

COURT FILE NUMBER 1103 14112  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE Edmonton

IN THE MATTER OF THE TRUSTEE ACT,  
R.S.A 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



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

DOCUMENT EXTRACTS OF EVIDENCE OF THE APPLICANT  
BENEFICIARIES PATRICK TWINN, SHELBY  
TWINN, AND DEBORAH A. SERAFINCHON

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File no. 443395/01

## Extracts of Evidence

### Tab

- A. Transcript of Case Management Meeting before Honorable Justice Thomas dated August 24, 2016, page 7 lines 27-33
- B. Transcript from Questioning of Patrick Twinn, page 8, lines 12-15 and page 9, lines 9-12
- C. Transcript from Questioning of Shelby Twinn page 25, lines 10-14  
Transcript from Questioning of Deborah Serfinchon page 25, lines 13 -17  
Transcript from Questioning of Patrick Twinn page 15, lines 14-24 and page 18, lines 1-21

Action No.: 1103 14112  
E-File No.: EVQ16SAWRIDGEBAND3  
Appeal No.: \_\_\_\_\_

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE OF EDMONTON

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")

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

Applicants

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PROCEEDINGS

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Edmonton, Alberta  
August 24, 2016

Transcript Management Services, Edmonton  
1000, 10123 99th Street  
Edmonton, Alberta T5J-3H1  
Phone: (780) 427-6181 Fax: (780) 422-2826

1 Twinn.

2  
3 Subsequent to the filing of those briefs, we received applications by Morris Stoney and  
4 his brothers and sisters, and from Patrick Twinn, and his family Shelby Twinn and Debra  
5 Sarafinchin.

6  
7 In respect of the standing of those parties and whether they are beneficiaries, we believe  
8 that until those applications are heard, that, as beneficiaries, they probably have a right to  
9 speak. If they, in fact, are beneficiaries and are going to be treated as parties, that they  
10 have a right to speak to distribution, and so we think it appropriate to postpone that issue.  
11 It's ready to go once we've determined the standing of the various other parties and -- and  
12 it would be our submission that especially with respect to the clients Ms. Golding  
13 represents.

14  
15 So those are my submissions in respect of the adjournment, and I think all counsel are on  
16 board with that adjournment request.

17  
18 THE COURT: So both the distribution plan, I'll call it, plus  
19 the issue of -- the outstanding issue of who the beneficiaries are?

20  
21 MS. BONORA: Yes. So the beneficiary definition is also  
22 postponed. Counsel have advised that they believe it would be perhaps a two-day  
23 application to deal with that particular issue, and so we still have to determine exactly  
24 how we're going to come to bring that issue before the Court. We're still in discussions  
25 among counsel on that issue.

26  
27 THE COURT: Well, thank you for that, but I'll give you my  
28 thinking on that issue. I'm inclined to send that issue to trial, and it won't be me hearing  
29 it. It will be some other judge. I'm finding that the estimates of counsel in this matter  
30 aren't too accurate, and given the nature of this litigation, I'm thinking -- my thinking is,  
31 I'm not making an order, but I'm thinking this is not going to be determined on the basis  
32 of affidavit evidence. It's going to go to a trial and get this thing resolved once and for  
33 all. So --

34  
35 MS. BONORA: Thank you, Sir.

36  
37 THE COURT: -- just so you know my thinking on it.

38  
39 MS. BONORA: And it --

40  
41 THE COURT: And that you might want to start preparing a

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11 APPLICANTS: ROLAND TWINN, CATHERINE TWINN, WALTER  
 12 FELIX TWIN, BERTHA L'HIRONDELLE and  
 13 CLARA MIDBO, as TRUSTEES FOR THE 1985  
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15  
 16 QUESTIONING ON AFFIDAVIT  
 17 OF  
 18 PATRICK TWINN

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20 Ms. D.C.E. Bonora For the Applicants  
 21 Ms. S.J. Shannon For Shelby Twinn, Patrick  
 22 Twinn and Deborah Serafinchon  
 23 Ms. C.C. Osualdini For Catherine Twinn  
 24 Susan Stelter Court Reporter

25  
 26 Edmonton, Alberta

27 22 September, 2016

1 A Yes, I would have to consult with my counsel and, you  
2 know, I would have to have them inform me because I  
3 don't fully understand what that means.

4 Q Okay. So will you undertake to do that for me?

5 A Sure.

6 MS. SHANNON: We will make that.

7 UNDERTAKING NO. 1:

8 RE ADVISE IF APPLICATION ON BEHALF OF  
9 PATRICK TWINN'S DAUGHTER IS STILL BEING  
10 PURSUED NOW THAT THE OFFICE OF PUBLIC  
11 TRUSTEE AND GUARDIANSHIP IS INVOLVED.

