

**COURT FILE NO.:** CV-18-594281-0000  
(Formerly Court file no.: 406/95)  
**DATE:** 20210720

**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:** *Ben Jetten, Iris Antonios, Max Shapiro and Brittiny Rabinovitch* for the Plaintiff

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

*Manizeh Fancy, Jennifer Lepan, Insiyah Kanjee, Catherine Ma and David Feliciant* for the Defendant Her Majesty the Queen in Right of Ontario

**HEARD**

**(In writing):** July 20, 2021

**CASE MANAGEMENT ENDORSEMENT**

[1] At the 19th Case Management Conference conducted on June 29, 2021, the parties jointly requested an opportunity to confer and collaborate on revisions to the Expert Report Timetable to allow for more time for the completion of expert reports than that provided by the current schedule. The Endorsement issued that day stated, at para. 9, that “[i]f the parties reach an agreement on revisions to the Expert Report Timetable, they may submit them in writing.” Otherwise, the next Case Management Conference was scheduled to take place today, July 20, 2021, at 4:00 pm.

[2] The parties delivered a Joint Case Management Memorandum, in letter form, on July 16, 2021, stating that the Defendants, with the consent of the Plaintiff, proposed the following revisions to the Expert Report Timetable set out in the Case Management Endorsement of June 16, 2020 (*Six Nations of the Grand River Band of Indians v. The Attorney General of Canada, et al*, 2020 ONSC 3747), at para. 29:

- The plaintiff shall deliver its expert reports by ~~November 1, 2021~~ April 1, 2022.
- The defendants shall deliver their expert reports by ~~April 1, 2022~~ October 3, 2022.

- The parties shall complete a compilation of all expert reports and supporting documents (except reply reports and documents) by ~~July 31, 2022~~ January 15, 2023.
- The plaintiff shall deliver any reply expert reports by ~~June 30, 2022~~ February 28, 2023.
- The parties shall complete a compilation of all reply expert reports and supporting documents by March 15, 2023.
- This proposed Expert Report Timetable would allow for the scheduling of the trial of this action on April 3, 2023.

[3] The June 29, 2021 Case Management Endorsement noted, at paragraph 8, that the Court had made available January 30, 2023 for the trial of this action. The revisions agreed upon by the parties to the Expert Report Timetable will not allow the trial in this action to proceed before April 3, 2023. The January 30, 2023 date for the trial of this action will be removed from the Court calendar and the trial of this action will be scheduled in the Court calendar for April 3, 2023, subject to confirmation, through continued case management, of its length and readiness to proceed.

[4] The Plaintiff has asked the Court to note that it was prepared to proceed on January 30, 2023, and that it was the Defendants that asked for the Plaintiff's indulgence for what amounts to essentially two more months to prepare for trial. The Plaintiff submitted that it is unlikely that the Plaintiff will consent to any additional requests by the Defendants to extend the date for the start of this trial.

#### **A. Specific Case Management Directions**

[5] I order as follows:

- (a) On the basis of the agreements reached, as set out in the Joint Case Management Memorandum dated July 16, 2021, filed, the Case Management Conference scheduled for July 20, 2021 at 4:00 p.m. is vacated.
- (b) On the consent of the parties, the Expert Report Timetable shall be revised to the schedule set out in paragraph 2 of this Endorsement and will be referred to as the "2021 Revised Expert Report Timetable".
- (c) The next Case Management Conference shall be scheduled as follows:
  - (i) Any party who seeks to address an issue identified in this action, and who considers that a Case Management Conference would assist in expeditious and efficient handling of any such issue, may request the scheduling of a case conference using the following process: first, canvas with all other counsel their availability for a Case Management Conference at 3:00 p.m., assembling a list of three such dates; then, with copy to all counsel, forward

an email to my judicial assistant providing the list of the three available dates, together with a memorandum of not more than 2 pages explaining the issues to be addressed.

- (ii) In any event, no later than December 15, 2021, using the protocol for scheduling the Case Management Conference as set out in sub-paragraph 5(c)(i).
- (d) The parties shall be prepared to speak to the following at the next Case Management Conference:
- (i) The status of their preparation of this action for trial.
  - (ii) The parties' joint filing of a "Timetable for Service of Expert Reports", in accordance with section 67 of the *Consolidated Practice Direction for Civil Actions, Applications Motions and Procedural Matters in the Toronto Region* ("Consolidated Practice Direction"), consistent with the 2021 Revised Expert Report Timetable.
  - (iii) A "Certification Form to Set Pre-Trial and Trial Dates", in accordance with section 61 of the *Consolidated Practice Direction*.
  - (iv) The scheduling of a Pre-Trial Conference and a confirmation of the trial date.
  - (v) Any other issue regarding the efficient and orderly preparation of this action for trial.

[6] 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: July 20, 2021**