

# **Institutional Child Abuse in Canada :**

## **Civil Cases**

**By Goldie Shea**

This paper was prepared for the Law Commission of Canada. The views expressed are those of the author and do not necessarily reflect the views of the Commission. The accuracy of the information contained in the paper is the sole responsibility of the author.

Ce document est également disponible en français sous le titre *Les sévices infligés aux enfants placés en établissements au Canada: Jurisprudence en matière civile.*



# **Institutional Child Abuse in Canada**

## **Civil Cases**

**Prepared for the Law Commission of Canada**

**By Goldie M. Shea**

**October 1999**



## Table of Contents

METHODOLOGY.....	4
SECTION 1 - REPORTED CASES.....	5
SECTION 2 - UNRESOLVED CASES.....	11
SECTION 3 - RESIDENTIAL SCHOOL LITIGATION STATISTICS .....	16
APPENDIX A.....	17



If the scourge of sexual predation is to be stamped out, or at least controlled, there must be powerful motivation acting upon those who control institutions engaged in the care, protection and nurturing of children.

Wilkinson, J in *G.J. v. Griffiths* [1995] B.C.J. No. 2370 (S.C.), online: QL at para. 69.

In summary, the test for vicarious liability for an employee's sexual abuse of a client should focus on whether the employer's enterprise and empowerment of the employee materially increased the risk of the sexual assault and hence the harm. The test must not be applied mechanically, but with a sensitive view to the policy considerations that justify the imposition of vicarious liability – fair and efficient compensation for wrong and deterrence. This requires trial judges to investigate the employee's specific duties and determine whether they gave rise to special opportunities for wrongdoing. Because of the peculiar exercises of power and trust that pervade cases such as child abuse, special attention should be paid to the existence of a power or dependency relationship, which on its own often creates a considerable risk of wrongdoing.

McLachlin, J. in *Bazley v. Curry* (1999), 174 D.L.R. (4th) 45 (S.C.C.) at para. 46.

...whenever an employer confers, on an employee, parental authority and power over children, and, at the same time, gives that employee unfettered access to the children in a residential facility, the employer will be vicariously liable if the employee sexually assaults those children during the time the employee has parental control over them and access to them as residents of the residential facility.

Maurice, J. in *D.W. v. Canada (Attorney General)* [1999] Sask.J. No. 742 (Q.B.), online: QL at para 23.

The question is: whether the employer's enterprise and empowerment of the employee materially increased the risk of the sexual assault and therefore the harm? In each case, the court must investigate the employee's specific duties to determine whether it gave rise to special opportunities for wrongdoing. In this respect, special attention must be paid to the existence of a power or dependency relationship.

Hunter, J in *V.P. v. Canada (Attorney General)* [1999] Sask.J. No. 740 (Q.B.), online: QL at para 72.

## **Methodology**

This report consists of a compilation of civil cases and statements of claim relating to institutional child abuse in Canada. The focus is on civil actions concerning institutional and systemic abuse, not domestic (or individual) abuse. The cases have been obtained from a variety of sources using both electronic databases and manual searching methods. The offices of the Minister of Justice in each province and territory have been contacted and, in most situations, have been extremely helpful. Individual lawyers have been contacted. Some counsel represent hundreds of clients suing various defendants regarding events that occurred at one institution. On occasion, lawyers have expressed concern with releasing potentially sensitive and confidential information to the Law Commission and, unfortunately, felt unable to release information regarding current or previously resolved cases in which they are or have previously been involved.

This report contains three sections. The cases are presented alphabetically in chart format and include a synopsis of the cause of action, the allegations made and the eventual outcome (damages, award or order). To the best of our ability, all civil cases involving allegations of institutional child abuse that have been reported in Canada to the date of October 1, 1999 are included in section 1. Samples of the allegations contained in statements of claim filed in relation to institutional child abuse are included in section 2. Section 2 is not a delineation of all of the statements of claim filed but is more a cross-country selection of claims, which may or may not have been settled to date. The section is meant to provide examples of the general structure of the claims and allegations contained within. It should be noted that the allegations contained in a statement of claim have not been proved in court and therefore cannot be taken as fact. These cases are organised alphabetically according to the last name of the first plaintiff listed in the Statement of Claim.

Finally, section 3 contains two tables that have generously been provided by the Department of Indian Affairs and Northern Development (DIAND) and is dated October 29, 1999. The first table indicates the number of active civil cases where institutional child abuse claims have been filed involving Aboriginal residential schools and DIAND. Appendix A to the table is a graph that lists the residential schools in litigation.

