

Court File No.: **A-252-01**  
**(T-225-01)**

**FEDERAL COURT OF APPEAL**

**IN THE MATTER OF SECTIONS 5 AND 6 OF THE COMMERCIAL  
ARBITRATION ACT, R.S.C. 1985, c. 17(2ND SUPP.)**

**IN THE MATTER OF ARTICLES 1,6 AND 34 OF THE COMMERCIAL  
ARBITRATION CODE SET OUT IN THE SCHEDULE TO THE  
COMMERCIAL ARBITRATION ACT**

**AND IN THE MATTER OF AN ARBITRATION UNDER CHAPTER 11 OF THE  
NORTH AMERICAN FREE TRADE AGREEMENT ("NAFTA") BETWEEN  
S.D. MYERS, INC. AND THE GOVERNMENT OF CANADA**

**BETWEEN:**

**THE COUNCIL OF CANADIANS,  
THE SIERRA CLUB OF CANADA  
and GREENPEACE**

**Appellants  
(Moving Parties)**

**- and -**

**THE ATTORNEY GENERAL OF CANADA**

**Respondent  
(Applicant)**

**- and -**

**S.D. MYERS INC.**

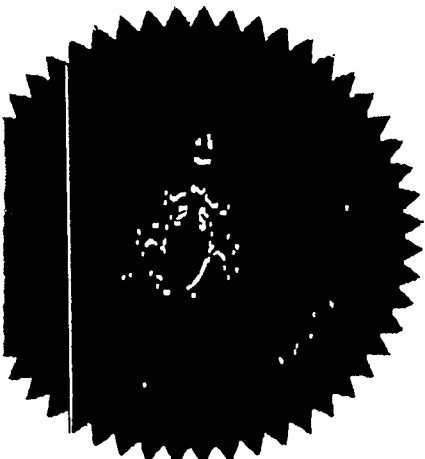
**Respondent  
(Respondent)**

**NOTICE OF APPEAL**

**TO THE RESPONDENT:**

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Ottawa, Ontario.



IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341 prescribed by the *Federal Court Rules, 1998* and serve it on the appellant's solicitor, or where the appellant is self-represented, on the appellant, WITHIN 10 DAYS of being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION on the order appealed from, you must serve and file a notice of cross-appeal in Form 341 prescribed by the *Federal Court Rules, 1998* instead of serving and filing a notice of appearance.

Copies of the *Federal Court Rules, 1998*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

DATE: April 23, 2001

Issued by: **Steve Yaciuk**  
**Registry Officer**  

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*(Registry Officer)*

Federal Court of Appeal  
7th Floor  
330 University Avenue  
Toronto, Ontario M5G 1R7

TO: THIS HONOURABLE COURT

AND TO: DEPARTMENT OF JUSTICE  
Rooms 2307/2311  
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Solicitors for the Respondent (Respondent)  
S.D. Myers Inc.

APPEAL

THE APPELLANTS APPEAL to the Federal Court of Appeal from the Order of Rouleau, J. in the Federal Court Trial Division dated April 11, 2001 in which the learned judge dismissed the Appellants' motion to intervene and ordered the Appellants to pay \$2000 in costs.

THE APPELLANTS ASK that the Order of the learned judge be set aside and that the Court of Appeal issue an order granting the Appellants leave to intervene for the purposes of: being served with or otherwise being provided access to all documents and evidence relevant to these proceedings; introducing evidence; conducting cross examination; making oral and written submissions; and having a right to appeal from the decision of the Federal Court Trial Division, on such terms and conditions as this Court considers just.

THE GROUNDS OF APPEAL are as follows:

1. The learned judge erred in law in his formulation and application of the relevant rules of standing in matters raising issues of broad public interest and, in particular, erred in holding that the Appellants did not meet the criteria for public interest intervention.
2. The learned judge erred in law in holding that the Appellants did not have the required expertise, including expertise relevant to interpreting international treaty obligations;

3. The learned judge erred in law in holding that social policy issues were not relevant to the legal issues raised in the application for judicial review, including the interpretation of treaty obligations;
4. The learned judge erred in law in denying standing on the basis that the submissions to be made by the Appellants did not concern matters which were relevant to the application;
5. The learned judge erred in law in denying standing on the basis that the submissions to be made by the Appellants could not be raised because they would widen the ambit of the application;
6. The learned judge erred in law in awarding costs on the basis that the motion to intervene involved identical issues and was rejected on identical grounds as litigation in British Columbia;
7. The learned judge erred in law in relying upon the identity of counsel in determining whether costs should be awarded against the Appellants;
8. Sections 27 and 52 of the *Federal Court Act*, R.S.C. 1985, c. F-7, as amended;
9. Rule 109 of the *Federal Court Rules*, 1998;

10. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE APPELLANTS PROPOSE that the appeal be heard in Ottawa, Ontario.

DATE: April 23, 2001

*for* Vanessa Payne  
Steven Shrybman

SACK GOLDBLATT MITCHELL  
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312 Cooper Street,  
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Fax: (613) 237-3359

Solicitors for the Appellants

The Council of Canadians et al.

v.

The Attorney General of Canada and S.D. Myers, Inc.

Appellants

Respondents

Court File No.

FEDERAL COURT OF APPEAL

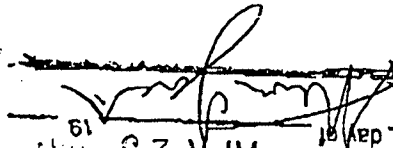
Proceeding commenced at TORONTO

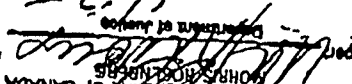
NOTICE OF APPEAL

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Solicitors for the Appellants

HEREBY CERTIFY that the above document is a true copy of the original issued out of the Registry of the Federal Court of Canada the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_\_\_  
APR 23 2001  
Dated this \_\_\_\_\_ day of \_\_\_\_\_  
APR 23 2001  


SERVICE OF A TRUE COPY ADMITTED ON  
APR 23 2001  
ON BEHALF OF THE  
DEPUTY ATTORNEY GENERAL OF CANADA  
JOHN S. GOLDENBERG  
per   
Department of Justice  
4:35