

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 1

NOTICE OF APPEAL (RULE 6(1))

VANCOUVER

05-Sep-25

COURT OF APPEAL
REGISTRY

Court of Appeal File No.
(For Registry Use Only)

Case File No. **CA50955**

Supreme Court File No.

14-1027

The file number can be found on the upper
right corner of the Supreme Court documents

Supreme Court Registry Location

Victoria Registry

To the respondent(s)

A Court proceeding has been commenced against you in the Court of Appeal. See the final page of this form for details on how to respond.

1. PARTIES TO THE APPEAL

Appellant(s)

List the party(ies) appealing the
Supreme Court or tribunal order.

Identify their roles in the
proceeding below in brackets.

E.g., Jane Doe (plaintiff,
petitioner, etc.)

Cowichan Tribes, Squxulenuhw, also known as William C. Seymour Sr., Stz'uminus First Nation, Thó̓l men, also known as John Elliott, Penelakut Tribe, Kwaliimtunaat, also known as Joan Brown, Halalt First Nation, and Sulsimutstun, also known as James Thomas, on their own behalf, and on behalf of all other descendants of the Cowichan Nation (Plaintiffs)

Respondent(s)

List the other party(ies) in the
Supreme Court or tribunal order
you are appealing who are
affected by the appeal. Identify
their roles in the proceeding
below in brackets. E.g., Jane Doe

(defendant).

The Attorney General of Canada,
His Majesty the King in right of the Province of British Columbia, the
City of Richmond,
the Vancouver Fraser Port Authority, the
Musqueam Indian Band, and
the Tsawwassen First Nation (Defendants)

2. THE ORDER YOU ARE APPEALING

Is leave to appeal required?
Court of Appeal Rule 12 explains when you need leave to appeal. If you are unsure, check "Yes".

Yes No

Who made the order?
Name the justice or other decision maker who pronounced the order you are appealing.

The Honourable Madam Justice Young

What court and/or tribunal pronounced the order(s)?

Supreme Court Tribunal

Name of tribunal

Date the order was pronounced
Include the day, month and year that the order being appealed was pronounced (not the date the order was entered).

07/08/2025

DD/MM/YYYY

City where the order was pronounced

Victoria

Length of lower court hearing
Indicate in days or hours the length of the hearing that led to the order you are appealing from. For example, if you are appealing a judgment from a trial that took two hours, enter "two hours."

513 trial days

What type of proceeding are you appealing from?
Check one only.

Trial Judgment Order of a Tribunal
 Summary Trial Judgment Chambers Judgment

3. RELIEF SOUGHT

If leave to appeal is not required, fill out Part A. If you are seeking leave to appeal, fill out Part B.

PART A: LEAVE NOT REQUIRED

Part of the order being appealed
If you only want to appeal one part of an order, enter the part that is being appealed.

The Appellants are appealing the following part of the Order:

1. The descendants of the Cowichan Nation, including the Cowichan Tribes, Stz'uminus, Penelakut and Halalt, have Aboriginal title to a portion of the Lands of Tl'uqtinus, the Cowichan Title Lands, within the meaning of s. 35(1) of the Constitution Act, 1982. (para 3599 of Reasons).

Order(s) you are seeking on appeal

Briefly list the order(s) you will ask this Court to make on appeal. For example: "Set aside the trial judgment and order a new trial". Include any order as to costs.

1. An order that the trial judge erred in limiting the extent of the Cowichan Nation title area to a portion of the Claim Area which she identified as the Cowichan Title Lands;
2. An order allowing the appeal to the extent of declaring Cowichan Nation Aboriginal Title to the entire Claim Area;
3. In the alternative, an order allowing the appeal to the extent of declaring Cowichan Nation Aboriginal Title to a greater portion of the Claim Area than that identified as the Cowichan Title Lands;
4. Costs to the Appellant in this Court;
5. Such further and other relief as this Honourable Court may deem just.

PART B: SEEKING LEAVE TO APPEAL

Part of the order being appealed

If you are only seeking leave to appeal one part of an order, enter the part that you are seeking leave to appeal.

[Empty box for part of the order being appealed]

Grounds for leave to appeal

Be as specific as possible. For example, if you believe the trial judge used an incorrect legal test or otherwise misapplied the law, indicate that here.

[Empty box for grounds for leave to appeal]

4. ADDITIONAL INFORMATION

Sealing order

Is there an order sealing any part of the trial court or tribunal file? If yes, add date(s).

