

CITATION: HMK v. Temagami Barge Ltd. et. al., 2024 ONSC 4652
COURT FILE NO.: CV-09-4721
DATE: 22/08/2024

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: His Majesty the King in Right of Ontario as represented by the Minister of Natural Resources, Plaintiff

AND:

Temagami Barge Limited, The Estate of Raymond Joseph Delarosbel, Deceased by his Estate Trustee Patricia Delarosbel and Clifford Foster Lowery, Defendants

BEFORE: The Honourable Justice David Nadeau

COUNSEL: *E. Machado*, for the Plaintiff

C. R. Aiello, for the Defendants Temagami Barge Ltd. and Raymond Joseph Delarosbel

J. Madhany, for the Defendant Clifford Foster Lowery

HEARD: March 21, 2024

DECISION ON MOTION

- [1] This action relates to certain lands located on the shore of Lake Temagami, in the municipality of Lake Temagami (the “Lands”). The plaintiff’s position in this action is that the defendants are in illegal possession of the Lands, where they have established an unlicensed gas bar business. The plaintiff seeks an order requiring the defendants to vacate the Lands.
- [2] The Crown brought a motion seeking leave to dismiss this action against Mr. Lowery on January 18, 2023, as it no longer has a cause of action against him. Counsel for Temagami Barge then brought a cross-motion to dismiss the entire action. Temagami Barge asserts its basis for the dismissal is that “there has been an abuse of process” based on an alleged undisclosed agreement between the plaintiff and Mr. Lowery whereby the plaintiff would release Mr. Lowery from the action in return for him giving evidence favourable to the plaintiff.
- [3] To find evidence of this alleged secret agreement, Temagami Barge examined the following five Ministry employees who at various times going back to 2018 provided instruction or guidance to Crown Counsel in relation to this file:

- a) Mitch Baldwin, Manager, Lake Erie Management Unit;
 - b) Heidi Etzel, District Manager, Timmins-Kirkland Lake District;
 - c) Julie Robinson, Regional Land Use Planning Supervisor, formerly District Supervisor, North Bay District;
 - d) Trish Mousa, retired, formerly Integrated Resource Management Technical Specialist with the Ministry's North Bay District. Ms. Mousa was the Ministry employee with primary carriage of the "Temagami Barge" file until her retirement in May 2023; and
 - e) Alex Howard, Project Manager, Rehabilitation Section, Ministry of Mines, formerly Regional Land Specialist with the Ministry.
- [4] Temagami Barge also cross-examined James Coristine, one of the lawyers representing the Crown in this action. The subject of the cross-examination was Mr. Coristine's affidavit sworn December 30, 2022 for the Crown's motion to discontinue the action against Mr. Lowery.
- [5] According to the plaintiff, the issue on this Motion is whether Ontario should be compelled to answer the questions its witnesses and affiant refused to answer, which it is submitted requires asking the following questions for each refusal:
- a) For questions asked of the Ministry witnesses, is this question relevant to existence of an agreement between the Crown and Mr. Lowery?
 - b) For questions asked of Mr. Coristine, is the question relevant to an agreement between the Crown and Mr. Lowery or an issue raised in Mr. Coristine's affidavit?
 - c) If the question is relevant, does it seek privileged information?
- [6] According to the defendants, the core issue here is whether the Crown should answer questions and produce documents that can shed light on whether there has been an abuse of court process. It is submitted that the Crown hides behind three arguments: privilege, relevancy and Rule 39 limitations, and this led to a few hundred refusals from the five examinations and the cross-examination of James Coristine. It is further submitted that one of the central issues to be canvassed during the pending dismissal motions is what arrangement was arrived at between the Crown and Lowery and how that arrangement may have developed and/or evolved over time.
- [7] Additional issues according to the defendants are:
- a) What is the relevant timeframe for the purposes of this Motion?
 - b) Must privilege be established and by who?
 - c) Does/Should privilege protect the communications between the Crown and Lowery?
 - d) Does/Should privilege protect any internal Crown communications?
 - e) What is the test for Relevancy?

f) How should Rule 39.03 be applied to this case?

[8] These parties are aware that I made my first Order in this matter in 2010, and I have been case managing this file intensely since 2018. As well I am scheduled to hear the Dismissal Motions on October 25, 2024, and I am quite aware of the issues in those two Motions. I have considered all of the materials and case authorities filed for this Motion, including the respective Factums, as well as the oral submissions of Counsel from the full day hearing on March 21, 2024. I have been satisfied to make the following Orders with respect to the six witnesses identified in the attached Refusals Chart as indicated from the Disposition by the Court as to whether the Specific Question must be answered or not. Therefore, as indicated in the attached Refusals Chart I make;

- a) an order *mutatis mutandis* compelling the Crown and these six witnesses to answer the various questions asked and to produce the various documents requested on such terms as Counsel may advise or this Honourable Court may deem just so as to eliminate duplication where appropriate; and
- b) an order requiring such of these six witnesses to reattend at the such continued or follow up examination as Counsel for the moving party may request;

[9] If the parties cannot agree on the issue of costs for this Motion, this Court will entertain written submissions dealing with all aspects of the award of costs. Any party claiming costs shall serve and file written submissions and a bill of costs no later than 20 days from the date of this Order. Any responding submissions shall be served and filed within 15 days thereafter.

Date: August 22, 2024

The Honourable Justice David Nadeau

REFUSALS CHART**Julia Lee Robinson**

Date: January 22, 2024

Time: 10:00 a.m. - 11:52 a.m.

Witness: Julia Lee Robinson

CaseLine pages: A495-A569

Question (Prefix = Witness Surname Initial)	Specific Question	Answer or Precise Basis for Refusal	Disposition by the Court
R 43	Q. And to the best of your recollection today, just generally speaking, what was the purpose of those meetings? [A508, at lines 19-21]	MS. MACHADO: No. Unless this has to do with Mr. Lowery in this motion, we're not going to go any further in this line. MR. AIELLO: Well, Counsel, I'm getting there and, you know, you can object in advance, but it's not going to help. MS. MACHADO: Well, it's a refusal then. MR. AIELLO: On the basis of? MS. MACHADO: Relevance. [A508, at lines 22-25-A509, at lines 1-5]	ANSWER NOT REQUIRED
R 46	Q. And do you recall approximately – actually before we get to that -- did you also attend meetings in that timeframe with the -- let me get the name correct – I believe it's called the Temagami First Nations Council?	MS. MACHADO: Okay. I'm going to -- I don't know how that is at all relevant, Mr. Aiello. We're going very far afield. So, we're going to refuse that. MR. AIELLO: On the basis?	ANSWER NOT REQUIRED

	[A509, at lines 15-18]	MS. MACHADO: Relevance. [A509, at lines 19-23]	
R 56-58	<p>Q. And what would happen to your notes after that? Would they be kept in the file as well? Would they be discarded?</p> <p>A. It depends on the nature of the notes. Really it depends on our records retention schedule.</p> <p>Q. Well, how is the record retention schedule set?</p> <p>A. I don't know that I'm qualified to speak to that from an information management perspective but I can share my general knowledge.</p> <p>Q. Please do that.</p> <p>A. Generally --- [A512, at lines 7-18]</p>	<p>MS. MACHADO: Okay. We're going so far afield, Mr. Aiello, because you're asking questions that would ordinarily be part of an examination for discovery. This isn't an examination for discovery. We're not talking about document management systems with the ministry. So, I'm going to stop this line of questioning now. It's a refusal based on relevance and if we could just get to the substance of the motion and any issues you have about Mr. Lowery's discussions, conversations, etc. with any of these witnesses, that would be most beneficial.</p> <p>MR. AIELLO: Well, Counsel, we are dealing with the substance of the motion albeit in a fashion that is not to your preference, obviously.</p> <p>MS. MACHADO: No. It's just irrelevant, Mr. Aiello, so I'm ---</p> <p>MR. AIELLO: No. Well, that's ---</p> <p>MS. MACHADO: --- refusing that question.</p> <p>MR. AIELLO: --- something that will be decided later. [A512, at lines 19-25; A513, at lines 1-13]</p>	ANSWER NOT REQUIRED
R 59	<p>Q. So, ma'am, back to record retention. It's my understanding that the MNR has a corporate management and information division; is that correct? [A513, at lines 16-18]</p>	<p>MS. MACHADO: I'm refusing that question.</p> <p>MR. AIELLO: Reason?</p> <p>MS. MACHADO: Relevance. [A513, at lines 19-21]</p>	ANSWER NOT REQUIRED
R 60	<p>Q. Is it not true that the MNR has record retention policies? [A513, at lines 24-25]</p>	<p>MS. MACHADO: Refusing.</p> <p>MR. AIELLO: Reason?</p> <p>MS. MACHADO: Same. [A514, at lines 1-3]</p>	ANSWER NOT REQUIRED

R 61	Q. Ma'am, would you in 2017 and 2018 be using a computer, either a desktop or a laptop computer? [A514, at lines 6-7]	MS. MACHADO: I'm refusing that question. [A514, at line 8]	ANSWER NOT REQUIRED
R 62	Q. Would you be using a laptop or a desktop computer in 2021? [A514, at lines 11-12]	MS. MACHADO: Refusing. MR. AIELLO: Reason? MS. MACHADO: All the same, Mr. Aiello. MR. AIELLO: Thank you. So just to short circuit it, can I assume that when you are refusing a question, you are doing it on the basis of your position that the 0 question is not relevant unless you advise me otherwise? MS. MACHADO: You may. [A514, at lines 13-21]	ANSWER NOT REQUIRED
R 63	Q. Ma'am, are your computers, the ones that would use, are they backed up by anyone within the MNR? [A514, at lines 23-25]	MS. MACHADO: Refusal. [A515, at line 2]	ANSWER NOT REQUIRED
R 64	Q. Can you tell me how often those computers are backed up? [A515, at lines 4-5]	MS. MACHADO: Refusal [A515, at line 6]	ANSWER NOT REQUIRED
R 65	Q. Can you tell me, ma'am, what e-mail system did you use in 2017-2018? [A515, at lines 9-10]	MS. MACHADO: Refusal [A515, at line 11]	ANSWER NOT REQUIRED
R 66	Q. Can you tell me, ma'am, what e-mail system you used in 2021? [A515, at lines 14-15]	MS. MACHADO: Refusal [A515, at line 16]	ANSWER NOT REQUIRED

R 67	Q. Can you tell me, ma'am, whether or not any of the e-mails that either were sent to you or that you sent out in 2017, 2018 and 2021 are currently available? [A515, at lines 19-21]	MS. MACHADO: Refusal [A515, at line 22]	ANSWER NOT REQUIRED
R 69	Q. Have you brought with you any documents? [A516, at line 5]	MS. MACHADO: No. MR. AIELLO: Reason? MS. MACHADO: Because they're not necessary on an examination of this sort regardless of what you put in the notice of examination, Mr. Aiello. MR. AIELLO: So that I'm clear, that was because it was a choice? MS. MACHADO: I had instructed all of the witnesses that they do not need to bring forward any documents, etc. pursuant to Rule 39.03. [A516, at lines 6-15]	ANSWER NOT REQUIRED
R 70	Q. Do you have any of the documents that are listed in the notice of examination? Are they within your possession or control --- [A516, at lines 19-21]	MS. MACHADO: I'm refusing that. Sorry. I'll let you finish the question if you hadn't, Mr. Aiello and then I'll refuse it. MR. AIELLO: Fair enough. But let's get it on the record, Counsel. MS. MACHADO: Yes [A516, at lines 22-25; A517, at lines 1-2]	ANSWER NOT REQUIRED
R 71	Q. Do you have access to any of the documents listed in the notice of examination? [A517, at lines 4-5]	MS. MACHADO: I believe the notice of examination is exceedingly broad, Mr. Aiello. Let me just look at it really quickly. You can ask her about documents that she might have, Mr. Aiello. That's your prerogative. [A517, at lines 6-9]	ANSWER NOT REQUIRED
R 72	Q. Ma'am, do you have access to all of the documents that would have been generated in advance of, during and following the various meetings you may have had	MS. MACHADO: I will refuse the question generally. [A518, at lines 2-3]	ANSWER NOT REQUIRED

	<p>in 2017 and 2018 with the Lake Temagami Access Point Planning Committee? MS. MACHADO: That relate to Mr. Clifford Foster Lowery? MR. AIELLO: Generally speaking. We'll get to Mr. Lowery shortly, Counsel. MS. MACHADO: Well, that's what you required, Mr. Aiello, in your notice of examination. It doesn't say, do you have all of the documents. MR. AIELLO: The question -- the question is not confined to the notice. I'm asking the witness if she has the documents. I'll come to Mr. Lowery. Please be patient. [A517, at lines 11-25; A518, a line 1]</p>		
<p>R 74</p>	<p>Q. Does the Ministry have any record of any interaction with Mr. Clifford Lowery? [A518, at lines 7-8]</p>	<p>MS. MACHADO: Well, she can't answer that question. She's not here on behalf of the Ministry. She's here on behalf of herself. If she's seen one, then she can identify that. But she's not going to talk about the Ministry as a whole. [A518, at lines 12-16]</p>	<p>ANSWER NOT REQUIRED</p>
<p>R 76-77</p>	<p>Q. To your knowledge if your team deals with anyone in connection with any issue that your team is dealing with, is a record of that not kept somewhere? A. Not all records are kept unless they lead to a specific Ministry decision. Q. Are you suggesting, ma'am, that the records are kept and then later they are discarded unless they deal to what you just described as a specific Ministry decision? [A518, at lines 24-25; A519, at lines 1-6]</p>	<p>MS. MACHADO: Well, Counsel --- MR. AIELLO: I'm trying to understand the witness' question and I would appreciate --- MS. MACHADO: I understand, I understand, Mr. Aiello --- MR. AIELLO: --- Counsel --- MS. MACHADO: Hold on a second. When you say record, I can jot down a note saying I talked to Mr. Aiello today and then at the end of the day, throw that piece of paper out. What kind of record are you talking about? Like that --- MR. AIELLO: All ---</p>	<p>ANSWER NOT REQUIRED</p>

