

COURT FILE NUMBER	2101-14285
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFFS	ERYN MACKENZIE, CODY BONKOWSKY and JESSE JOHN RISDON as REPRESENTATIVE PLAINTIFFS
DEFENDANTS	THE CALGARY BOARD OF EDUCATION, THE ESTATE OF MICHAEL GREGORY and FRED HENRY ARCHER
DOCUMENT	<b><u>CERTIFICATION ORDER</u></b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	HMC Lawyers LLP #1000, 903 – 8 <sup>th</sup> Avenue SW Calgary, Alberta T2P 0P7  Attention David J. Corrigan, K.C. and Meagan Potier  Phone: 403.269.7220 Fax: 403.269.9304 File: 2233-001 DJC

Clerk's Stamp

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DATE ON WHICH ORDER WAS PRONOUNCED:	January 13, 2025
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LOCATION OF HEARING OR TRIAL:	Calgary, Alberta
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NAME OF JUDGE WHO MADE THIS ORDER:	Justice M. Hollins
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**UPON THE APPLICATION** of the Plaintiffs for certification of this Action as a class proceeding; **AND UPON REVIEWING** the Plaintiffs' Application for Certification filed July 22, 2024; **AND UPON REVIEWING** the written submissions of the Parties for the Application for Certification; **AND UPON REVIEWING** the Affidavits and Authorities submitted by the Parties for the Application for Certification; **AND UPON HAVING HEARD** from counsel for the Plaintiffs; **AND UPON HAVING HEARD** from counsel for the Defendant, the Calgary Board of Education (the "CBE"), **AND UPON HAVING HEARD** from counsel for the Defendant, the Estate of Michael Gregory (the "Estate"), **AND UPON THE CONSENT** of the parties respecting the approval of the notice program, and the litigation plan;

**IT IS HEREBY ORDERED THAT:**

1. This Action is certified as a class proceeding pursuant to the *Class proceedings Act*, S.A. 2003, c C-16.5 [**CPA**];
2. The "Class" is comprised of former students of John Ware School from 1988 to 2004 who claim to have suffered sexual and/or physical abuse by Michael Gregory or Fred Archer, with the following three subclasses:
  - a. A subclass for the class members alleging sexual abuse by Michael Gregory (the "**Gregory Sexual Abuse Subclass**");
  - b. A subclass for the class members alleging non-sexual (physical) abuse by Michael Gregory (the "**Gregory Non-Sexual (Physical) Abuse Subclass**");
  - c. A subclass for the class members alleging sexual or physical abuse by Fred Archer (the "**Archer Abuse Subclass**");
3. The Plaintiff Eryn MacKenzie is appointed as the Representative Plaintiff for the Gregory Sexual Abuse Subclass;
4. The Plaintiff Cody Bonkowsky is appointed as the Representative Plaintiff for the Gregory Non-Sexual (Physical) Abuse Subclass;
5. The Plaintiff Jesse John Risdon is appointed as the Representative Plaintiff for the Archer Abuse Subclass;
6. The proceeding is certified on behalf of the Class in respect of the common issues set out in the list of common issues attached hereto and marked as **Schedule "A"**;
7. The Litigation Plan, substantially in the form attached hereto and marked as **Schedule "B"**, is approved;
8. The form and content of the Notice of Certification, substantially in the form attached as **Schedule "C"** is approved;
9. The Notice of Certification shall be disseminated by publishing on the HMC Lawyers website, and in the Calgary Herald for three days as soon as practicable;
10. The dissemination of the Notice of Certification as provided for in this Order, constitutes sufficient notice to all class members entitled to notice, and satisfies the requirements of notice pursuant to section 20(1) to (8), inclusive, of the *CPA*;
11. The form and content of the Opt-Out Form, substantially in the form attached as **Schedule "D"** is approved (the "**Opt-Out Form**");

12. The opt out deadline is October 15, 2025 (the "Opt-Out Deadline");
13. Class members may exclude themselves from this action by submitting an Opt-Out Form to Class Counsel on or before the Opt-Out Deadline; and
14. A copy of all Opt-Out Forms received by Class Counsel shall be provided to the Court and to the Defendants.
15. The parties have come to an agreement on the issue of costs with regards to the Certification Hearing.
16. The Action is set to proceed to a thirty-five (35) day trial on liability commencing on October 13, 2026, in the Court of King's Bench of Alberta.

