COPY Dec 27/19

Appellantis Motion Record

Court File No. M 51169

THE COURT OF APPEAL
FOR ONTARIO

In Conjunction with the Kinakwii Indigenous Tribunal

In Application for "Quo Warranto" via Common Law in Trespass with Praetor and Replevin under Indigenous Laws and Traditions, in Equity including the Common Law of the Land, existing prior to 1982.

and/or the common law under Magna Carta

and/or under The Law of Ma'at

and/or Natural Justice

BETWEEN:

Grand Chief White Buffalo Eagle

By his Envoy ninigiwaydinnoong

(On behalf of [redacted])

Appellant

-and-

Rod Phillips, Doug Downey, Dean Eastman, Deon Cousins, Jeff Quann,

(in their personal capacity)

Respondents

APPELLANT'S MOTION RECORD

ninigiwaydinnoong, Envoy
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Kingston ON K7P 2N2
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(in their personal capacity)

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NOTICE OF MOTION

THE MOVING PARTY will make a motion to the Court of Appeal of Ontario on January 27, 2020 at 10:00 A.M. at 130 Queen St. W., Toronto. The motion should be heard orally, per Aboriginal law which are **equal**, per S.C.C. in *Delgamuukw v. B.C.* [1997] 3 S.C.R. 1010 at 1100.

THE MOTION IS FOR:

1. Leave to file the Notice of Appeal out of time.
2. The Appeal to be joined to 3 other Appeals filed at the ONCA, being Court File No's. C66908, C67197 and C67422.
3. An Order that the Crown begins Consultation over the Land Claim.

THE GROUNDS FOR THE APPEAL:

1. The Ruling that the Common Law Land Claim was frivolous was made Nov. 7, 2019, and thereafter appealed to an Indigenous Tribunal, per Article 40 of UNDRIP, on Nov. 18, 2019.

2. During that appeal period the Appellant filed an Indigenous Letter to Reconsider, with Justice Templeton, on Dec 23, 2019 based on Quo Warranto and Lack of Jurisdiction, for the following reasons.

3. The Appellant asserts that the BNA Act of 1867 never received Royal Assent, and was nevertheless repealed by the Statue Law Revision Act of 1893. However, the BC Legislature passed The United Nations Declaration of the Rights of Indigenous People (UNDRIP) on Nov. 28, 2019, this time with Royal Assent.

4. As Canada acceded to UNDRIP federally on May 10, 2016 "without qualification," and one of its provinces has passed UNDRIP, the Appellant asserts that UNDRIP governs the affairs between Canadian Courts and the Appellant. Article 40 of UNDRIP provides that the Appellant has the right to its own Indigenous Legal Systems, to which the Appellant "timely" appealed.

5. Further, the appeal addressed the rights of the Appellant to convey Sacred Tobacco, which affects Indianness, and therefore is *ultra vires* the Province of Ontario, per the SCC in Delgamuukw v BC.

6. Further, the Appellant is Non-Status and Metis, and therefore Treaty must be made with Ottawa under S. 91 (24), per the SCC in *Daniels v Canada*, and not Ontario.

MATERIALS TO BE USED AT THE MOTION:

1. UNDRIP
2. The Ruling of Justice Templeton.
3. The Indigenous Letter citing Lack of Jurisdiction and Quo Warranto.

Dated: Dec. 27, 2019

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CITATION: i: man: [redacted] v. Phillips, 2019 ONSC 6469
COURT FILE NO.: CV81/19
DATE: 20191107

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:	)	
	)	
i: man: [redacted]	)	self-represented
	)	
	)	
	)	
Prosecutor	)	
	)	
- and -	)	
	)	
Rod Phillips: a man; Doug Downey: a man; Dean Eastman: a man; Deon Cousins: a woman; Jeff Quann: a man	)	Eric Wagner for the "Wrongdoers"
	)	
	)	
Wrongdoer(s)	)	
	)	
	)	**CONSIDERED:** November 7, 2019

RULING

Templeton J.

[1] This is a Ruling pursuant to Rule 2.1.01 (1) of the *Rules of Civil Procedure* which states that "the court may, on its own initiative, stay or dismiss a proceeding if the proceeding appears on its face to be frivolous or vexatious or otherwise an abuse of the process of the court".

[2] The Ruling is sought by the Defendants[1] in this action by way of a letter[2] to the Registrar of this Court dated October 28, 2019.

[3] In the letter, counsel at the Crown Law Office (Civil) with the Ministry of the Attorney General seeks a dismissal of the action on the basis that the Statement of Claim appears on its face to be frivolous and vexatious.

[4] This manner of request is provided for in Rule 2.1.01 (6) which permits any party to the proceeding to file with the registrar a written request for an order under subrule (1).

---

[1] They were named by "i: man: [redacted]" in the style of cause as "Wrongdoers".
[2] A copy of the letter was sent to [redacted] at the address indicated on the Statement of Claim.

COURT FILE NO.: CV81/19
DATE: 20191105

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:	)	
	)	
i: man: [redacted]	)	self-represented
	)	
	)	
	)	
Prosecutor	)	
	)	
- and -	)	
	)	
	)	
Rod Phillips: a man; Doug Downey: a man; Dean Eastman: a man; Deon Cousins: a woman; Jeff Quann: a man	)	
	)	
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[2] A copy of the letter was sent to [redacted] at the address indicated on the Statement of Claim.

[4] This manner of request is provided for in Rule 2.1.01 (6) which permits any party to the proceeding to file with the registrar a written request for an order under subrule (1).

[5] The response by letter of "i: man: [redacted] was received on November 6, 2019 and is reviewed below. For ease of reference and with no disrespect intended, he is referred to hereinafter as [redacted]

[6] For the reasons that follow, the request for a dismissal of this action from counsel at the Crown Law Office (Civil) with the Ministry of the Attorney General is granted.

The Legal Principles

[7] Rule 1.06 (1) of the *Rules of Civil Procedure* requires that the forms prescribed by these rules *shall* be used where applicable and with such variations as the circumstances require. In view of the wording, this Rule is mandatory. There has been no request for a variation and no evidence that the circumstances in this case require variation(s).