		<p>MS. MACHADO: --- is a broad question. So, in order to have a fair answer, I think we have to --</p> <p>MR. AIELLO: Counsel, I'm just going to say this. I think, you know, I can appreciate that you're taking the position that a lot of what I'm asking about is not relevant and fair enough. We'll have that discussion down the road. But really for the purposes of this examination, I think you need to kind of step back. Let me ask the questions and I will clarify because I appreciate your point and I'm going to get there. But stop interfering with my questioning, please.</p> <p>MS. MACHADO: Well, I'll stop interfering if the questions are specific, relevant and appropriate for this examination ---</p> <p>MR. AIELLO: You don't get to decide my ---</p> <p>MS. MACHADO: I do get to decide what this witness will respond to and then ---</p> <p>MR. AIELLO: Fair enough and the record will reflect how you're doing it, yes.</p> <p>MS. MACHADO: It will absolutely.</p> <p>[A519, at lines 825; A520, at lines 1-15]</p>	
<p>R 79-80</p>	<p>Q. Okay. So that indicates to me that records are generated and then at some point, if there is a ministerial decision, the records are kept but if there isn't a ministerial decision, the records are discarded. Would that also be fair?</p> <p>A. So, again, I'm not an information management expert. I think that somebody who can speak to our information management policies and procedures would be best to answer that.</p>	<p>MS. MACHADO: Okay. Now, you're calling it a document, Mr. Aiello. There's records and there's --</p> <p>MR. AIELLO: Records. Okay.</p> <p>MS. MACHADO: --- documents so ---</p> <p>[A521, at lines 15-18]</p> <p>MR. AIELLO: Records. I'm not -- I don't want to get into semantics here and Counsel, please stop interfering.</p>	<p>ANSWER NOT REQUIRED</p>

	<p>[A520, at line 25; A521, at lines 1-8]</p> <p>Q. Fair enough. But I'm asking you about your experience. You were in that department in a significant position for a significant period of time. So would it be fair to say that, you know, documents are discarded if there is no ministerial decision made but kept --- [A521, at lines 9-14]</p>	<p>MS. MACHADO: Well, no, Counsel ---</p> <p>MR. AIELLO: I'm trying to get ---</p> <p>MS. MACHADO: --- I will stop if you ask fair questions. You have the records. Records, as I indicated it before, are very broad and they might include a scratched down note of somebody having a conversation with somebody. So, you can ask Ms. Robinson about whatever records she might maintain. But please make it specific so she can answer the question appropriately.</p> <p>MR. AIELLO: You know, with all due respect, Counsel, I thought from the look on her face that she was about to answer the question till you jumped in, so please ---</p> <p>MS. MACHADO: No. That's not the way that I read her ---</p> <p>MR. AIELLO: --- give her a -- give her a moment to actually try to respond. And she can tell us. I'm sure she's more than capable of whether or not she can't answer ---</p> <p>MS. MACHADO: I appreciate your concern for my witness, Mr. Aiello.</p> <p>MR. AIELLO: It's not a concern ---</p> <p>MS. MACHADO: It wasn't the way that I read her face</p> <p>MR. AIELLO: --- the witness is concerned. It's a concern for your involvement in this examination. [A521, at lines 19-25; A522, at lines 1-23]</p>	
<p>R 81-82</p>	<p>Q. So, Ms. Robinson, based on your extensive involvement with this department over a number of years and a number of issues, would it be fair to say</p>	<p>MS. MACHADO: She's answered that question already.</p> <p>MR. AIELLO: No, she hasn't.</p>	<p>ANSWER NOT REQUIRED</p>

	<p>and if it isn't, correct me, would it be fair to say based on your involvement that records are generated when events happen. But that they are -- and that they are kept when there is a ministerial decision involved. But that they are not necessarily kept if there is no ministerial decision involved? Is that correct? [A522, at line 25; A523, at lines 1-8]</p>	<p>MS. MACHADO: She did. MR. AIELLO: No. She told me that she couldn't speak to it. And because she wasn't an IT person and that's why I'm rephrasing it to ask her about her experience and I would very much appreciate, Counsel, if you'd let her actually answer. Q. So, ma'am --- MS. MACHADO: Mr. Aiello, you can say whatever you like on the record about whatever involvement you think is appropriate or inappropriate about my efforts. But if you just answer -- ask the questions, you'll get a refusal on the record or you'll get an answer on the record and this will move along much more quickly. MR. AIELLO: So, are you refusing the question, Counsel? [A523, at lines 9-25; A524, at lines 1-2]</p>	
R 83	<p>Q. Ma'am, have you -- when do records that are discarded, when do they get discarded in your experience? [A524, at lines 6-7]</p>	<p>MS. MACHADO: We're refusing that question. [A524, at line 8]</p>	ANSWER NOT REQUIRED
R 84	<p>Q. In the context of any of your meetings with the Municipality of Temagami or the municipality -- or sorry, the Lake Temagami Access Point Planning Committee, when were those records discarded? [A524, at lines 11-14]</p>	<p>MS. MACHADO: I'm refusing that question. [A524, at line 15]</p>	ANSWER NOT REQUIRED
R 87	<p>Q. And as far as you are aware, are not all of the records of the Ministry, the ones you generate and the ones of your fellow team members and others in your region generate, are they not retained pursuant to some Ministry policy, whatever that may be? [A525, at lines 1-5]</p>	<p>MS. MACHADO: She's already said that she's not the appropriate person to answer that question, Mr. Aiello. MR. AIELLO: I asked her so far as she is aware. MS. MACHADO: Of a document retention policy?</p>	ANSWER NOT REQUIRED

		MR. AIELLO: Not what I asked, Counsel, and the record will show this interference is getting excessive. [A525, at lines 6-11]	
R 92	Do you get any training on record retention, ma'am? [A526, at lines 11-12]	MS. MACHADO: We're refusing that question. [A562, at line 13]	ANSWER NOT REQUIRED
R 93	Do you get any training on communication backups? [A562, at lines 16-17]	MS. MACHADO: We're refusing. [A562, at line 18]	ANSWER NOT REQUIRED
R 96-97	Q. [...] When you're referring to ministerial decisions, are you literally referring to a decision made by the Minister of Natural Resources or are you referring to something else? A. I'm referring to a decision that's been made by the Ministry. Q. So, does that mean it could be anybody within the Ministry? Could it be your assistant or are you talking about somebody higher up the chain? [A527, at lines 13-21]	MS. MACHADO: Okay. We're getting into hypotheticals, Mr. Aiello. She's already indicated she doesn't know of any records that were generated about Mr. Lowery so I'm not sure how much farther you can go with this witness? MR. AIELLO: Is that a refusal? MS. MACHADO: Sure. [A527, at lines 22-25; A528, at lines 1-3]	ANSWER NOT REQUIRED
R 138	Q. Is there a naming convention for memoranda or documents that get submitted up the chain to make significant decisions in the context of any litigation? [A536, at lines 24-25; A537, at line 1]	MS. MACHADO: We're refusing. [A537, at line 2]	ANSWER NOT REQUIRED
R 139	Q. Can you tell me please what is a contentious issues officer? [A537, at lines 5-6]	MS. MACHADO: Refusing. [A537, at line 7]	ANSWER REQUIRED
R 140-141	Q. Was there a contention issues officer designated for this particular litigation? MS. MACHADO: Ms. Robinson, do you know? THE DEPONENT: We don't have a position titled contentious issues officer.	MS. MACHADO: No. There's nobody by that title or --- MR. AIELLO: I understood that. That was why my second question, Counsel, if you would let the witness answer, please.	ANSWER REQUIRED

	<p>Q. It may not be a formal position. But is it a designated position for a particular from file to file? It's not like it's a formal job description, but... [A537, at lines 10-18]</p>	<p>MS. MACHADO: No. Counsel, it has to be a fair question for me to allow the witness to answer. So, I'll just --- MR. AIELLO: She was thinking and trying -- and I was waiting for her answer before you jumped in. MS. MACHADO: I appreciate that. It's a refusal. [A537, at lines 19-25; A538, at lines 1-4]</p>	
R 142	<p>Q. Was there anyone to your knowledge who was responsible for determining issues in respect of this particular piece of land? [A538, at lines 7-9]</p>	<p>MS. MACHADO: I'm refusing that question. [A538, at line 10]</p>	ANSWER REQUIRED
R 145-146	<p>Q. Did you have a formal job description for your role prior to becoming supervisor? A. Yes. Q. Can you provide me with copies of those formal job descriptions? [A538, at lines 20-23]</p>	<p>MS. MACHADO: No. I'm refusing. [A538, at line 24]</p>	ANSWER REQUIRED
R 148-149	<p>Q. Do you, as far as you're aware, have responsibility for instructing legal counsel? A. Yes. Q. Can you explain that; what that responsibility is for me, please? [A539, at lines 11-12]</p>	<p>MS. MACHADO: Sorry, I'm confused by the question, Mr. Aiello. Other than a responsibility, what do you mean? I don't understand what you're asking --- MR. AIELLO: She said that she has responsibility to instruct legal counsel and --- MS. MACHADO: Yes. MR. AIELLO: --- I'm asking her to describe that responsibility. MS. MACHADO: No. I'm going to refuse the question. This is going so far afield. [A539, at lines 13-22]</p>	ANSWER REQUIRED
R150	<p>Q. Was that responsibility that you had something that was part of your function as a supervisor, ma'am? [A539, at line 25; A540, at lines 1-2]</p>	<p>MS. MACHADO: I'm refusing the question. [A540, at line 3]</p>	ANSWER REQUIRED

R 151	Q. Did you have any responsibility to instruct legal counsel before you became a supervisor? [A540, at lines 6-7]	MS. MACHADO: I'm refusing the question. [A540, at line 8]	ANSWER REQUIRED
R 152	Q. Have you ever actually exercised the responsibility to instruct legal counsel on any matter? [A540, at lines 11-12]	MS. MACHADO: I'm refusing the question. [A540, at line 13]	ANSWER REQUIRED
R 153	Q. Have you ever instructed legal counsel with respect to this matter? A. Yes. Q. When did you do that? [A540, at lines 16-25; A541, at lines 1-2]	MS. MACHADO: Well, we can talk about it in relation to Mr. Lowery and the motions that are at hand, Mr. Aiello. Not more generally than that. MR. AIELLO: I'm asking the question and you can refuse. I'm asking --- MS. MACHADO: Then I'm refusing that question if it's about when she instructed generally speaking on this litigation. Yes. I will refuse that question.	ANSWER REQUIRED
R 155	Q. Is there a record of every occasion when you instructed counsel in this matter? [A541, at lines 5-7]	MS. MACHADO: I'm refusing that question again.	ANSWER REQUIRED
R 156	Q. On each occasion when you instructed counsel on this matter, was there any requirement on your part to get the input or involvement of others within your department, within your Ministry? [A541, at lines 10-13]	MS. MACHADO: I'm going to refuse it again because it's too -- it's overly broad, Mr. Aiello. [A541, at lines 14-15]	ANSWER REQUIRED
R 157	Q. On any occasion where you exercised any responsibility to instruct counsel on this file, did you get prior input or approval from anyone above you in the Ministry? [A541, at lines 18-21]	MS. MACHADO: I'm refusing that; overly broad.	ANSWER REQUIRED
R 158	Q. Same question in 2021. On any occasion in 2021. [A541, at line 25]	MS. MACHADO: Overly broad. Unless you want to direct to a particular issue, Mr. Aiello, it's overly broad. [A541, at lines 1-4]	ANSWER REQUIRED
R 159	Q. How many times in 2021 did you exercise any responsibility for instructing counsel? [A542, at lines 7-8]	MS. MACHADO: Overly broad; refused. [A542, at line 9]	ANSWER REQUIRED

