



**Nisga'a Lisims Government**

T 250 633 3000 / F 250 633 2367  
TF 1 866 633 0888

PO Box 231 / 2000 Lisims Dr  
New Aiyansh BC / Canada V0J 1A0

**NISGAANATION.CA**

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## **NISGA'A LISIMS GOVERNMENT APPEALS B.C. SUPREME COURT PROCEDURAL RULING IN GITANYOW LITIGATION**

*Decision on the Nisga'a Nation's right to participate in Gitanyow litigation appears to be based on legal errors, including a misinterpretation of the Nisga'a Treaty.*

**Gitlaxt'aamiks, British Columbia** – Nisga'a Lisims Government (NLG) continues to assert that the Nisga'a Nation should be included as a party in a court case brought by the Gitanyow that may impact Nisga'a treaty rights.

More than two decades ago, in December 2003, the Gitanyow started a lawsuit against the federal and provincial governments in the British Columbia Supreme Court, claiming that they have Aboriginal title and rights, including within Nisga'a traditional territory.

The Gitanyow chose not to proceed with this lawsuit for many years. The Nisga'a Nation has, however, always rejected the Gitanyow's claims that they have any rights within the Nisga'a traditional territory, where the Nisga'a Nation has constitutionally protected treaty rights. This includes portions of Nisga'a Lands, which are owned in fee simple by the Nisga'a Nation.

In September 2023, after the Gitanyow chose to finally proceed with its lawsuit, Nisga'a Lisims Government asked the Court to be added as a party to the case to ensure the litigation included Nisga'a history over its lands. However, on January 17, 2024, the Court chose not to allow this application, determining that, under the Nisga'a Treaty, the Court could address how the Nisga'a Nation participates in the litigation at a later date.

The Court's procedural ruling reflects that the Gitanyow made last-minute changes to its claim, which the Gitanyow said were designed to demonstrate that they were not attempting to challenge the Nisga'a treaty or treaty rights. The Court's ruling was made, in part, because of these changes to the claim.

“Even though this is a procedural decision, we remain skeptical of the Gitanyow and Court’s assertion that this case won’t impact us,” said Nisga’a Lisims Government President Eva Clayton. “Any court action that has the potential to impact our citizen’s rights or title must include us – full stop.”

Following the B.C. Supreme Court’s ruling, inaccurate statements have been made describing this as a “landmark ruling” that “paves way for” Gitanyow’s Aboriginal title case and “nation to nation” discussions. However, the ruling only deals with procedural issues – no hearing has yet been held regarding the Gitanyow’s claims. The Court’s recent ruling only addresses how the Nisga’a Nation may participate when that hearing takes place in the future.

“The Nisga’a Treaty clearly outlines our citizens’ treaty rights— rights that were incredibly hard-won,” said President Clayton. “That is why we are appealing the ruling and taking steps to ensure our Nation’s rights are respected and Nisga’a history is fairly presented to the court. We simply can’t allow any infringement of the Nisga’a Nation’s treaty rights. The Nisga’a Treaty was British Columbia’s first modern treaty — a watershed moment in the relationship between Canada and its Indigenous peoples. We must protect this legacy and demonstrate the binding and legitimate nature of the modern treaty process.”

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**Media contact:**

George van Rooyen  
Coast Communications and Public Affairs  
[george@coastcomms.ca](mailto:george@coastcomms.ca)  
(778) 585-1047

Paul Mercer  
Nisga’a Lisims Government  
A/ Director of Communications and Inter-Governmental Relations  
[paulm@nisgaanation.ca](mailto:paulm@nisgaanation.ca)  
(250) 633-3059