Section 6: Facts that Support the Application of the Independent First Nations Alliance and Kitchenuhmaykoosib Inninuwug First Nation

1. This Complaint is filed by the Independent First Nations Alliance ("IFNA") and Kitchenuhmaykoosib Inninuwug First Nation ("KI") (the "Applicants"), alleging discrimination in the provision of Emergency Medical Services ("EMS"), including paramedicine and ambulatory services, pursuant to section 1 of the *Human Rights Code*, RSO 1990, c H.19 (the "*Code*"). This Complaint is filed in accordance with s. 34(4) of the *Code*, on behalf of KI and IFNA, which serves the following First Nations (the "Communities"):[1]
    a. Kitchenuhmaykoosib Inninuwug First Nation;
    b. Lac Seul First Nation;
    c. Muskrat Dam First Nation;
    d. Pikangikum First Nation; and
    e. Whitesand First Nation.
2. The Respondent, the Ministry of Health (the "Ministry" or the "Minister" or the "Respondent"), has a duty to fund and ensure the delivery of equitable EMS to First Nations communities, by virtue of its statutory duties and adopted provincial policies on health service delivery to First Nations in Ontario.
3. The alleged grounds of discrimination are race, ancestry, place of origin, colour, ethnic origin, and family status based on their identity as First Nations peoples.

I. Overview

4. In Ontario, the delivery of EMS to First Nations communities is governed by the *Ambulance Act* and informed by Ontario's various healthcare policies on anti-Indigenous racism. Together, these set out the provincial responsibility for ensuring on-reserve EMS.
5. Despite this duty, the Respondent has persistently failed to provide adequate funding and resources, forcing these Communities to have inadequate – or completely absent – EMS. IFNA's Integrated Emergency Services team coordinates the delivery of limited resources, but the Communities lack adequately resourced EMS personnel or infrastructure. For example, while Pikangikum has a small EMS team which was set up by IFNA, Lac Seul has no local EMS and must rely on outside services with response times of up to 45 minutes. Whitesand must rely on services from the neighbouring municipality of Armstrong, Ontario, itself a small community. For KI and Muskrat Dam, the only service available is medivac through Ornge.
6. Together, the registered on-reserve population of the Communities affected by this Application is over 6,000 people. The actual number of First Nations peoples that live in these Communities is higher than the registered population, as some see registration under the *Indian Act* as a colonial practice and do not wish to be registered. Notably, the Applicant KI has a total actual population of approximately 1,500 people, while its "*Indian Act* registration" is an undercount, showing only 1,206 people on reserve.
7. Within IFNA, each community has passed a Band Council Resolution ("BCR") endorsing IFNA's Chiefs' Resolution 2022/09 ("Resolution 2022/09") (Nov. 10, 2022), wherein IFNA identifies the harm to the Communities due to a lack of equitable EMS and demands that the provincial government flow funds to IFNA and/or the Communities for provision of EMS.
8. The Applicants are seeking an Order from the Tribunal that the Ministry provides sufficient, equitable funding and resources to KI, IFNA, and the Communities, based upon funding levels that ensure substantive equality in service when compared to similarly situated communities, while taking into consideration other challenges faced by each Community, including cultural

[1]Application filed jointly with the Application of Chief Donny Morris on behalf of Kitchenuhmaykoosib Inninuwug.

context and remoteness. The Ministry's discriminatory conduct resulting in a severe lack of EMS has led to a persistent, life-threatening emergency in the Communities, as detailed below.