R 160	Q. Did you exercise any responsibility for instructing counsel from January 1 st to June 30, 2021? [A542, at lines 12-13]	MS. MACHADO: Overly broad; refused. [A542, at line 14]	ANSWER REQUIRED
R 161	Q. Did you instruct -- sorry -- exercise any responsibility for instructing counsel from July 1st to December 31, 2021? [A542, at lines 17-19]	MS. MACHADO: Overly broad; refused. [A542, at line 20]	ANSWER REQUIRED
R 162	Q. Did you -- were you asked for any instructions on this file by legal counsel in the second half of 2018?	MS. MACHADO: Refusing; overly broad.	ANSWER REQUIRED
R 163	Q. Were you contacted or consulted by legal counsel in October, November or December of 2018 about this file? [A543, at lines 4-6]	MS. MACHADO: Refused; overly broad. [A543, at line 7]	ANSWER REQUIRED
R 164	Q. On how many occasions, if any, were you consulted about this particular file by legal counsel in October, November and December 2018? [A543, at lines 10-12]	MS. MACHADO: Refused; overly broad. [A543, at line 13]	ANSWER REQUIRED
R 165	Q. On how many occasions, if any, were you consulted by legal counsel in this matter in July and August 2021? [A543, at lines 16-18]	MS. MACHADO: I'm going to refuse it. It's overly broad. [A543, at line 19]	ANSWER REQUIRED
R 166	Q. For any such occasion in the narrowest time periods I mentioned in 2018 and 2021, do you have records of those communications? [A543, at lines 22-24]	MS. MACHADO: Refusal. [A543, at line 25]	ANSWER REQUIRED
R 167	Q. Will you produce those records for inspection? [A544, at lines 3-4]	MS. MACHADO: No. [A544, at line 5]	ANSWER REQUIRED
R 172	Q. During your time with the MNR have you had any communications with any legal counsel about - - any legal counsel within or acting for the municipality with respect to this file? [A544, at lines 22-25]	MS. MACHADO: Refusal. [A545, at line 1]	ANSWER REQUIRED
R 173	Q. During that same time period, have you had any communications with anyone within or on acting on behalf of the municipality with respect to this file? [A545, at lines 4-6]	MS. MACHADO: If it wasn't the same question, it's still refused. It sounded the same to me. MR. AIELLO: It wasn't. It was broader than legal counsel, went beyond legal counsel.	ANSWER REQUIRED

		MS. MACHADO: Fair enough. [A545, at lines 7-12]	
R 179	Q. Did you ever seek the approval of the district manager for any action taken in respect of this file? [A546, at lines 13-15]	MS. MACHADO: I'm going to refuse that question. It's overly broad. [A546, at lines 16-17]	ANSWER REQUIRED
R 180	Q. Were you ever given any instruction or guidance by your district manager in connection with the conduct of this litigation? [A546, at lines 20-22]	MS. MACHADO: I'm sorry. What do you -- I'm going to refuse the question. [A546, at lines 23-24]	ANSWER REQUIRED
R 181	Q. So far as you are aware, ma'am, did the district manager ever seek approval from anyone above him with respect to the conduct of this litigation? [A547, at lines 2-4]	MS. MACHADO: I'm going to refuse that question. It's overly broad. [A547, at lines 5-6]	ANSWER REQUIRED
R 182	Q. So far as you are aware, ma'am, did the district manager seek any approval or guidance from anybody above him with respect to the conduct of this litigation in either the last quarter of 2018 or the third quarter of 2021? [A547, at lines 9-13]	MS. MACHADO: I'm going to refuse it. It's overly broad. [A547, at lines 5-6]	ANSWER REQUIRED
R 184	Q. So far as you are aware, did Ms. Mousa have any direct or indirect communications with any legal counsel concerning this matter? [A547, at lines 23-25]	MS. MACHADO: That's overly broad. [A548, at line 1]	ANSWER REQUIRED
R 185	Q. So far as you are aware, did Ms. Mousa have any communications with any legal counsel concerning this matter either in the fourth quarter of 2018 or the third quarter of 2021? [A548, at lines 4-7]	MS. MACHADO: When you say this matter, Mr. Aiello, I take it you mean the litigation as a whole, in which case it's overly broad and I'm refusing it. [A548, at lines 8-10]	ANSWER REQUIRED
R 187-189	Q. So, is there ever any occasion when Ms. Mousa would bypass you and deal with others about this file or would everything she does have to go through you? A. Everything would come through me generally. That's the way we do it. Q. Generally, but there would be occasions when it wouldn't happen that way? Is that?	MS. MACHADO: Mr. Aiello -- okay, next question -- it's a refusal. [A549, at lines 7-8]	ANSWER REQUIRED

	A. Not that I'm aware of. Q. Are you saying that it couldn't have happened? [A548, at lines 22-25; A549, at lines 1-6]		
R 193	Q. Do you have records of all of your dealings with this file in October and November 2018? [A549, at lines 18-19]	MS. MACHADO: I'm going to refuse that question. [A549, at line 20]	ANSWER REQUIRED
R 194	Q. Can you tell me what those records are? [A549, at line 23]	MS. MACHADO: I'm going to refuse that question. [A549, at line 24]	ANSWER REQUIRED
R 195	Q. Can you tell me whether any of those records involved communications, direct or indirect, with legal counsel of any kind? [A550, at lines 2-4]	MS. MACHADO: We're refusing that question. [A550, at line 5]	ANSWER REQUIRED
R 196	Q. Can you tell me whether or not you have records of any dealings you may have had with legal counsel in July and August 2021? [A550, at lines 8-10]	MS. MACHADO: Overly broad again; refusing. [A550, at line 11]	ANSWER REQUIRED
R 197	Q. Can you tell me whether you have records of any dealings with legal counsel involving this matter in the timeframe of July and August 2021? [A550, at lines 14-16]	MS. MACHADO: Again, refusal for being overly broad, if you mean by this matter, you mean this litigation in general. [A550, at lines 17-19]	ANSWER REQUIRED
R 200	Q. Generally speaking, as supervisor, would it be your responsibility to make a determination as to whether or not a lawsuit should be started against someone or stopped against someone? [A551, at lines 5-8]	MS. MACHADO: Refusal. [A551, at line 9]	ANSWER REQUIRED
R 203	Q. Did you ever receive any recommendation from counsel with respect to the continuation or termination of this litigation against anyone? MS. MACHADO: I'll allow the question to be asked about the termination of the litigation against Mr. Lowery. The remainder of the question is refused. THE DEPONENT: So, question -- answer? MS. MACHADO: So yes, sorry, Julie. I don't want to put words in Mr. Aiello's mouth but did you -- well,		ANSWER REQUIRED

<p>R 204</p>	<p>perhaps Mr. Aiello can ask it again, the limited question that I'm permitting. MR. AIELLO: Well, I'm not restricting my question to --- MS. MACHADO: I understand you're not. I refused the remainder of it. But I'm saying if you want to re-ask the one portion of the question. [A552, at lines 9-25] *** Q. Ma'am, you said that you had some responsibility for determining whether -- or giving input into whether or not this litigation should be continued or terminated. And you said that that was in respect of -- if I recall correctly -- and I'm not trying to put words in your mouth -- in respect of recommendations from counsel or involvement dealings with the district manager. So, I am now, for the moment, dealing on recommendations from counsel. Did you ever get any recommendations from counsel about the termination of this litigation in whole or in part? MS. MACHADO: And I'm allowing that question with regards to Mr. Lowery. THE DEPONENT: Yes. [A553, at lines 2-16]</p>		
<p>R 207-211</p>	<p>Q. To your recollection, were there any such recommendations prior to 2021? A. Not that I'm aware of. Q. Does that mean -- let me rephrase -- were there any recommendations in the file with respect to the termination of the litigation in whole or in part in late 2018, early 2019?</p>	<p>MS. MACHADO: She hasn't indicated that any existed in --- MR. AIELLO: That's why I said such as they might exist, Counsel. MS. MACHADO: Thank you. It's a refusal. [A554, at lines 21-25]</p>	<p>ANSWER REQUIRED</p>

	<p>MS. MACHADO: And I'm allowing the question only as against Mr. Lowery. THE DEPONENT: Not that I'm aware of. Q. And if there were any such recommendation, that would be in the file, would it not? A. Yes. Q. And assuming that something didn't slip through the crack, if there were any such recommendations, they would be in writing and they would be preserved electronically somewhere within the MNR. Is that also not true? A. Yes. Q. Will you produce the recommendations such as they might exist with respect to Mr. Lowery both in 2018 and in 2021? [A553, at lines 23-25; A554, at lines 1-20]</p>		
R 212	<p>Q. Will you produce those recommendations for inspection by the court? [A555, at lines 3-4]</p>	<p>MS. MACHADO: Mr. Aiello, you've asked me this before about records being produced by the court. Under seal all sorts of things can be produced to the court. But that's not what this is about. This witness isn't going to answer that. That's not a question for the witness. [A555, at lines 5-9]</p>	ANSWER REQUIRED
R 213-219	<p>Q. Ma'am, do you have access to those – to whatever recommendations may have been generated by counsel with respect to Mr. Lowery? A. Yes. Q. And do you also have access to any recommendations or considerations or discussions concerning those recommendations by counsel? A. Yes. Q. So, if for example ---</p>		ANSWER REQUIRED

<p>MS. MACHADO: Sorry, Counsel, if I might, Ms. Robinson is sort of shaking her shoulders when she said yes ---</p> <p>MR. AIELLO: I'm glad that now you've decided to look at her body language. But go ahead.</p> <p>MS. MACHADO: No. Mr. Aiello. Please.</p> <p>MR. AIELLO: Yes. Please is right. Go ahead.</p> <p>MS. MACHADO: Yes. Ms. Robinson? You were ---</p> <p>THE DEPONENT: Right.</p> <p>MS. MACHADO: --- so I'm just allowing you an opportunity to answer.</p> <p>THE DEPONENT: Yeah. I'm just not entirely sure. So, I would say no concerns were raised. So, no records exist about that.</p> <p>Q. Sorry, could you repeat that? I didn't quite hear all of it. Did you just say no concerns were raised or if no concerns were raised?</p> <p>A. No concerns were raised.</p> <p>Q. When?</p> <p>A. In 2021.</p> <p>Q. Well, ma'am, you know, I'm trying to get my head around what you're telling me here. You've said that you don't recall when in 2021, couldn't even give me a rough, you know, portion of the year. And yet you're telling me that there were no concerns raised. So how good is your memory and what are you actually saying to me, ma'am?</p> <p>MS. MACHADO: Counsel, I'm going to refuse. Dates are different than context and content of conversations and don't badger this witness. Move on.</p> <p>MR. AIELLO: No one's badgering. But I'm also not about to be misled.</p>		
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	<p>MS. MACHADO: Counsel, that is a strong claim that you're making. Stop it.</p> <p>MR. AIELLO: I just said I'm not about to be. So why don't we let me continue.</p> <p>MS. MACHADO: Yes. Stop it.</p> <p>Q. Ma'am? I have questions, please, Counsel. If you would stop, we would be moving farther along.</p> <p>Ma'am, if a recommendation is made by counsel, does it go directly to you as the supervisor or does it go to you and the district manager?</p> <p>MS. MACHADO: This is overly broad again. If you want to talk about the recommendations about Mr. Lowery ---</p> <p>MR. AIELLO: I'm trying to understand the process before I get to Mr. Lowery as you are well, well aware, Counsel.</p> <p>MS. MACHADO: No, no, Mr. Aiello. It's a refusal. [A555, at lines 13-25; A556, at lines 1-25; A557, at lines 1-24]</p>		
R 246-247	<p>Q. Do you have copies of all communications received from or involving Crown counsel civil with respect to Mr. Lowery and his involvement in this litigation?</p> <p>A. Yes.</p> <p>Q. Will you produce that documentation? [A563, at lines 15-20]</p>	MS. MACHADO: No.	ANSWER REQUIRED
R 220	<p>Q. So just so that I'm clear, besides when a recommendation comes in from counsel about determination of litigation in whole or in part, does it just go to you as supervisor or does it go to anyone else? [A558, at lines 2-5]</p>	MS. MACHADO: I'm refusing the question for being overly broad unless you're referring to this particular issue. [A558, at lines 6-8]	ANSWER REQUIRED

R 221	Q. When a litigation -- when a recommendation comes in from counsel to terminate litigation in whole or in part, does that recommendation then get fed up the chain within the Ministry, not only to the district manager but above him to the internal legal branch and/or to the deputy minister or the regional operations division? [A558, at lines 11-16]	MS. MACHADO: Refusal. [A558, at line 17]	ANSWER REQUIRED
R 223- 224	Q. Was there a briefing note prepared with respect to - or involving directly, indirectly Mr. Lowery? A. I can't recall. Q. Will you find out whether there was such a note and produce it? [A558, at lines 24-25; A559, at lines 1-3]	MS. MACHADO: No. [A560, at line 4]	ANSWER REQUIRED
R 225	Q. Can you find out whether or not a contentious issues officer was ever designated for this file above you within the MNR? [A559, at lines 7-9]	MS. MACHADO: No. [A559, at line 10]	ANSWER REQUIRED
R 226	Q. Would it not be the responsibility of your district manager and others about him to keep you apprised of the considerations with respect to the continuation of this litigation and the termination of it in whole or in part? [A559, at lines 13-17]	MS. MACHADO: Refused. [A559, at line 18]	ANSWER REQUIRED
R 227	Q. Would it not be their responsibility to keep you apprised of their considerations with respect to the termination of this litigation as against Mr. Lowery? [A559, at lines 21-23]	MS. MACHADO: I'm sorry. You're asking if it was the responsibility of those above Ms. Robinson to inform her? MR. AIELLO: To keep her apprised of their considerations with respect to the termination of the litigation as against Mr. Lowery. [A559, at lines 24-25; A560, at lines 1-4]	ANSWER REQUIRED
R 248	Q. Will you produce that documentation for review by the court? [A563, at lines 23-25; A564, at lines 1-5]	MS. MACHADO: You have my answer on that kind of question earlier. MR. AIELLO: It was a non-answer answer, but I have it on the record.	ANSWER REQUIRED

