



For Immediate Release

LEAF Granted leave in Micmac Nation of Gespeg v. Canada

Toronto, February 25, 2009 – The Women's Legal Education and Action Fund (LEAF) has been granted leave to intervene in *Micmac Nation of Gespeg v. Canada* at the Federal Court of Appeal.

This is the first case, following the 2008 Supreme Court of Canada decision in *R. v. Kapp* to interpret s.15(2) of the *Canadian Charter of Rights and Freedoms* and its application to affirmative action programs. At issue in *Micmac Nation of Gespeg v. Canada* is whether affirmative action programs that exclude a disadvantaged group from participation are still considered 'ameliorative' and hence cannot be challenged as discriminatory. LEAF is intervening to ensure s. 15 (2) of the *Charter* is not used to marginalize already disadvantaged groups.

The Micmac Nation of Gespeg is a landless Band whose members live in the Gespeg region and surrounding Montreal area. In 2004, Band members in elementary and postsecondary schools who had previously received financial assistance from a Federal Government program were disqualified on the basis that the Program was available only to residents on reserve or Crown land. As the Micmac Nation has no treaty land of its own, Band members were disqualified from receiving payments under the Program.

The Micmac Nation argues their exclusion from the Program constitutes discrimination. The Crown will argue the Program is ameliorative and hence cannot be challenged as discriminatory. LEAF will argue that s. 15(2) of the *Charter* should not be used to protect from challenge a program that excludes disadvantaged groups.

The hearing date at the Federal Court of Appeal has not yet been determined.

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For more information please visit our website at:

<http://www.leaf.ca/legal/active.html#target>

For information regarding the Kapp decision visit our website at:

<http://leaf.ca/media/articles/Kapp.pdf#target>

Contact:

Audrey Johnson
Executive Director, LEAF
416-595-7170 ext 225

LEAF is a national, non profit organization committed to confront all forms of discrimination through legal action, public education, and law reform to achieve equality for women and girls under the *Charter of Rights and Freedoms*.