attn: Ministry of Children & Family
Development

Delivery Email: tlclassaction@gov.bc.ca

Attn: Class Counsel

Delivery Email:
saundersclassaction@gratlandcompany.com

Claimant:	
Date of Birth:	

I have adjudicated the eligibility of the above-noted claimant in accordance with the settlement agreement, my retainer and my duties as an arbitrator.

The claimant is eligible for elevated damages in the following categories: [check each box that applies]

- Sexual Exploitation
- Psychological Injury
- Homelessness
- Educational Delay – 1-3 years
- Educational Delay – over 3 years
- Bodily Harm

Date: _____

Adjudicator: (Please Print): _____

Signature _____

Appendix A
Long form

GRATL & COMPANY

BARRISTERS AND SOLICITORS

NOTICE OF CERTIFICATION AND PROPOSED SETTLEMENT IN
RILEY SAUNDERS CLASS ACTION

If you were a child in care of the British Columbia Ministry of Children and Family Development and after April 1, 2001 your care was assigned to Robert Riley Saunders for a period of 90 consecutive days or more, you should read this notice carefully.

A class has been certified and a proposed settlement has been reached, subject to Court approval. This class certification and proposed settlement agreement may affect your legal rights.

A. WHAT IS A CLASS ACTION?

A class action is a lawsuit filed by one person on behalf of a large group of people.

B. WHAT IS THIS CLASS ACTION ABOUT?

This class action claims that Robert Riley Saunders, a social worker employed by the Ministry of Children and Family Development ("MCFD") by the Province of British Columbia, neglected and/or deliberately caused harm to children in the care of the Province.

The purpose of this class action is to require the Province to pay compensation to class members. The representative plaintiff is a minor known as T.L. The Public Guardian and Trustee is the litigation guardian responsible for making legal decisions about this class action on behalf of T.L.

For more information about this Saunders Class Action, see the class action cases webpage online at www.gratlandcompany.com/cases.

C. WHO IS AFFECTED BY THE CLASS ACTION?

You are affected by this class action if you were subject to a continuing custody order, a temporary custody order, an agreement with a youth, a voluntary care agreement or a special needs agreement under the *Child, Family and Community Service Act* ("CFCSA") and, on or after April 1, 2001, were assigned to the caseload of Robert Riley Saunders for at least 90 consecutive days while under the age of 19.

If you were a child in care of the Province and are unsure whether you are a Class Member, please contact Class Counsel by email at saundersclassaction@gratlandcompany.com or by telephone at 604-694-1919/1-866-230-2752 (from Monday to Friday, 9:00 a.m. to 5:00 p.m. Pacific Time) to speak to legal counsel or an administrator.

This class action is certified as a class proceeding as against the Province for the purpose of implementing the settlement agreement.

D. WHAT PROPOSED SETTLEMENT HAS BEEN REACHED?

A proposed settlement agreement has been reached with the Province, subject to Court Approval.

Under the proposed settlement agreement, Class Members will be eligible for the following Basic Payments, without proof of harm:

\$25,000 is payable to all Class Members

\$44,000 is payable in addition to the \$25,000 for all Class Members who were Indigenous Children as that term is defined in the CFCSA (for a total payment of \$69,000)

In addition to the basic payments, Class Members may apply for elevated damages using a simplified procedure designed to be as non-adversarial, expeditious and fair as reasonably possible. Adjudication will be made by an independent and impartial Adjudicator, with the assistance of a psychologist where necessary.

Elevated damages are payable in the following categories, provided the acts or omissions of Saunders caused or contributed to the harm:

Homelessness: \$25,000 is payable to any Class Member who experienced homelessness, which includes:

- **sleeping outdoors for more than 7 days, cumulatively**
- **sleeping at an emergency shelter or transition house for more than 21 days, cumulatively**
- **sleeping at a non-authorized resource (eg. friend or relative) for more than 90 days, cumulatively, or**
- **any equivalent combination of the above.**

Psychological Harm: \$45,000 is payable for any class member who suffered serious symptoms of self-harm, substance use disorder, psychological trauma or analogous symptoms. A clinical diagnosis is not required but symptoms must include a substantial effect on the well-being or social functioning of the Class Member.

Sexual Exploitation: \$75,000 is payable to any Class Member who experienced sexual assault and/or engaged in sex work, including exchange of sexual activity for food, clothing, shelter, funds or other comparable exchange.

