

COURT OF APPEAL OF ALBERTA

Form AP-1
[Rule 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 1703-0193 AC

TRIAL COURT FILE NUMBER: 1103-14112

REGISTRY OFFICE: Edmonton

PLAINTIFF/APPLICANT: Patrick Twinn, on his behalf,
Shelby Twinn and Deborah A.
Serafinchon

STATUS ON APPEAL: Appellant

DEFENDANT/RESPONDENT: Roland Twinn, Catherine Twinn,
Walter Felix Twin, Bertha
L'Hirondelle, and Clara Midbo, As
Trustees for the 1985 Sawridge
Trust (the "1985 Sawridge
Trustees" or "Trustees")

STATUS ON APPEAL: Respondent

DEFENDANT/RESPONDENT: Public Trustee of Alberta
("OPTG")

STATUS ON APPEAL: Respondent

DEFENDANT/RESPONDENT: Catherine Twinn

STATUS ON APPEAL: Respondent

DEFENDANT/RESPONDENT: Patrick Twinn, on behalf of his
infant daughter, Aspen Saya
Twinn, and his wife Melissa
Megley

STATUS ON APPEAL: Not a Party to the Appeal

DOCUMENT:

CIVIL NOTICE OF APPEAL

APPELLANT'S ADDRESS FOR SERVICE AND CONTACT INFORMATION:

BORDEN LADNER GERVAIS LLP
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File no. 443395-000001



WARNING

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

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

Date pronounced: July 5, 2017

Date entered: July 19, 2017

Date served: July 19, 2017

Official neutral citation of reasons for decision, if any:

(do not attach copy) 2017 ABQB 377

(Attach a copy of order or judgment: Rule 14.12(3). If a copy is not attached, indicate under item 14 and file a copy as soon as possible: Rule 14.18(2).)

2. Indicate where the matter originated:

☒ Court of Queen's Bench

Judicial Centre: Edmonton

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

On appeal from a Queen's Bench Master or Provincial Court Judge?: ☐ Yes ☒ No

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

(do not attach copy) _____

(If originating from an order of a Queen's Bench Master or Provincial Court Judge, a copy of that order is also required: Rule 14.18(1)(c).)

☐ Board, Tribunal or Professional Discipline Body

Specify Body: _____

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

☒ Permission not required, or ☐ Granted

Date: _____

Justice: _____

(Attach a copy of order, but not reasons for decision.)

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

- ☒ Whole, or
☐ Only specific parts (if specific part, indicate which part):

5. Provide a brief description of the issues:

The issues in this Appeal are as follows:

- (i) Whether the learned Justice committed a reviewable error in dismissing the Appellants' application to be named as Parties or in the alternative Interveners in Court Action No. 1103-14112 (the "Action");
- (ii) If the learned Justice did commit a reviewable error in dismissing the Appellants' application to be added as Parties or in the alternative Interveners in the Action, whether the Appellants are entitled to advance costs; and
- (iii) Whether the learned Justice committed a reviewable error by ordering that the Appellants pay the costs of the Trustees in responding to the Application.

6. Provide a brief description of the relief claimed:

The Appellant requests the following relief:

- (i) That the Judgment of the Honourable Justice D.R.G. Thomas of July 19, 2017 dismissing the Appellants' application to be named as Parties or in the alternative Interveners.
- (ii) That the costs award against the Appellants be set aside.
- (iii) An Order finding that the Appellants be named as Parties or in the alternative Interveners to this Action.
- (iv) An Order finding that the Appellants are entitled to advance costs.
- (v) Such further and other relief as counsel may advise and this Honourable Court allow.

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

- ☒ Yes ☐ No

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

- ☐ Yes ☒ No

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

- ☐ Yes ☒ No

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

- ☐ Yes ☒ No

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

- ☐ Yes ☒ No

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

☐ Yes ☒ No

If yes, provide details: _____

(Attach a copy of any order.)

