

COURT FILE NUMBER 2503 14029  
COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON



PLAINTIFFS WILFRED CARDINAL and WAYNE CARDINAL, on their own behalf on behalf of all other members of the Class, Representative Plaintiffs

AMENDED *E. Wheaton*  
on Jul 24, 2025  
before the close of pleadings

DEFENDANTS ATTORNEY GENERAL OF CANADA and HIS MAJESTY THE KING IN RIGHT OF CANADA

***Proceeding under the Class Proceedings Act, SA 2003 c. C-16.5***

DOCUMENT **AMENDED STATEMENT OF CLAIM**

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**NOTICE TO DEFENDANTS**

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

**Note: State below only facts and not evidence (Rule 13.6)**

**Statement of facts relied on:**

**DEFINITIONS:**

1. The following definitions apply for the purposes of this Statement of Claim:
  - a. **“Aboriginal”** or **“Aboriginal Person(s)”** means any person whose rights are recognized and affirmed by the *Constitution Act*, 1982, s.35, being Schedule B to the *Canada Act*, 1982 (u.K.), 1982 C.11, specifically Indian, Inuit, and Metis people of Canada;
  - b. **“Canada”** means the Defendants in the proceeding as represented by the Attorney General of Canada;
  - c. **“Class”** or **“Class Members”** means all Metis persons or persons of mixed Aboriginal ancestry who are or were deemed ineligible for status under the *Indian Act*, RSC 1985, c 1-5, or its predecessor legislation, due to their ancestors' alleged acceptance of Metis Scrip from the Government of Canada between 1867 and 1950; and
  - d. **“Class Period”** means the period from 1 January 1870 to 31 December 1925.

**OVERVIEW OF THE ACTION**

2. The Representative Plaintiffs, Wilfred Cardinal and Wayne Cardinal, brothers, bring this action on their own behalf and on behalf of all members of the Class, as defined below, seeking remedies for systemic racial discrimination by the Defendants, ~~His Majesty the King in Right of Canada and the~~ Attorney General of Canada (collectively, **“Canada”**), against Metis persons or persons of mixed Aboriginal ancestry. This discrimination arises from Canada's historic and ongoing denial of status under the *Indian Act*, RSC 1985, c 1-5, to Metis persons based on their ancestors' acceptance of Metis Scrip between 1870 and 1925.
3. Between 1870 and 1925, Canada implemented the Metis Scrip system as a mechanism to purportedly extinguish Metis Aboriginal land rights and other claims. Metis individuals or families were offered Scrip- promissory notes or land certificates in exchange for relinquishing their Aboriginal rights.

4. In many instances, Metis individuals who accepted Scrip received no actual payment, land, or other compensation due to systemic fraud, mismanagement, or administrative failures by Canada. Despite this, Canada used the acceptance of Scrip as a basis to deny these individuals and their descendants status under the *Indian Act*.
5. The Representative Plaintiffs have both had their applications for Indian status repeatedly denied. All such denials have been issued on the basis that their great grandfather, Julien Cardinal, had allegedly taken a Scrip.
6. Julien Cardinal was born 29 September 1854. He married Eliza Ladoucer 29 September, 1874. Both of them allegedly took Scrip. Julien was a member of the Payasis Band, but this was considered a nullity by the Indian Registrar due to his alleged acceptance of a Scrip.
7. The denial of *Indian Act* status to Metis persons based on their ancestors' alleged acceptance of Scrip was arbitrary, discriminatory, and rooted in racial distinctions. Canada treated Metis persons differently from other Aboriginal peoples (Indians and Inuit) despite their equal recognition under section 35 of the *Constitution Act*, 1982.
8. The denial of *Indian Act* status has caused significant and ongoing harm to the Plaintiffs and the Class, including:
  - a. Loss of economic opportunities, such as access to reserve lands, resource rights, and federal programs;
  - b. Loss of educational opportunities, including access to federally funded education programs available to status Indians;
  - c. Societal discrimination and stigmatization resulting from exclusion from *Indian Act* status and associated Aboriginal rights.
9. Canada knew or ought to have known that its policies and actions in denying *Indian Act* status to Metis persons based on the acceptance of Scrip were discriminatory and violated their constitutional rights under section 35.