As much as possible, best efforts have been made to ensure that all of the information provided is up-to-date as of October 1, 1999. Although the report is dated October 1999 additional information has been provided on some pertinent cases to ensure that the information is as current as possible.

## Section 1 - Reported Cases

Case Name	Defendant(s) Institution	Cause of Action or Issue(s) to be Determined	Damage Award or Resolution
<p><i>C.A., et al. v. Critchley</i> [1997] B.C.J. No. 1020 (S.C.); [1998] B.C.J. No. 2587 (C.A.).</p>	<p><u>Defendants:</u></p> <p>Mr. Critchley and the Province of British Columbia</p> <p><u>Institution:</u></p> <p>Arden Park Youth Ranch in B.C.</p>	<p>Four plaintiffs brought an action for damages alleging breach of fiduciary duty, negligence and vicarious liability.</p> <p><u>Issues on Appeal:</u></p> <p>Whether the Provincial Crown was liable either for actual breaches of fiduciary duties on the part of Crown servants and/or for their negligence.</p> <p>Whether the Provincial Crown was vicariously liable for intentional torts and crimes committed against children in the care of the Crown by a person who was not an employee of the government.</p> <p>The Crown challenged the Trial Judge's assessment of aggravated damages and the plaintiffs cross-appealed the judgement dismissing their claim for punitive damages.</p>	<p>At trial, the plaintiffs were awarded almost one million dollars in general and aggravated damages. The damages for the four plaintiffs ranged from \$139,500 to \$278,000 plus \$20,000 each for aggravated damages, pre-judgement interest and 80% of their special costs. A further claim for punitive damages was dismissed. The awards addressed loss of past and future earnings and money for medication, counselling, rehabilitation, treatment and retraining.</p> <p><u>Appeal Decision:</u></p> <ol style="list-style-type: none"> <li>1. The Crown's appeal was allowed against the finding of liability based upon a breach of fiduciary duty of the province by its officers and employees who were found to have acted honestly throughout. That claim was dismissed.</li> <li>2. No disposition was made on the question of negligence of the officers of the Crown.</li> <li>3. Regarding the vicarious liability of the Crown for Mr. Critchley's misconduct, the appeal against the trial judgement imposing liability upon the Crown with respect to all four plaintiffs was dismissed.</li> <li>4. The appeal of the award for aggravated damages for each plaintiff was allowed and the claims were dismissed.</li> <li>5. The plaintiff's cross-appeal regarding the dismissal of their claim for punitive damages was dismissed.</li> <li>6. The plaintiffs were awarded the costs of the appeal but no costs on the cross-appeal.</li> </ol>
<p><i>D.W. v. Canada</i></p>	<p><u>Defendants:</u></p>	<p>Claim for damages for</p>	<p>The court found that the Crown was not</p>

Case Name	Defendant(s) Institution	Cause of Action or Issue(s) to be Determined	Damage Award or Resolution
<p><i>(Attorney General)</i> [1999] Sask.J. No. 742 (Q.B.).</p>	<p>The Attorney General of Canada and William Starr</p> <p><u>Institution:</u> Gordon Student Residence in Saskatchewan.</p>	<p>liability for sexual assaults. The issue to be determined was whether the Crown was liable for Starr's battery on the grounds of negligence, breach of fiduciary duty, breach of non-delegable duty and vicarious liability.</p>	<p>liable on the grounds of negligence, breach of fiduciary duty or non-delegable duty. The Crown was found to be vicariously liable for Mr. Starr's battery of the plaintiff.</p> <p>Damages for pre-trial loss of earnings were assessed at \$139,000 but reduced to \$69,500 for specific contingencies.</p> <p>Non-pecuniary damages for pain and suffering (\$65,000) and loss of amenities, aggravated damages (\$10,000) and judgement for punitive damages against Mr. Starr only (\$25,000).</p>
<p><i>F.S.M. v. Clarke</i> [1999] B.C.J. No. 1973 (S.C.). Notice of appeal filed in October 1999.</p>	<p><u>Defendants:</u> Derek Clarke, the Anglican Church of Canada, the Anglican Diocese of Cariboo, the Synod of the Diocese of Cariboo and Her Majesty the Queen in Right of Canada as represented by the Minister of Indian and Northern Affairs</p> <p><u>Third Parties</u> Derek Clarke, the Anglican Church of Canada, the Anglican Diocese of Cariboo, Her Majesty the Queen in Right of Canada as represented by the Minister of Indian and Northern Affairs</p> <p><u>Institution</u> St. George's Indian Residential School in Lytton, B.C.</p>	<p>Are the defendants liable for negligence, breach of fiduciary duty and vicarious liability?</p> <p>The amount of damages had been previously agreed upon; this case was to determine the share of liability among the Anglican Church and the Government of Canada.</p>	<p>The judge found that the federal Crown (40%) and the Anglican defendants (60%) are jointly and severally vicariously liable for the repeated sexual assaults committed by his dormitory supervisor, Derek Clarke. The judge found that both the Anglican defendants and the Crown owed the Plaintiff a duty of care and that both breached that duty.</p> <p>In regard to the third party proceedings, the judge found that the federal Crown was entitled to judgement against the perpetrator, Mr. Clarke, for contribution for any amount that the Crown was found liable to the plaintiff, including interest and costs. The federal Crown was entitled to third party relief against the Anglican defendants for breach of the advisory service and chaplaincy contracts that were entered into in 1969 and subsequently and for contribution for negligence and breach of fiduciary duty.</p>
<p><i>G.B.R v. Hollett and the A. G. of Nova Scotia</i> [1995] N.S.J. No. 328</p>	<p><u>Defendants</u> Douglas Hollett, The Province of Nova Scotia</p>	<p><u>Issues:</u> This was an action for damages for sexual assault committed by Mr. Hollett,</p>	<p>The Crown was found to be liable to the plaintiff in negligence. The Court awarded her \$75,000 in general damages (being 50,000 for pain and</p>

