

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20140910**

**Docket: A-271-13**

**Citation: 2014 FCA 197**

**CORAM: NADON J.A.  
TRUDEL J.A.  
SCOTT J.A.**

**BETWEEN:**

**THE ATTORNEY GENERAL OF CANADA**

**Appellant**

**and**

**MICHELLE LANDRY AND JEAN-PAUL  
LANDRY IN THEIR PERSONAL  
CAPACITIES AND AS REPRESENTATIVES  
OF THE MEMBERS OF THE CONSEIL  
AUTOCHTONE DE LA CÔTE-EST**

**Respondents**

Heard at Fredericton, New Brunswick, on September 10, 2014.

Judgment delivered from the bench at Fredericton, New Brunswick, on September 10, 2014.

**REASONS FOR JUDGMENT OF THE  
COURT BY:**

**TRUDEL J.A.**

Federal Court of Appeal



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Respondents

**REASONS FOR JUDGMENT OF THE COURT**

(Delivered from the bench at Fredericton, New Brunswick, on September 10, 2014.)

**TRUDEL J.A.**

[1] Although Justice Gagné was entitled to decide the matter *de novo* and reach a different conclusion from that of Prothonotary Morneau (T-420-12, 2013-08-01), and despite a most remarkable presentation by the representatives of the members of the Conseil autochtone de la

Côte-Est, we are all of the opinion that the order of Justice Gagné allowing the appeal from the order of Prothonotary Morneau is based on an incorrect principle of law.

[2] An analysis of the record shows that the question whether the respondents raised facts that disclose a valid cause of action had already been decided by another judge of the Federal Court in docket T-1692-12. Accordingly, Justice Gagné should have dismissed the appeal before her on grounds of estoppel and, we would add, abuse of process. It is therefore unnecessary to consider the parties' arguments regarding the treaties and titles mentioned in the respondents' memorandum of fact and law or regarding the jurisdiction of this Court to rule on the remedies sought by them on the merits.

[3] For these reasons, the appeal will be allowed with costs, the decision of the Federal Court dated August 1, 2013, will be set aside, and the decision of the prothonotary dated July 17, 2012, will be restored.

“Johanne Trudel”

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J.A.

Certified true translation  
Erich Klein

**FEDERAL COURT OF APPEAL**

**SOLICITORS OF RECORD**

**DOCKET:** A-271-13

**STYLE OF CAUSE:** THE ATTORNEY GENERAL OF  
CANADA v. MICHELLE  
LANDRY AND JEAN-PAUL  
LANDRY IN THEIR PERSONAL  
CAPACITIES AND AS  
REPRESENTATIVES OF THE  
MEMBERS OF THE CONSEIL  
AUTOCHTONE DE LA CÔTE-  
EST

**PLACE OF HEARING:** FREDERICTON, NEW  
BRUNSWICK

**DATE OF HEARING:** SEPTEMBER 10, 2014

**REASONS FOR JUDGMENT OF THE COURT BY:** NADON J.A.  
TRUDEL J.A.  
SCOTT J.A.

**DELIVERED FROM THE BENCH BY:** TRUDEL J.A.

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THE ATTORNEY GENERAL OF  
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Jean-Paul Landry

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MICHELLE LANDRY AND  
JEAN-PAUL LANDRY IN THEIR  
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**SOLICITORS OF RECORD:**

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