Educational Delay: \$20,000 is payable to any Class Member whose education was delayed for 1-3 years. \$50,000 is payable to any Class Member whose education was delayed for more than 3 years.

Bodily Harm: \$15,000 is payable to any Class Member who was physically injured or hurt.

The maximum amount in total for Elevated Damages for an individual is \$181,000.

The maximum combined total award for Basic Payments and Elevated Damages for an individual is \$250,000.

If you are a member of the certified class or believe you may be a member of the certified class and you wish to make submissions to the Court on the amount of or terms of the proposed settlement you can forward written submissions online at www.gratlandcompany.com or you can send written submissions to legal counsel by email at saundersclassaction@gratlandcompany.com or you can call 604-694-1919/1-866-230-2752 (from Monday to Friday, 9:00 a.m. to 5:00 p.m. Pacific Time) to speak to legal counsel or an administrator.

Submissions to the Court should state the nature of any comments or objections and whether you intend to appear at the settlement approval hearing. You may (but do not need to) attend the hearing to approve the settlement agreement. If you wish to attend the hearings, please contact class counsel for additional details.

A settlement is when a defendant agrees to pay money to the members of the class action in exchange for being released from the case. A settlement is not an admission of liability.

E. WHEN AND HOW WOULD I RECEIVE PAYMENT UNDER THE PROPOSED SETTLEMENT AGREEMENT?

Payments under the settlement agreement would commence only after the Court approves the settlement agreement. A hearing for the Court to consider approving the settlement agreement and legal fees is set for Monday, *****, 2020, in Vancouver.

Under the proposed settlement agreement, Basic Payments will be made by the Province within 30 days of Court approval of the settlement agreement, directly to the trust account of Gratl & Company, who are Class Counsel in this action. Class Counsel

will be responsible for distributing Basic Payments directly to Class Members, after deduction of legal fees and GST and PST on legal fees.

Elevated Damages must first be assessed before any payment can be made. Class Members who wish to apply for Elevated Damages will contact Class Counsel and will submit an application form through Class Counsel to the Province. Then the Province will decide whether to contest eligibility for any categories of Elevated Damages. Payment for all categories of Elevated Damages that are not contested by the Province will be made directly to Class Counsel within 90 days of submitting the application form.

Contested Categories of Elevated Damages will be decided by an independent decision-maker, and payment by the Province to Class Counsel will follow within 90 days of the decision. Class Counsel will be responsible for distributing Elevated Damages payments to Class Members after deduction of legal fees and GST and PST on legal fees.

You can register online at www.gratlandcompany.com if you have internet and email, or you can contact class counsel by calling 604-694-1919/1-866-230-2752 (Monday to Friday, 9:00 a.m. to 5:00 p.m. Pacific Time) or by attending in person at the office of class counsel at 511-55 East Cordova Street in Vancouver or by emailing saundersclassaction@gratlandcompany.com.

F. HOW DO I FIND OUT IF I AM ELIGIBLE FOR PAYMENTS?

The Province will prepare a list of Class Members who are eligible for Basic Payments. To find out whether you are on the list, you may email your request to saundersclassaction@gratlandcompany.com, register online at www.gratlandcompany.com or contact Class Counsel by telephone at 604-694-1919/1-866-230-2752 (Monday to Friday, 9:00 a.m. to 5:00 p.m. Pacific Time) to receive personal notice of whether the Court approves the settlement.

If you believe that you should be eligible for Basic Payment but you are not on the list, Class Counsel will assist you to apply for eligibility. If the Province contests your eligibility, an independent Adjudicator will determine whether you are eligible.

G. WHAT DO I NEED TO DO RIGHT NOW?

If you want to receive payment as part of this class action, you do not need to do anything right now. The proposed settlement agreement must be approved by the Court before you can receive any payments. You may register your address online at www.gratlandcompany.com or by telephone at 604-694-1919/1-866-230-2752 (Monday to Friday, 9:00 a.m. to 5:00 p.m. Pacific Time) to receive personal notice of whether the Court approves the settlement.

If you do not want to be a member of this class action and do not wish to receive payment under the proposed settlement agreement, you can opt out any time before

***** , 2022, by submitting an Opt Out Form to Class Counsel or to the Province. If you accept payment by cashing or depositing a cheque for a Basic Payment or by submitting an application form for Elevated Damages, you can no longer opt out. You may obtain an Opt Out Form at www.gratlandcompany.com or by calling Class Counsel at 604-694-1919/1-866-230-2752 or by emailing saundersclassaction@gratlandcompany.com.

