

Update on Trial of Treaty 1 Annuities Action for Sandy Bay First Nation

The trial for augmented annuities under Treaty 1 occurred from February 9-26, 2026 before Associate Chief Justice Perlmutter of the Manitoba Court of King's Bench. The purpose of the trial is to determine whether past, present, and future annuities under Treaty 1 will be increased, with the goal of benefiting present and future generations.

The Plaintiff's case included the following evidence:

- Zongidaya Nelson, Plaintiff, who testified to the purposes of the case, the challenges to receiving annuities in present day, and the current token value of annuities.
- Elder Florence Paynter (Sandy Bay First Nation and Norway House Cree Nation), who testified on Anishinaabe laws and Anishinaabe approaches to treaty-making.
- Elder Mary Starr (Sagkeeng First Nation), who testified on the oral history on the formation and purpose of Treaty 1.
- Councillor Terry Nelson (Roseau River Anishinabe First Nation), who testified on the oral history on the formation and implementation of Treaty 1.
- Professor Kekek Stark (Turtle Mountain Ojibway), an Anishinaabe legal scholar on Anishinaabe laws, orders, and protocols, who tendered reports and testified on Anishinaabe approaches and intentions to treaty-making, including the purpose of the annuity being meaningful to future generations and the role of treaty renewal to restore balance.
- Dr. Kenneth Coates, a historian who tendered reports and testified on the historical records, the history of Treaty 1, Western Canadian history, Indigenous-Crown relations, and Indigenous economic development.
- Mr. Peter Fortna, a historian who tendered reports and testified on the historical paylists, including the payment of annuities in goods and the ongoing payment of annuity arrears without limitations. He also testified on methods of enfranchisement, and the historical records showing the significant use of scrip, particularly in Sandy Bay.
- Dr. Fred Lazar, an economist who tendered reports and testified on labour economics, wages, First Nations economic development, and different methods of indexation of annuities under Treaty 1.

Canada led significantly narrower evidence, which included:

- Mr. Jean-Pierre Morin, a Department Historian for Crown-Indigenous Relations and Northern Affairs Canada, who tendered a report and testified on the history of Treaty 1, Crown-Indigenous relations, and federal Indigenous policy.
- Dr. Mauricio Drelichman, an economist who tendered a report and testified on economic history, and narrower methods of indexation of annuities under Treaty 1.

- Mr. Andy Doraty, an Information Management Specialist for Indigenous Services Canada (ISC) and the System Administrator for the Indian Registration System, who testified to Indian Status registration and Band membership under the *Indian Act*.

The parties largely agreed on the historical facts, but disagreed on the meaning and significance of those facts.

The more material dispute between the parties was over the method of indexation.

The Plaintiff offered three methods of economic indexation:

- Consumer Price Index, which would make the annuity \$138 today, and total \$668 million in damages.
- GNP/GDP Per Capita Index (maintaining relative income value of annuity payments), which would make the annuity \$2,794 today, and total \$10.384 billion.
- GNP/GDP Index (moves with the value of wealth generated from the land), which would make the annuity \$2,274 today and total \$16.2 billion.

The Plaintiff endorsed the second methodology based on income, as the method best reflecting the historical records and intentions of the parties that the annuity would be meaningful and provide First Nations families with what they need to get through the winter.

Canada vigorously contested indexation. If the annuity is to be indexed, it endorsed a Consumer Price Index, as best reflecting the measure of a “basket of goods”. Importantly, Canada put forward other aggressive defences, which included:

- Limitations: Canada advanced a strict limitations argument that the Plaintiff’s claim is subject to a 6-year limitations period. Since the Plaintiff commenced his claim in 2019, this would mean that the augmentation of annuities is only available from 2013 to present. The Plaintiff firmly contested this defence, including through a Notice of Constitutional Question challenging the constitutional validity of *The Limitation of Actions Act* (in force at the time that the action was commenced).
- Pre-Judgment Interest: Canada advanced that pre-judgment interest is not available prior to 1992, as it was not provided for by statute or contract before that date, and was not part of the terms of Treaty 1. The Plaintiff also contested this defence, including on the basis that equitable compensation is sought.

The Plaintiff led an analysis of the interpretation of the annuities provision under Treaty 1 based on Anishinaabe laws and the historical records showing the shared intentions of the parties that the annuity would make a meaningful contribution to beneficiaries’ livelihoods. The Plaintiff also advanced that Canada’s ongoing failure to index annuities is a breach of its fiduciary duties.

We expect it will be several months until a decision is released, which will likely be subject to appeal.