

COURT OF APPEAL OF ALBERTA

Form AP-1

[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NO.: 1803-0076-AC

TRIAL COURT FILE NUMBER: 1103 14112

REGISTRY OFFICE: Edmonton



IN THE MATTER OF THE TRUSTEE
ACT, RSA 2000, C T-8, AS AMENDED,

and

IN THE MATTER OF THE SAWRIDGE
BAND, INTER VIVOS SETTLEMENT,
CREATED BY CHIEF WALTER PATRICK
TWINN, OF THE SAWRIDGE INDIAN
BAND, NO. 19, now known as SAWRIDGE
FIRST NATION, ON APRIL 15, 1985 (the
“1985 Sawridge Trust”)

APPLICANTS: MAURICE FELIX STONEY AND HIS
BROTHERS AND SISTERS

STATUS ON APPEAL: Interested Party

RESPONDENTS (ORIGINAL
APPLICANTS): ROLAND TWINN, CATHERINE TWINN,
WALTER FELIX TWIN, BERTHA
L’HIRONDELLE AND CLARA MIDBO, AS
TRUSTEES FOR THE 1985 SAWRIDGE
TRUST (the “Sawridge Trustees”)

STATUS ON APPEAL: Respondents

INTERVENOR: THE SAWRIDGE BAND

STATUS ON APPEAL: Respondents

INTERESTED PARTY: PRISCILLA KENNEDY, Counsel for Maurice
Felix Stoney and His Brothers and Sisters

STATUS ON APPEAL: Appellant

DOCUMENT: **CIVIL NOTICE OF APPEAL
(Sawridge #9)**

APPELLANT'S ADDRESS FOR
SERVICE AND CONTACT
INFORMATION:

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File: 65063-1

WARNING

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

1. Particulars of Judgment, Order or Decision Appealed From:

Date pronounced: March 20, 2018

Date entered: TBD

Date served: TBD

Official neutral citation of reasons for decision, if any:

1985 Sawridge Trust v Alberta (Public Trustee), 2018 ABQB 215 (*Sawridge* #9)

2. Indicate where the matter originated:

Alberta Court of Queen's Bench

Judicial Centre: Edmonton

Justice: Honourable Mr. Justice D.R.G. Thomas

On appeal from a Queen's Bench Master or Provincial Court Judge?:

☐ Yes ☒ No

Official neutral citation of reasons for decision, if any, of the Master or Provincial Court Judge:

n/a

3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).

☐ Permission not required, or ☒ Granted:

Date: April 4, 2018

Justice: Honourable Mr. Justice J. Watson

4. Portion being appealed (Rule 14.12(2)(c)):

☐ Whole, or

☒ Only specific parts (if specific part, indicate which part):

The Appellant appeals the parts of Justice Thomas' order in which he:

- awarded enhanced costs of the proceeding known as *Sawridge* #8 in favour of the Sawridge Trustees and the Sawridge First Nation on a solicitor and client basis;
- made the Appellant personally liable for such costs on a joint and several basis with her former client Maurice Stoney; and
- awarded costs of the proceeding known as *Sawridge* #7 in favour of the Sawridge Trustees and the Sawridge First Nation against the Appellant.

5. Provide a brief description of the issues:

The issues in this appeal include whether Justice Thomas erred in:

- finding the submissions on behalf of Maurice Stoney constituted a collateral attack on the decision in *Sawridge #6*;
- finding the conduct of the proceeding known as *Sawridge #8* warranted an award of costs in favour of the Sawridge Trustees and the Sawridge First Nation on a solicitor and client basis;
- making the Appellant personally liable for such costs;
- making the Appellant personally liable for such costs on a joint and several basis with her former client Maurice Stoney, without affording Mr. Stoney an opportunity to make submissions on the costs issue; and
- awarding costs of the proceeding known as *Sawridge #7* in favour of the Sawridge Trustees and the Sawridge First Nation against the Appellant.

6. Provide a brief description of the relief claimed:

The Appellant requests that the parts of Justice Thomas' order identified above be set aside.

7. Is this appeal required to be dealt with as a fast track appeal? (Rule 14.14)

☒ Yes ☐ No

8. Does this appeal involve the custody, access, parenting or support of a child? (Rule 14.14(2)(b))

☐ Yes ☒ No

9. Will an application be made to expedite this appeal?

☒ Yes ☐ No

The decision granting permission to appeal set expedited deadlines for the parties to submit materials related to this appeal so that it may be heard together with the appellant's existing appeal (Court of Appeal File No. 1703-0239-AC) scheduled to be heard on June 8, 2018.

10. Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate? (Rule 14.60)

☐ Yes ☒ No

11. Could this matter be decided without oral argument? (Rule 14.32(2))

☐ Yes ☒ No

12. Are there any restricted access orders or statutory provisions that affect the privacy of this file? (Rules 6.29, 14.12(2)(e),14.83)

☐ Yes ☒ No

13. List respondent(s) or counsel for the respondent(s), with contact information:

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(Note: Mr. Stoney has indicated that he prefers to receive materials by mail.)

14. Attachments (check as applicable)

- ☐ Order or judgment under appeal if available (not reasons for decision) (Rule 14.12(3))
- ☐ Earlier order of Master, etc. (Rule 14.18(1)(c))
- ☐ Order granting permission to appeal (Rule 14.12(3)(a))
- ☐ Copy of any restricted access order (Rule 14.12(2)(e))

If any document is not available, it should be appended to the factum, or included elsewhere in the appeal record.

Note: Neither the order under appeal (Rule 14.12(3)(b)) nor the order granting permission to appeal (Rule 14.12(3)(a)) are finalized as of the time of filing of this Notice of Appeal. These documents will be appended to the factum or included elsewhere in the appeal record.