If you are a Class Member or believe that you may be a Class Member and want to tell the Court what you think about the terms of the proposed settlement, you can do so by:

- sending submissions to Class Counsel online at www.gratlandcompany.com;
- sending written submissions to Class Counsel by email at saundersclassaction@gratlandcompany.com; or
- calling 604-694-1919/1-866-230-2752 to speak to legal counsel or an administrator.

Submissions to the Court must state the nature of any comments or objections and whether you intend to appear at the settlement approval hearing. If you wish, Class Counsel can assist you in preparing submissions for the Court.

You may (but do not need to) attend the hearing to approve the settlement agreement. If you wish to attend the hearings, please contact class counsel for additional details.

H. WHAT IF I DON'T WANT TO BE IN THE CLASS ACTION?

If you are a Class Member who would otherwise be eligible for payment and you do not wish to be a member of the class or participate in the settlement, you can opt-out by filling out the online Opt Out Form at www.gratlandcompany.com or by delivering a completed Opt Out Form to the Province or to Class Counsel before ***** , 2022. For assistance with opting out, please contact Class Counsel at 604-694-1919/1-866-230-2752 (from Monday to Friday, 9:00 a.m. to 5:00 p.m. Pacific time) or by email at saundersclassaction@gratlandcompany.com.

Opt Out Forms must be delivered to the Province or to Class Counsel on or before *** , 2022.**

If you opt out of the class action and settlement agreement, you may be able to start or continue your own case against the Province for compensation for harms caused by Robert Riley Saunders but:

- you will not be eligible to participate in the ongoing class action, and
- you will not receive any money under the settlement agreement.

The Class Action and Settlement Agreement do not prevent you from commencing or continuing an action against the Province or the Ministry of Children and Family Development for harm other than those caused by or contributed to by Robert Riley Saunders. Legal rules or doctrines preventing double recovery for the same injuries or harms may apply.

I. WHO ARE THE LAWYERS WORKING ON THIS CLASS ACTIONS AND HOW ARE THEY PAID?

The law firm of Gratl & Company are working on this class action. Jason Gratl is the lead counsel. The law firm can be contacted at:

Gratl & Company
Class Action Administration
Suite 511
55 East Cordova Street
Vancouver, BC V6A 0A5
604-694-1919 or 1-866-230-2752
Email: saundersclassaction@gratlandcompany.com

The Court must approve any fees to be paid to lawyers working on this class action.

The lawyers will be asking the Court to approve legal fees of 12.5% of any payments made under the settlement agreement, plus applicable GST and PST. Legal fees will be deducted from Basic Payments and Elevated Damages payments to Class Members.

J. WILL FINANCIAL SERVICES BE AVAILABLE TO CLASS MEMBERS?

The proposed settlement agreement provides that financial literacy services and workshops will be made available to Class Members by the Aboriginal Financial Officers Association of British Columbia.

Any fees for administration of funds by the Public Guardian and Trustee will be paid directly by the Province at no further cost to Class Members.

K. WHAT WILL HAPPEN TO RILEY SAUNDERS?

This class action and settlement agreement does not require Riley Saunders to pay anything personally. However, the settlement agreement allows the Province the option to pursue Riley Saunders to recover funds paid. The settlement agreement also allows persons harmed by Riley Saunders to sue him for punitive damages. The settlement agreement does not restrict any prosecution of Riley Saunders under the *Criminal Code of Canada*.

L. WHERE CAN I ASK MORE QUESTIONS?

For more information, please visit www.gratlandcompany.com. If you have questions that are not answered online, please contact class counsel by email at sauandersclassaction@gratlandcompany.com or at 604-694-1919/1-866-230-2752

(Monday to Friday, 9:00 a.m. to 5:00 p.m. Pacific Time) to speak to legal counsel or an administrator.

To receive future notices and updates regarding this class action and confirmation of whether the Court has approved the settlement agreement, register online at www.gratlandcompany.com.

M. INTERPRETATION

This notice contains a summary of the key terms of the settlement agreement. If there is a conflict between the provisions of this notice and the settlement agreement, the terms of the settlement agreement shall prevail.

This notice has been approved by the Supreme Court of British Columbia.

