

### **SIXTIES SCOOP CLASS ACTION UPDATE: JULY 7, 2018**

The Sixties Scoop Settlement Agreement deals with two class actions: the proposed unified National Class Action in Federal Court ("*Riddle*") as well as the *Brown* Class action in the Ontario Superior Court. Therefore, it needs to be approved by both Justice Shore of the Federal Court and Justice Belobaba of the Ontario Superior Court.

On Friday, May 11, 2018, despite numerous objections, Justice Shore of the Federal Court approved the Settlement Agreement and the unified National Class Action (*Riddle*). We appeared in Court to object against the Settlement on the grounds that it does not go far enough or include enough people. However, Justice Shore proceeded to approve it. This decision was released June 21, 2018.

On June 20, 2018, Justice Belobaba of the Ontario Superior Court approved the Settlement Agreement but did not approve the fees charged by class counsel. Because the ENTIRE Settlement Agreement – including fees – must be approved or the Settlement Agreement will fail, he has encouraged class action counsel to "de-link" fees from the Settlement Agreement and allow the provisions regarding compensation and the Foundation to remain.

Class action counsel in the Ontario *Brown* action have agreed to de-link fees and deal with them separately. Class action counsel in the *Riddle* action have not yet agreed to de-link fees. Therefore the entire Settlement Agreement remains in limbo.

We expect that all class action counsel in *Riddle* will eventually agree to modified fees and that the Settlement Agreement will be approved. Please note that we are NOT class action counsel in *Riddle* and therefore do not receive any portion of these fees.

In the meantime, we are proceeding with our Yukon Sixties Scoop Class Action that will be limited to people who are excluded from the national Class Action Settlement.

### **WHO IS INCLUDED IN THE NATIONAL SETTLEMENT AGREEMENT?**

The people who are included in the Settlement Agreement are defined as follows:

*All Indian (as defined in the Indian Act) and Inuit persons who were removed from their homes in Canada between January 1, 1951 and December 31, 1991 and placed in the care of non-Indigenous foster or adoptive parents [except those under the Brown Class Action in Ontario]*

The Settlement DOES NOT INCLUDE:

- Métis;
- Non-status;
- Placement in Group Homes;
- Placement with Indigenous Foster or Adoptive parents who were not the claimant's own nation and culture.

### **WHAT IS INCLUDED?**

The Settlement provides for a "Designated Amount" of \$500 million to be divided up amongst the claimants. There is an expected "Base Payment" of \$25,000. However, the actual payment may be less. It may be more. It all depends upon the number of claimants:

- If there are 20,000 claimants or less, each gets an equal share of the \$500 million up to a maximum of \$50,000. For example, if there are 10,000 or fewer claimants, each gets \$50,000. If there are 20,000 claimants, then each gets \$25,000.
- If there are more than 20,000 claimants, then Canada will add up to a further \$250 million, bringing the potential total amount to \$750 million to allow each claimant to receive the Base Payment of \$25,000.
- If there are 30,000 claimants, each gets \$22,500 (\$750 million divided by 30,000)

### **APPLYING FOR THE NATIONAL CLASS ACTION COMPENSATION**

When the Settlement Agreement is finally approved (when the fee issue is either "de-linked" or resolved), you will then be able to apply for compensation. The Application Form will be available at the official Sixties Scoop Settlement website: <https://sixtiesscoopsettlement.info>

### **OPTING OUT**

The National Settlement will be VOID if more than 2,000 Eligible Class members opt out.

Opting out means that you do not receive the Settlement Compensation. You would have to sue Canada and make a claim for compensation in the Courts.

**If you do not want to participate in the Settlement, then you must file an OPT-OUT FORM.** A copy is attached. You can also find it at

<https://sixtiesscoopsettlement.info/Documents/OPT%20OUT%20FORM.DOCX>

**DEADLINE: If you want to opt out, The Opt-Out Form should be received by Collectiva Class Action Services Inc. by August 9, 2018.**

**It is safer to use the deadline of August 9, 2018 rather than wait for final approval of the Settlement Agreement.**

## **HOW DOES THE NATIONAL SETTLEMENT AFFECT THE YUKON SIXTIES SCOOP ACTION?**

The wording of the Settlement Agreement makes it possible to sue the Government of Yukon for abuses. The Yukon Sixties Scoop Action that we filed on October 20, 2017 already claims for abuses. We will amend the Yukon Sixties Scoop Action to specifically claim against the Government of Yukon.

We will also amend it to include people who would be considered Non-Status Indians.

Because the Yukon Sixties Scoop claim also claims for the impacts of Group Homes and the Sixties Scoop Settlement does not include compensation for Group Home placement, we can continue that claim against both Canada and the Government of Yukon.

## **MORE INFORMATION**

Under the terms of the Settlement Agreement and the Approval Order made by Justice Shore, lawyers are not allowed to charge for legal advice relating to applying for the Settlement Agreement Compensation. We can give you more information about the Sixties Scoop Settlement and whether or not you qualify. Please call us at 867 668 2600.