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**Date:** November 30, 2007  
**Re:** The Queen et al. ats. Vollant et. al.  
**Total Pages:** 10 (including cover)  
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Please see attached correspondence.

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November 30, 2007

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Dear Counsel:

**Re: The Queen et al. ats. Vollant et al.**

Please find enclosed our Notice of Motion (Motion to Strike), for our motion returnable March 20, 2008 at 9:30 a.m. in St. Johns, N.L., for service upon you pursuant to the *Federal Court Rules*.

As noted in my previous correspondence, we are of course prepared to accommodate counsel as to scheduling of this motion.

Yours very truly,



Max Faille

MF/slm

Enclosure:

cc. Brian Crane

Federal Court No. T-568-07

**FEDERAL COURT**

**BETWEEN:**

**EDOUARD VOLLANT, AGNÈS MCKENZIE, JEAN-YVES PINETTE,  
MICHEL PINETTE, JACQUES MCKENZIE, ALPHONSE AMBROISE,  
JEAN-GUY PINETTE, ÉRIC ROCK, GEORGE MCKENZIE,  
PHILOMÈNE MCKENZIE, GEORGES-ERNEST GRÉGOIRE,  
RONALD FONTAINE, RAYMOND JOURDAIN, DANIEL ST-ONGE,  
ANDRÉ JÉRÔME, FRANÇOIS FONTAINE, LÉO GRÉGOIRE,  
ANTOINE JOURDAIN, SYLVIO JOURDAIN, ISRAEL ST-ONGE,  
MARC ST-ONGE and ANGÉLINE JOURDAIN AMBROISE,**

**DEMANDEURS**

**ET**

**SA MAJESTÉ LA REINE,**

**DÉFENDERESSE**

**ET**

**LE PROCUREUR GÉNÉRAL DU QUÉBEC**

**ET**

**LE PROCUREUR GÉNÉRAL DE TERRE-NEUVE-ET-LABRADOR,**

**MIS-EN CAUSE**

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**NOTICE OF MOTION  
(Motion to Strike)**

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**TAKE NOTICE** that the Attorney-General for Newfoundland and Labrador will make a motion to the Court on Thursday, March 20, 2008 at 9:30 a.m. or as soon thereafter as the motion can be heard in St-John's, Newfoundland and Labrador.

The anticipated duration of the motion is 4 hours.

**THIS MOTION IS FOR** an Order pursuant to Rule 221(a) of the *Federal Courts Rules* and sections 2 and 17 of the *Federal Courts Act* and the inherent powers of the Federal Court:

- a) striking the statement of claim for want of jurisdiction;
- b) awarding costs to the moving party; and
- c) such further and other relief as the moving party may seek and this Court may allow.

**THE GROUNDS FOR THE MOTION ARE:**

1. By Statement of Claim issued on April 5, 2007, the plaintiffs named Her Majesty the Queen as sole defendant in an action seeking relief relating to aboriginal ancestral and treaty rights everywhere in Labrador ("*partout au Labrador*").
2. The relief sought by the plaintiffs includes the following claims based on aboriginal and treaty rights and title:
  - a. the right to hunt, fish and trap and to carry on related activities, including the right to move freely everywhere in Labrador and the right to access the natural resources of Labrador (para. 3, Statement of Claim);
  - b. a declaration that the plaintiffs have Indian title and specific aboriginal and treaty rights in lands located in Labrador and elsewhere between approximately the 52<sup>nd</sup> and 56<sup>th</sup> North parallels of latitude and the 64<sup>th</sup> to 68<sup>th</sup> meridians West, including some 13,178 square kilometres on which the plaintiffs claim full authority and jurisdiction ("*sur lesquels les*

