

May 3, 2016

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File Number _____

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)**

BETWEEN:

Williams Lake Indian Band

Applicant
(Respondent)

AND:

Her Majesty the Queen in Right of Canada as represented
by the Minister of Aboriginal Affairs and Northern
Development Canada

Respondent
(Applicant)

**APPLICATION FOR LEAVE TO APPEAL
OF THE WILLIAMS LAKE INDIAN BAND
(Pursuant to s. 40 of the *Supreme Court Act*)**

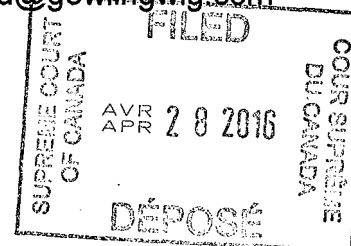
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(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)**

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Williams Lake Indian Band

Applicant
(Respondent)

AND:

Her Majesty the Queen in Right of Canada as represented
by the Minister of Aboriginal Affairs and Northern
Development Canada

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**NOTICE OF APPLICATION FOR LEAVE TO APPEAL
(Pursuant to s. 40 of the *Supreme Court Act*)**

TAKE NOTICE that the Williams Lake Indian Band hereby applies for leave to appeal to the Supreme Court of Canada, pursuant to section 40 of the *Supreme Court Act*, RSC 1985, c S-26 and Rule 25 of the *Rules of the Supreme Court of Canada*, SOR/2002-156 as amended, from the judgment of the Federal Court of Appeal, made February 29, 2016, and for any further or other order that the Court may deem appropriate;

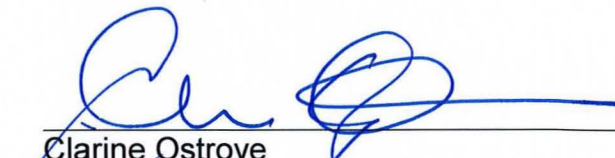
AND FURTHER TAKE NOTICE that this application for leave is made on the following grounds:

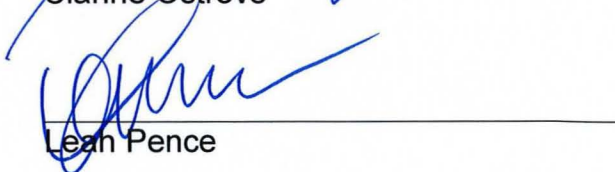
1. This case raises, for the first time, questions about the legislative mandate of the Specific Claims Tribunal ("Tribunal"), the unique body established by Parliament under the *Specific Claims Tribunal Act* ("Act") for the distinctive task of adjudicating First Nations' historical grievances made against the Crown, and resolving them in a manner that will promote reconciliation between First Nations and the Crown.

2. The proposed appeal raises the following questions of public importance:
- (a) What is the scope of review the FCA is permitted under s 34 of the Act when reviewing decisions from this specialized Tribunal? The Band respectfully submits that the FCA erred by:
- (i) reassessing, reweighing and reinterpreting the evidence resulting in a different conclusion on the question of Canada's breach of duties to the Band;
 - (ii) failing to appreciate the structure of the Act and its provision for two decisions – the validity of a specific claim (s 14) and, if valid, the compensation owed to the First Nation (s 20);
 - (iii) disregarding an order that bifurcated a hearing into validity and compensation phases thereby denying the parties the opportunity to lead evidence and make submissions to the Tribunal on compensation under s 20 of the Act; and
 - (iv) substituting its decision for that of the Tribunal.
- (b) Can a fiduciary's subsequent unilateral actions eradicate a breach of its fiduciary duty? The Band respectfully submits that the FCA erred in concluding that the allotment of alternate lands remedied any possible breach by the Crown relating to the Band's Indian settlement lands at the foot of Williams Lake.

Dated at Vancouver, British Columbia this 26th day of April, 2016.

SIGNED BY


Clarine Ostrove


Lean Pence

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NOTICE TO THE RESPONDENT:

A respondent may serve and file a memorandum in response to this application for leave to appeal within 30 days after service of the application. If no response is filed within that time, the Registrar will submit this application for leave to appeal to the Court for consideration pursuant to section 43 of the *Supreme Court Act*.