[8] All necessary forms required throughout the course of litigation in Ontario are readily available to the public electronically and may also be obtained on request at a Superior Court of Justice or any law firm. There is no request or evidence before me in support of any variation from the forms prescribed by the Rules.

[9] Rule 14.06 (1) states that

> Every originating process shall contain a title of the proceeding setting out the names of all the parties and the capacity in which they are made parties, if other than their personal capacity.

[10] Further Rule 14.06 (2) requires that

> In an action, the title of the proceeding shall name the party commencing the action as the plaintiff and the opposite party as the defendant.

[11] The within proceeding is an action.

[12] Rule 2.01 (1) provides that

> A failure to comply with these rules is an irregularity and does not render a proceeding or a step, document or order in a proceeding a nullity, and the court,
>
> (a) may grant all necessary amendments or other relief, on such terms as are just, to secure the just determination of the real matters in dispute; or
>
> (b) only where and as necessary in the interest of justice, may set aside the proceeding or a step, document or order in the proceeding in whole or in part.

[13] In *Khan v. Krylov & Company LLP*, 2017 ONCA 625, the Ontario Court of Appeal observed the following

> The law concerning rule 2.1 is new and evolving. It was largely summarized in *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, 343 O.A.C. 87, leave to appeal refused, [2015] S.C.C.A. No. 488, at paras. 7-9. This court accepted the approach taken by Myers J. in a series of cases including *Gao v. Ontario*

(Workplace Safety and Insurance Board), 2014 ONSC 6497, 37 C.L.R. (4th) 7 ("*Gao (No. 2)*") and *Raji v. Border Ladner Gervais LLP*, 2015 ONSC 801. The court noted in *Scaduto* that "the use of the rule should be limited to the clearest of cases where the abusive nature of the proceeding is apparent on the face of the pleading and there is a basis in the pleadings to support the resort to the attenuated process" (at para. 8).

Justice Myers provided an important caution, at para.18 of *Gao (No. 2)*:

> It should be borne in mind however, that even a vexatious litigant can have a legitimate complaint. It is not uncommon for there to be a real issue at the heart of a vexatious litigant's case.... Care should be taken to allow generously for drafting deficiencies and recognizing that there may be a core complaint which is quite properly recognized as legitimate even if the proceeding itself is frivolously brought or carried out and ought to be dismissed.

[14] In *Gao v. Ontario (Workplace Safety and Insurance Board)*, 2014 ONSC 6497, Justice Myers wrote the following:

> In the context of rule 2.1 there is no need for persistence of any one or more factors. It is expected that most cases under rule 2.1 will not require much depth of analysis. Many of the cases that are of the type that I have been referring to herein will be obvious on their face. The court receives a number of unintelligible proceedings and repeat attempts to bring the same matters on again and again. Many of these proceedings bear some of the unmistakable hallmarks of querulous litigant behavior such as:
>
> Form
> - Curious formatting.
> - Many, many pages.
> - Odd or irrelevant attachments—e.g., copies of letters from others and legal decisions, UN Charter on Human Rights etc., all usually, extensively annotated.
> - Multiple methods of emphasis including:
>   highlighting (various colours)
>   underlining
>   capitalization.
> - Repeated use of ‘‘’’, ???, !!!.
> - Numerous foot and marginal notes.
>
> Content
> - Rambling discourse characterized by repetition and a pedantic failure to clarify.
> - Rhetorical questions.
> - Repeated misuse of legal, medical and other technical terms.
> - Referring to self in the third person.
> - Inappropriately ingratiating statements.
> - Ultimatums.
> - Threats of violence to self or others.
> - Threats of violence directed at individuals or organizations.
>
> These signs may assist in determine whether an action is a *bona fide* civil dispute or the product of vexatiousness. I would also include among these signs or factors, many of the hallmarks of OPCA litigants described by Rooke, A.C.J., in *Meads v. Meads*, 2012 ABQB 571 (CanLII).

The Statement of Claim [3]

(i) The Style of Cause

[15] At the top of the document entitled Statement of Claim, are the words, "in [redacted] Court' at Superior Court of Justice Elgin County Courthouse, 4 Wellington Street, St. Thomas, ON N5R 2P2".

[16] The first party identified in the style of cause is "i: man: [redacted] family". It is unknown whether this is his legally registered name. This is significant in the context of liability for actions taken in an assessment of costs, for example, or counter-suit.

[17] Brent has also identified himself as a "Prosecutor" in this proceeding. The second parties (normally referred to as the Defendants) are identified in the style of cause as "Wrongdoer(s)" and are listed as follows:

- Rod Phillips: a man;
- Doug Downey: a man;
- Dean Eastman: a man;
- Deon Cousins: a woman;
- Jeff Quann: a man

(ii) The Notice

[18] The Notice section of the Statement of Claim starts out with the words "TO THE WRONGDOER(S)". In civil law, such a characterization of a party prior to any determination of liability is highly prejudicial.

[19] The Notice goes on to read:

> A PROSECUTION HAS COMMENCED AGAINST WRONGDOER(S) by the Prosecutor. The Claim is set out in the following pages filed at the "Elgin County Courthouse' a PUBLIC courthouse.
>
> A court of record moving under the common law …trial by jury has commenced…
>
> IF WRONGDOER(s) DO(ES) WISH TO DEFEND AGAINST SAID CLAIM, the wrongdoer(s) must file a common law claim to defend, serve it on the prosecutor and file it, with proof of service into the [redacted] Court' Court File No. above at the "Elgin County Courthouse'….
>
> IF WRONGDOER(S) FAIL TO DEFEND THIS CLAIM, JUDGEMENT WILL BE ORDERED AGAINST THE WRONGDOER(S) IN THEIR ABSENCE AND WITHOUT FURTHER NOTICE.
>
> JURISDICTION OF [redacted] Court': LAND [COMMON LAW OF THE PEOPLE]

[3] Schedule "A"

THIS IS NOT A LEGAL [JURISDICTION] COURT FILING OR PROCEEDING.

THE RULES OF CIVIL PROCEDURE DO NOT APPLY UNDER COMMON LAW.

THERE IS NO APPEAL PROCESS.

