

COURT OF APPEAL OF ALBERTA

Form AP-3

[Rule 14.53]

COURT OF APPEAL FILE NUMBER: 1703-0239 AC

TRIAL COURT FILE NUMBER: 1103 14112

REGISTRY OFFICE: Edmonton



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

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

APPLICANTS: MAURICE FELIX STONEY AND
HIS BROTHERS AND SISTERS

STATUS ON APPEAL: Interested Party

STATUS ON APPLICATION: Interested Party

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

STATUS ON APPEAL: Respondent

STATUS ON APPLICATION: Respondent

RESPONDENT: PUBLIC TRUSTEE OF ALBERTA

STATUS ON APPEAL: Not a party to the Appeal

STATUS ON APPLICATION: Not a party to the Application

INTERVENOR:	THE SAWRIDGE BAND
STATUS ON APPEAL:	As determined by the Court
STATUS ON APPLICATION:	As determined by the Court
INTERESTED PARTY:	PRISCILLA KENNEDY, Counsel for Maurice Felix Stoney and His Brothers and Sisters
STATUS ON APPEAL:	Appellant
STATUS ON APPLICATION:	Applicant
DOCUMENT:	APPLICATION OF PRISCILLA KENNEDY FOR ADVICE AND DIRECTION ON PERMISSION TO APPEAL AND PERMISSION TO APPEAL IF REQUIRED
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:	Field LLP 2500, 10175 - 101 Street Edmonton, Alberta T5J OH3 Attention: P. Jonathan Faulds, QC Phone: 780-423-7625 Fax: 780-429-9329 File: 65063-1
And CONTACT INFORMATION OF ALL OTHER PARTIES:	DENTONS LLP 2900 Manulife Place 10180-101 Street NW Edmonton, AB T5J 3V5 Attention: Doris Bonora & Erin Lafuente Phone: 780 423 7188 Fax: 780 423 7276 Counsel for the Sawridge Trustees
	PARLEE MCLAWS LLP 1700 Enbridge Centre 10175-101 Street NW Edmonton, AB T5J OH3 Attention: Edward Molstad, QC & Ellery Sopko Phone: 780 423 8500 Fax: 780 423 2870 Counsel for The Sawridge Band
	Maurice Felix Stoney 500 4 th Street NW Slave Lake, AB T0G 2A1

NOTICE TO RESPONDENT(S):

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

WARNING

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

NOTICE TO RESPONDENT(S):

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

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

Date: October 17, 2017

Time: 9:30 a.m.

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

Before: ☒ single judge of the court (Rule 14.37)
☐ panel of the court (Rule 14.38)

Nature of Application and Relief Sought:

1. This is an application for:
 - a. advice and direction as to whether permission is required to appeal the decision of Thomas J as Case Management Justice (the "CMJ") dated August 31, 2017. The CMJ found Priscilla Kennedy, a barrister and solicitor, personally liable for costs awarded against her client on the basis that she conducted "an unfounded, frivolous, dilatory or vexatious proceeding that denotes a serious abuse of the judicial system" and engaged in litigation on a "busybody" basis. The CMJ also directed that his decision be forwarded to the Law Society of Alberta for its review; and

- b. In the event permission is required, that permission.

Grounds for making this application:

2. The Applicant is of the view that given the nature of the decision permission is not required, but recognizes this may be disputed and therefore seeks advice and direction;
3. The Applicant has informally sought the advice of the Case Management Officer but definitive advice was not available, giving rise to this application;
4. If permission is required, the test for permission to appeal a decision is met because:
 - a. there are arguable issues on appeal;
 - b. the issues are of importance to the parties and in general;
 - c. there is practical utility to this costs appeal; and
 - d. this appeal will not delay the proceedings.

Material or evidence to be relied on:

5. The Affidavit of Priscilla Kennedy, filed herein.
6. Such further and other material as counsel may advise and the Court may allow

Applicable Acts, regulations and rules:

7. Alberta Rules of Court, Rules 10.50; 14.5(1)(e); 14.44