

**COURT OF APPEAL OF ALBERTA**

**Form AP-3**  
[Rule 14.53]

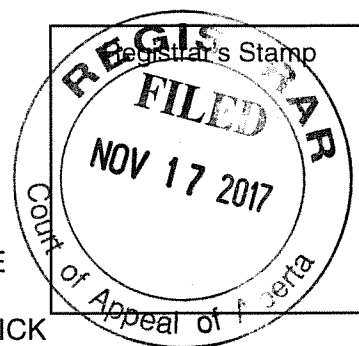
COURT OF APPEAL FILE NUMBER: 1703 0195AC

TRIAL COURT FILE NUMBER: 1103 14112

REGISTRY OFFICE: EDMONTON

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

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")



PLAINTIFF/APPLICANT: **Maurice Stoney and his Brothers and Sisters**

STATUS ON APPEAL Appellant

STATUS ON APPLICATION Respondent

DENFENDANT / RESPONDENT: **Roland Twinn, Catherine Twinn, Walter Felix Twin, Bertha L'Hirondelle and Clara Midbo, as Trustees for the 1985 Sawridge Trust**

STATUS ON APPEAL Respondents

STATUS ON APPLICATION Applicants

RESPONDENT **Public Trustee Of Alberta**

STATUS ON APPEAL Not a party to the Appeal

STATUS ON APPLICATION Not a party to the Application

DENFENDANT / RESPONDENT: **Sawridge First Nation**

STATUS ON APPEAL: Respondent

STATUS ON APPLICATION Interested Party

DOCUMENT: **APPLICATION OF APPLICANTS FOR SECURITY FOR COSTS**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF PARTY  
FILING THIS DOCUMENT:

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**NOTICE TO RESPONDENT:**

**WARNING**

If you do not come to Court on the date and time shown below either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you intend to rely on other evidence or a memorandum in support of your position when the application is heard or considered, you must file and serve those documents in compliance with the Rules. (Rules 14.41 and 14.43)

**NOTICE TO RESPONDENT:**

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: Wednesday, November 29, 2017  
Time: 9:30 am  
Where: Law Courts Building, Edmonton, Alberta  
Before: Single judge of the Court of Appeal (Rule 14.67)

### **Nature of Application and Relief Sought:**

1. An Order directing that:
  - (a) The Respondent, Maurice Stoney, shall post security for costs in the amount of \$25,000 no later than two weeks after the date this application is heard, or such other amount and other time period as may be specified by this Honourable Court;
  - (b) An Order staying the proceedings in the within action until security for costs is provided;
  - (c) An Order that if security for costs is not provided in accordance with the time prescribed in paragraph 1(a) of this Order, that the appeal by the Respondent of the Order of Thomas J dated July 12, 2017 be dismissed without further Order of this Honourable Court;
  - (d) Costs of this application payable forthwith and in any event of the cause; and
  - (e) Such further and other relief as counsel may advise and this Honourable Court may permit.

### **Grounds for making this application:**

2. The Applicant has a meritorious and arguable response to the appeal brought by the Respondent.
3. The Respondent in the past has attempted numerous times and at various levels of court or tribunal, to establish a right to membership in the Sawridge First Nation and has failed to do so.
4. The Respondent's application seeking the same relief as this appeal, that is membership to Sawridge First Nations was denied in 2011. He subsequently appealed the decision and lost the appeal regarding the denied membership in 2012. The Respondent was also unsuccessful in a judicial review application and costs were awarded against him. Such costs remain unpaid.
5. The Respondent attempted to appeal the December 17, 2015 decision of Thomas J and was unsuccessful in obtaining an extension of time to appeal. Costs were awarded against him in favor of Sawridge First Nation and in favour of the trustees and such costs are not fully paid.
6. This Appeal is an attempt by the Respondent to re-litigate question of his right to membership in Sawridge First Nation.
7. Based on the history of the Respondent's attempt to be included in Sawridge First Nation at the various levels of court and tribunal, the Applicants oppose the Appeal on the merits and will argue that this is a vexatious attempt to re-litigate issues which have been dealt with several times before various levels of court and tribunals.

8. The Respondent has a history of failing to comply with the finality of a court order, failing to comply with a court order to pay costs and failing to abide by court ordered timelines for the filing of documents, thereby increasing costs to other participants with no consequence to him.
9. The Respondent does not have any substantial assets within the Province of Alberta to satisfy an order of costs against him.
10. The Respondent has not paid the costs ordered following the proceedings in the within action in the Court of Queen's Bench, despite demand.
11. In the absence of an order for security for costs as requested herein, the Applicant would be at substantial risk of being unable to enforce a judgment for costs obtained against the Respondent in the event that the Respondent is unsuccessful on appeal.
12. It is just and reasonable in the circumstances for this Honourable Court to order that the Respondent, Maurice Stoney post security for costs in the amount requested herein, or in such other amount that this Honourable Court deems just and reasonable in the circumstances, on the basis that:
  - (a) The Respondent does not have substantial assets in the Province of Alberta to satisfy a cost judgment;
  - (b) The likelihood that the Respondent will succeed on appeal is low;
  - (c) A security for costs order will not prevent the Respondent from proceeding with his action; and
  - (d) The Applicant has applied for a security for costs order prior to a majority of the steps in the appeal commencing and at an early stage in the appeal.

**Material or evidence to be relied on:**

13. Pleadings in this action, filed.
14. Affidavit of Roland Twinn filed September 21, 2016 in the underlying action.
15. Affidavit of Paul Bujold filed September 30, 2016 in the underlying action.
16. Affidavit of Roland Twinn sworn November 15, 2017 filed November 16, 2017.
17. Memorandum of Argument of the Sawridge First Nation on Security for Costs, filed November 16, 2017.
18. Such further and other materials as counsel may advise and this Honourable Court may permit.

**Applicable Acts, regulations and rules:**

19. Rules 4.22, 4.23, and 14.67 of the *Alberta Rules of Court*, Alta. Reg. 124/2010.