



[2021] 3 F.C.R. D-15

ABORIGINAL PEOPLES

Motion to approve First Nations Drinking Water Settlement Agreement (Settlement) pursuant to *Federal Courts Rules*, SOR/98-106, r. 334.29(1), *The Class Proceedings Act*, C.C.S.M., c. C130 (Act), s. 35(1) — Underlying actions class proceedings — Settlement compensating First Nation individuals having lived under drinking water advisory for one year or more — Settlement historic, first to tackle problem of drinking water advisories on First Nation reserves — Additionally, this proceeding marking first time Federal Court, other Superior Court sitting together — Reasons for Settlement and Fee Approval released separately but concurrently by Federal Court, Manitoba Court of Queen's Bench (Courts) — Courts in complete agreement with result, reasons — Representative plaintiffs, other class members filed affidavits in support of settlement approval — Those affidavits explained importance of safe water for physical, spiritual, emotional, psychological, cultural, or economic health of individuals, communities — Settlement Agreement contemplating, ensuring both retrospective, prospective compensation — Whether Settlement fair, reasonable, in best interests of class — Factors to consider including likelihood of recovery or likelihood of success; amount, nature of discovery, evidence or investigation; terms and conditions of Settlement — Settlement reducing risk, delay, simplifying compensation process, enhancing access to justice, providing funding to fix problem — Class counsel satisfactorily gathered relevant facts, assessed liability, understood strengths, weaknesses of actions — Settlement offering significant benefits for class, falling within zone of reasonableness — Expected future expenses, likely duration of litigation favouring approval of settlement — Objective third-party opinions reinforcing fairness of settlement — Absent formal objections, support of representative plaintiffs, other class members seen as unchallenged — Settlement result of good strategy, dedication, compromise — Potential class members provided with robust, clear, accessible notice of Settlement — Settlement addressing representative plaintiffs' litigation objectives — Record demonstrating that class counsel alert, alive to needs of class, risk reward-balance unique to this proceeding — Settlement fair, reasonable, in best interests of class as whole — Settlement approved — Actions against defendant ordered discontinued — Motion allowed.

TATASKWEYAK CREE NATION V. CANADA (T-1673-19, 2021 FC 1415, Favel J., reasons for order dated December 22, 2021, 45 pp. + 578 pp.)