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COURT

Court of King's Bench of Alberta

JUDICIAL CENTRE

Calgary

PLAINTIFF

SPHENIA JONES

DEFENDANT

MARCIN MIRONIUK, THE CATHOLIC ARCHDIOCESE OF EDMONTON, and OBLATE FATHERS OF ASSUMPTION PROVINCE

DOCUMENT

Brought under the *Class Proceedings Act*, S.A. 2003, c. C-16.5

STATEMENT OF CLAIM

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NOTICE TO DEFENDANT

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:

The Parties:

1. The Plaintiff, Sphenia Jones is a member and Elder of Haida Nation and a residential school survivor who has spoken out about deaths at residential schools. She lives in Old Massett, Haida Gwaii, British Columbia.
2. Sphenia Jones brings this action on behalf of herself and a proposed class of residential school survivors who have spoken out about deaths at residential schools.
3. The Defendant, Rev. Marcin Mironiuk is a Catholic priest, pastor at Our Lady Queen of Poland Parish and member of the Missionary Oblates of Mary Immaculate Assumption Province.
4. The Defendant, the Catholic Archdiocese of Edmonton is a registered charitable organization located at 8421-101 Ave, Edmonton, Alberta.
5. The Defendant, the Oblate Fathers of Assumption Province, also known as the Missionary Oblates of Mary Immaculate Assumption Province is a registered charitable organization located at 71 Indian Trail, Toronto, Ontario. Our Lady Queen of Poland Parish is a member of this organization. The Missionary Oblates of Mary Immaculate were responsible for operating a number of residential schools across the country, including the Kamloops Indian Residential School.

Background:

6. Canada ran residential schools with the help of a number of churches to forcibly assimilate First Nations, Inuit, and Métis children. The Catholic Church was responsible for operating well over half of the schools. Residential schools were made mandatory in 1884 for all Indigenous children under 16, and ran until 1996, when the last federally-funded residential school closed. In total, approximately 150,000 children were made to attend.
7. The purpose of residential schools was "to kill the Indian in the child." Children as young as 3 were torn from their families and communities and forbidden from speaking their languages or practicing their customs, as part of the Canadian policy of assimilation. In

addition, disease, malnutrition, and physical and sexual abuses were rampant at these schools, exacerbating the trauma of those forced to attend.

8. Children died in residential schools at alarming rates, due in large part to being forced to live in crowded, unsanitary, and poorly built buildings. It was long known that the forced enrolment and attendance in these schools was, for a staggering number of children, a death sentence. One contemporaneous government study showed that, from 1894 and 1908, mortality rates at some residential schools ranged from 30% to 60% over five years. This was known, understood, and deemed perfectly acceptable by the Canadian government. As stated by the then Deputy Superintendent of Indian Affairs, Duncan Cambell Scott:

It is quite within the mark to say that fifty percent of the children who passed through these schools did not live to benefit from the education which they had received therein...

It is readily acknowledged that Indian children lose their natural resistance to illness by habituating so closely in residential schools, and that they die at a much higher rate than in their villages. But this alone does not justify a change in the policy of this Department, which is geared toward a final solution of our Indian problem.

9. More recently, the Canadian government has recognized the impact of this dark chapter in Canadian history. In 2008, Prime Minister Stephen Harper delivered a formal apology on behalf of the Government of Canada in the House of Commons, recognizing that “it was wrong to forcibly remove children from their homes... to separate children from rich and vibrant cultures and traditions... [and that] the burden is properly ours as a government, and as a country.”
10. The legacy of residential schools has been the subject of a number of class actions, which led to a global settlement through the Indian Residential Schools Settlement Agreement in May 2006 (“**IRSSA**”). This included compensation for survivors and other measures in support of reconciliation. The Government of Canada paid billions in compensation to survivors through a “common experience payment” and the “individual assessment process” for physical and sexual abuse. As part of the IRSSA, the Catholic Church made promises totalling \$79 million, but would ultimately renege on its commitments, providing only a tiny fraction of what had been promised.