The common law of the people is invoked by i: [redacted] Family/prosecutor.

(iii) The Claim and Particulars

[20] It appears that [redacted] seeks a judgment on the basis of the legal concepts of trespass, malfeasance, theft, extortion and "barratry". It is impossible to ascertain from the pleading what [redacted] means with respect to the term "barratry" . It may well be that this is a simple spelling error and [redacted] is referring to "battery" but that is unknown.

[21] [redacted] seeks in excess of $10 million dollars in damages and a further $10 million in punitive damages.

[22] On the basis of the section in the Statement of Claim that has been entitled "Overview [Brief]", it appears that [redacted] his wife and family have operated a family farm for thirty years. They grow vegetables and tobacco. Between November 3, 2014 and October 25, 2018 they sold tobacco in Ontario and in the United States.

[23] Brent then alleges "My property [tobacco shipment/entire year of harvest] going to RR Global was trespassed [theft] beginning October 25th 2018 when the wrongdoer Dean Eastman placed a call to Quebec police without right to administrate my property [stopped shipment/seized it] without right....This began a domino effect with a 2nd load to RR Global November 2nd, 2018 also trespassed without right by wrongdoer's administrating my property...Our property was never returned valued at $387,522.00 October & November 2018 and to this date I, and my family have no idea where it went or our income restored... Since the theft of our property the wrongdoers have continued to harass and make demands under the service corporation ONTARIO "Raw Leaf Tobacco program"...Due to breach of trust and theft of our property without cause or right we did not renew registering or any working relationships when license expired Dec. 31st 2018"

[24] Under a section entitled "Facts", [redacted] has stated,

- "There is no obligation [contract] a [wo]man will present for debt be due or true;"
- "There is no wrong or harm I, or my property [tobacco] caused to my fellow man;"
- "There is no verified 'bill of particulars' showing damage or loss incurred;"
- "No agents or officers of the service corporation ONTARIO can administrate a [wo]man property without a right;"
- "The facts [documents/all actions] are known to wrongdoers at this time and will be presented correctly at the time and place a jury of my peers is seated;"

- "i, make said claims and move my court under full liability what i claim to be true;"
- "I, rely upon:

  (a) We the people are not property of another man or woman or corporation;

  (b) There is no man or woman who can administrate my property without right;

  (c) Contract makes the law;

  (d) Jury of my peers will decide of said wrong and harm as claimed here be true."

[25] It appears from the general gist of the complaint that tobacco that was being to delivered by [redacted] to a customer was seized by the Ministry of Finance on at least one or occasions and that he therefore seeks both general and punitive damages on the basis of the alleged wrongful seizure.

[26] Other than an allegation that Dean Eastman placed a call to the police in Quebec, there are no particulars with respect to how and in what capacity each of the named persons were involved in the actions complained of by [redacted]

[27] According to its website[4], the Ministry of Finance regulates the Raw Leaf Tobacco industry in Ontario, whether or not the raw leaf tobacco is grown in Ontario. Under the Raw Leaf Tobacco Program, the Ministry issues registration certificates and carries out inspections and investigations as required. The *Tobacco Tax Act* requires all entities involved in the raw leaf tobacco industry to hold a registration certificate issued by the Ministry of Finance, and to deal only with other entities that hold the appropriate registration certificate issued under the *Tobacco Tax Act*. The Ministry of Finance maintains a listing of raw leaf registrants.

Analysis and Conclusion

[28] In addition to the Statement of Claim, [redacted] served and filed a number of other documents dated September 17, 2019 that reference the Court File Number noted above.

[29] I shall deal with each of these documents in turn. In order to appreciate in detail the nature and content of the documents served and filed, I have also attached and marked them as Schedules to this Ruling.

(a) The Statement of Claim

[30] [redacted] attempt to control the process is evident on the face of the Statement of Claim.

[31] It is important to recognize that the objective of a Statement of Claim is to set out for the opposing parties and the Court and others

(a) the legal identity of the parties involved;

---

[4] www.fin.gov.on.ca

(b) a summary of the facts supporting the aggrieved party's complaint;

(c) details of and in support of the pleaded facts;

(d) the legal basis for the action;

(e) the nature and extent of the damages alleged to have been suffered by the aggrieved person; and

(f) the remedy sought by the aggrieved person.

[32] The significance of these requirements cannot be overstated for it is only as a result of compliance with these principles of drafting pleadings that other parties are able to know and understand the person in opposition and the case he/she has to meet.

[33] With respect to the Statement of Claim served and filed by [redacted] I make the following observations.

[34] Firstly, in view of the fact that I preside in this Region and have frequently presided in St. Thomas, it is reasonable for me to take judicial notice of the fact that there is no court in St. Thomas at that address that is identified as [redacted] Court".

[35] Secondly, notwithstanding access to the forms prescribed under the Rules, [redacted] has changed the names of the roles ascribed to the parties to suit his own purpose. In the ordinary course, for example, the concept of "prosecutor" is reserved for counsel who are retained to pursue criminal or legislative infractions. The first party in a civil action is referred to in Canada as a Plaintiff. In this way, the distinction in the roles allows the public to readily determine the nature of the legal action.

[36] I also find that the reference to the gender of the parties in the style of cause is entirely irrelevant and in my view, by making the gender of each person an apparent issue, borders on an affront to the administration of justice.

[37] The Notice in the Statement of Claim is both misleading and wrong in law. As I have indicated, (a) there is no such court as a [redacted] Court'; (b) the *Rules of Civil Procedure* apply to all civil proceedings in Ontario; (c) the appeal process cannot be unilaterally prohibited or waived in these circumstances; and (d) judgment will not necessarily be granted in the absence of a defence.

[38] In summary, I find that the statements in this Notice undermine the administration of justice by leading the recipient to believe that he/she does not have access to an identified legal process under the law such as the right of appeal and/or the protection of an orderly and fair administration of justice founded on the Rules of Civil Procedure.

[39] I also note that the statement that a "trial by jury has commenced" is patently false. Time for a response by the Defendants has not yet expired let alone a trial commenced.

