

2019



Hfx No. 490119

Supreme Court of Nova Scotia

Between:

Stephen Joyce, Robert Cooper, E. Dianne Langley, and Kenneth Langille

Plaintiffs

and

**The Attorney General of Nova Scotia representing Her Majesty the Queen in right of the
Province of Nova Scotia**

Defendant

Affidavit

I, Robert Cooper, of the Town of Lower Sackville, in the Province of Nova Scotia, MAKE
OATH AND SAY:

1. I am a proposed representative plaintiff in this action. As such, I have personal knowledge of the matters set out below, except where I have been advised of information, in which case I believe such information to be true.

Personal Background

2. I am 74 years old. I live in Lower Sackville, Nova Scotia.

3. I was a member of the Canadian Armed Forces for 31 years. After my retirement, I went on to serve as the Coordinator of Security for the Province of Nova Scotia for approximately 19 years. I am now retired.

4. I have been a member of the Native Council of Nova Scotia ("NCNS") since 1997. The NCNS is the Self-Governing Authority for Mi'kmaq/Aboriginal Peoples residing off-reserve in Nova Scotia throughout traditional Mi'kmaq Territory. I participate actively in the NCNS. I was formerly a member of the NCNS alternate board of directors, and am currently serving as the President of Zone 3, which encompasses the Halifax area. I am also a Zone 3 Elder.

5. I have held an Aboriginal and Treaty Rights Access Passport ("ATRA Passport") since 1998. My current ATRA passport number is 8-1730. Copies of my current and past ATRA passports are attached to my affidavit as **Exhibit "A"**.

I am a Status Mi'kmaq Indian

6. I am Mi'kmaq and a registered Indian under the *Indian Act*.
7. However, I am not a member of a registered band of Indians in Nova Scotia or Canada, within the meaning of the *Indian Act*.
8. I am a member of the Atlantic General List of Indians maintained by Crown-Indigenous Relations and Northern Affairs Canada.
9. I am a direct descendant of members of the Mi'kmaq communities at Shubenacadie, Gold River, and New Germany. I am a beneficiary of the 1760/61 Treaty between the Mi'kmaq and Her Majesty.
10. Up until the Province of Nova Scotia's decision in 2017 to revoke recognition of ATRA Passports, I exercised my right to hunt and harvest in Nova Scotia using my ATRA Passport. In particular, I participated in the annual moose hunt in Cape Breton Island. I normally harvested one moose per year. I relied on that moose to feed myself and other members of my family and community throughout the year. I would share the meat with other members of my community if they were in need, or as thanks for assistance in harvesting the moose meat.
11. In the past, I have also used the ATRA Passport to hunt deer, rabbits, and birds.
12. I have been unable to hunt since the Province's decision to revoke recognition of ATRA Passports. I have applied for the provincial moose draw but have been unsuccessful. While I can now hunt deer using my Nova Scotia deer hunting license, I am still unable to hunt small animals, birds, and moose.

My Qualifications as a Representative Plaintiff

13. I believe I can fully and adequately represent the interests of the proposed class.
14. To the extent necessary, I can also represent the interests of the subclass of plaintiffs who are Mi'kmaq Status Indians who have or assert rights under applicable treaties between the Mi'kmaq and Her Majesty and/or an Aboriginal right to hunt and harvest natural resources, and who are listed on the Atlantic General List. I am a member of this subclass.
15. I have familiarized myself with the common issues of this case and the nature of the evidence in this case. With my involvement in NCNS and the Mi'kmaq community, I believe I am well-suited to assist counsel to the Class ("Class Counsel") with advancing this claim.
16. I am prepared to act as the representative plaintiff for the Class, or any other class as may be defined by the Court.

17. I understand the major steps in a class action are generally:
- (a) the action is commenced by statement of claim;
 - (b) the representative plaintiffs brings a motion for certification of the actions as a class action;
 - (c) if the motion is successful, then notice of the certification is delivered to the Class, and the Class Members are given an opportunity to opt-out;
 - (d) discovery of each side's documents, including preparation of an affidavit of documents and production of all relevant, non-privileged documents;
 - (e) examination for discovery, of me as one of the representative plaintiffs, and of a representative of the Defendant;
 - (f) a pretrial conference, where a judge helps parties explore the possibility of settlement, narrow the issues for trial and otherwise focus the parties on the requirements for trial;
 - (g) a trial of the common issues;
 - (h) notice to the class for their participation if individual participation is required;
 - (i) determination of the common issues;
 - (j) distribution of the judgment (or proceeds of settlement, if the action is settled); and
 - (k) there may be appeals from the certification order, from other court orders, or from the judgment at the common issues trial.
18. I understand that by acting as a representative plaintiff, it is my responsibility to:
- (a) become familiar with the issues to be decided by the court, which I have done;
 - (b) review and approve the statement of claim and any amendments to it, which I have done;
 - (c) assist in the preparation of the material in support of the motion for certification, which I have done;
 - (d) attend, if necessary, any cross-examination on this affidavit and any other affidavit I may swear in support of certification of the action as a class proceeding;

