

Native plaintiffs tire of case

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Patience is running out for many of the 5,600 Alberta plaintiffs who claim they were physically, sexually and culturally abused while attending native residential schools.

With the prospect of trial still three years away and any possible payout two further years down the line, elderly plaintiffs who attended the schools from about 1920 until 1970 may opt out of the potential \$1-billion class-action lawsuit.

Instead, says a lawyer whose firm represents about 600 alleged abuse victims, some may join the federal government's alternative dispute resolution (ADR) program when it sets up shop in Saskatchewan later this fall.

Any of the 12,000 plaintiffs nationwide are eligible to take that route, but the downside of the offer which would range in compensation from \$20,000 to \$250,000 per victim, depending on the type and level of abuse proven, is that the federal government is not admitting cultural or language abuse.

"If it does take 3½ to five years to provide resolution in the litigation process, and it continues to appear that way over the next few months, most likely many will turn to the (dispute program)," Vaughn Marshall said following a case management hearing before Court of Queen's Bench Justice Terrance McMahon on Thursday.

"Elderly plaintiffs continue to die. We're at the point where, if the ADR is what our clients want, we'd embrace it. We'll tell them the pros and cons of both and look at it."

Earlier, McMahon set Oct. 31, 2004, as the deadline for all discoveries of six test-case plaintiffs.

Crown lawyer Catherine Coughlan argued for extensions because of the sheer volume of material for various Crown witnesses to read to familiarize themselves with the case.

There are no potential witnesses who actually worked at the schools, which were established by the government and jointly run by Ottawa and churches.

"The civil litigation process is still an adversarial process and when you're in court, it's war," said Marshall. "It just takes time."

Once the discoveries have concluded, all parties — including plaintiffs, government and third-party defendants Roman Catholic, United and Anglican churches — must determine what expert witnesses will be used and with what issues they will deal.

That will prolong the case until at least early 2005 before a trial date can be set. The anticipated six-month trial is yet another year away.

The case has been in pre-trial mode since June 1999 and involves 21 different law firms.