[40] In my view, the allegations contained in the Statement of Claim are devoid of any explanation of the legal framework in which [redacted] worked in the Raw Leaf Tobacco industry or whether he was in compliance with the regulations set out by the Ministry.

[41] The details provided are convoluted and confusing.

[42] Further, although there is a reference to the law of contract, there are no details allowing identification of the alleged contract (or its terms and provision) entered into with the Defendants/Wrongdoer(s).

[43] As in *Van Sluytman v. Muskoka (District Municipality)*, 2018 ONCA 32, I find that [redacted] pleadings "fail to contain any coherent narrative or a concise statement of the material facts in support of the wrongs sought to be alleged. Instead, they contain rambling discourse, impermissible attachments or corollary documents, grandiose complaints, and repeated bald assertions."

[44] Throughout the Statement of Claim and corollary documents served and filed by [redacted] he has either intentionally or otherwise repeatedly misused legal and other technical terms. I use the word "intentionally" in this case because it is clear that [redacted] is aware of the *Rules of Civil Procedure*, for example, but believes that they ought not to apply to him.

[45] In his notice contained in the Statement of Claim, [redacted] has misled the parties he has purported to sue by declaring that they have no right of appeal. The fact that he even mentions the concept of an "appeal" belies, in my view, his knowledge of at least the opportunity and/or right to appeal in Ontario.

(b) Notice: Liability [5]

[46] The purpose of this document is entirely unclear. It does not make sense. Above the title are the words (Do Not Trespass on the case). I have no idea what this means. A review of this Notice appears to be little more than a rambling demand for a public hearing and ends with a threat that "Liability [Trespass on the case] occurs if any [wo]man ignore RIGHTS of the people".

[47] The document is purportedly "signed" by [redacted] by way of a partial fingerprint in red ink.

(c) Claim: Trespass [6]

[48] The purpose of this document is equally unclear and confusing. [redacted] refers to a "court of record" and [redacted] Court" as if they are one and the same and then states as follows ""i: [redacted] ...moving under the common law with a trial by jury [not jury trial] is invoked."

[49] It is entirely unclear what [redacted] meant in this statement.

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[5] Schedule "B"
[6] Schedule "C"

[50] This document is also purportedly signed by [redacted] by way of a smudged fingerprint in red ink.

(d) Notice: Characteristics of party [7]

[51] In my view, this document amounts to little more than a blatant attempt to insert personal control over the parties and the Court.

(e) Notice: court, Court, COURT [8]

[52] This document appears to be a notice or warning to the Court that [redacted] will not be pursuing this litigation in accordance with the *Rules of Civil Procedure;* that he has only used forms for the ease of the Court clerks; and, that given that he is not a member of the Law Society (nor does he apparently wish to be), he sees no benefit in complying with the Rules .

(f) Notice: Jurisdiction [9]

[53] It is difficult to discern the purpose of this document. The contents appear to amount to a list of definitions and declarations by [redacted]

[54] Again, unfortunately, [redacted] appears to either not understand the civil litigation process in the administration of justice in Ontario or, if he does, refuses or declines to adhere to its traditions and practice. It appears, for example, that he seeks to establish his own alternate court of legal process. He writes in the notice that he pays "money into public courthouses to hold court and access justice"; that [redacted] Court' is a "court of record"; and, that in a "court of record", the tribunal is independent of the magistrate.

[55] This document also appears to be a further notice or warning to the Court as well as others that the presiding judge has or will have no jurisdiction over his claims when he writes, "No [wo]man, nor person within or outside of this Courthouse, has the capacity to interfere; amend; alter; modify; interpret; deny my claim, prior to a verdict tendered from a jury".

[56] This bald assertion is incorrect both in fact and in law.

[57] This document is purported to be signed by [redacted] by way of a faint, indiscernible and partial fingerprint in red ink.

(g) Notice: Venue [10]

[58] Given the title and contents of this document, it is assumed that Mr. [redacted] seeks to notify the opposing parties that he wishes to have this matter heard in St. Thomas. Once again, he refers, however, to a concept of the [redacted] Court' as being located at the Courthouse in St. Thomas.

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[7] Schedule "D"
[8] Schedule "E"
[9] Schedule "F"
[10] Schedule "G"

[59] There is no such Court.

(h) Notice: Verifications [11]

[60] This purpose of this document is unknown and not readily discernible other than perhaps as attempt by [redacted] to control how documentary evidence is filed, marked and received by the [redacted] Court'.

(i) Notice: 'right to pursue a claim' [12]

[61] This notice is nothing more than an instruction or demand to the Superior Court that the administrative office in the Superior Court of Justice at St. Thomas not allow anyone to interfere with Mr. [redacted] court and his perceived right to prosecute his case in a public building.

(j) Notice: trespass on the case [13]

[62] The purpose of this document, in my view, is nothing more than a misguided or blatant attempt to control the process in St. Thomas including the jurisdiction of a Justice of the Peace, Her Worship Cheri Emrich who presides there.

(k) Notice: 'Proof of Service' [14]

[63] This document purports to be an alternative to an Affidavit of Service and is signed by way of fingerprint in red ink but unsworn.

(l) Statement of Truth [15]

[64] There are five documents entitled "Statement of Truth" which appear to be sworn Affidavits of a person identified as Lizette Mouthon Franco. who has deposed that she served Dean Eastman, Rod Phillips, Doug Downey, Deon Cousins and Jeff Quann, by mail.

[65] I further find that the documents filed by [redacted] including the Statement of Claim contain primarily a rambling enunciation of demands both in substance and form that fail to identify the issues and/or the facts necessary to defend against the complaint(s) Mr. [redacted] seeks to advance.

Conclusion

[66] As I indicated above, the availability of a dismissal to the requesting party, is dependent on the abusive nature of the proceeding being apparent on the face of the pleadings themselves. In this Ruling, I have referred only to the wording in the documents themselves.

---

[11] Schedule "H"
[12] Schedule "I"
[13] Schedule "J"
[14] Schedule "K"
[15] Schedule "L"

[67] In my view, this is one of the "clearest of cases" referred to above. The documents filed by [redacted] indicate

(a) an attempt by him to establish an alternative litigation process (the "[redacted] Court") within a "public building", namely, the Superior Court of Justice in St. Thomas; and,

(b) a further attempt to oust the *Rules* and control the process according to his personal preferences.