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

DENTONS LLP

2900 Manulife Place, 10180-101 Street NW

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Counsel for the Respondents,

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

HUTCHISON LAW

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Solicitor: Janet Hutchison

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Counsel for the Office of the Public Guardian and Trustee

MCLENNAN ROSS LLP

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Edmonton, AB T5N 3Y4

Solicitor: Karen A. Platten Q.C.

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Kplatten@mross.com

Counsel for Catherine Twinn

*If specified constitutional issues are raised, service on the Attorney General is required under s. 24 of the
Judicature Act: Rule 14.18(1)(c)(viii).*

14. Attachments (as applicable):

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

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

COURT FILE NUMBER 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 AMENDED

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

APPLICANTS: ROLAND TWINN, CATHERINE
TWINN, WALTER FELIX TWIN,
BERTHA L'HIRONDELLE and CLARA
MIDBO, as Trustees for the 1985
Sawridge Trust (the "Sawridge
Trustees")

DOCUMENT ORDER

I hereby certify this to be a
true copy of the original.


for Clerk of the Court

ADDRESS FOR SERVICE
AND
CONTACT INFORMATION
OF
PARTY FILING THIS
DOCUMENT Dentons Canada LLP
2900, 10180 101 Street
Edmonton, AB T5J 3V5
Attention: Doris Bonora
Telephone: (780) 423-7188
Facsimile: (780) 423-7276
File No.: 551880 -1

DATE ON WHICH ORDER WAS PRONOUNCED:

July 5, 2017

LOCATION WHERE ORDER WAS PRONOUNCED:

Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice D.R.G. Thomas

UPON THE APPLICATION of Patrick Twinn, Aspen Saya Twinn, Melissa Megley, Shelby Twinn and Deborah A. Serafinchon in respect of being added as parties to the within action and seeking advance full indemnity costs; and Upon hearing from the counsel for The Office of the Public Trustee and Guardian, Sawridge Trustees, Catherine Twinn and Counsel for Patrick Twinn, Shelby Twinn and Deborah A. Serafinchon by written brief and subsequent correspondence; and Upon the decision of The Honourable Mr. Justice D.R.G. Thomas dated July 5, 2017 ABQB 377;

IT IS HEREBY ORDERED THAT:

1. As no submissions were made on the accounting, the claims by Patrick Twinn and Shelby Twinn for an accounting from the Trustees are dismissed on a without prejudice basis. [1, 20]
2. The claims by Patrick Twinn on behalf of his infant daughter, Aspen Saya Twinn and his wife Melissa Megley, have been abandoned and are dismissed. [21]
3. The claims by Patrick Twinn, Shelby Twinn and Deborah Serafinchon to be added as parties are dismissed [22]
4. Patrick Twinn and Shelby Twinn are recognized as Beneficiaries of the 1985 Trust by the Trustees and are hereby declared Beneficiaries of the 1985 Trust by the Court [32, 34 and 39]
5. Patrick Twinn and Shelby Twinn may have ongoing involvement in the litigation by transparent and civil communications with the Trustees and their legal counsel and through a positive dialogue to ensure that their status as beneficiaries is respected. [39]
6. Deborah Serafinchon may monitor the progress of this litigation and review the proposals which the Trustees may make in respect of the definition of 'beneficiary' under the 1985 Trust and provide comments to the Trustees and the Court [43];
7. Costs are awarded against Deborah Serafinchon in favor of the Sawridge Trustees on a party/ party basis [54]
8. Patrick Twinn and Shelby Twinn shall pay solicitor and own client indemnity costs of the Sawridge Trustees in responding to this application. [53]
9. The Public Trustee shall continue to act as litigation representative for the categories of minors the Court has identified as requiring representation, as specifically set out in

Sawridge #3, who have become adults during the course of the litigation. Said representation by the Public Trustee shall be subject to the existing indemnity and costs exemption orders [55]



Honourable Justice D.R.G. Thomas

Thomas J