



G. Sebastian #1
Sworn: August 26, 2008

No. S085226
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BRITISH COLUMBIA TEACHERS' FEDERATION,
HOSPITAL EMPLOYEES' UNION,
BRITISH COLUMBIA GOVERNMENT AND SERVICE EMPLOYEES' UNION,
FEDERATION OF POST-SECONDARY EDUCATORS OF BRITISH COLUMBIA,
BRITISH COLUMBIA DIVISION OF THE CANADIAN UNION OF PUBLIC EMPLOYEES,
CANADIAN OFFICE & PROFESSIONAL EMPLOYEES UNION, LOCAL 378,
BRITISH COLUMBIA NURSES' UNION
and MARCIA TOMS

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA

DEFENDANT

AFFIDAVIT

I, LUUTKUDZIIWUS, also known as GORDON SEBASTIAN, lawyer, of 1205 Montreal Street, in the Town of Smithers, in the Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am Simogyat (Hereditary Chief) of the Wilp Luutkudziiwus (House of Luutkudziiwus), of the Frog clan of the village of Gitanmaax. I also am the Executive Director and negotiator for the Gitxsan Chiefs Office in the current treaty negotiations with Canada and British Columbia.
2. I have lived most of my life on the Gitxsan Lax Yip (territories). I have been taught the culture, laws and traditions of the Gitxsan by my family and other elders since I was a small child, and also through my participation in the Wilp's Li'ligit. I was identified and groomed for

my role as Luutkudziiwus through my mother beginning in 1942 and since my birth in 1950, by my grandparents, with whom I lived.

3. On the basis of all the foregoing, I have personal knowledge of the facts to which I have hereinafter deposed.

4. The Gitksan are aboriginal people and through the Gitksan Huwilp, have exercised aboriginal rights, title, and governance over approximately 33,000 square kilometres of territories located in nine watershed units: the Nass, the Upper Skeena, the Suu Wii Aax, the Mid Skeena, the Kispiox, the Babine, the Suskwa, the Gitsegukla and the Lower Skeena. The Gitksan have continuously occupied these territories exclusively as Gitksan Huwilp and according to the Ayokim Gitksan (laws) since time immemorial.

5. The Gitksan consists of four Pdeek (clans), which are known as the Lax Seel/Ganeda (frog), the Lax Gibuu (wolf), the Lax Skiik (eagle) and the Giskaast (fireweed). Each clan has a number of wilp (plural: Huwilp), which are extended family or house groups based on matrilineal blood – lines and rank. The Gitksan Huwilp are each attached to one or more Lax Yip (territories) and the approximate population of each wilp ranges between 200-800 Gitksan currently, for a total population of 13,000 people.

6. Approximately 80% of the Gitksan live on our traditional territory, which consists of 33,000 square kilometres in Northwestern British Columbia.

7. The Gitksan have been attempting to reconcile with the federal and provincial governments with respect to our ownership of this land and our right to self-governance for over 100 years.

8. The Gitksan would prefer to negotiate a settlement to this dispute, but the provincial government's refusal to negotiate has meant that we have had to resort to other means to advance their cause.

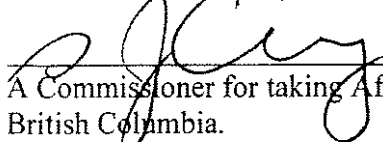
9. We took our demands with respect to these rights to the Court. In *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010, the Supreme Court of Canada made important pronouncements with respect to our aboriginal title, but indicated that a new trial and/or further negotiations would need to take place to settle the claims of the Gitksan.

10. A majority of the members of the Supreme Court suggested that rather than a retrial, a negotiated resolution of this dispute would be appropriate. The Gitksan agree.


11. Frustrated by both the federal and provincial governments' limited mandate for negotiations in the intervening decade (restrict the Gitksan to reserves, band councils, and limited "special" services"), the Gitksan Nation purchased advertisements which were transmitted by the CBC during its television coverage of the 2008 Summer Olympics which were held in Beijing from August 8 to 24, 2008. This public education campaign was intended to reach an audience throughout Canada. They expressed the Gitksan's desire for a negotiated settlement, described the special relationship we have with our land, and stated our wish to be part of Canadian society rather than apart from it. This advertising campaign cost well over \$250,000.

12. If the Gitksan were unhappy with the Throne Speech in 2009 or, for that matter, in the Throne Speech in the year of any future fixed date election because of its discussion of our claims, or any matter of concern to us, we might well decide to mount a similar campaign in order to respond to it, and would be deeply troubled by any restriction on our right to do so.

SWORN BEFORE ME at the City of)
Vancouver, in the Province of British)
Columbia, this 26th day of August, 2008.)


A Commissioner for taking Affidavits for)
British Columbia.)

Joseph J. Arvey, Q C
Arvey Finlay
Barristers
1350 - 355 Burrard Street
Vancouver, BC V6C 2G8
Phone 804.689.4421
Fax 804.687.1841


LUUTKUDZIWUS,
also known as GORDON SEBASTIAN

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OFFICE & PROFESSIONAL EMPLOYEES UNION, LOCAL 378, BRITISH
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Arvay Finlay
Barristers
1350 - 355 Burrard Street
Vancouver BC V6C 2G8
Phone: 604.689.4421
Fax: 604.687.1941
File No. 2638-001