Case Name	Defendant(s) Institution	Cause of Action or Issue(s) to be Determined	Damage Award or Resolution
(S.C.); [1996] N.S.J. No. 345 (C.A.).	<u>Institution:</u> Nova Scotia School for Girls	the school counsellor and employee of the N.S.S.G. The question was whether the Crown was liable to the plaintiff in negligence, vicarious liability and breach of fiduciary duty.	suffering and \$25,000 for aggravated damages) plus \$7,500 for costs and additional prejudgement interest. <u>Appeal:</u> The plaintiff appealed the refusal to award punitive damages, costs and pre-judgement interest. The Crown cross-appealed as to liability and damages. <ul style="list-style-type: none"> <li>▪ The Court of Appeal confirmed the finding of negligence against the Crown by the Trial Judge. The Crown's appeal on aggravated damages was allowed (there was no evidence of conduct warranting aggravated damages). The plaintiff's appeal on punitive damages was allowed. The damages were increased to \$85,000 (General \$50,000 and Punitive \$35,000).</li> </ul>
<i>Jacobi v. Griffiths</i> [1999] S.C.J. No. 36 (S.C.C.); [1997] B.C.J. No. 695 (C.A.); [1995] B.C.J. No. 2370 (S.C).	<u>Defendants:</u> The Boys' and Girls' Club of Vernon and Harry Charles Griffiths  <u>Institution:</u> The Boys and Girls Club of Vernon	This was an action for damages for sexual assault and battery for the sexual assaults perpetrated by an employee of the Boys' and Girls' Club. The issue was the vicarious liability of the employer of the perpetrator of the sexual abuse, Mr. Griffiths.  The trial judge (1995) held the Club vicariously liable for the assaults committed by Griffiths and awarded damages to the plaintiffs. <ul style="list-style-type: none"> <li>▪ The Court of Appeal (1997) allowed the Club's appeal and set aside the judgement.</li> </ul> The case was then appealed (1999) to the Supreme Court of Canada. The main question being whether the Club should be held vicariously liable for the intentional sexual torts perpetrated by its employee.	The appeal to the Supreme Court of Canada concerning whether the employer should be held vicariously liable was dismissed. The Court upheld the decision of the Court of Appeal that the circumstances did not justify a finding that the employee abused a job- created authority when he molested the children. The matter was sent back to trial for a determination as to whether the Club could be found liable under a fault-based cause of action such as negligence or other breach of duty.

