

## **Clarifications to the 2020 Wilson Moot Problem**

### **Plainview v. Ontario (Minister of the Environment)**

1. The facts are as found by Justice de Aguirre, as stated in the Official Problem. Mooters may conduct any research they see fit in the course of developing their arguments. Mooters are also permitted to refer to any domestic or foreign law in their written and/or oral arguments (except for the Ontario *Environmental Bill of Rights, 1993*). However, no reference shall be made, in written or oral arguments, to any legislative, social or adjudicative facts beyond those found by Justice de Aguirre.
2. The High Court of the Dominion of Canada will not entertain submissions on any issues other than the four constitutional questions for which the Court granted leave, including the issue of remedies other than *Charter* damages. The Minister has agreed that if the appeal is allowed, the Director's Decision will be quashed.
3. Members of Turtle Creek First Nation had an opportunity make written and oral representations before the Director's Decision was made. For the purposes of the Wilson Moot, the High Court of the Dominion of Canada will not entertain arguments that the provincial Crown failed to meet its duty to consult Indigenous peoples in connection with the Director's Decision.
4. The parties are agreed that the standard of review is reasonableness, per *Doré v. Barreau du Québec*, 2012 SCC 12. Mooters are free to discuss the content of the standard of review and authorities relevant to it, but leave has not been granted to argue that the standard of review is anything other than reasonableness.
5. All the benzene concentrations provided in the Director's Decision on page 2 of the Official Problem represent annual average amounts.
6. Spragge has a population of approximately 150 people. There are no other populated areas within a 25-kilometre radius of Spragge other than the Turtle Creek Reserve.
7. Prior to the upgrades completed in March 2018, the VulCAN facility was compliant with the benzene air standard in Schedule 3 of the Regulations. The Galvanex Industries facility has been compliant with the benzene air standard in Schedule 3 of the Regulations at all relevant times.
8. Justice de Aguirre awarded Claire *Charter* damages of \$30,000, without providing detailed reasons.
9. There are two typographical errors in the Official Problem. First, the first sentence of the first full paragraph on page 3 of the Official Problem should read: "Claire's application was heard before a panel of three judges of the Divisional Court in November 2018." Second, subparagraph 19(g) should refer to the Canadian Cancer Society's 2018 report, not 2019.