[68] All Canadians have a right to *participation* in the justice system in compliance with the Rules and the law. But the system itself has also been designed to apply *equally* to *all* Canadians and can therefore only be controlled, changed or amended in accordance with the process established by law and not by personal preference.

[69] In summary, the action commenced by [redacted] as it is currently constituted is dismissed as necessary in the interest of justice. The approach adopted by [redacted] in this proceeding toward both the administration of justice and the named defendants who were (a) referred to by their gender and as "Wrongdoers"; and (b) misled by assertive statements that were wrong in law, leans toward the abusive in character. It appears that he is attempting to establish his own legal or court system by way of access to a public building in which is housed the Superior Court of Justice.

[70] My opinion is bolstered by the contents of a faxed letter dated November 5, 2019 from [redacted] in response to the request for dismissal by letter received from counsel for the Ministry. For the sake of completeness, I have attached both letters as Schedule "M".

[71] In his response, [redacted] has written as follows:

> I just received a communication attached November 4th, 2019 from a man Erik [Wagner];
>
> I, require the immediate removal of said letter from [redacted] Court File: CV 19-00000081 as this man has no standing or jurisdiction to trespass on my case as per my honourable Notices establishing said court:
>
> Notices I court filing [statement of claim] are crystal clear to jurisdiction and wrongdoer[s] served;
>
> Notice: Liability page 1
>
> "7. No [wo]man at said courthouse can administrate my property [filing] without right"
>
> This man [Gary] is 'trespassing on the case' requiring attention;
>
> I, thank you for your time and attention to correct said 'trespass' at this time.

[72] That said, it appears that [redacted] may have a complaint that may be worthy of review and consideration by a court of competent jurisdiction. If I have been able to discern the basic nature of [redacted] complaint correctly, it appears that goods owned by [redacted] were seized by the Ministry of Finance while in transit for a failure by [redacted] to comply with rules and regulations of the Raw Leaf Tobacco Program.

[73] If this is [redacted] complaint and he seeks to challenge the actions of the Ministry, he should not be deprived of the opportunity to do so.

[74] For all of these reasons, the following is my order:

Order

[75] The action commenced in the Superior Court of Justice in St. Thomas, Ontario that has been identified as CV 81/19 or CV 19-00000081 and in which the first party is identified as "i: man: [redacted] and as a "Prosecutor" and the second parties are identified as "Rod Phillips: a man; Doug Downey: a man; Dean Eastman: a man; Deon Cousins: a woman and Jeff Quann: a man" and further identified as "Wrongdoer(s)" , is dismissed.

[76] Subject to the order below, the dismissal of this action is without prejudice to the right of [redacted] family to commence a proceeding that complies with the *Courts of Justice Act* R.R.O. 1990, Regulation 194, *Rules Of Civil Procedure*.

[77] No proceeding, however, may be commenced by or pleading(s) issued by the Superior Court of Ontario for, a person known as [redacted] or [redacted] against any person named herein including but not limited to the Ministry of Finance and the Ministry of the Attorney General unless and until the pleadings submitted comply in full with the *Courts of Justice Act* R.R.O. 1990, Regulation 194 *Rules Of Civil Procedure*.

[78] In all of the circumstances, there will be no costs.

Justice L. Templeton

Justice L. C. Templeton

Released: November 7, 2019

Court File No. C

THE COURT OF APPEAL
FOR ONTARIO

In Conjunction with the Kinakwii Indigenous Tribunal

In Application for "Quo Warranto" via Common Law in Trespass with Praetor and Replevin under Indigenous Laws and Traditions, in Equity including the Common Law of the Land, existing prior to 1982.

and/or the common law under Magna Carta

and/or under The Law of Ma'at

and/or Natural Justice

BETWEEN:

Grand Chief White Buffalo Eagle

By his Envoy ninigiwaydinnoong

(On behalf of [redacted]

Appellant

-and-

Rod Phillips, Doug Downey, Dean Eastman,Deon Cousins, Jeff Quann,

(in their personal capacity)

Respondents

NOTICE OF APPEAL

TAKE NOTICE that Grand Chief Buffalo Eagle by his Envoy ninigiwaydinnoong, on behalf of [redacted] family, appeals from the Ruling of Justice Lynda Templeton dated Nov. 7, 2019, in the St. Thomas Superior Court (but issued from the London Superior Court), now under Reconsideration and a Petition for Writ of Quo Warranto.

THE APPELLANT DEMANDS that the order be set aside, and an order be issued as follows:

1. The Ruling be set aside, and the charges of the Crown agents be dismissed.

2. The court lacks jurisdiction over the Non-Status, Metis Appellant, pending Treaty between Parliament and his Nation.

THE GROUNDS OF APPEAL are as follows:

1. The Appellant is both a Canadian and an Indigenous to Turtle Island.

2. The right to Treaty of the Appellant was addressed by the SCC in *Daniels v Canada*, which held that all issues for the Non-Status and Metis were the responsibility of the federal government pursuant to S. 91 (24) where Parliament was found to have failed to legislate regarding this Appellant. Furthermore, any provincial law touching on "Indianness" is *ultra vires* the province, per the SCC in *Delgamuukw v BC.*

3. The Appellant calls into question the validity of the BNA Act of 1867, alleging there was no Third Reading by a legal quorum of 40 MP's, the Act did not receive Royal Assent by Queen Victoria as she was bound by The Royal Proclamation of 1763, and the Enabling Act was later repealed by The Statutes Law Revision Act of 1893.

4. There is no Treaty with the Metis or Non-Status Tribes for the Private Land owned by the Appellant, and so the alleged Provincial Authorities committed Trespass in both Common Law, and in Indigenous Laws declared equal by the SCC in *Delgamuukw v BC* (1997).