Case Name	Defendant(s) Institution	Cause of Action or Issue(s) to be Determined	Damage Award or Resolution
<i>(L.R.) Rumley v. British Columbia</i> [1999] B.C.J. No. 2634 (C.A.); [1998] B.C.J. No. 2588 (S.C.).	<u>Defendants:</u> The Province of British Columbia  <u>Institution:</u> Jericho Hill School, British Columbia	This case was an action for damages by former students of the School (and others). This case involved an Application to certify the action as a class proceeding and to appoint the plaintiffs as representatives of the class.	<p>The Court at first instance dismissed the application, concluding that a class action was not the preferable procedure for resolving these disputes because “the class action will inevitably break down into substantial individual trials in any event and does not promote judicial economy or improve access to justice”.</p> <p><u>On Appeal:</u></p> <ul style="list-style-type: none"> <li>▪ The appeal to the Court of Appeal was allowed permitting certification of the common issues related to sexual abuse of students at the school. The appeal from the refusal to certify common issues for proposed class members who do not allege they were sexually abused at the school and for causes of action other than those related to sexual abuse of students was dismissed.</li> </ul>
<i>Muir v. The Queen in Right of Alberta</i> [1996] A.J. No. 37 (Q.B.).	<u>Defendant:</u> The Province of Alberta  <u>Institution:</u> Provincial Training School for Mental Defectives in Alberta	An action against the province seeking damages including aggravated and punitive damages both for wrongful sterilisation and wrongful detention. The claim in respect of the wrongful detention included a claim for past and future loss of earnings as a result of the government’s failure to provide the plaintiff with adequate education and training during the period of her detention. The province waived its defence based on limitation of actions and acknowledged that the sterilisation but not the detention was wrongful.	The Crown was held liable for wrongful confinement and wrongful sterilisation. The award of damages totalled \$740,780 including \$250,280 for pain and suffering resulting from the sterilisation and an additional \$125,000 as aggravated damages. \$250,000 was awarded for the damages connected with the detention plus prejudgement interest since 1965. No award was made for loss of past and future income. No punitive damages were awarded.
<i>P.A.B. v. Curry</i> [1999] S.C.J. No. 35 (S.C.C.); [1997] B.C.J. No. 692 (C.A.); [1995] B.C.J. No. 1468	<u>Appellants:</u> The Children’s Foundation, the Superintendent of Family and Child	At issue was the vicarious liability of the employer for the intentional sexual misconduct of its employee perpetrated on a child in the care of the Children’s	At Trial, the court found that it was the institution that created the position of trust that facilitated Mr. Curry’s sexual abuse of the children in his care. The Court found that the Foundation was vicariously liable to the plaintiff for the

Case Name	Defendant(s) Institution	Cause of Action or Issue(s) to be Determined	Damage Award or Resolution
(S.C.).  (Also cited as "Bazley v. Curry")	Services in B.C. and the Province of British Columbia  <u>Institution:</u> The Children's Foundation in British Columbia	Foundation (a charitable institution).  Also at issue was whether non-profit employers should be exempted from liability.	sexual assaults and abuse suffered at the hands of its employee.  The appeal was dismissed at the Court of Appeal and the Supreme Court of Canada and the matter was remitted back to trial.  The Supreme Court also determined that there should be no exemption from liability for non-profit organisations.
<i>R.A. v. Children's Foundation</i> [1997] B.C.J. No. 1328 (C.A.); [1996] B.C.J. No. 868 (S.C.).	<u>Defendant:</u> The Children's Foundation  <u>Institution:</u> The Children's Foundation in British Columbia	The plaintiff brought an action against the Children's Foundation for damages that arose out of the assaults based on the Foundation's vicarious liability for the acts of its employee. This was an application by the plaintiff for an order that the defendant not be entitled to rely on the Limitation Act.	The application was allowed. The Foundation was held to be vicariously liable to the plaintiff and was precluded from relying on the limitation defence.  The Foundation appealed the determination of the limitation question as well as the finding that the Foundation was negligent and vicariously liable.  ▪ The Court of Appeal dismissed the Foundation's appeal regarding the availability of the limitation defence and struck the Court's findings of negligence and vicarious liability against the Foundation.
<i>S.M.E. v. Newfoundland (Minister of Justice)</i> [1995] N.J. No. 366 (S.C.)	<u>Defendants:</u> The Province of Newfoundland, the Christian Brothers of Ireland in Canada and Douglas Kenny, Joseph Burke, Allan Ralph, and Edward Patrick English  <u>Institution:</u> Mount Cashel Orphanage	Allegations in the Statement of Claim included negligence and breach of fiduciary duties. This was an application for an award of solicitor and client costs.	The Government and the Congregation of Christian Brothers consented to judgement with damages to be assessed. The amount damages were eventually negotiated and settled out of court. The application for solicitor and client costs was denied.
<i>T.S. v. New Brunswick Protestant Orphans' Home</i> [1998 N.B.J. No. 109 (Q.B.).	<u>Defendant: Institution:</u> The New Brunswick Protestant Orphans' Home	The plaintiff brought an action for physical abuse that he claimed he suffered while a resident of the Orphans' home. The defendant made an application for summary judgement dismissing the claim arguing that the action	The application was dismissed. The issue of whether the action was brought outside the limitation period was an issue to be resolved at trial.  This case was eventually settled for an undisclosed amount before trial.

