

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, Stephen Joyce, of the Town of Eastern Passage, 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 60 years old. I live in Eastern Passage, Nova Scotia, where I have lived for approximately 10 years.

3. I am a plumber and pipefitter by trade.

4. I have been a member of the Native Council of Nova Scotia ("NCNS") since 2002. The NCNS is the Self-Governing Authority for Mi'kmaq/Aboriginal Peoples residing off-reserve in Nova Scotia throughout traditional Mi'kmaq Territory. I actively attend NCNS meetings and events throughout the year.

5. I have held an Aboriginal and Treaty Rights Access Passport ("ATRA Passport") since 2003. My current ATRA passport number is 8-1759. Copies of my current and past ATRA passports are attached to my affidavit as **Exhibit "A"**.

### **I am a Non-Status Mi'kmaq Indian**

6. I am Mi'kmaq. I self-identify as Mi'kmaq, I am of Mi'kmaq ancestry, and I am accepted by my community as Mi'kmaq.
7. I am a direct descendant of Jean-Baptiste Cope, a Mi'kmaq signatory to the 1752 Treaty between Her Majesty and the Tribe of Mi'kmaq Indians of the Eastern Coast of Nova Scotia (the "1752 Treaty").
8. I am a member of the Tribe of the Mi'kmaq Indians of Nova Scotia and a descendant and heir of the Tribe and a beneficiary of the 1752 Treaty.
9. I am not a person registered as an Indian under the *Indian Act*; I am not a "Status Indian."

### **My Use of the ATRA Passport**

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. 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, including my mother and my aunts.
11. Participating in the annual moose hunt is a tradition in my family. For nearly 20 years, I joined my uncles in the annual moose hunt. I have carried on that tradition now that all of my uncles have since passed away.
12. As a Non-Status Indian, I have been unable to hunt since the Province's Decision.

### **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 have or assert rights under the 1752 Treaty and/or an Aboriginal right to hunt and harvest natural resources. 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 30<sup>th</sup> day  
of January, 2020.



Robert H. Pineo

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



Stephen Joyce

**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 Stephen Joyce  
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: **Stephen J. Joyce**  
Date Of Birth: **03/02/1959** Height: **5'7"** Weight: **150 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.#  
**8-1759**

Signature:

*Louise Augustine*  
Louise Augustine, Chair & President  
Native Council Of Nova Scotia



The Netukulimkewé'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. Netukulimkewé'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: Netukulimkewé'l Commission, P.O. Box 1320 Truro, Nova Scotia B2N 5N2 or call toll free 1-877-565-1752. If surrendered soon or agency and not promptly returned, immediately report this occurrence to the N.C.N.S. Netukulimkewé'l 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 **Stephen J. Joyce**  
D.O.B. February 3, 1959 Height: 5' 7"  
Weight: 150 lbs Sex: M Hair: Black Eyes: Brown  
Date of Issue: June 6, 2013 Date of Expiry: June 5, 2018  
Bearer's Children

**A.T.R.A. No. 8 - 1759**

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 Netukulimkewal Commission

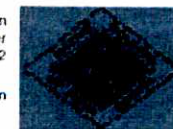
The Netukulimkewal Commission, the natural life management authority for the large community of Mi'kmaq/Aboriginal people residing off-reserve in Nova Scotia throughout traditional Mi'kmaq territory within the Mi'kmaq Nationimouw requests in the name of the Mikmawey Mawioni, all those to whom it may 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 Netukulimkewal 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, Netukulimkewal 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 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: Stephen J. Joyce**

D.O.B. February 3, 1959      Height: 5' 7"  
Weight: 160 lbs.      Sex: M      Hair: Black      Eyes: Brown  
Date of Issue: June 2, 2006      Date of Expiry: June 1, 2013  
Bearer's Children:

**A.T.R.A. No. 8 - 1307**

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 Netukulimkewi Commission

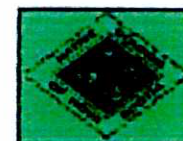
The Netukulimkewi Commission, the natural life management authority for the large community of Mi'kmaq/Aboriginal people residing off-reserve in Nova Scotia throughout traditional Mi'kmaq territory within the Mi'kmaq Nationimouw requests in the name of the *Mikmawey Mawsoom*, all those to whom it may 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 Netukulimkewi 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, Netukulimkewi 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: Stephen J. Joyce**

D.O.B. February 3, 1959

Height: 5' 7"

Weight: 160 lbs. Sex: M

Hair: Black Eyes: Brown

Date of Issue: March 14, 2008

Date of Expiry: March 13, 2013

Bearer's Children:

**A.T.R.A. No. 8 - 1257**

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 Mawiwom, 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.

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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 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: **Stephen J. Joyce**  
D.O.B. February 3, 1959 Height: 5' 6-1/2"  
Weight: 150 lbs. Sex: M Hair: Black Eyes: Brown  
Date of Issue: April 30, 2003 Date of Expiry: April 29, 2008  
Bearer's Children:

A.T.R.A. No. 8 - 0886

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 Netukulimkewel Commission

The Netukulimkewel 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 16 whose names are included on it.

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

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