

COURT OF APPEAL OF ALBERTA

COURT OF APPEAL FILE NUMBER: 1703-0195AC

TRIAL COURT FILE NUMBER: 1103-14112

REGISTRY OFFICE: EDMONTON



IN THE MATTER OF THE TRUSTEE ACT, RSA
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 STONEY AND HIS BROTHERS
AND SISTERS

STATUS ON APPEAL: Appellant

STATUS ON APPLICATION: Respondent

RESPONDENTS: 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: Interested Party

RESPONDENT: PUBLIC TRUSTEE OF ALBERTA

STATUS ON APPEAL: Not a Party to the Appeal

STATUS ON APPLICATION: Not a Party to the Application

INTERVENOR: SAWRIDGE FIRST NATION ("Sawridge")

STATUS ON APPEAL: Respondent

STATUS ON APPLICATION: Applicant

DOCUMENT: AFFIDAVIT OF ROLAND TWINN

COURT OF APPEAL OF ALBERTA

Registrar's
Stamp

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INTERVENOR: SAWRIDGE FIRST NATION ("Sawridge")

STATUS ON APPEAL: Respondent

STATUS ON APPLICATION: Applicant

DOCUMENT: AFFIDAVIT OF ROLAND TWINN

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AFFIDAVIT OF ROLAND TWINN

SWORN on November 15, 2017

I, ROLAND TWINN, of Sawridge Indian Reserve 150G, in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I have been a member of the Sawridge First Nation ("Sawridge") since my birth in 1965, I was a Councillor of Sawridge from 1997 to 2003, and I have been the Chief of Sawridge since 2003, and as such I have personal knowledge of the matters set out in this Affidavit except where stated to be based upon information and belief, in which case I do verily believe the same to be true.

2. For the following reasons, I do verily believe that it would be just and reasonable for the Respondent, Maurice Stoney, to be ordered to post security for costs with respect to the within appeal:

- a. Maurice Stoney has not satisfied two (2) previous costs awards in favour of Sawridge and, as a result, I do verily believe that Maurice Stoney will not be able to satisfy any costs award made in favour of Sawridge should his appeal be unsuccessful.
- b. I am advised by my review of the Written Response Argument of Maurice Stoney, filed on August 3, 2017, in Court of Queen's Bench Action No. 1103 14112, that at paragraph 25 Maurice Stoney admits that he has failed to pay previous costs awards made in favour of Sawridge and that his inability to pay said costs awards was due to foreclosure proceedings taken against Maurice Stoney and his wife, Eliza Marie Stoney, in Court of Queen's Bench Action No. 1603 03761. Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a copy of Maurice Stoney's Written Response Argument, filed August 3, 2017.
- c. I have reviewed a procedure card for Court of Queen's Bench Action No. 1603 03761 and am advised that the foreclosure proceedings brought against Maurice Stoney and his wife, Eliza Marie Stoney, by Gabriel Nussbaum remain on-going. Attached hereto and marked as **Exhibit "B"** to this my Affidavit is a copy of the procedure card for Court of Queen's Bench Action No. 1603 03671, obtained on October 23, 2017.
- d. I am advised by my counsel, Edward H. Molstad, Q.C., of Parlee McLaws LLP, and do verily believe that he was served with an Application for a Redemption Order and associated materials on or about June 24, 2016 in relation to Court of Queen's Bench Action No. 1603 03671, because Sawridge filed a writ against title to Stoney's property located at 500-4th Street NW in Slave Lake, Alberta, in relation to a previous unpaid cost award. I am further advised by my review of these materials, copies of which are attached hereto and marked as **Exhibit "C"** to this my Affidavit, that as of January 25, 2016, Scotiabank, who is a first mortgagee on the property was owed \$80,605.55, that as of October 27, 2015, Gabriel Nussbaum, who is a second mortgagee on the property claimed to be owed \$29,858.02 (excluding costs), and

that as of October 29, 2015, the appraised market value of the property was \$145,000.00 to \$150,000.00.

- e. I am further advised by my review of the Written Response Argument of Maurice Stoney, filed on November 15, 2016 in Court of Queen's Bench Action No. 1103 14112, that at paragraph 6 it is stated that Maurice Stoney is elderly and has limited funds. Attached hereto and marked as **Exhibit "D"** to this my Affidavit is a copy of Maurice Stoney's Written Response Argument, filed November 15, 2016.
- f. Apart from the residence located at 500-4th Street NW in Slave Lake, Alberta that is currently subject to the foreclosure proceedings described above, I am unaware of any significant exigible assets Maurice Stoney may have in Alberta.
- g. In the case management decision of Mr. Justice Thomas which is the subject of this appeal, Mr. Justice Thomas awarded Sawridge solicitor and own client full indemnity costs as against Maurice Stoney. I am advised by my counsel, Edward H. Molstad, Q.C., of Parlee McLaws LLP, and do verily believe that the amount of fees and disbursements that Sawridge is claiming as a result of Mr. Justice Thomas' decision is \$97,154.36. However, the amount of costs that will be owed by Maurice Stoney to Sawridge has not yet been finalized as Mr. Justice Thomas has directed that the parties attend before an Assessment Officer to address the matter of costs.
- h. I am advised by my counsel, Edward H. Molstad, Q.C., of Parlee McLaws LLP, and do verily believe that Sawridge has a meritorious defence to Maurice Stoney's appeal in the within action and that Maurice Stoney's appeal is without merit.
- i. Maurice Stoney has undertaken numerous attempts at various levels of court and tribunal to assert that he has an entitlement to membership in Sawridge and has failed to do so on every such occasion.
- j. I have reviewed my previous Affidavit, filed in the underlying action, being Court of Queen's Bench Action No. 1103 14112, which I swore on September 21, 2016, and which was filed on September 28, 2016 (hereinafter my "September 21, 2016 Affidavit"), and I confirm that the entirety of my September 21, 2016 Affidavit is still accurate.

- k. Subsequent to Maurice Stoney's previous attempts to claim membership in Sawridge, which are set out in detail at paragraphs 4 to 26 of my September 21, 2016 Affidavit, Maurice Stoney has made an additional attempt to assert that he is a member of Sawridge and has been unsuccessful in this additional attempt which forms the basis for the within Appeal.
- l. The Application of Maurice Stoney that forms the basis for the within Appeal constituted a further attempt by Maurice Stoney to assert a right to membership in Sawridge, and Maurice Stoney's Application was dismissed by Justice D.R.G. Thomas and reported at *1985 Sawridge Trust v Alberta (Public Trustee)*, 2017 ABQB 436 ("Sawridge #6").
- m. Subsequent to his decision in *Sawridge #6*, Justice D.R.G. Thomas issued a further case management decision, reported at *1985 Sawridge Trust v Alberta (Public Trustee)*, 2017 ABQB 548 ("Sawridge #8"), wherein he found that Maurice Stoney's litigation activities involved a number of abusive activities including:
 - i. re-litigating decided issues with respect to his membership in Sawridge;
 - ii. bringing hopeless proceedings;
 - iii. conducting "busybody" litigation;
 - iv. failing to follow court orders, including the non-payment of costs awards;
 - v. "forum shopping" in an attempt to prolong or renew abusive dispute activities;
 - vi. bringing unproven allegations of fraud and corruption against Sawridge; and
 - vii. bringing an application with an improper purpose.

Attached hereto and marked as **Exhibit "E"** to this my Affidavit is a copy of Justice D.R.G. Thomas' case management decision in *Sawridge #8* wherein he found that Maurice Stoney was a vexatious litigant and accordingly issued an Order restricting his access to Alberta courts.

- n. I am advised by my counsel, Edward H. Molstad, Q.C., of Parlee McLaws LLP, and do verily believe, that Maurice Stoney has not sought permission to appeal the

decision of Justice D.R.G. Thomas in *Sawridge #8* and that the time to seek such permission has now elapsed.

o. I have reviewed my September 21, 2016 Affidavit wherein I referenced a number of unpaid costs awards made against Maurice Stoney in favour of Sawridge.


i. The first such costs award arose from the decision of Mr. Justice Barnes of the Federal Court in *Stoney v Sawridge First Nation*, 2013 FC 509, wherein it was ordered that Maurice Stoney pay costs in favour of Sawridge. This costs award was subsequently assessed at \$2,995.65 by the Federal Court Assessment Office on October 22, 2014, and a true copy of the Certificate of Assessment is attached as Exhibit #4 to my September 21, 2016 Affidavit.

ii. The second such costs award arose from the decision of Justice J. Watson of the Court of Appeal of Alberta wherein Maurice Stoney's application seeking an extension of time to file an appeal of Mr. Justice Thomas' Order of December 17, 2015 was dismissed. On June 14, 2016, the Assessment Officer approved Sawridge's Bill of Costs in the amount of \$898.70, and a true copy of the Bill of Costs as accepted by the Assessment Officer is attached as Exhibit #6 to my September 21, 2016 Affidavit.

p. As at the date of my swearing of this Affidavit, Maurice Stoney still has not paid any of the aforementioned costs awards made in favour of Sawridge.

3. I swear this Affidavit in support of an Application for an Order requiring Maurice Stoney to provide security for payment of a costs award for the within appeal, pursuant to Rules 14.67, 4.22, and 4.23 of the *Alberta Rules of Court*, Alta Reg 124/2010.

SWORN BEFORE ME at the Town of Slave
Lake, in the Province of Alberta, this 15th
day of November, 2017.


A Commissioner for Oaths in and for the
Province of Alberta

MICHAEL R. McKINNEY Q.C.
BARRISTER & SOLICITOR


ROLAND TWINN

Tab A

Clerk's Stamp



COURT FILE NO.: 1103 14112
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE: EDMONTON

IN THE MATTER OF THE TRUSTEE ACT, RSA 2000, c. T-8, as am.

IN THE MATTER OF THE SAWRIDGE BAND INTER VIVOS
SETTLEMENT CREATED BY CHIEF WALTER PATRICK TWINN, OF
THE SAWRIDGE INDIAN BAND NO. 19 ON APRIL 15, 1985 (the "1985
Sawridge Trust")

APPLICANTS: ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA
L'HIRONDELLE AND CLARA MIDBO, AS TRUSTEES FOR THE 1985
SAWRIDGE TRUST

RESPONDENT: MAURICE STONEY

INTERVENER: SAWRIDGE FIRST NATION


DOCUMENT: WRITTEN RESPONSE ARGUMENT OF MAURICE STONEY ON VEXATIOUS
LITIGANT ORDER

ADDRESS FOR SERVICE AND
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THIS IS EXHIBIT "A" REFERRED TO
IN THE AFFIDAVIT OF

Roland Twinn

SWORN BEFORE ME THIS 15th DAY
OF November A.D., 2017.


A Commissioner for Oaths in and for the Province of Alberta

MICHAEL R. MCKINNEY Q.C.
BARRISTER & SOLICITOR

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- 2. *Huzar v. Canada*, 2000 CanLII 15589 (FCA).
- 3. *Powder v. H.M.T.Q.* August 16, 2016.
- 4. *Stoney v. Sawridge First Nation; Huzar and Kolosky v. Sawridge First Nation*, 2013 FC 509.
- 5. *Benner v. Canada*, [1997] 1 SCR 358 (headnote only).
- 6. *Re Manitoba Language Rights*, [1985] 1 SCR 721 (headnote only).
- 7. *McIvor v. Canada*, 2009 BCCA 153.
- 8. *Descheneaux v. Canada (A.G.)*, 2015 QCCS 3555 [this is currently before the Quebec Court of Appeal as a result of Canada failing to comply with the 18 months' time period to resolve the issues of membership and status under the *Indian Act*, set to be heard on August 9, 2017].
- 9. *The Government of Canada's Response to the Descheneaux Decision*.
- 10. *Daniels v. Canada (Indian Affairs and Northern Development)*, [2016] 1 SCR 99.
- 11. *Sawridge Band v. H.M.T.Q.* 2009 FCA 123.
- 12. And see *Twinn v. Sawridge Band*, 2017 ABQB 366.
- 13. *Poitras v. Twinn*, 2013 FC 910.
- 14. *Federal Court Rules*, Rule 114.

I. QUESTION SET BY THE COURT

1. Case Management Decision (Sawridge #6) orders in paragraph 63 that Maurice Stoney make written submissions prior to the close of the Law Courts on August 4, 2017 on the following two matters:

1. his access to Alberta courts should be restricted, and
2. if so, what the scope of that restriction should be.

2. This Order further stipulates:

I declare that Maurice Stoney is prohibited from filing any material on any Alberta court file, or to institute or further any court proceedings, without the permission of the Chief Justice, Associate Chief Justice, or Chief Judge of the court in which the proceedings is conducted, or his or her designate. ...

3. An exception to the Interim Court Filing Restriction Order was granted by Associate Chief Justice Rooke on July 19, 2017 filed on July 20, 2017 which permits completion of the direction of Master Schulz in Alberta QB Action 1603 03761 *Gabriel Nussbaum v. Maurice Felix Stoney and Eliza Marie Stoney*. The Associate Chief Justice did not require any notice to any other person nor any conditions or security for costs.

Consent Order of Associate Chief Justice Rooke July 19, 2017. [Tab 1]

4. This Consent Order was agreed to by Counsel for the Trustees and by Counsel for the Sawridge First Nation who both signed the Consent Order.

II. FACTS

5. The 1985 Sawridge Trustees have adopted the arguments of the Sawridge First Nation. Paragraph 2 of the submissions of the 1985 Sawridge Trustees states:

The trustees have reviewed the brief filed by the Sawridge First Nation and confirm that they agree with the contents. In the interests of saving costs to the 1985 Sawridge Trustee and in the interest of avoiding duplicative arguments, the Trustees wish to adopt the arguments of the Sawridge First Nation as filed in this action.

(A) Misstated Facts of Sawridge First Nation

6. The Federal Court of Appeal struck the Statement of Claim issued in Federal Court in 1995 on the ground that there was "no reasonable cause of action" and that the matter was properly a judicial review under section 18(3) of the *Federal Court Act*. On such a proceeding where the argument is that there is no reasonable cause of action, no evidence is admissible: *Canada (A.G.) v. Inuit Tapirisit of Canada*, [1980] SCJ No. 99 quoted at paragraph 24 in *Powder v. H.M.T.Q.* [Tab 3]. Accordingly, the striking of the Statement of Claim does not rely on any Affidavit evidence of Sawridge First Nation nor make any finding on it. It is improper to rely upon that evidence in this matter.

Huzar v. Canada, 2000 CanLII 15589 (FCA). [Tab 2]

Powder v. H.M.T.Q. August 16, 2016. [Tab 3]

7. The judicial review in 2013 did not include a "thorough analysis" of Maurice Stoney's arguments regarding his entitlement to membership since it was determined that no constitutional arguments could be made, see paragraph 22 as a result of not completing the Constitutional Question Notice required by section 57 of the *Federal Courts Act*, which provides in subsection 1 that it applies whenever "the constitutional validity, applicability or operability of an Act of Parliament or of the legislature of a province, or of regulations made under such an Act, is in question before the ...Federal Court" must be served on each Attorney General in Canada.

Stoney v. Sawridge First Nation; Huzar and Kolosky v. Sawridge First Nation, 2013 FC 509, para. 22. [Tab 4]

8. Paragraphs 10 to 14 are in reference to the claims by Aline Huzar and June Kolosky to Sawridge First Nation membership as stated by Mr. Justice Barnes at paragraphs 10 to 14 and concluded by his statement "the legislation is clear in its intent and does not support a claim by Ms. Huzar and Ms. Kolosky to automatic band membership". Only paragraph 15 refers to Maurice Stoney.

Stoney, supra, paras. 10-14, 15. [Tab 4]

9. As noted at paragraph 4, Mr. Justice Barnes did state that the Sawridge First Nation membership rules only applied from the point when the Minister of Indian and Northern Affairs gave notice under section 10(7) of the *Indian Act*, which occurred in September, 1985. This is contrary to the assertions throughout the facts stated by Sawridge First Nation. The date of issue in this matter of the beneficiaries of the 1985 Sawridge Trust is the date of the Trust which is dated April 15, 1985.

Stoney, supra., para. 4. [Tab 4]

(B) Other Facts

10. Following the cross-examination of Maurice Stoney on September 23, 2016, counsel for the Trustees did not make any applications to require further examination nor request any further cross-examination.
11. At no time did the Sawridge First Nation apply for clarification of whether or not they were a party entitled to attend cross-examination prior to the examination although they were well aware of the timing of the examination and the refusal of their participation much earlier in September, 2016 and had time to apply for such an Order.
12. Maurice Stoney has not attempted to re-litigate the membership issue but rather to set out the legal arguments to address the direct issue of the definition of a beneficiary under the 1985 Sawridge Trust made on April 15, 1985 at a time when the Sawridge First Nation was not legally able to limit its membership as noted by Mr. Justice Barnes in his decision at paragraph 4. The Supreme Court of Canada has held that citizenship is always an issue to be reviewed on constitutional rights see: *Benner v. Canada*, [1997] 1 SCR 358 (headnote only). Limitation periods, long periods where legislation have been treated as being constitutional, and prior decisions, even of the Supreme Court of Canada do not limit the ability to bring forward a question before the Courts: *Re Manitoba Language Rights*, [1985] 1 SCR 721. In this context, there have been a number of recent decisions on these constitutional issues that have and are in the

process of completely altering the law related to these issues of the membership/citizenship of Indians, in order to have them comply with the *Constitution*.

Benner v. Canada, [1997] 1 SCR 358 (headnote only). [Tab 5]

Re Manitoba Language Rights, [1985] 1 SCR 721 (headnote only). [Tab 6]

Mclvor v. Canada, 2009 BCCA 153. [Tab 7]

Descheneaux v. Canada (A.G.), 2015 QCCS 3555 [this is currently before the Quebec Court of Appeal as a result of Canada failing to comply with the 18 months' time period to resolve the issues of membership and status under the *Indian Act*, set to be heard on August 9, 2017]. [Tab 8]

The Government of Canada's Response to the Descheneaux Decision. [Tab 9]

Daniels v. Canada (Indian Affairs and Northern Development), [2016] 1 SCR 99. [Tab 10]

13. The Federal Court of Appeal determined on April 21, 2009, that the Sawridge Band's action seeking an order declaring that certain amendments to the *Indian Act* regarding membership, were unconstitutional. Sawridge Band had brought action against all of the amendments which "compelled the appellants [Sawridge Band], against their wishes, to add certain individuals to the list of band members. The appellants had argued that the legislation is an invalid attempt to deprive them of their right to determine the membership of their own bands." The first trial had commenced in 1993 and the history of the trial and re-trial is set out at paragraph 4. It is to be noted that the length of time this matter was before the Federal Court is indicative of the unsettled nature of the issues raised. The issue of membership/citizenship remains an unsettled matter as shown by the decisions of various courts including the Supreme Court of Canada, cited in paragraph 12 above.

Sawridge Band v. H.M.T.Q. 2009 FCA 123. [Tab 11]

And see *Twinn v. Sawridge Band*, 2017 ABQB 366. [Tab 12]; *Poitras v. Twinn*, 2013 FC 910. [Tab 13]

14. It is acknowledged that this court has dismissed these arguments and they are not referred to here, other than as the facts to set the context for the matters to

be dealt as directed on the issue of whether or not the application of Maurice Stoney was vexatious litigation.

III. RESTRICTED ACCESS TO ALBERTA COURTS

(A) The Judicature Act, section 23(2)

15. Section 23(2) requires that the following matters be considered as a list of vexatious litigation:

(2) For the purposes of this Part, instituting vexatious proceedings or conducting a proceeding in a vexatious manner includes, without limitation, any one or more of the following:

- (a) persistently bringing proceedings to determine an issue that has already been determined by a court of competent jurisdiction;
- (b) persistently bringing proceedings that cannot succeed or that have no reasonable expectation of providing relief;
- (c) persistently bringing proceedings for improper purposes;
- (d) persistently using previously raised grounds and issues in subsequent proceedings inappropriately;
- (e) persistently failing to pay the costs of unsuccessful proceedings on the part of the person who commenced those proceedings;
- (f) persistently taking unsuccessful appeals from judicial decisions;
- (g) persistently engaging in inappropriate courtroom behavior.

16. As shown by the litigation in the Sawridge Band cases above, the on-going case in *Descheneaux* and decision of the Supreme Court of Canada in *Daniels*, and by the review of the Federal Court of Appeal decision in *Huzar* and the judicial review in *Stoney*, it is submitted that this is not a proceeding where the issue has already been determined by a court of competent jurisdiction. Nor is this a matter where proceedings have been brought that cannot succeed or have no reasonable expectation of providing relief.

17. It is submitted that litigation seeking to determine whether or not you qualify as a beneficiary under a trust established on April 15, 1985 in a matter where the issue of membership/citizenship has not been settled by the courts, and this

application was not brought for an improper purpose. Nor have the matters raised in (d), (f) and (g) occurred.

18. Costs to the Sawridge First Nation have not been paid however the intention is to pay them as soon as it is possible for Maurice Stoney. Costs to the 1985 Sawridge Trust have been paid.

B. Inherent Jurisdiction

19. The elements of vexatious litigation are set out in *Chutskoff v. Bonora*, at paragraph 92 quoted at pages 13-16 of the Written Submissions of the Sawridge First Nation.
20. It is submitted that this application by Maurice Stoney was not a collateral attack. The issue before the Court here is the definition of beneficiary in the 1985 Sawridge Trust when beneficiary is to be determined as of April 15, 1985. As Mr. Justice Barnes stated at paragraph 4 of the judicial review of the Sawridge First Nation membership application, that the Sawridge First Nation membership application does not apply to anything before the date that the Minister agreed to the Sawridge First Nation membership by-law in September, 1985, leaving a period from April 17, 1985 until September, 1985 which is not covered by the Sawridge First Nation membership process. The issue that was argued in the written submission during the fall of 2016, was the status of Maurice Stoney under the Sawridge Band on or about April, 1985 which was not *res judicata* from the previous matters in Federal Court. The issue of the status in the period from April 15, 1985 to September, 1985 was a completely new issue. Mr. Justice Barnes determined that the decision of the Appeal Committee of the Sawridge First Nation was reasonable on the question of membership in the Sawridge First Nation, based on the application made by Maurice Stoney to the Sawridge First Nation.

Stoney, supra. [Tab 4]

21. It is acknowledged that the costs owed from the Federal Court proceeding are owed by Maurice Stoney and because the judicial review was heard with the judicial review by Aline Huzar and June Kolosky, owed by all three of them and have not been paid along with the costs of the application before the Court of Appeal in Feb. 2016, although the costs of the 1985 Sawridge Trustees have been paid by Maurice Stoney in November, 2016. Maurice Stoney is 77 years of age and Aline Huzar and June Kolosky are all senior citizens of limited means.
22. There has been no 'escalating' of proceedings in this matter. The law related to status of Indians in Canada has changed over the years and Canada is still involved in proceedings to determine and satisfy these membership and status issues currently outstanding as a result of the *Descheneaux v. Canada (A.G.)* decision [Tabs 8 and 9] and the decision in the *Daniels* case [Tab 10]. These matters all include the issue of who, in law, is a member of a band and that will affect the issue of the Sawridge Band during the time period from April 17, 1985 until September, 1985.
23. No disrespect for the court process or intention to bring proceedings for an improper purpose, was intended to be raised by these arguments respecting this time period and the definition of beneficiary in this trust.
24. Contrary to the argument of Sawridge First Nation these matters have not been determined in the past Federal Court proceedings. Issues of citizenship and the constitutionality of these provisions remains a legal question today as shown by the on-going litigation throughout Canada. Plainly this Court has determined that these arguments are dismissed in this matter and that is acknowledged.
25. Throughout all of these proceedings and proceedings in the Federal Court, Maurice Stoney has honoured his Court obligations. The failure to pay the costs of Sawridge First Nation is the intervening result of foreclosure proceedings against Maurice Stoney and his wife in Q.B. Action No. 1603 03761 (originally started in Peace River in 2011 and transferred to Edmonton in 2016) in which the Associate Chief Justice Rooke has issued a Consent Order on July 19, 2017

directing that this Action is an exception to the Interim Order granted on July 12, 2017. This Order of the Associate Chief Justice has been consented to by the 1985 Sawridge Trustees and by the Sawridge First Nation [see Tab 1].

26. Affidavit evidence has been filed and provided to the Court on July 28, 2017, by Bill Stoney, brother to Maurice, by Gail Stoney, sister to Maurice and by Shelley Stoney, daughter of Bill Stoney, respecting the approval of the other brothers and sisters, to show that they commenced this application and directed that Maurice Stoney proceed on their behalf. The *Federal Court Rules*, provide for Representative proceedings where the representative asserts common issues of law and fact, the representative is authorized to act on behalf of the represented persons, the representative can fairly and adequately represent the interests of the represented persons and the use of a representative proceeding is the just, most efficient and least costly manner of proceeding. This method of proceeding is frequently used for aboriginals and particularly for families who are aboriginal. It is submitted that this was the most efficient and least costly manner of proceeding in the circumstances where the claim of all of the living children possess the same precise issues respecting their citizenship.