5. Further, even if the BNA Act is found to be valid legislation, the SCC in *Haida v BC* held that the provinces took possession of Land under S. 92 (13) subject to the Rights of the Indigenous People, now protected at least in BC by its Bill 41 which passed the United Nations Declaration on the Rights of Indigenous People (UNDRIP) on Nov. 28, 2019, *with Royal Assent* :

> Article 3 of UNDRIP entitles the Appellant to self-determine his government including his right to prosper economically;
>
> Article 40 of UNDRIP entitles the Appellant to his own legal systems, including a Common Law [redacted] Court' at St. Thomas, ON.

6. Even if the BNA Act is found to be valid legislation, the raw leaf grown by the Appellant is NOT subject to taxation, and the stored dry, unrolled tobacco is also exempt from taxation.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION is:

A) S. 6(1)(b) of *The Courts of Justice Act* R.S.O. 1990 C.43.

B) The Justice failed to inquire about Indigenous Standing and Indigenous Law Systems, which are equal on Turtle Island.

C) Leave for appeal is not required.

Date: Dec. 27, 2019

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Court File No. C

THE COURT OF APPEAL
FOR ONTARIO

In Conjunction with the Kinakwii Indigenous Tribunal

In Application for "Quo Warranto" via Common Law in Trespass with Praetor and Replevin under Indigenous Laws and Traditions, in Equity including the Common Law of the Land, existing prior to 1982.

and/or the common law under Magna Carta

and/or under The Law of Ma'at

and/or Natural Justice

B E T W E E N :

Grand Chief White Buffalo Eagle

By his Envoy ninigiwaydinnoong

(On behalf of [redacted]

Appellant

-and-

Rod Phillips, Doug Downey, Dean Eastman,Deon Cousins, Jeff Quann,

(in their personal capacity)

Respondents

CERTIFICATE RESPECTING EVIDENCE

The Appellant certifies that the following evidence is required for the appeal,

in the appellant's opinion :

1. Exhibits 1-9 of the Exhibit Book

2. The oral evidence of the Appellant on video dated Sept. 18, 2019.

3. The transcript of the Appellant on video dated Sept. 18, 2019.

ninigiwaydinnoong, Envoy
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UNDRIP bill to receive royal assent Thursday in B.C., some leaders remain cautious

National News (https://aptnnews.ca/category/national-news/) | November 27, 2019 by APTN National News (https://aptnnews.ca/author/news/) Attributed to: | 0 Comments (https://aptnnews.ca/2019/11/27/undrip-bill-to-receive-royal-assent-thursday-in-b-c-some-leaders-remain-cautious/#respond)

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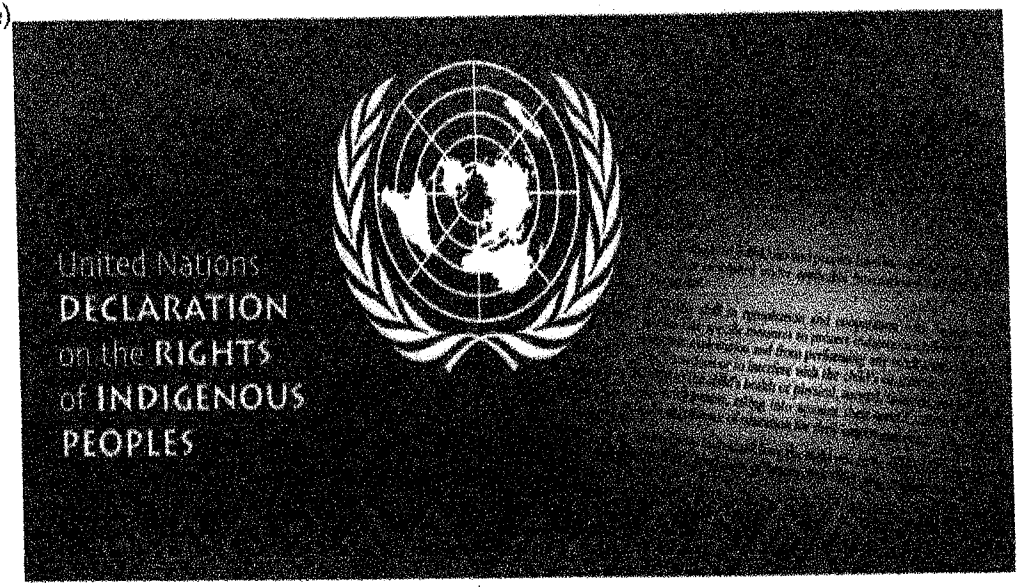

(https://aptnnews.ca/wp-content/uploads/2017/04/UNDRIP-10TH-01.jpg)

Correction: The original story said that the B.C. UNDRIP law received royal assent on Wednesday.

APTN News

Legislation in British Columbia that mandates the provincial government to bring its laws into line with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) will receive royal assent at a ceremony Thursday.

The Green caucus announced on Tuesday night that the bill passed unanimously in the house.

B.C. is now the first jurisdiction in Canada to make the UNDRIP law in Canada.

"Social justice and respect of diversity are more than core principles for the B.C. Greens, they are values that every British Columbian can embrace," said Green Leader Andrew Weaver in a statement issued Tuesday. "And, today, MLAs stood united in support of those core values."

Weaver says the passage of the bill was a foundational piece of the Greens' confidence and supply agreement to support a NDP minority government.

Green member of the legislature Adam Olsen, from the Tsartlip First Nation, says the passage marks a significant milestone on the path to reconciliation.

Some First Nation leaders say there is still work to do despite the passing of the bill.

"In the declaration it says that Indigenous peoples have the right to define and decide who represents us," Kirby Muldoe, First Nations coordinator for Skeena Wild Conservation Trust told APTN News.
"And that's what has to be defined immediately or somebody else will define it for us."

Wet'suwet'en Hereditary Chief Na'moks is worried that the provincial government will only listen to one half of a community's governance system.

"It gives weight to elected, which is they get to say who is authorized which is a slippery slope because government only recognizes the entity they created," said Na'moks.

"Devil is in the details and their interpretation."

After the legislation passed, the government and Union of British Columbia Indian Chiefs issued a release stating that any changes in provincial policy must be done in "consultation and collaboration."

"This legislation advances a path forward to true reconciliation for all of us in B.C. that will uphold Indigenous rights and create stronger communities, stable jobs and economic growth," said the joint statement.

