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August 27, 2025 27 août 2025			
Abbie Abe (SS)			
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COURT NO.

IN THE FEDERAL COURT OF CANADA

BETWEEN:

LAURELLE DOWNEY

Applicant

AND:

KEHEWIN CREE NATION

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this application be heard at Edmonton, Alberta, or as may be subsequently determined given the exigencies of the matter.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Court Rules* and serve it on the Applicant's solicitor, or where the Applicant is self-represented, on the Applicant, WITHIN 10 DAYS after being served with this Notice of Application.

Copies of the *Federal Court Rules* 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 APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

August __, 2025

Issued by: _____
(Registry Officer)

Address of local office: Scotia 1, 10060 Jasper Ave
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Edmonton, Alberta T5J 3R8

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AND TO: ATTORNEY GENERAL OF CANADA
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Deputy Minister of Justice and Deputy Attorney General of Canada
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APPLICATION

THIS IS AN APPLICATION IN RESPECT OF sections 18.1 and 18(1) of the *Federal Courts Act* for a judicial review of the Kehewin Cree Nation Chief and 3 Councillors decision to remove the Applicant, Councillor Laurelle Downey, from her elected position and without pay (“**Removal**” or “**Decision**”). The Removal constituted a continuing course of conduct, effected on August 22, 2025 through a purported Band Council Resolution, which has yet to be communicated to the Applicant as of August 27, 2025, and any subsequent Band Council Resolutions passed without notice to and participation of the Applicant.

THE APPLICANT MAKES THIS APPLICATION FOR THE FOLLOWING RELIEF:

- a) An Order of *certiorari* or Declaration quashing and setting aside the Removal and an Order reinstating the Applicant to her position as Councillor including repayment of all his remuneration from the date of Removal within 30 days of the Court’s Order.
- b) In the alternative, an Order of *certiorari* quashing the Removal and remitting the Decision for re-determination in accordance with the reasons of this Court.
- c) A Declaration that the Decision was made contrary to the Kehewin Cree Nation Election Act or any other customary law, without jurisdiction, unreasonable, unfair, in bad faith and/or otherwise unlawful.
- d) An Order granting remedies including reinstatement, via permanent injunction and/or *mandamus*.
- e) An Order setting aside any decisions made without the Applicant, including by Band Council Resolution after August 22, 2025 and prior to the Applicant’s reinstatement pursuant to Rule 302 of the *Federal Courts Rules*.
- f) An Interim Order:
 - i. Staying the Removal of the Applicant;
 - ii. Directing the Respondents to pay the Applicant her remuneration until the application for judicial review is finally determined and/or requiring that this funding be held in trust until the application for judicial review is finally determined;
 - iii. Enjoining the Respondents from conducting business on behalf of the First Nation, passing Band Council Resolutions and/or settling legal matters without notice to and participation of Councillor Downey;

- iv. Such further interim relief as counsel may request and this Court may permit.
- g) An Order providing for expedited timelines so that the relief claimed is capable of being effective.
- h) An Order of costs from the Respondents on a solicitor-client basis and/or party and party costs in any event of the cause.
- i) Such further and other relief that this Court deems just.

THE GROUNDS FOR THE APPLICATION ARE:

1. The Applicant, Laurelle Downey, was elected as a Councillor of the Kehewin Cree Nation (hereinafter referred to as “**Kehewin**”) on October 28, 2024. Her term of office ends on October 28, 2027,
2. Kehewin is a First Nation in Treaty 6 Territory in what is now northwestern Alberta.
3. Kehewin is governed by a Chief and seven (7) Councillors who are elected in accordance with the Kehewin Cree Nation Election Act (“**Election Act**”).
4. Section 17 of the Election Act outlines the process for removals of Chief and Council. It states:

17. REMOVAL OF CHIEF OR COUNCILLOR (S)

- A. If any Chief or Councillor during their term of office is accused by an Member (s) of not conforming to the “Chief and Councillors Oath of Office and Rules of Conduct” or other reasons, then the member(s) alleging shall in writing convey their concern(s) to the Elders Advisory Committee.*
- B. The Elders Advisory Committee will address the matter and respond to the concerned Member (s) within twenty one (21) days.*
- C. In the event there is a conflict of interest between any of the Elders Advisory Committee members and either the Chief or any of the Councillors, then that Elders Advisory Committee member would have to remove themselves from participating in any review meetings.*
- D. If the Member (s) is not satisfied with the response, then a meeting will be held with the concerned Member (s), Chief, Councillors and Elders Advisory Committee. The matter will be reviewed carefully and a solution will be sought.*

If nothing is resolved, then the matter would have to be presented at the next “Kehewin Cree Nation Members General Meeting” (aka band meeting).

E. At the “Kehewin Cree Nation Members General Meeting”, this matter would be discussed and voted on “via secret vote”.

F. If a majority, fifty percent plus one (50%+1) of the Kehewin Cree Nation Membership at the General Meeting support the requested change, then a Kehewin Cree Nation Membership referendum vote will be held.

