

Federal Court



Cour fédérale

**Date: 20190828**

**Docket: T-405-19**

**Citation: 2019 FC 1107**

**Vancouver, British Columbia, August 28, 2019**

**PRESENT: The Honourable Mr. Justice Diner**

**BETWEEN:**

**THE STATE OF THE CHILCOTIN AND  
THE CHILCOTIN NATIONAL CONGRESS,  
AND CHILCOTIN MINISTER OF  
JUSTICE FANNY STUMP, AND  
GRAND CHIEF STANLEY STUMP SR.,**

**Plaintiffs**

**and**

**CANADA, AND PRIME MINISTER  
JUSTIN PIERRE JAMES TRUDEAU, AND  
THE "ALLEGED" TSILHQOT'IN NATIONAL  
GOVERNMENT, AND JOE ALPHONSE,  
ROGER WILLIAM, FRANCIS LACEESE,  
RUSSELL MYERS-ROSS, BERNIE MACK,  
ERVIN CHARLEYBOY, AND INDIGENOUS  
AND NORTHERN AFFAIRS CANADA, AND  
CROWN-INDIGENOUS RELATIONS &  
NORTHERN AFFAIRS CANADA, AND  
MINISTER OF INDIGENOUS SERVICES,  
SEAMUS O'REGAN**

**Defendants**

**ORDER AND REASONS**

**(Delivered from the Bench at Vancouver, British Columbia, on August 27, 2019 and edited for syntax and grammar)**

[1] This is a motion brought by the Plaintiff, Mrs. Fanny Stump, pursuant to Rule 51(1) of the *Federal Courts Rules*, SOR/98-106 [*Rules*], appealing a Prothonotary's Order dated March 25, 2019, which removed the Plaintiffs' Statement of Claim from the Court file. For the reasons that follow, the Appeal will be dismissed.

I. Background

[2] The Plaintiffs filed a Statement of Claim on March 4, 2019. On the following day, March 5, 2019, Justice Lafrenière directed the Plaintiffs to submit written representations to show cause why this Statement of Claim should not be removed from the Court file on the basis that it was not filed in accordance with the *Rules*.

[3] On March 25, 2019, Madam Prothonotary Ring of this Court ordered that the Statement of Claim be removed from the Court file. This Order was made on the basis that Rule 121 of the *Rules* requires that a party seeking to act in a representative capacity must be represented by a solicitor. The Prothonotary found that the Plaintiffs in this representative action were not represented by a solicitor, and that Mrs. Fanny Stump was not a solicitor under the *Rules*.

## II. Appeal of the Prothonotary's Order

[4] In this appeal, the Plaintiffs argue that their representative, Mrs. Fanny Stump, is an “advocate and judicial officer of the Universal Supreme Court”, and should therefore have been permitted to act as solicitor for the Plaintiffs. I note that Mrs. Stump signed the Statement of Claim as Solicitor on Record “Plaintiff Chilcotin Minister of Justice, Fanny Stump”. She describes herself in various places including her sworn Affidavit as “The Honourable Chilcotin Minister of Justice, & Interim Attorney General, Fanny Stump”.

## III. Analysis

[5] A decision of a prothonotary will only be reversed on an error of law or a palpable and overriding error regarding a question of fact or mixed fact and law (*Marlboro Canada Limited v Philip Morris Brands SÀRL*, 2019 FC 7 at para 23; *Francis v. Canada*, 2019 FCA 184 at para 2; *Hospira Healthcare Corp. v. Kennedy Institute of Rheumatology*, 2016 FCA 215, at paras 64-65, 79).

[6] The Relevant Section of the *Rules* reads as follows:

### **Representation of Parties**

#### **General**

#### **Individuals**

**119** Subject to rule 121, an individual may act in person or be represented by a solicitor in a proceeding.

### **Représentation des parties**

#### **Dispositions générales**

#### **Personne physique**

**119** Sous réserve de la règle 121, une personne physique peut agir seule ou se faire représenter par un avocat dans toute instance.

**Corporations or unincorporated associations**

**120** A corporation, partnership or unincorporated association shall be represented by a solicitor in all proceedings, unless the Court in special circumstances grants leave to it to be represented by an officer, partner or member, as the case may be.

**Parties under legal disability or acting in representative capacity**

**121** Unless the Court in special circumstances orders otherwise, a party who is under a legal disability or who acts or seeks to act in a representative capacity, including in a representative proceeding or a class proceeding, shall be represented by a solicitor. SOR/2002-417, s. 13; SOR/2007-301, s. 5.

**Personne morale, société de personnes ou association**

**120** Une personne morale, une société de personnes ou une association sans personnalité morale se fait représenter par un avocat dans toute instance, à moins que la Cour, à cause de circonstances particulières, ne l'autorise à se faire représenter par un de ses dirigeants, associés ou membres, selon le cas.