"It is time we recognize and safeguard Indigenous peoples' human rights, so that we may finally move away from conflict, drawn-out court cases and uncertainty, and move forward with collaboration and respect. Ensuring that Indigenous peoples are part of the policy-making and decision-making processes that affect them, their families and their territories is how we will create more certainty and opportunity for Indigenous peoples, B.C. businesses, communities and families everywhere."

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With files from the Canadian Press

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« *B.C. passes UN Indigenous rights bill in historic moment: Greens (https://aptnnews.ca/2019/11/26/b-c-passes-un-indigenous-rights-bill-in-historic-moment-greens/)*

spect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective

remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Court File No. 2019 ONSC 6469
CV 81/19

IN THE SUPERIOR COURT OF ONTARIO
(St. Thomas/London)

In Conjunction with the Kinakwii Indigenous Tribunal

In Application for "Quo Warranto" in Trespass with Praetor and Replevin under Indigenous Laws and Traditions, in Equity including the Common Law of the Land, existing prior to 1982.

and/or the common law under Magna Carta

and/or under The Law of Ma'at

and/or Natural Justice

Between:

[redacted]

Plaintiff

-and-

Rod Phillips, Doug Downey, Dean Eastman,Deon Cousins, Jeff Quann

Defendants

INDIGENOUS LETTER REQUESTING RECONSIDERATION AND PETITION FOR QUO WARRANTO

Madam Justice Templeton:

1. The Kinakwii Grand Chief hereby requests your kind reconsideration.

The Plaintiff is a Canadian who is Indigenous to Turtle Island.

His Claim for Common Law Trespass was born out of frustration with a legal system in which he paid $35,000 to lawyers, who did not know Indigenous Laws nor Canadian Jurisprudence regarding Indigenous Rights. They underperformed.

Provincial Laws affecting "Indianness" are *ultra vires*

14. We further note that the evidence provided in our Exhibit Book, though different from the history being taught by those schools loyal to the Queen, was held by the SCC in *Delgamuukw v BC* [1997] 1100, at [85], to be on an equal footing :

> 85 A useful and informative description of aboriginal oral history is provided by the *Report of the Royal Commission on Aboriginal Peoples* (1996), vol. 1 (*Looking Forward, Looking Back*), at p. 33:
>
> The Aboriginal tradition in the recording of history is neither linear nor steeped in the same notions of social progress and evolution [as in the non-Aboriginal tradition]. Nor is it usually human-centred in the same way as the western scientific tradition, for it does not assume that human beings are anything more than one -- and not necessarily the most important -- element of the natural order of the universe. Moreover, the Aboriginal historical tradition is an oral one, involving legends, stories and accounts handed down through the generations in oral form. It is less focused on establishing objective truth and assumes that the teller of the story is so much a part of the event being described that it would be arrogant to presume to classify or categorize the event exactly or for all time.
>
> In the Aboriginal tradition the purpose of repeating oral accounts from the past is broader than the role of written history in western societies. It may be to educate the listener, to communicate aspects of culture, to socialize people into a cultural tradition, or to validate the claims of a particular family to authority and prestige. . . .
>
> Oral accounts of the past include a good deal of subjective experience. They are not simply a detached recounting of factual events but, rather, are "facts enmeshed in the stories of a lifetime". They are also likely to be rooted in particular locations, making reference to particular families and communities. This contributes to a sense that there are many histories, each characterized in part by how a people see themselves, how they define their identity in relation to their environment, and how they express their uniqueness as a people.
>
> 86 Many features of oral histories would count against both their admissibility and their weight as evidence of prior events in a court that took a traditional approach to the rules of evidence. The most fundamental of these is their broad social role not only "as a repository of historical knowledge for a culture" but also as an expression of "the values and mores of [that] culture": Clay McLeod, "The Oral Histories of Canada's Northern People, Anglo-Canadian Evidence Law, and Canada's Fiduciary Duty to First Nations: Breaking Down the Barriers of the Past" (1992), 30 *Alta. L. Rev.* 1276, at p. 1279. Dickson J. (as he then was) recognized as much

2. The Plaintiff grows raw leaf tobacco, which is not subject to tax.

In addition, the Plaintiff lost $10 Million worth of dried tobacco, through various notices from the Ontario Minister of Finance, that is also not subject to tax.

Now there are fines of $1.4 M plus.

Appeal

3. The Plaintiff, through an Indigenous Envoy, filed an appeal with our Indigenous Legal System (KIT) on November 18, 2019. Ten days later, the BC Legislature passed The United Nations Declaration on the Rights of Indigenous People (UNDRIP), this time with Royal Assent, on Nov. 28, 2019. Article 40 entitles the Indigenous, at least in BC, to have their matters heard in their Indigenous Legal Systems.

Where Canada adopted UNDRIP on May 10, 2016 "without qualification," the Ontario legislature has been slow to enact the requisite legislation.

See Art. 40 at Exhibit Book Tab 1

4. In order to stay your decision, and the collection of the subsequent $1.4 Million in fines that are not due and owing (plus fines of $1,500), our Kinakwii Indigenous Tribunal (KIT) has several cases now at the ONCA requesting that the ONCA acknowledge our Land Claim in Trespass, with Replevin, based on the position of Osgoode Hall Prof. McNeil, and the Right to our own legal system.

See McNeil Article at Exhibit Book Tab 2

when he stated in *Kruger v. The Queen*, [1978] 1 S.C.R. 104, at p. 109, that "[c]laims to aboriginal title are woven with history, legend, politics and moral obligations." The difficulty with these features of oral histories is that they are tangential to the ultimate purpose of the fact-finding process at trial -- the determination of the historical truth. Another feature of oral histories which creates difficulty is that they largely consist of out-of-court statements, passed on through an unbroken chain across the generations of a particular aboriginal nation to the present-day. These out-of-court statements are admitted for their truth and therefore conflict with the general rule against the admissibility of hearsay.

87 Notwithstanding the challenges created by the use of oral histories as proof of historical facts, the laws of evidence must be adapted in order that this type of evidence can be accommodated and placed on an equal footing with the types of historical evidence that courts are familiar with, which largely consists of historical documents. This is a long-standing practice in the interpretation of treaties between the Crown and aboriginal peoples: *Sioui*, *supra*, at p. 1068; *R. v. Taylor* (1981), 62 C.C.C. (2d) 227 (Ont. C.A.), at p. 232.