		MS. MACHADO: It's not appropriate for this witness.	
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Heidi Etzel

Date: January 22, 2024
 Time: XX - 1:03 p.m.
 Witness: Heidi Etzel
 CaseLine pages: A383-A427

Question (Prefix = Witness Surname Initial)	Specific Question	Answer or Precise Basis for Refusal	Disposition by the Court
E 45-46	<p>Q. And just to use that example so that I understand the structure here, if she was involved in trying to procure something that was beyond your authority, it would still be a request that would be made through you, would it not? Or could she just bypass you altogether, not bother telling you, and say to the procurement department or whoever, gee, I'd like, you know, \$6 million this, that or the other?</p> <p>A. I think she would tell me, yes, inform me.</p> <p>Q. Are you suggesting, ma'am, that there was no procedural requirement, no protocol, no policy that sets out when she could bypass her district manager? [A395, at lines 14-25]</p>	<p>MS. MACHADO: I'm going to refuse that question. She didn't say anything of the sort.</p> <p>MR. AIELLO: I am asking her if she is telling me that.</p> <p>MS. MACHADO: It's a refusal. [A396, at line 5]</p>	ANSWER NOT REQUIRED
E 47	<p>Q. Does the Ministry not have policy and procedure manuals that set out the exact roles and responsibilities of the supervisors? [A396, at lines 8-10]</p>	<p>MS. MACHADO: I'm refusing that question. It's overly broad. [A396, at lines 11-12]</p>	ANSWER NOT REQUIRED

E 48	Q. Does the Ministry have policies and procedure manuals that set out the roles and responsibilities of district managers or acting district managers? [A396, at lines 15-18]	MS. MACHADO: Refused. [A396, at line 19]	ANSWER NOT REQUIRED
E 49	Q. Are there any policies or procedures within the MNR that set out what the responsibilities and functions of district managers are in relation to litigation? [A396, at lines 22-25]	MS. MACHADO: Refused. [A397, at line 1]	ANSWER REQUIRED
E 50	Q. Are there any policies or procedures within the MNR that set out what the responsibilities and procedures are for district managers or others within any district with respect to the commencement, continuation or termination of litigation? [A397, at lines 4-8]	MS. MACHADO: Refused. [A397, at line 9]	ANSWER REQUIRED
E 51	Q. Are there any written procedures, protocols or policies with respect to the considerations to be applied towards the termination of litigation involving public land? [A397, at lines 12-15]	MS. MACHADO: Refusal. [A397, at line 16]	ANSWER REQUIRED
E 57-59	Q. So as a district manager within the MNRF, do you have access to policies, procedures and protocols pertaining to litigation? A. I believe so. Q. Would that have been true in 2021? A. I believe so. Q. Would that have been true in 2018? [A398, at lines 20-25; A399, at line 1]	MS. MACHADO: She wasn't involved in this file in 2018, Counsel. MR. AIELLO: I know that. That wasn't my question. MS. MACHADO: So, she's not going to answer questions about 2018. MR. AIELLO: The reason? MS. MACHADO: You have my refusals, Counsel. MS. MACHADO: You have my refusals, Counsel. MS. MACHADO: You know what? I will provide you with all of the reasons in detail in a --- MR. AIELLO: No. That's not satisfactory, Counsel.	ANSWER REQUIRED

		<p>MS. MACHADO: It is satisfactory. MR. AIELLO: You're refusing the question now. MS. MACHADO: Yes. MR. AIELLO: And you can provide me supplementary reasons after you think about it and --- MS. MACHADO: No, it's --- MR. AIELLO: --- but at this moment as we sit here, I'm asking you for a reason and you're not giving me one. MS. MACHADO: The questions are overly broad, irrelevant, lack specificity. Do you need more? [A399, at line 2-25; A400, at line] MS. MACHADO: Yes. Because it's been answered.</p>	
<p>E 75-79</p>	<p>Q. Ma'am, you said you'd have to refer to your records. So, what records would you be referring to, to find out when you first learned of this litigation? A. So, I believe I received an e-mail and a calendar invite. Q. Sorry. I didn't hear the last part. And a? A. Calendar invite. MS. MACHADO: Calendar invite. Q. I see. Are you suggesting -- and when roughly did that happen? A. I can't recollect. I'd have to look it up. Q. Approximately. Was it this year? Was it five years ago? A. I'd have to look it up. Q. You're suggesting you have no recollection whatsoever of when you were first -- when you first learned about this file? Is that what you're telling me, ma'am?</p>	<p>MS. MACHADO: That's what she said, Counsel. MR. AIELLO: And I'm asking her to confirm that. MS. MACHADO: No. She doesn't have to confirm it. She's already given you the answer, Mr. Aiello. [A404, at lines 6-9]</p>	<p>ANSWER REQUIRED</p>

	[A403, at lines 13-25; A404, at lines 1-5]		
E 93-100	<p>Q. Besides your e-mail and your -- e-mails and your calendar invite, do you have any other records about this matter?</p> <p>A. I believe so.</p> <p>Q. What records would those be?</p> <p>A. I would have to look it up.</p> <p>Q. Where would you look for those records?</p> <p>A. Could be in a notebook.</p> <p>Q. Anywhere else?</p> <p>A. Could be in a OneNote.</p> <p>Q. Just so that we have this on the record. OneNote is software, so electronic records? Is that fair?</p> <p>A. Yes. That's correct.</p> <p>Q. Do you keep your notebooks?</p> <p>A. Yes, I do.</p> <p>Q. They're in your possession?</p> <p>A. Yes, they are.</p> <p>Q. Will you produce those notebooks for inspection at least the portions of them dealing with this matter?</p> <p>[A407, at lines 9-25; A408, at lines 1-3]</p>	<p>MS. MACHADO: No. [A408, at line 4]</p>	<p>ANSWER REQUIRED</p>
E 101-102	<p>Q. Will you produce those portions for inspection by the court as required? [A408, at lines 7-8]</p>	<p>MS. MACHADO: You have -- it's not required, Counsel. As required ---</p> <p>MR. AIELLO: Let me rephrase -- let me rephrase, Counsel, because I get your point and that's not what I meant.</p> <p>Q. As may be required, following further discussion with the court and counsel.</p>	<p>ANSWER REQUIRED</p>

		MS. MACHADO: It's not a question appropriate to a witness. It's counsel's decision. And then, of course, witnesses would abide the court order if required to do so. [A408, at lines 9-19]	
E 103-105	Q. How many such notes or notebooks do you have? A. I can't recollect right now. Q. Approximately? Q. Ma'am, do you -- when you say that you have notes, so are we talking about a briefcase full, a truckload full, a roomful? How many notebooks do you have? [A408, at lines 22-25]	MS. MACHADO: No. Counsel, okay, we're -- let's get to the facts of this actual issue instead of the fishing expedition that we've been on. MR. AIELLO: We're not in a fishing expedition. MS. MACHADO: Yes, you are. You're talking about notes of anything that she knows about this file in -- like, come on, Counsel. MR. AIELLO: Counsel, do you have - - sorry. MS. MACHADO: We're refusing that question. [A408, at lines 22-25; A409, at lines 1-13]	ANSWER REQUIRED
E 106	Q. How many notebooks do you have that have anything to do -- that have any entries pertaining to this litigation or the issues in it? [A409, at lines 16-18]	MS. MACHADO: Refusing that question. [A409, at line 19]	ANSWER REQUIRED
E 107	Q. Are any of your notes in the notebooks you've mentioned, are they archived within the government, the provincial government? [A409, at lines 22-24]	MS. MACHADO: We're refusing. [A409, at line 25]	ANSWER REQUIRED
E 108	Q. Are your notebooks, ma'am, in compliance with the Archives and Recordkeeping Act of 2006? [A410, at lines 3-4]	MS. MACHADO: Refusing. [A410, at line 5]	ANSWER REQUIRED
E 109	Q. So far as you're aware, ma'am, does the Ministry of Natural Resources not have a department or section that deal	MS. MACHADO: Refusing. [A410, at line 12]	ANSWER REQUIRED

	-- I forget the nomenclature for a moment -- that deals with the preservation of records? [A410, at lines 9-11]		
E 110	Q. Are your e-mails and other communications, regardless of format, from your time as the acting district manager at this district, are they all in the possession or control of the MNRF, so far as you know? [A410, at lines 15-18]	MS. MACHADO: We're refusing. [A410, at line 19]	ANSWER REQUIRED
E 157	Q. Could you describe for me when a briefing note is prepared? [A418, at lines 13-14]	MS. MACHADO: No. We're going to refuse that question. [A418, at lines 15-16]	ANSWER REQUIRED
E 158	Q. Was any briefing note ever prepared in connection with this matter? A. With only --- MS. MACHADO: Sorry, Heidi. I will allow Ms. Etzel to respond to questions about Mr. Lowery's dismissal from the litigation and any communications that took place therein. But not about the litigation generally. So, you have that refusal, Mr. Aiello. Ms. Etzel, I'm allowing you to answer the question insofar as it relates to Mr. Lowery specifically. Were there any briefing notes with respect to Mr. Lowery? THE DEPONENT: Sorry. I should answer? MS. MACHADO: Yes. You can answer that --- THE DEPONENT: The only thing I recollect is a briefing dec, while I was acting North Bay district, being prepped. [A418, at lines 19-35; A419, at lines 1-9]		ANSWER REQUIRED
E 166	Q. To your recollection, was there ever anyone designated as the contentious issue officer for this file? [A420, at lines 14-15]	MS. MACHADO: We're going to refuse that question. [A420, at lines 16-17]	ANSWER REQUIRED
E 167	Q. Was this file in any way shape or form flagged for attention above and outside of your district? [A420, at lines 20-21]	MS. MACHADO: We're going to refuse that. [A420, at line 22]	ANSWER REQUIRED

E 170	<p>Q. Ma'am, just going back to your notebooks for a minute, are there any notes or documents that you have that so far as you are aware, the MNR does not have copies of? [A421, at lines 21-24]</p>	<p>MS. MACHADO: I'm going to refuse that question. [A421, at line 25]</p>	ANSWER REQUIRED
E 171	<p>Q. So far as you are aware, are there any notes or other documents that you have that pertain specifically to this litigation or the land in dispute or any of the parties to this litigation that are not in the possession or control of the MNR? [A422, at lines 5-9]</p>	<p>MS. MACHADO: I'm going to refuse that question as overly broad. [A422, at lines 10-11]</p>	ANSWER REQUIRED
E 172-180	<p>Q. So far as you are aware, ma'am, are there any notes or other documents that you have that pertain to the continuation or termination of this litigation that the MNR does not also have a copy of? MS. MACHADO: The termination against Mr. Lowery I think you mean, just to be clear. Q. Any termination, but sure. A. Sorry. You have to repeat the question. MS. MACHADO: Are there any -- yes, go ahead. Q. Are there any documents that you have that pertain to the termination of this litigation in whole or in part that the MNR does not have a copy of? A. All documents are in my possession. Q. I understand that, but what I'm wondering is whether or not the MNR has copies of all of those. You may have paper originals, for example, but the MNR may have copies of them or vice versa, you may have copies and they may have originals. So, what I'm trying to understand is, is everything that you have that pertains to the termination of this litigation in whole or in part also in the possession of the MNR? Or is there extra stuff that you have that the MNR does not have?</p>		ANSWER REQUIRED

	<p>MS. MACHADO: Counsel, I think there's an underlying presumption there that there are documents, so...</p> <p>MR. AIELLO: The witness has said repeatedly and clearly that she has documents. That's not ---</p> <p>MS. MACHADO: Not relating to Mr. Lowery's termination, Mr. Aiello, and that's the only thing that I'm allowing her to answer on, so...</p> <p>MR. AIELLO: Counsel, I think that was qualified in my question. And if you would just stop interfering and let the witness answer, we ---</p> <p>MS. MACHADO: Well, you're asking a question that's unfair if there's a presumption that documents exist regarding the termination of Mr. Lowery.</p> <p>MR. AIELLO: I have a lot to talk about later.</p> <p>Q. So, ma'am, do you have any documents that directly or indirectly relate to the termination of this litigation in whole or in part that are not also in the possession of the MNR, either copies or originals?</p> <p>A. I do not have any notebooks or notes pertaining to the termination.</p> <p>Q. Do you have any other documents pertaining to the termination, to any termination in whole or in part of this litigation?</p> <p>MS. MACHADO: Sorry, I don't understand that question. She said she doesn't have any documents --</p> <p>MR. AIELLO: She said -- she said notes or notebooks, but I'm asking if she has any other documents.</p> <p>MS. MACHADO: Oh.</p> <p>HE DEPONENT: No. I do not.</p> <p>Q. So, just so that I'm clear and we've removed all potential confusion, there's no document that you have that has anything to do with the termination period. Is that fair?</p>	<p>MS. MACHADO: No. That's a refusal. [A425, at line 6]</p>	
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	<p>A. Regarding notebooks and my OneNote, there is nothing referring to the termination. Q. Okay. Regarding any other kind of document. A. I don't recollect. Q. Would you check and let your counsel know and then she can advise me? [A422, at lines 14-25; A423-A424 and A425, at lines 1-5]</p>		
E 181-182	<p>Q. Forgive me if I've asked this, but I just want to make sure I have. Is your job description as associate district manager of this particular district, is that something that is reduced to writing? Your job description when you were associate district manager of this district? A. I'm not sure I understand --- MS. MACHADO: You mean acting district manager? Q. You don't understand the question. Let me try it this way. When you applied for that position, wasn't there a job description posted somewhere? [A425, at lines 9-21]</p>	<p>MS. MACHADO: I'm going to refuse this question. I don't see the relevance. [A425, at lines 22-23]</p>	<p>ANSWER NOT REQUIRED</p>
E 183	<p>Q. Will you produce the job description for this particular job? [A426, at lines 1-2]</p>	<p>MS. MACHADO: No. [A426, at line 3]</p>	<p>ANSWER NOT REQUIRED</p>