Federal Court Rules, Rule 114. [Tab 14]

27. No collateral attack was intended nor was this brought as a "busy body" proceeding in presenting the arguments of Maurice Stoney and his brothers and sisters respecting the fact that they were born as members (citizens) of the Sawridge Band, they were removed by the provisions of the *Indian Act* during the 1940's and effective April 17, 1985 their removal from the *Indian Act*, was repealed.
28. It is also submitted that this application was not a hopeless proceeding without any reasonable expectation to provide relief. This is an area of the law that is changing rapidly as shown by *McIvor* [Tab 7], *Descheneaux* [Tab 8], *The Government of Canada's Response to the Descheneaux Decision* [Tab 9] and *Daniels* [Tab 10]. No conclusion was made in the 1995 Federal Court

proceedings which were struck as showing no reasonable cause of action and the judicial review was concerned with the issue of the Sawridge First Nation Appeal Committee decision based on membership rules post September, 1985.

IV. SCOPE OF THE RESTRICTION

29. In *Hok v. Alberta*, para. 36 [Tab 2 of the Sawridge First Nation Authorities], three questions are set out to be answered on the question of how to structure the court order restricting access to the court for the litigant. These questions are:
 1. Can the court determine the identity or type of persons who are likely to be the target of future abusive litigation?
 2. What litigation subject or subjects are likely involved in that abuse of court processes?
 3. In what forums will that abuse occur?
30. The Sawridge First Nation submits at paragraph 57 of their Written Submissions, that the claims of Maurice Stoney to membership in the Sawridge First Nation show the indicia of vexatious litigation. In paragraph 80, their submission is that Maurice Stoney's access to the Alberta Courts should be restricted for any litigation against:
 - (a) Sawridge First Nation
 - (b) any past, present, or future members of the Chief and Council of the Sawridge First Nation;
 - (c) the 1985 Sawridge Trust;
 - (d) the 1986 Sawridge Trust; and
 - (e) the Trustees of the 1985 and 1986 Sawridge Trusts.
31. It is submitted that the Interim Court Filing Restriction Order should not be made permanent on the grounds that the necessary conditions for such an Order are not met as set out in argument above.
32. In the alternative, it is submitted that such an Order should only restrict actions by Maurice Stoney against the Sawridge First Nation and the 1985 Sawridge Trust.

33. In paragraph 82 of the Sawridge First Nation Written Argument it appears that the Sawridge First Nation is also asking that all access to the Courts be restricted for Maurice Stoney although they have submitted in the previous paragraph that the restriction should only be with respect to the bodies set out in paragraph 30 above. It is submitted that there is no basis for restriction of Mr. Stoney's rights to access the Alberta Courts for matters unrelated to the Sawridge First Nation and the 1985 Sawridge Trust.

V. ORDER SOUGHT

34. It is respectfully submitted that Maurice Stoney should not be declared to be a vexatious litigant and that the Interim Order should not be made permanent.
35. In the alternative, it is submitted that, if Maurice Stoney is declared to be a vexatious litigant, it should be narrowed to restrict actions against the Sawridge First Nation and the 1985 Sawridge Trust.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 3rd day of August, 2017.

DLA PIPER (CANADA) LLP.

Per: 

Priscilla Kennedy
Associate Counsel
Counsel for Maurice Stoney

LIST OF AUTHORITIES

1. Consent Order of Associate Chief Justice Rooke July 19, 2017.
2. *Huzar v. Canada*, 2000 CanLII 15589 (FCA).
3. *Powder v. H.M.T.Q.* August 16, 2016.
4. *Stoney v. Sawridge First Nation; Huzar and Kolosky v. Sawridge First Nation*, 2013 FC 509.
5. *Benner v. Canada*, [1997] 1 SCR 358 (headnote only).
6. *Re Manitoba Language Rights*, [1985] 1 SCR 721 (headnote only).
7. *McIvor v. Canada*, 2009 BCCA 153.
8. *Descheneaux v. Canada (A.G.)*, 2015 QCCS 3555 [this is currently before the Quebec Court of Appeal as a result of Canada failing to comply with the 18 months' time period to resolve the issues of membership and status under the *Indian Act*, set to be heard on August 9, 2017].
9. *The Government of Canada's Response to the Descheneaux Decision*.
10. *Daniels v. Canada (Indian Affairs and Northern Development)*, [2016] 1 SCR 99.
11. *Sawridge Band v. H.M.T.Q.* 2009 FCA 123.
12. And see *Twinn v. Sawridge Band*, 2017 ABQB 366.
13. *Poitras v. Twinn*, 2013 FC 910.
14. *Federal Court Rules*, Rule 114.

Tab B

EDMONTON


CASES RQ0033

CLERK OF THE COURT - COUNTER

PROCEDURE RECORD PRINT

ACTION NO: Q1603 03761 NUSBAUM, GABRIEL BISHOP & MCKENZIE LLP VS STONEY, MAURICE FELIX STONEY, ELIZA MARIE

ACTIVITY DESCRIPTION	LITIGANTS HEARING DATE & TYPE	AMOUNT RESULT	EXPLANATION APPLICATION	JUSTICE/MASTER	DATE FILED	LAW FRM
STATEMENT CLAIM JUDGMENT		\$16,500	16500.00		28MAR2012	RMC
CERTIFICATE LIS PENDENS					28MAR2012	RMC
NOTICE W'DRAW AS LAWYER	NUSBAUM, GABRIEL				03MAY2012	RLO
NOTICE CHANGE REPRESENTAT	NUSBAUM, GABRIEL				14MAY2012	PVL
AFFIDAVIT OF SERVICE	STONEY, MAURICE FELIX				13JUL2012	PVL
NOTING IN DEFAULT	STONEY, MAURICE FELIX STONEY, ELIZA MARIE				13JUL2012	PL
AFFIDAVIT OF SERVICE	STONEY, ELIZA MARIE				13JUL2012	PL
NOTICE CHANGE REPRESENTAT	NUSBAUM, GABRIEL				30NOV2015	WIT
AFFIDAVIT	LAURA LOKKEN				26JAN2016	W
AFFIDAVIT OF DEFENDANT	GABRIEL NUSBAUM				26JAN2016	W
AFFIDAVIT	SUSAN DAVIS				26JAN2016	W
CERTIFICATE OF TITLE					26JAN2016	W
APPLICATION	24FEB2016 MC	ADJ	SINE DIE	REDEMPTION ORDER	26JAN2016	W
NOTICE CHANGE REPRESENTAT	STONEY, MAURICE FELIX STONEY, ELIZA MARIE			P KENNEDY	09FEB2016	DLA
AFFIDAVIT				D CAMPBELL	12FEB2016	DLA
APPLICATION	24FEB2016 MC	WDRAW		DISMISS FOR LONG DELAY	12FEB2016	DLA
ORDER TRANSF FILE IN PERM				09, PEACE RIVER		

THIS IS EXHIBIT " B " REFERRED TO
IN THE AFFIDAVIT OF
Roland Twinn
SWORN BEFORE ME THIS 15th DAY
OF November A.D., 2017.

A Commissioner for Oaths in and for the Province of Alberta

MICHAEL R. MCKINNEY Q.C.
BARRISTER & SOLICITOR L.A.

SMART, M.C.Q.B.23FEB2016 DP

CASES RQ0033

EDMONTON

23/10/2017 10:58:13 PAGE 0002

CLERK OF THE COURT - COUNTER

PROCEDURE RECORD PRINT

ACTION NO: Q1603 03761

ACTIVITY DESCRIPTION	LITIGANTS HEARING DATE & TYPE	AMOUNT RESULT	EXPLANATION APPLICATION	JUSTICE/MASTER	DATE FILED	LAW FRM
ADJOURNED	SINE DIE MC		REDEMPTION ORDER		24FEB2016 W	
CORRESPONDENCE			TRANSFER IN, PEACE RIVE		01MAR2016 *CC	
AFFIDAVIT	NUSSBAUM, GABRIEL				01JUN2016 WIT	
APPLICATION	06JUL2016 MC	HRADJ 08SEP2016 REDEMPTION ORDER			21JUN2016 WIT	
CERTIFICATE OF TITLE					21JUN2016 WIT	
HEARD AND ADJOURNED	08SEP2016 MS	ADJCN SINE DIE	REDEMPTION ORDER		06JUL2016 WIT	
CORRESPONDENCE			CONFIRM MASTER SPECIAL		06JUL2016 DLA	
NOTICE W'DRAW AS LAWYER	NUSSBAUM, GABRIEL				10AUG2016 WIT	
AFFIDAVIT OF SERVICE	NUSSBAUM, GABRIEL				12AUG2016 WIT	
NOTICE CHANGE REPRESENTAT	NUSSBAUM, GABRIEL				17AUG2016 PM	
BRIEF			RESPONDENTS		18AUG2016 DLA	
ADJOURNED BY CONSENT	SINE DIE MS	ADJCN 06JUL2017 REDEMPTION ORDER			06SEP2016 WIT	
CORRESPONDENCE			ADJOURN MASTERS SPECIAL		06SEP2016 PM	
NOTICE CHANGE REPRESENTAT	NUSSBAUM, GABRIEL				20SEP2016 BM	
CORRESPONDENCE			CONFIRM MASTER SPECIAL		18NOV2016 BM	
AFFIDAVIT			DONNA MILES		16JUN2017 BM	
BRIEF	NUSSBAUM, GABRIEL		PLAINTIFF		16JUN2017 BM	
CERTIFICATE OF TITLE					16JUN2017 BM	

CASES RQ0033

EDMONTON

23/10/2017 10:58:13 PAGE 0003

CLERK OF THE COURT - COUNTER

PROCEDURE RECORD PRINT

ACTION NO: Q1603 03761

ACTIVITY DESCRIPTION	LITIGANTS HEARING DATE & TYPE	AMOUNT RESULT	EXPLANATION APPLICATION	JUSTICE/MASTER	DATE FILED	LAW FRM
BRIEF	STONEY, MAURICE FELIX STONEY, ELIZA MARIE				21JUN2017	DLA
CORRESPONDENCE	STONEY, MAURICE FELIX STONEY, ELIZA MARIE		ENCL PAGES 2-9 OF BRIEF		26JUN2017	DLA
ADJOURNED BY CONSENT	06JUL2017 MS	HRADJ 14AUG2017	REDEMPTION ORDER		27JUN2017	WIT
BRIEF	STONEY, MAURICE FELIX STONEY, ELIZA MARIE		OF M & E STONEY		08AUG2017	DLA
BRIEF			GABRIEL NUSSBAUM		08AUG2017	BM
ORDER MISCELLANEOUS			MORTGAGE VALID	S.L. SCHULZ, M.C.Q.B11AUG2017	BM	
ORDER TO DISMISS	CONT		PLT CLAIM FOR CH	S.L. SCHULZ, M.C.Q.B11AUG2017	BM	
ORDER FOR HEARING	CONT14AUG2017 MC	NOA		S.L. SCHULZ, M.C.Q. 11AUG2017	BM	

*** END OF ACTIVITIES ***
*****END OF REPORT*****

Tab C



Barristers & Solicitors

Please reply to Lawyer's Paralegal: Susan Davis
 E-mail Address: sdavis@wittenlaw.com
 Phone: (780) 702-8578
 Direct Fax Line: (780) 425-0769
 In Reply Please Refer to File No.: 122053-5 SMS/sdd

THIS IS EXHIBIT " C " REFERRED TO
 IN THE AFFIDAVIT OF

Roland Twinn

June 24, 2016

SWORN BEFORE ME THIS 15th DAY
 OF November A.D., 2017.

"VIA FAX (780) 423-2870"

Sawridge First Nation
 c/o Parlee McLaws LLP
 1500 Manulife Place
 10180 - 101 Street
 Edmonton, AB T5J 4K1

A Commissioner for Oaths in and for the Province of Alberta

MICHAEL R. MCKINNEY Q.C.
BARRISTER & SOLICITOR

Attention: Edward H. Molstad, Q.C.

Dear Sir:

Re: Gabriel Nussbaum v. Maurice Felix Stoney and Eliza Marie Stoney
Court of Queen's Bench of Alberta Action No. 1603 03761 (the "Action")
Foreclosure property - 500 - 4 Street, Slave Lake, Alberta (the "Property")

We are solicitors for the Plaintiff in the above-captioned foreclosure matter. Attached for service upon you, as subsequent encumbrancer, are the following documents:

1. Notice of Application;
2. Affidavit of Susan Davis;
3. Affidavit of Default;
4. Affidavit of Value; and,
5. Certified Copy of Title.

The date and time of the application can be found on the first page of the Notice of Application. At the application, we may be seeking an Order that will affect your rights to the Property. It is your right to attend the application and make any submissions that you want to the court to take into consideration.

Yours truly,

WITTEN LLP

Per:

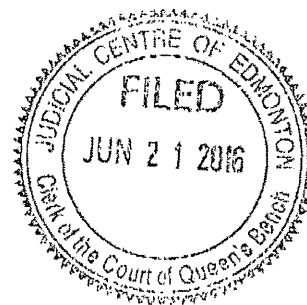

 STEVEN M. SHAFIR

SMS/sdd
 Enclosures

cc: Client

www.wittenlaw.com | Barristers & Solicitors
 Suite 2500, 10303 Jasper Avenue Edmonton AB T5J 3N6

P: 780.428.0501
 F: 780.429.2559



COURT FILE NUMBER: 1603 03761
COURT: COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE: EDMONTON
PLAINTIFF: GABRIEL NUSSBAUM
DEFENDANTS: MAURICE FELIX STONEY AND ELIZA MARIE STONEY
DOCUMENT: NOTICE OF APPLICATION
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: Witten LLP
Barristers & Solicitors
Suite 2500, Canadian Western Bank Place
10303 Jasper Avenue
Edmonton, AB T5J 3N6
Solicitors for the Plaintiff
ATTN: Steven M. Shafir
FILE: 122053-5 SMS/sdd
PHONE: (780) 428-0501
FAX: (780) 425-0769

NOTICE TO DEFENDANTS/RESPONDENTS

This application is made against you. You are the Respondents.

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

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

Date Wednesday, July 6, 2016

Time 10:00 a.m.

Where Law Courts, 1A Sir Winston Churchill Square, Edmonton, Alberta

Before a Master in Chambers

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. A Redemption Order setting the redemption period to one (1) day, or otherwise as the Court may direct;
2. An Order that immediately upon the expiration of the redemption period, that the property subject to these proceedings be listed for sale by way of a three (3) months listing agreement;

- 2 -

3. An Order that the Defendants, or any person(s) in possession of the property which are the subject of the within action, shall upon 24 hours written notice delivered to the premises, allow the listing agent access for the purpose of showing the property to potential purchasers;
4. An Order that the mortgagee shall not be required to accept any tender less than an amount sufficient to pay out the mortgage in full;
5. An Order that the Defendants and all subsequent encumbrancers be served with a copy of the Redemption Order and all subsequent proceedings by fully prepaid ordinary mail addressed to the last known address of such Defendants and to the address for service given by the subsequent encumbrancers on their respective instruments filed in the Land Titles Office, or to the solicitors for such Defendants and subsequent encumbrancers or by leaving the same at the last known address of such Defendants and at the address for service given by the subsequent encumbrancers on their respective registered instruments;
6. An Order for Judgment against the Defendants pursuant to the covenant to pay contained in the Mortgage for the amount owing to the Plaintiff under its Mortgage as at the date of the hearing of this application and for an Order for interest on said Judgment at the rate set out in the Plaintiff's Affidavit of Default, filed;
7. An Order allowing the Plaintiff or its duly authorized agent to be at liberty to enter the property for the purposes of doing any and all things necessary to preserve the property and for an Order that the Plaintiff shall not be considered a Mortgagee in possession or trespasser, in the event that the property becomes vacant or is abandoned during the course of this action;
8. An Order for substitutional service on the Defendants and subsequent encumbrancers, or alternatively an Order validating service on the Defendants and subsequent encumbrancers
9. An Order appointing the Plaintiff as Receiver of Rents;
10. An Order that the Plaintiff's solicitors appear at this application by way of an electronic hearing.
11. An Order waiving the requirements of Rule 9.35 of the *Alberta Rules of Court*;
12. An Order waiving the requirement that the parties enter into the Dispute Resolution Process as set out in Rule 4.16(1) of the *Alberta Rules of Court*;
13. An Order lifting the stay of proceedings on transfer or transmission of interest pursuant to Rule 4.34 of the *Rules of Court*, if applicable;
14. An Order granting the Plaintiff costs of these proceedings on a solicitor/client basis pursuant to the terms of the mortgage, to be assessed;
15. Such further and other relief as to this Honourable Court may deem meet.

Grounds for making this application:

1. Default has been made pursuant to the terms of the Mortgage.

Material or evidence to be relied on:

1. The Plaintiff's Affidavit of Default.

- 3 -

2. The Affidavit of Value.
3. The Valuator's Report.
4. Affidavit of Susan Davis.
5. The Certified copy of Title to the lands in question, filed.
6. Such further and other material as counsel may advise.

Applicable rules:

Rules 1.3(2), 1.5, 4.34, 13.5(2), 6.4, 9.35(1)(a), 11.27 and 11.29 and Part 9, Division 5 of the *Alberta Rules of Court*.

Applicable Acts and regulations:

Part 5 of the *Law of Property Act*, Revised Statutes of Alberta, as amended.

How the application is proposed to be heard or considered:

The solicitors for the Plaintiff will appear in Chambers in person.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.



COURT FILE NUMBER:

1603 03761

COURT:

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE:

EDMONTON

PLAINTIFF:

GABRIEL NUSSBAUM

DEFENDANTS:

MAURICE FELIX STONEY and ELIZA MARIE STONEY

DOCUMENT:

CERTIFIED COPY OF TITLE

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

Witten LLP
Barristers & Solicitors
Suite 2500, Canadian Western Bank Place
10303 Jasper Avenue
Edmonton, AB T5J 3N6
Solicitors for the plaintiff

ATTN: Steven M. Shafir

FILE: 122053-5 SMS/sdd

PHONE: (780) 428-0501

FAX: (780) 425-0769



LAND TITLE CERTIFICATE

S
 LINC SHORT LEGAL TITLE NUMBER
 0011 098 266 3553NY;13;5 042 223 543

LEGAL DESCRIPTION
 PLAN 3553NY
 BLOCK 13
 LOT 5
 EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE
 ATS REFERENCE: 5;6;72;36;NE

MUNICIPALITY: TOWN OF SLAVE LAKE

REFERENCE NUMBER: 012 339 402

REGISTERED OWNER(S)				
REGISTRATION	DATE(DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
042 223 543	03/06/2004	TRANSFER OF LAND	\$63,000	\$63,000

OWNERS

MAURICE FELIX STONEY

AND

ELIZA MARIE STONEY

BOTH OF:

500 4 STREET NW

SLAVE LAKE

ALBERTA T0G 2A1

AS JOINT TENANTS

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION	NUMBER	DATE (D/M/Y)	PARTICULARS
072 727 142	18/12/2007	MORTGAGE	MORTGAGEE - SCOTIA MORTGAGE CORPORATION. C/O BANK OF NOVA SCOTIA BOX 728

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2

042 223 543

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

SLAVE LAKE
ALBERTA T0G2A1
ORIGINAL PRINCIPAL AMOUNT: \$100,000

102 135 187 26/04/2010 MORTGAGE
MORTGAGEE - GABRIEL NUSSBAUM
1278 HEDGESTONE CRESCENT
OAKVILLE
ONTARIO L6M1X8
ORIGINAL PRINCIPAL AMOUNT: \$16,500

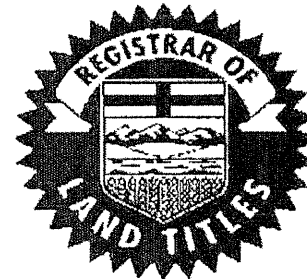
152 084 082 16/03/2015 WRIT
CREDITOR - SAWRIDGE FIRST NATION.
C/O PARLEE MCLAWS LLP
1500 MANULIFE PLACE
10180-101 STREET
EDMONTON
ALBERTA T5J4K1
DEBTOR - MAURICE FELIX STONEY
500-4 STREET NW
SLAVE LAKE
ALBERTA T0G2A1
AMOUNT: \$2,995 AND COSTS IF ANY
ACTION NUMBER: T-923-12

TOTAL INSTRUMENTS: 003

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 20 DAY OF JUNE,
2016 AT 07:28 A.M.

ORDER NUMBER: 30890574

CUSTOMER FILE NUMBER: 122053-5



END OF CERTIFICATE

(CONTINUED)

PAGE 3
042 223 543

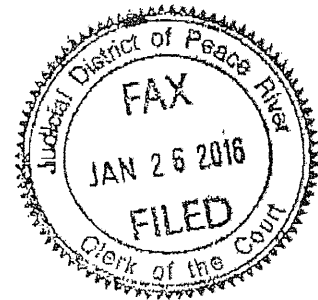
THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER, SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION, APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

01/26/2016 09:45 780-624-7101

PR COURT

PAGE 84/06



COURT FILE NUMBER: 1209 0073
 COURT: COURT OF QUEEN'S BENCH OF ALBERTA
 JUDICIAL CENTRE: PEACE RIVER
 PLAINTIFF: GABRIEL NUSSBAUM
 DEFENDANTS: MAURICE FELIX STONEY and ELIZA MARIE STONEY
 DOCUMENT: AFFIDAVIT
 ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: **Wilton LLP**
 Barristers & Solicitors
 Suite 2500, Canadian Western Bank Place
 10303 Jasper Avenue
 Edmonton, AB T5J 3N6
 Solicitors for the Plaintiff
 ATTN: Steven M. Shafr
 MAIL: 122053-S SMS/sdd
 PHONE: (780) 428-0501
 FAX: (780) 425-0769


AFFIDAVIT OF SUSAN DAVIS

SWORN on January 25, 2016.

I, Susan Davis, of Edmonton, Alberta, SWEAR AND SAY THAT:

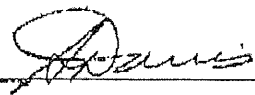
1. I am legal assistant to counsel for the Plaintiff herein, and as such have personal knowledge of the matters hereinbefore deposed to, except where stated to be based on information and belief and where so stated, I verify believe the same to be true.
2. Attached hereto and marked as Exhibit "A" to this my Affidavit is a payment statement from the first mortgagee indicating a balance owing to Scotiabank in the sum of \$80,605.55.

 SWORN BEFORE ME at Edmonton, Alberta this
 25th day of January, 2016.


 A Commissioner for Oaths in and for Alberta

PRINT NAME AND EXPIRY

 THERESA M. YUMEWAS
 Commissioner for Oaths
 Expires Dec. 15, 2017


 Signature

 SUSAN DAVIS
 PRINT NAME

Scotiabank Fax

1/25/2016 1:37:38 PM PAGE 2/002 Fax Server



SLAVE LAKE, ALBERTA
P.O. BOX 720
SLAVE LAKE, AB T0G 2A0
Phone: (780) 849-3770

This Statement issued on Jan 25, 2016 is for Information Purposes Only
This statement in its entirety is not valid after this date

This Statement cannot be used for Discharge/Transfer/Assumption Purposes

Mortgagor(s): MR MAURICE STONEY MRS ELIZA STONEY 500 4TH STREET NW SLAVE LAKE, AB T0G 2A1		Property Address: 500 4TH STREET NW SLAVE LAKE, AB T0G 2A1	
Mortgage Details		Prepayment Charge Variables	
Mortgage Number:	1397508	Mortgage Balance as at: Jan 1, 2016	\$ 79,908.39
Interest Rate Type:	Fixed	Term Remaining:	6 Months
Term:	2 Year Closed (24M)	Comparison Term:	6 Months
Current Rate:		Current Rate for Comparison Term:	4.5500%
Interest Rate Discount Received:	-0.3500%	Interest Rate Discount Received:	-0.3500%
Current Interest Rate:	2.7900%	Comparison Interest Rate:	4.2000%
Maturity Date:	Aug 14, 2016	Interest Rate Difference:	-1.4100%
Payment Frequency:	Monthly		
P&I Payment:	\$ 450.00		
Property Tax Amount:	\$		
Total Payment:	Monthly \$ 450.00	*Where the interest rate difference displays as a negative value, an interest rate differential calculation would not apply.	
Cashback Received:	\$		
Mortgage Insurer:	Uninsured		
Mortgage Insurer Certificate No.:			
Payout Details with an effective date of Jan 25, 2016			
Mortgage Balance as at: Jan 1, 2016		\$ 79,908.39	
Interest Accrued to: Jan 25, 2016		\$ 143.01	
Sub-Total:		\$ 80,051.40	
Prepayment Charge - 3 Months Interest at the Mortgage Interest Rate		\$ 564.15	
Cashback Repayment (estimated based on the term remaining)		\$	
Property Tax Account Balance:		\$	
Discharge Administration Fee:		\$	
Registry Office Discharge Registration Fee:		\$	
Total Balance Due as at: Jan 25, 2016		\$ 80,615.55	
The individuals listed below are also Borrowers on this Mortgage:			

Notes

This is Exhibit "A" referred to in the
Affidavit of

KEVIN DAVIS

Sworn before me this 25th day

of January, 2016

A Notary Public, A Commissioner for Oaths
in and for the Province of Alberta

THERESA M. YEMMAS
Commissioner for Oaths
Expires Dec. 15, 2018.

