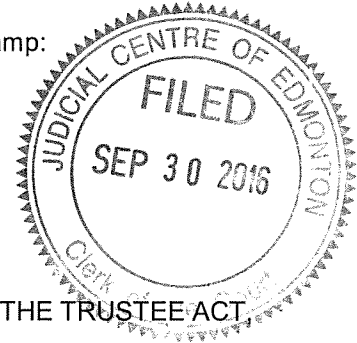


[Rule 4.22]

Clerk's Stamp:



COURT FILE NUMBER 1103 14112
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 and THE SAWRIDGE
TRUST ("Sawridge Trusts")

APPLICANTS

ROLAND TWINN,
WALTER FELIX TWINN,
BERTHA L'HIRONDELLE,
CLARA MIDBO and CATHERIN TWINN, as Trustees
for the Sawridge Trusts

DOCUMENT

**APPLICATION FOR SECURITY FOR COSTS IN
RESPECT OF MAURICE FELIX STONEY**

PARTY FILING THIS DOCUMENT

SAWRIDGE TRUSTEES

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

Dentons Canada LLP
Barristers and Solicitors
2900 Manulife Place
10180 – 101 Street
Edmonton, Alberta T5J 3V5

Attention: Doris C.E. Bonora
Telephone: (780) 423-7100
Facsimile: (780) 423-7276
File No: 551860-1/DCEB

NOTICE TO RESPONDENTS

This Application is made against you. You are a Respondent.

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

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

Date Not Applicable – Application to be made in writing
Time Not Applicable
Where Law Courts Building, 1A Sir Winston Churchill Square, Edmonton, Alberta
Before Whom The Honourable Justice D.R.G. Thomas

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

Remedy Claimed or Sought:

1. The Applicants only request the Court to consider this application if Maurice Stoney (“Stoney”) and his 10 living brothers and sisters are declared to be parties or intervenors to these proceedings.
2. The Applicants seek an Order:
 - (a) directing that Stoney post security for costs in this action by way of a payment into Court or such further and other mode as this Honourable Court may direct;
 - (b) setting the value of the security for costs, in an amount no less than \$18,000.00 to satisfy costs awards already made against Stoney and possible future cost awards;
 - (c) directing that Stoney furnish the above security for costs within one month or such other time as may be specified by this Honourable Court;
 - (d) directing that, if the above security for costs is not paid with the time prescribed by the Order, Stoney and his 10 living brothers and sisters shall be removed as parties or intervenors in this Action without further Order of this Honourable Court;
 - (e) directing that the costs of this Application be payable to the Sawridge Trustees, forthwith and in any event of the cause; and
 - (f) directing such further Orders or directions as this Honourable Court deems just and appropriate.

Grounds for Making this Application:

3. The Application to have Stoney and his 10 living brothers and sisters appointed as parties or intervenors (“Application”) has been served and is scheduled to be adjudicated in writing on or after October 30, 2016.
4. Stoney has in the past attempted numerous times and at various levels of court or tribunal, to establish a right to membership in the Sawridge First Nation and has failed to do so.
5. Stoney’s application for membership to Sawridge First Nations was denied in 2011. He subsequently appealed the decision and lost the appeal regarding the denied membership in 2012 and also was unsuccessful in a judicial review application and costs were awarded against Stoney and such costs remain unpaid.
6. Stoney was an Applicant in a previous action - *Huzar v. Canada*, [2000] F.C.J. No. 873, 258 N.R. 246 (Fed. C.A.), wherein he sought mandatory relief requiring that his name be added to

Sawridge's membership list, and that action was struck. Costs were awarded against Stoney in this action and such costs remain unpaid.

7. Stoney attempted to appeal the December 17, 2015 decision of Justice Thomas and was unsuccessful in obtaining an extension of time to appeal. Costs were awarded against him in favor of Sawridge First Nation and in favour of the trustees and such costs are not fully paid.
8. The Application is an attempt by Stoney to re-litigate question of his right to membership in Sawridge First Nation and his attempt is barred by principle of issue estoppel and res judicata.
9. Based on the history of Stoney's attempt to be included in Sawridge First Nation at the various levels of court and tribunal, the Sawridge Trustees oppose the Application on the merits and will argue that this is a vexatious attempt to re-litigate issues which have been dealt with several times before various levels of court and tribunals. The 10 living brothers and sisters are in positions similar to Stoney.
10. During his questioning Stoney was uncooperative, obstructionist and refused to answer simple questions, including those questions involving costs.
11. Stoney has a history of failing to comply with the finality of a court order, failing to comply with a court order to pay costs and failing to abide by court ordered timelines for the filing of documents, thereby increasing costs to other participants with no consequence to him.
12. In addition to the foregoing, Stoney has a Judgment or Order for costs given against him and those costs have not been fully paid.
13. It is unlikely that Stoney would have the ability to pay any costs awards in this Action and it is further unlikely that the Sawridge Trustees would be able to enforce an Order or Judgment against the assets of Stoney in Alberta.
14. It is just and reasonable that Stoney be required to post security for costs in this Action.

Material or Evidence to be Relied On:

15. The Affidavits of Paul Bujold, filed in this action and filed on September 30, 2016;
16. The affidavit of Chief Roland Twinn filed in this action;
17. Transcript of Stoney of Questioning September 23, 2016;
18. Order of the Watson, J.A. filed on February 26, 2016;
19. The decisions involving Stoney as outlined in the brief of Sawridge First Nation including but not limited to the Federal Court in *Stoney v. Sawridge First Nation*, 2013 FC 509, 2013 CF 509 as well as *Huzar v. Canada*, [2000] F.C.J. No. 873, 258 N.R. 246 (Fed. C.A.);
20. The procedural orders filed in this action in 2011 and 2012;
21. The Application of Stoney and his 10 living Brothers and Sisters to be added as parties or intervenors in this Action and other documents filed in the within Action;
22. The brief of Sawridge First Nation filed on September 30, 2016 in respect of this action; and

23. Such further and other material as counsel may advise and this Honorable Court may permit.

Applicable Rules:

24. Rules 1.3, 4.22 and 4.23 of the Alberta *Rules of Court*.

Applicable Acts and Regulations:

None

How the Application is Proposed to be Heard or Considered:

25. In writing, with reliance upon Affidavit evidence, transcript of questioning and written responses from counsel.

DATED at Edmonton, Alberta, this 30th day of September, 2016.

DENTONS CANADA LLP

Per: _____

Doris C.E. Bonora
Solicitors for the Sawridge Trustees

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the Applicants 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 this form. If you intend to rely on an Affidavit or other evidence when the Application is heard or considered, you must reply by giving reasonable notice of the material to the Applicants.