12 Q MS. BONORA: Now it is my understanding that you  
13 were married subsequent to Aspen being born; is that  
14 correct?

15 A That is correct.

16 Q And you have also made an application to represent your  
17 wife in this action, and I understand now that your  
18 wife will be making her own application to be a party  
19 to this action; is that correct?

20 A She will be swearing an Affidavit, yes.

21 Q That is not my question. My question is, you asked in  
22 this application to represent her. And now I am asking  
23 you, is she going to be making her own independent  
24 application to become a party?

25 A That kind of translates with, you know, the same with  
26 Aspen. I'm going to have to consult with my counsel  
27 about that and I will have to get back to you on that.

1 Q Will you undertake to do that?

2 A I will.

3 MS. SHANNON: We will make the undertaking.

4 UNDERTAKING NO. 2:

5 RE ADVISE IF PATRICK TWINN'S WIFE WILL

6 BE MAKING HER OWN INDEPENDENT

7 APPLICATION TO BECOME A PARTY IN THE

8 ACTION.

9 Q MS. BONORA: Is your wife a member of the  
10 Sawridge First Nation?

11 A Currently she is not a member of the Sawridge First  
12 Nation.

13 Q Is she a status Indian?

14 A Currently she is not a status Indian.

15 Q Has she applied to become a member of the Sawridge  
16 First Nation?

17 A She has not applied to be a member of the Sawridge  
18 First Nation, no.

19 Q Will she have an entitlement to apply for Indian  
20 status?

21 A I don't think so, but I am not sure.

22 Q Your understanding is that your daughter, Aspen, is  
23 being represented by the Office of the Public Guardian  
24 and Trustee, correct?

25 A My understanding is that is correct.

26 Q When did you learn of the application for advice and  
27 direction to amend the beneficiary definition in the

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1 I can proceed and no way -- no realistic option for you  
2 to bring this issue to the court.

3 Can you tell me what you have been told about what  
4 kind of budget you need in order to proceed as a party  
5 in this litigation?

6 A I have not been aware of any budget.

7 Q So you have not been told how much it will cost to be a  
8 party?

9 A No.

10 Q So I am going to ask you how can you determine that you  
11 can not afford it if you don't know what the cost is?

12 A Because I am barely managing my personal costs. I  
13 guarantee to you an extra \$100 every month is not going  
14 to cover what needs to be, costs.

15 Q You haven't asked that question of your counsel?

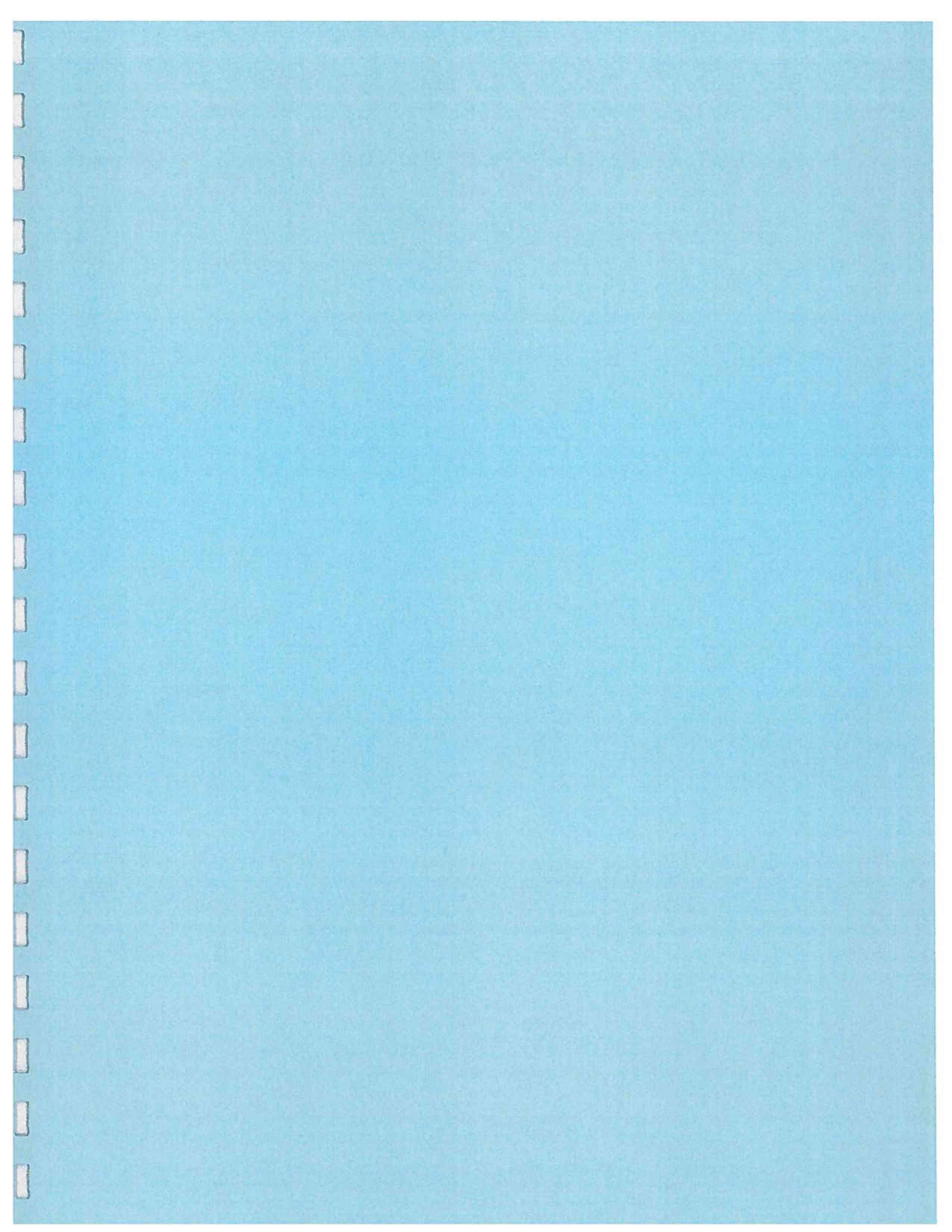
16 A No.

