

COURT FILE NO.: CV-18-594281-0000
(Formerly Court file no.: 406/95)
DATE: 20220916

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, Max Shapiro, Gregory Sheppard and Robert Janes*, for the Plaintiff
Anusha Aruliah, Edward Harrison, and Sarah Kanko, for the Defendant, the
Attorney General of Canada
*Manizeh Fancy, David Feliciant, Christine Perruzza, Shima Heidari, Julia
McRandall, Catherine Ma, and Lina Chaker*, for the Defendant, His Majesty the
King in Right of Ontario
*Tim Gilbert, Thomas Dumigan, Jonathan Martin, Dylan Gibbs and Jack
MacDonald*, for the moving party, the Haudenosaunee Development Institute

HEARD

(By videoconference): September 16, 2022

CASE CONFERENCE ENDORSEMENT

[1] A second Case Conference was conducted in this action, in accordance with paragraph 13(c) of the Case Conference Endorsement (Revised) of August 26, 2022 (the “August 2022 Endorsement”). The Case Conferences were conducted to address the request by the Haudenosaunee Development Institute (“HDI”) for the scheduling of a motion for the following relief: (i) to add HDI as a party to this action, either pursuant to Rule 5.03 (joinder as necessary party) or Rule 13.01 (leave to intervene as an added party) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; (ii) to appoint HDI as a representative of the citizens of the Haudenosaunee Confederacy, pursuant to Rule 10.01 or 12.08 (the “HDI Motion”).

[2] The parties reported that, in accordance with para. 13(a) of the August 2022 Endorsement, Six Nations of the Grand River Band of Indians (“Six Nations”), the Attorney General of Canada (“Canada”) and His Majesty the King in Right of Ontario (“Ontario”) (collectively the “Parties”) produced to HDI the documents requested by HDI, that were said to arise from the Parties’ pleadings. Further, in accordance with para. 13(b) of the August 2022 Endorsement, HDI delivered to the parties their proposed draft pleading, being a Draft Statement of Defence, Counterclaim and Crossclaim.

[3] There were two issues to address in the Case Conference today: (a) the timetable for the preparation of the HDI Motion for adjudication; and (b) the terms of an Order requiring notice of the HDI Motion to potentially interested parties.

[4] The parties agreed on a timetable for the development of the HDI Motion for hearing on two days made available by the Court: January 30 and 31, 2023. The parties are near agreement on the terms of a Consent Order for the provision of notice of the HDI Motion to potentially interested parties.

[5] The parties expect to finalize a form of Consent Order for the provision of notice of the HDI Motion to potentially interested parties and intend to file this by end of day on September 20, 2022. The parties may do so by providing to my judicial assistant the Consent, as executed, and the form of draft Order in pdf and Word format.

[6] The HDI Motion shall be heard on January 30 and 31, 2023, in accordance with a timetable and terms of notice that I will set out in a Case Conference Endorsement that will be rendered upon the parties filing their Consent to the Order on terms of notice or, in the event that consent on the terms of notice is not achieved, upon a ruling on the terms of notice.

[7] 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.

[8] 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.

A.A. Sanfilippo J.

Date: September 16, 2022