- (e) assist in the preparation of an affidavit of documents listing all relevant documents in my possession, control or power, and execute it;
- (f) attend at an examination for discovery, where I will be asked questions about the nature of my claim;
- (g) assist with the preparation for the trial of this action, or with respect to any proposed settlement, as requested and/or required by my counsel;
- (h) attend at the trial of the common issues, and give my evidence regarding the case; and
- (i) assist in the preparation of and execution of an affidavit in support of a motion for approval of any settlement that my counsel and I agree is in the best interests of the class.

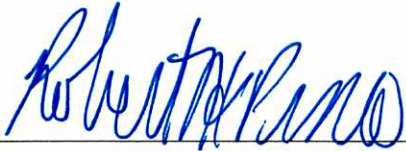
19. To date, I have taken the following steps to fairly and adequately represent the interests of the proposed Class:

- (a) educated myself on the ATRA Passport system and the Province's decision to revoke recognition of the ATRA Passports;
- (b) to the best of my ability, continually monitored changes to the system;
- (c) retained the law firms of Paliare Roland Rosenberg Rothstein LLP and Patterson Law, experienced class action counsel, as Class Counsel, and instructed them to commence this proceeding;
- (d) provided information for the statement of claim and this certification motion, including compiling information about my genealogy and lineage;
- (e) reviewed and approved the statement of claim;
- (f) aided in the drafting of this affidavit; periodically reviewed the content of the class action information websites posted by plaintiff's counsel on their respective firms' websites and by the NCNS; and
- (g) requested and received status updates from Class Counsel and the NCNS on a bi-monthly conference call.

20. I have also reviewed the Litigation Plan set out at Schedule B to the Notice of Motion.

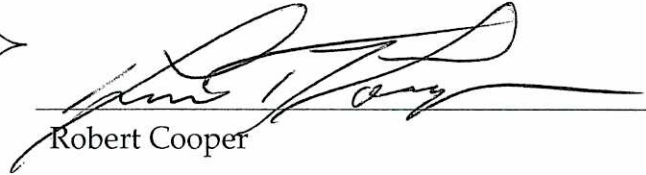
21. I do not have any interest in conflict with the interests of the other members of the Class. I believe that I can fairly and adequately represent the interests of the Class, and I am committed to doing so.

SWORN before me in Truro, in the
Province of Nova Scotia, this 30th day
of January, 2020.



Robert H. Pineo

A Barrister or Solicitor of the Supreme
Court of Nova Scotia.



Robert Cooper

ROBERT H. PINEO
A BARRISTER OF THE
SUPREME COURT OF NOVA SCOTIA

20 19 No 490119
This is Exhibit A referred to in the
Affidavit of Robert Cooper
sworn before me this 30 day of January
A.D. 20 20
Robert H. Pineo
A Barrister of the Supreme Court
of Nova Scotia

ROBERT H. PINEO
A BARRISTER OF THE
SUPREME COURT OF NOVA SCOTIA



Native Council Of Nova Scotia
**ABORIGINAL & TREATY RIGHTS
ACCESS (A.T.R.A.) PASSPORT**

IDENTIFICATION CARD

In the name of Mi'kmaq Nationimouw, the Bearer of this A.T.R.A. Passport is a citizen of the Nationimouw and entitled to all privileges and immunities thereto appertaining.



Name: Robert R. Cooper
Date Of Birth: 10/04/1945 **Height:** 5'11" **Weight:** 230 Lbs
Sex: Male **Hair Color:** Grey **Eye Color:** Brown
Date Of Issue: 20/03/2018 **Date Of Expiry:** 19/03/2023
Bearer's Children:

A.T.R.A.#
8-1730

Signature:

Lorraine Augustine, Chief & President
Native Council Of Nova Scotia



The Netukulimkewe'l Commission, the natural life management authority for the large community of Mikmaq/Aboriginal people residing off -reserve in Nova Scotia throughout traditional Mi'kmaq territory and within the Mi'kmaq Nationimouw requests in the name of the Mikmawey Mawiomi, to all those to whom it may concern, to allow the Bearer of this card to pass freely without let or hindrance and to allow the Bearer the free liberty of hunting, fishing, fowling and trade as usual and to afford the Bearer such assistance and protection as may be necessary. The Bearer of this passport is a person of Mi'kmaq ancestry, deemed an Aboriginal person and is a beneficiary of Aboriginal, Treaty and other rights guaranteed by Section 25 of the Canadian Constitution and Part 2 Section 35. It is to be used only by the Bearer in whose name it is issued and children under the age of 16 whose names are included on it.