Appendix B
Short form

**NOTICE OF CERTIFICATION AND PROPOSED SETTLEMENT IN
RILEY SAUNDERS CLASS ACTION**

If you were a child in care of the British Columbia Ministry of Children and Family Development (“MCFD”) and after April 1, 2001 your care was assigned to Robert Riley Saunders for a period of 90 consecutive days or more, you should read this notice carefully.

A class has been certified and a proposed settlement has been reached, subject to Court approval.

This class action deals with harms caused to children in care by a social worker, Robert Riley Saunders, who was employed by MCFD.

You are affected by this class action if you were subject to a continuing custody order, a temporary custody order, an agreement with a youth, a voluntary care agreement or a special needs agreement under the *Child, Family and Community Service Act* (“CFCSA”) and, on or after April 1, 2001, were assigned to the caseload of Robert Riley Saunders for at least 90 consecutive days while under the age of 19.

Under the proposed settlement agreement, Class Members will be eligible without proof of harm for the following Basic Payments:

- \$25,000 for all Class Members; and
- An additional \$44,000 for all Class Members who were Indigenous Children (for a total payment of \$69,000).

In addition to the Basic Payments, Class Members may apply for Elevated Damages for increased harms caused or contributed by Saunders using a simplified adjudication procedure. Elevated Damages are payable for homelessness (\$25,000), psychological harm (\$45,000), sexual exploitation (\$75,000), educational delay (\$20,000-\$50,000) and bodily harm (\$15,000). The maximum amount in total for Elevated Damages for an individual is \$181,000.

The maximum combined total award for Basic Payments and Elevated Damages for an individual is \$250,000.

Class Counsel propose to charge legal fees in the amount of 12.5% plus GST and PST, which are to be deducted from Basic Payments and Elevated Damages before payment to Class Members.

For more information or to make submissions to the Court regarding the amount or terms of the proposed settlement agreement or legal fees, go online to www.gratlandcompany.com, email saundersclassaction@gratlandcompany.com or call 604-694-1919/1-866-230-2752 (from Monday to Friday, 9:00 a.m. to 5:00 p.m.) to speak to legal counsel or an administrator.

A hearing to seek Court approval for the settlement agreement and legal fees has been set for ***** , 2020, in Vancouver.

Appendix C: Draft Certification Order

No. S1811960
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

T.L. an infant by his/her litigation guardian the Public Guardian
and Trustee of British Columbia

PLAINTIFF

AND:

Her Majesty the Queen in right of the Province of British Columbia (Ministry of
Children and Family Development and Director of Child Welfare) and Robert Riley
Saunders

DEFENDANTS

**ORDER AFTER APPLICATION
(Certification)**

BEFORE } THE HONOURABLE } ***** , 2020
MR. JUSTICE A. ROSS }

ON THE APPLICATION of the Plaintiff, T.L., an infant by his/her litigation guardian the Public Guardian and Trustee of British Columbia, filed ****, 2020, coming on for hearing at Vancouver, British Columbia, on ****, 2020, and upon hearing Jason Gratl, counsel for the Plaintiff, and upon hearing Darcie Suntjens, counsel for Her Majesty the Queen in Right of the Province of British Columbia, and upon hearing Joel Morris, counsel for Interior Savings Credit Union (collectively "the Participants") and no one appearing for the Defendant, Robert Riley Saunders; and on being advised that the Participants

consent to this Order except that the Province takes no position with regards to paragraphs 12-14 of this Order;

THIS COURT ORDERS that:

1. This proceeding is certified as a class proceeding, pursuant to s.2(2) of the *Class Proceedings Act*, RSBC 1996, c. 50 conditional on the approval of the Settlement Agreement dated ***** 2020 affixed as Schedule A to this Order (the Settlement Agreement”). Should the Settlement Agreement not be approved or the Settlement Agreement terminated in accordance with its terms, all materials filed, submissions made or positions taken by any party are without prejudice to any future positions taken by any party on a certification application.
2. For the purpose of this Order, the definitions set out in the Settlement Agreement apply.
3. T.L., an infant by his/her litigation guardian the Public Guardian and Trustee of British Columbia, is appointed as the representative plaintiff for the class.
4. The certified class consists of all individuals subject to any of the following under the *Child, Family and Community Service Act*, RSBC 1996, c.46 (“CFCSA”):
 - a. a continuing custody order;
 - b. a temporary custody order;
 - c. an agreement with a youth as set out in section 12.2 of the CFCSA;
 - d. a voluntary care agreement as set out in section 6 of the CFCSA; or
 - e. a special needs agreement as set out in section 7 of the CFCSA; andand who, commencing on or after April 1, 2001, were assigned to the caseload of Robert Riley Saunders (“Saunders”) for at least 90 consecutive days and who were under the age of 19 at all times during those 90 consecutive days. Assignment to Saunders’ caseload consists of express or implicit delegation to Saunders as a case for which he was responsible while the orders or agreements above were in effect.
5. Further to paragraph 3 above, there will be a sub-class consisting of any Class Members who:
 - a. were Indigenous Children, as that term (i.e.: Indigenous Child) is defined by the CFCSA; and

