

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL)**

**THE HONOURABLE JUSTICE BUTLER) WEDNESDAY, THE 20TH
)
) DAY OF MARCH, 2013**

BETWEEN:

CAROL ANDERSON, ALLEN WEBBER and JOYCE WEBBER

Plaintiffs/Applicants

AND:

THE ATTORNEY GENERAL OF CANADA

Defendant/Respondent

BROUGHT UNDER THE *CLASS ACTIONS ACT*, S.N.L. 2001, C. C-18.1

AND BETWEEN:

TOBY OBED, WILLIAM ADAMS and MARTHA BLAKE

2007 01T5423 CP

- and -

THE ATTORNEY GENERAL OF CANADA

ROSINA and REX HOLWELL

2008 01T0844 CP

- and -

THE ATTORNEY GENERAL OF CANADA

SARAH ASIVAK and JAMES ASIVAK

2008 01T0845 CP

- and -

THE ATTORNEY GENERAL OF CANADA

EDGAR LUCY and DOMINIC DICKMAN

2008 01T0846 CP

- and -

THE ATTORNEY GENERAL OF CANADA

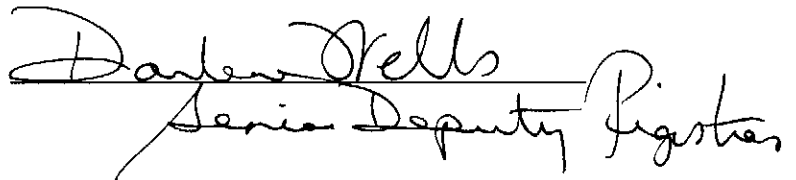
ORDER

THIS APPLICATION by the plaintiffs seeking answers to proper and relevant questions asked on the discovery of the defendant's representative, pursuant to Rule 30.08 of the *Rules of the Supreme Court, 1986*, was heard this day on March 20, 2013, at St. John's, Newfoundland and Labrador, before the case management judge, the Honourable Justice Butler.

Filed	April 2, 2013	el
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UPON READING the application record and memorandum of fact and law filed by the plaintiffs, the memorandum of fact and law filed by the defendant, and on hearing the submissions of the lawyers for the plaintiffs and the defendant, and on being advised of the consent of the plaintiffs and defendant to the form and content of this order,

1. **THIS COURT ORDERS** that the defendant shall make best efforts to answer the questions set out in Schedule "A" to this Order, arising out of the examinations for discovery of Claude Mark Davis conducted on October 29, 30, 31 and November 1, 2012, by no later than April 19, 2013.
2. **THIS COURT ORDERS** that this Order is made on a without costs basis.


Darlene Wells
Senior Deputy Registrar



SCHEDULE "A"

Court File No. 2007 01T4955CP

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL)

BETWEEN:

CAROL ANDERSON, ALLEN WEBBER and JOYCE WEBBER

PLAINTIFFS/APPLICANTS

AND:

THE ATTORNEY GENERAL OF CANADA

DEFENDANT/RESPONDENT

BROUGHT UNDER THE *CLASS ACTIONS ACT*, S.N.L. 2001, C. C-18.1 BEFORE THE HONOURABLE MADAM
JUSTICE BUTLER
CASE MANAGEMENT JUDGE

AND BETWEEN:

