

CN Rail trying to gag Algonquin private eye in on-going APTN investigation

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An Algonquin private investigator has been summoned to court in Toronto in an effort to stop him from giving anymore documents to *APTN National News* in its on-going investigation into the Canadian National Railway.

Derrick Snowdy, who is a band member with Kitigan Zibi, says it's simply an effort by CN Rail to gag him.

But CN, in court documents, said he's in possession of "confidential and commercially sensitive information" and the company wants them back.

"They want all their info back and they want a gag order to stop me from discussing what I know," said Snowdy.

Snowdy will be cross-examined by CN's lawyers Thursday.

The documents have been used, in part, as the basis of several *APTN* stories that allege the misuse of taxpayer dollars in the expansion of a Toronto commuter rail line.

The first story published [Sept. 24](#) sparked an internal [audit](#) by the Ontario government after *APTN* reported a former supervisor at CN had gone to the Ontario Provincial Police with hundreds of documents, including internal billing invoices and emails, where he alleged improprieties on the part of CN during the expansion of GO between 2004 and 2008.

The audit is still on-going according to a spokesperson at Metrolinx, who, in 2009, took control of GO and is Crown corporation in Toronto.

CN Rail has categorically denied any wrongdoing.

The documents in question come from a Crown disclosure in CN's attempt to have former employee [Scott Holmes](#) convicted of fraud. The charges were stayed in 2010 with a promise to never have them reinstated. It was the second attempt by CN to have Holmes convicted of fraud. The first attempt resulted in a stay as well.

Holmes' former criminal lawyer Michael Lacy said the stay was a result of the conduct by CN's private police force.

Lacy persuaded the Crown at the time to hold a preliminary hearing focusing on the role CN police played in collecting evidence against Holmes, as they were the police force to handle the investigation.

"It's clear to who ever reads the transcript the Crown's case would have been completely decimated at trial," said Lacy in a [Sept. 27](#) *APTN* story. "(CN Police) acted in a biased way. They had no regard for their role as police officers and they were really just acting as tools for the CN management for the complete purpose of

assisting the CN corporation with their civil claim. In terms of my career one of the most egregious examples of abuse of power by police, if not the most egregious because it wasn't one or two renegade police officers it was abuse of power at an institutional level with no real oversight by anyone. The internal structure of CN police is they report to CN."

At the hearing it came out that the corporate side of CN was directing CN police on how to conduct their investigation. CN police officers testified it was a "joint venture" between CN head office and CN police, who are supposed to run independent investigations like any other police force in Canada.

Holmes was fired in 2008 on allegations he defrauded CN. CN sued Holmes in the hopes of recovering the alleged stolen money. They also seized his assets and former businesses. Holmes counter-sued.

They've been caught in a bitter legal battle ever since.

The civil case has never gone to trial and after stories of alleged fraud surfaced in September CN called for an immediate injunction to find Holmes guilty of giving up the Crown disclosure documents that were subject to an implied undertaking to refrain from divulging to third parties such as Snowdy or the media.

Snowdy said he has over 100,000 pages of documents relating to CN, which includes phone records for one of CN's private lawyers Monique Jilesen.

He also says he has mobile and home phone records of members of CN police and the former civil judge on the CN civil suit against Holmes Colin J. Campbell, who retired after the allegations of fraud surfaced in September.

Snowdy said he'll show up Thursday but won't provide any documents CN is requesting.

CN has also asked Holmes to ask the OPP to return the documents in questions but he has refused.

The OPP met with Holmes five times. At the first meeting Holmes gave a video statement and provided stacks of documents.

The four other meetings were to go over the documents as a detective from the OPP's corruption unit had many questions.

The detective also emailed Holmes a number of times with follow up questions.

The OPP has refused to confirm or deny if they are investigating.