This Aboriginal and Treaty Rights Access (A.T.R.A.) Passport is the property of the N C N S Netukulimkewe'l Commission and it must not be altered and should be safe guarded in every way. The Bearer is advised to keep the passport number recorded separately from this card. If lost or stolen or destroyed report at once to the N C N S A.T.R.A. Passport office. Netukulimkewe'l Commission, P.O. Box 1320, Truro, Nova Scotia B2N 5N2 or call toll free 1-877-565-1752. If surrendered son or agency and not promptly returned, immediately report this occurrence to the N C N S Netukulimk Office.

A.T.R.A. PASSPORT IDENTIFICATION CARD

In the name of the Mi'kmaq Nationimouw, the Bearer of this A.T.R.A. Passport is a citizen of the Nationimouw and entitled to all privileges and immunities thereto appertaining

Name **Robert R. Cooper**
D.O.B April 10, 1945 Height 5' 11"
Weight 230 lbs Sex M Hair Grey Eyes Brown
Date of Issue February 6, 2013 Date of Expiry February 6, 2018
Bearer's Children

A.T.R.A. No. 8 - 1730

This Passport is not valid unless signed by the Chief and President and the Bearer's photograph are sealed.

Signature _____
(Grace Conrad, Chief & President, Native Council of Nova Scotia)

Not valid unless imprinted with the seal of the Netukulimkew'e'l Commission

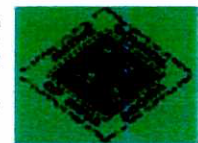
The Netukulimkew'e'l Commission, the natural life management authority for the large community of Mi'kmaq/Aboriginal people residing off-reserve in Nova Scotia throughout traditional Mi'kmaq territory within the Mi'kmaq Nationimouw requests in the name of the Mikmawey Mawomi, all those to whom it may concern to allow the Bearer to pass freely without let or hindrance and to allow the Bearer free liberty of hunting, fishing, fowling and trade as usual and to afford the Bearer such assistance and protection as may be necessary.

The Bearer of this passport is a person of Mi'kmaq ancestry, deemed an Aboriginal person and is a beneficiary of Aboriginal, Treaty and other rights guaranteed by Section 25 of the Canadian Constitution and Part 2 Section 35

It is to be used only by the Bearer in whose name it is issued and children under the age of 16 whose names are included on it.

This Aboriginal and Treaty Rights Access Passport is the property of the Netukulimkew'e'l Commission and it must not be altered and should be safe guarded in every way

The Bearer is advised to keep the passport number recorded separately from this card. If lost or stolen or destroyed report at once to the A.T.R.A. Passport office, Netukulimkew'e'l Commission, P.O. Box 1320, Truro, Nova Scotia B2N 5N2 or call toll free 1-877-565-1752. If surrendered to any person or agency and not promptly returned, immediately report this occurrence to the Netukulimk



A.T.R.A. PASSPORT IDENTIFICATION CARD

In the name of the Mi'kmaq Nationimouw, the Bearer of this A.T.R.A. Passport is a citizen of the Nationimouw and entitled to all privileges and immunities thereto appertaining:

Name: Robert R. Cooper

D.O.B. April 10, 1945 Height: 5' 11"
Weight: 260 lbs. Sex: M Hair: Brown Eyes: Brown
Date of Issue: January 14, 2008 Date of Expiry: January 13, 2013
Bearer's Children: NA

A.T.R.A. No. 8 - 1179

This Passport is not valid unless signed by the Chief and President and the Bearer's photograph are sealed.

Signature: _____

(Grace Conrad, Chief & President, Native Council of Nova Scotia)

Not valid unless imprinted with the seal of the Netukulimkew'e'l Commission

The Netukulimkew'e'l Commission, the natural life management authority for the large community of Mi'kmaq/Aboriginal people residing off-reserve in Nova Scotia throughout traditional Mi'kmaq territory within the Mi'kmaq Nationimouw requests in the name of the Mikmawey Mawiom, all those to whom it may concern to allow the Bearer to pass freely without let or hindrance and to allow the Bearer free liberty of hunting, fishing, fowling and trade as usual and to afford the Bearer such assistance and protection as may be necessary.

The Bearer of this passport is a person of Mi'kmaq ancestry, deemed an Aboriginal person and is a beneficiary of Aboriginal, Treaty and other rights guaranteed by Section 25 of the Canadian Constitution and Part 2 Section 35.

It is to be used only by the Bearer in whose name it is issued and children under the age of 18 whose names are included on it.

This Aboriginal and Treaty Rights Access Passport is the property of the Netukulimkew'e'l Commission and it must not be altered and should be safe guarded in every way.

