

**COURT OF APPEAL FOR ONTARIO**

THE HONOURABLE JUSTICE LAUWERS )  
THE HONOURABLE JUSTICE PARDU )  
THE HONOURABLE JUSTICE GEORGE )

WEDNESDAY, THE 30<sup>th</sup>  
DAY OF AUGUST, 2023.

B E T W E E N :

SAUGEEN FIRST NATION AND CHIPPEWAS OF NAWASH UNCEDED FIRST  
NATION

Plaintiffs

(Appellants/Respondents by way of cross-appeal)

- and -

THE ATTORNEY GENERAL OF CANADA, HIS MAJESTY THE KING IN RIGHT  
OF ONTARIO, THE CORPORATION OF THE COUNTY OF GREY, THE  
CORPORATION OF THE COUNTY OF BRUCE, THE CORPORATION OF THE  
MUNICIPALITY OF NORTHERN BRUCE PENINSULA, THE CORPORATION OF  
THE TOWN OF SOUTH BRUCE PENINSULA, THE CORPORATION OF THE  
TOWN OF SAUGEEN SHORES AND THE CORPORATION OF THE TOWNSHIP  
OF GEORGIAN BLUFFS

Defendants

(Respondent/Respondents/Appellants by way of cross-appeal)

**ORDER**

**THIS APPEAL**, by the Plaintiffs/Appellants, Saugeen First Nation and Chippewas of Nawash Unceded First Nation, for an order setting aside the order of the Honourable Justice Matheson of the Superior Court of Justice dated July 29<sup>th</sup>, 2021 and

October 28<sup>th</sup>, 2021, dismissing their claim for breach of fiduciary duty, by the Defendant His Majesty the King in Right of Ontario by way of cross-appeal for an order varying the order of the Superior Court of Justice in part that the Crown breached its honour in relation to the fulfillment of Treaty 45 ½, and by the Defendants the Corporation of the Municipality of Northern Bruce Peninsula, the Corporation of the Municipality of South Bruce Peninsula and the Corporation of the Township of Georgian Bluffs for an order setting aside the order of the Superior Court of Justice deferring litigation of the issue of whether they are excluded from the Plaintiffs' claim to Phase 2, was heard the days of 8-11<sup>th</sup> and 15-17<sup>th</sup> of May 2023, at Osgoode Hall, 130 Queen Street West, Toronto, Ontario M6H 2N5, with judgment reserved until this date.

**ON READING** the Joint Appeal Book and Compendium, Joint Exhibit Book, Factum, Reply Factum, Responding Factum to Cross-Appeals, Book of Authorities, Compendium for Oral Argument of the Appellants, the Factum and Compendium of the Respondent, the Attorney General of Ontario, the Factum of the Respondent, His Majesty the King in Right of Ontario, Factum of the Cross-Appellant, the Corporation of the Municipality of South Bruce Peninsula and the Corporation of the Township of Georgian Bluffs, and on hearing the submissions of the lawyers for the Chippewas of Nawash Unceded First Nation and Saugeen First Nation, the Attorney General of Canada, His Majesty the King in Right of Ontario, the Corporation of the Municipality of Northern Bruce Peninsula, the Corporation of the Municipality of South Bruce Peninsula and the Corporation of the Township of Georgian Bluffs,

**1. THIS COURT ORDERS that:**

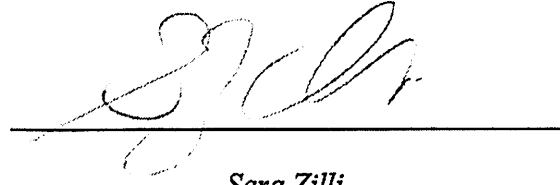
- a. the Plaintiffs' appeal from the dismissal of their claim for breach of fiduciary duty is dismissed;
- b. the cross-appeal of His Majesty the King in the Right of Ontario from the findings that the Crown breached Treaty 45 ½ by failing to perform the treaty promise with sufficient diligence is dismissed;

- c. the cross-appeal of the Corporation of the Municipality of Northern Bruce Peninsula, the Corporation of the Municipality of South Bruce Peninsula and the Corporation of the Township of Georgian Bluffs is allowed and the action against them is dismissed; and
- d. on consent, the parties shall bear their own costs as between each other.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

FEB 28 2024

PER / PAR: 8Z



*Sara Zilli*

*Registrar*

*Court of Appeal for Ontario*

Saugeen First Nation and Chippewas of  
Nawash Unceded First Nation  
Plaintiffs (Appellants/Respondents by way of  
Cross Appeal)

and

The Attorney General of Canada and His  
Majesty the King in Right of Ontario  
Defendants et al.  
(Respondent/Respondents/Appellants by  
way of Cross Appeal)

Court File No.: C69831

**COURT OF APPEAL FOR ONTARIO**

Proceeding commenced at Toronto

**ORDER**

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