

## COURT OF APPEAL OF ALBERTA

COURT OF APPEAL FILE NUMBER: 1703 0252AC

TRIAL COURT FILE NUMBER: 1103 14112

REGISTRY OFFICE: EDMONTON

IN THE MATTER OF THE TRUSTEE  
ACT, RSA 2000, c T-8, AS AMENDEDIN 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: Not a party to the Appeal

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

**STATUS ON APPLICATION** Interested Party

INTERVENOR **SAWRIDGE FIRST NATION**

STATUS ON APPEAL: Respondents

**STATUS ON APPLICATION** Applicants

RESPONDENT **Public Trustee of Alberta ("OPTG")**

STATUS ON APPEAL: Not a party to the Appeal

INTERESTED PARTY **PRISCILLA KENNEDY**

STATUS ON APPEAL Appellant

**STATUS ON APPLICATION** Respondent

DOCUMENT: **MEMORANDUM OF ARGUMENT OF THE SAWRIDGE  
FIRST NATION IN THE APPLICATION TO DISMISS OR  
STRIKE THE APPEAL**

ADDRESS FOR SERVICE AND  
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## I. INTRODUCTION

1. Sawridge First Nation ("Sawridge") applies for an Order dismissing the within Appeal of the Respondent, Priscilla Kennedy ("Kennedy"), pursuant to Rule 14.74 of the *Alberta Rules of Court*, Alta Reg 124/2010, or alternatively for an Order striking the within Appeal pursuant to Rules 14.37 and 14.90(1)(b) of the *Alberta Rules of Court*, Alta Reg 124/2010 on the basis that Kennedy is not a proper party to the proceeding.
2. The within Appeal arises from a case management decision of Justice D.R.G. Thomas in the underlying Court of Queen's Bench Action No. 1103 14112, known as *Sawridge #8*, dated September 12, 2017. In *Sawridge #8*, Justice D.R.G. Thomas issued a Court Access Control Order for the Applicant, Maurice Stoney ("Stoney"), as a result of a finding of abusive and vexatious litigation.
3. Stoney has not appealed *Sawridge #8* and the time to bring such an appeal has elapsed. Kennedy has appealed *Sawridge #8* on the basis that Justice D.R.G. Thomas stated in his reasons that her submissions on behalf of Stoney were improper and that her conduct warranted his sending a copy of his judgment to the Law Society of Alberta for review.
4. Sawridge submits that the within Appeal should be dismissed. The within Appeal is improper and is moot, as the issues the Respondent purports to appeal do not form part of the Order.
5. Furthermore, the issue of the decision being sent to the Law Society of Alberta is not open to review as any member of the public, and of the legal system, is free to contact the Law Society of Alberta. This is fundamental to the Law Society's mandate to protect the public. The Law Society of Alberta has the jurisdiction to review any matter it chooses on its own initiative. This is especially true of a judgment, as it is a matter of public record. Justice D.R.G. Thomas' act of sending the judgment to the Law Society of Alberta cannot be reversed, and thus nothing can be gained by this Appeal.

## II. ARGUMENT

6. In the interests of efficiency and cost-effectiveness, Sawridge wishes to rely on the Memorandum of Argument filed by the Trustees of the 1985 Sawridge Trust (the "Trustees") on November 24, 2017.

**III. RELIEF REQUESTED**

7. Sawridge requests the following relief:

- (a) An Order directing that the Appeal of the Respondent shall be dismissed on the grounds that the Appeal is improper and moot;
- (b) Alternatively, an Order that the Appeal of the Respondent shall be struck as the Respondent is not a party or intervenor, has not been granted such status, and has not applied for such status in this action, and thus has no right to appeal;
- (c) Costs of this application payable forthwith and in any event of the cause on a solicitor and his own client basis or in the alternate a party and party basis; and
- (d) Such further and other relief as counsel may advise and this Honourable Court may permit.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 24<sup>th</sup> day of November, 2017.

**PARLEE McLAWS LLP**



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EDWARD H. MOLSTAD, Q.C.  
Counsel for Sawridge First Nation