Yes No

Date

See attached Schedule "A"

DD/MM/YYYY

Anonymity order/publication ban

Are there orders that protect the identity of a party or parties? If yes, add date(s).

Yes No

Date

See attached Schedule "A"

DD/MM/YYYY

Areas of law raised in the appeal

You may check more than one box if appropriate. For example, you should check "motor vehicle accidents" and "torts" for a personal injury claim involving a motor vehicle accident.

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Constitutional/Administrative | <input type="checkbox"/> Civil Procedure | <input type="checkbox"/> Commercial |
| <input type="checkbox"/> Motor Vehicle Accidents | <input type="checkbox"/> Municipal Law | <input type="checkbox"/> Real Property |
| <input type="checkbox"/> Torts | <input type="checkbox"/> Equity | <input type="checkbox"/> Wills and Estates |
| <input type="checkbox"/> Divorce Act (Canada) | <input type="checkbox"/> Family Law Act | <input type="checkbox"/> Other |

Appeals involving children
Does this appeal involve the rights or interests of a child? E.g., Parenting order

Yes No

5. SERVICE

Are you representing yourself?

Yes No

Name(s) and address(es) within BC for service of appellant(s). If you have a lawyer, include the law firm's address; otherwise provide your own residential address.

David M. Rosenberg, K.C.
Rosenberg Law
671D Market Hill, Vancouver, BC, V5Z 4B5
David M. Robbins
Woodward & Company LLP
200-1022 Government Street, Victoria, BC, V8W 1X7

Phone number(s) of appellant(s)

604-879-4505
250-383-2356 x113

Email address(es) for service of appellant(s)
If you provide an email address, you are consenting to have documents served on you by email.

david@rosenberglaw.ca
drobbins@woodwardandcompany.com

Date form completed

Date

05/09/2025

Name of lawyer or party authorizing filing of this form

David M. Rosenberg, K.C.
David M. Robbins

DD/MM/YYYY

To the appellant(s):

You must file and serve this form on each respondent named in this document within the timelines required by the *Court of Appeal Act* and Court of Appeal Rules. You must file a Notice of Hearing **not more than one year** after filing this Form 1 or your appeal will be placed on the inactive list (Rule 50(1)(a)).

To the respondent(s)

If you intend to participate in this proceeding, **you must give notice** of your intention by doing the following **not more than 10 days** after receiving this Notice of Appeal: (1) file a "Notice of Appearance" (Form 2 of the *Court of Appeal Rules*) in a Court of Appeal registry and; (2) serve the Notice of Appearance on the appellant.

If you fail to file and serve a Notice Appearance:

- You are presumed to take no position on the appeal, or the application for leave to appeal (if leave is required).
- The parties are not obliged to serve you with any further documents related to the appeal, including an order granting leave to appeal (if leave is required).

You are presumed to take no position if you fail to file and serve a Notice of Appearance within the time described above. The filing registries for the British Columbia Court of Appeal are as follows.

Central Registry:

B.C. Court of Appeal
Suite 400, 800 Hornby St.
Vancouver BC V6Z 2C5

Other Registries:

B.C. Court of Appeal
The Law Courts
P.O. Box 9248
STN PROV GOVT
850 Burdett Ave.
Victoria BC V8W 1B4

B.C. Court of Appeal
223 - 455 Columbia St.
Kamloops BC V2C 6K4

Inquiries should be addressed to (604) 660-2468.

SCHEDULE "A"

Sealing Orders

- **2021 07 26** Sealing Order regarding Musqueam fisheries mandate information
- **2022 06 24** Sealing Order regarding Exhibits 1490-1588 on October 25, 2021 – unsealed as of 10:46:25, and resealed as of 4:16:00
- **2022 06 24** Sealing Order regarding Exhibits 1490-1588 on October 26, 2021 – unsealed as of 10:23:31, and resealed as of 12:23:29
- **2022 06 24** Sealing Order regarding Exhibit 1566 on October 29, 2021
- **2023 03 29** Sealing Order re privileged July 1996 recording (Musqueam)

Sealing Orders that include further Publication Bans

- **2021 07 06** Publication Ban and Sealing Order regarding VFPA documents
- **2022 11 29** Publication Ban and Sealing Order regarding VFPA documents, varying the Order of 2021 07 06 (above)
- **2023 10 20** Publication Ban and Sealing Order for October 20, 2023 – a publication ban was engaged at 11:17:57 and continued until 2:01:24
- **2023 10 23** Publication Ban and Sealing Order for October 23, 2023 – a publication ban was engaged at 10:03:11 and continued until 11:26:06