

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

(Formerly Court file no.: 406/95)

DATE: 20200911

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, and Rebecca Torrance*, for the Plaintiff

Anusha Aruliah, Michael McCulloch, Tanya Muthusamipillai and Maria Vujnovic,
for the Defendant the Attorney General of Canada

*Manizeh Fancy, David Tortell, Stephanie Figliomeni, Insiyah Kanjee and
Catherine Ma*, for the Defendant Her Majesty the Queen in Right of Ontario

HEARD: September 10, 2020

CASE MANAGEMENT ENDORSEMENT

[1] The 13th Case Management Conference was conducted in this action on September 10, 2020, in accordance with paragraph 29(4) of the Case Management Endorsement of June 16, 2020 (the “12th CM Endorsement”).¹ The 13th CM Conference addressed the pleading amendments set out in paragraphs 17(4)(b) of the Case Management Endorsement of May 25, 2020 (the “11th CM Endorsement”), which provided as follows :²

“Canada and Ontario shall attend to any amendment of their Statements of Defence by August 31, 2020, either on the consent of the parties or by bringing a motion for leave to amend.”

¹ *Six Nations of the Grand River Band of Indians v. The Attorney General of Canada, et al*, 2020 ONSC 3747.

² *Six Nations of the Grand River Band of Indians v. The Attorney General of Canada, et al*, 2020 ONSC 3230.

[2] The Attorney General of Canada (“Canada”) and Her Majesty the Queen in Right of Ontario (“Ontario”) each proposed amendments to their Statements of Defence. The Plaintiff, Six Nations of the Grand River Band of Indians (“Six Nations”) consented to the proposed amendments.

A. Specific Case Management Orders

[3] I grant the following Case Management Orders:

- (a) On the consent of the parties, I grant leave for Canada to amend its Statement of Defence in the form of the “Fresh as Amended Statement of Defence of the Attorney General of Canada” annexed to the Consent executed by the parties on September 10, 2020, as filed.
- (b) On the consent of the parties, I grant leave for Canada’s “Fresh as Amended Statement of Defence of the Attorney General of Canada” to be filed as part of the Trial Record in this action, and for Canada’s “Amended Statement of Defence-strikethrough version” to be annexed to the Trial Record by an Appendix.
- (c) On the consent of the parties, I grant leave for Ontario to amend its Statement of Defence in the form of the “Amended Statement of Defence and Crossclaim of the Defendant Her Majesty the Queen in Right of Ontario” annexed to the Consent executed by Six Nations on September 9, 2020 and by Canada on September 4, 2020, as filed.
- (d) The leave granted in paragraphs 3(a) and (c), above, shall have immediate effect. The defendants shall later issue and file their amended defence pleadings once the Court office resumes regular operation to ensure that the amended defence pleadings are included in court-issued form in the Plaintiff’s Trial Record.
- (e) All steps set out in the Timetable in this action, including as established by paragraphs 17(4)-(6) of the 11th CM Endorsement and paragraphs 29(1) and (2) of the 12th CM Endorsement, remain effective.
- (f) The next Case Management Conference shall be conducted on November 24, 2020 at 4:00 pm, by videoconference, with connection coordinates to be provided.

B. General Case Management Directions

[4] Any party who seeks to address an issue identified in this action between now and the next scheduled case conference of November 24, 2020 and who considers that a case conference would assist in expeditious and efficient handling of any such issue, may request the urgent scheduling of a case conference by email to my judicial assistant, having first canvassed with all counsel their availability for such a case management conference and their concurrence with the out-of-court communication, in accordance with *Rule* 1.09.

[5] 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.

[6] Notwithstanding *Rule 59.05*, and in accordance with *Rules 77.07(6)* and 1.04, this order is effective from the date that it is made and is enforceable without any need for entry and filing, and without the necessity of a formal order.

Sanfilippo J.

Date: September 11, 2020