Prepayment Charge and Cashback Repayment:

Please refer to your Mortgage Contract and Cost of Borrowing Disclosure Statement or Renewal Agreement. If applicable, for an explanation and examples for estimating your prepayment charge and cashback repayment amount. For more information about prepayment charges in general, please refer to Scotiabank.com

Factors that could cause your prepayment charge to change:

- Your mortgage is renewed to a new term or the balance of your mortgage changes
- You have a variable rate mortgage and the bank's prime lending rate and therefore your mortgage interest rate changes
- You have a fixed rate mortgage and the factors for calculating Interest Rate Differential change.
- Posted interest rates change. If posted interest rates decrease, the Interest Rate Differential amount increases.
- The remaining term of your mortgage changes. For example, if 4 years comparison term on the day your prepayment charge is estimated, over time changes to a 3 year comparison term. The comparison term interest rate decreases, therefore the Interest Rate Differential amount increases.
- The Interest Rate Differential amount could change to an amount that is now greater than 3 months interest

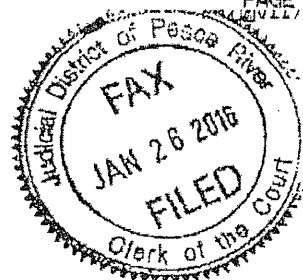
Registry Office Discharge Registration Fee:

When the fee is blank, you will be required to pay a government registration fee directly to the Land Registry Office. In Quebec, please contact your notary for the discharge/transfer preparation and registration costs.

This statement is issued by an authorized representative of Scotiabank

01/26/2016 09:45 780-624-7101
01/27/2016 09:15:31 FAX

PR COURT

PAGE 05/06
CIVIL/VS

COURT FILE NUMBER: 1209 0073
 COURT: COURT OF QUEEN'S BENCH OF ALBERTA
 JUDICIAL CENTRE: PEACE RIVER
 PLAINTIFF: GABRIEL NUSSBAUM
 DEFENDANTS: MAURICE FELIX STONEY and ELIZA MARIS STONEY
 DOCUMENT: AFFIDAVIT OF DEFAULT
 ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: Witten LLP
 Barristers & Solicitors
 Suite 2500, Canadian Western Bank Place
 10303 Jasper Avenue
 Edmonton, AB T5J 3N6
 Solicitors for the Plaintiff
 ATTN: Steven M. Shafir
 FILE: 122053-5 SMS/add
 PHONE: (780) 420-0301
 FAX: (780) 429-2559

AFFIDAVIT OF GABRIEL NUSSBAUM

SWORN on December 15, 2015.

I, GABRIEL NUSSBAUM, of Oakville, Ontario, SWEAR AND SAY THAT:

1. I am employed by the Plaintiff, and except where expressly stated, the matters hereinafter deposed to are based on my personal knowledge and in some cases, I have informed myself from books or records maintained by the Plaintiff, and where I have done so, I swear that, to the best of my knowledge and belief:
 - (a) these books or records were part of the Plaintiff's ordinary books or records;
 - (b) any entries in those books or records were made in the usual and ordinary course of the Plaintiff's business;
 - (c) these books and records were and are in the custody and control of the Plaintiff; and,
 - (d) any copies of those books or records appended to this Affidavit are true copies thereof.

Entries in those books and records were made reasonably contemporaneously with the business transactions as the same occurred. Where stated to be based upon information, I verily believe the same to be true. I am authorized to swear the within Affidavit on behalf of the Plaintiff.

- 2 -

2. By a Memorandum of Mortgage (the "Mortgage") made pursuant to the *Land Titles Act (Alberta)*, and registered at the Land Titles Office for the Alberta Land Registration District on April 26, 2010 as instrument number 102 135 187 now shown to me and marked Exhibit "A" to this my Affidavit, Maurice Felix Stoney and Eliza Marie Stoney (the "Mortgagor") mortgaged lands legally described as:

PLAN 3553NY
BLOCK 13
LOT 5
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "Lands") to the Plaintiff to secure payment of the sum of \$16,500.00 together with interest as set out in the Mortgage.

3. By Agreement in writing the terms and conditions of the Mortgage were amended as therein set out and reference hereinafter to the Mortgage shall include such amendment.
4. The sum of \$16,500.00 was actually advanced by the Plaintiff to Maurice Felix Stoney and Eliza Marie Stoney in full.
5. By the Mortgage, the Mortgagor covenanted to:
- (a) pay monthly payments of \$219.86 each in lawful money of Canada (to include principal and interest) payable on the fifteenth day of each and every month in each and every year from and including the 15th day of April, 2010, to and including the 15th day of April, 2011 and the balance thereof to become due and payable in any event on 15th day of April, 2011.
 - (b) pay interest to the Plaintiff on the said sum at the rate of 15.99% on the days and times and in the manner mentioned in the Mortgage, with all interest not so paid to become part of the principal amount secured by the Mortgage and bear interest at the rate aforesaid.
 - (c) pay all liens, taxes, rates, charges or encumbrances on the Lands which may fall due or be unpaid, and also to insure the buildings on the Lands against damage by fire, in default of all or any of which the Plaintiff should have the right to do the same and add to the Mortgage all costs and expenses incurred by the Plaintiff in that regard, and in respect of all proceeds taken to realize the monies secured by the Mortgage together with all costs on the basis of solicitor as rendered to his own client.
6. The Mortgage has matured.
7. Default has been made in payment of the principal sum and in payment of interest pursuant to the terms of the Mortgage.
8. The Plaintiff demanded payment of the outstanding principal and interest from the Mortgagor but the Mortgagor has failed or refused and continues to fail and refuse to pay the Plaintiff the said sum or any part thereof.
9. By the Mortgage, it is provided that on default of payment of the principal or interest, all monies secured by the Mortgage shall at the option of the Plaintiff become payable, which option has been exercised.


- 3 -

10. There is now justly and truly owing to the Plaintiff under and by virtue of the Mortgage the sum set forth in Exhibit "B" annexed to this my Affidavit, which provides a breakdown of the following:
- (a) principal owing under the Mortgage;
 - (b) amounts included in principal other than amounts lent;
 - (c) interest owing in accordance with the terms of the Mortgage as at the date of this Affidavit;
 - (d) per diem on interest;
 - (e) taxes paid by the Plaintiff to the municipality as of the date of this Affidavit;
 - (f) property maintenance paid by the Plaintiff as of the date of this Affidavit;
 - (g) insurance paid by the Plaintiff as of the date of this Affidavit;
 - (h) condominium fees paid by the Plaintiff as of the date of this Affidavit;
 - (i) homeowner's association fees paid by the Plaintiff as of the date of this Affidavit; and,
 - (j) any other amounts paid by the Plaintiff.
11. The Defendants' cheques were returned to the Plaintiff as they were not honored on the following occasions, which is a breach of the terms of the Mortgage:
- (a) July 15, 2010;
 - (b) September 15, 2010;
 - (c) October 15, 2010;
 - (d) December 30, 2010;
 - (e) January 30, 2011;
 - (f) January 1, 2013;
 - (g) January 1, 2014;
 - (h) August 1, 2014;
 - (i) September 1, 2014; and,
 - (j) October 1, 2014.
12. The Plaintiff issued a total of 30 demand letters to the Defendants.

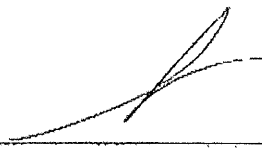
- 4 -

13. Pursuant to the Commitment Letter signed by the Defendants on March 31, 2010, the Plaintiff is entitled to collect renewal fees in the sum of \$1,600.00 based on 10% of the original face value of the mortgage. The Plaintiff has renewed the mortgage terms 5 times. Attached hereto and marked as Exhibit "C" to this my Affidavit is a copy of the Commitment Letter.
14. I do verily believe and confirm that the amount set forth as "principal" in Exhibit B hereof does not contain any amounts except funds originally lent to the Mortgagor, amounts charged where funds were lent, and capitalized interest on the amounts lent.
15. I do verily believe that neither the Plaintiff nor any person on its behalf has been in occupation of the mortgaged lands and premises or any part thereof, or in receipt of rents and profits of the same or any part thereof except as set forth in Exhibit "13" hereof.
16. I do verily believe that neither the Plaintiff nor any person on its behalf has received any portion of the amount herein stated to be due and owing, nor any security or satisfaction for the said amount save and except the Mortgage. Attached to this my Affidavit as marked as Schedule "A" is a schedule showing any payments credited to the loan in the 12 months preceding the date of this my Affidavit.
17. I make this Affidavit in support of an application for an Order for Sale, or in the alternative, for a final Order for Foreclosure.

SWORN BEFORE ME at Oakville, Ontario, this
15th day of December, 2015.


 A Commissioner For Oaths in and for Ontario

BRIAN JAMES McASKIE
 O'CONNOR MacLEOD HANNA LLP
 BARRISTERS & SOLICITORS
 PRINT NAME 700 KERR STREET
 OAKVILLE, ONTARIO L6K 3W5
 TEL: 905-842-8030


 Signature

GABRIEL NUSSBAUM
 PRINT NAME

No expiry

CHARGE/MORTGAGE OF LAND
LAND TITLES ACT

Page 1 of 1

(1) Mortgagor(s)		MAURICE FELIX STONEY and ELIZA MARIE STONEY	
(2) Address of Mortgagor(s)		both of: 500 - 4 th Street NW, Slave Lake, Alberta T0G 2A1	
(3) How Property Held - Tenancy		as Joint Tenants	
(4) Mortgagee		GABRIEL NUSSBAUM	
(5) Address and Postal Code of Mortgagee		1278 Hedgestone Crescent, Oakville, Ontario L6M 1X0	
(6) Legal Description of Mortgaged Land		PLAN 3553NY BLOCK 13 LOT 5 EXCEPTING THEREOUT ALL MINES AND MINERALS	
(7) Principal Amount		SIXTEEN THOUSAND FIVE HUNDRED (\$16,500.00) Dollars	
(8) Interest/Estate Charged		Estate: Fee Simple	
(9) Payment Provision (a) Principal Amount \$16,500.00		(b) Interest Rate 16.99% per annum	(c) Calculation Period Monthly
(d) Interest Adjustment Date	M O Y 04 20 2010	(e) Payment Date and Period Monthly	(f) First Payment Date M O Y 04 20 2010
(g) Last Payment Date	2011	(h) Amount of Each Payment TWO HUNDRED NINETEEN and 88/100ths Dollars \$219.88 (interest only)	
(i) Balance Due Date	2011	(j) Insurance: FULL REPLACEMENT VALUE	
(10) Deleted, Amended or Added Terms See Schedule(s) hereto (if any).			
(11) Acknowledgments The Mortgagor(s) acknowledge (a) that the Mortgagor(s) are the registered owner(s) of the land being mortgaged, and (d) that the Mortgagor(s) mortgage all of the Mortgagor(s) estate and interest in the lands described in box 6 hereto for the purposes of securing the payment of the principal amount, interest and all other amounts secured by this charge/mortgage.			
(12) Execution The Mortgagor has signed this Mortgage on April 16, 2010. <div style="display: flex; justify-content: space-between;"> <div> WITNESSED <u>Bruce P. Youngster</u> WITNESSED <u>Bruce P. Youngster</u> </div> <div> <u>Maurice Felix Stoney</u> MAURICE FELIX STONEY <u>Eliza Marie Stoney</u> ELIZA MARIE STONEY </div> </div>			
(13) POWER - CONSENT OF SPOUSE - Intentionally Deleted (not applicable)			

This is Exhibit "A" referred to in the
Affidavit ofGabriel NussbaumSworn before me this 18th dayof December, 2010A Notary Public, A Commissioner for Oaths
in and for the Province of Ontario

BRIAN JAMES McASKILL

O'CONNOR MacLEOD HANNA LLP

BARRISTERS & SOLICITORS

700 KERR STREET

OAKVILLE, ONTARIO L6K 3W5

TEL: 905-842-8030

Page 2 of 2

(14) CERTIFICATE OF ACKNOWLEDGEMENT - Intentionally Deleted (not applicable)

(15) DOWER AFFIDAVIT - Intentionally Deleted (not applicable)

(16) AFFIDAVIT OF EXECUTION

I, BRUCE P. MAUNDER, of the Town of Slave Lake, in the Province of Alberta, make oath and say:

- I was personally present and did see MAURICE FLUX STONEY and ELIZA MARIE STONEY who is known to me to be the persons named in the within instrument, duly sign the instrument.
OR
I was personally present and did see MAURICE FLUX STONEY and ELIZA MARIE STONEY who, on the basis of identification provided to me, I believe to be the persons named in the within instrument, duly sign the instrument.
- The instrument was signed at the Town of Slave Lake, in the Province of Alberta and I am the subscribing witness thereto.
- I believe the persons whose signatures I witnessed are each at least eighteen (18) years of age.

Sworn before me at the Town of Slave Lake
in the Province of Alberta
this 26th day of April, 2016.

[Signature]
MARINA MAUNDER
Notary Public for Alberta
My Commission Expires: 2018-04-24/2016

[Signature]
BRUCE P. MAUNDER

ES
Page 3 of 4
[Signature]

SCHEDULE "A"

PREPAYMENT PROVISIONS

PROVIDED that the Mortgagor, when not in default hereunder, shall have the privilege of prepaying all or any part of the principal sum hereby secured upon payment of a bonus equal to three (3) months interest.

POST PAYMENT PROVISIONS

If the mortgage is paid out past the due date by more than two weeks there shall be a bonus equal to three (3) months interest added to the totality of amounts owing upon discharge.

ADMINISTRATION FEE

The Mortgagor shall pay to the Mortgagee an Administration Fee of \$300.00 for each occurrence of any of the following events:

1. Late Payment;
2. Cheque Dishonoured for any reason;
3. Any Demand Letters to be sent out;
4. Failure to provide proof of payment of realty taxes;
5. Failure to provide proof of insurance coverage on an annual basis;
6. Failure to provide postdated cheques;
7. Failure to notify Mortgagee of registration of lien by the Condominium Corporation for common maintenance arrears;
8. Request for Mortgage Statement;
9. Request for Discharge Statement;
10. Default under prior mortgage, charge or encumbrance;
11. Every month that passes by after the mortgage comes due and payable.

Such Administration Fee will be added to the principal amount outstanding if not paid within five (5) days of demand for payment of same. In the event of a further occurrence as set out herein, the penalty shall increase by a further sum of \$50.00 and this shall be on a cumulative basis.

DISPOSITION OF THE MORTGAGED LANDS

Provided that if the Mortgagor sells, transfers, conveys or otherwise disposes of the subject property, or any interest therein, then all amounts, whether principal, interest or otherwise that may be owing hereunder, including Administration Fees and bonuses, shall be immediately due and payable, at the sole option of the Mortgagee.

POSTDATED CHEQUES

The Mortgagor agrees to provide the Mortgagee with a series of postdated cheques on or before the closing date of the Charge and should the mortgage be renewed, at the sole discretion of the mortgagee, a further series of postdated cheques on or before each anniversary date shall be also provided. Failure to provide such cheques shall constitute a default under the Charge at the sole option of the Mortgagee.

DISCHARGE

Provided that when a Discharge of this Charge is required, then the Mortgagee's solicitor will prepare the Discharge documentation for execution by the Mortgagee, the costs of which shall be at the Mortgagor's expense.

TIME OF PAYMENT

Any payment that is received at the Mortgagee's office after 1:00 p.m. on any date shall be deemed, for the purpose of calculation of interest, to have been made on the next bank business day.

DEFAULT IN ENCUMBRANCES

Default under any terms or covenants contained in any encumbrances registered in priority or subsequent to this Charge shall constitute default under the herein Charge at the sole option of the Mortgagee.

A fee of \$2,000.00 will be charged for each action or proceeding.

PRINCIPAL RESIDENCE

In the event that the subject property is not used as the principal residence of the Mortgagor, then all amounts, whether principal, interest or otherwise that may be owing hereunder, including Administration Fees and bonuses, shall be immediately due and payable at the sole option of the Mortgagee.

CONSTRUCTION LIEN ACT

No portion of the proceeds of this Charge is to be used to finance any construction, alterations, renovations or improvements to the subject property within the meaning of the Construction Lien Act or to repay a Charge which was taken out for this purpose, filling which all amounts, whether principal, interest or otherwise that may be owing hereunder, including Administration Fees and bonuses, shall be immediately due and payable at the sole option of the Mortgagee.

If any amount of money is claimed in priority over this Charge pursuant to the Construction Lien Act and if the Mortgagee is obliged to pay any amounts owing under the said Act, same may be added to the principal amount outstanding under the Charge.

INSULATION

The subject property is not, and has never been insulated with urea formaldehyde foam insulation, and the Mortgagor will not permit such insulation to be used in the construction or renovation of any future improvement to the property. In the event that the Mortgagee determines that any portion of the subject property is, or has been so insulated, then all amounts whether principal, interest or otherwise that may be owing hereunder, including Administration Fees and bonuses, shall be immediately due and payable at the sole option of the Mortgagee.

BANKRUPTCY AND INSOLVENCY ACT

The Mortgagor/Guarantor represents and warrants that she/he is not an "undischarged bankrupt" as defined in the Bankruptcy and Insolvency Act. In the event that the Mortgagor/Guarantor is an "undischarged bankrupt", then all amounts, whether principal, interest or otherwise that may be owing hereunder including Administration Fees and bonuses together with a one (1) month interest payment thereon shall be immediately due and payable at the sole option of the Mortgagee.

SERVICING FEE

In the event that the Mortgagee is called upon to pay any payment in order to protect its security position, including but not limited to the payment of Realty Taxes, Insurance Premiums, Condominium common expenses, principal, interest or costs under a prior mortgage, it is agreed that such payment shall bear interest at eighteen (18%) percent per annum, calculated and compounded monthly and that there shall be a Service Charge of not less than \$300.00 for making each such payment or payments.

ADDITIONAL FEES

The Mortgagor agrees that should the Mortgagee issue either a Notice of Sale or Statement of Claim, that the Mortgagee, at its option, shall be entitled to charge an additional fee equivalent to three (3) months interest.

The Mortgagor agrees that should the charge not be renewed or discharged on the maturity date, that the Mortgagee, at its option, shall be entitled to charge an additional fee equivalent to three (3) months interest.

ALTERATIONS

The Mortgagor will not make or permit to be made any structural alterations or additions to the land or to any building or structure thereon or change or permit to be changed the use of the premises without the written consent of the Mortgagee.

WELL WATER ANALYSIS

In the event that the subject property is not on municipal water supply, the mortgagee requires satisfactory bacteriological analysis of well water by the Ministry of Health.

FARM DEBT MEDIATION ACT

Provided further that the Mortgagor represents and warrants that he is not a "Farmer" as defined in the Farm Debt Mediation Act and the Mortgagor further covenants and agrees that during the currency of the within

Charge he will not engage in any activity which would have the effect of deeming him a Farmer within the meaning of the Farm Debt Mediation Act. In the event that the Mortgagor fails to comply with the within provision, the within Charge shall, at the Mortgagee's option, immediately become due and payable in full, together with three (3) months interest thereon.

Page 5 of 2

SEVERABILITY OF ANY INVALID PROVISIONS

If in the event that any covenant, term or provision contained in the Charge is held to be invalid, illegal or unenforceable in whole or in part, then the validity, legality and enforceability of the remaining covenants, provisions and terms shall not be affected or impaired thereby, and all such remaining covenants, provisions and terms shall continue in full force and effect. All covenants, provisions and terms hereof are declared to be separate and distinct covenants, provisions or terms as the case may be.

LIQUIDATION DAMAGES

Provided that on default of the within mortgage leading to power of sale, the mortgagor shall pay to the mortgagee three months interest payment as liquidation damages. Any discharge of this mortgage shall be prepared by the mortgagee's solicitor at the expense of the mortgagor. Provided further that the entire principal balance outstanding herein together with accrued interest thereon, plus THREE months interest shall at the option of the mortgagee forthwith become due and payable should the within described premises be converted from the personal residence of the mortgagor to a rental property.

SPECIAL TERMS:

1. L.A. as required by lender's solicitor
2. Up-to-date Survey satisfactory to lender's solicitor
3. Title Insurance will be required
4. Employment Verification for all borrowers

MAINTENANCE FEE:

The Mortgagee/Mortgagee shall, be entitled to a fee of \$150.00 per day for administering the maintenance and security of any property in its possession. In the event that the above-mentioned residence should fall into the possession of the Mortgagee, due to Power of Sale then a \$150.00 per day maintenance fee will be charged to the above-mentioned mortgagor.

In the event of default in payment of any amount required to be paid under this mortgage the mortgagee/Mortgagee may make any necessary arrangements to inspect, collect rents, manage, repair or complete construction. Any cost will be added to the mortgage amount.

ADVANCE OF CHARGE MONEYS:

Neither the preparation, execution, nor registration of this Charge shall bind the Mortgagee to advance the principal amount secured, nor shall the advance of a part of the moneys secured hereby bind the Mortgagee to advance any unadvanced portion thereof, but nevertheless the estate hereby conveyed shall take effect forthwith upon the execution of these presents by the Mortgagor. The expenses of the examination of the title and of this Charge and valuation are to be secured hereby in the event of the whole or any balance of the principal sum not being advanced, the same to be charged hereby on the said Charged Property, and shall be without demand thereof, payable forthwith with interest at the rate provided for in this Charge, and in default the said Mortgagee power of sale hereby given, and all other remedies hereunder, shall be exercisable.


STATEMENT OF SECURED INDEBTEDNESS

Re: GABRIEL NUSSBAUM v. MAURICE FELIX STONEY AND ELIZA MARIE STONEY

1.	Principal as of October 27, 2015	\$	16,500.00
1.(a)	Amounts included in principal other than the amount lent (such as enforcement legal fees already paid by the Plaintiff)	\$	nil
2.	Interest as of October 27, 2015	\$	2,108.02
3.	Taxes paid by the Plaintiff	\$	nil
4.	Property Maintenance paid	\$	nil
5.	Occupancy inspections paid	\$	nil
6.	Insurance paid	\$	nil
7.	NSF Charges (breakdown and provision in mortgage required)	\$	250.00
8.	Prior mortgage arrears paid	\$	nil
9.	Condominium Fees paid by the Plaintiff	\$	nil
10.	Homeowners Association Fees	\$	nil
11.	Late Charges (breakdown and provision in mortgage required)	\$	nil
12.	Inspection Fees	\$	nil
13.	Any other amounts owing under the mortgage:		
	(a) Property/Fire Insurance	\$	nil
	(b) Demand Letters	\$	3,000.00
	(c) Renewal Fees	\$	8,000.00
14.	LESS amount paid from October 2, 2015 to date	\$	(nil)
TOTAL DUE TO PLAINTIFF AT OCTOBER 27, 2015: (Excluding Costs)		\$	\$29,858.02
Per diem interest continues to accrue from October 27, 2015 at a rate of \$7.23.			
ARREARS AS AT OCTOBER 27, 2015 (Excluding Costs)		\$	\$29,858.02

THIS IS EXHIBIT "B" REFERRED
TO IN THE AFFIDAVIT OF GABRIEL NUSSBAUM

SWORN BEFORE ME at the City of Oakville in the Province
of Ontario this 15th day of December, 2015.


A COMMISSIONER FOR OATHS/NOTARY PUBLIC IN
AND FOR ONTARIO

BRIAN JAMES McASKILL
O'CONNOR MacLEOD HANNA LLP
BARRISTERS & SOLICITORS
700 KERR STREET
OAKVILLE, ONTARIO L6K 3W5
TEL: 905-842-8030

SCHEDULE "A"

Payments credited to the loan in the 12 months preceding the 27th day of October, 2015.