Alex Howard

Date: January 22, 2024
 Time: XX p.m. - 1:41 p.m.
 Witness: Alex Howard
 CaseLine pages: A366-A382

Question (Prefix = Witness	Specific Question	Answer or Precise Basis for Refusal	Disposition by the Court
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Surname Initial)			
H 48-50	<p>Q. Did you at any time have any contact or communications with any legal counsel about this matter apart from that initial heads-up in 2018?</p> <p>A. Yes. I did receive a subsequent FYI for the future proceedings with the municipality of North Bay and that's all. Again, it was just a -- just so you know, there's another legal proceedings by the municipality.</p> <p>Q. When you say the Municipality of North Bay, did you misspeak? Did you mean Temagami?</p> <p>A. Yes. I apologize. It's North Bay district, Temagami, yes.</p> <p>Q. And when did you get that FYI? [A376, at lines 6-16]</p>	<p>MS. MACHADO: I'm going to refuse that question. It's irrelevant.</p> <p>[A376, at lines 18-19]</p>	ANSWER REQUIRED
H 51	<p>Q. Who gave you that FYI?</p> <p>A. Counsel. [A376, at lines 22-23]</p>	<p>MS. MACHADO: It's irrelevant. [A376, at line 24]</p>	ANSWER REQUIRED
H 52	<p>Q. Which counsel?</p> <p>[A377, at line 2]</p>	<p>MS. MACHADO: He's not answering. [A377, at line 3]</p>	ANSWER REQUIRED
H 67-68	<p>Q. Those FYIs that you got from legal counsel, the two of them, are they documents that would have come to you by way of e-mails?</p> <p>A. Correct.</p> <p>Q. Are the e-mails that you sent or received during your tenure as the -- during your tenure as the regional land specialist, are they e-mails that are preserved within the MNR? [A380, at lines 15-22]</p>	<p>MS. MACHADO: I'm going to refuse that question.</p> <p>[A380, at line 23]</p>	ANSWER REQUIRED
H 69	<p>Q. At any time during your tenure as the regional land specialist, were you requested to or in any way directly or indirectly participated in the creation of a briefing note or briefing dec? [A381, at lines 1-4]</p>	<p>MS. MACHADO: I'm going to refuse that question.</p> <p>[A381, at line 5]</p>	ANSWER REQUIRED
H 70	<p>Q. During your tenure, were you in any way directly or indirectly involved in the creation of a briefing dec or briefing note with respect to these lands? [A381, at lines 8-10]</p>	<p>MS. MACHADO: We're refusing that question.</p> <p>[A381, at line 11]</p>	ANSWER REQUIRED
H 71-72	<p>Q. During your tenure, were you in any way directly or indirectly involved in the creation of a briefing dec or briefing note pertaining to the termination or continuation of this litigation?</p> <p>MS. MACHADO: Continuation or ---</p> <p>MR. AIELLO: Continuation -- let me rephrase.</p>	<p>MS. MACHADO: And I'll allow the question insofar as it relates to the termination of the litigation as against Mr.</p>	ANSWER REQUIRED

	<p>Q. Continuation or termination in whole or in part of this litigation. [A381, at lines 14-22]</p>	<p>Lowery. Did you ever participate in anything with regards to the termination of the litigation as against Mr. Lowery? [A381, at lines 23-25; A382, at lines 1-2]</p>	
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Mitch Baldwin

Date: January 25, 2024

Time: XX - 11:05 a.m.

Witness: Mitch Baldwin

CaseLine pages: A570-A615

<p>Question (Prefix = Witness Surname Initial)</p>	<p>Specific Question</p>	<p>Answer or Precise Basis for Refusal</p>	<p>Disposition by the Court</p>
<p>B 43-44</p>	<p>Q. If there's a file that involves some kind of legal matter that is not handled simply by your own staff, your own department, is internal legal counsel involved generally speaking? MS. MACHADO: We're going to ask – MR. AIELLO: I'm just trying to understand how the structure works, counsel. MS. MACHADO: I do understand it but we're again drifting far afield of what the issues are in the motion. MR. AIELLO: Well, I beg to differ but you have my question. MS. MACHADO: That's fine. Q. So, sir, just generally speaking, when there was an issue that was not handled or only handled by your internal staff in your own</p>	<p>MS. MACHADO: It's too broad a question. We're going to refuse. [A578, at lines 18-19]</p>	<p>ANSWER NOT REQUIRED</p>

	<p>department, people under you and their respective teams, would you have someone from the MNR legal counsel involved? [A577, at lines 23-35; A578, at lines 1-17]</p>		
<p>B 56-61</p>	<p>Q. Okay. So when did she [Robinson] become supervisor the best you recall? A. Around 2020. MS. MACHADO: I don't want you to guess, Mitch, so unless you know – THE DEPONENT: Okay. Then I don't recall. I don't recall. Q. I'm not asking you to guess and I'm not asking you for a specific date and your counsel's point is fair enough, no one's asking you to guess – A. Yeah. So I don't recall -- Q. -- however if you – A. -- so I can't give you a precise date. Q. Fair enough, but my question is what is your sense of when she became a supervisor? MS. MACHADO: Well, no – Q. Keeping in mind that you're not being asked for a specific date. I want to have a sense as we sit here now of what your general recollection is of when she became a supervisor. MS. MACHADO: He said that he doesn't recall so that's the answer. MR. AIELLO: Counsel, you're interfering again. MS. MACHADO: I'm not interfering, Mr. Aiello. I'm just repeating what he's just said which is that he doesn't recall the date. MR. AIELLO: Why don't we let him answer the question I've actually asked? MS. MACHADO: I did. I asked if you'd be guessing and he said, "Yes, I'd be guessing."</p>	<p>MS. MACHADO: I'm going to refuse the question. It was asked and answered. [A583, at lines 6-7]</p>	<p>ANSWER NOT REQUIRED</p>

	<p>Q. Let me ask again. Without guessing, do you have a sense of when she was a supervisor. [A581, at lines 17-25; A582, at lines 12-25; A583, at lines 1-5]</p>		
B 63-64	<p>Q. And, sir, do you have a recollection at all of her not being a supervisor at some point while you were working at that office? A. Yes. Q. So as best you recall, in general terms, when did the transition happen? [A583, at lines 19-24]</p>	<p>MS. MACHADO: The refusal is the same, Mr. Aiello. [A583, at lines 25]</p>	ANSWER NOT REQUIRED
B 65	<p>Q. What is your memory of the transition? [A584, at lines 19-24]</p>	<p>MS. MACHADO: Mr. Aiello, I don't understand why this is so fundamental to you but he said that he doesn't recall the date. If you want to put a date to him, you know, I don't know. I leave you to it. MR. AIELLO: You're interfering is what you're doing, counsel – MS. MACHADO: I'm not. I'm – MR. AIELLO: -- but we'll deal with that later but if you would let the witness answer them it would be helpful. MS. MACHADO: I've just refused the same question five times. MR. AIELLO: Well, the record will show that's not true but we'll get there. [A584, at lines 5-19]</p>	ANSWER NOT REQUIRED

B 66	Q. So, sir, can you tell me whether or not it was you that facilitated or encouraged or somehow permitted the promotion of Ms. Robinson to the role of supervisor? [A584, at lines 21-24]	MS. MACHADO: I'm going to refuse that question. [A584, at line 25; A585, at line 1]	ANSWER NOT REQUIRED
B 73-75	Q. I understand there were weekly meetings, is that fair? A. Between who? Around what? Q. Weekly meetings within the office at which Ms. Robinson and her predecessor and perhaps others would go around the table and discuss what files were being worked on and that you were present at those meetings, is that fair? A. Yes. Q. And those meetings, are they something that are required to happen? [A585, at line 25; A586, at lines 1-10]	MS. MACHADO: I'm going to refuse that. [A586, at line 11]	ANSWER REQUIRED
B 76	Q. Are those meetings something that did happen on a regular basis? [A586, at lines 13-14]	MS. MACHADO: I'm going to refuse that. [A586, at line 15]	ANSWER REQUIRED
B 77	Q. Are records kept of those meetings? [A586, at line 17]	MS. MACHADO: I'm going to refuse that. [A586, at line 18]	ANSWER REQUIRED
B 78	Q. Who would generate the records of those meetings? [A586, at lines 20-21]	MS. MACHADO: Refusal. [A586, at line 22]	ANSWER REQUIRED
B 79	Q. Would people have an ability to correct, amend or otherwise update any of those records of those meetings? [A586, at lines 24-25; A587, at line 1]	MS. MACHADO: Refusal. [A587, at line 2]	ANSWER REQUIRED
B 80-82	Q. Sir, beyond any discussion of any particular file at a weekly meeting as we've discussed or otherwise, were you occasionally or from time to time provided reports or updates with respect to the status of any particular file? A. Like, any particular file? Q. Sure. Just generally speaking, were you provided file updates? A. Sure, yes. Q. And how often would that happen, generally speaking? [A587, at lines 4-14]	MS. MACHADO: I'm going to refuse that. [A587, at line 15]	ANSWER REQUIRED

B 83	Q. Can you tell me when -- sorry, was the requirement or the triggering of providing you, as the district manager, with an update on a file something that was triggered by the calendar; in other words, it happened on some kind of routine basis or was it triggered by specific events or was it purely in the discretion of the people under you? [A587, at lines 17-23]	MS. MACHADO: Refusal. [A587, at line 24]	ANSWER REQUIRED
B 84-85	Q. Are there any records -- let me back up. Were you involved in any meetings in the course of your tenure as a district manager at this office at which this particular piece of litigation was involved discussed? A. Yes. Q. Were there any records of those meetings or conversations? [A588, at lines 1-8]	MS. MACHADO: I'm going to refuse that question. [A588, at lines 9-10]	ANSWER REQUIRED
B 86	Q. Are there any records of any updates or other communiqués with respect to this particular file? [A588, at lines 12-14]	MS. MACHADO: Refusal. [A588, at line 15]	ANSWER REQUIRED
B 87	Q. Sir, when you were given an update on a particular file, was it - - and let's deal with this one, when you were given an update on this particular file, were you given an update that was strictly directed to you or were other people copied in on it? [A588, at lines 17-22]	MS. MACHADO: Refusing. [A588, at line 23]	ANSWER REQUIRED
B 88	Q. Were you ever given updates in which -- sorry, updates on this particular file from anyone other than Ms. Robinson? [A589, at line 25; A590, at lines 1-2]	MS. MACHADO: Refusing. [A590, at line 3]	ANSWER REQUIRED
B 89	Q. Were you ever given any kind of an update communiqué, email correspondence, any other communication whatsoever on this file from anyone in the MNR inhouse legal counsel? [A589, at lines 5-8]	MS. MACHADO: Refusing. [A589, at line 9]	ANSWER REQUIRED
B 90	Q. Were you ever sent any kind of communication, correspondence or other document of any kind whatsoever on this file from Crown Law Office - Civil? [A589, at lines 11-14]	MS. MACHADO: Refusing. [A589, at line 15]	ANSWER REQUIRED
B 91	Q. Were you ever sent any kind of communication from anyone or were you ever copied in on any communication from anyone about		ANSWER REQUIRED