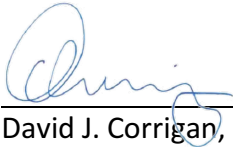
*Michèle H. Hollins*

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Justice of the Court of King's Bench of Alberta

CONSENTED TO this 12th day of August, 2025

HMC LAWYERS LLP

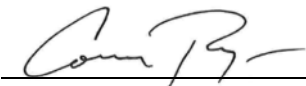


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David J. Corrigan, KC / Meagan Potier  
Counsel for the Representative Plaintiffs, Eryn  
MacKenzie, Cody Bonkowsky and Jesse John  
Risdon

CONSENTED TO this 12 day of August, 2025

WHITELAW TWINING LLP



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Cory Ryan  
Counsel for the Defendant, the Calgary Board of  
Education

CONSENTED TO this 11 day of August, 2025

JENSEN SHAWA SOLOMON DUGUID HAWKES  
LLP

A handwritten signature in blue ink, appearing to read "Stokes", is positioned above a horizontal line.

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Charlotte Stokes  
Counsel for the Defendant, the Estate of  
Michael Gregory

**Schedule "A"**  
**Certified Common Issues for Trial**

**1. As against Michael Gregory:**

- A. Did Michael Gregory owe a fiduciary duty or a duty of care towards the class members in tort?
- B. If the answer to (A) is yes, what was the standard of care?
- C. If the answer to (A) is yes, did he breach the standard of care or the fiduciary duty owed to some or all of the class members?

**2. As against Fred Archer:**

- A. Did Fred Archer owe a fiduciary duty or a duty of care towards the class members in tort?
- B. If the answer to (A) is yes, what was the standard of care?
- C. If the answer to (A) is yes, did he breach the standard of care or the fiduciary duty owed to some or all of the class members?

**3. As against CBE:**

Duty of Care/Fiduciary Duty

- A. Did the CBE owe a duty of care in tort or a fiduciary duty to the class members?
- B. If the answer to (A) is yes, what was the standard of care or the content of the duty, having regard to:
  - i. Obligations, if any, to develop, communicate and enforce policies and procedures to prevent or address physical and/or sexual abuse within John Ware School;
  - ii. Obligations, if any, to investigate complaints of physical and/or sexual abuse within John Ware School;
  - iii. Obligations, if any, to screen or vet prospective employees for any history of sexually or physically abusive conduct; and
  - iv. Obligations, if any, to monitor teachers at John Ware School to prevent or address physical and/or sexual abuse within the school?
- C. If the answer to (A) is yes, did CBE breach the standard of care or the fiduciary duty owed, in respect of some or all of the class members?

Vicarious Liability

- A. Is CBE vicariously liable to all or some of the class members for the tortious actions of Gregory and/or Archer, having regard to:
  - i. The nature of the employment relationship between Gregory and Archer, respectively and the CBE, including the nature and the extent of power conferred by the CBE on Gregory and Archer;
  - ii. The degree of CBE oversight, direction or monitoring reasonably expected and/or exercised over Gregory and Archer;

- iii. The aims and goals of the CBE; and
- iv. The friction, controversy and/or intimacy, if any, inherent in CBE's operations in the management of John Ware School?

#### Non-Delegable Duty

- A. Did the CBE owe a duty to class members to provide them with a safe and caring environment that fosters and maintains respectful and responsible behaviours?
- B. If the answer to (A) is yes, was this a non-delegable duty?
- C. If the answer to (A) is yes, did CBE breach this duty in respect of some or all of the class members?

#### Punitive Damages

- A. In the event that liability is established against CBE, does its conduct justify the imposition of punitive damages?

#### Defences

- A. Are some or all of the class members' claims statute-barred, in whole or in part, by the Limitations Act, RSA 2000, c.L-12?
- B. How does the *School Act*, RSA 2000, c.S-2, s.144.1 apply, if at all?

**Schedule "B"**  
**Litigation Plan**

COURT FILE NUMBER	2101 - 14285
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFFS	ERYN MACKENZIE, CODY BONKOWSKY and JESSE JOHN RISDON
DEFENDANTS	THE CALGARY BOARD OF EDUCATION, THE ESTATE OF MICHAEL GREGORY, and FRED HENRY ARCHER
DOCUMENT	<b>LITIGATION PLAN</b>
PARTY FILING THIS DOCUMENT	ERYN MACKENZIE, CODY BONKOWSKY and JESSE JOHN RISDON
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	HMC Lawyers LLP #1000, 903 – 8th Avenue SW Calgary, Alberta T2P 0P7  Attention David J. Corrigan, K.C. and Meagan Potier Phone: 403.269.7220 Fax: 403.269.9304 File: 2233-001 DJC

**DATE ON WHICH ORDER WAS PRONOUNCED:**

\_\_\_\_\_

**LOCATION OF HEARING:**

Calgary, Alberta

**NAME OF APPLICATIONS JUSTICE WHO PRONOUNCED ORDER:** The Honourable M. H. Hollins

1. Until otherwise agreed or Ordered, pursuant to Rule 4.4(2) of the Alberta *Rules of Court*, the Plaintiffs and Defendants agree that this matter shall proceed on the basis of the litigation plan as set out below for the completion and timing of steps in this action to facilitate readiness for trial by the date it is scheduled. If a party fails to comply with the below litigation plan, either party is at liberty to bring an application to for advice and direction or to have the trial date adjourned.
2. The progress of this Action, and the proposed dates may be adjusted pursuant to Rule 4.7 of the Alberta *Rules of Court*. The parties will make their best efforts to agree upon such adjustments as are necessary and required.