DATE OF PAYMENT	AMOUNT OF PAYMENT
November 1, 2014	\$500.00
December 1, 2014	\$500.00
January 1, 2015	\$500.00
February 1, 2015	\$500.00
March 1, 2015	\$500.00
April 1, 2015	\$500.00
May 1, 2015	\$500.00
June 1, 2015	\$500.00
July 1, 2015	\$500.00
August 1, 2015	\$500.00
September 1, 2015	\$500.00
October 1, 2015	\$500.00

MAR-31-2010 11:15 From: NICOLET INSURANCE 17608493128

Mar 31 2010 11:10AM RI Sager CFS Inc.

To: Fax

P. 10/12

805-553-5174

P. 10

This is Exhibit "C" referred to in the Affidavit of

Sworn before me this 15 day

of December 20-10

A Notary Public, A Commissioner for Oaths
in and for the Province of Ontario**TERM SHEET: SECOND MORTGAGE COMMITMENT****MORTGAGOR:** Maurice Stoney and Eliza Stoney**LOAN TERMS:** The loan will be for the sum of \$16,500.00 (SIXTEEN THOUSAND FIVE HUNDRED DOLLARS) for Twelve (12) months with interest at 15.99% calculated monthly with interest only payments.**LOCATION:** 500 4th Street NW Slave Lake AB T0G 2A1**REPAYMENTS TERMS:** Monthly payments of \$219.86 are to be provided by six (6) post-dated cheques covering the last first six (6) months of the mortgage. The last six (6) months of the mortgage are to be paid in advance.**BRIAN JAMES McASKILL**
O'CONNOR MacLEOD HANNA LLP
BARRISTERS & SOLICITORS
6080 KERR STREET
DANFORTH, ONTARIO L6K 3W5
TEL: 905-842-8030**TITLE:** It is understood that the advance of funds, is subject to our lawyer providing a satisfactory report on title.**OWNERSHIP:** Should there be any change in the beneficial ownership, or if any portion of the properties subject to the mortgage are sold or in any way disposed of by the current owner(s); the outstanding amount of the mortgage must be repaid in full.**COSTS:** You are responsible for the processing, legal, survey, and insurance fees associated with this loan.**FIRE INSURANCE:** A fire insurance policy in an amount at least equal to the aggregate principal sum of this mortgage, and any permitted prior mortgage(s) or item(s) with loss payable to us as our interest may appear to be maintained on this property at your expense.**PREPAYMENT:** This mortgage is open to payment in full or in part at any time with THREE MONTHS bonus.**LENDERS FEE:** The Lenders Fee on this transaction is \$1,600.00**DISHONOURD CHEQUES:** A fee of \$300.00 will be charged for dishonored cheques.**STATEMENT OF CLAIM:** Additional fees upon issuance of statement of claim, 3 months interest per terms of charge.**LIQUIDATION DAMAGES:** Liquidation damages upon commencement of power of sale, 3 months interest per terms of charge.**DEFAULT PROCEEDINGS:** A fee of \$2,000.00 will be charged for each action or proceeding instituted.**MAINTENANCE:** A fee of \$150.00 for administering maintenance and security of the property in our possession, per day.

initial	initial
MS	ES

MAR-31-2010 11:16 From NICOLET INSURANCE 17008493128

Tel/Fax

P.11/12

Mar 31 2010 11:11AM Al Seger CFB Inc.

808-553-5174

P.11

Conditions:

1. SIGNED APPLICATION
2. INDEPENDENT LEGAL ADVICE
3. PROPERTY TAXES UP-TO-DATE ON CLOSING
4. AN UP-TO-DATE SURVEY, SATISFACTORY TO THE LENDER'S SOLICITOR
5. PROPERTIES ARE INSURED FOR FULL REPLACEMENT VALUE WITH THE MORTGAGEE AS BENEFICIARY
6. THE LAWYER ACTING ON BEHALF OF THE MORTGAGEE IS SATISFIED WITH ALL THE CONDITIONS AND THE REQUIRED DOCUMENTS
7. THE PROPERTY HAS BEEN APPRAISED \$150,000.00
8. FIRST MORTGAGE NOT TO EXCEED \$96,000.00 AND IN GOOD STANDING
9. THE PROPERTY TO BE OWNER OCCUPIED
10. MORTGAGOR AGREES TO HAVE MORTGAGEE REQUEST A COPY OF THEIR CREDIT REPORT AT ANY TIME DURING THE TERM OF THE MORTGAGE
11. ASSIGNMENT OF RENT CLAUSE TO BE INSERTED IN MORTGAGE AGREEMENT
12. MORTGAGOR AGREES TO HAVE MORTGAGEE REQUEST FIRST MORTGAGE BALANCE AND STATUS UPON REQUEST
13. LENDERS FEES STATED ON THIS COMMITMENT WILL BE PRORATED AND ADDED TO THE PRINCIPAL AFTER DUE DATE IF THE MORTGAGE IS NOT RENEWED OR PAID OUT.
14. ANY ARREARS ON THE PRIOR MORTGAGE(S) AND PROPERTY TAXES MUST BE BROUGHT UP TO DATE FROM THE PROCEEDS OF THE LOAN.

I have carefully read and fully understand the terms and conditions as set forth in the foregoing Term Sheet. I hereby accept the above terms and conditions:

MORTGAGEE

Maurice Stoney
Maurice StoneyEliza Stoney
Eliza Stoney

DATE

Mar 31/10
DATEMar 31/10
DATE

01/26/2016 09:45 780-624-7101
01/25/2016 MON 13:33 FAX

PR COURT

PAGE 06/06
0024/039

COURT FILE NUMBER 1209 0073

COURT COURT OF QUEEN'S BENCH OF ALBERTA

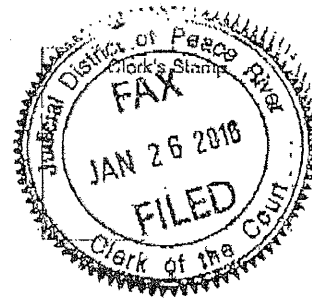
JUDICIAL CENTRE PEACE RIVER

PLAINTIFF GABRIEL NUSSBAUM

DEFENDANT MAURICE FELIX STONEY AND ELIZA MARIE STONEY

DOCUMENT AFFIDAVIT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
WITTEN LLP
Barristers & Solicitors
Suite 2500, Canadian Western Bank Place
10303 Jasper Avenue
Edmonton, AB T5J 3N6
Solicitors for the Plaintiff



ATTN: Steven M. Shafir
FILE: 122053-5 SMS/edd
PHONE: (780) 428-0501
FAX: (780) 425-0769

AFFIDAVIT OF Laura Lokken
Sworn (or Affirmed) on 28 day of October 2015

- I. Laura Lokken of Slave Lake, Alberta, SWEAR / AFFIRM AND SAY THAT:
 1. I have resided and carried on business at the Counties Slave Lake in the Province of Alberta, for 1 years and during that time have had considerable experience in real estate appraisals.
 2. On the 28 day of October, 2015, I made a careful personal exterior only inspection of the secured property in question in this action, namely:

PLAN 3553NY
BLOCK 13
LOT 6
EXCEPTING THEREOUT ALL MINES AND MINERALS
 3. I have, to the best of my knowledge and belief, in the paper now produced and shown to me and marked as Exhibit "A" to this my Affidavit, set out full and true particulars of the state, conditions and value of the said secured property and the improvements situated on the said secured property.
 4. I have not now and have never had any interest in the said secured property or in any other aspect of this action except as appraiser for the Plaintiff in connection with the inspection and valuation made by me mentioned above.

SWORN (OR AFFIRMED) BEFORE ME at)
Peace River, Alberta, this 30)
day of October, 2015.)

Lyneva Audrey Fren)
A Commissioner for Oaths in and for the)
Province of Alberta)
A Commissioner for Oaths in)
and for the Province of Alberta.)
My Commission expires Jan. 28, 2017)

L. Lokken

COURT FILE NUMBER 1209 0073

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE PEACE RIVER

PLAINTIFF GABRIEL NUSSBAUM

DEFENDANT MAURICE FELIX STONEY AND ELIZA MARIE STONEY

DOCUMENT AFFIDAVIT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

WITTEN LLP
Barristers & Solicitors
Suite 2500, Canadian Western Bank Place
10303 Jasper Avenue
Edmonton, AB T5J 3N6
Solicitors for the Plaintiff

Clerk's Stamp

ATTN: Steven M. Shafir
FILE: 122053-5 SMS/sdd
PHONE: (780) 428-0501
FAX: (780) 425-0769

AFFIDAVIT OF Laura Lokken
Sworn (or Affirmed) on 28 day of October 2015

- I, Laura Lokken of Slave Lake, Alberta, SWEAR / AFFIRM AND SAY THAT:
- I have resided and carried on business at the Counties Slave Lake in the Province of Alberta, for 1 years and during that time have had considerable experience in real estate appraisals.
 - On the 28 day of October, 2015, I made a careful personal exterior only inspection of the secured property in question in this action, namely:

PLAN 3553NY
BLOCK 13
LOT 5
EXCEPTING THEREOUT ALL MINES AND MINERALS
 - I have, to the best of my knowledge and belief, in the paper now produced and shown to me and marked as Exhibit "A" to this my Affidavit, set out full and true particulars of the state, conditions and value of the said secured property and the improvements situated on the said secured property.
 - I have not now and have never had any interest in the said secured property or in any other aspect of this action except as appraiser for the Plaintiff in connection with the inspection and valuation made by me mentioned above.

SWORN (OR AFFIRMED) BEFORE ME at)
Athabasca, Alberta, this 30)
day of October, 2015.)

Lynne Audrey Freh)
A Commissioner for Oaths in and for the)
Province of Alberta)

A Commissioner for Oaths in)
and for the Province of Alberta.)
My Commission expires Jan. 28, 2017)

L Lokken

Landuction Valuation and Advisory Services
P.O. Box 515

Shafir Law
File No. 570085LL

APPRAISAL OF

MANUFACTURED HOME & LAND

LOCATED AT:

500-4th Street, NW
Slave Lake, AB T0G2A2

FOR:

Steve Shafir LLP
Suite 2500, Canadian Western Bank Place
10303 Jasper Avenue, Edmonton, AB T5J 3N8

BORROWER:

Gabriel Nusabaum vs Maurice Stoney and Eliza Stoney

AS OF:

October 29, 2015

BY:

Laura Lokken, B.A., B.Ed.
CRA Candidate

Lyneve Audrey Freh
A Commissioner for Oaths in
and for the Province of Alberta.
My Commission expires Jan. 28, 2017

This is Exhibit "A" referred to in the

Affidavit of

Laura Lokken

Sworn before me this 30 day

of October A.D. 2015

Lyneve Freh

A Commissioner for Oaths in
the Province of Alberta

Client Reference No.: Shafrir Law

File No.: 570085LL

Landuction Valuation and Advisory Services
 P.O. Box 515
 Alhabasca, AB T9S 2A5
 P: (780) 675-5559; F: (780) 675-4044

October 29, 2015

Steve Shafrir LLP
 Canadian Western Bank Place
 Suite 2500, Canadian Western Bank Place
 10303 Jasper Avenue, Edmonton, AB T5J 3N8

Address of Property: 500-4th Street, NW
 Slave Lake, AB T0G2A2

Market Value: \$ 145,000 - 155,000

In accordance with your request and authorization, an investigation, analysis and appraisal report on the above captioned property has been completed for the purpose of estimating the Market Value as of the date herein specified. After careful consideration of all the factors that influence market value, it has been estimated as referenced above and is subject to the Assumptions and Limiting Conditions which are attached to this report and to which your attention is specifically directed. As there may be additional critical assumptions within the text of the report, we strongly recommend that you read and consider this report in its entirety.

This is a Complete Summary appraisal report prepared in accordance with the requirements set forth by the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada. The Summary format is distinguished from the more comprehensive Self Contained appraisal report only in the level of detail contained in the report. The information contained in this report should be sufficient for your purposes, but if you require further information or clarification or find any errors or omissions, please call me at 780-675-5559. You should be fully aware that this appraisal report is for your specific use only and no other person or company can use or rely on the information provided without a letter of authorization by this appraiser. The appraiser shall not be responsible for any loss or damage arising from his/her authorship of this report or any reliance placed upon it. If this report is used by the client or any other person for any reason other than that stated in this report without the explicit permission of the appraiser.

The research and analysis required to complete this report included the following steps:

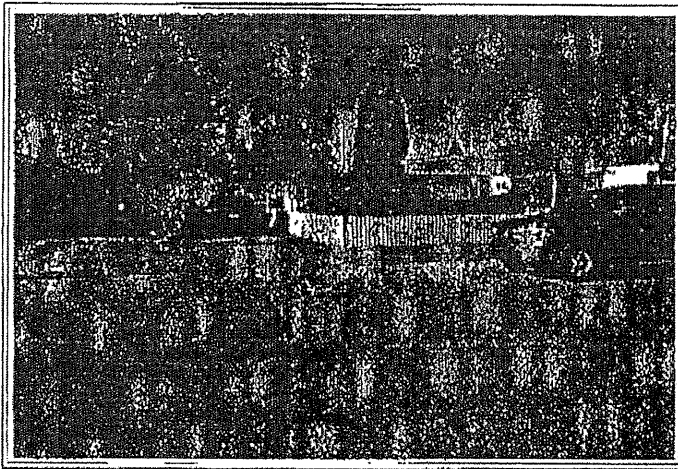
- 1. The property was physically inspected on the date stated.
- 2. When deemed necessary, information to confirm ownership, restrictions on title, compliance with land use regulations and tax information was obtained through public sources and stated within the report.
- 3. In our valuation of the property, we assumed no hidden or unapparent conditions on or near the subject property that might adversely influence its value.

I certify that I have no interest, present or contemplated in the property appraised.

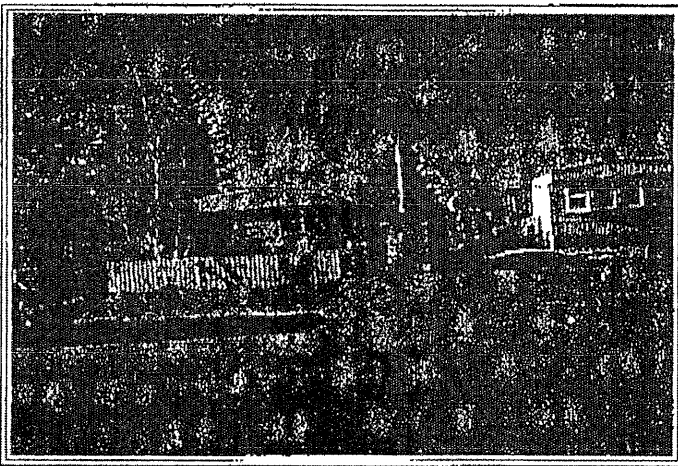
Laura Lokken
 Laura Lokken, B.A., B.Ed.
 CRA Candidate

SUBJECT PHOTOS

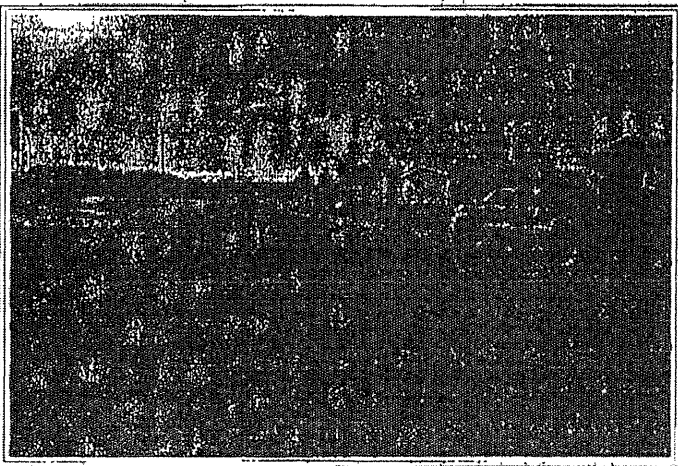
Borrower: Gabriel Nusabaum vs Maurica Stoney and Eliza Stoney	File No.: 570085LL
Property Address: 500 4th Street, NW	Case No.: Shafir Law
City: Slave Lake	Prov.: AB
Lender: Steve Shafir LLP	P.C.: T0G2A2



SUBJECT FRONT VIEW



SUBJECT FRONT SIDE VIEW



SUBJECT STREET VIEW

REFERENCE: **Shafir Law** **RESIDENTIAL DRIVE-BY REPORT** FILE NO: **570D85LL**

CLIENT: **Steve Shafir LLP** APPRAISER: **Laura Lokken, B.A., B.Ed**

ATTENTION: **Steve Shafir** COMPANY: **Landucation Valuation & Advisory Services**

ADDRESS: **Suite 2500, Canadian Western Bank Place** ADDRESS: **P.O. Box 515**

10303 Jasper Avenue, Edmonton, AB T5J 3N6 ADDRESS: **Alhambra, AB T9S2A5**

E MAIL: **sshafir@wittenlaw.com** E MAIL: **laura@landucation.com**

PHONE: **780-441-2558** FAX: **780-429-2558** PHONE: **780-675-5558** FAX: **780-675-4044**

NAME: **Gabriel Nussbaum vs Maurice Stoney and Eliza Stoney** CITY: **Slave Lake** PROVINCE: **AB** POSTAL CODE: **T0G2A2**

PROPERTY ADDRESS: **500 4th Street, NW** LEGAL DESCRIPTION: **Lot 5, Block 13, Plan 3553NY**

PURPOSE OF THE APPRAISAL: **To provide market value or other**

INTENDED USE OF THE APPRAISAL: **Gabriel Nussbaum vs. Maurice Stoney & Eliza Stoney in foreclosure**

INTENDED USERS BY NAME OR FIRM: **Steve Shafir Law Office**

REQUESTED BY: ☒ Other above ☐ Other

TITLE: **Full appraisal (to report)** REPRESENTS THE FOLLOWING VALUE: ☒ Market ☐ Replacement ☐ Progression

☐ Liquidation ☐ Special (explain below) ☐ Other (explain below)

PRIORITY RIGHT IS AVAILABLE: ☒ Fee Simple ☐ Leasehold ☐ Life Estate ☐ Other (explain below)

IS THIS SUBJECT A FRACTIONAL INTEREST, PARTIAL SEGMENT OF PARTIAL INTEREST? ☒ No ☐ Yes (if yes, explain below)

MUNICIPALITY AND DISTRICT: **Town of Slave Lake**

ASSESSMENT: **Land is unavailable** **Improvements are unavailable** **Taxes are unavailable** **Year 2015**

EXISTING USE: **Single Family Residential**

HIGHEST AND BEST USE OF SUBJECT PROPERTY: ☒ As zoned, ☐ Other (if not zoned, explain below)

NATURE OF DISTRICT: ☒ Residential ☐ Commercial ☐ Industrial ☐ Other (explain below)

TREND OF DISTRICT: ☒ Improving ☐ Stable ☐ Declining ☐ Other (explain below)

BUILT UP: ☒ Over 75% ☐ 50 - 75% ☐ Under 50%

CONCOMITANT: Age: ☐ Newer ☒ Similar ☐ Older ☐ Other (explain below)

Condition: ☐ Superior ☒ Similar ☐ Inferior ☐ Other (explain below)

Size: ☐ Larger ☒ Similar ☐ Smaller ☐ Other (explain below)

MARKET OVERVIEW: Supply: ☐ Low ☒ Average ☐ High Demand: ☐ Low ☒ Average ☐ High Price Trends: ☐ Rising ☒ Stable ☐ Falling Price Range on Comparable: \$ 100,000 to \$ 300,000

SUMMARY: (INCLUDES VALUE TRENDS, MARKET APPRAISAL, APPRAISER'S ADVICE ON WORKS IN THE AREA, IF ANY (e.g., road works, unusual properties, major traffic snafus, etc.), location, analysis of public or private improvements, current and potential uses, zoning, etc.) **See Attached Addendum**

SITE DIMENSIONS: **0.137 Acres** UTILITIES: ☒ Telephone ☒ Sewer/Electric ☐ Gas ☐ Water ☐ Other

SITE AREA: **0.137 Acres** SOURCE: **AB Land Titles** FEATURES: ☒ Natural Gas ☐ Storm Sewer ☐ Location ☐ Other

TOPOGRAPHY: **Level** ☒ Improved ☒ Natural ☐ Other ☐ Other (explain below)

CONTOURMENT: **Rectangular** ELECTRICAL: ☐ Overhead ☒ Underground ☐ Other

ZONING: **Residential** DRIVEWAY: ☒ Paved ☐ Gravel ☐ Other ☐ Other (explain below)

DOES EXISTING USE CONFORM WITH CURRENT ZONING? ☒ Yes ☐ No ☐ Unknown

LANDSCAPING: ☐ Good ☒ Average ☐ Fair ☐ Poor ☐ Other

ESTIMATED AGE OF SUBJECT: **25 - 30** YEARS CLUSE APPRAISAL: ☐ Good ☒ Average ☐ Fair ☐ Poor ☐ Other

TYPE OF HOME: **Detached** FURNISHMENT: **Mobile sitting on gravel base & anchored**

DESIGN/STYLE: **Manufactured Home** HEATING SYSTEM: **Forced Air** ☐ Radiant ☐ Gas ☐ Other

CONSTRUCTION: **Wood Frame** EXTERIOR FINISH: **Vinyl** ROOFING: **Asphalt**

GENERAL EXTERIOR CONDITION: ☐ Good ☒ Average ☐ Fair ☐ Poor

COMMENTS: **The 0.137 site is developed with a manufactured home. The subject front yard is fenced with a wooden picket fence, and has a double paved driveway. The site has mature landscaping with trees and lawn. The site is of similar size to the neighboring sites developed for manufactured homes in the area. The site conforms well to the neighborhood.**

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
ADDRESS	500-4th Street, NW Slave Lake, AB T0G 2A2	145 - 7A Street SW Slave Lake, AB T0G 2A4	704 - 1A Avenue SW Slave Lake, AB T0G 2A4	304 - 8th Street, SW Slave Lake, AB T0G 2A4
DATE OF SALE	October 29, 2015	June 19, 2015	August 8, 2015	September 16, 2015
SALE PRICE	\$ 213,000	\$ 213,000	\$ 135,000	\$ 162,000
DOM	14	14	26	62
SITE SIZE	0.137 Acres	0.151 Acres	1.855 Acres	0.131 Acres
BUILDING TYPE	Detached	Detached	Detached	Detached
DESIGN/STYLE	Manufactured Home	Manufactured Home	Manufactured Home	Manufactured Home
AGE/CONDITION	Estimate 25 Average	17 yrs Similar	34 yrs Similar	19 yrs Interior
USABLE FLOOR AREA	113 SqM	113 SqM	104 SqM	113 SqM
ROOM COUNT	Total: 5, Bdrm: 3, Bath: 2	Total: 5, Bdrm: 3, Bath: 2	Total: 6, Bdrm: 3, Bath: 2	Total: 5, Bdrm: 3, Bath: 2
FURNISHMENT	Mobile sitting on gravel base	Similar	Similar	Similar
PARKING	Double Driveway - Cement	Similar	Similar	Interior - gravel
EXTRAS & QUALITY	QUALITY	Similar	Similar	Interior
SITE IMPROVEMENTS	Similar	Similar	Similar	Similar

EXCLUSIONS/RECONCILIATION: **See Attached Addendum**

SALES HISTORY - ANALYSIS OF KNOWN CURRENT AGREEMENTS FOR SALE, PRIOR SALES, OPTIONS, LISTINGS OR MARKETING OF THE SUBJECT: (may contain more than one entry)

According to Alberta Land Titles the subject property transferred to the current owners on 03/08/2004. The property is currently the subject of a legal dispute in Gabriel Nussbaum vs Maurice and Eliza Stoney, according to Shafir Law Office.

COMMENTS ON REASONABLE EXPOSURE TIME: **The market value is based on a 30 day marketing period.**

[illegible]

ADDENDUM

Borrower: Gabriel Nussbaum vs Mayra Stoney and Eliza Stoney	File No.: 57008SL
Property Address: 500-4th Street NW	Case No.: Shafrir Law
City: Slave Lake	Province: AB
Lender: Slave Shafir LLP	Postal Code: T0G2A2

Neighbourhood Summary Comments

The subject property is located in the northwest quadrant of the Town of Slave Lake. This area is within walking distance of the downtown core, businesses, shopping, medical services, schools, parks, and other recreational facilities. The area is a mixture of manufactured homes, single detached homes, and some multi family dwellings. The subject property conforms well with other properties in the area, and will have good market appeal as a single family residence.