- demandeurs ont entière autorité et pleine juridiction”) (para. 5, Statement of Claim);
- c. a declaration that the *Royal Proclamation, 1763* gives the Innu Nation complete and peaceful possession of Labrador as their hunting grounds (para. 11, Statement of Claim);
  - d. a declaration that “the whole of Labrador” (“*tout le Labrador*”) is land reserved for Indians within the meaning of s. 91(24) of the *Constitution Act, 1867* and s. 3 of the *Terms of Union of Newfoundland with Canada* and the *Newfoundland Act* (para. 12, Statement of Claim);
  - e. a declaration that if the Province of Newfoundland and Labrador has rights relating to the lands, mines and minerals and royalties of Labrador, these rights are held in trust within the meaning of s. 37 of the *Terms of Union of Newfoundland with Canada* and the *Newfoundland Act* (para. 13, Statement of Claim);
  - f. a declaration that all legislation of the Province of Newfoundland and Labrador respecting the claimed lands or natural resources is unlawful, unconstitutional and of no force or effect with respect to the plaintiffs and the claimed lands (para. 14, Statement of Claim);
  - g. a declaration that any development project affecting the claimed lands without the consent of the Innu families exceeds the authority of the Parliament of Canada and the Legislature of Newfoundland and Labrador (para. 16, Statement of Claim).
3. On June 22, 2007, the Attorney-General for Newfoundland and Labrador was sent by electronic mail an Amended Statement of Claim, which names the

Attorney-General of Newfoundland and Labrador and the Attorney-General of Quebec as "mis-en-cause" in the style of cause.

4. The Amended Statement of Claim is identical to the original Statement of Claim except for the addition of a paragraph which pleads that the Attorney-General for Newfoundland and the Attorney-General for Quebec are joined as "mis-en-cause" so that they may have notice of the matters in issue that may relate to them, including constitutional issues and in particular those relating to the boundary between Quebec and Labrador. (Amended Statement of Claim, para. 75)
5. Service of the Amended Statement of Claim was accepted by counsel for the Province of Newfoundland and Labrador as of August 1, 2007.
6. The lands to which the claims relate, as described in the Amended Statement of Claim and as depicted on the map attached as Annex 2 to the Amended Statement of Claim are within the Province of Newfoundland and Labrador.
7. On October 30, 2007, the Plaintiffs issued and served a notice of constitutional question pursuant to s. 57 of the *Federal Courts Act*. This notice states, *inter alia*, that the Plaintiffs intend to contest the validity, effect and constitutional applicability of the following statutes and regulations of Newfoundland and Labrador, as they relate to lands within the Province of Newfoundland and Labrador they claim were occupied and used by the Plaintiffs and their ancestors:

*Environmental Protection Act*, S.N.L. 2002, c. E-14.2

*Fisheries Act*, S.N.L. 1995, c. F-12.1

*Aquaculture Act*, R.S.N.L. 1990, c. A-13

*Forestry Act*, R.S.N.L. 1990, c. F-23 and Regulations thereunder

*Wild Life Act*, R.S.N.L. 1990, c. W-8 and Regulations and orders thereunder

*Endangered Species Act*, S.N.L. 2001, c. E-10.1  
*Wilderness and Ecological Reserves Act*, R.S.N.L. 1990, c. W-9 and Regulations thereunder  
*Water Resources Act*, S.N.L. 2002, c. W-4.01  
*Hydro Corporation Act*, 2007, S.N.L. 2007, c. H-17 (if proclaimed into force)  
*Hydro Corporation Act*, R.S.N.L. 1990, c. H-16  
*Electrical Power Control Act*, 1994, S.N.L. 1994, c. E-5.1  
*Public Utilities Acquisition of Lands Act*, R.S.N.L. 1990, c. P-48  
*Lower Churchill Development Act*, R.S.N.L. 1990, c. L-27  
*Churchill Falls (Labrador) Corporation Limited (Lease) Act*, 1961 [formerly *Hamilton Falls Power Corporation Limited (Lease) Act*, 1961], S.N.L. 1961, c. 51  
*Public Utilities Act*, R.S.N.L. 1990, c. P-47  
*Lands Act*, S.N.L. 1991, c. 36  
*Provincial Parks Act*, R.S.N.L. 1990, c. P-32 and Regulations thereunder  
*Mining Act*, S.N.L. 1999, c. M-15.1 and Regulations thereunder  
*Mineral Act*, R.S.N.L. 1990, c. M-12 and Regulations thereunder  
*Undeveloped Mineral Areas Act*, R.S.N.L. 1990, c. U-2  
*Quarry Materials Act*, 1998, S.N.L. 1998, c. Q-1.1  
*Petroleum and Natural Gas Act*, R.S.N.L. 1990, c. P-10  
*Rail Service Act*, S.N.L. 1993, c. R-1.1  
*Works, Services and Transportation Act*, S.N.L. 1995 c. W-12  
*Crown Royalties Act*, R.S.N.L. 1990, c. C-43  
*Expropriation Act*, R.S.N.L. 1990, c. E-19