Case Name	Defendant(s) Institution	Cause of Action or Issue(s) to be Determined	Damage Award or Resolution
		was brought outside the two-year limitation period.	
<p><i>V.P. v. Canada (Attorney General)</i> [1999] S.J. No. 740 (Q.B.).</p>	<p><u>Defendants:</u> The Attorney General of Canada and William Starr</p> <p><u>Institution:</u> Gordon Residential School</p>	<p>The Plaintiff seeks damages against the perpetrator, Mr. Starr and the defendant Attorney General of Canada for the physical and sexual assaults committed on him by Mr. Starr</p>	<p>The Court found that Starr did physically and sexually assault the plaintiff.</p> <p>Damages were assessed as follows:</p> <ul style="list-style-type: none"> <li>▪ Non-pecuniary damages (including aggravated damages) at \$35,000.</li> <li>▪ Past loss of income at \$10,000.</li> <li>▪ Future Care and counselling at \$10,000</li> </ul> <p>Total: \$55,000</p>
<p><i>W.R.B. (et al.) v. Plint</i> [1998] B.C.J. No. 1320 (S.C.). (23Plaintiffs)</p>	<p><u>Defendants:</u> Arthur H. Plint, A.E. Caldwell, John Dennys, John Andrews, The United Church of Canada and Her Majesty the Queen in Right of Canada and others (including third parties)</p> <p><u>Institution:</u> Alberni Indian Residential School</p>	<p>Action by the plaintiffs (former students) for damages for sexual assaults committed against them by Mr. Plint, the Dormitory supervisor. At issue in this part of the action was whether the Church or Canada or both were vicariously liable for Plint's assaults.</p>	<p>The court found both the Church and Canada vicariously liable for the sexual assaults committed by Mr. Plint. Presently scheduled to resume the Trial on the quantum issues on October 25, 1999 before Brenner, J.</p> <p>Some plaintiffs have settled.</p>

## Section 2 - Unresolved Cases

### Cases where a Statement of Claim has been filed

**Please Note:** The allegations in a Statement of Claim have not yet been proven in Court and, therefore, cannot be taken as fact.

Case Name	Defendant/Institution	Cause of Action	Damage/Award Sought
George H. <b>Abraham</b> et al. (81 named plaintiffs) v. Her Majesty the Queen in right of Canada, Les Oblats de Marie Immaculée du Manitoba, The Jane Doe Order of Roman Catholic Sisters and unnamed employees or agents of the Orders, the Church or the Department	<p><u>Defendants</u> Her Majesty the Queen in Right of Canada represented by the Minister of Indian and Northern Development, Les Oblats de Marie Immaculée du Manitoba, The Jane Doe Order of Roman Catholic Sisters and unnamed employees or agents of the Orders, the Church or the Department</p> <p><u>Institution</u> The Fort Alexander Residential School, Manitoba</p>	Allegations include wrongful imprisonment, physical abuse, sexual abuse, alienation from their people, uncompensated labour, and breach of obligation to provide an education.	The plaintiffs seek general damages and damages for loss of past and future income (unspecified amounts).
Nora M. <b>Bernard</b> , et al. v. Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and Northern Development And the Roman Catholic Diocese of Halifax – Filed in Halifax on May 27, 1997	<p><u>Defendant:</u> The Canadian Government and the Roman Catholic Diocese of Halifax</p> <p><u>Institution</u> The Shubenacadie Indian Residential School</p>	Allegations of breach of fiduciary duty, unlawful confinement	<p><u>The Plaintiffs seek:</u></p> <ul style="list-style-type: none"> <li>▪ A declaration that the Minister owes a fiduciary duty to the Residents;</li> <li>▪ a declaration that the Diocese owes a fiduciary duty to the residents;</li> <li>▪ general damages for breach of fiduciary duty;</li> <li>▪ general damages for unlawful confinement;</li> <li>▪ special damages;</li> <li>▪ aggravated damages;</li> <li>▪ punitive damages;</li> <li>▪ costs; and</li> <li>▪ pre-judgement interest.</li> </ul>
Carol J. <b>Catagas</b> , et al. v. Her Majesty the Queen in Right of Canada, et al. (39 named Plaintiffs)	<p><u>Defendants:</u> Her Majesty the Queen in Right of Canada as rep. by the Minister of Indian Affairs and Northern Development, the A.G. of Canada, Les Oblats de Marie Immaculee du Manitoba, the Roman</p>	Allegations of breach of fiduciary duty; assault and battery; and negligence.	<p>The Plaintiffs seek the following:</p> <ul style="list-style-type: none"> <li>▪ special damages including medical costs and others;</li> <li>▪ loss of past income and loss of future income;</li> <li>▪ general damages;</li> <li>▪ punitive and/or exemplary damages;</li> <li>▪ interest; and</li> </ul>