Conclusions/Reconciliation

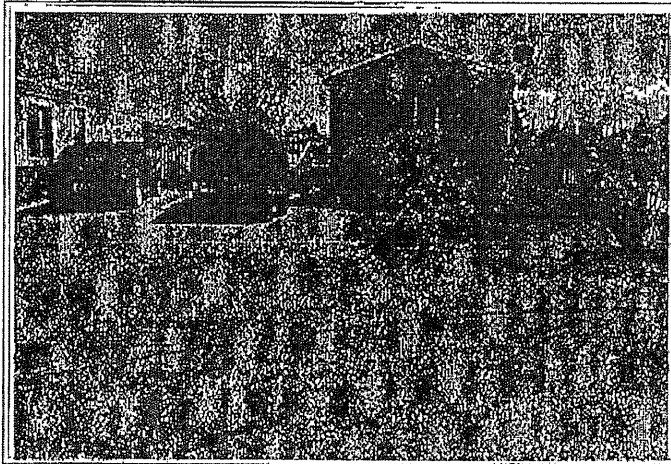
The four comparables were the most recent sales of manufactured homes with land in the area. Comparables one and three had similar amounts of land, and comparable two was larger and zoned for a future duplex site. This could make comparable two site more attractive to buyers. Comparable four manufactured home was on a rented pad, but was used as a comparable to demonstrate the market value of the manufactured home. All comparables were of similar floor area, except for comparable two which was smaller. Comparables one and two had poured cement double driveways, and comparable three had a double gravel driveway. Comparables one and three were newer homes than the estimated age of the subject, comparable four manufactured home was close to the same age of the subject home. Overall the comparables most similar to the subject, requiring the least adjustments were comparables two and the manufactured home in comparable four.

Please Note:

All comparable sales utilized may not have been physically inspected by this appraiser. Information was supplemented by M.L.S. data, local assessment information and/or office files of previous appraisal reports. It is assumed that the information gathered from these sources is reliable and valid.

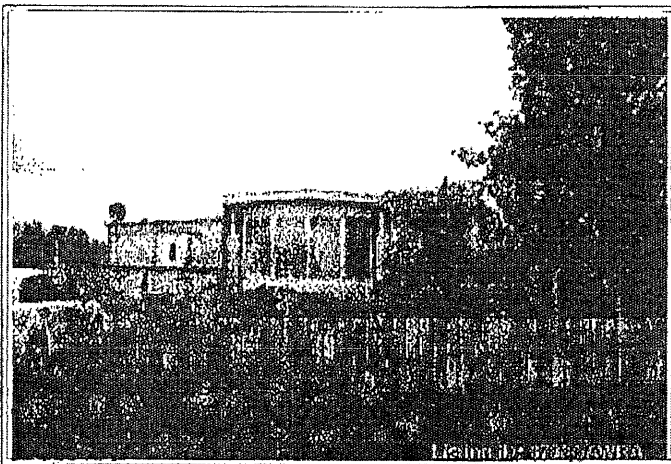
COMPARABLE PROPERTY PHOTO ADDENDUM

Borrower: Gabriel Nussbaum vs Maurice Stoney and Eliza Stoney	File No.: 67008511
Property Address: 600-4th Street, NW	Case No.: Shafir Law
City: Slave Lake	Prov.: AB
Lender: Slave Shafir LLP	P.C.: T0G2A2



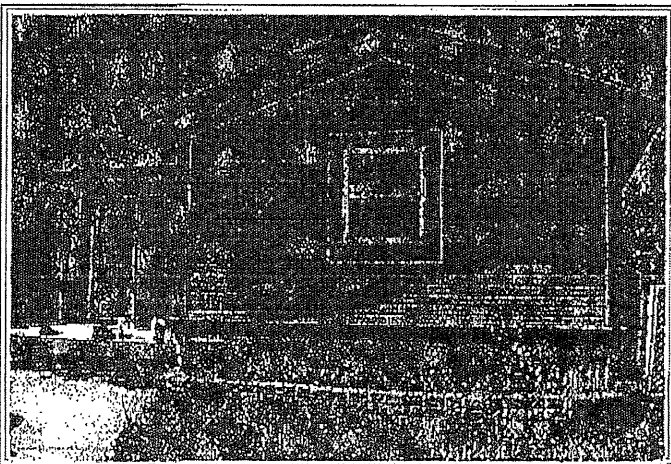
COMPARABLE SALE #1

145 - 7A Street SW
 Slave Lake, AB T0G 2A4
 Sale Date: June 19, 2015
 Sale Price: \$ 213,000



COMPARABLE SALE #2

704 - 1A Avenue, SW
 Slave Lake, AB T0G 2A4
 Sale Date: August 8, 2015
 Sale Price: \$ 135,000

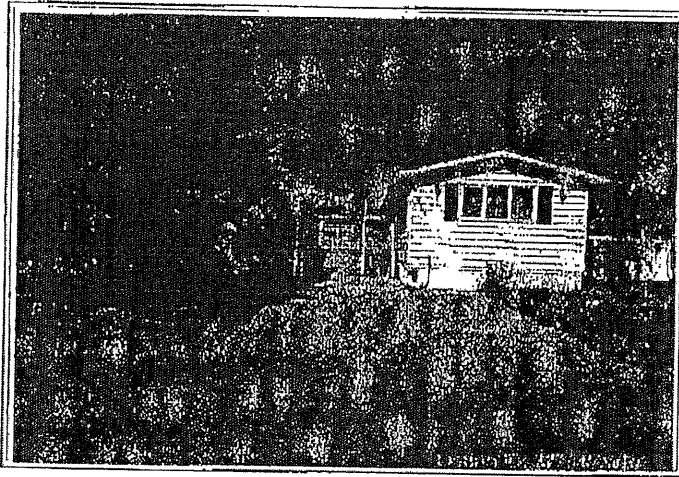


COMPARABLE SALE #3

304 - 6th Street, SW
 Slave Lake, AB T0G 2A4
 Sale Date: Sept 16, 2015
 Sale Price: \$ 162,000

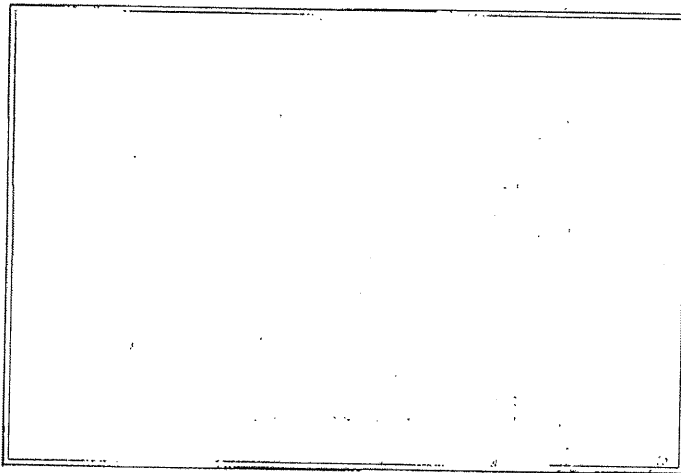
COMPARABLE PROPERTY PHOTO ADDENDUM

Borrower: Gabriel Nussbaum vs Maurice Stoney and Eliza Stoney		File No.: 570085LL
Property Address: 500-4th Street, NW		Case No.: Shafr Law
City: Slave Lake	Prov.: AB	P.C.: T0G2A2
Lender: Steve Shafr LLP		



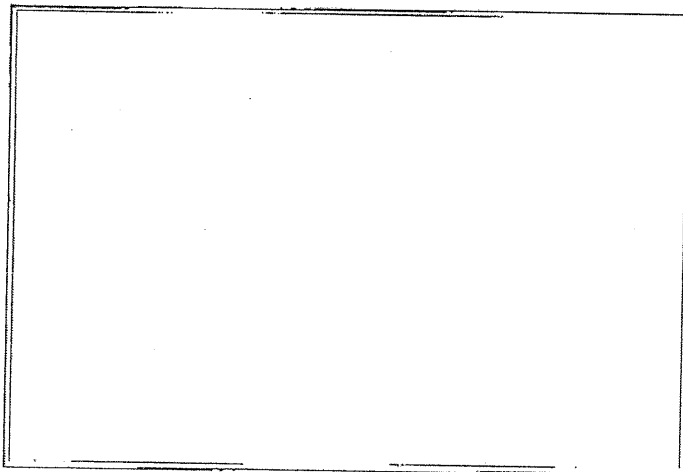
COMPARABLE SALE #4

720-5 Avenue, NW
Slave Lake, AB T0G 2A1
Sale Date: July 31, 2015
Sale Price: \$ 85,000



COMPARABLE SALE #5

Sale Date:
Sale Price: \$

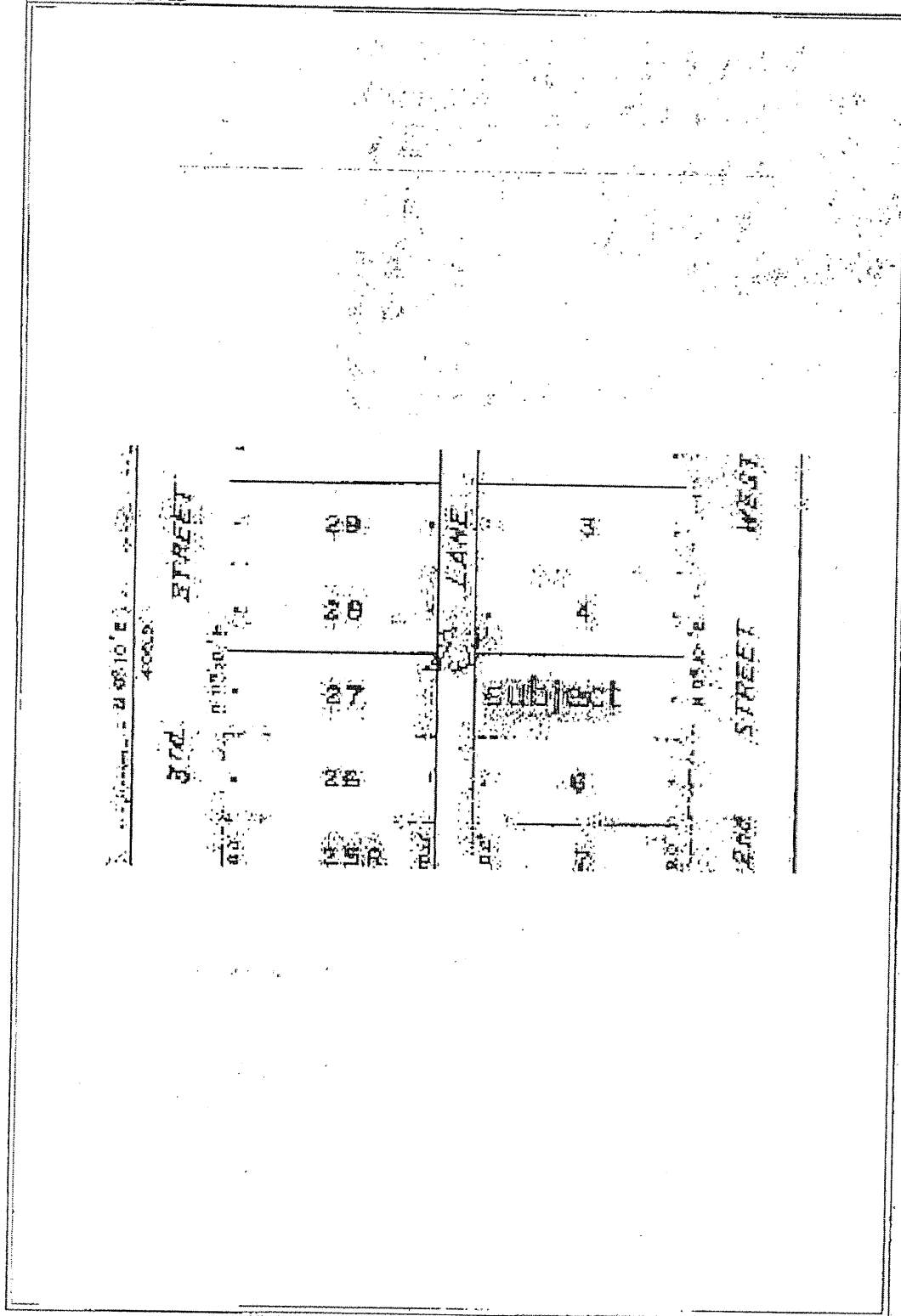


COMPARABLE SALE #6

Sale Date:
Sale Price: \$

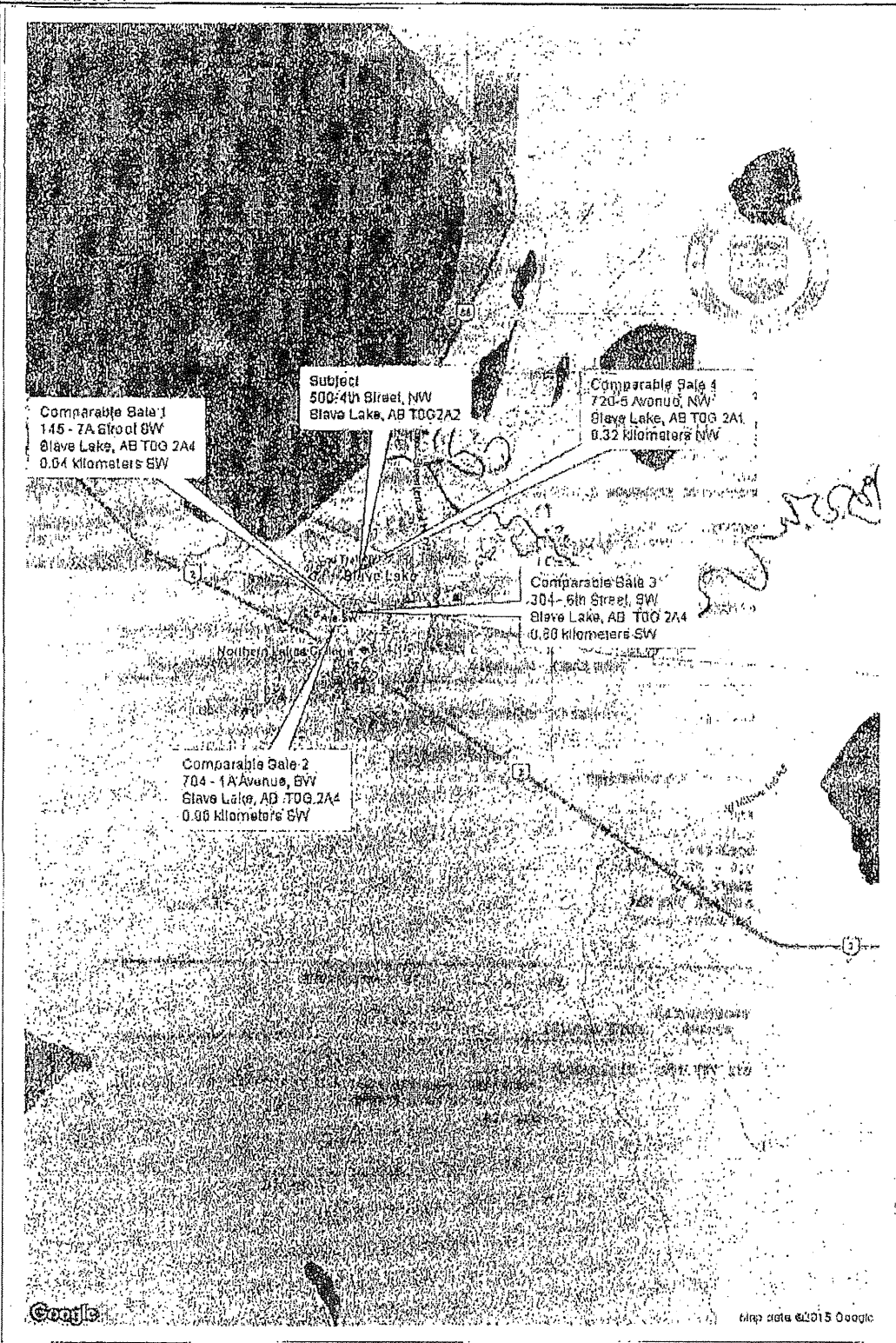
PLOT MAP

Borrower: Gabriel Nussbaum vs Maurice Stonoy and Eliza Stonoy		File No.: 570085LL
Property Address: 500-4th Street, NW		Case No.: Shafr Law
City: Slave Lake	Prov.: AB	P.C.: T0G2A2
Lender: Steve Shafr LLP		



LOCATION MAP

Borrower: Gabriel Nussbaum vs Maurice Stoney and Eliza Stoney		File No.: 570085LL
Property Address: 500-4th Street, NW		Case No.: Shafir Law
City: Slave Lake	Prov.: AB	P.C.: T0G2A2
Lender: Steve Shafir LLP		



LAND TITLES CERTIFICATE

Borrower: Gabriel Nussbaum vs Maurice Stoney and Eliza Stoney	File No.: 570065LL
Property Address: 500-4th Street, NW	Case No.: Shafr Law
City: Slave Lake	Prov.: AB
Lender: Steve Shafr LLP	P.C.: T0G2A2



LAND TITLE CERTIFICATE

A		
LINE	SHORT LEGAL	TITLE NUMBER
0011 098 266	3553NY,13,5	042 223 543

LEGAL DESCRIPTION
 PLAN 3553NY
 BLOCK 13
 LOT 5
 EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE
 ADS REFERENCE: 5,6,72,36,NE

MUNICIPALITY: TOWN OF SLAVE LAKE

REFERENCE NUMBER: 012 339 402

REGISTRATION	DATE (DMY)	REGISTERED OWNER(S)	DOCUMENT TYPE	VALUE	CONSIDERATION
042 223 543	03/06/2004	TRANSFER OF LAND	\$63,000	\$63,000	

OWNERS

MAURICE FELIX STONEY

AND

ELIZA MARIE STONEY

BOTH OF:

500 4 STREET NW

SLAVE LAKE

ALBERTA T0G 2A1

AS JOINT TENANTS

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION NUMBER	DATE (DMY)	PARTICULARS
072 727 142	10/12/2007	MORTGAGE MORTGAGEE - SCOTIA MORTGAGE CORPORATION. C/O BANK OF NOVA SCOTIA BOX 720

(CONTINUED)

LAND TITLES CERTIFICATE

Borrower: Gabriel Nussbaum va Maurice Stoney and Eliza Stoney		File No.: 570085LL
Property Address: 500-4th Street, NW		Case No.: Shafir Law
City: Slave Lake	Prov.: AB	P.C.: T0G2A2
Lender: Steve Shafir LLP		

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2

042 223 543

REGISTRATION

NUMBER

DATE (D/M/Y)

PARTICULARS

SLAVE LAKE
ALBERTA T0G2A1
ORIGINAL PRINCIPAL AMOUNT: \$100,000

102 135 187 20/04/2010 MORTGAGE
MORTGAGEE - GABRIEL NUSSBAUM
1274 HEDGECOCK CRESCENT
OAKVILLE
ONTARIO L6M1X8
ORIGINAL PRINCIPAL AMOUNT: \$16,500

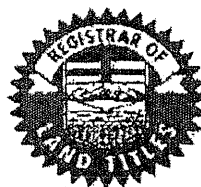
152 004 082 16/03/2015 WRIT
CREDITOR - BANBROOK FIRST NATION
C/O DARRELL MCLANE LLP
1800 MARSHALL PLACE
10160-101 STREET
EDMONTON
ALBERTA T5J4K1
DEBTOR - MAURICE FELIX STONEY
500-4 STREET NW
SLAVE LAKE
ALBERTA T0G2A1
AMOUNT: \$2,935 AND COSTS IF ANY
ACTION NUMBER: T-923-12

TOTAL INSTRUMENTS: 003

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 29 DAY OF
OCTOBER, 2015 AT 09:51 A.M.

ORDER NUMBER: 29544913

CUSTOMER FILE NUMBER: 570085



END OF CERTIFICATE

(CONTINUED)

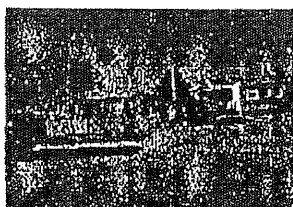
Thumbnails

File No. 570065LL



Extra Photo 1

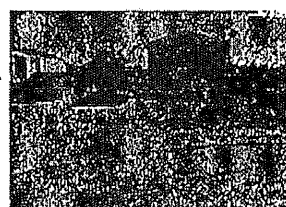
Subject Front View



Extra Photo 2



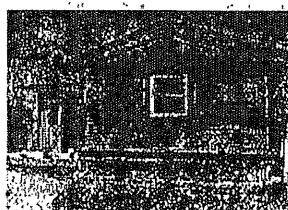
Extra Photo 3



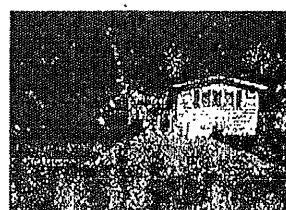
Sales Comp. 1



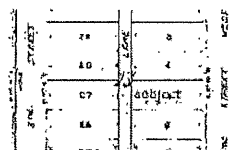
Sales Comp. 2



Sales Comp. 3

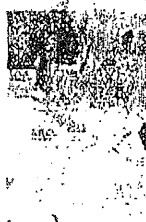


Sales Comp. 4



Plot Map

Sales Comp. 5



Location Map

Sales Comp. 6

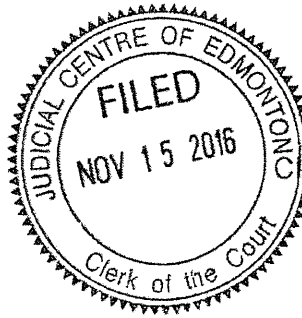


Extra Map



Extra Map

Tab D



Clerk's Stamp

COURT FILE NO.: 1103 14112

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE: EDMONTON

IN THE MATTER OF THE TRUSTEE ACT, RSA
2000, c. T-8, as am.

IN THE MATTER OF THE SAWRIDGE BAND INTER
VIVOS SETTLEMENT CREATED BY CHIEF
WALTER PATRICK TWINN, OF THE SAWRIDGE
INDIAN BAND NO. 19 ON APRIL 15, 1985 (the "1985
Sawridge Trust")

APPLICANT MAURICE STONEY ON HIS OWN BEHALF AND
THAT OF HIS LIVING SISTERS AND BROTHERS

DOCUMENT: WRITTEN RESPONSE ARGUMENT OF MAURICE
STONEY AND SIBLINGS ON SUBMISSIONS OF
1985 SAWRIDGE TRUSTEES: ROLAND TWINN,
WALTER FELIX TWIN, BERTHA L'HIRONDELLE
AND CLARA MIDBO

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

DLA Piper (Canada) LPP
1201 Scotia 2 Tower
10060 Jasper Avenue NW
Edmonton, AB, T5J 4E5
Attn: Priscilla Kennedy
Tel: 780.429.6830
Fax: 780.702.4383
Email: priscilla.kennedy@dlapiper.com
File: 84021-00001

CONTACT INFORMATION OF
ALL OTHER PARTIES:

Sawridge Trustees
Roland Twinn, Walter
Felix Twin, Bertha
L'Hirondelle & Clara
Midbo

Reynolds Mirth Richards & Farmer LLP
3200 10180 - 101 Street NW
Edmonton, AB, T5J 3W8
Attn: Marco Poretti
Tel: 780.425.9510
Fax: 780.425.9510

And

Dentons Canada LLP

THIS IS EXHIBIT " D " REFERRED TO
IN THE AFFIDAVIT OF
Roland Twinn

SWORN BEFORE ME THIS 15th DAY
OF November A.D., 2017.

A Commissioner for Oaths in and for the Province of Alberta

MICHAEL R. MCKINNEY Q.C.
BARRISTER & SOLICITOR

2900 10180 - 101 Street NW
Edmonton, AB, T5J 3W8
Attn: Doris Bonora
Tel: 780.423.7100
Fax: 780.423.7276

And Catherine Twinn, Trustee

McLennan, Ross LLP
600 12220 Stony Plain Road
Edmonton, AB, T5N 3Y4
Attn: Karen Platten, Q.C.
Tel: 780.482.9200
Fax: 780.482.9100

Public Trustee

Hutchison Law
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, AB, T8H 2A3
Attn: Janet Hutchison
Tel: 780.417.7871
Fax: 780.417.7872

Supreme Court Advocacy
340 Gilmour Street #100
Ottawa, ON, K2P 0R3
Attn: Eugene Meehan, Q.C.
Tel: 613.695.8855
Fax: 613.695.8580

Justice Canada

Indigenous Affairs and Northern Development
Attn: Linda Maj
300, 10423 - 101 Street NW Epcor Tower
Edmonton, AB, T5H 0E7

Applicant for Intervener Status
Sawridge First Nation

Parlee McLaws LLP
1700 Enbridge Centre
10175 - 101 Street NW
Edmonton, AB, T5J 0H3
Attn: Edward Molstad, Q.C.
Tel: 780.423.8500
Fax: 780.423.2870

WRITTEN RESPONSE ARGUMENT OF MAURICE STONEY AND SIBLINGS ON
SUBMISSIONS OF 1985 SAWRIDGE TRUSTEES: ROLAND TWINN, WALTER
FELIX TWIN, BERTHA L'HIRONDELLE AND CLARA MIDBO

1. Retroactive to April 17, 1985, Bill C-31 (R.S.C. 1985, c. 32 (1st Supp.) amended the provisions of the *Indian Act*, R.S.C. 1985, I-5 by removing the enfranchisement provisions returning all enfranchised Indians back on the pay lists of the Bands where they should have been throughout all of the years.

