

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, E. Dianne Langley, of Shelburne, Nova Scotia, make oath and give evidence as follows:

1. I am a proposed representative plaintiff in this action.
2. I have personal knowledge of the evidence sworn to in this affidavit, except where otherwise stated to be based on information and belief.
3. I state, in this affidavit, the source of any information that is not based on my own personal knowledge, and I state my belief of the source.

Personal Background

4. I am 72 years old. I live in Shelburne, Nova Scotia.
5. I am retired. I have been retired since 1999.
6. I have been a member of the Native Council of Nova Scotia ("NCNS") since 1999. 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.
7. I was one of the founding members of the NCNS in Zone 13, which encompasses Shelburne County. I have been on the board of directors for 19 years, and I have served variously as Treasurer, Secretary, and President of Zone 13. I am also one of the Elders for Zone 13. I am the past President of the NCNS Elders' Group, and I am the elected Elders' President for the Congress of Aboriginal People.

8. I have held an Aboriginal and Treaty Rights Access Passport ("ATRA Passport") since 2000. My current ATRA passport number is 8-1476. Copies of my current and past ATRA passports are attached to my affidavit as **Exhibit "A"**.

I am a Non-Status Mi'kmaq Indian

9. 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.

10. I am not a person registered as an Indian under the *Indian Act*; I am not a "Status Indian."

11. I am a direct descendant of members of the Mi'kmaq communities at Shubenacadie, New Germany, and Sable River. I am a beneficiary of the 1760/61 Treaty between the Mi'kmaq and Her Majesty.

My Use of the ATRA Passport

12. 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. For many years, I hunted with my father and then later, with my husband. The meat we harvested, which was primarily deer and rabbit, would be used to feed our family throughout the year

13. I have not hunted since the Province's decision to revoke recognition of ATRA Passports.

My Qualifications as a Representative Plaintiff

14. I believe I can fully and adequately represent the interests of the proposed class.

15. To the extent necessary, I can also represent the interests of the subclass of plaintiffs who have or assert rights pursuant the 1760/61 Treaty and/or an Aboriginal right to hunt and harvest natural resources. I am a member of this subclass.

16. 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.

17. I am prepared to act as the representative plaintiff for the Class, or any other class as may be defined by the Court.

18. 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.

19. 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.

20. 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 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.

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

22. 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.

23. I swear this affidavit to support my motion for certification and no improper purpose.

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.



E. Dianne Langley

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 E. Dianne Langley
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 Nationinsuuk, the Bearer of this A.T.R.A. Passport is a citizen of the Nationinsuuk and entitled to all privileges and immunities thereto appertaining



Name: Diann D. Langley

D.O.B. 12/12/1947 Height: 5'2"

Weight: 180 Lbs Sex: F Hair: Black Eyes: Hazel

Date of Issue: 21/04/2015 Date of Expiry: 20/04/2020

Bearer's Children:

A.T.R.A. # 8-1476

Signature:

G. Conrad

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



A.T.R.A. PASSPORT IDENTIFICATION CARD

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

Name: E. Diann D. Langlely

D.O.B: December 12, 1947 Height: 5' 2"
Weight: 185 lbs Sex: F Hair: Black Eyes: Hazel
Date of Issue: March 11, 2010 Date of Expiry: March 10, 2015
Bearer's Children:

A.T.R.A. No. 8 - 1476

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 national 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 Nationmouw requests in the name of the Mikmawey Mawome, 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 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: **E. Diann D. Langley**

D.O.B. December 12, 1947

Height: 5' 2"

Weight: 180 lbs. Sex: F

Hair: Dk. Brown Eyes: Gr/Brown

Date of Issue: Feb. 14, 2005

Date of Expiry: Feb. 13, 2010

Bearer's Children:

A.T.R.A. No. 8 - 1055

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

Signature

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

Not valid unless imprinted with the seal of the Netukulimkwé Commission

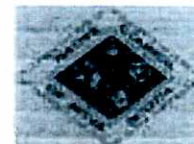
The Netukulimkwé Commission, the natural resource management authority for the large community of Mi'kmaq/Aboriginal people residing off-reserve in Nova Scotia throughout traditional Mi'kmaq territory within the Mi'kmaq Nation. Requests in the name of the Mi'kmaq Nation, all those to whom it may concern to allow the Bearer to pass freely without let or hindrance and to allow the Bearer free liberty of hunting, fishing, trapping 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 Netukulimkwé 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, Netukulimkwé 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 Netukulimkwé Commission.



REGISTERED
MAR - 2 2005

A.T.R.A. PASSPORT IDENTIFICATION CARD

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

Name: **E. Diann D. Langley**

D.O.B. December 12, 1947

Height: 5'2"

Weight: 200 lbs. Sex: F

Hair: Black Eyes: Brown

Date of Issue: May 10, 2000

Date of Expiry: May 9, 2005

Bearer's Children:

A.T.R.A. No. 8 - 0649

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 Netukulinkewe'l Commission

The Netukulinkewe'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 Nationumow requests in the name of the Mikmawey Mawionni, 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.

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