11. In May 2021, the Tk'emlúps te Secwépemc First Nation carried out a survey of the former Kamloops Indian Residential School grounds using ground-penetrating radar, revealing 200 potential burial sites of children (adjusted from a preliminary finding of 215). More than a thousand unmarked graves have been confirmed since then on residential school grounds across Canada. These tragic discoveries, no surprise to Indigenous people, has provoked a widespread public response and reckoning with the legacy of residential schools. Efforts to locate remains of the children who perished at residential schools continues, including efforts to obtain the release of records held by the Catholic Church.
12. Until relatively recently, the Catholic Church has refused to apologize for its role in residential schools and in certain instances has perpetuated the denial of the reality of residential schools. As recently as June 2021, the Canadian Conference of Catholic Bishops ("CCCB") maintained that "the Catholic Church as a whole in Canada was not associated with the Residential Schools, nor was the CCCB," emphasizing that the Catholic community and CCCB have a decentralized structure and that "approximately 16 out of 70 Catholic dioceses in Canada were associated with the former Indian Residential School." During a July 10, 2021 mass, a Catholic priest in Winnipeg, Manitoba, publicly accused residential school survivors of lying about the sexual abuses they experienced so that they would get more money from settlements.
13. However, on September 24, 2021, an apology for residential schools was finally issued by the CCCB, and on April 1, 2022, before an audience of Indigenous delegates, Pope Francis apologized for the Catholic Church's role in residential schools, acknowledging "deplorable conduct" by members of the Catholic Church and expressing "sorrow and shame." Thereafter, on July 25, 2022, the Pope delivered an apology before thousands of Indigenous people, including many survivors, at the site of one of Canada's largest residential schools located in Maskwacis, Alberta. This apology went beyond his earlier apology, taking responsibility for many members of the church who co-operated with the "catastrophic" assimilation policy, which Canada's Truth and Reconciliation Commission has said amounted to a "cultural genocide."
14. Further, in September 2022, the CCCB issued a statement of apology that acknowledged the suffering that Indigenous peoples Canada's Indian Residential Schools. At this time, the CCCB again promised that it would raise \$30 million for healing and reconciliation initiatives and, in January 2022, it established the Indigenous Reconciliation Fund to

facilitate this goal. As of October 2022, the CCCB has raised just \$5.5 million and stated that it would take another four years to reach their target.

The Representative Plaintiff:

15. Sphenia Jones (“**Sphenia**”) is a member and Elder of Haida Nation. She was born on November 24, 1944 (and is now 78 years old). She lives in Old Massett, Haida Gwaii, British Columbia.
16. Sphenia is a residential school survivor. She was forced to attend the Edmonton Indian Residential School in St. Albert, Alberta in the 1950s. The school was run by the United Church of Canada. At the age of 11, she was rounded up along with dozens of other children from Haida Gwaii by federal officials, who threatened their parents with jail if they did not give up their children. The children were put on a train, which stopped multiple times to pick up other children from communities along the route. Many of the children did not survive the journey to Edmonton.
17. Sphenia, along with the other children, endured severe and ongoing abuse at the Edmonton Indian Residential School. The children were forced to stop speaking their languages, under threat of severe punishment. Sphenia and others were subject to forced labour and to physical abuse, including having their fingernails and teeth pulled out. Sphenia herself worked in the infirmary and as a result rarely if ever attended class and therefore did not even receive an education.
18. Sphenia recalls one specific horrifying incident where a child at the school was killed. Vicki Stewart, one of Sphenia’s fellow students, died after being hit in the head with a 2 by 4 by one of the nuns. Sphenia remembers seeing Vicki in her bed with blood on her pillow and trying unsuccessfully to wake her, before realizing that her head had been seriously injured. On reporting the incident, Sphenia was punished, told to keep quiet, and told that nobody would believe her. The school didn’t want to send Vicki to the infirmary because of what happened, and Sphenia had to prepare her body by wrapping her in a blanket. Ultimately, Vicki was sent back to her family in Gitxaala, where was buried. The funeral was closed casket. Vicki’s sister Charlotte later received a letter from the United Church apologizing for what had happened.