10. The entire Scrip program was systemically racist and designed to extinguish all existing and future aboriginal rights possessed by or owed to the Metis peoples in Canada, including the Plaintiffs, their descendants, and the entire Class.

## THE PARTIES

11. The Representative Plaintiff, Wilfred Cardinal, is a Metis person residing Lac La Biche, Alberta. He is a descendant of Julien Cardinal, who allegedly accepted Metis Scrip from Canada. As a result of this alleged acceptance, Wilfred Cardinal and his descendants have been denied status under the *Indian Act*, causing significant economic, educational, and societal harm.
12. The Representative Plaintiff, Wayne Cardinal, is a Metis person residing in Lac La Biche, Alberta. He is a descendant of Julien Cardinal, who allegedly accepted Metis Scrip from Canada. As a result of this acceptance, Wayne Cardinal and his family have been denied status under the *Indian Act*, causing significant economic, educational, and societal harm.
13. The Defendant, ~~His Majesty the King in Right of Canada~~, is the legal entity representing the Government of Canada, responsible for the administration of the *Indian Act* and the Metis Scrip system, and liable for the discriminatory policies and actions herein described.
14. The Defendant, ~~the Attorney General of Canada~~, is named as the representative of the Government of Canada pursuant to section 23 of the *Crown Liability and Proceedings Act*, RSC 1985, c C-50, and is responsible for defending the Crown in this action.

## THE CLASS:

15. The Plaintiffs propose that this action be certified as a class proceeding on behalf of the following class (the "**Class**"): All Metis persons or persons of mixed Aboriginal ancestry who are or were deemed ineligible for status under the *Indian Act*, RSC 1985, c 1-5, or its predecessor legislation, due to their ancestors' alleged acceptance of Metis Scrip from the Government of Canada between 1870 and 1925.

16. The Class includes, but is not limited to, individuals who identify as Metis and whose ancestors were allegedly issued Metis Scrip in exchange for the purported extinguishment of their Aboriginal land rights and other claims against Canada, as well as their descendants who have been consequently denied *Indian Act* status.

#### **DEFENDANT'S BREACHES:**

##### ***Breach of Constitutional Rights***

17. Section 35 of the *Constitution Act*, 1982 affirms the existing Aboriginal rights of Metis peoples as equal to those of Indians and Inuit. The denial of *Indian Act* status to Metis persons based on their ancestors' alleged acceptance of Scrip violates their constitutionally protected rights to equal recognition and treatment as Aboriginal peoples.
18. The *Indian Act*, first enacted in 1876 and amended thereafter, establishes a legal framework for determining "Indian" status, which grants certain rights, benefits, and privileges, including access to reserve lands, economic opportunities, educational programs, and other federal benefits.
19. The Metis Scrip system implemented by Canada was a discriminatory mechanism that arbitrarily distinguished Metis persons from other Aboriginal peoples, denying them equal access to the rights and benefits afforded under the *Indian Act*.
20. Canada's ongoing refusal to grant *Indian Act* status to Metis persons or their descendants based on Scrip constitutes a continuing violation of section 35, causing harm to the Class.

##### ***Systemic Racial Discrimination***

21. The denial of *Indian Act* status to Metis persons based on their ancestors' alleged acceptance of Scrip constitutes systemic racial discrimination, as it targets Metis peoples on the basis of their distinct ethnic and cultural identity as persons of mixed Aboriginal ancestry.

22. This discrimination violates the equality guarantees under section 15 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, as well as Canada's obligations under international human rights law, including the United Nations Declaration on the Rights of Indigenous Peoples.

***Breach of Fiduciary Duty***

23. Canada owes a fiduciary duty to Metis peoples as Aboriginal peoples under section 35 of the *Constitution Act*, 1982. By implementing and maintaining the Metis Scrip system and denying *Indian Act* status to Metis persons, Canada breached its fiduciary duty to act in the best interests of the Class.
24. Canada's failure to provide compensation or land under the Scrip system, coupled with its use of Scrip to deny *Indian Act* status, constitutes a breach of this fiduciary duty.

