

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

KEVIN HEARN

Plaintiff

-and-

**ESTATE OF JOSEPH BERTRAM MCLEOD, DECEASED
AND MASLAK-MCLEOD GALLERY INC.**

Defendants

NOTICE OF MOTION

The Intervenors, Allen Fleishman, Auction Network, 2439381 Ontario Inc., White Distribution Limited, and Nathaniel Big Canoe, will make a motion to a Judge on Monday, December 4, 2017, as soon on that date as the motion can be heard, at Superior Court of Justice at Toronto, 393 University Avenue, Toronto, Ontario, M5G 1E6

PROPOSED METHOD OF HEARING: The motion is to be heard:

in writing under subrule 37.12.1 (1) because it is (*insert one of on consent, unopposed or made without notice*);

in writing as an opposed motion under subrule 37.12.1 (4);

orally.

THE MOTION IS FOR:

1. An Order for Leave for the Intervenors, Allen Fleishman, Auction Network, 2439381 Ontario Inc., White Distribution Limited, and Nathaniel Big Canoe on behalf of himself and First Nations People, to intervene as parties to the within proceeding pursuant to Rule 13 of the *Rules of Civil Procedure*;
2. The costs of this motion; and,
3. Such further and other relief as counsel for the Intervenors may advise, and this Honourable Court considers just.

THE GROUNDS FOR THE MOTION ARE:

1. Rules 1, 2, 3, 13, and 37 of the *Rules of Civil Procedure*;
2. The initial defendants were the former Joseph Betram McLeod, now deceased, and Maslak-McLeod Gallery Inc. (the “Gallery”), which was owned by the former Mr. McLeod;
3. The Gallery is still a defendant;
4. On or about August 14, 2017, the plaintiff brought a motion to continue the action against the Estate of Joseph Betram McLeod (the “Estate”), and that motion was granted;
5. The Intervenors have an interest in the subject matter of the proceeding and may be adversely affected by a judgment in the proceeding and are genuinely concerned about Public Interest considerations with respect to the within matter; and,
6. Such further and other grounds as counsel may advise and this Honourable Court may allow.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of Jim White;
2. The Affidavit of Nathaniel Big Canoe; and,
3. The Affidavit of Allen Fleishman.

November 1, 2017

Michael J. Panacci
Lawyer

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Lawyers for the Plaintiff

RCP-E 37A (July 1, 2007)