

In the Matter Of:
The Chippewas of Saugeen First Nation et al v.
Attorney General Of Canada et al

DAY 13 / VOL 13
May 28, 2019



77 King Street West, Suite 2020
Toronto, ON M5K 1A2
1.888.525.6666 | 416.413.7755

1 Court File No. 94-CQ-50872CM

2 ONTARIO

3 SUPERIOR COURT OF JUSTICE

4 B E T W E E N:

5 THE CHIPPEWAS OF SAUGEEN FIRST NATION, and THE
5 CHIPPEWAS OF NAWASH FIRST NATION

6 Plaintiffs

6 - and -

7 THE ATTORNEY GENERAL OF CANADA,
7 HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, THE
8 CORPORATION OF THE COUNTY OF GREY, THE
8 CORPORATION OF THE COUNTY OF BRUCE, THE
9 CORPORATION OF THE MUNICIPALITY OF NORTHERN
9 BRUCE PENINSULA, THE CORPORATION OF THE TOWN OF
10 SOUTH BRUCE PENINSULA, THE CORPORATION OF THE
10 TOWN OF SAUGEEN SHORES, and THE CORPORATION OF
11 THE TOWNSHIP OF GEORGIAN BLUFFS

11 Defendants
12

13 Court File No. 03-CV-261134CM1

14 A N D B E T W E E N:

15 CHIPPEWAS OF NAWASH UNCEDED FIRST NATION and
15 SAUGEEN FIRST NATION

16 Plaintiffs

16 - and -

17 THE, ATTORNEY GENERAL, OF CANADA and HER MAJESTY
17 THE QUEEN IN RIGHT OF ONTARIO

18 Defendants
19

20 -----
21 --- This is VOLUME 13/DAY 13 of the trial
21 proceedings in the above-noted matter, being
22 held at the Superior Court of Justice, 330
22 University Avenue, Courtroom 5-1, Toronto,
23 Ontario, on the 28th day of May 2019.
23 -----

24 B E F O R E:

25 The Honourable Justice Wendy M. Matheson

1 A P P E A R A N C E S :

2 H.W. Roger Townshend, Esq., for the Plaintiffs.

3 & Benjamin Brookwell, Esq., The Chippewas of

4 & Cathy Guirguis, Esq., Saugeen First

5 Nation, and the

6 Chippewas of Nawash

7 First Nation.

8

9 Michael Beggs, Esq., for the Defendant,

10 & Michael McCulloch, Esq., Attorney General

11 & Barry Ennis, Esq., of Canada.

12

13 David Feliciant, Esq., for the Defendant,

14 & Richard Ogden, Esq., Her Majesty the

15 Queen in Right of

16 Ontario.

17

18

19

20 REPORTED BY: Helen Martineau, CSR.

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

PAGE

WITNESS: JOHN NADJIWON (continued).....1215

(Via videotaped examination.)

WITNESS: FREDERICK JONES

(Via videotaped examination.).....1216

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS

NO. / DESCRIPTION PAGE

NONE MARKED.

--- Upon commencing at 10:02 a.m.

THE COURT: Morning, Mr. Townshend.

MR. TOWNSHEND: Morning, your Honour.

THE COURT: So this is a continuation
of the Rule 36 evidence of Mr. Nadjiwon?

MR. TOWNSHEND: That's right.

THE COURT: Please go ahead.

-- REPORTER'S NOTE: (Videotaped
Examination of John Nadjiwon is played
for the Court).

(Videotaped Examination was paused).

THE COURT: Thank you, Mr. Townshend.

Do you wish to say something, sir?

MR. TOWNSHEND: We can break now or go
on.

THE COURT: That's a good suggestion.
So we'll take the break now until 11:30 and in
the meantime you can get ready to have the Rule
36 evidence of Mr. Frederick Jones.

-- RECESSED AT 11:10 A.M. --

11:09:38 1 -- RESUMED AT 11:32 A.M. --

11:32:12 2 THE COURT: Please go ahead.

11:32:13 3 MR. TOWNSHEND: Yes. We'll be hearing

11:32:15 4 the Rule 36 testimony of Frederick Jones. The

11:32:21 5 transcript for the examination in-chief is at

11:32:25 6 Exhibit 3949 and the transcript for the

11:32:28 7 cross-examination is at Exhibit 3950. In

11:32:35 8 Exhibit 3949 the tittle on it is not correct, it

11:32:40 9 says "Cross-Examination", it is in fact the

11:32:46 10 examination in-chief. It is apparent once you

11:32:48 11 get into the transcript.

11:32:51 12 THE COURT: Thank you.

11:32:51 13 -- REPORTER'S NOTE: (Videotaped

11:32:51 14 Examination of Frederick Jones is

11:32:51 15 played for the Court).

