

CITATION: Six Nations of the Grand River Band of Indians v. The Attorney General of
Canada et al., 2024 ONSC 4320

COURT FILE NO.: CV-18-00594281-0000

DATE: 20240801

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Six Nations of the Grand River Band of Indians, plaintiff

AND:

The Attorney General of Canada and His Majesty the King in Right of Ontario,
defendants

AND:

Mississaugas of the Credit First Nation, intervener

BEFORE: J.T. Akbarali J.

COUNSEL: *Iris Antonios, Robert Janes, K.C., and Sanjit Rajayer*, for the plaintiff

Maria Vujnovic, Edward Harrison, Cameron Fiske, Tanya Muthusamipillai, Myra Sivaloganathan, and Sara Daulet, for the defendant The Attorney General of
Canada

Geoff Hall, Adam Goldenberg, Julia McRandall, Lina Chaker and Serena Yun, for
the defendant His Majesty the King in Right of Ontario

Nuri Frame, and Alex DeParde, for the intervener Mississaugas of the Credit First
Nation

HEARD: August 1, 2024

ENDORSEMENT

[1] At this case conference, we addressed the following issues:

- a. Preparatory materials to assist the commissioner at the upcoming out-of-court examinations;
- b. Topics on which Ontario seeks to cross-examine the first witness out-of-court; and
- c. Next steps.

Preparatory Materials

[2] As I have advised the parties, the court is able to make Justice Chalmers available to act as hybrid commissioner for the upcoming out-of-court examinations. He has agreed to be available virtually on the required days between 3:00-4:30 p.m. The parties will receive a zoom link for the attendances.

[3] In order to assist him to prepare to act as commissioner, Canada is preparing a package of materials, including the pleadings, relevant orders, a link to the litigation website (where other court documents and endorsements may be found), and the expert reports and appendices.

[4] Canada shall also prepare a summary of its expert reports, of no more than 25 pages per summary. The summary of the report for the August examination of Professor Read shall be made available to Chalmers J. by August 12, 2024. The summaries of the reports for the other experts shall be available two weeks prior to the commencement of their out-of-court examinations.

[5] By August 14, 2024, the parties shall deliver written legal argument, of no more than 25 pages, on any issues they anticipate will arise for his determination during the examination.

Ontario's Cross-Examination of Professor Read

[6] The plaintiff sought direction with respect to topics on which Ontario has indicated it may cross-examine Professor Read. The parties appear to differ on the proper scope (at law) of cross-examination. The plaintiff also seeks clarity about why Ontario considers itself to be adverse in interest to Canada on the identified topics.

[7] The parties shall discuss the question of adversity of interest amongst themselves to assist them in narrowing any issues that must be presented to Chalmers J. for decision. I am not in a position to decide the question of whether Ontario may cross-examine on the identified topics, as the question is currently unbriefed, and in any event, is theoretical.

[8] I have directed the parties to make efforts to resolve or narrow the issues amongst themselves before seeking direction from Chalmers J.

Next Steps

[9] I have advised the parties that RSJ Firestone has agreed to act as pre-trial judge, and will make himself available to commence the pre-trial process in December. The parties shall discuss dates amongst themselves and advise me by email of the dates during which they are available in December 2024 in order to begin the process.

[10] No trial judge has yet been identified, and no firm trial date has yet been scheduled.

Next Case Conference

[11] The next case conference in this matter shall take place on October 21, 2024 at 10 a.m. for two hours.



J.T. Akbarali J.

Date: August 1, 2024