

SPECIFIC CLAIMS TRIBUNAL		
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February 23, 2016		
David Burnside		
Ottawa, ON		77

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

BIG GRASSY (MISHKOSIIMIINIIZIIBING) FIRST NATION (INDIAN BAND)

Claimant

v.

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
As represented by the Minister of Aboriginal Affairs and Northern
Development Canada

Respondent

Application of the Respondent pursuant to Rule 34 & 60(1)
of the *Specific Claims Tribunal Rules of Practice and Procedure*

The Respondent makes this Application requesting the Tribunal set aside the Order of the Honourable Justice Whalen dated May 12, 2015, as modified by Endorsement dated September 14, 2015, permitting the Respondent to examine a representative of the Claimant for the purposes of discovery, with specific timelines.

I. GROUND

The grounds of this application are:

1. Upon application of the Respondent, with the consent of the Claimant, the Honourable Justice Whalen ordered that the Respondent was permitted to examine a representative of the Claimant for the purpose of discovery, in writing. The Order provides that the Respondent's questions shall be provided within 30 days of receiving the last of the three expert reports from the Claimant. The Order is dated May 12, 2015.
2. To account for the fact that the last expert report had not been received by September 2015, and to accommodate counsel for the

Claimant's extended absence from the Office in October 2015, the timeline in the Order was modified by the Honourable Justice Whalen's Endorsement dated September 14, 2015 from the Case Management Conference held by teleconference on September 8, 2015, at paragraph 6. Under the Endorsement, post-October 26, 2015, the Respondent's questions were still to be provided within 30 days of receiving the last of the claimant's expert reports.

3. The Claimant provided the last expert report on February 4, 2016.
4. Due to the content of the last expert report, the Respondent does not want to proceed with examination of a representative of the Claimant for the purpose of discovery at this time.
5. The Respondent and the Claimant reserve the right to apply for an Order to examine a representative of the opposite party in the future.
6. The Claimant consents to the relief sought.

II. RELIEF SOUGHT

7. The Respondent respectfully requests that the Tribunal set aside the May 12, 2015 Order permitting the Respondent to examine a representative of the Claimant under certain timelines triggered by the provision of the Claimant's last expert report, as modified by the September 14, 2015 endorsement.

Dated this 23rd day of February, 2016.



Lisa Cholosky Counsel

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Solicitor for the Respondent

Syntak, Krista

From: Don Colborne <drcolborne@shaw.ca>
Sent: February-23-16 2:42 PM
To: Cholosky, Lisa
Cc: Syntak, Krista
Subject: RE: Big Grassy Application to Set Aside Order

On behalf of the claimant I consent to relief requested.

Donald R. Colborne
Barrister Solicitor Notary
1125 Fort St
Victoria BC V8V3K9
250 386 6628
250 386 6638f
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From: Cholosky, Lisa [mailto:Lisa.Cholosky@justice.gc.ca]
Sent: Tuesday, February 23, 2016 11:32 AM
To: 'Don Colborne' <drcolborne@shaw.ca>
Cc: Syntak, Krista <Krista.Syntak@justice.gc.ca>
Subject: Big Grassy Application to Set Aside Order

Mr. Colborne,

Further in the matter of *Big Grassy v HMTQ* SCT-2002-11, can you please indicate by reply email if you consent to the relief requested by the Respondent at paragraph 7 in the attached Application to set aside the Tribunal's Order of May 12, 2015?

Please do not hesitate to contact me with any questions or concerns.

Thank you,

Lisa Cholosky
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