- b. were the subject of a continuing custody order or temporary custody order while on Saunders' caseload
6. The following are certified as common issues of fact and law:
 - a. Did Saunders owe a duty of care to the Class Members and/or Indigenous Sub-class Members?
 - b. Did Saunders breach a duty of care to the Class Members and/or Indigenous Sub-class Members? and
 - c. Is the Province vicariously liable to the Class Members or Indigenous Sub-class Members for the actions or omissions of Saunders?
7. Any Class Member or purported Class Member is permitted to opt out of the class at any time commencing from the date of the Certification Order and ending 24 months after the date of the Settlement Order, or whichever period of time the Court Orders (the "Opt Out Period").
8. Any Class Member or purported Class Member may opt out by filling out an Opt Out Form in Form B to the Settlement Agreement and delivering it to the email address of Her Majesty the Queen in right of the Province of British Columbia (the "Province") at tlclassaction@gov.bc.ca.
9. All actions in the Supreme Court of British Columbia that name both Saunders and the Province as defendants are stayed during the Opt Out Period unless the plaintiff in that proceeding has delivered an Opt Out Form to the Province at tlclassaction@gov.bc.ca.
10. Jason Gratl of the law firm Gratl & Company is appointed counsel for the representative plaintiff and other Class Members ("Class Counsel").
11. Class Counsel and the Province are directed to distribute notice of certification and proposed settlement to Class Members with the content set out in the long-form notice attached as Appendix "A" (the "Long Form NPS") and the short-form poster notice attached as Appendix "B" (the "Short Form NPS") in the following manner:
 - a. At the cost of Class Counsel:
 - i. The Long Form NPS will be delivered by Canada Post to the last known address of each individual listed in the Basic Payment List delivered by the Province following certification.
 - ii. The Long Form NPS will be posted to the website of class counsel at www.gratlandcompany.com.

- iii. Class Counsel will establish a toll-free number for class members to inquire into any details on or before *****, 2020.
 - iv. Class Counsel will take reasonable steps to deliver copies for public posting to support and advocacy groups for current and former children in care on or before *****.
 - v. For all Class Members who are minors, the Long Form NPS will be delivered by Canada Post to the Public Guardian and Trustee at the Vancouver office.
- b. At the cost of the Province:
- i. the Short Form NPS will be published in the Province newspaper and Kelowna Courier once within 14 days of court approval of notice or as soon as reasonably practicable;
 - ii. the Short Form NPS will be published or otherwise disseminated on the Kelowna-based online news services Castanet and Infotel; and
 - iii. the Short Form NPS will be published online on platforms such as Facebook, Instagram and Google Ads with the total cost inclusive of taxes not to exceed a maximum of \$10,000, within 14 days of court approval or as soon as is reasonably practicable.
12. The Director designated under the *Child, Family and Community Service Act*, the Director designated under the *Adoption Act*, [RSBC] c. 5, (the “Directors”) and the Province must deliver the Basic Payment List and Opt Out List to Class Counsel forthwith. The Directors and the Province must deliver updated versions of the Basic Payment List and Opt Out List to Class Counsel on a timely basis and within a reasonable time of any request by Class Counsel for an updated list.
13. The Directors and the Province must deliver a list of the names, birthdates and dates of death of deceased individuals who might otherwise be Class Members to Class Counsel.
14. Class Counsel is authorized to provide copies of the Basic Payment List and Opt Out List to the Public Guardian and Trustee.
15. The application for Court approval of the settlement and Court approval of legal fees is to be scheduled for *****, 2020, or as soon thereafter as may be convenient to the Court.
16. If the Court declines to approve the Settlement Agreement, the above terms are of no force and effect.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND
CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS
BEING BY CONSENT:

Signature of Jason Gratl
Counsel for the Representative Plaintiff

Signature of Darcie Suntjens
Counsel for the Defendant
Her Majesty the Queen in right of the
Province of British Columbia

Signature of Joel Morris
Counsel for Interior Savings Credit Union

By the Court.