15. Furthermore, the SCC also held that our Indigenous Legal Systems are also equal:

147 This debate over the proof of occupancy reflects two divergent views of the source of aboriginal title. The respondents argue, in essence, that aboriginal title arises from the physical reality at the time of sovereignty, whereas the Gitksan effectively take the position that aboriginal title arises from and should reflect the pattern of land holdings under aboriginal law. However, as I have explained above, the source of aboriginal title appears to be grounded both in the common law and in the aboriginal perspective on land; the latter includes, but is not limited to, their systems of law. It follows that both should be taken into account in establishing the proof of occupancy. Indeed, there is precedent for doing so. In *Baker Lake*, *supra*, Mahoney J. held that to prove aboriginal title, the claimants needed both to demonstrate their "physical presence on the land they occupied" (at p. 561) and the existence "among [that group of] . . . a recognition of the claimed rights. . . . by the regime that prevailed before" (at p. 559).

148 This approach to the proof of occupancy at common law is also mandated in the context of s. 35(1) by *Van der Peet*. In that decision, as I stated above, I held at para. 50 that the reconciliation of the prior occupation of North America by aboriginal peoples with the assertion of Crown sovereignty required that account be taken of the "aboriginal perspective while at the same time taking into account the perspective of the common law" and that "[t]rue reconciliation will, equally, place weight on each". I also held that the aboriginal perspective on the occupation of their lands can be gleaned, in part, but not exclusively, from their traditional laws, because those laws were elements of the practices, customs and traditions of aboriginal peoples: at para. 41. As a result, if, at the time of sovereignty, an aboriginal society had laws in relation to land, those laws would be relevant to establishing the occupation of lands which are the subject of a claim for aboriginal title. Relevant laws might include, but are not limited to, a land tenure system or laws governing land use.

178 It follows, at the very least, that this core falls within the scope of federal jurisdiction over Indians. That core, for reasons I will develop, encompasses aboriginal rights, including the rights that are recognized and affirmed by s. 35(1). Laws which purport to extinguish those rights therefore touch the core of Indianness which lies at the heart of s. 91(24), and are beyond the legislative competence of the provinces to enact. The core of Indianness encompasses the whole range of aboriginal rights that are protected by s. 35(1). Those rights include rights in relation to land; that part of the core derives from s. 91(24) 's reference to "Lands reserved for the Indians". But those rights also encompass practices, customs and traditions which are not tied to land as well; that part of the core can be traced to federal jurisdiction over "Indians". Provincial governments are prevented from legislating in relation to both types of aboriginal rights. [emphasis added].

16. While Provinces may pass various laws of general application, any laws regarding our Sacred Tobacco (unrolled) go to "Indianness" and are *ultra vires* the Province.

QUO WARRANTO

Given the fact that the Crown is unable to produce the Royal Assent of Victoria on the BNA Act of 1867, the consequent repeal of the BNA Act of 1867, and the fact that there is no Treaty with the Metis form the land under the Manary Farm or the Superior Court of St. Thomas or London, ON.

And given the fact that brent of the manary family has now asserted his Common Law Right to establish a court of his Indigenous peers, as set forth in Article 40 of UNDRIP, the onus of proving a prior, superior title falls to the Crowns of Ontario and Canada, through their attorneys general.

And given that the SCC in *Tsihlqot'in v BC* held, at [78], that the Crown must begin Consultation upon even constructive notice of a Land Claim in Trespass, the Plaintiff seeks the following Resolution.

RESOLUTION

As the issue of Land Claim in Trespass is currently at the ONCA, in File # C67197, C67422 and C66908, we have served the AGO and the AGC with an Appeal for Manary, and will seek a Motion to Consolidate the existing appeals with the [redacted] appeal.

We think it prudent, in the interest of Reconciliation, and quite within our laws seeking Harmony, to request:

1. Your Decision regarding your authority to sit in this ruling, given the BNA Act repealed.

2. Your reconsideration of the trauma the [redacted] have suffered, given that the taxes are not due, and their Farm is on private Indigenous land.

3. Satisfaction of the onus on the Crown of prior superior title has been satisfied.

4. An Order that the Crowns commence consultation,

prior to our Motion at the ONCA,* which will be heard in late January, prior to the Panel sitting on Feb, 28, 2020.

Dated: Dec. 24, 2019.

The Kinakwii Grand Chief White Buffalo Eagle
By his Envoy Jim Shanks

*We note Toronto, like London, is also not on Land ceded by the Metis. **See Exhibit Tab 9.**

Court File No. 2019 ONSC 6469
CV 81/19

Grand Chief White Buffalo Eagle by Envoy J. Shanks. V. Rod Phillips et. al.

Plaintiff Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE

(Action commenced in St. Thomas / London)

INDIGENOUS LETTER FOR RECONSIDERATION
AND QUO WARRANTO

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Court File No. M

Grand Chief White Buffalo Eagle by **Envoy ninigiwaydinnoong** V. Rod Phillips et. al.

Appellant Respondents

The Court of Appeal
for ONTARIO

(Action commenced in St. Thomas / London)

MOTION RECORD

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Court File No. M

Grand Chief White Buffalo Eagle by **Envoy ninigiwaydinnoong** V. Rod Phillips et. al.

Appellant Respondents

The Court of Appeal for ONTARIO

(Action commenced in St. Thomas / London)

MOTION RECORD

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SERVICE ADMITTED ON

DEC 27 2019

ON BEHALF OF THE
DEPUTY ATTORNEY GENERAL OF CANADA
[signature]

By: _____
Department of Justice, Ontario Regional Office

SERVICE OF A COPY
ADMITTED THIS 27 DAY OF Dec. 19
Crown Law Office (Civil Law)
MINISTRY OF THE ATTORNEY GENERAL
FOR ONTARIO
Per: L. P.E.S.M.E. Time: 2:30 p.m.
720 BAY STREET
TORONTO, ONTARIO M7A 2S9