

**COURT FILE NO.:** CV-18-594281-0000  
(Formerly Court file no.: 406/95)  
**DATE:** 20210219

**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:** A.A. SANFILIPPO J.

**COUNSEL:** *Iris Antonios and Rebecca Torrance*, for the Plaintiff

*Anusha Aruliah and Tanya Muthusamipillai*, for the Defendant the Attorney  
General of Canada

*Manizeh Fancy, Jennifer Lapan, Insiyah Kanjee, Catherine Ma, David Feliciant,  
Peter Lemmond and Christine Perruzza* for the Defendant Her Majesty the Queen  
in Right of Ontario

**HEARD**

**(By videoconference):** February 11, 2021

**CASE MANAGEMENT ENDORSEMENT**

[1] The 16th Case Management Conference was conducted on February 11, 2021, in accordance with paragraph 9 of the Case Management Endorsement dated January 14, 2021. This 16th Case Management Conference addressed two issues: the extension of time required by the parties to answer written questions on discovery, and; a concern identified by the Attorney General of Canada (“Canada”) and Her Majesty the Queen in Right of Ontario (“Ontario”) of the potential impact of the ongoing COVID-19 pandemic on the Discovery Timetable and the Expert Report Timetable.

[2] On the first issue, on the parties’ consent, I direct the extension of time for the parties to answer any written questions on discovery to March 12, 2021 from the date previously scheduled of February 26, 2021. Accordingly, para. 4(i) of the Discovery Timetable shall be amended as follows:

“(4) The parties shall advance this action for trial in accordance with the following Timetable:

...

- (i) All parties shall answer any written questions on discovery by ~~December 30, 2020~~ February 26, 2021 March 12, 2021;”

[3] On the second issue, Canada and Ontario stated that the ongoing COVID-19 pandemic is disrupting the timing of their ongoing preparation of this action. Canada stated that its access to the National Archives is limited, protocols for on-line research are complex and affected by significant demands. Ontario stated that its archives are closed during the pandemic and this is impacting its ability to access historical records and resources.

[4] Canada and Ontario submitted that the timetable implemented for development of this action to trial contemplated that any impact caused by the pandemic to their ability to source, access and research historical documents and records would be less significant than has been experienced. They stated that the impact of the ongoing pandemic may affect their ability to complete all required documentary review and research and may impact their ability to obtain critical expert opinion evidence within the existing timetables.

[5] Neither Canada nor Ontario sought any relief from the timetable requirements at this time but sought to state these concerns in the event that they might be required to speak to a modification to the timetable at a future case management conference. In the meantime, they stated that they are using their best efforts to meet the timelines set out in the Discovery Timetable and the Expert Report Timetable.

[6] Counsel for the Plaintiff, Six Nations of the Grand River Band of Indians, had no submissions on this issue, presently, as no relief is currently being sought by Canada and Ontario.

[7] The Discovery Timetable and the Expert Report Timetable currently provide for the completion of all trial preparation steps by July 31, 2022. Canada and Ontario have identified that the ongoing pandemic may impact these Timetables. The parties may bring any such issue forward to a future case management conference, if necessary, in the context of their shared objective to advance this action to adjudication in the most cost-efficient, effective and expeditious manner available.

[8] The next Case Management Conference shall be conducted on March 23, 2021 at 1:00 pm, by videoconference, using video connection coordinates that will be provided by the Court. The timing of this next Case Management Conference has been changed from 9:15 am, as discussed, due to Court scheduling requirements. If any party has scheduling commitments that prevent their participation at 1:00 pm on March 23, 2021, that party may request the rescheduling of the next Case Management Conference, by February 26, 2021, by email to my judicial assistant.

[9] I direct the parties to provide a Case Management Memorandum, even in the form of a letter, either individually or if in agreement, jointly, by 1:00 pm on March 19, 2021, by email to my judicial assistant, setting out the issues that they seek to bring forward to the next Case Management Conference.

[10] In accordance with *Rules* 59.04(1), 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.

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A.A. Sanfilippo J.

**Date: February 19, 2021**