**Partie n'ayant pas la capacité d'ester en justice ou agissant en qualité de représentant**

**121** La partie qui n'a pas la capacité d'ester en justice ou qui agit ou demande à agir en qualité de représentant, notamment dans une instance par représentation ou dans un recours collectif, se fait représenter par un avocat à moins que la Cour, en raison de circonstances particulières, n'en ordonne autrement. DORS/2002-417, art. 13; DORS/2007-301, art. 5

[7] The Plaintiffs' action purports to be brought on behalf of the "State of the Chilcotin and the Chilcotin National Congress", along with two individuals, one of whom is Mrs. Stump.

Clearly, this is a representative action, and thus necessitates a solicitor.

[8] The term "solicitor" – just as it is understood in the community at large – is not nebulous or undefined in the *Rules*, and may not be arbitrarily defined by the parties or otherwise

self-designated. Rather, solicitor is defined with precision in Rule 2 as “a person referred to in subsection 11(3) of the Act”. That subsection, and two subsections that precede it in the

*Federal Courts Act*, RSC 1985, c F-7, read as follows:

**Barristers, Advocates,  
Attorneys and Solicitors**

**Avocats et procureurs**

**Barrister or advocate**

**Avocats**

**11 (1)** Every person who is a barrister or an advocate in a province may practise as a barrister or an advocate in the Federal Court of Appeal or the Federal Court.

**11 (1)** Les avocats qui exercent dans une province peuvent agir à titre d’avocats à la Cour d’appel fédérale ou à la Cour fédérale.

**Attorney or solicitor**

**Procureurs**

**11 (2)** Every person who is an attorney or a solicitor in a superior court of a province may practise as an attorney or a solicitor in the Federal Court of Appeal or the Federal Court.

**11 (2)** Les procureurs auprès d’une cour supérieure provinciale peuvent agir à ce titre à la Cour d’appel fédérale ou à la Cour fédérale.

**Officers of court**

**Qualité de fonctionnaire  
judiciaire**

**11 (3)** Every person who may practise as a barrister, an advocate, an attorney or a solicitor in the Federal Court of Appeal or the Federal Court is an officer of that Court. R.S., 1985, c. F-7, s. 11; 2002, c. 8, s. 19.

**11 (3)** Quiconque peut exercer à titre d’avocat ou de procureur à la Cour d’appel fédérale ou à la Cour fédérale, selon le cas, en est fonctionnaire judiciaire. L.R. (1985), ch. F-7, art. 11; 2002, ch. 8, art. 19.

[9] The Plaintiffs, despite having had almost six months to do so, have never provided any evidence to this Court that the individual Plaintiff, Mrs. Stump, is a solicitor within the meaning of subsection 11(3) of the *Federal Courts Act*. Nor have they, since being put on notice by

Justice Lafrenière's direction noted above, appointed a licensed attorney or solicitor to act for the representative proceeding.

[10] There is no basis to grant the remedy requested by Mrs. Stump and overturn the Prothonotary's decision, as I find no error of law or fact, or mixed fact and law, was made. The appeal is accordingly dismissed. No costs will issue.

**ORDER in T-405-19**

**THIS COURT ORDERS** that the motion appealing the Prothonotary's Order is dismissed. No costs will issue.

"Alan S. Diner"

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** T-405-19

**STYLE OF CAUSE:** THE STATE OF THE CHILCOTIN AND, THE CHILCOTIN NATIONAL CONGRESS AND CHILCOTIN MINISTER OF, JUSTICE FANNY STUMP, AND, GRAND CHIEF STANLEY STUMP SR. v CANADA, AND PRIME MINISTER, JUSTIN PIERRE JAMES TRUDEAU AND THE "ALLEGED" TSILHQOT'IN NATIONAL GOVERNMENT, AND JOE ALPHONSE, ROGER WILLIAM, FRANCIS LACEESE, RUSSELL MYERS-ROSS, BERNIE MACK, ERVIN CHARLEYBOY, AND INDIGENOUS AND NORTHERN AFFAIRS CANADA, AND CROWN-INDIGENOUS RELATIONS & NORTHERN AFFAIRS CANADA, AND MINISTER OF INDIGENOUS SERVICES, SEAMUS O'REGAN

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** AUGUST 27, 2019

**ORDER AND REASONS:** DINER J.

**DATED:** AUGUST 28, 2019

**APPEARANCES:**

Fanny Stump FOR THE PLAINTIFFS

Rumana Monzur FOR THE DEFENDANTS

**SOLICITORS OF RECORD:**

Chilcotin Minister of Justice, & Interim Attorney General State of Chilcotin Alexis Creek, Chilcotin, British Columbia FOR THE APPLICANT

Attorney General of Canada Vancouver, British Columbia FOR THE RESPONDENT