

Federal Court
of Appeal



CANADA

Cour d'appel
fédérale

Date: 20110308

Docket: A-273-10

Citation: 2011 FCA 87

**CORAM: NOËL J.A.
PELLETIER J.A.
TRUDEL J.A.**

BETWEEN:

LITTLE RED RIVER CREE NATION #447

Appellants

and

JOHN M. LABOUCAN

Respondent

Heard at Edmonton, Alberta, on March 8, 2011

Judgment delivered from the Bench at Edmonton, Alberta, on March 8, 2011

REASONS FOR JUDGMENT OF THE COURT BY:

NOËL J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Edmonton, Alberta, on March 8, 2011)

NOËL J.A.

[1] We see no basis for interfering with the decision of Justice Gauthier. The only basis for the appeal is a novel constitutional argument that was not put before her and with respect to which the respondent did not have the opportunity to file evidence. As such, it cannot be raised on appeal.

[2] The respondent claims that an increased award of costs in order. We agree. The argument was doomed to fail and should not have been pursued.

[3] The appeal will be dismissed with costs to be assessed at the high end of Column V of
Tariff B.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-273-10

**(APPEAL FROM A JUDGMENT OF THE HONOURABLE MADAM JUSTICE
JOHANNE GAUTHIER DATED JULY 2, 2010, DOCKET NO. T-2003-09)**

STYLE OF CAUSE: LITTLE RED RIVER CREE
NATION #447 v.
JOHN M. LABOURCAN

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: March 8, 2011

REASONS FOR JUDGMENT OF THE COURT BY: (NOËL, PELLETIER & TRUDEL
JJ.A.)

DELIVERED FROM THE BENCH BY: NOËL J.A.

APPEARANCES:

Priscilla Kennedy FOR THE APPELLANTS

Janet Hutchison FOR THE RESPONDENT

SOLICITORS OF RECORD:

Davis LLP FOR THE APPELLANTS
Edmonton, Alberta

Chamberlain, Hutchinson FOR THE RESPONDENT
Edmonton, Alberta