Case Name	Defendant/Institution	Cause of Action	Damage/Award Sought
	<p>Catholic Church of Canada, The Roman Catholic Church, the Jane Doe order of Roman Catholic sisters, John Doe, Jim Doe, Jack Doe, Mary Doe, Molly Doe, Betty doe, John Moe, Jim Moe, Jack Moe, Mary Moe, Molly Moe and Betty Moe</p> <p><u>Institution:</u></p> <p>Pine Creek Residential School in Camperville, Manitoba</p>		<ul style="list-style-type: none"> <li>▪ costs</li> </ul>
<p>Marlene C. <b>Cloud</b> et al. (11 other named plaintiffs representing 12 Indian bands) v. The Attorney General of Canada et al.</p> <p>The action was commenced pursuant to the provisions of the <i>Class Proceedings Act</i>, 1992, R.S.O. 1992, c. 6, as amended. The plaintiffs represent various classes including bands, parents, siblings, spouses, children, other unnamed bands</p> <p>Proceedings commenced at London, Ontario – June 11, 1998 - Court File Number 2976</p>	<p><u>Defendants:</u></p> <p>The Attorney General of Canada, the Anglican Church of Canada, the Incorporated Synod of the Diocese of Huron</p> <p><u>Institution:</u></p> <p>The Mohawk Institute Residential School in Brantford, Ontario.</p>	<p>Allegations include breach of fiduciary duty, negligence, assault, battery and/or a breach of the Treaty rights of the Indian students who attended the School.</p>	<p>The Plaintiffs representing the <u>student classes</u> claim the following:</p> <ul style="list-style-type: none"> <li>▪ A declaration that the defendants breached their fiduciary obligations to the plaintiffs arising from their conduct, and that of their servants, agents or employees, in the operation of the School;</li> <li>▪ compensation and/or damages for breach of fiduciary duty, negligence, assault, battery, breach of aboriginal and treaty rights in the amount of \$900,000,000;</li> <li>▪ direction for the payment of monies payable pursuant to this action to members of the student classes on such terms as the Court should deem just;</li> <li>▪ judicial direction of individual assessments of damages for those students who were sexually abused while students at the School.</li> <li>▪ punitive, aggravated and/or exemplary damages in the amount of \$150,000,000.</li> <li>▪ interest; and</li> <li>▪ costs</li> </ul> <p>The Plaintiffs representing the <u>siblings and family classes</u> claim the following:</p> <ul style="list-style-type: none"> <li>▪ Compensation and/or damages for breach of fiduciary duty in the amount of \$600,000,000;</li> <li>▪ damages for loss of care, guidance and companionship in the amount of \$600,000,000;</li> </ul>

Case Name	Defendant/Institution	Cause of Action	Damage/Award Sought
			<ul style="list-style-type: none"> <li>▪ such direction as the court may deem appropriate for the payment of members of these classes;</li> <li>▪ punitive, aggravated or exemplary damages in the amount of \$50,000,000;</li> <li>▪ interest; and</li> <li>▪ costs.</li> </ul>
<p>Gregory Vernon <b>Dauphinee</b> v. The Attorney General of Nova Scotia representing Her Majesty the Queen in right of the Province of N.S.</p> <p>Statement of claim filed at Halifax on November 13, 1998.</p>	<p><u>Defendants</u></p> <p>The Attorney General of Nova Scotia representing Her Majesty the Queen in the Right of the Province of Nova Scotia</p> <p><u>Institution</u></p> <p>The Shelburne School for Boys, Nova Scotia</p>	<p>Allegations of negligence and breach of fiduciary duty</p>	<p>The plaintiffs seek the following:</p> <ul style="list-style-type: none"> <li>▪ non-pecuniary damages;</li> <li>▪ pecuniary damages;</li> <li>▪ interest to the date of judgement;</li> <li>▪ costs;</li> <li>▪ punitive and/or exemplary damages;</li> <li>▪ damages for breach of fiduciary obligation; and</li> <li>▪ aggravated damages</li> </ul>
<p>E.N. v. The Attorney General Representing Her Majesty the Queen in Right of the Province of Nova Scotia</p>	<p><u>Defendant</u></p> <p>The Province of Nova Scotia</p> <p><u>Institution</u></p> <p>Shelburne School for Boys, Nova Scotia</p>	<p>The allegations include breach of contract, breach of trust, breach of fiduciary duty, breach of statutory duty and/or was negligent</p>	<p>The plaintiffs seek the following:</p> <ul style="list-style-type: none"> <li>▪ general damages for pain and suffering and loss of amenities;</li> <li>▪ aggravated damages;</li> <li>▪ special damages;</li> <li>▪ punitive and exemplary damages;</li> <li>▪ pre-judgement interest and</li> <li>▪ costs</li> </ul>
<p>J.J.C. et al v. The A.G of Canada et al.</p>	<p><u>Defendants:</u></p> <p>The A.G. of Canada, the Catholic Episcopal Corporation of Whitehorse, the Missionary Oblates of Mary Immaculate, Father Yvon Levaque, Jerzy George Maczynski and the Estate of Joseph Ben Garand.</p> <p><u>Institution:</u></p> <p>Lower Post Indian Residential School, British Columbia</p>	<p>The claim includes allegations of physical assault, sexual assault, breach of fiduciary duty and negligence.</p>	<p>The Plaintiffs seek the following:</p> <ul style="list-style-type: none"> <li>▪ special damages;</li> <li>▪ aggravated damages;</li> <li>▪ exemplary and punitive damages;</li> <li>▪ costs; and</li> <li>▪ interest.</li> </ul>
<p>Gary MacDonald v. The Attorney General of Nova Scotia</p>	<p><u>Defendant:</u></p> <p>The Attorney General of Nova Scotia representing</p>	<p>The claim includes allegations of breach of fiduciary duty and negligence</p>	<p>The plaintiff seeks the following:</p> <ul style="list-style-type: none"> <li>▪ non-pecuniary damages;</li> <li>▪ damages for breach of fiduciary obligation;</li> </ul>

