

COURT FILE NO.: CV-18-594281-0000

(Formerly Court file no.: 406/95)

DATE: 20200501

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: SIX NATIONS OF THE GRAND RIVER BAND OF INDIANS, Plaintiff

AND:

THE ATTORNEY GENERAL OF CANADA and HER MAJESTY THE QUEEN
IN RIGHT OF ONTARIO, Defendants

BEFORE: SANFILIPPO J.

COUNSEL: *Ben A. Jetten, Iris Antonios, Max Shapiro, and Rebecca Torrance*, for the Plaintiff

Anusha Aruliah, Michael McCulloch., Alexandra Colizza and Tanya Muthusamipillai, for the Defendant the Attorney General of Canada

Manizeh Fancy, David Tortell, Stephanie Figliomeni and Insiyah Kanvee for the
Defendant Her Majesty the Queen in Right of Ontario.

HEARD: April 21, 2020

CASE MANAGEMENT ENDORSEMENT

[1] The 11th Case Management Conference in this action was initiated on April 21, 2020, in accordance with paragraph 7(e) of the 10th CM Endorsement dated December 9, 2019.

[2] By reason of the COVID pandemic, and the resultant restrictions in court operations set out in the *Notice to Profession, the Public and the Media Regarding Civil and Family Proceedings*, suspending regular court operations effective March 17, 2020, the case management conference was conducted by teleconference rather than in person.

[3] The parties each delivered a memorandum providing their written submissions on the most efficient manner by which to structure and advance this case to adjudication, together with proposed timetables for doing so, in accordance with paragraph 7(c) of the 10th CM Endorsement. These written submissions reflected the discussions between the parties that were conducted on several occasions in the period between December 9, 2019 and April 2020. While the parties agreed on the three formats by which the trial in this action could be prepared for adjudication and conducted, namely, trial of the whole, phased trial or severed/ bifurcated trial, they could not agree on a trial process or timetable.

[4] The parties all share the common objective of implementing a trial process that is efficient, least expensive, fair and just and would allow this action to proceed to trial at the first opportunity. In light of the uncertainties presented by the COVID pandemic, the earliest trial scheduling forecast for this action is for 2022, and I encouraged the parties to construct a timetable that will prepare this action for adjudication in 2022. I granted the parties more time to consider the issues pertaining to trial format, preparation and trial management, and to take instructions, by adjourning the case management conference.

[5] The adjournment will also give the parties some time to consider pleading amendments, the timing for the Plaintiff to deliver its written examination questioning and time to discuss collaboratively a timetable. The timetable will address scheduling for advancing to completion the steps remaining for this action to proceed to trial in 2022, including any further evidence gathering and any further documentary production, timing for expert reports, timing for scheduling the action down for trial, and pre-trial conferencing.

[6] The 11th case management conference was adjourned to May 14, 2020 at 4:00 pm, a time convenient to all counsel and made available by the court. The case management conference will be continued by teleconference, using call-in co-ordinates that my judicial assistant will provide to counsel before the continuation of this case management conference.

[7] The parties shall exchange and deliver to me a Memorandum, or may submit a Joint Memorandum if they are in agreement, by email to my judicial assistant by 12:00 noon on May 13, 2020, setting out their further submissions concerning the issues discussed on April 21, 2020, any further issues identified and a proposed timetable.

[8] Broad application of Rule 50.13 will be used to address and resolve matters raised at case conference, in circumstances where this is possible. Counsel ought to expect that procedural orders and directions will be made at case conferences, in accordance with Rule 50.13(6), on informal notice of the issue to be addressed.

[9] The requirement of preparation, issuance and entry of a formal order is hereby dispensed with in accordance with Rule 77.07(6).



Sanfilippo J.

Date: May 1, 2020