11:32:51 16 (Videotaped Examination was paused).

12:04:39 17 MR. TOWNSHEND: We can proceed to

12:04:41 18 cross-examination.

12:04:42 19 -- REPORTER'S NOTE: (Videotaped

12:04:42 20 Examination of Frederick Jones is

12:04:42 21 played for the Court).

12:04:42 22 (Videotaped Examination was paused).

12:48:55 23 THE COURT: Mr. Townshend, we have two

12:48:57 24 more Rule 36 witnesses?

12:48:59 25 MR. TOWNSHEND: Yes.

1 THE COURT: Mr. Shawbedees and
2 Mr. Ross Johnston, one of which we can hear on
3 Thursday and the other of which we can hear in
4 the gap next week. Do you have a preference as
5 to which of those two we hear on Thursday or do
6 you want to think about it and just let us know?

7 MR. TOWNSHEND: Let me check with my
8 clients who they would like to hear first.

9 THE COURT: All right. If you can
10 just perhaps send an e-mail out indicating which
11 of those two gentlemen will be on Thursday.

12 MR. TOWNSHEND: Yes.

13 THE COURT: And then we'll have the
14 other one after our witnesses starting on Monday
15 next week. All right, thank you. We will
16 adjourn then until tomorrow morning. And we're
17 having Mr. Jones?

18 MR. TOWNSHEND: Yes, Mr. J. Jones.

19 THE COURT: Thank you.

20 --- Whereupon the proceedings were
21 adjourned at 12:50 p.m.

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, HELEN MARTINEAU, CSR, Certified
Shorthand Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein
set forth;

That the submissions of counsel and
Her Honour were recorded stenographically by me
and were thereafter transcribed;

That the foregoing is a true and
accurate transcript of my shorthand notes so
taken. Dated this 7th day of June 2019.



PER: HELEN MARTINEAU
CERTIFIED SHORTHAND REPORTER

<p style="text-align: center;">1</p> <p>10:02 1215:6 11:10 1215:25 11:30 1215:22 11:32 1216:1 12:50 1217:21</p> <hr/> <p style="text-align: center;">3</p> <p>36 1215:10,24 1216:4,24 3949 1216:6,8 3950 1216:7</p> <hr/> <p style="text-align: center;">A</p> <p>a.m. 1215:6,25 1216:1 adjourn 1217:16 adjourned 1217:21 ahead 1215:12 1216:2 apparent 1216:10</p> <hr/> <p style="text-align: center;">B</p> <p>break 1215:19, 22</p> <hr/> <p style="text-align: center;">C</p> <p>check 1217:7 clients 1217:8 commencing 1215:6 continuation 1215:9 correct 1216:8 Court 1215:7,9, 12,15,17,21</p>	<p>1216:2,12,15,21, 23 1217:1,9,13,19</p> <p>cross-examination 1216:7,9,18</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>DESCRIPTION 1215:2</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>e-mail 1217:10 evidence 1215:10,24 examination 1215:14,16 1216:5,10,14,16, 20,22 Exhibit 1216:6, 7,8 EXHIBITS 1215:1</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>fact 1216:9 Frederick 1215:24 1216:4, 14,20</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gap 1217:4 gentlemen 1217:11 good 1215:21</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hear 1217:2,3,5,8 hearing 1216:3 Honour 1215:8</p>	<p style="text-align: center;">I</p> <hr/> <p>in-chief 1216:5, 10 INDEX 1215:1 indicating 1217:10</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>John 1215:14 Johnston 1217:2 Jones 1215:24 1216:4,14,20 1217:17,18</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>MARKED 1215:3 meantime 1215:23 Monday 1217:14 morning 1215:7,8 1217:16</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>Nadjiwon 1215:10,14 NOTE 1215:13 1216:13,19</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>p.m. 1217:21 paused 1215:16 1216:16,22 played 1215:14 1216:15,21 preference 1217:4</p>	<p>proceed 1216:17 proceedings 1217:20</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>ready 1215:23 RECESSED 1215:25 REPORTER'S 1215:13 1216:13, 19 RESUMED 1216:1 Ross 1217:2 Rule 1215:10,23 1216:4,24</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>send 1217:10 Shawbedees 1217:1 sir 1215:18 starting 1217:14 suggestion 1215:21</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>testimony 1216:4 Thursday 1217:3,5,11 tittle 1216:8 tomorrow 1217:16 Townshend 1215:7,8,11,17,19 1216:3,17,23,25 1217:7,12,18 transcript 1216:5,6,11</p>	<p style="text-align: center;">W</p> <hr/> <p>week 1217:4,15 witnesses 1216:24 1217:14</p>
---	--	--	--	---