Registrar

Appendix D: Settlement Order

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c.50
and amendments thereto

No. S1811960
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

T.L., an infant by his/her litigation guardian the Public Guardian and Trustee

PLAINTIFF

AND:

Her Majesty the Queen in right of the Province of British Columbia (Ministry of
Children and Family Development and Director of Child Welfare) and Robert Riley
Saunders

DEFENDANT

ORDER AFTER APPLICATION

BEFORE } THE HONOURABLE } _____, 2020
MR. JUSTICE A. ROSS }

ON THE APPLICATION of the Plaintiff, T.L., an infant by his/her litigation guardian the Public Guardian and Trustee, filed *****, 2020, coming on for hearing at Vancouver, British Columbia, on*****, 2020, and upon hearing Jason Gratl, counsel for the Representative Plaintiff, and upon hearing Darcie Suntjens, counsel for the Defendant, Her Majesty the Queen in right of the Province of British Columbia, and Joel Morris,

counsel for Interior Savings Credit Union (collectively "the Participants") and no one appearing for the Defendant, Robert Riley Saunders; and on being advised that the Participants consent to this Order except that the Province takes no position with regards to paragraphs 12** and 13** of this Order;

THIS COURT ORDERS that:

1. The agreement of the parties dated *****, 2020 to settle this class action proceeding, attached hereto and marked as "Appendix A", is hereby approved pursuant to s.35 of the *Class Proceedings Act*, RSB 1996 c. 50;
2. The Settlement Agreement is incorporated into this Order and shall be binding upon the Participants and Class Members.
3. Class Counsel and the Province are directed to distribute notice of settlement to Class Members with the content set out in the long-form notice attached as Appendix "B" (the "Long Form NPS") and the short-form poster notice attached as Appendix "C" (the "Short Form NPS") in the following manner:
 - a. At the cost of class counsel:
 - i. the Long Form NPS will be delivered by Canada Post to the last known address of each individual listed in the Basic Payment List as of the date of this order.
 - ii. the Long Form NPS will be posted to the website of class counsel at www.gratlandcompany.com.
 - iii. Class Counsel will maintain a toll-free number for class members to inquire into any details.
 - iv. Class Counsel will take reasonable steps to deliver copies for public posting to support and advocacy groups for current and former children in care on or before August 20, 2020.
 - v. For all Class Members who are minors, the Long Form NPS will be delivered by Canada Post to the Public Guardian and Trustee at the Vancouver office.
 - b. At the cost of the Province:
 - i. the Short Form NPS will be published in the Province newspaper and Kelowna Courier once within 14 days of court approval of notice or as soon as reasonably practicable;

- ii. the Short Form NPS will be published or otherwise disseminated on the Kelowna-based online news services Castanet and Infotel; and
 - iii. the Short Form NPS will be published online on platforms such as Facebook, Instagram and Google Ads with the total cost inclusive of taxes not to exceed a maximum of \$10,000, within 14 days of court approval or as soon as is reasonably practicable.
4. The Settlement Agreement and this Order are binding upon all Class Members who are on the Basic Payment List (unless the Class Member is later placed on the Opt Out List) including those Class Members who are under a legal disability.
5. The Settlement Agreement does not affect the rights of:
 - a. Class Members on the Opt Out List; or
 - b. individuals who are not Class Members.
6. This action is hereby dismissed, effective two years after this order is made (i.e.: the end of the Opt Out Period), without costs. The Court, without in any way affecting the finality of this Order or derogating from the responsibilities of the Adjudicator under the Settlement Agreement, reserves jurisdiction over this action, the Plaintiff, all of the Class Members, the Province and Interior Savings Credit Union for the limited purposes of implementation, enforcement and administration of this Settlement Agreement and this Order.
7. Each Class Member on the Basic Payment List upon Depositing a Basic Payment Cheque, upon delivering a Form C – Elevated Damages Application, or upon the expiry of the Opt Out Period without having delivered a Form B – Opt Out Form, does, for themselves, their heirs, executors, administrators and assigns, release from liability:
 - i) Saunders, his team leaders, his supervisors, Directors, Assistant Deputy Ministers, Deputy Ministers, the Ministers, Her Majesty the Queen in Right of the Province of British Columbia and any provincial employees, agents or servants;
 - ii) Interior Savings Credit Union and any employee, director, representative, servant, agent, predecessor, affiliate, partner and insurer, and its successors and assigns;
 - iii) caregivers, societies, corporations and persons, and any of their respective employees, agents or servants, who provided care or services to any Class Member;