Indian Act, R.S.C. 1970, c. I-6, ss. 1, 5, 11, 12, 109-110 and *Indian Act*, R.S.C. 1985, c. I-5 (showing sections removed; *An Act to Amend the Indian Act*, SC 1985, c. 27, section 4 amending section 6 (1)(c), section 10 (4) and (5), section 11(1)(c) and section 19 repealing sections 109 to 113 from the Act. [Tab 1 of Written Argument Responding to Sawridge First Nation]

2. **Sawridge First Nation** has repeatedly refused to comply with the law, with Mandamus Orders of the Federal Courts and continues today to refuse to comply. The **1985 Sawridge Trustees** now adopt this position of the Sawridge First Nation as well in its Written Argument which is in contempt of the law and Orders of the Federal Court and Federal Court of Appeal. Like Elizabeth Poitras, Maurice Stoney and his brothers and sisters have faced a tortuous long process with no success in persuading Sawridge Band or Sawridge First Nation, and now it appears the 1985 Sawridge Trustees, to abide by the Mandatory Injunction issued by the Federal Court, confirmed by the Federal Court of Appeal and as stated by the Case Management Judge Aalto in 2012, at paragraph 29, "[n]ot to put too fine a tautological point on it [this issue]- moot is moot is moot is moot".

Sawridge Band v. Canada, [2003] 4 FCR 748, paras. 31-40. [Tab 2 of Written Argument Responding to Sawridge First Nation Application]

Sawridge Band v. Canada, 2004 FCA 16, paras. 28-35, 51-52, 56. [Tab 3 of Written Argument Responding to Sawridge First Nation Application]

Walter Patrick Twinn et al. v. Elizabeth Bernadette Poitras, 2012 FCA 47, para. 29. [Tab 17 of Written Argument Responding to Sawridge First Nation Application]

Elizabeth Bernadette Poitras v. Walter Patrick Twinn et al., 2013 FC 910, paras. 1-19. [Tab 17 of Written Argument Responding to Sawridge First Nation Application]

3. The 1985 Sawridge Trust is prior to Sawridge First Nation having any control or say over its membership. The definition of beneficiaries in this 1985 Sawridge Trust does not fall within the jurisdiction or legal ability of Sawridge First Nation or even the 1985 Sawridge Trustees to say anything about the membership of the Sawridge Band. This was entirely determined by Indian Affairs Canada and Bill C-31. Maurice Stoney and his brothers and sisters are not raising the issue of "membership" as such - their memberships were restored by Bill C-31 and this legal issue determined entirely by Bill C-31.
4. Contrary to the assertion at paragraph 22, there is no prejudice to the 1985 Sawridge Trustees in this proceeding. Maurice Stoney was listed as a party in Action 1103 14112 until 2015 so that the only Order that appeared to remove him was the December, 2015 Order of this Court. An appeal was brought with a decision issued by Mr. Justice Watson on February 26, 2016 that the 1985 Sawridge Trustees participated in. Maurice Stoney filed his affidavit for himself and his brothers and sisters to be added as beneficiaries in May, 2016 following this decision of the Alberta Court of Appeal. Ms. Bonora's statement at paragraph 22 of the Written Submissions of the Trustees that there is "serious prejudice to the Trustees" is false and contrary to what she told Mr. Justice Watson is the Court of Appeal. Mr. Justice Watson noted at paragraph 19:

Ms. Bonora quite fairly points out that Mr. Stoney's position as to whether or not he should be considered to be entitled to be a beneficiary in the trust has not arisen yet before Mr. Justice Thomas. That is going to be decided at some future date whether or not the appeal goes ahead from Mr. Justice Thomas and whether or not Mr. Justice Thomas's judgment in this particular regard, is upheld or in some way dealt with by the Court of Appeal.

Stoney v. 1985 Sawridge Trust, 2016 ABCA 51, para. 19. [Tab 1]
5. Rules 2.10 and 3.75 are fully addressed in the Response of Maurice Stoney et al. to the Application of Sawridge First Nation to be added as an Intervener, paragraphs 24-44. Rather than reprinting them here, reference is made to that Written Brief filed on October 27, 2016.
6. Maurice Stoney has paid the costs owed to 1985 Sawridge Trustees in this matter in two parts with the last payment on November 14, 2016. Maurice Stoney and his brothers and sisters are all elderly and have limited funds. No lack of respect for Orders of costs has

been displayed. The issue of costs where beneficiaries seek to be able to speak to issues related to determination of the terms of a trust when the Trustees are seeking Advice and Directions before the Court, is a matter where the beneficiaries are entitled to have their costs paid by the trust.

Twinn v. Twinn, 2016 ABQB 553, para. 67. [Tab 2]

1985 Sawridge Trust v. Alberta (Public Trustee), 2012 ABQB 365, paras. 35-37. [Tab 4 of Written Argument Responding to Sawridge First Nation Application]

7. On the issue of questioning Maurice Stoney, who is elderly in his seventies and did not receive much education, where he refused or failed to address the questions asked involved legal issues on which Maurice Stoney became confused and disturbed. In the context of the examination the question at Tab 8 of the Trustees Brief referring to Maurice Stoney's statement "All of our applications for membership in Sawridge were ignored" is plainly defined by the words in his Affidavit, in the preceding paragraph 11 where he refers to applications by himself, Aline Huzar and June Kolowsky. The Trustees are well aware of this from the Appeal to Sawridge First Nation and then judicial review in the Federal Court proceedings [relied on in paragraphs 27 to 29 of the 1985 Sawridge Trustees Brief]. He then answered to the best of his ability to recall, questions about applications by his brothers and sisters. Reliance now on this point is a further effort by the Sawridge Trustees to belittle Maurice Stoney.
8. The Affidavit of Maurice Stoney contains the records of Canada. These records are indisputable including showing that he and his family were recorded as members of Sawridge Band. Contrary to the assertion of the 1985 Sawridge Trustees, these are not "loosely and liberally" provided by Maurice Stoney. They are the public records of Canada from Public Archives that show his membership. They cannot be discounted or ignored.

4.

9. There has been no delay, no abuse of process or mischaracterization of evidence by Maurice Stoney. The Trustees are not entitled to costs at all for this application in the determination of beneficiaries in the 1985 Sawridge Trust.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 15TH DAY OF NOVEMBER, 2016.

DLA Piper (Canada) LLP

Per: 

Priscilla Kennedy
Solicitor for Maurice Stoney and his
brothers and sisters

5

TABLE OF AUTHORITIES

1. *Stoney v. 1985 Sawridge Trust*, 2016 ABCA 51. [Tab 1]
2. *Twinn v. Twinn*, 2016 ABQB 553. [Tab 2]

Tab E

Court of Queen's Bench of Alberta

Citation: 1985 Sawridge Trust v Alberta (Public Trustee), 2017 ABQB 548

Date: 20170912
Docket: 1103 14112
Registry: Edmonton

2017 ABQB 548 (CanLII)

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")

Between:

Maurice Felix Stoney and His Brothers and Sisters

Applicants

Roland Twinn, Catherine Twinn, Walter Felix Twin, Bertha L'Hirondelle
and Clara Midbo, As Trustees for the 1985 Sawridge Trust

THIS IS EXHIBIT " E " REFERRED TO (the "1985 Sawridge Trustees" or "Trustees")
IN THE AFFIDAVIT OF

Roland Twinn

Respondents (Original Applicants)

SWORN BEFORE ME THIS 15th DAY
OF November A.D., 2017.

- and -

The Sawridge Band

[Signature]
A Commissioner for Oaths in and for the Province of Alberta

Intervenor

MICHAEL R. MCKINNEY Q.C.
BARRISTER & SOLICITOR

Case Management Decision re Vexatious Litigant Status
of Maurice Stoney (Sawridge #8)
of the
Honourable Mr. Justice D.R.G. Thomas

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I Introduction

[1] The Action to which this decision ultimately relates was commenced on June 12, 2011 by the 1985 Sawridge Trustees and is sometimes referred to as the "Advice and Direction Application". The 1985 Sawridge Trust applied to this Court for directions on how to distribute the Trust property to its beneficiaries. Members of the Sawridge Band are the beneficiaries of that Trust. The initial application has led to many court case management hearings, applications, decisions, and appeals: *1985 Sawridge Trust v Alberta (Public Trustee)*, 2012 ABQB 365, 543 AR 90 ("*Sawridge #1*"), aff'd 2013 ABCA 226, 543 AR 90 ("*Sawridge #2*"); *1985 Sawridge*

Trust v Alberta (Public Trustee), 2015 ABQB 799 (“*Sawridge #3*”), time extension denied 2016 ABCA 51, 616 AR 176; *1985 Sawridge Trust (Trustee for) v Sawridge First Nation*, 2017 ABQB 299 (“*Sawridge #4*”); *1985 Sawridge Trust v Alberta (Public Trustee)*, 2017 ABQB 377 (“*Sawridge #5*”); *1985 Sawridge Trust v Alberta (Public Trustee)*, 2017 ABQB 436 (“*Sawridge #6*”); *1985 Sawridge Trust v Alberta (Public Trustee)*, 2017 ABQB 530 (“*Sawridge #7*”).

[2] On July 12, 2017 I rejected an August 12, 2016 application by Maurice Felix Stoney that he and “his brothers and sisters” should be added as beneficiaries to the 1985 Sawridge Trust: *Sawridge #6*. In that decision I concluded that Stoney’s application was a collateral attack on previously decided issues, hopeless, without merit, and an abuse of court: paras 34-52. I also concluded that there was no evidence to support that Maurice Stoney’s “10 living brothers or sisters” were, in fact, voluntary participants in this application: paras 8-12.

[3] I therefore:

1. limited the scope of the August 12, 2016 application to Maurice Stoney;
2. struck out the August 12, 2016 application;
3. ordered solicitor and own client indemnity costs against Maurice Stoney;
4. ordered that Stoney’s lawyer, Priscilla Kennedy, appear on July 28, 2017 to make submissions as to whether she should be personally liable for that litigation costs award;
5. concluded that Maurice Stoney’s August 12, 2016 application exhibits indicia of abusive litigation, and, therefore, on my own motion and pursuant to the Court’s inherent jurisdiction:
 - a) put in place an interim court order to restrict Maurice Stoney’s initiating or continuing litigation in Alberta Courts, and
 - b) instructed that Maurice Stoney, the Sawridge 1985 Trustees, and the intervener Sawridge Band may file written submissions as to whether Maurice Stoney should have his court access restricted via what is commonly called a “vexatious litigant” order.

[4] Written submissions were received from the Trustees on July 26, 2017, the Sawridge Band on July 27, 2017, and Maurice Stoney on August 3, 2017.

[5] On August 31, 2017 I issued *Sawridge #7*, where I concluded that Priscilla Kennedy and Maurice Stoney were jointly and severally liable for the costs award ordered in *Sawridge #6*.

[6] This judgment evaluates whether Maurice Stoney should be the subject of restrictions on his future litigation activity in Alberta courts.

II. Abusive Litigation and Court Access Restrictions

[7] The principles and procedure that govern court-ordered restrictions to access Alberta courts are developed in a number of recent decisions of this Court. This Court’s inherent jurisdiction to control abuse of its processes includes that the Alberta Court of Queen’s Bench may order that a person requires leave to initiate or continue an action or application: *Hok v Alberta*, 2016 ABQB 651 at paras 14-25, 273 ACWS (3d) 533, leave denied 2017 ABCA 63, leave to the SCC requested, 37624 (12 April 2017); *Thompson v International Union of*

Operating Engineers Local No. 955, 2017 ABQB 210 at para 56, affirmed 2017 ABCA 193; *Ewanchuk v Canada (Attorney General)*, 2017 ABQB 137 at paras 92-96; *McCargar v Canada*, 2017 ABQB 416 at para 110.

[8] An intervention of this kind is potentially warranted when a litigant exhibits one or more “indicia” of abusive litigation: *Chutskoff v Bonora*, 2014 ABQB 389 at para 92, 590 AR 288, aff’d 2014 ABCA 444; *Re Boisjoli*, 2015 ABQB 629 at paras 98-103, 29 Alta LR (6th) 334; *McCargar v Canada*, 2017 ABQB 416 at para 112. Where a judge concludes these “indicia” are present and control of abusive litigation may be appropriate then the Court usually follows a two-step process prior to imposing court access restrictions, if appropriate: *Hok v Alberta*, 2016 ABQB 651 at paras 10-11; *Ewanchuk v Canada (Attorney General)*, at para 97.

[9] *Sawridge #6*, at para 55 identified three types of litigation abuse behaviour by Maurice Stoney that potentially warranted court access restrictions:

1. Collateral attack that attempts to reopen an issue that has already been determined by a court of competent jurisdiction, to circumvent the effect of a court or tribunal decision, using previously raised grounds and issues.
2. Bringing hopeless proceedings that cannot succeed, here in both the present application and the *Sawridge #3* appeal where Maurice Stoney was an uninvolved third party.
3. Initiating “busybody” lawsuits to enforce the rights of third parties, here the recruited participation of Maurice Stoney’s “10 living brothers and sisters.”

[10] I therefore on an interim basis and pursuant to *Hok v Alberta*, 2016 ABQB 335 at para 105 restricted Maurice Stoney’s litigation activities (*Sawridge #6*, at para 65-66), and invited submissions on whether Maurice Stoney’s litigation activities should be restricted, and if so, in what manner (*Sawridge #6*, at paras 63-64).

[11] Subsequently Associate Chief Justice Rooke on July 20, 2017 granted an exception to this interim order in relation to *Nussbaum v Stoney*, Alberta Court of Queen’s Bench docket 1603 03761 (the “Rooke Order”).

[12] The current decision completes the second step of the two-part *Hok v Alberta* process.

[13] Relevant evidence for this analysis includes activities both inside and outside of court: *Bishop v Bishop*, 2011 ONCA 211 at para 9, 200 ACWS (3d) 1021, leave to SCC refused, 34271 (20 November 2011); *Henry v El*, 2010 ABCA 312 at paras 2-3, 5, 193 ACWS (3d) 1099, leave to SCC refused, 34172 (14 July 2011). A litigant’s entire court history is relevant, including litigation in other jurisdictions: *McMeekin v Alberta (Attorney General)*, 2012 ABQB 456 at paras 83-127, 543 AR 132; *Curle v Curle*, 2014 ONSC 1077 at para 24; *Fearn v Canada Customs*, 2014 ABQB 114 at paras 102-105, 586 AR 23. That includes non-judicial proceedings, as those may establish a larger pattern of behaviour: *Bishop v Bishop* at para 9; *Canada Post Corp. v Varma*, 2000 CanLII 15754 at para 23, 192 FTR 278 (FC); *West Vancouver School District No. 45 v Callow*, 2014 ONSC 2547 at para 39. A court may take judicial notice of public records when it evaluates the degree and kind of misconduct caused by a candidate abusive litigant: *Wong v Giannacopoulos*, 2011 ABCA 277 at para 6, 515 AR 58.

[14] A court may order court access restrictions where future litigation abuse is *anticipated*. As Verville J observed in *Hok v Alberta*, 2016 ABQB 651 at para 37:

... when a court makes a vexatious litigant order it should do so to respond to anticipated abuse of court processes. This is a prospective case management step, rather than punitive. [emphasis in original]

[15] When a court considers limits to future court access by a person with a history of litigation misconduct the key questions for a court are:

1. Can the court determine the identity or type of persons who are likely to be the target of future abusive litigation?
2. What litigation subject or subjects are likely involved in that abuse of court processes?
3. In what forums will that abuse occur?

(*Hok v Alberta*, 2016 ABQB 651 at para 36).

[16] Court access restriction orders should be measured versus and responsive to the anticipated potential for future abuse of court processes. Court access restrictions are designed in a functional manner and not restricted to formulaic approaches, but instead respond in a creative, but proportionate, manner to anticipated potential abuse: *Bhamjee v Forsdick & Ors (No 2)*, [2003] EWCA Civ 1113 (UK CA).

[17] A vexatious litigant order that simply requires the abusive person obtain permission, “leave”, from the court before filing documents to initiate or continue an action is a limited impediment to a person’s ability to access court remedies: *Hok v Alberta*, 2016 ABQB 651 at paras 32-33. Though this step is sometimes called “extraordinary”, that dramatic language exaggerates the true and minimal effect of a leave application requirement: *Wong v Giannacopoulos*, at para 8; *Hok v Alberta*, 2016 ABQB 651 at paras 32-33.

[18] Other more restrictive alternatives are possible, where appropriate, provided that more strict intervention is warranted by the litigant’s anticipated future misconduct: *Hok v Alberta*, 2016 ABQB 651 at para 34; *Ewanchuk v Canada (Attorney General)*, at paras 167-68.

III. Submissions and Evidence Concerning Appropriate Litigation Control Steps

A. The Sawridge Band

[19] The Sawridge Band submits that this Court should exercise its inherent jurisdiction and *Judicature Act*, RSA 2000, c J-2 ss 23-23.1 to restrict Maurice Stoney’s access to Alberta courts. The Sawridge Band relied on evidence concerning Maurice Stoney’s activities that was submitted to the Court in relation to *Sawridge #6*.

[20] The August 12, 2016 application was futile because Maurice Stoney had continued to repeat the same, already discounted argument. Maurice Stoney had not been granted automatic membership in the Sawridge Band by Bill C-31, and that fact had been either admitted or adjudicated in the *Huzar v Canada*, [2000] FCJ 873, 258 NR 246 (FCA) and *Stoney v Sawridge First Nation*, 2013 FC 509, 432 FTR 253 decisions.

[21] Maurice Stoney was allowed to apply to become a member of the Sawridge Band, but that application was denied, as was the subsequent appeal. The lawfulness of those processes was confirmed in *Stoney v Sawridge First Nation*.

[22] A subsequent 2014 Canadian Human Rights Commission complaint concerning the membership application process again alleged the same previously rejected arguments. The same occurred before the Alberta Court of Appeal in *Stoney v 1985 Sawridge Trust*, 2016 ABCA 51

[23] Maurice Stoney's persistent attempts to re-litigate the same issue represent collateral attacks and are hopeless proceedings. Stoney has failed to pay outstanding costs orders. His attempts to shift litigation costs to the 1985 Sawridge Trust are an aggravating factor. These factors imply that Maurice Stoney had brought these actions for an improper purpose. The August 12, 2016 application was a "busybody" attempt to enforce (alleged) rights of uninvolved third parties.

[24] Combined, these indicia of abusive litigation mean Maurice Stoney should be the subject of a vexatious litigant order that globally restricts his access to Alberta courts. In the alternative, a vexatious litigant order with a smaller scope should, at a minimum, restrict Maurice Stoney's potential litigation activities in relation to the Sawridge Band, its Chief and Council, the Sawridge 1985 and 1986 Trusts, and the Trustees of those trusts.

[25] Given Stoney's history of not paying cost awards he should be required to pay outstanding costs orders prior to any application for leave to initiate or continue actions, as in *R v Grabowski*, 2015 ABCA 391 at para 15, 609 AR 217.

B. The Sawridge 1985 Trust Trustees

[26] The Sawridge 1985 Trust Trustees adopted the arguments of the Sawridge Band, but also emphasized the importance of Maurice Stoney's answers and conduct during cross-examination on his May 16, 2016 affidavit. The Trustees stress this record shows that Maurice Stoney is uncooperative and refused to acknowledge the prior litigation results.

C. Maurice Stoney

[27] Maurice Stoney's written submissions were signed by and filed by lawyer Priscilla Kennedy, identified as "Counsel for Maurice Stoney". The contents of the written submissions are, frankly, unexpected. Paragraphs 6 through 13 advance legal arguments concerning Maurice Stoney's status as a member of the Sawridge Band:

1. the *Huzar v Canada* decision cannot be relied on as "evidence in this matter";
2. *Stoney v Sawridge First Nation* is not a "thorough analysis" of Maurice Stoney's arguments;
3. Maurice Stoney has not attempted to re-litigate the membership issue but rather to set out the legal arguments that address the definition of a beneficiary of the 1985 Sawridge Trust; and
4. "... there have been a number of recent decisions on these constitutional issues that have and are in the process of completely altering the law related to these issues of the membership/citizenship of Indians, in order to have them comply with the *Constitution*." [Italics in original].

[28] Paragraph 14 of the written brief, which follows these statements, reads:

It is acknowledged that this court has dismissed these arguments and they are not referred to here, other than as the facts to set the context for the matters to be dealt

with as directed on the issue of whether or not the application of Maurice Stoney was vexatious litigation.

[29] I reject that a bald statement that these are “the facts” proves anything, or establishes these statements are, in fact, true or correct.

[30] The brief then continues at paras 16-17, 24, 28 to state:

As shown by the litigation in the Sawridge Band cases above, the on-going case in [Descheneaux c Canada (Procureur Général), 2015 QCCS 3555] and the decision of the Supreme Court of Canada in [Daniels v Canada (Indian Affairs and Northern Development), 2016 SCC 12, [2016] 1 SCR 99], and the review of the Federal Court of Appeal decision in Huzar and the judicial review in Stoney, it is submitted that this is not a proceeding where the issue has been determined by a court of competent jurisdiction. Nor is this a matter where proceedings have been brought that cannot succeed or have no reasonable expectation of providing relief.

It is submitted that litigation seeking to determine whether or not you qualify as a beneficiary under a trust established on April 15, 1985 is a matter where the issue of membership/citizenship has not been settled by the courts, and this application was not brought for an improper purpose ...

Contrary to the argument of Sawridge First Nation these matters have not been determined in the past Federal Court proceedings. Issues of citizenship and the constitutionality of these proceedings remains a legal question today as shown by the on-going litigation throughout Canada. Plainly, this Court has determined that these arguments are dismissed in this matter and that is acknowledged.

... No conclusion was made in the 1995 Federal Court proceedings which were struck as showing no reasonable cause of action and the judicial review was concerned with the issue of the Sawridge First Nation Appeal Committee decision based on membership rules post September, 1985.

[31] These are reasons why the August 12, 2016 application was not a collateral attack:

No disrespect for the court process or intention to bring proceedings for an improper purpose, was intended to be raised by these arguments respecting this time period and the definitions of a beneficiary of this trust.

(Written brief, para 23).

[32] Prior to going any further I will at this point explain that I put no *legal* weight on these statements. If Maurice Stoney wishes to appeal *Sawridge #6* and my conclusions therein he may do so. In fact he did file an appeal of *Sawridge #6* as a self-represented litigant on August 11, 2017. If Maurice Stoney or his counsel wish to revisit *Sawridge #6* then they could have made an application under *Rule 9.13* of the *Alberta Rules of Court*, Alta Reg 124/2010 [the “*Rules*”, or individually a “*Rule*”], however they did not elect to do so. I conclude these statements, no matter how they were allegedly framed in paragraphs 14 and 23 of Stoney’s written arguments, are nothing more than an attempt to re-argue *Sawridge #6*. Again, I put no *legal* weight on these arguments, but conclude these statements are highly relevant as to whether Maurice Stoney is likely to in the future re-argue issues that have been determined conclusively by Canadian courts.

[33] Other submissions by Maurice Stoney are more directly relevant to his potentially being the subject of court-ordered restrictions. He acknowledges that there are unpaid costs to the Sawridge First Nation, but says these will be paid "... as soon as it is possible ...". Stoney indicates he has been unable to pay these costs amounts because of a foreclosure action.

[34] Affidavit evidence allegedly has established that Maurice Stoney was authorized to represent his brothers and sisters, and that Maurice Stoney was directed to act on their behalf. Counsel for Stoney unexpectedly cites *Federal Courts Rules*, SOR/98-106, s 114 as the authority for the process that Maurice Stoney followed when filing his August 12, 2016 application in the Alberta Court of Queen's Bench:

... The Federal Court Rules, provide for Representative proceedings where the representative asserts common issues of law and fact, the representative is authorized to act on behalf of the represented persons, the representative can fairly and adequately represent the interests of the represented persons and the use of a representative proceeding is the just, more efficient and least costly manner of proceeding. This method of proceeding is frequently used for aboriginals and particularly for families who are aboriginal. It is submitted that this was the most efficient and least costly manner of proceeding in the circumstances where the claim of all of the living children possess the same precise issues respecting their citizenship.