19. Sphenia has first hand knowledge of children dying and being buried at the Edmonton Indian Residential School. She saw where they were buried, along the fence - an area now overgrown with trees. One of her fellow students, Eddie Hans, was made to bury many of the children.
20. Needless to say, the experience of residential school was traumatic for Sphenia and has had a devastating impact on her life. She has had to do a lot of work to heal over the years, which she has been able to do with the help of her family.
21. Sphenia now speaks out every chance she gets about residential schools and the deaths at these schools. She has spoken out about the need to find and identify those who lost their lives at residential schools and were buried in unmarked graves, as well as the need to revive Indigenous languages, all of which were lost because of residential schools. She has spoken out many times on national news, including CBC and Global News, and has been interviewed multiple times.

The Defamation:

22. Rev. Marcin Mironiuk, a Catholic priest, conducted masses on July 18, 2021 at Our Lady Queen of Poland Parish ("**the Parish**") in Edmonton, Alberta. The Parish is part of Missionary Oblates of Mary Immaculate Assumption Province and the Catholic Archdiocese of Edmonton.
23. At these July 18, 2021 masses, Rev. Mironiuk made a number of statements (translated from Polish) regarding the discovery of grave sites at residential schools, repeatedly describing reports about the discoveries of unmarked graves at residential school sites as "lies" and "manipulation":
 - (a) *"We are now also in the unfolding of lies, big lies. There are those mass graves being uncovered at residential schools."*
 - (b) *"There were reports stating why these children were dying. They were dying from natural causes and were buried in regular cemeteries, and that's why we're living now in a great lie."*

(collectively with below, the "**Defamatory Statements**")
24. Rev. Mironiuk also described how he had personally visited Kamloops without disclosing he was a priest, and repeatedly asked to see the "mass graves." Mironiuk said he was told

he wasn't allowed to see the unmarked graves because the grounds are sacred. He compared the events to the Jedwabne pogrom (a historical massacre during World War II marked by ethnic Poles killing hundreds of Jews, including children, in the Polish town of Jedwabne). Mironiuk said the unmarked graves at residential schools are "the same lies" as those told of the massacre at Jedwabne:

- (a) *"Oh, well, if it's a sacred place then you won't allow exhumation to happen to determine why the kids were buried there," ... "Look at this manipulation, this lying."*
- (b) *"The Jewish community raised the alarm and said, 'This is sacred land, don't dig.' It's the same lies, my dears," ... "The lies will turn into a truth that people will end up believing... Let's protect the truth."*

(collectively with above, the "**Defamatory Statements**")

- 25. The Defamatory Statements in their natural and ordinary meaning were meant and understood to mean that:
 - (a) There were no unmarked graves at the Kamloops Indian Residential School grounds, and the 2021 discovery of unmarked graves at school grounds was a fraud;
 - (b) Children at residential schools, including the Kamloops Indian Residential School, died of natural causes; and
 - (c) Those who claim that there were unmarked graves at the Kamloops Indian Residential School grounds and that children who attended those schools died other than of natural causes are liars and manipulators.
- 26. These statements were, in turn, published by the Parish in a broadcast of the July 18, 2021 mass on YouTube, an internet platform with a worldwide audience visible to anyone accessing the website in Alberta and throughout the world (the video has since been taken down and is not available publicly – however, excerpts have been preserved by news outlets).
- 27. The Catholic Archdiocese of Edmonton and the Oblate Fathers of Assumption Province either published or participated in or authorized the publication of the Defamatory Statements, and/or are vicariously liable for the actions of Rev. Mironiuk.
- 28. On August 11, 2021, Vice published an article titled "Video Shows Catholic Priest Calling News of Residential School Graves 'Huge Lie'", which exposed Rev. Mironiuk's comments about residential schools and the discovery of the unmarked graves, as set out above.

Other news outlets soon reported the story as well. These news articles were and continue to be available online, accessible in Alberta and throughout the world.