The Bearer is advised to keep the passport number recorded separately from this card. If lost or stolen or destroyed report at once to the A.T.R.A. Passport office, Netukulimkew'e'l Commission, P.O. Box 1320, Truro, Nova Scotia B2N 5N2 or call toll free 1-877-565-1752. If surrendered to any person or agency and not promptly returned, immediately report this occurrence to the Netukulimk.



A.T.R.A. PASSPORT IDENTIFICATION CARD

In the name of the Mi'kmaq Nationimouw, the Bearer of this A.T.R.A. Passport is a citizen of the Nationimouw and entitled to all privileges and immunities thereto appertaining:



Name: **Robert R. Cooper**
D.O.B: April 10, 1945 Height: 5' 10"
Weight: 260 lbs Sex: M Hair: Grey/Brown Eyes: Brown
Date of Issue: January 3, 2003 Date of Expiry: January 2, 2008
Bearer's Children:

A.T.R.A. No. 8 - 0811

This Passport is not valid unless signed by the Chief and President and the Bearer's photograph are sealed.

Signature: Grace Conrad
(Grace Conrad, Chief & President, Native Council of Nova Scotia)

Not valid unless imprinted with the seal of the Netukulimkew'e'l Commission

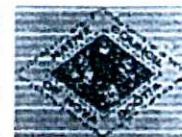
The Netukulimkew'e'l Commission, the natural life management authority for the large community of Mi'kmaq/Aboriginal people residing off-reserve in Nova Scotia throughout traditional Mi'kmaq territory within the Mi'kmaq Nationimouw requests in the name of the Mikmawey Mawtomi, all those to whom it may concern to allow the Bearer to pass freely without let or hindrance and to allow the Bearer free liberty of hunting, fishing, fowling and trade as usual and to afford the Bearer such assistance and protection as may be necessary.

The Bearer of this passport is a person of Mi'kmaq ancestry, deemed an Aboriginal person and is a beneficiary of Aboriginal, Treaty and other rights guaranteed by Section 25 of the Canadian Constitution and Part 2 Section 35.

It is to be used only by the Bearer in whose name it is issued and children under the age of 18 whose names are included on it.

This Aboriginal and Treaty Rights Access Passport is the property of the Netukulimkew'e'l Commission and it must not be altered and should be safe guarded in every way.

The Bearer is advised to keep the passport number recorded separately from this card. If lost or stolen or destroyed report at once to the A.T.R.A. Passport office, Netukulimkew'e'l Commission, P.O. Box 1320, Truro, Nova Scotia B2N 5N2 or call toll free 1-877-565-1752. If surrendered to any person or agency and not promptly returned, immediately report this occurrence to the Netukulimkew'e'l Commission.



A.T.R.A. PASSPORT TIFICATION CARD

In the name of the Mi'kmaq Nation, the Bearer of this A.T.R.A. Passport is a citizen of the Nation and entitled to all privileges and immunities thereto appertaining.

Name **Robert R. Cooper**
D.O.B. April 10, 1945 Height 5'10"
Weight 170 lbs. Sex M Hair Brown Eyes Brown
Date of Issue April 28, 1998
Date of Expiry April 28, 2003
Bearer's Children:

A.T.R.A. No. 8 - 0482

This Passport is not valid unless signed by the Chief and President and the Bearer's photograph are sealed.

Signature _____ Lorraine Cook
Chief & President, Native Council of Nova Scotia
Not valid unless imprinted with the seal of the Netukulmewi Commission

The Netukulmewi Commission, the natural life management authority for the large community of Mi'kmaq/Aboriginal people residing off-reserve in Nova Scotia throughout traditional Mi'kmaq territory within the Mi'kmaq Nation, requests in the name of the Mikmawey Mawmomi, all those to whom it may concern to allow the Bearer to pass freely without let or hindrance and to allow the Bearer free liberty of hunting, fishing, towing and trade as usual and to afford the Bearer such assistance and protection as may be necessary.

The Bearer of this passport is a person of Mi'kmaq ancestry, deemed an Aboriginal person and is a beneficiary of Aboriginal, Treaty and other rights guaranteed by Section 25 of the Canadian Constitution and Part 2 Section 35.

It is to be used only by the Bearer in whose name it is issued and children under the age of 16 whose names are included on it.

This Aboriginal and Treaty Rights Access Passport is the property of the Netukulmewi Commission and it must not be altered and should be safe guarded in every way.

The Bearer is advised to keep the passport number recorded separately from this card. If lost or stolen or destroyed report at once to the A.T.R.A. Passport office, Netukulmewi Commission, P.O. Box 1320, Truro, Nova Scotia B2N 5N2 or call toll free 1-800-565-4372. If surrendered to any person or agency and not promptly returned, immediately report this occurrence to the Netukulmewi Commission.