Case Name	Defendant/Institution	Cause of Action	Damage/Award Sought
	Her Majesty in right of the Province of Nova Scotia  <u>Institution</u>  The Shelburne School for Boys, Nova Scotia.		<ul style="list-style-type: none"> <li>▪ pecuniary damages;</li> <li>▪ interest to the date of judgement;</li> <li>▪ costs;</li> <li>▪ punitive and/or exemplary damages; and</li> <li>▪ aggravated damages for pain and humiliation.</li> </ul>
Kenneth Nelson v. Her Majesty the Queen in Right of Alberta, et al.	<u>Defendants:</u>  Her Majesty the Queen in Right of Alberta, James O. Young and Willem Veerbeek  <u>Institution:</u>  The Provincial Training School and Deerhome Institution in Red Deer, Alberta	Allegations include unlawful confinement, breach of fiduciary duty, assault and negligence.	The plaintiff seeks the following: <ul style="list-style-type: none"> <li>▪ general damages for wrongful sterilisation (\$500,000);</li> <li>▪ general damages for wrongful confinement and wrongful imprisonment (\$500,000);</li> <li>▪ general damages for sexual, mental and physical abuse (\$500,000);</li> <li>▪ aggravated and exemplary damages (\$400,000);</li> <li>▪ punitive damages (\$400,000);</li> <li>▪ damages for past loss of income;</li> <li>▪ damages for loss of future earning capacity;</li> <li>▪ damages for loss of housekeeping and other life skills;</li> <li>▪ damages for the cost of medical and psychological care and counselling;</li> <li>▪ an accounting for and payment of wages and monies held by the Crown as trustee for the plaintiff;</li> <li>▪ a declaration that the Sexual Sterilisation Act and the Mental Defectives Act and their predecessor statutes were outside the competence of the Legislature of Alberta to enact and were ultra vires;</li> <li>▪ a declaration that the Crown's purported application of the Sexual Sterilisation Act and the Mental Defectives Act or their predecessor statutes to the Plaintiff as of no force or effect;</li> <li>▪ interest; and</li> <li>▪ costs</li> </ul>
John Palfrey v. Her Majesty the Queen in Right of Newfoundland	<u>Defendant :</u>  Her Majesty the Queen in Right of Newfoundland  <u>Institution:</u>  Whitbourne Boys' Home	The claim includes allegations of negligence, breach of trust and breach of fiduciary responsibility	The plaintiff seeks the following: <ul style="list-style-type: none"> <li>▪ general damages;</li> <li>▪ special damages;</li> <li>▪ punitive damages;</li> <li>▪ aggravated damages; and</li> <li>▪ interest.</li> </ul>