G. The referendum voting date(s), place (s) and time (s) will be set.

H. The final decision would be based on fifty percent plus one (50%+1) of the votes cast.

5. The Chief and Council elected in 2024 were informed that the process in section 17 was the only way to remove a Chief or Councillor.
6. Also, according to custom, Kehewin requires a quorum of four (4) Councillors to pass a Band Council Resolution. The Chief only votes if there is a tie.
7. Since the 2024 election, Councillor Downey has formed a part of a quorum of four (4) Councillors that have made some decisions together but have not consistently been making decisions together. As a former RCMP officer, the Applicant has been calling most loudly for accountability from this Chief and Council.
8. It is for this reason that the Applicant has been the target of at least four (4) attempts to remove her by the Chief and minority three (3) Councillors.
9. Most recently, the Chief hired an investigation firm in Calgary to look into employee allegations against Councillor Downey. The Applicant, who is not an employee, advised the investigation firm that she is not subject to HR procedures. The investigation firm never responded to this communication. This HR investigation was the most recent attempt to target the Applicant for removal.
10. On August 22, 2025, the Applicant received an agenda for a duly convened meeting. The item “investigation report” was on the agenda. The Applicant asked the Chief what this entailed, and he advised that they would ‘get into it’ at the meeting.
11. After one of Councillors had to leave the meeting early, the Chief moved into the investigation item. Without any prior notice or disclosure, parts of the so-called investigation report in to the Applicant were read aloud. No copy of the report was provided to the Applicant. When she tried to take photos of the report, it was moved away from her.

12. Then a pre-drafted Band Council Resolution (“**BCR**”) was read aloud for the Applicant’s removal. The Chief and three (3) Councillors (“**Decision-makers**”) voted in favour of the Removal BCR.
13. When the Applicant tried to respond to the allegations and the investigation report statements, which she maintains are false, the Decision-makers advised the Applicant that she was not permitted to participate, and her statements would be struck from the record.
14. At the meeting on August 22, 2025, the Decision-makers alleged that they could not follow section 17 because the Applicant’s Elder was “suing” the band. The Applicant’s Elder has sought to bring a judicial review of the election, not sue the band. Given this alleged conflict, the Decision-makers did not invoke section 17(c). Instead, they sought to pass a BCR to effect a Removal which is not allowable under the Election Act.
15. The Applicant received no notice of her Removal nor opportunity to respond.
16. The Chief and minority three Councillors effected the Removal for the apparent purpose to pass Band Council Resolutions without the Applicant and thus achieve quorum. Any Band Council Resolutions passed after the Removal and for this purpose are a part of a continuing course of conduct under Rule 302 of the *Federal Courts Rules*.

The Decision should be set aside:

17. The Removal ought to be set aside because it was unlawful and/or made without jurisdiction. Chief and Council have no authority to effect removals under section 17 or otherwise under the Election Act which covers the field for removals.
18. Further and/or in the alternative, the Decision should be quashed because it was procedurally unfair, including but not limited to the grounds that:
 - a. The Removal was not done on notice to all of Chief and Council, including the Applicant;
 - b. The Applicant had no opportunity to respond;
 - c. The Decision-makers were biased against the Applicant having tried and failed to remove her already several times;

- d. The Decision-makers issued the Removal for an improper purpose, in bad faith and/or for political reasons, including to attempt to gain quorum and pass Band Council Resolutions they know the Applicant would object to.

19. Further and/or in the alternative, the Removal should be quashed as unreasonable.

20. Any other grounds as counsel may submit and this Court may accept.

21. The Applicant ought to be granted their costs on a substantial indemnity, solicitor and own client basis or solicitor-client basis due to the power imbalance between the Applicant and the Chief and Council and/or the prior conduct of the Chief and Council.

22. So that the relief requested can be effective, the Applicant may:

- a. request that this matter be expedited so that the relief sought can be effective; and/or
- b. seek interim injunctive relief, including but not limited to an emergency order to stay the Applicant's Removal.

23. *Federal Courts Act*, RSC 1985 c F-7, ss. 18(1), 18.1, 18.2.

24. Such further grounds as counsel may request and this Court may permit.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

25. The affidavit evidence to be filed by the Applicant and such further and other material as counsel may advise and this Court may permit.

26. The Applicant requests, pursuant to Rule 317 of the *Federal Courts Rules*, that the Decision-makers disclose all records before them when issuing the Removal including but not limited to:

- a. Any advice or recommendations provided to the Chief and Council in relation to the Removal;
- b. Any Band Council Resolution directing the Removal;
- c. Any records outlining prior attempts to remove the Applicant;
- d. The recording of the meeting on August 22, 2025;
- e. The minutes of the meeting on August 22, 2025;

- f. The notice and agenda for the meeting on August 22, 2025;
- g. The investigation report read aloud, in part, on August 22, 2025, as well as any other investigation report, findings and records relating to the investigation report and/or relied on by the Decision-makers;
- h. Any others records before the Respondents when issuing the Removal;
- i. Any and all communications, including text messages and what's app messages, between the Chief and Council and/or amongst the Decision-makers regarding the Removal.

Dated: August 27, 2025



Orlagh J. O'Kelly

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