II. Facts: The EMS Crisis and the Respondent's Duty to the Applicants

9. Notwithstanding the federal government's maintenance of general jurisdiction over "Indians and land reserved for Indians",[2] this does not automatically mean that the federal government is responsible for ensuring EMS simply because a First Nation is involved.[3] The Respondent in this Complaint has a duty, born of legislation and policy, to establish and fund EMS within First Nation communities to allow access to care and service, connect patients to health providers, and to provide services that are culturally appropriate.
10. To be clear, the Minister is under a statutory duty to establish and fund EMS for the residents of the member First Nations in the same way that EMS is established and funded within all communities across the province of Ontario. Paramedic services in Ontario are governed by the *Ambulance Act*, RSO 1990, c A.19 (the "*Act*"). Under the *Act*, the Minister has a duty to:[4]
    - ensure the existence throughout Ontario of a balanced and integrated system of ambulance services and communication services used in dispatching ambulances;
    - to establish, maintain and operate communication services, alone or in co-operation with others, and to fund such services; and
    - to fund and ensure the provision of air ambulance services.
11. There is nothing in the provisions of the *Act* that indicates the exclusion of a person or group of people from the provision of these paramedic services. Ambulance services "are comprehensively regulated by [Ontario]", and as such, the funding for same can be sought from Ontario, regardless of whether the services are provided to First Nations.[5]
12. As such, Ontario is required to provide the Communities with EMS equitable to those received by residents of similarly situated, non-First Nation communities and municipalities. There is no reason for Ontario to <u>not</u> provide funding for EMS to the Applicants.
13. The Ministry's policy states that colonialism, racism, and social exclusion have a profound effect on Indigenous communities and are responsible for health inequities between Indigenous peoples and other Ontarians.[6] Ontario Health has stated that creating equitable and culturally safe health care to Indigenous peoples must focus on community-based care.[7] Ontario Health has stated that a main theme of their anti-racist framework is partnering with Indigenous communities to advance health equity.[8]
14. The publishing of this policy signals to the Applicants that the Ministry has placed itself in a position wherein they recognize the discriminatory treatment of Indigenous peoples in Ontario's health system, but the Applicants have also seen the refusal of the Ministry to change that discrimination and provide the Applicants with equitable EMS.
15. An Auditor General Report found that the Ministry has not properly engaged with Indigenous peoples to ensure that they have the services required to meet the needs of their communities[9],

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[2] *Constitution Act, 1867* (UK), 30 & 31 Vict c3, s. 91, reprinted in RSC 1985, Appendix II, No 5.
[3] *OPSEU v Chippewas of Rama First Nation*, 2019 CanLII 544 (ON LRB), at para. 75.
[4] *Ambulance Act*, RSO 1990, c A.19, at s. 4(1) [*Act*].
[5] *Ibid*.
[6] Ministry of Health and Long-Term Care, *Relationship with Indigenous Communities Guidelines, 2018,* (Queen's Printer of Ontario: Ministry of Health and Long-Term Care, 2018).
[7] Health Quality Ontario, "Equitable and culturally safe care for Indigenous peoples" (2025).
[8] Public Health Ontario, "Anti-Racist Frameworks and Tools to Advance Public Health Planning, Service Delivery, and Decision Making", (Toronto: Public Health Ontario, 2024).
[9] Office of the Auditor General of Ontario, *Value-for-Money Audit: Indigenous Affairs in Ontario* (2020) pp. 28-29.

against the United Nations Declaration on the Rights of Indigenous Peoples, which the Truth and Reconciliation Commission called upon all governments to fully adopt.[10]

16. The Ministry has admitted that "once a service is offered, it must be offered in such a way that it is not discriminatory".[11] The Ministry has offered EMS across the province through the provisions of the *Act*, and further, has specifically funded EMS for some First Nations.[12] The Ministry does not have the choice to not offer equitable EMS to the Applicants, and any denial of such is an act of discrimination based upon the stated protected grounds.

A. The Severity of the Crisis

17. Multiple factors within the Communities emphasize the need for EMS, which include disproportionate suicide rates; traumatic incidents from accidents, drownings, and house fires; birth complications; and injuries from exposure to the elements.
18. Indigenous patients have higher rates of emergency department visits and higher hospital admission rates. This is compounded by the fact that First Nations living on reserve face barriers to health care due to health system deficiencies. There is scarce access to routine primary care and healthcare avoidance due to the significant anti-Indigenous biases.[13]
19. In response to the ongoing crisis in the Communities, Resolution 2022/09 was passed to confirm the Minister's duty to fund equitable EMS, and how the Minister's refusal to fund EMS means that Communities will continue to "experience an ongoing unacceptable risk to their community members and youth, due to a lack of equitable emergency services".
20. Resolution 2022/09 states that, despite the efforts of IFNA, the Ministry continues to refuse to fund the operation, maintenance, and infrastructure needed for IFNA to safely and adequately provide EMS to the member First Nations, and if such funding exists, "it does not flow directly to the communities or to IFNA". KI passed a BCR on January 30, 2025, to authorize IFNA to provide EMS to their community, while also noting the lack of acceptable EMS thus far and calling upon the province to provide sustainable funding for EMS in their community.
21. IFNA has repeatedly asked the Ministry to provide the resources it needs to address these gaps, through letter-writing and official funding requests. IFNA has outlined to the Ministry what adequate funding looks like for the Applicants to provide equitable EMS. Any funding distributed by the Minister is designated as "one-time" funding and does not meet the requirements that have been identified by IFNA, nor discharges the Minister's duty.