3. The following deadlines are agreed to and are to be completed on or before the dates specified below:

No.	Action	Deadline to Complete
A.	The Plaintiffs shall provide completed responses to the written interrogatories circulated on May 23, 2025.	August 15, 2025
B.	The Plaintiffs shall provide any mediation brief(s) or other materials they intend to rely upon at a mediation or JDR. If the Plaintiffs fail to provide all materials by September 25, 2025, the parties agree that the Mediation dates scheduled will be cancelled and that the Plaintiffs are responsible for any associated mediation cancellation fees. The parties will thereafter make best efforts to reschedule Mediation by no later than January 31, 2026.	September 25, 2025
C.	The CBE shall provide its answers to the undertakings requested at the Questioning of its' Corporate Representative, Dr. Michael Nelson	September 30, 2025
D.	The Defendants shall provide any mediation brief materials to be relied upon at mediation or JDR.	October 10, 2025
E.	The parties shall participate in a mediation or JDR process	January 31, 2026
F.	The Plaintiffs shall attend any additional oral Questioning in follow up to their written interrogatories at mutually convenient dates between November 30, 2025 and March 31, 2026.	March 31, 2026
G.	The Plaintiffs shall provide responses to any requested undertakings within 60 days of the completion of their oral Questioning	Within 60 days
H.	Any Rule 5.35(2)(a), primary onus reports shall be served.	March 1, 2026
I.	Any Rule 5.35(2)(b), rebuttal reports shall be served.	June 1, 2026
J.	Any Rule 5.35(2)(c), surrebuttal reports shall be served.	September 1, 2026

7. The Court of King's Bench Civil Trial Coordinator is directed to schedule a thirty-five (35) day trial on liability in this matter commencing on October 13, 2026.
8. The parties remain at liberty to file and serve such further and other applications permitted by the *Alberta Rules of Court* and in accordance with the *Alberta Rules of Court*.
9. This Litigation Plan may be executed in counterpart and transmitted electronically and shall remain in effect as between the parties, subject to any amendments agreed to by the parties or as may be directed by the Court.



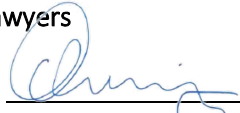
10. There shall be no costs for the entry of this Litigation Plan as a procedural Order.

CONSENTED TO BY:

Dated: August 12, 2025

HMC Lawyers

Per:

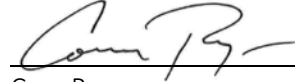


David Corrigan, K.C.  
*Counsel for the Plaintiffs*

Dated: August 8, 2025

Whitelaw Twining LLP

Per:



Cory Ryan  
*Counsel for the Defendant, CBE*

Schedule "C"  
Notice of Certification

# **CLASS ACTION REGARDING THE ESTATE OF MICHAEL GREGORY, FRED HENRY ARCHER, AND THE CALGARY BOARD OF EDUCATION**

## **NOTICE OF CERTIFICATION**

A lawsuit has been certified as a Class Action against the estate of Michael Gregory, Fred Henry Archer and the Calgary Board of Education.

The lawsuit alleges that the class members, who were students at John Ware School between 1988 - 2004, were physically, sexually and psychologically abused by Gregory and Archer, who were teachers there, who were employed by the Calgary Board of Education ("CBE"). The lawsuit alleges that the CBE is both directly and vicariously liable for the acts and omissions of its employees, including but not limited to Gregory and Archer, for reasons including, but not limited to:

- Repeatedly failing to act on reports of abuse made to CBE employees about Gregory; and
- Failing to ensure appropriate policies and procedures were in place to prevent sexual abuse and exploitation of students, and around the appropriate reporting and investigation of suspected abuse of students by teachers at John Ware School.

There are three representative Plaintiffs who are seeking damages on behalf of all those who experienced physical, sexual or psychological abuse by Gregory or Archer while they were students at John Ware School between 1988 - 2004.