8. At paras 20 and 21 of the notice of constitutional question, the Plaintiffs state:

20. Toute législation et tout droit en intérêt de sa Majesté du chef du Canada, sa Majesté du chef de Terre-Neuve-et-Labrador et sa Majesté du chef du Québec sont sujets aux droits ancestraux et aux droits issus de traités des demandeurs et notamment quant aux terres et aux ressources naturelles des terres traditionnelles des demandeurs.

21. Ni Sa Majesté ni la Province de Terre-Neuve-et-Labrador n'ont obtenu la pleine propriété, contrôle ou autorité sur les ressources naturelles dans les terres traditionnelles.

9. At paras. 24, 26, 27 and 28 the notice further states as follows:

24. Toute législation de la Province de Terre-Neuve-et-Labrador, ainsi que la législation impériale, fédérale et du Québec, visant les ressources naturelles à l'intérieur des terres traditionnelles sont illégales, inconstitutionnelles ou inopérantes en ce qui concerne les demandeurs et les terres traditionnelles. [Underlining in original]

...

26. Subsidiatement, la *Proclamation Royale de 1763* s'applique au Labrador et réserve à la Nation innue la possession entière et paisible du Labrador comme territoire « Indien » (territoire de chasse).

27. Subsidiatement, tout le Labrador et plus particulièrement les territoires de familles innues sont des terres réservées pour les Indiens au sens de l'article 91(24) de la *Loi constitutionnelle de 1867* et de l'article 3 des *Conditions de l'Union de Terre-Neuve au Canada* confirmé par la *Loi sur Terre-Neuve* et, sous réserve des droits constitutionnels des demandeurs, sont de juridiction fédérale.

28. Sans le consentement des demandeurs et de leurs ancêtres, tout législation fédérale et provinciale et tout projet de développement visant les territoires de familles innues sont inconstitutionnels, illégaux, nuls et *ultra vires* et constituent une violation des droits ancestraux et des droits issus de traités des familles innues quant à ces territoires de familles innues et outrepassent les droits de la Couronne et l'autorité du Parlement du Canada et de la Législature de Terre-Neuve-et-Labrador.

10. The Federal Court has no jurisdiction to grant relief as claimed in the Amended Statement of Claim in particular in respect of the plaintiffs claimed aboriginal and treaty rights in relation to lands and resources within the province and the validity of provincial legislation.
11. The relief which is claimed in the Amended Statement of Claim in substance constitutes relief against the Province of Newfoundland and Labrador and is not within the jurisdiction of the Federal Court. The claim in its entirety should be struck out.
12. Sections 2 and 17, *Federal Courts Act*.
13. Rule 221, *Federal Courts Rules*.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be relied on in support of this motion:

1. The pleadings and proceedings herein;
2. The notice of constitutional question filed by the plaintiffs on October 30, 2007;
3. Such other material as counsel may advise and this Honourable Court may permit.

Date: November 29, 2007



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Newfoundland and Labrador**

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Défenderesse  
Federal Court No. T-568-07

- and -

**EDOUARD VOLLANT et al.**  
Demandeurs

**FEDERAL COURT**

**NOTICE OF MOTION**  
(Motion to Strike)

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