

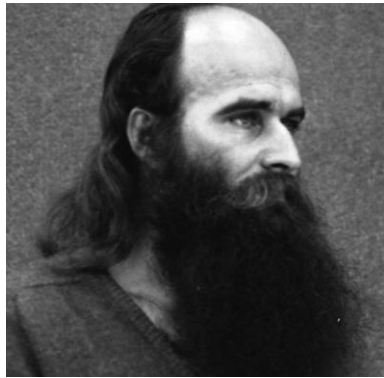


# Polarizing Litigation

---

THE ADVOCATES' SOCIETY (APRIL 16, 2021)

# R v R.T., 1992 ONCA



- Roch Thériault led a cult, living with 8 women, 26 children, and several followers.
- He killed a cult member, disemboweling them. He cut off the arm of another.
- For the amputation, he was charged with several counts of aggravated assault.
- **Mr. Thériault (the appellant) had entered guilty pleas three days after his arrest, at his first appearance and without the assistance of counsel.**

## Issues on Appeal:

- (i) Were the guilty pleas valid?
- (ii) Did the trial judge make an adequate inquiry before accepting the guilty pleas?
- (iii) Should the trial judge have accepted the guilty pleas based on the facts? (Did the defence of extreme intoxication exist)?
- (iv) Regardless of the validity of the pleas, was the appellant denied his constitutional rights during the proceedings?

# R v Budreo, 2000 ONCA



JANUARY 2000

## Pedophile law is constitutional, appeal court finds

A controversial law allowing potential child molesters to be placed under tough bail conditions -- even if they have never been convicted of a sex offence -- is constitutional, the Ontario Court of Appeal ruled yesterday.

...

We are living in a new world where we charge people for what they may do in the future," Julian Falconer, a lawyer for Mr. Budreo, said in an interview. "I think this is a very dangerous way to run a society."

...

**"From a constitutional point of view, this is as Kafkaesque as it gets."**



# Blair v Ford



December 13, 2018: “Province must investigate how Ford government hired Ontario’s new top cop”

March 6, 2019: “Lawyer for Brad Blair says Ontario government engaged in abuse of power in firing”

January 27, 2021: “Ontario court dismisses libel suit against Doug Ford”

*“[Ford] argued that Mr. Blair’s action was a SLAPP suit, which stands for strategic litigation against public participation. This allowed Mr. Ford to use an anti-SLAPP defence, where a defendant who feels his free speech is being constrained can ask a judge to toss out a lawsuit entirely.”*



# Dafonte Miller

---

## » TORONTO STAR «



**August 1, 2017:** “Toronto police officer, brother accused of misleading investigators in Dafonte Miller case”

**November 8, 2019:** “Theriault brothers’ lawyers question Dafonte Miller’s account of the confrontation that cost him his eye”

**June 26, 2020:** “Judge finds off-duty Toronto cop guilty of assault, but says Dafonte Miller’s beating ‘probably’ much worse”

**August 6, 2020:** “Crown appeals Theriault brothers’ acquittals in Dafonte Miller beating case”



# Shoal Lake 39 v Winnipeg and Ontario

## \$500 Million Lawsuit



MARCH 2021

*“About 100 million litres of fresh water flows west to the city of Winnipeg every day but the struggling Indigenous people who live on the shores of Shoal Lake say no benefits have ever flowed east to them.”*



Gerald Lewis, chief of Iskatewizaagegan 39, also known as Shoal Lake 39, in northwestern Ontario, is seen on Thursday, March 25, 2021, beside the lake that is Winnipeg's sole source of drinking water. The community is in a legal dispute with Ontario and Winnipeg over the city's water-taking. (The Canadian Press/Handout)



# ONSC recognizes “Indigenous Law”

[48] The law that governs the relationship between Canada and Aboriginal peoples of Canada is what is now known as Aboriginal law. **Indigenous law is not the same as Aboriginal law.** Both before and after the arrival of European settlers, the Aboriginal peoples in North America had well-developed civilizations that had legal systems and legal customs. Those discrete legal systems are the source of Indigenous law, the law that governs the first cultures as discrete civilizations or civil societies. **The case at bar concerns Aboriginal law, not Indigenous law.**

- **Justice Perrell, *IIFN39 First Nation v. Winnipeg*, 2021 ONSC 1209**

CITATION: *Iskatewizaagegan No. 39 Independent First Nation v. Winnipeg (City)*, 2021 ONSC 1209  
 COURT FILE NO.: CV-20-00644545-0000  
 DATE: 2021/02/17

ONTARIO  
 SUPERIOR COURT OF JUSTICE

BETWEEN: )  
 )  
 ISKATEWIZAAGEGAN NO. 39 )  
 INDEPENDENT FIRST NATION ) *Julian N. Falconer, Akosua Matthews and*  
 Plaintiff ) *Mary (Molly) Churchill for the Plaintiff*  
 )  
 - and - )  
 )  
 CITY OF WINNIPEG and HER ) *Thor Hansell and Shea Garber for the*  
 MAJESTY THE QUEEN IN RIGHT OF ) *Defendant the City of Winnipeg*  
 ONTARIO )  
 Defendants ) *Sarah Valair and Catherine Ma for the*  
 ) *Defendant Her Majesty the Queen in Right*  
 ) *of Ontario*  
 ) HEARD: January 20, 2021

PERELL, J.

REASONS FOR DECISION