

CITATION: ISKATEWIZAAGEGAN #39 INDEPENDENT FIRST NATION v. HIS MAJESTY THE QUEEN IN RIGHT OF ONTARIO et al

**ONTARIO SUPERIOR COURT OF JUSTICE
CIVIL ENDORSEMENT FORM**
(Rule 59.02(2)(c)(i))

BEFORE:	Justice Loretta P. Merritt	Court File Number: CV-20-00644545-0000 CV-20-00644545-00A1
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Title of Proceeding:

..... ISKATEWIZAAGEGAN #39 INDEPENDENT FIRST NATION Plaintiff(s)
 -v-
 HIS MAJESTY THE KING IN RIGHT OF ONTARIO; THE CITY OF WINNIPEG Defendant(s)

Case Management:	Yes If so, by whom:	No
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Participants and Non-Participants:*(Rule 59.02(2)(vii))*

Party	Counsel	E-mail Address	Phone #	Participant (Y/N)
1) Plaintiff: Iskatewizaagegan #39 Independent First Nation	Julian Falconer	ashajames@falconers.ca		Y
	Amy Westland	awestland@wlpc.ca		Y
	Isabelle Calderhead (Articling Student)	isabellec@falconers.ca		Y
	Jordan Tully	jordant@falconers.ca		Y
2) Defendant: His Majesty The King In Right Of Ontario	Vanessa Glasser	Vanessa.glasser@ontario.ca		Y
	Ram Rammaya	ram.rammaya@ontario.ca		Y
	Jack Douketis	jack.douketis@ontario.ca		Y
3) Defendant: The City Of Winnipeg	Shea T. Garber	sgarber@mltaikins.com		Y
	Michael Weinstein	mweinstein@mltaikins.com		Y
4) Attorney General of Canada	Craig Collins-Williams	ccwillia@justice.gc.ca		Y
5) Canada	Courtney Hughes (Paralegal)	Courtney.hughes@justice.gc.ca		Y

Date Heard: <i>(Rule 59.02(2)(c)(iii))</i> 05/25/2026
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Nature of Hearing (mark with an "X"): <i>(Rule 59.02(2)(c)(iv))</i>				
<input type="checkbox"/> Motion	<input type="checkbox"/> Appeal	<input checked="" type="checkbox"/> Case Conference	<input type="checkbox"/> Pre-Trial Conference	<input type="checkbox"/> Application

Format of Hearing (mark with an "X"): *(Rule 59.02(2)(c)(iv))*

In Writing Telephone Videoconference In Person

If in person, indicate courthouse address:

Relief Requested: *(Rule. 59.02(2)(c)(v))*

The parties seek an amendment of the timetable and the City of Winnipeg seeks a date for a motion for production of documents relating to the Specific Claims.

Disposition made at hearing or conference (operative terms ordered): *(Rule 59.02(2)(c)(vi))*

On consent, order to go amending the timetable. The motion for production of documents is scheduled for November 23, 2026 for a full day.

Costs: On a **N/A** indemnity basis, fixed at \$ _____ are payable
by _____ to _____ [when]

Brief Reasons, if any: *(Rule 59.02(2)(b))*

The City of Winnipeg seeks production of documents relating to the Specific Claims process.

On April 9, 2025 I ordered the Plaintiff to make best efforts to produce:

All documents related to any and all claims advanced by the Plaintiff related to flooding, loss of reserve lands or headlands, loss or damage to lands used for gardening, wild rice or other crops, damage or impacts to fishing or fishing rights; and, all documents, meeting minutes, reports, experts' reports, research and "workplans" related to any and all claims advanced by the Plaintiff relating to loss of reserve lands and headlands, including those made in the Garden Islands Claim, Flooding Claim and Headlands Claim (the "Specific Claims").

The Plaintiff and Canada say that some of the documents are subject to settlement and/or litigation privilege. The Plaintiff agrees that documents that are historical or extraneous to the Specific Claims process are producible. The Plaintiff says that Canada and the Plaintiff met and identified the documents that should be produced and revised the Plaintiff's schedule B to include only the privileged documents such as the parties' submissions and listed in Schedule A everything that is an extraneous document.