	<p>this file that dealt with the continuation or termination of this file in whole or in part?</p> <p>MS. MACHADO: Mr. Baldwin, I'll allow you to answer the question as it relates to the termination of the suit against Mr. Lowery; the remainder of the question I'm refusing. So I believe the question was did you ever get any communication at all about the termination of the suit against Mr. Lowery?</p> <p>THE DEPONENT: No. [A589, at lines 17-25; A590, at lines 1-3]</p>		
B 95	<p>Q. When a file is delegated to one of your supervisors, Ms. Robinson for example, but either of them or any one of them, who is responsible for seeing its conclusion?</p> <p>[A590, at lines 19-22]</p>	<p>MS. MACHADO: Refusing. [A590, at line 23]</p>	ANSWER REQUIRED
B 96	<p>Q. Who is responsible for deciding how that matter concludes?</p> <p>[A590, at line 25; A591, at line 1]</p>	<p>MS. MACHADO: Refusing. [A591, at line 2]</p>	ANSWER REQUIRED
B 97-98	<p>Q. In the case of this particular litigation, who is responsible for seeing this file to its conclusion within your office?</p> <p>MS. MACHADO: I'll allow that question if it relates to just Mr. Lowery.</p> <p>MR. AIELLO: I'm asking it generally and you can give me the sub answer to the part of it but my –</p> <p>MS. MACHADO: The remainder is refused. Who is responsible, Mr. Baldwin, for making any determination about terminating the suit against Mr. Lowery?</p> <p>THE DEPONENT: It would be our legal counsel.</p> <p>Q. And when you say "our legal counsel", do you mean the legal branch within the MNR or do you mean Crown Law Office - Civil or both?</p> <p>A. It could be both. [A591, at lines 4-22]</p>		ANSWER REQUIRED
B 112	<p>Q. Was she [Moussa] working on this particular file?</p> <p>[A594, at lines 14-15]</p>	<p>MS. MACHADO: Refusal. [A594, at line 16]</p>	ANSWER REQUIRED
B 113	<p>Q. Was she [Moussa] working on this file in 2017 and 2018?</p> <p>[A594, at lines 18-19]</p>	<p>MS. MACHADO: Refusal. [A594, at line 20]</p>	ANSWER REQUIRED

B 114-115	<p>Q. Did she [Moussa] have any responsibility for dealing with the Municipality of Temagami in 2017 and 2018 and --</p> <p>MS. MACHADO: Refusal. Sorry. If you were continuing the question, sorry.</p> <p>Q. The timeframe was from 2018 onwards.</p> <p>[A594, at lines 22-25; A595, at lines 1-3]</p>	<p>MS. MACHADO: Sorry, that was refused, yeah.</p> <p>[A595, at lines 4-5]</p>	ANSWER REQUIRED
B 116	<p>Q. What was her role when she was assisting Julie Robinson?</p> <p>[A595, at lines 7-8]</p>	<p>MS. MACHADO: Refusal.</p> <p>[A595, at line 9]</p>	ANSWER REQUIRED
B 117	<p>Q. What was her role in relation to this particular file?</p> <p>[A595, at lines 11-12]</p>	<p>MS. MACHADO: Refusal.</p> <p>[A595, at line 13]</p>	ANSWER REQUIRED
B 118	<p>Q. What was her role in relation to these particular lands?</p> <p>[A595, at lines 15-16]</p>	<p>MS. MACHADO: Refusal.</p> <p>[A595, at line 17]</p>	ANSWER REQUIRED
B 119	<p>Q. What was her role in relation to dealings between your office and your ministry and the Municipality of Temagami?</p> <p>[A595, at lines 19-21]</p>	<p>MS. MACHADO: Refusal.</p> <p>[A595, at line 22]</p>	ANSWER REQUIRED
B 120	<p>Q. What was her role in relation to dealings between your office and the Temagami First Nations?</p> <p>[A595, at lines 24-25; A596, at line 1]</p>	<p>MS. MACHADO: Refusal.</p> <p>[A596, at line 2]</p>	ANSWER REQUIRED
B 121-123	<p>Q. Did she have any involvement with the Municipality or the Temagami First Nations or any other body or organization outside of your office in connection with Temagami Barge –</p> <p>MS. MACHADO: Refusal.</p> <p>Q. -- or the underlying lands –</p> <p>MS. MACHADO: Sorry. Or the underlying lands.</p> <p>Q. Or the underlying lands in 2017, 2018 and beyond?</p> <p>[A596, at lines 4-15]</p>	<p>MS. MACHADO: Now I'll refuse.</p> <p>[A596, at line 16]</p>	ANSWER REQUIRED
B 124	<p>Q. Sir, what's a briefing deck?</p> <p>[A596, at line 21]</p>	<p>MS. MACHADO: I'm going to refuse that question.</p> <p>[A596, at lines 22-23]</p>	ANSWER REQUIRED
B 125	<p>Q. What's a briefing note? [A596, at line 25]</p>	<p>MS. MACHADO: Refusal.</p> <p>[A597, at line 1]</p>	ANSWER REQUIRED

B 126	Q. Is it fair to say that if a briefing note is prepared for any file, but let's deal with this one in particular, that you would be copied in on it? [A597, at lines 3-6]	MS. MACHADO: Refusal. [A597, at line 7]	ANSWER REQUIRED
B 127	Q. Did you ever see a briefing note in respect of this particular file? [A597, at lines 9-10]	MS. MACHADO: Refusal. [A597, at line 11]	ANSWER REQUIRED
B 128	Q. Were you ever copied in on any briefing note in respect of this particular file? [A597, at lines 13-14]	MS. MACHADO: Refusal. [A597, at line 15]	ANSWER REQUIRED
B 129	Q. Will you produce any briefing note prepared with respect to this file whether in finalized form, draft, briefing deck, or whatever the terminology is? [A597, at lines 17-20]	MS. MACHADO: No. [A597, at line 21]	ANSWER REQUIRED
B 130-131	Q. Will you provide any such documentation as it pertains to the continuation or termination of this litigation in whole or in part? MS. MACHADO: Sorry, you've thrown me off your questions now, Mr. Aiello. You're asking if he'll produce any documentation regarding the termination of the suit in whole or in part? MR. AIELLO: No, no. Let's be clear. MS. MACHADO: Oh, I'm sorry. Q. So the initial question that you refused was whether you would produce any briefing note or briefing deck, whatever such documents may be referred to or called without getting tied up in semantics; and, fair enough, the second question, the one we're dealing with now, is whether or not any such document as it pertains to the continuation or termination of this litigation in whole or in part will be produced? [A597, at lines 23-25: A598, at lines 1-16]	MS. MACHADO: Not at this time, no. MR. AIELLO: What does that mean, "not at this time"? MS. MACHADO: Well, documents will be produced in the ordinary course through productions and undertakings, et cetera. MR. AIELLO: Okay. MS. MACHADO: To the extent that they haven't already of course. [A598, at lines 17-25]	ANSWER REQUIRED
B 132	Q. Did you ever discuss this particular file with anyone, and I'm not asking what the conversation was, I'm not asking whether it was oral or written, I'm just asking did it happen. Did you have any communication with anyone outside of your department about this litigation or Temagami Barge Limited or the lands that are the subject of this dispute? [A599, at lines 2-9]	MS. MACHADO: Refusal. [A599, at line 10]	ANSWER REQUIRED

B 133	Q. Did you have any such conversations within the MNR outside of your office and -- well, let's stop it there, and outside of your office but within the MNR? [A599, at lines 12-15]	MS. MACHADO: Refusal. [A599, at line 16]	ANSWER NOT REQUIRED
B 134	Q. Did you have any such communications with anyone outside of your office but not including, or at least not aimed at internal legal counsel in the MNR? [A599, at lines 18-21]	MS. MACHADO: Refusal. [A599, at line 22]	ANSWER NOT REQUIRED
B 142	Q. You've been with the MNR for a significant period of time so I'm asking is it fair to say that the MNR, like every other provincial ministry, has an extensive and detailed retention policy with respect to its documents? [A601, at line 25; A602, at lines 1-4]	MS. MACHADO: Refusal. [A602, at line 5]	ANSWER NOT REQUIRED
B 143	Q. Is it fair to say that all of the documents pertaining to this file, whatever they may have been and whatever their source may have been, would be retained somewhere within the MNR? [A602, at lines 7-10]	MS. MACHADO: Refusal [A602, at line 11]	ANSWER REQUIRED
B 144	Q. When you transferred from this office to the next, did you delete all of your emails? [A602, at lines 13-15]	MS. MACHADO: Refusal [A602, at line 16]	ANSWER REQUIRED
B 145	Q. What happened to your emails as they pertained to this matter upon your termination from this position at this office? [A602, at lines 18-20]	MS. MACHADO: Refusal [A602, at line 21]	ANSWER REQUIRED
B 146	Q. As an ongoing employee of the MNR, do you still have access to all of your earlier emails? [A602, at lines 23-25]	MS. MACHADO: Refusal [A603, at line 1]	ANSWER REQUIRED
B 149	Q. Will you produce all -- sorry, do you have access to any part of the file or any documents pertaining to this file now that you're no longer at that district office, is that something you would normally have access to? [A603, at lines 10-14]	MS. MACHADO: Refusal. [A603, at line 15]	ANSWER REQUIRED
B 150	Q. To the extent that you may have access, will you produce for me copies of any and all documentation that you are able to access that pertain to the termination of this litigation as against Mr. Lowery? [A603, at line 17-21]	MS. MACHADO: No. [A603, at line 22]	ANSWER REQUIRED

B 151	Q. Will you produce any and all such documentation to the extent that you have access to them as they pertain to the continuation or termination of this litigation in whole or in part? [A603, at line 24-25; A604, at lines 1-2]	MS. MACHADO: No. [A604, at line 3]	ANSWER REQUIRED
B 152	Q. Will you produce any such documents to the court for the purposes of court review?	MS. MACHADO: I answered that question before as being inappropriate to a witness. Obviously, any witness with the Ministry would abide by a court order.	ANSWER REQUIRED
B 153	Q. Had you had any prior dealings with Ms. Machado before this motion on this file? [A604, at lines 12-15]	MS. MACHADO: I'm going to refuse that question. [A604, at lines 14-15]	ANSWER NOT REQUIRED
B 154	Q. Did you have any communications with Ms. Machado, or anyone in her office, in 2018? [A604, at lines 17-18]	MS. MACHADO: I'm going to refuse that question. [A604, at lines 19-20]	ANSWER NOT REQUIRED
B 161-165	Q. Do you know whether or not anyone actually did authorize the termination of this litigation in whole or in part? A. I don't know. Q. Who would know? MS. MACHADO: You've had answers already from Ms. Robinson, Mr. Aiello. MR. AIELLO: I'm asking this witness, and I'm sure you understand the difference. Sir – MS. MACHADO: But you're asking him who would know and Ms. Robinson has given you answers. MR. AIELLO: You're improperly, I respectfully submit, interfering with this litigation -- this questioning. Q. Sir, who would have authority on this file to terminate this litigation? MS. MACHADO: He said, "I don't know". Q. And then the follow-up question was who would know.	MS. MACHADO: I'm going to refuse that question. [A607, at lines 21-22]	ANSWER REQUIRED

	MS. MACHADO: Do you know, Mitch? THE DEPONENT: I don't know. Q. Is there some policy or procedure manual that would set that out? [A606, at lines 20-25; A607, at lines 1-20]		
B 166	Q. Will you produce any such policy or procedural manual that would set that out? [A607, at lines 24-25]	MS. MACHADO: No. [A608, at line 1]	ANSWER REQUIRED
B 167	Q. Will you produce such portions of any such policy or procedural manual that would deal with the handling of this litigation? [A608, at lines 3-5]	MS. MACHADO: No. [A608, at line 6]	ANSWER REQUIRED
B 168	Q. Will you produce for inspection any such policy or procedural or protocol, what have you, that deals with the termination in whole or in part of this litigation? [A608, at lines 8-11]	MS. MACHADO: No. [A608, at line 12]	ANSWER REQUIRED
B 171	Q. While you were at this office, what did Julie Robinson do in respect of this file? [A608, at lines 21-24]	MS. MACHADO: Refusal. [A608, at line 23]	ANSWER REQUIRED
B 172	Q. What was her delegated responsibility with respect to this file? [A608, at line 25; A609, at line 1]	MS. MACHADO: Refusal. [A609, at line 2]	ANSWER REQUIRED
B 173	Q. Was it you, sir, that assigns individual files to individuals under your command in the district office? [A609, at lines 4-6]	MS. MACHADO: Refusal. [A609, at line 7]	ANSWER REQUIRED
B 174	Q. Was it your responsibility to set out the parameters of what anybody would do on a particular file under your command in your office? [A609, at lines 9-11]	MS. MACHADO: Refusal. [A609, at line 12]	ANSWER REQUIRED
B 175	Q. Did you set out what Ms. Robinson or anyone else in your office would do with respect to this particular file? [A609, at lines 14-16]	MS. MACHADO: Refusal. [A609, at line 17]	ANSWER REQUIRED
B 176	Q. What exactly did Ms. Mousa do on this particular file? [A609, at lines 19-20]	MS. MACHADO: Refusal. [A609, at line 21]	ANSWER REQUIRED
B 177	Q. What was her responsibility on this particular file? [A609, at lines 23-24]	MS. MACHADO: I think you've asked this one already but it's refused. [A609, at line 25; A610, at line 1]	ANSWER REQUIRED