III. The Crown has Discriminated Against the Applicants

A. Discrimination in the Provision of Services (Section 1 of the *Code*)

22. There is an actual population of approximately 6,000 persons across the Communities. The Applicants have tried to work with the Respondent to improve access to EMS in the Communities, based on the Respondent's duty to ensure such services are delivered equitably to all Ontarians. Despite these efforts, the Communities have suffered the consequences of the Respondent's refusal to provide equitable resources, resulting in severe delays in response times during emergency situations, lower quality healthcare, and higher mortality rates.
23. In February 2023, IFNA submitted a proposal for paramedicine and 911 dispatch in Pikangikum. The estimated total cost for would be $4.2 million for the start-up year and $3.3

[10] *Ibid*.
[11] *Puharich v. Ontario*, 2016 HRTO 574, at para 10.
[12] Office of the Auditor General of Ontario, *2015 Annual Report of the Office of the Auditor General of Ontario,* Chapter 4, *Land Ambulance Services,* (2015), at p. 614.
[13] Tyara Marchand et al, "Improving Indigenous health equity within the emergency department: a global review of interventions" (2024) 26 Can J Emerg Med, at p. 489.

million per year after. On January 27, 2025, a letter from the Minister approved one-time funding for EMS for the 2024-25 fiscal year. The Minister thanked IFNA for their commitment to protecting the health and safety of Ontarians, but this one-time funding in one Community for one year effectively rejected the idea of equitable EMS in the Communities.

24. In September 2023, IFNA submitted a proposal for community paramedicine, with the start-up cost $13 million, and $6 million per year after. This proposal, which did not even ask for complete EMS for the Communities, was rejected. The Ministry's rejection has directly resulted in emergencies becoming more dire and devastating to those involved.
25. IFNA was forced to receive funding for EMS from the Ministry of Long-Term Care ("MLTC") through the MLTC Community Paramedicine for Long-Term Care program, even though this program was to support vulnerable seniors and those waitlisted for long-term care. IFNA also received funding from Indigenous Services Canada for the proposal of community paramedics providing EMS at existing nursing stations in KI, Pikangikum and Muskrat Dam.
26. Due to the lack of support from the Ministry, IFNA was forced to receive piecemeal funding from other government sources. Further, these approvals are for one-time payments, and therefore, are unable to create sustainable, long-term, reliable, and equitable EMS for First Nations people living in the Communities.
27. KI is a remote community located on Big Trout Lake, some 600 kilometres north of Thunder Bay. It is a fly-in community that has ice-road access in the winter months.
28. In KI, there is no local EMS. Medivac transportation out of the community is the only solution for urgent health calls. There are high rates of medivac transportation out of KI. In comparison, KI has a population of approximately 1,500 and has similar medivac rates to the community of Pikangikum, which has an actual population of approximately 4,000.
29. In KI, the passing of two young girls from poisoning could have been prevented if EMS had been there to provide life-saving services. KI has a nursing station where the girls were admitted in the morning. They were taken to Thunder Bay by medivac late that evening. By the next morning it was clear that the girls could not be saved, and the family were told by a doctor that they could have been helped if they had gotten care earlier.
30. On July 31, 2025, KI passed a BCR which declared a state of emergency in the community, stating that the community has faced profound and ongoing losses, with a rapid increase of preventable deaths, and calling upon the provincial government to equitably fund EMS in KI.