iv) any third party who could bring a claim for contribution and indemnity against the Province or any provincial employees, agents or servants; and

v) any third party who could bring a claim for contribution and indemnity against Interior Savings Credit Union or any employee, director, representative, servant, agent, predecessor, affiliate, partner and insurer, and its successors or assigns

as if there had been a trial on the merits, with the exception that nothing in this Order constitutes a release granted by any person to Saunders from personal liability for punitive damages payable as an individual.

8. Any claims brought by Class Members against Saunders for punitive damages payable as an individual must be pursued as an individual action against Saunders and must be commenced by an action separate from this action and each Class Member shall expressly waive in their pleadings, by amendment if necessary, any right of recovery from Saunders for any portion of their damage which is attributable to the Province's or Interior Savings Credit Union's fault or any person for whom the Province or Interior Savings is, in law, responsible, and for which Saunders can claim for contribution or indemnity, pursuant to the *Negligence Act*, R.S.B.C. 1996, c. 333, under common law, or otherwise.
9. The Province and Interior Savings Credit Union release any Class Members on the Basic Payment List with a Saunders Claim filed in the Supreme Court of British Columbia as of the Certification Date from any claim for costs or disbursements in that Saunders Claim incurred prior to the Certification Date, provided the Class Member discontinues the Saunders Claim or relevant portion of the claim as against the Province and any individually-named provincial employees and Interior Savings Credit Union and any of its individually-named employees, and provided the Class Member has Deposited a Basic Payment Cheque, delivered a Form C - Elevated Damages Application to the Province or the Opt Out Period has expired.
10. By Depositing a Basic Payment Cheque or the Opt Out Period expiring, Class Members on the Basic Payment List release and forever discharge Interior Savings Credit Union and any employee, director, representative, servant, agent, affiliate, partner and insurer, and its successors and assigns, from any and all actions, causes of action, claims, demands, damages, interest, costs, expenses, and compensation of whatever kind and howsoever arising, whether known or unknown, whether in contract or in tort, and which any party now has or at any time hereafter can, shall, or may have in any way resulting from or arising out of Saunders' use of bank accounts at Interior Savings Credit Union.
11. Interior Savings Credit Union shall provide the Interior Savings Account List to the Province.

12. The Director is ordered to produce and deliver to Class Counsel within the timelines set out in the Settlement Agreement copies of the following:
 - a. documents that are relevant to advocating for the eligibility of an applicant for inclusion on the Basic Payment List and/or eligibility for Indigenous Basic Payments; and
 - b. documents that are relevant to a Class Member's application for a category of Elevated Damages for which the Province has delivered a Notice of Dispute in Form D.

13. Paragraph 12 herein does not oblige the Director to produce the following information:
 - a. the names of any informants under s.14 of the *Child, Family and Community Service Act* or any information tending to disclose the identity of informants;
 - b. information conveyed to the Director or to the Ministry of Children and Family Development by third parties in confidence on the basis that it would not be disclosed;
 - c. information with respect to which a claim of privilege is otherwise advanced, such as information subject to solicitor/client privilege, a claim of public interest immunity or litigation privilege;
 - d. any records created after the date of this order;
 - e. information respecting any person or child who is not the subject of or involved in this proceeding where disclosure would be an unreasonable invasion of that person's personal privacy;
 - f. information respecting any criminal proceedings or past criminal records created under the *Young Offenders Act* or *Youth Criminal Justice Act* regarding a person other than the class member unless specifically authorized by a Youth Justice Court Judge; or
 - g. videotapes or audiotapes of interviews with a child except those of the Class Member if related to Saunders' conduct.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Jason Gratl
Counsel for the Plaintiff, T.L.

Signature of Darcie Suntjens
Counsel for the Defendant
Her Majesty the Queen in right of the
Province of British Columbia

Signature of Joel Morris
Counsel for Interior Savings Credit Union

By the Court.

Registrar