



Robinson Huron Treaty LITIGATION FUND

Atikameksheng
Anishnawbek

Aundeck Omni
Kaning

Batchewana
First Nation

Dokis First Nation

Henvey Inlet
First Nation

M'Chigeeng
First Nation

Magnetawan
First Nation

Mississauga
First Nation

Nipissing
First Nation

Ojibways of
Garden River

Sagamok
Anishnawbek

Serpent River
First Nation

Shawanaga
First Nation

Sheguiandah
First Nation

Sheshegwaning
First Nation

Thessalon
First Nation

Wahnapiatae
First Nation

Wasauksing
First Nation

Whitefish River
First Nation

Wiikwemkoong
Unceded Territory

Zhiibaahaasing
First Nation

For immediate release:
January 6, 2022

ONTARIO FAVOURS CONFRONTATION OVER RECONCILIATION IN SUPREME COURT OF CANADA APPEAL

Robinson-Huron Treaty Territory —The Government of Ontario has filed an appeal with the Supreme Court of Canada despite having lost the Robinson Huron Treaty Annuity case in the Ontario Superior Court and the Ontario Court of Appeal. The decision is glaringly regressive, particularly in light of the positive news about an agreement on First Nations child welfare and broad support amongst Canadians for reconciliation.

According to Ogimaa (Chief) Duke Peltier of Wiikwemikoong First Nation, “It is absolutely disappointing that Ontario would rather litigate than negotiate.” Chief Dean Sayers of Batchewana First Nation said, “Ontario is unwilling to mandate settlement negotiations even though Canada and the Robinson Huron Treaty First Nations want to negotiate.”

The Robinson Huron Treaty First Nations brought a court action against Ontario and Canada in September 2014 claiming the Crown breached a promise to augment the annuity payable under the Treaty.

The Ontario Superior Court ruled in favour of the Anishinaabe in 2018. Canada accepted that decision but Ontario appealed; and the Ontario Court of Appeal rejected most of Ontario’s appeal in a decision last year. Both courts urged the Crown to settle.

Chief Dean Sayers said “Ontario cannot be trusted to fulfill its treaty obligations, even when told to do so by the courts. That brings dishonour to the Crown!” Chief Sayers added that “the Court of Appeal confirmed that the Crown has a mandatory, enforceable obligation to increase the annuities payable under the Treaty when resource revenues exceed the expenses related to collecting, maintaining, and supporting those revenues. The Court held that the parties through negotiations, or the Court in Stage Three must now “determine the form, level and aim of the sharing that the augmentation clause requires.”

In its Supreme Court of Canada appeal document Ontario, raises the issue of the role of the courts in treaty implementation by advancing the view that “The Court of Appeal majority’s interpretation puts courts, rather than the parties to the Robinson Treaties, at the centre of treaty implementation and will leave little room for the normal government function of assessing the multitude of factors relevant to appropriate resource-sharing and what constitutes a balance between the “relative wealth and needs of the different communities.”



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This transfer of authority from a government process to a treaty process has sweeping implications.”

According to Ogimaa Duke Peltier, “Ontario is being biased and divisive, trying to pit the interests of non-First Nation Ontarians against the interests of First Nations. The truth is that honouring the treaties allows both sides to win – that’s reconciliation.”

Moreover, Ogimaa Peltier added: “You cannot complain that the courts are overstepping their role when you don’t like the result, especially when the government is relying on litigation to avoid negotiating then complain that the court threatens the role of the government to negotiate mutually desired results.”

According to Chiefs Peltier and Sayers: “We get the distinct feeling that the Government of Ontario is engaged in a strategy of delay. Perhaps the current Government thinks that in the face of an upcoming election that it's better to be resisting versus embracing reconciliation. It fails to acknowledge and factor into their analysis that our treaty neighbors, like the municipalities of Sault Ste. Marie, Sudbury, Parry Sound, Blind River and Espanola are supporting our call for settlement. These treaty neighbors understand they are treaty people as well, are acting honourably and in accordance with reconciliation.”

The Government of Ontario is clinging to the colonial imbalance of power relationship where the Crown as government exercises a discretion to increase annuities, in a manner that advances their view of their Treaty obligation. This discretion has only been exercised once and the annuity is only 4\$ per person. “Such a view has been thoroughly rejected by the courts and seemingly contrary to the words we heard from the Premier and Minister Rickford in their assurances that the Government would do the right thing,” said Ogimaa Duke Peltier.

The Robinson-Huron Treaty annuities litigation team will review the application for leave to appeal and respond accordingly.

Media Inquiries:

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