29. On August 11, 2021, the Archdiocese released a statement acknowledging the statements made by Rev. Marcin Mironiuk, noting that the YouTube video of Rev. Mironiuk's Masses was taken offline. The statement noted that Rev. Mironiuk "apologizes unequivocally and expresses deep regrets for those statements," and that the Archbishop had accepted the apology.
30. On August 13, 2021, the Archdiocese released a statement that Rev. Mironiuk had been placed on indefinite administrative leave from ministry in the Archdiocese of Edmonton, effective immediately. The statement noted that an apology from Rev. Mironiuk would be read in conjunction with the August 14-15 masses.
31. In an undated written statement, Rev. Mironiuk issued apologized to residential school survivors, acknowledging the pain and sadness resulting from his remarks and committing to educate himself about the history of residential schools, do better, and contribute to the process of reconciliation.
32. On August 14, 2021, the Provincial Superior of the Missionary Oblates of Mary Immaculate, Assumption Province, issued an apology on behalf of Rev. Mironiuk and the religious congregation, noting that Rev. Mironiuk would undergo education to better his knowledge and understanding of residential schools and reconciliation.

Effect of the Defamation:

33. The Defamatory Statements are of and concerning the Plaintiffs. In the circumstances, the Plaintiffs are identified by the Defamatory Statements expressly or by clear implication because they are residential school survivors who have spoken publicly about the deaths associated with residential schools, including the discovery of grave sites at the Kamloops Indian Residential School grounds. This is the very group at which the Defamatory Statements were directed, labelling them as liars and manipulators in an attempt to discredit them. The defamatory statements referred to, and would be understood to refer to, each member of the group. Each member of the group suffered injury to his or her reputation caused by the defamatory statements, which impute that each is a liar and manipulator.

34. By reason of the Defamatory Statements, the Plaintiffs have been lowered in the estimation of right-thinking members of society, and have been seriously injured in their credibility, character, and reputation, and have suffered damages.
35. Sphenia herself was also severely emotionally impacted by the Defamatory Statements, which caused her to become very depressed and for a time discouraged her from speaking out as she felt she would not be believed. Though with the help of her family she is now once again speaking out, she continues to encounter people who refuse to believe the truth about residential schools.
36. The Defamatory Statements also had, more generally, an impact on all residential school survivors and Indigenous Canadians, by spreading a pernicious denial of the legacy of residential schools, including the widespread and well-documented deaths of Indigenous children at these schools. Though more Canadians than ever are now aware of the legacy of residential schools, residential school denialism is also on the rise.

Malice:

37. Rev. Mironiuk acted with malice, in that he made the Defamatory Statements with knowing falsity or reckless disregard for the truth and with the intention of injuring the reputation of the Plaintiffs. The Plaintiff claims damages, including punitive and exemplary damages, arising from the Defamatory Statements and will rely on the following facts and matters to support their claim for aggravated and exemplary damages:
 - a) The expressions used and the nature of the Defamatory Statements were inherently malicious, intended to discredit residential school survivors and those who spoke out about the deaths at residential schools;
 - b) Rev. Mironiuk used his position of power and influence in his Parish, and with Catholics more broadly, to bring insult and harm to residential school survivors; and
 - c) Rev. Mironiuk was aware that the sermon was being broadcasted, and that his statements regarding residential school survivors and the unmarked graves would reach a broader audience than his immediate congregation.

Remedy Sought:

38. Wherefore the Plaintiff claim against the Defendants:

- (a) An order certifying this action as a class proceeding and appointing Sphenia Jones as representative plaintiff for the class;
- (b) Damages;
- (c) Punitive, exemplary and aggravated damages, or any of them;
- (d) Pre-judgment and post-judgment interest of damages calculated in accordance with the provisions of the *Judgment Interest Act*, RSA 2000, c J-1;
- (e) Solicitor-client costs of this Action; and
- (f) Such further and other relief as this Honourable Court may deem just and appropriate, having regard to all the circumstances.

NOTICE TO THE DEFENDANT

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 Calgary, Alberta, AND by serving your statement of defence or a demand for notice on the plaintiff'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 against you.