17 Q In terms of the Trust do you and your sister have any  
18 different interests?

19 A No.

20 Q In paragraph 23 you say that you don't believe -- you  
21 do not believe that your sister and you are the only  
22 children of Sawridge First Nation who would qualify as  
23 beneficiaries under the current definition and who  
24 would lose their entitlement to under the Sawridge  
25 trustee's proposed amendment. Who are the other people  
26 that you are speaking of?

27 A I do not know them personally, but by the sheer fact



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1 Shelby to look after.

2 Q Okay.

3 A I don't know. Sorry, go ahead.

4 Q So you don't have any information from your lawyers on  
5 what the litigation will cost in terms of your  
6 participation?

7 A Considering that it is with all of these lawyers, it is  
8 going to be a lot, I'm assuming.

9 Q So I am asking you about you and your lawyer. Have you  
10 had a discussion about how much it will cost for your  
11 participation in this litigation?

12 A No.

13 Q And I am wondering, then, how you can advise that you  
14 can't afford that if you don't know what the budget is?

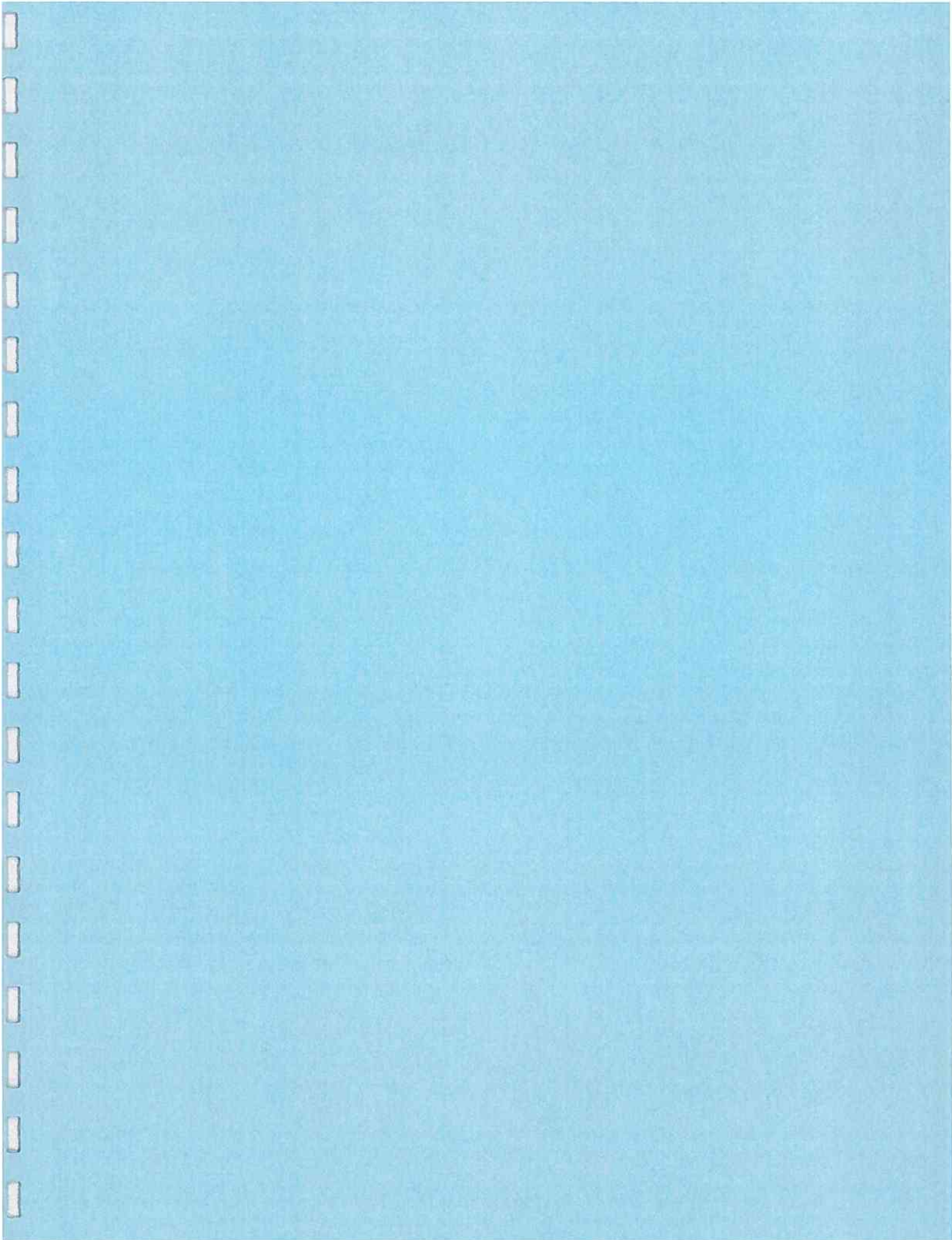
15 A Because I know that lawyers cost a lot of money, and I  
16 don't have that kind of money unless she is going to do  
17 it for free. Will you do it for free?