Case Name	Defendant/Institution	Cause of Action	Damage/Award Sought
<p>Red Crow e. al. (and 181 other plaintiffs) v. Her Majesty the Queen in Right of Canada et al.</p>	<p><u>Defendants:</u></p> <p>The Queen in Right of Canada, The Roman Catholic Church, The Roman Catholic Bishop of the Diocese of Calgary, the Roman Catholic Diocese of Calgary, the Missionary Oblates of Mary Immaculate, the Sisters of Charity of Montreal</p> <p><u>Institution:</u></p> <p>St. Mary's Indian Residential School on the Blood Reserve in Alberta.</p>	<p>The claim includes allegations of breach of fiduciary duty, tortious assault and abuse, negligence, breach of trust, breach of Treaty 7, breach of statutory law, common law, natural law and constitutional rights owed to the plaintiffs.</p>	<p>The plaintiffs seek the following:</p> <ul style="list-style-type: none"> <li>▪ A declaration that the creation, implementation and perpetration of the residential school system was an injustice which caused egregious harm to the plaintiffs and others and as a result, they have a right to reparations and redress for the damage done to them;</li> <li>▪ A declaration stating that the residential school system was a breach of Articles II and III of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.</li> <li>▪ A declaration that the Crown breached Treaty 7 by failing to provide a meaningful education to the plaintiffs.</li> <li>▪ general damages in the amount of \$500,000 for each plaintiff;</li> <li>▪ damages for breach of trust and breach of fiduciary duty in the amount of \$500,000 for each plaintiff;</li> <li>▪ Damages for loss of education and loss of opportunity and chance to earn future income in the amount of \$500,000 for each plaintiff;</li> <li>▪ damages for cultural abuse and loss of culture and language in the amount of \$500,000;</li> <li>▪ damages for unpaid labour (unquantified);</li> <li>▪ unquantified special damages for the costs of counselling;</li> <li>▪ punitive and aggravated damages in the amount of \$200,000 for each plaintiff;</li> <li>▪ other unspecified remedies; and</li> <li>▪ costs.</li> </ul>

**SECTION 3**

**Residential School Litigation Statistics-October 29, 1999**

Litigation Management Branch, DIAND

October 29, 1999	B. C.	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Atlantic	NWT (including Nunavut)	Yukon	TOTAL
# OF CASES	136	677	1730	70	53	0	2	2	1	2671 <sup>1</sup>
# OF SCHOOLS <sup>2</sup>	12	25	13	10	5		1	4	2	72
# OF SCHOOLS-CATHOLIC	9	16	9	4	3		1	4	0	46
# OF CASES- CATHOLIC	81	658	853	31	16		2	2	0	1643
# OF SCHOOLS- UNITED	1	2	1	2	1		0	0	0	7
# OF CASES- UNITED	39	8	225	26	32		0	0	0	330
# OF SCHOOLS-ANGLICAN	2	7	4	2	1		0	0	2	18
# OF CASES- ANGLICAN	16	11	650	7	4		0	0	1	689
# OF SCHOOLS- PRESBYTERIAN	0	0	0	1	0		0	0	0	1
# OF CASES- PRESBYTERIAN	0	0	2	6	1		0	0	0	9
# OF CASES-PHYSICAL	16	387	384	35	21		0	0	0	843
# OF CASES- SEXUAL	13	17	387	0	3		0	0	0	420
# OF CASES- SEXUAL & PHYSICAL	92	279	925	31	20		2	0	0	1349
# OF CASES- CULTURAL ERADICATION	87	639	714	53	23		1	0	0	1517
# OF CASES- CITE U.N. GENOCIDE CONVENTION	25	181	185	5	32		0	0	0	428
OLDEST CAUSE OF ACTION DATE	1926	1918	1883	1915	1918		1930	1959	0	1883

<sup>1</sup>2671 total cases involving 5210 individual plaintiffs.

<sup>2</sup>See Appendix A.

**APPENDIX A**  
Residential Schools in Litigation

SCHOOL NAMES	British Columbia	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Atlantic	NWT (including Nunavut)	Yukon	
	Christie Kamloops Kuper Island Lower Post Cariboo St. Mary's St. George's St. Michael's Alberni Sechelt Lejac St. Eugene	Assumption Fort Chipewyan Blue Quills Crowfoot Ermineskin Legoff Joussard Fort Vermillion Edmonton Wabasca St. Mary's St. Paul's St. Martin's Mission St. John's Mission Good Shepherd Grouard Lac la Biche Morley Old Sun Sacred Heart Sarcee St. Albert St. Cyprian Sturgeon Lake St. Andrew	Prince Albert GRS Ile a la Crosse Montreal lake Beauval Thunderchild St. Michael's Qu'appelle Cowesses Muscowequan Ontion Lake SPRS File Hills	Birtle Brandon Mackay Elkhorn Fort Alexander Guy Hill Pine Creek Portage la Prairie Cross lake Assiniboia	Mohawk Spanish St. Ann's Wikwemikong Mount Elgin	0		Shubenacadie	Grolier Hall Aklavik (RC) Chesterfield Inlet Fort Resolution	Carcross Dawson City Hostel
<b>TOTAL</b>	12	25	13	10	5		1	4	2	

**GRAND TOTAL: 72**