2007 01T5423 CP

**TOBY OBED, WILLIAM ADAMS and MARTHA BLAKE
and**

PLAINTIFFS

DEFENDANT

THE ATTORNEY GENERAL OF CANADA

2008 01T0844 CP

**ROSINA HOLWELL and REX HOLWELL
and**

PLAINTIFFS

DEFENDANT

THE ATTORNEY GENERAL OF CANADA

2008 01T0845 CP

**SARAH ASIVAK and JAMES ASIVAK
and**

PLAINTIFFS

DEFENDANT

THE ATTORNEY GENERAL OF CANADA

2008 01T0846 CP

**EDGAR LUCY and DOMINIC DICKMAN
and**

PLAINTIFFS

DEFENDANT

THE ATTORNEY GENERAL OF CANADA



OUTSTANDING QUESTIONS TO BE ANSWERED BY THE DEFENDANT

Examination of Claude Mark Davis on October 29, 2012

Question	Page No.	Line No.	Answer of Defendant
<p>Regarding the defendant's production AGC6993 (Tab H of the plaintiffs' Rule 30 Application Record), a letter of February 14, 1964 from G.A. Frecker, Minister of Education, to the Honourable J.W. Pickersgill, Minister of Transport for Canada, at paragraph 3:</p> <p>"I believe that the Federal Government is able to do certain things for Indians which normally it does not do for Eskimoes, because of certain Treaty rights. I do believe, however, that in the case of Eskimo citizens residing within the boundaries of the Province of Quebec, an arrangement was arrived at some years ago between the Federal Government and the Province of Quebec whereby for certain purposes, persons of <u>Eskimo</u> origin were deemed to be <u>Indians</u>."</p> <p>What is the defendant's position on whether Mr. Frecker's belief was correct?</p> <p>Specifically, was an arrangement arrived at? If so, when? The defendant is to produce the documents confirming this arrangement that Mr. Frecker believed to be achieved.</p> <p>If it is the defendant's position that the belief expressed by Mr. Frecker is not accurate, the defendant is to provide an explanation of why Mr. Frecker's belief is not accurate.</p>	182/183/184	1-42/8-24/1-16	

Examination of Claude Mark Davis on October 29, 2012

Specific Question	Page No.	Line No.	Answer of Defendant
<p>What is the defendant's position as to whether the story that is referred to in a letter of December 2, 1960 from P.J. Hanley, Deputy Minister of Education in Newfoundland, to the Honourable W.M. Wall, (defendant's production AGC5880, Tab L of the plaintiffs' Rule 30 Application Record) is accurate or inaccurate?</p> <p>The specific components of the story, to be confirmed as accurate or inaccurate, are as follows:</p> <ol style="list-style-type: none"> 1. "...when the Terms of Confederation were drawn up the Newfoundland delegation did not want a Clause included whereby our Indians and Eskimos would come under the Federal Government." 2. "...Quebec had contested the question as to its Indians being under Provincial or Federal jurisdiction and that, either the Supreme Court or the Privy Council, I forget which, had ruled in favour of Quebec which counted for the fact that their Indians and Eskimos were getting Federal assistance." 	380/381/382	12-24/1-24/1-21	
<p>Does the defendant accept or reject that the position indicated by a letter dated April 14, 1950 from F.P. Varcoe, Canada's Deputy Minister, to The Secretary to the Cabinet (defendant's production AGC3034, Tab Q of the plaintiffs' Rule 30 Application Record) was also applicable as of 1960. The position taken in the letter is as follows:</p> <p>"It is the responsibility of the federal government to formulate and carry out all policies that are directed at dealing with Indian or Indian problems."</p>	390	9-24	

Examination of Claude Mark Davis on October 29, 2012

Specific Question	Page No.	Line No.	Answer of Defendant
<p>Regarding a letter dated April 14, 1950 from F.P. Varcoe, Canada's Deputy Minister, to The Secretary to the Cabinet (defendant's production AGC3034, Tab Q of the plaintiffs' Rule 30 Application Record), is the position expressed by Mr. Varcoe in 1950 accepted or rejected by the defendant as correct at that time.</p> <p>If the answer to this question is that the position expressed is not correct, why is this not correct? Specifically, what does the defendant rely upon in disagreeing that the position expressed is correct (e.g. the terms of the <i>British North America Act</i> or otherwise)?</p>	389/390	14-24/1-13	

CAROL ANDERSON et al
Plaintiffs/Applicants

and

THE ATTORNEY GENERAL OF CANADA
Defendant/Respondent

Court File No: 2007 01T4955CP

**IN THE SUPREME COURT OF
NEWFOUNDLAND AND LABRADOR TRIAL
DIVISION (GENERAL)**

Proceeding commenced at the City of St. John's

**BROUGHT UNDER THE CLASS ACTIONS ACT,
S.N.L. 2001, C. C-18.1, BEFORE THE
HONOURABLE JUSTICE GILLIAN BUTLER,
CASE MANAGEMENT JUDGE**

ORDER

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