

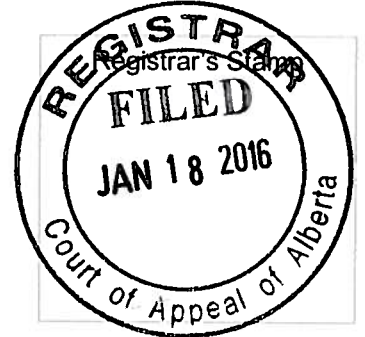
COURT OF APPEAL OF ALBERTA

Form AP-1
[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 1603 - 0029 AC

TRIAL COURT FILE NUMBER: 1103 14112

REGISTRY OFFICE: 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 (the "1985" Sawridge Trust")

APPLICANT: PUBLIC TRUSTEE OF ALBERTA

STATUS ON APPEAL: Appellant

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

RESPONDENT: SAWRIDGE INDIAN BAND NO. 19, NOW KNOWN AS
THE SAWRDIGE FIRST NATION

STATUS ON APPEAL: Respondent

RESPONDENT: CATHERINE TWINN, As a Trustee of the 1985 Trust

STATUS ON APPEAL: Respondent

DOCUMENT: CIVIL NOTICE OF APPEAL

**APPELLANT'S ADDRESS FOR
SERVICE AND CONTACT
INFORMATION:**

Hutchison Law
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, AB T8H 2A3

Attention: Janet L. Hutchison
Telephone: (780) 417-7871
Fax: (780) 417-7872
Email: jhutchison@jhlhlaw.ca
File: 51433 JLH

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: December 17, 2015

Date entered: December 17, 2015

Date served: December 17, 2015

Official neutral citation of reasons for decision, if any:

(do not attach copy) 1985 Sawridge Trust v. Alberta (Public Trustee), 2015 ABQB 799

(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:

Alberta Court of Queen's Bench

Judicial Centre: Edmonton

Justice: Honourable Mr. Justice 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) n/a

(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).)

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 (Rule 14.12(2)(c)):

Whole, or

Only specific parts (if specific part, indicate which part):

(Where parts only of a family law order are appealed, describe the issues being appealed, e.g. property, child support, parenting, etc.)

5. Provide a brief description of the issues:

This appeal arises from a decision by Justice D.R.G. Thomas, case management justice, on an application by the Office of the Public Trustee seeking production of relevant and material documents from Sawridge First Nation in the within proceeding.

The December 17, 2015 Reasons for Judgment addressed matters that were neither raised by the parties, nor argued before the Justice. Those matters included:

- i.) significant variations to the terms of the Public Trustee's appointment as litigation representative for minor beneficiaries and potential minor beneficiaries of the 1985 Sawridge Trust in the within proceeding, which variations raise issues for the Office of the Public Trustee regarding whether its new mandate permits it to fully, and independently, represent the interests of the minors in the final application in this proceeding;
- ii.) revisiting, and varying, the terms of the orders issued by Justice Thomas in a June 12, 2012 judgment (Sawridge #1) and by the Court of Appeal in a June 19, 2013 judgment (Sawridge #2); and
- iii.) determination of issues that effectively decided aspects of the final relief sought by the Sawridge Trustees, namely the proposed variation to the 1985 Sawridge Trust beneficiary definition;

The issues to be addressed on appeal include:

1.) Did the Case Management Justice err, and exceed his jurisdiction, by varying the terms of the Public Trustee's appointment as litigation representative in the within proceeding:

- i.) contrary to s. 6 of the *Public Trustee Act*;
- ii.) contrary to the June 19, 2013 Alberta Court of Appeal order; and
- iii.) without providing the Office of the Public Trustee with a reasonable opportunity to make submissions on the proposed variations, as required by s. 6(3) of the *Public Trustee Act*.

2.) Such further and other grounds as Counsel may advise and this Court may permit.

6. Provide a brief description of the relief claimed:

1.) Set aside the December 17, 2015 decision, confirm the terms of the appointment of the Office of the Public Trustee and clarify the role the Office of the Public Trustee on the application for final relief in this proceeding; and

2.) Such further and other relief as this Court deems appropriate.

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? (Rules 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:

<p>Reynolds Mirth Richards & Farmer LLP Suite 3200 Manulife Place 10180 - 101 Street Edmonton, Alberta T5J 3W8</p> <p>Attention: Marco Poretti Counsel for the Sawridge Trustees</p> <p>Phone: 780-425-9510 Fax: 780-429-3044 Email: mporetti@rmrf.com</p>	<p>Dentons LLP Suite 2900 Manulife Place 10180 - 101 Street Edmonton, Alberta T5J 3W8</p> <p>Attention: Doris Bonora Counsel for the Sawridge Trustees</p> <p>Phone: 780-423-7100 Fax: 780-423-7276 Email: doris.bonora@dentons.com</p>
<p>Bryan & Company 2600 Manulife Place 10180 - 101 Street Edmonton, Alberta T5J 3Y2</p> <p>Attention: Nancy Cumming, Q.C. Solicitor for the Sawridge Trustees</p> <p>Phone: 780-423 5730 Fax: 780-428 6324 Email: necumming@bryanco.com</p>	<p>McLennan Ross LLP 600 McLennan Ross Building 12220 Stony Plain Road Edmonton, Alberta T5N 3Y4</p> <p>Attention: Karen Platten, Q.C. Solicitor for Catherine Twinn</p> <p>Phone: 780-482-9200 Fax: 780-482-9100 Email: kplatten@mross.com</p>

<p>Parlee McLaws Suite 1500 Manulife Place 10180 – 101 Street Edmonton, Alberta T5J 3W8</p> <p>Attention: Edward Molstad, Q.C. Counsel for the Sawridge First Nation</p> <p>Phone: 780-423-8500 Fax: 780-423-2870 Email: emolstad@parlee.com</p>	<p>DLA Piper 1201 Scotia Tower 2 10060 Jasper Avenue Edmonton, Alberta T5J 4E5</p> <p>Attention: Priscilla Kennedy Solicitors for June Kolosky and Aline Huzar</p> <p>Phone: 780-426-5330 Fax: 780-428-1066 Email: priscilla.kennedy@dlapiper.ca</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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 (check as applicable)

Order or 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.



HUTCHISON LAW

Our File: 51433 JLH

DELIVERED BY COURIER

January 18, 2016

Reynolds Mirth Richards & Farmer LLP
Suite 3200 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Attention: Marco Poretti

Dentons LLP
Suite 2900 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Attention: Doris Bonora

Bryan & Company
#2600 Manulife Place
10180 - 101 Street
Edmonton, Alberta
T5J 3Y2

Attention: Nancy Cumming, Q.C.

McLennan Ross LLP
600 McLennan Ross Building
12220 Stony Plain Road
Edmonton, Alberta
T5N 3Y4

Attention: Karen Platten, Q.C.

Parlee McLaws LLP
1500 Manulife Place
10180-101 Street
Edmonton, Alberta
T5J 4K1

Attention: Edward Molstad, Q.C.

DLA Piper
Suite 1201, Scotia Tower 2
10060 Jasper Ave
Edmonton, Alberta
T5J 4E5

Attention: Priscilla Kennedy

Dear Sir and Mesdames:

Re: Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust); QB Action No. 1103 14112

Please find enclosed for service upon you the Notice of Appeal of the Public Trustee, in relation to the December 17, 2015 Judgment issued by Justice Thomas.

Thank you for your attention to this matter.

Yours truly,

HUTCHISON LAW

PER: JANET L. HUTCHISON

JLH/cm

Enclosure