***Unjust Enrichment***

25. Canada was unjustly enriched by the Metis Scrip system, as it purported to extinguish Metis Aboriginal rights without providing adequate or any compensation in many cases. The Class suffered a corresponding deprivation, including the loss of *Indian Act* status and associated benefits.

**DAMAGES:**

26. The Class has suffered significant damages as a result of Canada's discriminatory actions, including:
  - a. **Loss of Economic Opportunity:** Exclusion from *Indian Act* status denied Class members access to reserve lands, resource rights, and economic programs available to status Indians, resulting in substantial financial losses.
  - b. **Loss of Educational Opportunity:** Class members were denied access to federally funded educational programs, limiting their academic and professional opportunities.

- c. **Societal Discrimination:** The denial of *Indian Act* status subjected Class members to social stigmatization, exclusion, and systemic discrimination within Canadian society.
27. The Plaintiffs seek general damages in an amount to be determined at trial, reflecting the collective harm suffered by the Class;
28. The Plaintiffs also seek special damages for quantifiable losses, such as lost income and educational benefits, to be particularized prior to trial;
29. The Plaintiffs seek aggravated damages for the profound emotional and cultural harm caused by Canada's discriminatory policies; and
30. The Plaintiffs seek punitive damages to deter Canada and others from engaging in similar systemic discrimination against Aboriginal peoples.

**COMMON ISSUES:**

31. The Plaintiffs propose the following common issues:
  - a. Whether the Defendants owed a duty to the Plaintiffs; and
  - b. Whether there was a breach of that duty.
32. The Plaintiffs plead and rely upon the following:
  - a. *Class Proceedings Act, SA 2003, c C-16.5*;
  - b. *Court of King's Bench Act, RSA 2000, c C-31*;
  - c. *Crown Liability and Proceedings Act, RSC 1985, c C-50*;
  - d. *Indian Act RSC 1985, c 1-5*;
  - e. *Constitution Act, 1982*;
  - f. *Canada Act, 1982 (u.K.), 1983 C.11*;
  - g. *Charter of Human Rights and Freedoms, RSQ, c. C-12*;
  - h. *Alberta Rules of Court*; and
  - i. Such further and other acts as counsel may advise and this Honourable Court may permit.

33. The Plaintiffs will seek leave at the trial of this action to amend the Statement of Claim to provide for all further losses and expenses incurred by the Plaintiffs and to specifically provide for all losses and expenses presently estimated and unascertained.
34. The Plaintiffs propose that the trial of this action be held at the Law Courts, in the City of Edmonton, in the Province of Alberta.
35. The trial of this action is not expected to exceed 25 days in length.

**Remedy sought:**

36. The Plaintiffs, on behalf of themselves and the Class claim:
  - a. A declaration that Canada's denial of *Indian Act* status to Metis persons based on their ancestors' alleged acceptance of Metis Scrip constitutes systemic racial discrimination and violates their constitutionally protected Aboriginal rights under section 35 of the *Constitution Act*, 1982, Schedule B to the *Canada Act* 1982 (UK), 1982, C 11;
  - b. A declaration that all Metis persons or persons of mixed Aboriginal ancestry deemed ineligible for status under the *Indian Act* due to their ancestors' alleged acceptance of Metis Scrip are now eligible for such status, with all associated rights and benefits;
  - c. General, special, and aggravated damages for loss of economic opportunity, loss of educational opportunity, and societal discrimination resulting from the denial of *Indian Act* status;
  - d. Punitive damages for Canada's willful and systemic discrimination;
  - e. Certification of this action as a class proceeding pursuant to the *Class Proceedings Act*, SA 2003, c C- 16.5 and appointing the Plaintiffs as Representative Plaintiffs for the Class;

- f. Pre-Judgment interest and post-judgment interest pursuant to the *Judgment Interest Act* RSA 2000, 1.J-1;
- g. Costs of this action, including legal fees, on a full indemnity basis;
- h. Costs of notice and of administering the plan of distribution to the recovery of this action, plus applicable taxes, pursuant to section 33 of the *Class Proceedings Act*; and
- i. Such further and other relief as this Honourable Court deems just.

**NOTICE TO THE DEFENDANT(S)**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of King's Bench at Edmonton, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.