### **How do I know if I am a member of the Class?**

The Class has been defined by the Court as follows:

Former John Ware students who attended between 1988 and 2004. Moreover, the proposed class shall be limited to the following three Sub-Classes:

1. Gregory Sexual Abuse Survivors: All class members who claim to have been sexually abused by Michael Gregory;
2. Gregory Non-Sexual Abuse Survivors: All class members who claim to have been non-sexually abused by Michael Gregory; and
3. Archer Abuse Survivors: All class members who claim to have been abused, sexually or non-sexually, by Fred Henry Archer.

The following terms are defined for the purposes of the Sub-Class definitions:

- i. "Abuse" means:
  1. Battery;
  2. Assault; or
  3. Intentional infliction of mental suffering.

- ii. “Sexual abuse” means abuse committed in circumstances of a sexual nature, depending upon the part of the body touched, the nature of the contact, the situation in which it occurred, the accompanying words and gestures, whether the conduct was motivated by sexual gratification, and any other surrounding circumstances as applicable; and
- iii. “Non-sexual abuse” means abuse other than sexual abuse.

### **How do I participate in this Class Action?**

Class Members (meaning those who fit in the definition above) who wish to participate in the Class Action do not need to do anything at this time. They are automatically included in the Class Action.

Class Members who wish to participate are also encouraged to contact HMC Lawyers LLP (“Class Counsel”) at:

#### **HMC Lawyers LLP**

#1000 903 8 Ave SW

Calgary, AB

403-261-3343 (Meagan) or 403-261-3328 (Dave)

Email: [mpotier@hmclawyers.com](mailto:mpotier@hmclawyers.com) / or [djcorrigan@hmclawyers.com](mailto:djcorrigan@hmclawyers.com)

### **What if I do not want to participate in the Class Action?**

Any Class Member who wishes to opt out of the Class Action must do so by sending a written opt out form, signed by the Class Member, stating that he opts out of the Class Action. The written opt out form can be obtained from Class Counsel, and must be sent by pre-paid mail, courier, or e-mail to Class Counsel at the address above. The written opt-out form must be received by Class Counsel no later than **October 15, 2025**.

Class Members may be permitted to opt out of the Class Action after **October 15, 2025** and prior to approval of settlement, if applicable, upon further order of the Court. If you opt-out of the Class Action, you will take full responsibility for initiating your own lawsuit against the Defendants and for taking all legal steps necessary to protect your claim, if you wish to proceed with a claim.

### **What are the costs to me?**

Class Members will not be personally liable to pay any legal fees or disbursements to Class Counsel. If Class Counsel is successful in establishing that the Defendants are liable to pay money to the Class Members, the Court will then proceed to determine which Class Members may be entitled to that money, and how such amounts should be distributed to those Class Members.

The Representative Plaintiffs have retained Class Counsel to represent them and the Class in this lawsuit. Class Counsel will only be paid legal fees if the lawsuit is successful. If the lawsuit is successful, Class Counsel will request that legal fees be set by the Court.

If the Class Action is successful, legal costs will be deducted from the amounts recovered for the Class Members, but only after such costs are approved by the Court.

**How do I find out more about this Class Action?**

Questions about the matters in this Notice must not be directed to the Court. The Certification Order and other information with respect to this Class Action can be obtained at the following website: <https://hmclawyers.com/john-ware-school-lawsuit-information/>

**HMC Lawyers LLP**

#1000 903 8 Ave SW

Calgary, AB

403-261-3343 (Meagan) or 403-261-3328 (Dave)

Email: [mpotier@hmclawyers.com](mailto:mpotier@hmclawyers.com) / or [djcorrigan@hmclawyers.com](mailto:djcorrigan@hmclawyers.com)

Schedule "D"  
Opt Out Form

## **OPT-OUT FORM**

TO: HMC LAWYERS LLP

I, \_\_\_\_\_ (insert full name), have received notice of the Class Action claim commenced against the Calgary Board of Education, the Estate of Michael Gregory and Fred Henry Archer.

I believe that I am a Class Member. I was a student of John Ware School while Michael Gregory and/or Fred Henry Archer was an employee with the Calgary Board of Education.

**I DO NOT** wish to participate in the Class Action against Calgary Board of Education, the Estate of Michael Gregory and Fred Henry Archer.

I understand that by **OPTING OUT** of this Class Action, I will not be eligible for any benefit that may be available to the Class upon resolution of this matter.

I understand that, if I believe I suffered losses and I wish to pursue any remedy with respect to my experience and interaction with Michael Gregory/Fred Henry Archer as a student of the Calgary Board of Education, I must do so on my own.

I understand that the *Limitations Act*, RSA 2000, c L-1 may limit or extinguish any rights I may have to pursue a remedy if I do not act promptly to pursue any claim.

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Signature

Date: \_\_\_\_ / \_\_\_\_ /2025