B 178	Q. Did you ever instruct Ms. Mousa or Ms. Robinson to attend meetings with or at or in the Municipality of Temagami in connection with the lands that are the subject of this litigation? [A610, at lines 3-6]	MS. MACHADO: Refusal. [A610, at line 7]	ANSWER REQUIRED
B 179	Q. I understand that Ms. Robinson and others attended meetings with or at the Municipality of Temagami in connection with these lands; would they report to you following those meetings? [A610, at lines 9-12]	MS. MACHADO: Refusal. [A610, at line 13]	ANSWER REQUIRED
B 180	Q. Will you produce any and all such reports or make them accessible to me assuming you have access to them? [A610, at lines 15-17]	MS. MACHADO: No. [A610, at line 18]	ANSWER REQUIRED
B 181	Q. Will you make them accessible to the court for court review assuming you have access to them? [A610, at lines 20-22]	MS. MACHADO: You have my answer on that before. [A610, at lines 22-23]	ANSWER REQUIRED
B 184	Q. Just so that I understand the procedure, is there some kind of handoff from you to her, [Etzel] or do you just leave on a Friday and she shows up on a Monday and that's that? [A611, at lines 6-9]	MS. MACHADO: I'm going to refuse that question. [A611, at lines 10-11]	ANSWER REQUIRED
B 185	Q. Was there any preparation of any file, transfer, any memo, any other documentation, any communication with her with respect to this particular file? [A611, at lines 13-16]	MS. MACHADO: I'm going to refuse that question. [A611, at lines 17-18]	ANSWER REQUIRED
B 187	Q. Did you have any communications with anyone at or on behalf of the Municipality of Temagami in connection with the lands that are the subject of this litigation? [A611, at line 25; A612, at lines 1-3] MR. AIELLO: Beyond any guidance that may have come from legal counsel, whether it's Crown Law Office - Civil or MNR's inhouse legal department, did your office get any input with respect to this litigation from any other location within the provincial government? [A612, at lines 5-10]	MS. MACHADO: Refusal. [A612, at line 4] MS. MACHADO: Refusal. [A612, at line 11]	ANSWER REQUIRED

B 188	Q. At any time was there a briefing note prepared that was circulated up to the deputy minister or above? [A612, at lines 13-15]	MS. MACHADO: Refusal. [A612, at lines 16]	ANSWER REQUIRED
B 193	Q. So far as you are aware, was any briefing note ever prepared in connection with this file? [A613, at lines 24-25; A614, at line 1]	MS. MACHADO: Refusal. [A614, at line 2]	ANSWER REQUIRED
B 194	Q. So far as you were aware, was any briefing note ever prepared in connection with the termination of this litigation in whole or in part? THE DEPONENT: I don't know. [A614, at lines 4-12]	MS. MACHADO: I'll allow that question with respect to the termination against Mr. Lowery. So to your knowledge, Mitch, was any briefing note ever prepared about terminating the suit against Mr. Lowery? [A614, at lines 7-11]	ANSWER REQUIRED

Patricia Mousa

Date: January 25, 2024

Time: XX - 11:34 a.m.

Witness: Patricia Mousa

CaseLine pages: A616-A629

Question (Prefix = Witness Surname Initial)	Specific Question	Answer or Precise Basis for Refusal	Disposition by the Court
M 15-16	Q. Were you the person who had primary carriage of the file – A. Yes. Q. -- while you were there? And how often would you report on the file to Julie Robinson? [A620, at lines 2-7]	MS. MACHADO: I'm going to refuse that question. [A620, at lines 8-9]	ANSWER REQUIRED

M 17	Q. Did you have any discussions with this file with anyone other than – about this file with anyone other than Julie Robinson? [A620, at lines 11-13]	MS. MACHADO: I'm going to refuse that. [A620, at lines 14]	ANSWER REQUIRED
M 18	Q. Did you have any discussions with anyone about this file with anyone else within the MNR other than Julie Robinson? [A620, at lines 16-18]	MS. MACHADO: Refusal. [A620, at line 19]	ANSWER REQUIRED
M 19	Q. Did you have any discussions about this file with anyone within your district office while you were there? [A620, at lines 21-23]	MS. MACHADO: Refusal. [A620, at line 24]	ANSWER REQUIRED
M 22	Q. Have you had any dealings with the Municipality of Temagami in connection with the lands that are the subject of this dispute? [A621, at lines 5-7]	MS. MACHADO: We're refusing that question. [A621, at lines 8-9]	ANSWER REQUIRED
M 23	Q. What is the Lake Temagami Access Point Planning Committee? [A621, at lines 11-12]	MS. MACHADO: I'm going to refuse that question. [A621, at lines 13-14]	ANSWER REQUIRED
M 24	Q. Did you attend meetings in or at the Municipality in connection with the Lake Temagami Access Point Planning Committee? [A621, at lines 16-18]	MS. MACHADO: Refusal. [A621, at lines 19]	ANSWER REQUIRED
M 25	Q. Did you attend any meetings or have any discussions with anyone employed by or otherwise engaged with the Municipality of Temagami in connection with the lands that are the subject of this dispute? [A621, at lines 21-25]	MS. MACHADO: Refusal. [A622, at line 1]	ANSWER REQUIRED
M 26-27	Q. Did you have any discussions with anyone at the Municipality of Temagami or employed or engaged with the Municipality of Temagami in connection with Clifford Lowery?	MS. MACHADO: So I'll allow part of that question. If the discussions were at all about terminating the suit against Mr. Lowery, I'll allow you to answer that question but the rest is refused. So did you have any	ANSWERED BY WITNESS

	<p>A. Sorry, could you repeat that?</p> <p>Q. Sure. Did you have any discussions with anyone either employed by the Municipality of Temagami or otherwise engaged by the Municipality of Temagami or dealing with the Municipality of Temagami about Clifford Lowery?</p> <p>THE DEPONENT: No.</p>	<p>discussions with anyone at all in the Municipality about considerations of terminating the suit against Mr. Lowery?</p>	
M 37	<p>Q. Are your emails archived, stored somewhere as far as you know? [A624, at lines 1-2]</p>	<p>MS. MACHADO: Refusal. [A624, at line 3]</p>	ANSWER REQUIRED
M 38	<p>Q. Do you have access to any of your old emails? [A624, at lines 5-6]</p>	<p>MS. MACHADO: I'll refuse, but when employees leave they do not have access to emails, Mr. Aiello. [A624, at lines 7-9]</p>	ANSWERED BY COUNSEL
M 46	<p>Q. Were there notes of the meeting -- of the phone call, sorry, were there notes of this phone call made at the time? [A626, at lines 3-6]</p>	<p>MS. MACHADO: I'm going to refuse that question. MR. AIELLO: I'm sorry, counsel? MS. MACHADO: I'm refusing the question. This was an interaction between counsel so I'm not sure how it's relevant. Well, it would be -- MR. AIELLO: It's clearly relevant. MS. MACHADO: What I mean, I'm sorry, it would be privileged. [A626, at lines 10-18]</p>	ANSWER REQUIRED
M 48-49	<p>Q. Fair enough, but there would be update meetings that happened in 2018 and beyond with respect to this file?</p> <p>A. Yes.</p> <p>Q. Would minutes be kept of those meetings? [A627, at lines 1-8]</p>	<p>MS. MACHADO: I'm going the refuse that question. [A627, at lines 9-10]</p>	ANSWER REQUIRED
M 50	<p>Q. Do you keep a -- when you were working there, did you keep a log or a diary or was there some record kept of your day-to-day activities? [A627, at lines 12-15]</p>	<p>MS. MACHADO: I'll refuse that question. [A627, at line 16]</p>	ANSWER REQUIRED

M 51	Q. Would any such records exist for you or anyone else who worked on this file? [A627, at lines 18-19]	MS. MACHADO: I'm refusing that. [A627, at line 20]	ANSWER REQUIRED
M 52	Q. Will you make available -- sorry, I appreciate you're no longer employed and so you won't have access but let me ask this: So far as you are aware, would those records, whatever the format, would they be retained by the Ministry?	MS. MACHADO: I'm refusing that question.	ANSWER REQUIRED

James Coristine

Date: January 25, 2024

Time: XX - 1:24 p.m.

Witness: James Coristine

CaseLine pages: A428-A494

Question (Prefix = Witness Surname Initial)	Specific Question	Answer or Precise Basis for Refusal	Disposition by the Court
C 22	Q. So, I'm going to ask this question generally now just to kind of get it out of the way and clear the air of this issue. Counsel, and I'm referring to Ms. Machado now, I have over the course of my prior examination of various witnesses asked them if they have access to certain documents and to produce documents or make them available in some fashion or other and you have refused, and my understanding is that in part the refusal was based on a	MS. MACHADO: No, that's a refusal. MR. AIELLO: And the reason? MS. MACHADO: Relevancy, overly broad, not related to the motion, fishing expedition. Can I add that one now. I haven't said that yet. [A437, at lines 8-15]	ANSWER REQUIRED

	<p>nonrequirement on the part of those witnesses given the nature of those examinations to produce documents; is that generally fair?</p> <p>MS. MACHADO: It's part of the reason. Also the relevance and the breadth of the request.</p> <p>MR. AIELLO: Fair enough. Relevancy and broadness aside, the point is to the extent that any such refusal of any such document was given, because of the nature of those examinations I am asking that this witness review those transcripts when they arrive and produce those documents.</p> <p>[A436, at lines 12-25; A437, at lines 1-7]</p>		
C 23	<p>Q. Sir, as a lawyer in the Crown Law Office - Civil you have access to the entire file such as it may be; is that fair?</p> <p>[A437, at lines 16-18]</p>	<p>MS. MACHADO: I'm going to refuse this question. I don't see how it's related to Mr. Coristine's affidavit. If you can point me to a section.</p> <p>MR. AIELLO: I don't have to point you to a specific section and I have my question and your refusal.</p> <p>[A437, at lines 19-25]</p>	ANSWER REQUIRED
C 24	<p>Q. Sir, is it not also true that as counsel within Crown Law Office – Civil appointed to this file, you also have access to any and all documents within the MNR or elsewhere within the Province of Ontario Government that is germane to this litigation?</p> <p>[A438, at lines 2-7]</p>	<p>MS. MACHADO: No, that's a refusal.</p> <p>[A438, at line 8]</p>	ANSWER REQUIRED
C 25	<p>Q. Will you produce for me, sir, the policy and procedure protocols for decision making within the MNR as it pertains to litigation involving third parties such as my clients?</p> <p>[A438, at lines 10-13]</p>	<p>MS. MACHADO: No. There's an assumption built in that there is such a policy or procedure. In any event, it's refused. [A438, at lines 14-16]</p>	ANSWER NOT REQUIRED

C 26	<p>Q. Okay. Is there such a policy or protocol or procedural document? [A438, at lines 18-19]</p>	<p>MS. MACHADO: I'll refuse that as well. I just want to make it clear. [A438, at lines 20-21]</p>	<p>ANSWER NOT REQUIRED</p>
C 39	<p>Q. Will you produce for me all communications between Mr. Madhany and Ms. Machado, or anyone else at Crown Law Office - Civil, from the outset of his involvement through to, well, this email exchange?</p> <p>MR. AIELLO: Without restricting my prior request, to the extent that you do not produce any such communications, will you identify them in terms of when they happened, who they're between and so on? Will you provide me with the particulars of those communications so they at least are identifiable, and we can deal with them in the ordinary course after that? [A441, at lines 7-11]</p>	<p>MS. MACHADO: No, that's a refusal. Unless they have anything to do with the termination against Mr. Lowery it's a refusal. [A442, at lines 2-4]</p>	<p>ANSWER NOT REQUIRED</p>
C 66-68	<p>Q. Can you advise me, sir, whether or not up until the date of this letter at any time in -- well, let me rephrase. At any time up until the date of this letter had there been any direct communication between anyone at or on behalf of the MNR and Mr. Lowery in connection with this litigation?</p> <p>MS. MACHADO: You've addressed that question to all of the particular --</p> <p>MR. AIELLO: Right. And now I'm asking this witness.</p> <p>MS. MACHADO: He wasn't on the file then, Mr. Aiello, so he can't know.</p>	<p>MS. MACHADO: I'll take it under advisement until you tell me what the purpose is. [A451, at lines 3-4]</p>	<p>ANSWER REQUIRED</p>

	<p>Q. Sir, do I take it that your answer is you do not know?</p> <p>A. Yeah, I'm not aware of any direct communication between MNR and Lowery before this letter.</p> <p>Q. Thank you. Can you find out and let me know, and if there was any to provide me with particulars?</p> <p>[A450, at lines 7-25; A451, at lines 1-2]</p>		
C 78-81	<p>Q. In the same timeframe was there any communication between Mr. Lowery and anyone at or acting on behalf of the MNR?</p> <p>A. Between September 6th and say again.</p> <p>Q. August 30.</p> <p>A. 2018?</p> <p>Q. Right.</p> <p>A. Not that I'm aware of.</p> <p>Q. Again, will you find out and let me know?</p> <p>A. What would you like me to do?</p> <p>[A453, at lines 7-17]</p>	<p>MS. MACHADO: We'll take it under advisement.</p> <p>[A453, at lines 18-19]</p>	ANSWER REQUIRED
C 83-85	<p>Q. This is an endorsement of Justice Nadeau in the litigation between Temagami Barge and Mr. Lowery not in this file, and what I want to draw your attention to and ask you about is the last sentence in this endorsement. It reads: "There apparently, at this time, appear to be little or no connection between the MNR action and this action", the Red Pine action, do you see that?</p> <p>A. I see that sentence, yes.</p> <p>Q. And you will see at the very first line in the endorsement that it says that: "At a trial</p>	<p>MS. MACHADO: I'm just refusing that. I don't see what the relevance is to this motion of the significance between the two actions or the interaction of the two actions.</p> <p>[A455, at lines 12-15]</p>	ANSWER REQUIRED