The Plaintiff shall identify those documents listed in Schedule A that are from the Specific Claims process.

Canada says that Canada's schedule B contains only the privileged docs from the Specific Claims process.

All parties shall produce particularized Schedule Bs with the following particulars:

- a. the author/sender and recipient(s) of each document;
- b. what specific litigation the document relates to;
- c. the name of the lawyer involved where solicitor-client privilege is claimed; and
- d. for settlement privilege is claimed, the basis for such claim.

The City of Winnipeg seeks production of the policy regarding confidentiality of the Specific Claims process. Canada advised that there is a public document that explains the Specific Claims process and it is on the government website. Canada shall confirm whether there is a written policy beyond what is contained on the website, and if so, produce a copy. Canada shall also advise if there is a claim of privilege that goes beyond common law settlement privilege.

There may still be a dispute about the extent of the privilege claimed with respect to documents used in the Specific Claims process. For example, the parties may disagree on whether expert reports are privileged. The parties may disagree about privilege claims for other documents

The motion for production of the Specific Claims documents is scheduled for November 23, 2026 for a full day in person. If the date is not required, if less time is required or if the parties prefer to proceed by way of a virtual hearing, they should advise the court as soon as possible by way of an email to my Judicial Assistant.

Several of IIFN's undertakings from the fall 2022 examinations required IIFN to make inquiries of Grand Council Treaty #3. IIFN says it has made inquiries of GCT#3, but the undertakings are still outstanding. The City of Winnipeg may seek a motion under r. 30.10 for production of documents from non-party GCT #3. The City shall first make enquiries of GCT#3 and if a motion date is required it can be scheduled at a further case conference or by way of an email to my Judicial Assistant with a list of proposed dates upon which all counsel are available.

On consent, the following timetable is ordered:

Item	By Which Party	Deadline
IIFN Expert Reports: Historical Addendum	Plaintiff	May 31, 2026
Deadline to Answer Undertakings and Amendments to Pleadings	All Parties	August 13, 2026
IIFN Expert Reports: Scientific	Plaintiff	September 30, 2026
IIFN Expert Reports: Economic	Plaintiff	December 15, 2026
Winnipeg/Ontario Expert Reports: Historical	Winnipeg/Ontario	December 30, 2026*
Winnipeg/Ontario Expert Reports: Scientific	Winnipeg/Ontario	April 30, 2027
Canada Expert Reports: Historical	Canada	June 25, 2027
Winnipeg/Ontario Expert Reports: Economic	Winnipeg/Ontario	August 31, 2027
Canada Expert Reports: Scientific	Canada	August 31, 2027

Canada Expert Reports: Canada
Economic

December 30, 2027

The parties identified a few issues that may impact compliance with the timetable.

The City says that although it has consulted with experts it cannot retain and instruct experts until it sees the Plaintiff's expert reports because at the examination for discovery the Plaintiff said, in answer to a number of questions regarding damages, that there is no factual evidence and the answers to the questions asked will be the subject of expert reports.

The City also says that it may require further discoveries after the documents regarding the Specific Claims and the GCT #3 documents are produced.

Ontario has retained an expert on the Headlands issue to respond to the Plaintiff's expert but says that there are outstanding answers to undertakings given by the Plaintiff that may affect the scope of the damages claim and Ontario's expert may need to conduct further research depending on those answers to the undertakings. The Plaintiff says that there is no doubt that this case has Treaty #3 implications and not appreciating this issue cannot be a basis for Ontario not hiring an expert. The Plaintiff will endeavor to answer these undertakings relating to the scope of damages as soon as possible to facilitate Ontario instructing its expert.

Additional pages attached: Yes No

May-25

, 2026

Date of Endorsement (Rule 59.02(2)(c)(ii))



Signature of Judge/Associate Judge (Rule 59.02(2)(c)(i))