(Written Brief, para 24.)

Maurice Stoney therefore denies this was a "busybody" proceeding where he without authority attempted to represent third parties.

[35] The written argument concludes that Maurice Stoney should not be the subject of court access restrictions, but if the Court concludes that step is necessary then that restriction should only apply to litigation vs the Sawridge Band and 1985 Sawridge Trust.

D. Evidence

[36] The Trustees and the Sawridge Band entered as evidence a transcript of Maurice Stoney's cross-examination on his May 16, 2016 affidavit. This transcript illustrates a number of relevant points.

1. Maurice Stoney claims to be acting on behalf of himself and his brothers and sisters, and that he has their consent to do that: pp 9-10.
2. Maurice Stoney believes his father was forced out of Indian status by the federal government: p 12.
2. Maurice Stoney and his counsel Priscilla Kennedy do not accept that Maurice Stoney was refused automatic membership in the Sawridge Band by the *Huzar v Canada*, [2000] FCJ 873, 258 NR 246 (FCA) and *Stoney v Sawridge First Nation*, 2013 FC 509, 432 FTR 253 decisions: pp 23-27, 30-33.
3. Maurice Stoney claims he made an application for membership in the Sawridge Band in 1985 but that this application was "ignored": pp 37-39. Stoney however did not have a copy of that application: pp 39-40.
4. Maurice Stoney refused to answer a number of questions, including:

- whether he had read the *Stoney v Sawridge First Nation* decision (pp 32-33),
- whether he had made a Canadian Human Rights Commission complaint against the Sawridge Band (p 54),
- whether he had ever read the Sawridge Trust's documentation (pp 60-61),
- the identity of other persons whose Sawridge Band applications were allegedly ignored (pp 63-64), and
- the health status of the siblings for whom Maurice Stoney was allegedly a representative (p 66).

5. Maurice Stoney claims that the Sawridge Band membership application process is biased: pp 41-42.

[37] Maurice Stoney introduced three affidavits which he says indicate the August 12, 2016 application was not a "busybody" proceeding and instead Maurice Stoney was authorized to represent his other siblings in the Sawridge Advice and Direction Application:

1. Shelley Stoney, dated July 20, 2017, saying she is the daughter of Bill Stoney and the niece of Maurice Stoney. She is responsible "for driving my father and uncles who are all suffering health problems and elderly." Shelley Stoney attests "... from discussions among my father and his brothers and sisters" that Maurice Stoney was authorized to bring the August 12, 2016 application on their behalf.
2. Bill Stoney, brother of Maurice Stoney, dated July 20, 2017, saying he authorized Maurice Stoney to make the August 12, 2016 application on his behalf in the spring of 2016.
3. Gail Stoney, sister of Maurice Stoney, dated July 20, 2017, saying she authorized Maurice Stoney to make the August 12, 2016 application on his behalf in the spring of 2016.

[38] In *Sawridge #7* at paras 133-37 I conclude these affidavits should receive little weight:

The three affidavits presented by Kennedy do not establish that Maurice Stoney was authorized to represent his siblings. Even at the most generous, these affidavits only indicate that Bill and Gail Stoney gave some kind of oral sanction for Maurice Stoney to act on their behalf. I put no weight on the affidavit of Shelley Stoney. It is hearsay, and presumptively inadmissible.

I note that none of these affidavits were supported by any form of documentation, either evidence or records of communications between Maurice Stoney and his siblings, or between Kennedy and her purported clients.

I make an adverse inference from the absence of any documentary evidence of the latter. The fact that no documentation to support that Kennedy and the Stoney siblings communicated in any manner, let alone gave Kennedy authority to act on their behalf, means none exists.

There is no documentation to establish that Maurice Stoney applied to become a litigation representative or was appointed a litigation representative, per *Rules* 2.11-2.21. This is not a class action scenario where Maurice Stoney is a

representative applicant. While Kennedy has argued that Maurice Stoney's siblings are elderly and unable to conduct litigation, then that is not simply a basis to arbitrarily add their names to court filing. Instead, a person who lacks the capacity to represent themselves (*Rule 2.11(c-d)*) may have a self-appointed litigation representative (*Rule 2.14*), but only after filing appropriate documentation (*Rule 2.14(4)*). That did not occur.

[39] I come to the same conclusion here and also find as a fact that in this proceeding Maurice Stoney was not authorized to file the August 12, 2016 application on behalf of his siblings.

IV. Analysis

[40] What remains are two steps:

1. to evaluate the form and seriousness of Maurice Stoney's litigation misconduct, and
2. determine whether court access restrictions are appropriate, and, if so, what those restrictions should be.

[41] However, prior to that I believe it is helpful to briefly explore the inherent jurisdiction of this Court to limit litigant activities, vs the authority provided in *Judicature Act*, ss 23-23.1, since these two mechanisms were broached in the submissions of the parties.

A. Control of Abusive Litigation via Inherent Jurisdiction vs the *Judicature Act*

[42] An argument can be made that that Alberta Court of Queen's Bench may only restrict prospective litigation via the procedure in *Judicature Act*, ss 23-23.1. I disagree with that position, though at present this question has not been explicitly and conclusively decided by the Alberta Court of Appeal, or the Supreme Court of Canada.

[43] The most detailed investigation of this issue is found in *Hok v Alberta*, 2016 ABQB 651, where Verville J at paras 14-25 concluded that one element of this Court's inherent jurisdiction is an authority to restrict prospective and hypothetical litigation activities, both applications and entirely new actions.

[44] In coming to that conclusion Justice Verville rejected a principle found in I H Jacobs often-cited paper, "The Inherent Jurisdiction of the Court" ((1970) 23:1 Current Legal Problems 23 at 43), that UK tradition courts do not have an inherent jurisdiction to block commencement of potentially abusive proceedings:

The court has no power, even under its inherent jurisdiction, to prevent a person from commencing proceedings which may turn out to be vexatious. It is possibly by virtue of this principle that many a litigant in person, perhaps confusing some substratum of grievance with an infringement of legal right, is lured into using the machinery of the court as a remedy for his ills only to find his proceedings summarily dismissed as being frivolous and vexatious and an abuse of the process of the court. The inherent jurisdiction of the court has, however, been supplemented by statutory power to restrain a vexatious litigant from instituting or continuing any legal proceedings without leave of the court.

[45] Jacobs elsewhere in his paper explains that the inherent jurisdiction of the court flows from its historic operation, and stresses this is an adaptive tool that applies as necessary to address issues that would otherwise interfere with the administration of justice and the court's operations:

... inherent jurisdiction of the court may be defined as the reserve or fund of powers, a residual source of powers, which the court may draw upon as necessary whenever it is just and equitable to do so, and in particular to ensure the observance of the due process of law, to prevent improper vexation or oppression, to do justice between the parties and to secure a fair trial between them. ...

(Jacobs at 51)

[46] However, Jacob's conclusion that courts have no inherent jurisdiction to limit future litigation was based on a historical error, as explained in *Hok v Alberta*, 2016 ABQB 651, at para 17:

Two UK Court of Appeal decisions, *Ebert v Birch & Anor*, (also cited as *Ebert v Venvil*), [1999] EWCA Civ 3043 (UK CA) and *Bhamjee v Forsdick & Ors* (No 2), [2003] EWCA Civ 1113 (UK CA), set out the common law authority of UK courts to restrict litigant court access. Some Commonwealth authorities had concluded that UK and Commonwealth courts had no inherent jurisdiction to restrict a person from initiating new court proceedings, and instead that authority was first obtained when Parliament passed the Vexatious Actions Act, 1896. Ebert concludes that is false, as historical research determined that in the UK courts had exercised common law authority to restrict persons initiating new litigation prior to passage of the Vexatious Actions Act, 1896. That legislation and its successors do not codify the court's authority, but instead legislative and common-law inherent jurisdiction control processes co-exist.

[47] Furthermore, the Alberta Court of Appeal has itself issued vexatious litigant orders which do not conform to *Judicature Act* processes. For example, in *Dykun v Odishaw*, 2001 ABCA 204, 286 AR 392, that Court issued an "injunction" that restricted court access without either an originating notice or the consent of the Minister of Justice and Attorney General of Alberta (then required by *Judicature Act*, s 23.1). Justice Verville concludes (*Hok v Alberta*, 2016 ABQB 651, at paras 19-20, 25), and I agree, that this means Alberta courts have an inherent jurisdiction to take steps of this kind. If the Court of Appeal had the inherent jurisdiction to make the order it issued in *Dykun v Odishaw*, then so does the Alberta Court of Queen's Bench.

[48] Beyond that, the efficient administration of justice simply requires that there must be an effective mechanism by which the courts may control abusive litigation and litigants. This must, of course, meet the constitutional requirement that any obstacle or expense requirement placed in front of a potential court participant does not "... effectively [deny] people the right to take their cases to court ..." or cause "undue hardship": *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, 2014 SCC 59 at paras 40, 45-48, [2014] 3 SCR 31. As I have previously observed, an obligation to make a document-based application for leave to file is a comparatively minor imposition and obviously does not cause "undue hardship".

[49] The question, then, is whether the *Judicature Act*, ss 23-23.1 procedure is an adequate one, or does the Court need to draw on its "reserve" of "residual powers" to design an effective

mechanism to control abusive litigants and litigation. I conclude that it must. A critical defect in this legislation is that section 23(2) defines proceedings that are conducted in a “vexatious manner” as requiring “persistent” misconduct, for example “persistently bringing proceedings to determine an issue that has already been determined by a court of competent jurisdiction” [emphasis added]: *Judicature Act*, s 23(2)(a).

[50] The Alberta Court of Appeal in certain decisions that apply *Judicature Act*, ss 23-23.1 appears to apply this rule in a strict manner, for example, in *RO v DF*, 2016 ABCA 170, 36 Alta LR (6th) 282 at para 38 the Court stresses this requirement. Further, the *RO v DF* decision restricts the scope of a *Judicature Act*, ss 23-23.1 order on the basis that the vexatious litigant had no “... history of “persistently” ...” engaging in misconduct that involves outside parties. In other words, according to *RO v DF* the *Judicature Act*, ss 23-23.1 process operates retrospectively. *Judicature Act*, ss 23-23.1 authorize court access restrictions only after “persistent” misconduct has occurred.

[51] That said, it is clear that the Alberta Court of Appeal does not actually apply that requirement in other instances where it has made an order authorized per the *Judicature Act*. For example, in *Henry v El Slatter* JA ordered a broad, multi-court ban on the plaintiff’s court activities, though only one dispute is mentioned. There is no or little record of ‘persistent history’. *Henry v El* does not identify repeated or persistent litigation steps, nor are multiple actions noted. The misconduct that warranted the litigation restraint was bad arguments, and out-of-court misconduct: a need for the target of the misconduct to obtain police assistance, the plaintiff had foisted allegedly binding legal documents on the defendant, the abusive plaintiff was the target of a court ordered peace bond, and the abusive plaintiff posted a bounty for the defendant on the Internet.

[52] In *Hok v Alberta*, 2016 ABQB 651 at paras 36-37, Justice Verville concluded that an effective mechanism to limit court access should operate in a *prospective* manner - based on evidence that leads to a prediction of future abusive litigation activities. This is also the approach recommended in the UK Court of Appeal *Ebert v Birch & Anor*, [1999] EWCA Civ 3043 (UK CA) and *Bhamjee v Forsdick & Ors (No 2)* decisions.

[53] However, the strict “persistence”-driven approach in the *Judicature Act* and *RO v DF* only targets misconduct that has already occurred. It limits the court to play ‘catch up’ with historic patterns of abuse, only fully reining in worst-case problematic litigants after their litigation misconduct has metastasized into a cascade of abusive actions and applications.

[54] That outcome can sometimes be avoided.

I. Statements of Intent

[55] First, abusive litigants are sometimes quite open about their intentions. For example, in *McMeekin v Alberta (Attorney General)*, 2012 ABQB 625 at para 44, 543 AR 11, a vexatious litigant said exactly what he planned to do in the future:

I can write, I can write the judicature counsel, I can write the upper law society of Canada. I got Charter violations. I got administrative law violations. I’ve got civil contempt. I’ve got abuse of process. I’ve got abuse of qualified privilege. I can keep going, I haven’t even got, I haven’t even spent two days on this so far. And if you want to find out how good I am, then let’s go at it. But you know, at the

end of the day, I'm not walking away. And it's not going to get any better for them.

[56] It seems strange that a court is prohibited from taking that kind of statement of intent into account when designing the scope of court access restrictions. This kind of stated intention obviously favours broad control of future litigation activities.

[57] A modern twist on a statement of intentions is that some abusive litigants document their activities and intentions on Internet websites. For example, *West Vancouver School District No. 45 v Callow*, 2014 ONSC 2547 at paras 31, 40 describes how an abusive court litigant had, rather conveniently, documented and recorded online his various activities and his perceptions of a corrupt court apparatus.

[58] However, there is no reason why the opposite scenario would not be relevant. Where an abusive litigant chooses to take steps to indicate good faith conduct, then that action predicts future conduct, for example by taking tangible positive steps to demonstrate they are a 'fair dealer' by:

1. voluntarily terminating or limiting abusive litigation,
2. abandoning claims, restricting the scope of litigation, consenting to issues or facts previously in dispute,
- 3 retaining counsel, and
4. paying outstanding cost awards.

[59] These kinds of actions may warrant a problematic litigant receiving limited court access restrictions, or no court access restrictions at all. Rewarding positive self-regulation is consistent with the administration of justice, and a modern, functional approach to civil litigation.

2. Demeanor and Conduct

[60] Similarly, a trial court judge may rely on his or her perception of an abusive court participant's character, demeanor, and conduct. Obviously, there is a broad range of conduct that may be relevant, but it is helpful to look at one example. Maurice Prefontaine, a persistent and abusive litigant who has often appeared in Alberta and other Canadian courts, presents a predictable in-court pattern of conduct, which is reviewed in *R v Prefontaine*, 2002 ABQB 980, 12 Alta LR (4th) 50, appeal dismissed for want of prosecution 2004 ABCA 100, 61 WCB (2d) 306.

[61] Mr. Prefontaine presented himself in a generally ordered, polite manner in court. He was at one point a lawyer. He has for years pursued a dispute with the Canada Revenue Agency, and has appeared on many occasions in relation to that matter. Mr. Prefontaine's behaviour changed in a marked but predictable manner when his submissions were rejected. He explodes, making obscene insults and threats directed to the hearing judge and opposing parties. When a person responds to the court in this manner, that conduct is a significant basis to conclude that future problematic litigation is impending from that abusive court participant. Sure enough, that has been the case with Mr. Prefontaine.

[62] Also perhaps unsurprising is that Mr. Prefontaine's conduct is probably linked to his being diagnosed with a persecutory delusional disorder, or a paranoid personality disorder: *R v Prefontaine*, at paras 8-17, 82, 94-98.

3. Abuse Caused by Mental Health Issues

[63] There are many other examples of how litigation abuse has a mental health basis. For example, the plaintiff in *Koerner v Capital Health Authority*, 2011 ABQB 191, 506 AR 113, affirmed 2011 ABCA 289, 515 AR 392, leave to SCC refused, 34573 (26 April 2012) engaged in vexatious litigation because her perceptions were distorted by somatoform disorder, a psychiatric condition where a person reports spurious physical disorders (*Koerner v Capital Health Authority*, 2010 ABQB 590 at paras 4-5, 498 AR 109). Similarly, in *Re FJR (Dependent Adult)*, 2015 ABQB 112, court access restrictions were appropriate because the applicant was suffering from dementia that led to spurious, self-injuring litigation. In these cases future abuse of the courts can be predicted from a person's medical history.

[64] Another and very troubling class of abusive litigants are persons who are affected by querulous paranoia, a form of persecutory delusional disorder that leads to an ever-expanding cascade of litigation and dispute processes, which only ends after the affected person has been exhausted and alienated by this self-destructive process. Querulous paranoiacs attack everyone who becomes connected or involved with a dispute via a diverse range of processes including lawsuits, appeals, and professional complaints. Anyone who is not an ally is the enemy. This condition is reviewed in Gary M Caplan & Hy Bloom, "Litigants Behaving Badly: Querulousness in Law and Medicine" 2015 44:4 *Advocates' Quarterly* 411 and Paul E Mullen & Grant Lester, "Vexatious Litigants and Unusually Persistent Complainants and Petitioners: From Querulous Paranoia to Querulous Behaviour" (2006) 24 *Behav Sci Law* 333.

[65] Persons afflicted by querulous paranoia exhibit a unique 'fingerprint' in the way they frame and conduct their litigation as a crusade for retribution against a perceived broad-based injustice, and via a highly unusual and distinctive document style. The vexatious litigants documented in *McMeekin v Alberta (Attorney General)*, 2012 ABQB 456, 543 AR 132, *McMeekin v Alberta (Attorney General)*, 2012 ABQB 625, 543 AR 11, *Chutskoff v Bonora*, 2014 ABQB 389, 590 AR 288, *Hok v Alberta*, 2016 ABQB 335, and *Hok v Alberta*, 2016 ABQB 651 all exhibit the characteristic querulous paranoiac litigation and document fingerprint criteria.

[66] Mullen and Grant observe these persons cannot be managed or treated: pp 347-48. Early intervention is the only possible way to interrupt the otherwise grimly predictable progression of this condition: Caplan & Bloom, pp 450-52; Mullen & Lester, pp 346-47. Disturbingly, these authors suggest that the formal and emotionally opaque character of litigation processes may, by its nature, transform generally normal people into this type of abusive litigant: Caplan & Bloom, pp 426-27, 438.

[67] A "persistent misconduct" requirement means persons afflicted by querulous paranoia cannot be managed. They will always outrun any court restriction, until it is too late and the worst outcome has occurred.

4. Litigation Abuse Motivated by Ideology

[68] Other abusive litigants are motivated by ideology. A particularly obnoxious example of this class are the Organized Pseudolegal Commercial Argument ["OPCA"] litigants described in *Meads v Meads*, 2012 ABQB 571, 543 AR 215. Many OPCA litigants are hostile to and reject conventional state authority, including court authority. They engage in group and organized actions that have a variety of motives, including greed, and extremist political objectives: *Meads*

v Meads, at paras 168-198. Justice Morissette (“Querulous or Vexatious Litigants, A Disorder of a Modern Legal System?” (Paper delivered at the Canadian Association of Counsel to Employers, Banff AB (26-28 September 2013)) at pp 11) has observed for this population that abuse of court processes is a political action, “... the vector of an ideology for a class of actors in the legal system.”

[69] Some OPCA litigants use pseudolegal concepts to launch baseless attacks on government actors, institutions, lawyers, and others. For example:

- *ANB v Alberta (Minister of Human Services)*, 2013 ABQB 97, 557 AR 364 - after his children were seized by child services the Freeman-on-the-Land father sued child services personnel, lawyers, RCMP officers, and provincial court judges, demanding return of his property (the children) and \$20 million in gold and silver bullion, all on the basis of OPCA paperwork.
- *Ali v Ford*, 2014 ONSC 6665 - the plaintiff sued Toronto mayor Rob Ford and the City of Toronto for \$60 million in retaliation for a police attendance on his residence. The plaintiff claimed he was a member of the Moorish National Republic, and as a consequence immune from Canadian law.
- *Bursey v Canada*, 2015 FC 1126, aff'd 2015 FC 1307, aff'd *Dove v Canada*, 2016 FCA 231, leave to the SCC refused, 37487 (1 June 2017) - the plaintiffs claimed international treaties and the *Charter* are a basis to demand access to a secret personal bank account worth around \$1 billion that is associated with the plaintiffs' birth certificates; this is allegedly a source for payments owed to the plaintiffs so they can adopt the lifestyle they choose and not have to work.
- *Claeys v Her Majesty*, 2013 MBQB 313, 300 Man R (2d) 257 - the plaintiff sued for half a million dollars and refund of all taxes collected from her, arguing she had waived her rights to be a person before the law, pursuant to the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*. Canada had no authority because Queen Elizabeth II was “... Crowned on a fraudulent Stone and ... violated her Coronation Oath by giving Royal Assent to laws that violate God's Law ...”.
- *Doell v British Columbia (Ministry of Public Safety and Solicitor General)*, 2016 BCSC 1181 - an individual who received a traffic ticket for riding without a helmet sued British Columbia, demanding \$150,000.00 in punitive damages, because he is a human being and not a person, and the RCMP had interfered with his right “to celebrate divine service”.
- *Fiander v Mills*, 2015 NLCA 31, 368 Nfld & PEIR 80 - a person accused of fisheries offenses sued the Crown prosecutor, fisheries officer, and provincial court judge, arguing he was wrongfully prosecuted because he had opted out of “having” a “person” via the *Universal Declaration of Human Rights*.
- *Isis Nation Estates v Canada*, 2013 FC 590, the plaintiff, “Maitreya Isis Maryjane Blackshear, the Divine Holy Mother of all/in/of creation”, sued Alberta and Canada for \$108 quadrillion and that they “cease and desist all blasphemy” against the plaintiff.

[70] There is little need to explore why these claims are anything other than ridiculous.

[71] OPCA litigants have been formally declared vexatious, for example: *Boisjoli (Re)*, 2015 ABQB 629, 29 Alta LR (6th) 334; *Boisjoil (Re)*, 2015 ABQB 690; *Cormier v Nova Scotia*, 2015 NSSC 352, 367 NSR (2d) 295; *Curle v Curle*, 2014 ONSC; *Gauthier v Starr*, 2016 ABQB 213, 86 CPC (7th) 348; *Holmes v Canada*, 2016 FC 918; *R v Fearn*, 2014 ABQB 233, 586 AR 182; *Yankson v Canada (Attorney General)*, 2013 BCSC 2332.

[72] Judicial and legal academic authorities uniformly identify OPCA narratives and their associated pseudolegal concepts as resting on and building from a foundation of paranoid and conspiratorial anti-government and anti-institutional political and social belief. These individuals are sometimes called 'litigation terrorists' for this reason. They may act for personal benefit, but they also do so with the belief they are justified and act lawfully when they injure others and disrupt court processes. Persons who advance OPCA litigation to harm others have no place in Canada's courts. The court's inherent jurisdiction must be able to shield the innocent potential victims of these malcontents. Their next target can be anyone who crosses their path - government officials or organizations, peace officers, lawyers, judges, business employees - and who then offends the OPCA litigant's skewed perspectives.

[73] These individuals believe they have a right to attack others via the courts, they like the idea of doing that, and they view their litigation targets as bad actors who deserve punishment. Waiting for these individuals to establish "persistent misconduct" simply means they just have more opportunities to cause harm.

[74] The plaintiff in *Henry v El* was obviously an OPCA litigant engaged in a vendetta. Slatter JA in that matter did not wait for the plaintiff to establish a pattern of "persistently" misusing the courts to attack others. I agree that is the correct approach. If a person uses pseudolaw to attack others as a 'litigation terrorist' then that should be a basis for immediate court intervention to prevent that from recurring. If the *Judicature Act* cannot provide an authority to do that, then this Court's inherent jurisdiction should provide the basis for that step.

5. Persistent Abusive Conduct is Only One Predictor of Future Misconduct

[75] All this is not to say that "persistence" is irrelevant. In fact, it is extremely important. A history of persistent abuse of court processes implies the likelihood of other, future misconduct. Persistence is relevant, but must not be *the only prerequisite* which potentially triggers court intervention. Persistence is a clear and effective basis for a court to predict actions when it cannot ascertain motivation or pathology, and from that derive what is likely and predictable. However, that should not be the only evidence which is an appropriate basis on which to restrict court access.

[76] The reason that I and other Alberta Court of Queen's Bench judges have concluded that this Court has an inherent jurisdiction to limit court access to persons outside the *Judicature Act*, ss 23-23.1 scheme is not simply because the UK appeal courts have concluded that this jurisdiction exists, *but also because that authority is necessary*. *Sawridge #7* at paras 38-49 reviews how the Supreme Court has instructed that trial courts conduct a "culture shift" in their operation towards processes that are fair and proportionate, without being trapped in artificial and formulaic rules and procedures. This is *an obligation* on the courts. The current *Judicature Act*, ss 23-23.1 process is an inadequate response to the growing issue of problematic and abusive litigation.