	<p>management conference TMC held today with counsel for this file and Mr. Nolin...", do you see that?</p> <p>A. Yeah.</p> <p>Q. Okay. So this endorsement is reflecting a case management -- or trial management conference that happens that day in the other litigation and the information that is being provided is that there doesn't appear to be any or little connection between the two pieces of litigation. My question to you, sir, is when did the -- when did your office or the MNR discover that was the view of Mr. Lowery through his counsel and Temagami Barge?</p> <p>A. What was the view?</p> <p>[A454, at lines 9-25; A455, at lines 1-11]</p>		
C 87	<p>Q. In the same timeframe [Between September 6, 2018 and October 1st, 2018] were there any communications between Mr. Lowery and anyone at the MNR or acting on behalf of the MNR? [A456, at lines 3-5]</p>	<p>MS. MACHADO: I'll take that under advisement as well. [A456, at lines 6-7]</p>	ANSWER REQUIRED
C 93-94	<p>Q. Sir, if you look at the [Oct 26, 2018 <i>sic</i>] email at the bottom half of the page from Ms. Machado to Mr. Madhany, it starts with the sentence, "Thanks for the call last week". Do you see that?</p> <p>A. Yes.</p> <p>Q. Can you provide me with any and all notes or records of that conversation?</p> <p>[A458, at lines 3-5]</p>	<p>MS. MACHADO: No.</p> <p>MR. AIELLO: And the reason?</p> <p>MS. MACHADO: Because I don't see the relevance as it relates to this particular motion.</p> <p>[A458, at lines 8-11]</p>	ANSWER REQUIRED
C 98	<p>Q. Okay. Between the date of this [July 26, 2021] email and the date of the telephone call</p>	<p>MS. MACHADO: I can advise that there were never any communications between our office and</p>	ANSWER REQUIRED

	referenced in the October 26, 2018 email, were there any other communications between your office or on behalf of your office on the one hand and Mr. Lowery or on behalf of Mr. Lowery on the other? [A459, at lines 7-12]	Mr. Lowery. I'll take it under advisement in terms of whether there were any communications between myself and Mr. Madhany. [A459, at lines 13-18]	
C 99	Q. Will you provide me with copies of any and all correspondence in that timeframe? [A459, at lines 20-21]	MS. MACHADO: I'll take it under advisement. [A459, at lines 22-23]	ANSWER REQUIRED
C 100	Q. Will you provide me with particulars of any and all communications in that timeframe? [A459, at line 25; A460, at line 1]	MS. MACHADO: I will take it under advisement. [A460, at lines 2-3]	ANSWER REQUIRED
C 104	Q. Would you for the same timeframe [October 26, 2018 and July 21, 2021] provide me with a copy of any and all communications or other documentation that flowed between your office and the MNR or any other corner of the provincial government as it pertains to Mr. Lowery? [A461, at lines 23-25; A462, at lines 1-2]	MS. MACHADO: It's a refusal on the basis of privilege again. [A462, at lines 3-4]	ANSWER REQUIRED
C 105	Q. Would you for the same timeframe [October 26, 2018 and July 21, 2021] produce for me copies of any and all communication, correspondence or other documentation that flowed between your office and the MNR or any other corner of the provincial government as it pertains to the termination of this litigation as against Mr. Lowery? [A462, at lines 6-12]	MS. MACHADO: That's a refusal on the basis of privilege. [A462, at lines 13-14]	ANSWER REQUIRED
C 121	Q. Would you provide for me please any and all communications between yourself and Ms. Machado with respect to the issue of the termination of the litigation as against Mr. Lowery? [A466, at lines 17-20]	MS. MACHADO: No. [A466, at line 21]	ANSWER NOT REQUIRED

<p>C 122</p>	<p>Q. Would you provide for me copies of any and all communications between yourself and Ms. Machado or between Ms. Machado and anyone else in your office or elsewhere within the provincial government with respect to any actual potential conditional or other termination of this litigation involving Mr. Lowery? MS. MACHADO: Sorry, I don't understand that question. In terms of it being any different from the -- is the difference between the previous question and this one just that it's broader in terms of the people involved? MR. AIELLO: Yes. [A466, at line 25; A467, at lines 1-12]</p>	<p>MS. MACHADO: I see. We'll take that under advisement. [A467, at lines 13-14]</p>	<p>ANSWER REQUIRED FOR “BETWEEN ... CROWN COUNSEL ... AND ANYONE ... ELSEWHERE WITHIN ... INVOLVING MR. LOWERY.”</p>
<p>C 134-138</p>	<p>Q. Please go to paragraph 22. A. Okay. Q. The paragraph references you being advised that there had been further discussions between Ms. Machado and Mr. Madhany between July 21 and 23, 2021. Do you see that? A. Yes. Q. How did that information come to you? A. She told me. Q. I take it then that there were communications between those two individuals in that timeframe at least? A. That's what Ms. Machado told me. Q. Will you provide me with all particulars of all those communications, and if there were any notes or emails to the extent that they have not already been requested, will you produce those?</p>	<p>MS. MACHADO: We will continue to take that under advisement. [A471, at lines 1-2]</p>	<p>ANSWER REQUIRED</p>

	[A470, at lines 7-25]		
C 142-143	<p>Q. And again you've said she told you on several occasions and I just want to make sure I cover this off, did she tell you orally or in writing?</p> <p>A. Pretty sure it was orally.</p> <p>Q. Can you go back and check and to the extent that she told you anything I've asked you about in writing, will you first let me know that it was in writing and give me those details and secondly produce those writings?</p> <p>[A471, at lines 15-24]</p>	<p>MS. MACHADO: I'll take that under advisement. I think it's a refusal but I'll take it under advisement.</p> <p>[A471, at line 25; A472, at lines 1-2]</p>	ANSWER REQUIRED
C 144-146	<p>Q. Do you know what the rationale was for not putting the agreement in writing?</p> <p>A. I think it was unnecessary.</p> <p>Q. You think. Do you know what the rationale was?</p> <p>A. Well, Ms. Machado I don't think told me her rationale.</p> <p>Q. Fair enough. Can you find out and let me know? [A472, at lines 4-12]</p>	<p>MS. MACHADO: Yes.</p> <p>[A472, at line 13]</p>	TO BE ANSWERED BY COUNSEL
C 151-152	<p>Can you tell me, was it Mr. Lowery personally who made this agreement?</p> <p>A. I don't know.</p> <p>Q. Can you find out and let me know?</p> <p>[A473, at lines 24-25; A474, at lines 1-3]</p>	<p>MS. MACHADO: No, I don't have access to Mr. Lowery nor does Mr. Cristine.</p> <p>[A474, at lines 4-5]</p>	ANSWERED BY COUNSEL
C 161	<p>So I have been advised, through your materials and this email exchange and our discussion today, that there was a decision supposedly made in July 2021 to terminate the litigation as against Mr. Lowery. I was similarly advised that the decision was made by Crown Law</p>	<p>MS. MACHADO: I'll take that under advisement.</p> <p>[A479, at lines 19-20]</p>	ANSWER REQUIRED

	<p>Office - Civil, Ms. Machado, in consultation with the client. My question is who specifically within the province was consulted with respect to the decision referenced in the July 26, 2021 email from Ms. Machado to myself and others? [A479, at lines 8-18]</p>		
<p>C 162-165</p>	<p>Q. Secondly, going back -- and let's just make - - and, secondly, going back to your affidavit, Mr. Coristine, and the email exchange at Exhibit K of October 26 and 29, 2018, there is again communication in which Ms. Machado indicates that she would make a settlement proposal to her client and then respond to Ms. Machado quickly thereafter. MS. MACHADO: Respond to Mr. Madhany. You said – MR. AIELLO: Sorry, Mr. Madhany. MS. MACHADO: That's okay. Q. So who specifically within the provincial government, if anyone, was consulted, was communicated with? That's one question. MS. MACHADO: This is in 2018? Q. 2018 or thereafter. You may have not gotten around to it for several months and spilled over into 2019, I don't know. All I'm asking is looking at your email of October 26, 2018 you make reference at the bottom of it, this is Exhibit K in Mr. Coristine's affidavit, you make reference at the bottom of it to waiting for some answer from Mr. Madhany and then making a proposal to your client and getting back to Mr. Madhany. And I see that Mr. Madhany got</p>	<p>MS. MACHADO: I'll take it under advisement, although I'm fairly certain some of that will be a refusal since it's a very broad question but we'll leave it at under advisement. [A481, at lines 14-17]</p>	<p>ANSWER REQUIRED</p>

	<p>back to you in the email at the top of the page but there's nothing further after that. So what happened after that? Who was contacted? Give me a full documentation. Give me the particulars. If there were phone calls I want those phone call details, I want particulars. If they were correspondence, I want that, if they were briefing notes I want that. Whatever exists in connection with this discussion I want it, and of course keeping with my prior requests I want the communications leading up to and the considerations leading up to this email exchange.</p> <p>A. Between who?</p> <p>Q. Ms. Machado and whoever else she was dealing with. [A479, at lines 22-25; A480, at lines 1-25; A481, at lines 1-13]</p>		
C 166	<p>Q. As lawyers for HMQ, can you tell me what individuals within the MNR have authority to terminate the litigation that the MNR has commenced? [A481, at lines 19-21]</p>	<p>MS. MACHADO: I'm going to refuse that. [A481, at line 22]</p>	ANSWER REQUIRED
C 167	<p>Q. Can you tell me who within the MNR, or elsewhere within the provincial government, had authority to terminate this litigation as against Mr. Lowery?</p> <p>MS. MACHADO: You have that answer already.</p> <p>MR. AIELLO: Actually I don't.</p> <p>MS. MACHADO: I said that -- I've told you that I have the authority with client input to make that decision.</p>	<p>Clerk's Note: Based on how the colour-coded chart is organized, it is unclear is the Crown intended to respond to C 167 in the same way as they did to C 166. See Revised Refusals Chart, page 15 [B-1-1814]</p>	ANSWER REQUIRED

	<p>MR. AIELLO: Fair enough, but it's a Venn diagram. Just because you have authority doesn't mean others don't also have authority.</p> <p>MS. MACHADO: I am counsel on the file, Mr. Aiello, so if I don't do it my clients certainly aren't going to.</p> <p>MR. AIELLO: And if I'd gotten answers to all of my prior questions I could accept that answer but since I didn't I can't.</p> <p>MS. MACHADO: You know what I would say to that but I'll refrain.</p> <p>MR. AIELLO: Fair enough. We don't need to go down that road. You get why I'm asking and I'll wait for your answer.</p> <p>[A481, at lines 24-25; A482, at lines 1-22]</p>		
C 192	<p>Q. Can you tell me what communications occurred between Crown Law Office - Civil and/or MNR internal legal department, whatever its proper title may be, and any one in or acting on behalf of the Municipality of Temagami between the beginning of July 2021 and the end of April 2022?</p> <p>[A490, at lines 8-13]</p>	<p>MS. MACHADO: No.</p> <p>[A490, at line 14]</p>	ANSWER NOT REQUIRED
C 193	<p>Sir, can you please tell me what communications occurred between July 26, 2021 and August 11, 2021 between Crown Law Office - Civil and Mr. Madhany?</p> <p>[A490, at lines 23-25; A491, at line 1]</p>	<p>MS. MACHADO: We'll take that under advisement.</p> <p>[A491, at lines 2-3]</p>	ANSWER REQUIRED
C 194	<p>Q. And will you produce copies of any such communications if they were in writing?</p> <p>[A491, at lines 5-6]</p>	<p>MS. MACHADO: Under advisement.</p> <p>[A491, at line 7]</p>	ANSWER REQUIRED

C 195	<p>Q. Will you provide me with particulars of any such communications if they were not in writing? [A491, at lines 9-11]</p>	<p>MS. MACHADO: I'll take it under advisement but that's likely a refusal. [A491, at lines 12-13]</p>	ANSWER REQUIRED
C 196-199	<p>Q. Has Mr. Lowery at any time directly or indirectly provided you, Crown Law Office - Civil, or anyone at the MNR, with a will-say statement or anything of the kind? A. I don't believe so. Q. Can you find out and let me know? MS. MACHADO: We do not have a will-say statement. Q. Fair enough, but just forgive me if I'm being over cautious but I just want to make sure I've covered this off. If it's not a formal will-say statement has the MNR, or anyone else in the province, including your office, been provided with some indication as to his anticipated testimony? A. I've never seen anything like that myself, no. Q. Will you find out and produce it? MS. MACHADO: There is nothing of the sort that I'm aware of at Crown Office or from my clients. MR. AIELLO: Fair enough. Will you find out whether such information or documentation exists anywhere within the province? I would assume that would be restricted to the MNR but I don't know. [A491, at lines 15-25; A492, at lines 1-15]</p>	<p>MS. MACHADO: Well, I can't check with everywhere in the province. I can ask my clients. I'm quite certain the answer is no but I will give you that undertaking to ask MNR. [A492, at lines 16-19]</p>	ANSWER REQUIRED
C 200	<p>Q. At any time before or since has any -- has there been any discussion of the termination of this litigation as against Mr. Lowery with the</p>	<p>MS. MACHADO: I'm going to refuse that question. I don't see the relevance. [A493, at lines 1-2]</p>	ANSWER REQUIRED

	municipality or anyone on its behalf, the Municipality of Temagami? [A492, at lines 21-25]		
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