B. <u>The Applicants Lack the Resources Provided to Similar, Non-Indigenous, Communities</u>

31. IFNA EMS is a certified ambulatory service with the Ministry. The most recent Director's Order that renews the certificate for another year was May 5, 2025.
32. The only Community with local EMS is Pikangikum. The closest land ambulance takes 25-45 minutes to reach Lac Seul. A key performance indicator for land ambulance services is response time.[14] The standard response time for sudden cardiac arrest is 6 minutes.[15] KI has no local EMS. There are no local land ambulance services, and no local medivac services. Any medical event that is too emergent to be dealt with at the nursing station must wait for medivac transportation to fly into KI from Thunder Bay or Sault St. Marie.
33. Due to the Ministry's refusal to fund EMS, life-saving interventions cannot be made in a timely manner, leading to an increased rate of mortality and morbidity in the Communities. In many cases, children and young people are the ones who suffer increased mortality and morbidity, and Jordan's Principle is inadequate to deal with such harmful effects.

[14] Ontario, "Land Ambulance Key Performance Indicators" (1 October 2024).
[15] *Ibid*; O Reg 257/00, s.23(7).

34. By way of comparison, the town of Ignace, located in north-western Ontario, is a similarly situated community and has local EMS. Ignace has a population of approximately 1200.[16] The Ignace EMS base has two ambulances, physical infrastructure to house the vehicles, and at least eight employees, three of which are full-time paramedics.[17]
35. Pickle Lake is a remote, north-west Ontario, similarly situated community with a population of approximately 398.[18] Pickle Lake has local EMS equipped with two ambulances, a building to house the vehicles, and at least five employees, three of which are full-time paramedics.[19]
36. In comparison, KI has a population of approximately 1500 and no local EMS. The disparity in service between these similarly situated communities is blatant.

IV. Injury to Dignity and Self-Respect

37. As a result of the discriminatory treatment, the Applicants and members of the Communities have suffered injury to their dignity and self-respect. The injury to those who experience discrimination is more than just quantifiable financial losses; it includes the harm of being treated with less dignity, and consequentially causes psychological effects.[20]
38. The continuing discriminatory refusal to provide equitable funding to the Applicants for EMS is akin to telling the Applicants that they are being treated as 'less than' due to their First Nations identity. This caused psychological effects to the Applicants that reinforce the structures of colonialism, and directly caused the Communities to lose family members, including children, neighbours, and elders.
39. The conduct on the part of the Ministry is objectively serious, has had a harsh impact on the Applicants who have experienced the discrimination, and the discrimination has been occurring over an extended period of time, compounding the effects of discrimination.
40. Damages in this Complaint must be at the high end of the range, as the effects on the Applicants are particularly serious: the Applicants are vulnerable individuals; the offensive treatment has been frequent and for a long time; and, the Applicants have experienced a loss of dignity and self-respect.[21]Due to the factors discussed above, the Applicants submit that an appropriate monetary remedy to compensate for injury is $10,000 per person living in the Communities.[22] This is not inclusive of funding to the Applicants, requested below, for equitable EMS.

V. Remedy Requested

41. The Applicants seek the following relief:
    a. A finding that the Crown has breached the Code and discriminated against the Applicants, and an Order that it cease and desist from doing so;
    b. An Order that the Ministry funds IFNA to provide EMS to the Applicants, based upon funding levels that ensure substantive equality in service, and taking into consideration other challenges faced by each community, including remoteness;
    c. Damages to compensate for injury to the dignity of the Applicants due to the discrimination in the amount of $10,000 per person living in the Communities;
    d. Appropriate public interest remedies; and
    e. Such other relief as may be requested.

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[16] Statistics Canada, *Census Profile, 2021 Census of Population*, Ignace, (Ottawa: Statistics Canada, 2023).
[17] "Emergency Medical Services" (2025), online: *Kenora District Services Board* ["Emergency Medical Services"].
[18] Statistics Canada, *Census Profile, 2021 Census of Population*, Pickle Lake (Ottawa: Statistics Canada, 2023).
[19] "Emergency Medical Services", *supra* note 17.
[20] *Arunachalam v Best Buy Canada*, 2010 HRTO 1880, at para. 46.
[21] *A.B. v Joe Singer Shoes Limited*, 2018 HRTO 107, at para. 165.
[22] *Association of Ontario Midwives v Ontario Health and Long-Term Care*, 2020 HRTO 165, aff'd 2022 ONCA 458.