[77] Even though the *Judicature Act* is not the sole basis for this Court's jurisdiction to control abusive litigation, that legislation could be amended to make it more effective. One helpful step would be to remove the requirement that "vexatious" litigation involves misconduct that occurs "persistently". Another would be to re-focus the basis for when intervention should occur. Currently, section 23.1(1) permits intervention when "... a Court is satisfied that a person is instituting vexatious proceedings in the Court or is conducting a proceeding in a vexatious manner ...". This again is backwards-looking, punitive language. In my opinion a superior alternative is "... when a Court is satisfied that a person may abuse court processes ...".

[78] The Legislature should also explicitly acknowledge that the *Judicature Act* procedure does not limit how courts of inherent jurisdiction may on their own motion and inherent authority restrict a person's right to initiate or continue litigation.

[79] As Veit J observed in *Sikora Estate (Re)*, 2015 ABQB 467 at paras 16-19, where a person seeks to have the court make an order that restricts court access then the appropriate procedure is *Judicature Act*, ss 23-23.1. That is a distinct process and authority from that possessed by judges of this Court. Given that the Masters of the Alberta Court of Queen's Bench derive their authority from legislation, another helpful step would be for the Legislature to extend *Judicature Act*, ss 23-23.1 to authorize Masters, on their own motion, to apply the *Judicature Act* procedure to control abusive litigants who appear in Chambers. This is not an uncommon phenomenon; the Masters are in many senses the 'front line' of the Court, and frequently encounter litigation abuse in that role.

B. Maurice Stoney's Abusive Activities

[80] In reviewing Maurice Stoney's litigation activities I conclude on several independent bases that his future access to Alberta courts should be restricted. His misconduct matches a number *Chutskoff v Bonora* "indicia" categories and exhibits varying degrees of severity.

1. Collateral Attacks

[81] First, Maurice Stoney has clearly attempted to re-litigate decided issues by conducting the *Stoney v Sawridge First Nation* judicial review, the 2016 Canadian Human Rights Commission application, and his attempts to interfere in the Advice and Direction Application litigation via the *Stoney v 1985 Sawridge Trust*, 2016 ABCA 51 appeal and his August 12, 2016 application. In each case he attempted to argue that he has automatically been made a member of the Sawridge Band by the passage of Bill C-31. He has also repeatedly attacked the processes of the Sawridge Band in administering its membership. My reasons for that conclusion are found in *Sawridge #6* at paras 41-52.

[82] This is the first independent basis on which I conclude Maurice Stoney's litigation activity should be controlled. He has a history of repeated collateral attacks in relation to this subject and the related parties. This has squandered important court resources and incurred unnecessary litigation and dispute-related costs on other parties.

2. Hopeless Proceedings

[83] Maurice Stoney's attempts to re-litigate the same issues also represent hopeless litigation. The principle of *res judicata* prohibits a different result. This is a second independent basis on which I conclude Maurice Stoney's litigation conduct needs to be controlled, though it largely overlaps with the issue of collateral attacks.

3. Busybody Litigation

[84] Maurice Stoney appears to have alleged two bases for why I should conclude his purportedly acting in court as a representative of his "living brothers and sisters" is not "busybody" litigation:

1. he has provided affidavit evidence to establish he was an authorized representative, and
2. representation in this manner is authorized by the *Federal Court Rules*, s 114.

[85] As I have previously indicated I reject that the affidavit evidence of Shelley, Bill, and Gail Stoney established on a balance of probabilities that Maurice Stoney was authorized to represent his siblings. As for the *Federal Court Rules*, that legislation has no legal relevance or application to a proceeding conducted in the Alberta Court of Queen's Bench.

[86] "Busybody" litigation is a very serious form of litigation abuse, particularly since it runs the risk of injuring otherwise uninvolved persons. I am very concerned about how the weak affidavit evidence presented by Maurice Stoney represents an after-the-fact attempt to draw Maurice Stoney's relatives not only into this litigation, but potentially with the result these individuals face court sanction, including awards of solicitor and own client indemnity costs. While I have rejected that possibility (*Sawridge #7* at paras 8, 139), the fact that risk emerged is a deeply aggravating element to what is already a very serious form of litigation abuse. This is a third independent basis on which I conclude Maurice Stoney's court access should be restricted.

4. Failure to Follow Court Orders - Unpaid Costs Awards

[87] Maurice Stoney admitted he has outstanding unpaid cost awards. Maurice Stoney says he is unable to pay the outstanding costs orders because he does not have the money for that. No evidence was tendered to substantiate that claim.

[88] A costs order is a court order. A litigant who does not pay costs is disobeying a court order.

[89] Outstanding costs orders on their own may not be a basis to conclude that a person's litigation activities require control. What amplifies the seriousness of these outstanding awards is that Maurice Stoney has attempted to shift all his litigation costs to a third party, the 1985 Sawridge Trust: *Sawridge #6* at para 78. Worse, the effect of that would be to deplete a trust that holds the communal property of an aboriginal community: *Sawridge #7* at paras 145-46, 148.

[90] A court may presume that a person intends the natural consequences of their actions: *Starr v Houlden*, [1990] 1 SCR 1366, 68 DLR (4th) 641. Maurice Stoney appears to intend to cause harm to those he litigates against. He conducts hopeless litigation and then attempts to shift those costs to innocent third parties. If unsuccessful, he says he is unable to pay those costs. In this context Maurice Stoney's failure to pay outstanding costs orders to the Sawridge Band is in itself a basis to take steps to restrict his court access.

5. Escalating Proceedings - Forum Shopping

[91] In *Sawridge #6* and *Sawridge #7* I noted that Maurice Stoney's dispute with the Sawridge Band has been spread over a range of venues. He acted in Federal Court, and when unsuccessful there he shifted to the Canadian Human Rights Commission. Again unsuccessful, he now

renewed his abusive litigation, this time in the Alberta Court of Queen's Bench and the Alberta Court of Appeal.

[92] I conclude this is a special kind of escalating proceedings, "forum shopping", where a litigant moves between courts, tribunals, and jurisdictions in an attempt to prolong or renew abusive dispute activities. Forum shopping is a particular issue in relation to vexatious litigants because court-ordered restrictions on litigation have a limited scope. For example, I have no authority to order steps that would affect a litigant's access to a court in a different province, or the federal courts.

[93] Abusive litigants can exploit this gap in Canadian court jurisdictions to repeatedly harm other litigants and, in the process, multiple courts. The litigation activities of a British Columbia resident, Roger Callow, are a dramatic example of forum shopping: reviewed in *West Vancouver School District No. 45 v Callow*, 2014 ONSC 2547; *Callow v Board of School Trustees, School District No. 45*, 2008 BCSC 778, 168 ACWS (3d) 906.

[94] Callow's dispute began in 1985 as a labour arbitration proceeding in response to Callow's employment being terminated. That led to litigation and appeals in that jurisdiction. The Supreme Court refused leave. More British Columbia lawsuits followed, and by 2003 Callow was declared a "vexatious litigant" in British Columbia. Callow then persisted with multiple appeals and leave applications. That led to a further 2010 order to control his court access. Callow now shifted to the Federal Court, where his actions were struck out as an abuse of process: *Callow v B.C. Court of Appeal Chief Justice Threfal* (9 November 2011), Vancouver T-1386-11 (FC), aff'd (2 December 2011), Vancouver T-138611 (FC); *Callow v Board of School Trustees (#45 West Vancouver)* (2 February 2015), Vancouver T-2360-14 (FC). In 2012 Callow then sued in Ontario, which led to him being subjected to broad court access restrictions in that jurisdiction as well: *West Vancouver School District No. 45 v Callow*, 2014 ONSC 2547.

[95] The saga then continued, with Callow next having filings struck out in Quebec (*Callow v Board of School Trustees (S.D. #45 West Vancouver)*, 2015 QCCS 5002, affirmed 2016 QCCA 60, leave to the SCC refused, 36883 (9 June 2016) and Saskatchewan (*Callow v West Vancouver School District No. 45*, 2015 SKQB 308, affirmed 2016 SKCA 25, leave to the SCC refused, 36993 (6 October 2016)). I would be unsurprised if Alberta is not at some point added to this list.

[96] Clearly, at least some persistent abusive court participants are willing to 'shop around', and Roger Callow's litigation is an extreme example of the waste that can result. Given the manner in which Canadian court and tribunal jurisdictions are structured there seems little way at present to escape scenarios like this. Academic commentary on the control of abusive litigation has recommended a national "vexatious litigant" registry: Caplan & Bloom at 457-58, Morissette at 22. I agree that would be a useful addition.

[97] Forum shopping by its very nature implies an intent to evade legitimate litigation control processes and legal principles, including *res judicata*. In the case of Maurice Stoney his forum shopping largely overlaps his abusive collateral attack and futile litigation activities, and is a highly aggravating factor to that misconduct.

6. Unproven Allegations of Fraud and Corruption

[98] The May 16, 2016 cross-examination transcript reveals that Maurice Stoney believes he and his relatives are the subjects of fraud and conspiracy that is intended to deny them their

birthright. For example, he says Sawridge Band membership applications have been ignored, though he has no proof of that.

[99] These allegations are not in themselves a basis to restrict Maurice Stoney's court access, however they provide some insight into his litigation objectives and how he views his now longstanding conflict with the Sawridge Band and its administration.

7. Improper Litigation Purposes

[100] The Sawridge Band argues Maurice Stoney's August 12, 2016 application has an improper purpose, or no legitimate purpose. Maurice Stoney's exact objective is not obvious. It may be he intends to pursue his perceived objective no matter the consequences or justification, to disrupt the membership process of the Sawridge Band, to obtain monies from the 1985 Sawridge Trust, or a combination of those motives. However, as I have previously indicated, the combination of futile litigation, unpaid costs awards, costs shifting, forum shopping, and a claim that the abusive litigant lacks the means to pay costs leads to a logical inference. The August 12, 2016 application had no legitimate purpose. Its only effect was to waste court and litigant resources.

[101] This is another independent basis on which I conclude court intervention is warranted to control Maurice Stoney's access to Alberta Courts.

C. Anticipated Litigation Abuse

[102] This decision identifies five independent bases on which this Court should take steps to control future litigation abuse by Maurice Stoney in Alberta Courts. Collectively, that strongly favours court intervention. His litigation history predicts future litigation abuse.

[103] But that is secondary to another fact - that the submissions received in the second stage of the procedure found in *Hok v Alberta* shows that Maurice Stoney and his counsel still do not accept that prior decisions mean Maurice Stoney has no right to continue his interference with the Sawridge Band and its membership processes. Instead, Maurice Stoney and his counsel say his arguments are viable, if not correct. Those are "the facts". This is a very strong predictor of future abusive litigation activities. Maurice Stoney's objectives and beliefs remain unchanged.

[104] What remains is to determine the scope of that court access restriction order. The combination of trial, appeal, judicial review, and tribunal activities strongly predicts that Maurice Stoney will not restrict his abusive litigation activities to a particular forum. Instead, his history of forum shopping suggests the opposite.

[105] While I have agreed with many of the Sawridge Band and 1985 Sawridge Trust's arguments, I do not accept that Maurice Stoney's litigation history and apparent intentions means that his plausible future abusive litigation activities cannot be restricted to a particular target group or dispute. Instead, Maurice Stoney's complaint-related activities have a clear focus: his long-standing dispute with the Sawridge Band concerning band membership. I did not receive any evidence or statements that suggest that Stoney's abusive activities will expand outside that target set. I therefore only require Stoney obtain leave to initiate or continue litigation in Alberta courts where the litigation involves:

1. the Sawridge Band,
2. the 1985 Sawridge Trust,

- 3 the 1986 Sawridge Trust,
- 4 the current, former, and future Chief and Council of the Sawridge Band,
- 5 the current, former, and future Trustees of the 1985 Sawridge Trust and 1986 Sawridge Trust,
- 6 the Public Trustee of Alberta,
- 7 legal representatives of categories 1-6,
- 8 members of the Sawridge Band,
- 9 corporate and individual employees of the Sawridge Band, and
- 10 the Canadian federal government.

[106] I have defined this plausible target group broadly because Maurice Stoney's allegations of conspiracy against himself and his siblings raises a concern that Maurice Stoney may shift his focus from the Sawridge Band and the Trusts to the individuals who are involved in the prior litigation and Sawridge Band membership-related processes and decisions.

[107] Maurice Stoney's litigation misconduct extends to appeals. Normally that would mean that I would restrict his access to all three levels of Alberta Courts, however in light of the inconsistent Alberta Court of Appeal jurisprudence on control of abusive and vexatious litigation in that forum I do not extend my order to that Court: *Hok v Alberta*, 2016 ABQB 335; *Ewanchuk v Canada (Attorney General)*.

[108] I agree that Maurice Stoney's future litigation activities should be made dependent on him first paying outstanding cost awards.

[109] Maurice Stoney's "busybody" activities, and his attempts to justify his purportedly authorized representation activities in this hearing raise the troubling possibility that Stoney will again attempt to draw others into his disputes. Persons have no constitutional right to represent others (*Gauthier v Starr*, 2016 ABQB 213, 86 CPC (7th) 348), and appearing before a court is a privilege solely subject to the court's discretion (*R v Dick*, 2002 BCCA 27, 163 BCAC 62). Maurice Stoney has badly abused that privilege and his arguments concerning his "busybody" activities are highly problematic. He has demonstrated he is an unfit litigation representative. I therefore order that Maurice Stoney is prohibited from representing any person in all Alberta Courts.

D. Court Access Control Order

[110] I therefore order:

1. Maurice Felix Stoney is prohibited, under the inherent jurisdiction of the Alberta Court of Queen's Bench, from commencing, or attempting to commence, or continuing any appeal, action, application, or proceeding in the Court of Queen's Bench or the Provincial Court of Alberta, on his own behalf or on behalf of any other person or estate, without an order of the Chief Justice or Associate Chief Justice, or Chief Judge, of the Court in which the proceeding is conducted, or his or her designate, where that litigation involves any one or more of:
 - (i) the Sawridge Band,
 - (ii) the 1985 Sawridge Trust,

- (iii) the 1986 Sawridge Trust,
 - (iv) current, former, and future Chief and Council of the Sawridge Band,
 - (v) the current, former, and future Trustees of the 1985 Sawridge Trust and 1986 Sawridge Trust,
 - (vi) Public Trustee of Alberta,
 - (vii) legal representatives of categories 1-6,
 - (viii) members of the Sawridge Band,
 - (ix) corporate and individual employees of the Sawridge Band, and
 - (x)) the Canadian federal government.
2. Maurice Felix Stoney is prohibited from commencing, or attempting to commence, or continuing any appeal, action, application, or proceeding in the Court of Queen's Bench or the Provincial Court of Alberta, on his own behalf or on behalf of any other person or estate, until Maurice Felix Stoney pays in full all outstanding costs ordered by any Canadian court.
 3. The Chief Justice or Associate Chief Justice, or Chief Judge, or his or her designate, may, at any time, direct that notice of an application to commence or continue an appeal, action, application, or proceeding be given to any other person.
 4. Maurice Felix Stoney must describe himself, in the application or document to which this Order applies as "Maurice Felix Stoney", and not by using initials, an alternative name structure, or a pseudonym.
 5. Any application to commence or continue any appeal, action, application, or proceeding must be accompanied by an affidavit:
 - (i) attaching a copy of the Order issued herein, restricting Maurice Felix Stoney's access to the Alberta Court of Queen's Bench and Provincial Court of Alberta;
 - (ii) attaching a copy of the appeal, pleading, application, or process that Maurice Felix Stoney proposes to issue or file or continue;
 - (iii) deposing fully and completely to the facts and circumstances surrounding the proposed claim or proceeding, so as to demonstrate that the proceeding is not an abuse of process, and that there are reasonable grounds for it;
 - (iv) indicating whether Maurice Felix Stoney has ever sued some or all of the defendants or respondents previously in any jurisdiction or Court, and if so providing full particulars;
 - (v) undertaking that, if leave is granted, the authorized appeal, pleading, application or process, the Order granting leave to proceed, and the affidavit in support of the Order will promptly be served on the defendants or respondents;
 - (vi) undertaking to diligently prosecute the proceeding; and
 - (vii) providing evidence of payment in full of all outstanding costs ordered by any Canadian court.

6. Any application referenced herein shall be made in writing.
7. The Chief Justice or Associate Chief Justice, or Chief Judge, or his or her designate, may:
 - (i) give notice of the proposed claim or proceeding and the opportunity to make submissions on the proposed claim or proceeding, if they so choose, to:
 - a) the involved potential parties;
 - b) other relevant persons identified by the Court; and
 - c) the Attorney Generals of Alberta and Canada.
 - (ii) respond to the leave application in writing; and
 - (iii) hold the application in open Court where it shall be recorded.
8. Leave to commence or continue proceedings may be given on conditions, including the posting of security for costs.
9. An application that is dismissed may not be made again.
10. An application to vary or set aside this Order must be made on notice to any person as directed by the Court.

[111] This order will be prepared by the Court and filed at the same time, as this Case Management Decision and takes effect immediately. The exception granted in the Rooke Order shall apply to this court access control order.

[112] The interim order made per *Sawridge #6* at para 65-66 is vacated.

V. Representation by Priscilla Kennedy in this Matter

[113] I have deep concerns about the manner in which Maurice Stoney's lawyer, Priscilla Kennedy, has conducted herself in this matter. Certain of those issues are reviewed in *Sawridge #7*, a judgment where I determined that Kennedy should be personally responsible for her client's costs award because of her misconduct. She represented a client who made a hopeless application that was a serious abuse of the Court and other litigants, and involved other third parties without their authorization.

[114] In *Sawridge #7* Ms. Kennedy was represented by Mr. Donald Wilson, a partner of the law firm DLA Piper, which is the law firm that employs Ms. Kennedy. I reproduce verbatim certain of Mr. Wilson's submissions to the Court in *Sawridge #7*:

... in these circumstances, I will say that Ms. Kennedy has prosecuted this action on [Maurice Stoney's] behalf further than I would've, further than I think she should've. ...

... the reason I go through this, Sir, is I think quite candidly I've conceded that Ms. Kennedy prosecuted this action further than I would've, further than I think she ought to have ...

Now, if I'm [counsel for the Sawridge Band], I can tell you that the Band is the person that gets to determine their membership and that is entirely appropriate. And in Mr. Stoney's case they've done that. Appeals were made on two different

levels. An additional attempt was made at the Human Rights tribunal. And Mr. Stoney has been told, and I know he's been told this because I told him this, he is at the end of his rope with respect to the Sawridge Band and the Court system.

And the reason for that is background and history. It's one of Montgomery's campaigns in World War II, it's a bridge too far. He would've been fine if he'd stopped at bridges, by going for a third bridge the campaign itself stopped. In this instance, had -- if I'd been engaged or consulted, if I read Sawridge 5 ... the fact that the Court is not, unlikely earlier trust litigation where often the trust ends up paying for part of the litigant's costs, the Court could not have been clearer that is not going forward. And the Court indicated interlope. That is, someone does not have a claim on the trust, presumably would make the trial more complicated, more time consuming, higher costs for everyone. ...

Now, I can tell you that in the course of the last week ... I had occasion to speak in depth with Ms. Kennedy. And Ms. Kennedy tried to convince me as to the merits of Mr. Stoney's case. And at a certain point in time, I had to tell her that he has exhausted his remedies in the legal realm with respect to the Sawridges and it's time to move on.

...

My submission would be the application that resulted in Sawridge 6 should not have been made. It was ill-advised. But was not done with bad motives, an attempt to abuse the process. It had that effect, I have to say in front of my friends it absolutely had that effect...

... what the Court is trying to do, as you properly cite in your decision with respect to sanctions, is to change behaviour. It's the same rationale behind torts which is you're giving a tort award so that some other idiot isn't going to follow and do the same thing. And, with respect, I would submit to you that the seriousness of what Sawridge 6 is has been driven home to Ms. Kennedy. And, with respect, it's been driven home as much as an order of contempt or a referral to the Law Society. The decision is out there, we have a courtroom full of reporters here to report on the matter.

And I'm reminded of someone once asked Warren Buffett when he was testifying at the congress as to what was reasonable, and it was on the context of a company he owned and insider trading. And Mr. Buffett to the U.S. congress testified it meets a very easy standard. And the standard is, if they printed the story in your home town and your mother and your father had an opportunity to read it, would you be embarrassed? And, with respect, Ms. Kennedy and the Sawridge 6 decision has brought home the falling of continuing to prosecute the remedy she's seeking for Mr. Stoney. Which, after meeting Mr. Stoney, I understand. But there's a certain point in time the legal remedies have been exhausted. ...

[Emphasis added.]

[115] I believe I am fair when I indicate these submissions say that at the *Sawridge #7* hearing Mr. Wilson, on behalf of Ms. Kennedy, had acknowledged that there was no merit to the August 12, 2016 application, and that the legal issues involved in that application had been decided,

conclusively, in a series of earlier court proceedings. Yet, here in her written submissions, Ms. Kennedy on behalf of Maurice Stoney, re-argues the very same points. Her submissions are the law is unsettled, issues remain arguable, despite her counsel's admission on July 28, 2017 that the effect of the August 12, 2016 application was to abuse of the court's process: "... it absolutely had that effect ..." [emphasis added].

[116] Mr. Wilson told me in open court that Ms. Kennedy had learned her lesson. When I read the written brief Kennedy prepared and submitted on behalf of Maurice Stoney, I questioned whether that was true.

[117] In *Sawridge #7* at paras 98-99 I explained my conclusion why a lawyer who re-litigates or repeatedly raises settled issues has engaged in serious misconduct that is contrary to the standards expected of persons who hold the title "lawyer". I also observed on how advancing abusive litigation is a breach not merely of a lawyer's professional and court officer duties. It is a betrayal of the solicitor-client relationship, and 'digs a grave for two': para 74.

[118] I am also troubled by Ms. Kennedy relying on a procedure found in the *Federal Court Rules* to explain why Maurice Stoney's August 12, 2016 application was not a "busybody" proceeding. Stating what should be obvious, civil proceedings in front of this Court are governed by the *Alberta Rules of Court*, not the *Federal Court Rules*. I question the competence of a lawyer who does not understand what court rules apply in a specific jurisdiction.

[119] In *Sawridge #7* at paras 51-58 I reviewed case law concerning the inherent jurisdiction of a Canadian court to control lawyers and their activities. At para 56 I cited *MacDonald Estate v Martin*, [1990] 3 SCR 1235 at 1245, 77 DLR (4th) 249 for the rule that courts as part of their supervisory function may remove lawyers from litigation, where appropriate. In that decision representation by lawyers was challenged on the basis of an alleged conflict of interest. However, the inherent jurisdiction of the court is not expressly restricted to simply that:

... The courts, which have inherent jurisdiction to remove from the record solicitors who have a conflict of interest, are not bound to apply a code of ethics. Their jurisdiction stems from the fact that lawyers are officers of the court and their conduct in legal proceedings which may affect the administration of justice is subject to this supervisory jurisdiction. ... [Emphasis added.]

[120] In my opinion Ms. Kennedy's conduct raises the question of whether she is a suitable representative for Maurice Stoney, and whether the proper administration of justice requires that Ms. Kennedy should be removed from this litigation.

[121] This judgment represents what I believe should be Ms. Kennedy's final opportunity to participate in the Advice and Direction Application in the Alberta Court of Queen's Bench as a representative of Maurice Stoney. If that were not the case then I would have proceeded to invite submissions from Ms. Kennedy why she and her law firm, DLA Piper, should not be removed as representatives of Maurice Stoney, and prohibited from any future representation of Maurice Stoney in the Advice and Direction Application.

[122] Instead I will send a copy of this judgment to the Law Society of Alberta for review.

VI. Conclusion

[123] I conclude that Maurice Felix Stoney has engaged in abusive litigation activities resulting in him being required to seek leave prior to initiating or continuing litigation in the Alberta Court of Queen's Bench and Alberta Provincial Court that relates to persons and organizations involved with the Sawridge Band and Maurice Stoney's disputes concerning membership in that Band. Maurice Stoney may only seek leave after he has paid all outstanding costs awards.

[124] Maurice Stoney is also prohibited from representing others in any litigation before the Alberta Provincial Court, Alberta Court of Queen's Bench, and Alberta Court of Appeal.

[125] I confirm that I will send a copy of this judgment to the Law Society of Alberta for review in respect to Ms. Kennedy.

Appearances made by written submissions.

Dated at the City of Edmonton, Alberta this 12th day of September, 2017.

D.R.G. Thomas
J.C.Q.B.A.

Submissions in writing from:

Priscilla Kennedy
DLA Piper
for Maurice Felix Stoney (Applicant)

Edward H. Molstad, Q.C.
Parlee McLaws LLP
for the Sawridge Band

D.C. Bonora
Dentons LLP
for 1985 Sawridge Trustees