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**FOR IMMEDIATE RELEASE**

**Judgment of the Supreme Court of British Columbia a Clear Win for the Nisga'a Treaty**

**March 21, 2018 – Gitlaxt'aamiks, B.C.** – Nisga'a Lisims Government is pleased with the decision of the Supreme Court of British Columbia in *Gamlaxyeltxw v. British Columbia (Minister of Forests, Lands & Natural Resource Operations)*, 2018 BCSC 440, which was published today.

The Nisga'a Nation was a party to the litigation, which required the Court to decide, for the first time, how the Crown is to address potential conflicts between the constitutional duties it owes to Indigenous parties to modern treaties, such as the Nisga'a Nation, and to other Indigenous groups who have asserted claims to Aboriginal rights.

The Nisga'a Nation and the government of British Columbia prevailed in establishing that the rights set out in modern treaties, such as the Nisga'a Final Agreement, are to be given priority and cannot be reduced or adversely affected by assertions of neighbouring Indigenous groups.

"We always had confidence in the strength of our Treaty to protect the Nisga'a Nation's rights", says Eva Clayton, President of Nisga'a Lisims Government.

"We are pleased to have worked with British Columbia to defend the rights and the processes we negotiated together and set out in the Nisga'a Final Agreement. We believe this judgment recognizes the importance of established rights set out in modern treaties and reinforces the wisdom of our Nation's decision to enter into the Nisga'a Treaty."

The litigation arose out of claims made by the Gitanyow Hereditary Chiefs that they were entitled to be consulted and accommodated by the Crown before British Columbia made certain decisions under the Nisga'a Final Agreement related to wildlife harvesting. The Court ultimately dismissed all of the claims of the Gitanyow Hereditary Chiefs, stating this was "the only result that is consistent with the constitutional status of a treaty", and further noting that this result was necessary "to fortify ... the fundamental bargain the Nisga'a Nation struck in accepting" its Treaty.

## **BACKGROUND**

- In November 2015, the Gitanyow Hereditary Chiefs commenced proceedings in the Supreme Court of British Columbia against British Columbia, claiming the provincial Crown owed a duty to consult and accommodate the Gitanyow before making certain decisions under the Nisga'a Final Agreement in respect of wildlife harvesting.
- The Nisga'a Nation was added as a party to the litigation, and together with British Columbia, opposed the claims of the Gitanyow Hereditary Chiefs.
- The case was heard before Madam Justice Sharma on July 17 – 19, 2017. Justice Sharma reserved judgment.
- On March 20, 2018, Sharma J. delivered her judgment in *Gamlaxyeltxw v. British Columbia (Minister of Forests, Lands & Natural Resource Operations)*, 2018 BCSC 440, and dismissed the claims of the Gitanyow Hereditary Chiefs. The judgment was published on March 21, 2018.
- Justice Sharma noted the main issue in the case—“how to resolve a potential conflict between the constitutional duties of the Crown to one group of Aboriginal people with whom it has entered a modern treaty, and to a different group of Aboriginal people, who have asserted claims for Aboriginal rights and title”—was an issue that was “being litigated for the first time”.
- The decision of the Court recognizes the constitutional protection and priority of rights set out in modern treaties, such as the Nisga'a Final Agreement, as against asserted but unproven Aboriginal rights.

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