18 Q In paragraph 23 of your Affidavit you say, "I do not  
19 believe that I am the only potential beneficiary to  
20 have been placed in the foster care system."

21 Can you tell me how being placed in the foster care  
22 system affects your beneficiary status?

23 A I am not quite sure that I understand the question, I  
24 am sorry.

25 Q I am just reading your Affidavit and I would say I  
26 don't understand your statement, that is why I am  
27 asking you the question. You say, "I do not believe



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- 1 A The Trust.
- 2 Q Okay. And are you proceeding with that application  
3 before or at the same time as you are being made a  
4 party?
- 5 A Well, I mean I need to be -- we need to be indemnified,  
6 because I don't have the funds to carry this legal  
7 battle on my own.
- 8 Q Have you been told how much the legal battle will cost?
- 9 A Well, I have an idea of how much lawyers bill per hour.
- 10 Q Have you been told how much the legal battle will cost?
- 11 A I have not.
- 12 Q Have you asked that question?
- 13 A No.
- 14 Q How do you know that you cannot afford it if you have  
15 not asked that question?
- 16 A Because I understand how much work is involved in this.  
17 I'm not a lawyer, but I understand business, and I  
18 understand how much work is involved in this at a  
19 certain rate. And I understand how much that will  
20 equate to over the course of time. So I have an idea  
21 of how much this could cost.
- 22 Q But you haven't asked that question of your counsel?
- 23 A No.
- 24 Q Would it be correct to say that if you proceeded with  
25 this action you also could not afford to pay the costs  
26 that might be awarded against you?
- 27 A What do you mean by that?

- 1 Q My question is specifically with respect to the  
2 beneficiary definition of the Trust?
- 3 A M-hm.
- 4 Q Do you understand the topic now?
- 5 A Yeah, I understand the topic, yeah.
- 6 Q So with respect to the beneficiary definition of the  
7 Trust I am asking you is it acceptable to you to have a  
8 definition that has a number of people beyond the  
9 members of the Sawridge First Nation?
- 10 A Beyond the members today, yes.
- 11 Q In your application you are applying to become a party,  
12 correct?
- 13 A Yup.
- 14 Q And you hired Borden Ladner Gervais?
- 15 A M-hm.
- 16 Q You have to say yes or no.
- 17 A Yes.
- 18 Q And can you tell me if you paid them a retainer?
- 19 A I did.
- 20 Q And what was the retainer that you paid them?
- 21 A \$5,000.
- 22 Q And you paid that personally?
- 23 A Yes, I did receive some support from my mom for that,  
24 but.
- 25 Q In paragraph 3 of your Affidavit you talk about the  
26 application being in relation to the definition of  
27 beneficiaries and the transfer of assets. Do you see