

FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE	
F I L E D	August 31, 2023 le 31 août, 2023 Ginette Lischenski
DEPÔSÉ	
VANCOUVER, BC	1

Court File No. A-221-23

FEDERAL COURT OF APPEAL

BETWEEN:

RICHARD SHANKS

Appellant

and

SALT RIVER FIRST NATION #195

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 below.

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 *(place where Federal Court of Appeal (or Federal Court) ordinarily sits)*.

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 341A prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor or, if the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

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

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

Date: AUG 3 | 2023

Issued by: 
Registry Officer

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REGISTRY OFFICER
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APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the order of Madam Justice McDonald (the “Application Judge”) dated July 7, 2023 (the “Order”), Federal Court file T-95-22, in which the Federal Court awarded the Appellant costs of his successful application for judicial review of the Respondent’s Band Council Resolution, dated October 26, 2021, which excluded certain classes of the Respondent’s members from receiving per capita distributions, to be paid by the Respondent in the all-inclusive sum of five thousand dollars (\$5,000.00).

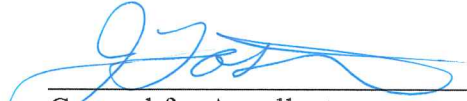
THE APPELLANT ASKS that this Honourable Court to:

1. Allow the appeal and vary the Order, pursuant to paragraph 52(b)(i) of the *Federal Courts Act*, RSC 1985, c F-7, specifically, that the Respondent is to pay to the Appellant the all-inclusive sum of \$19,565.31 as the Appellant’s costs in the underlying application.
2. Award the Appellant his costs of this appeal pursuant to Rule 400(1) of the *Federal Courts Rules*, SOR/98-106; and
3. Such further or other relief as this Honourable Court deems just.

THE GROUNDS OF APPEAL are as follows:

1. The Application Judge erred in law in failing to identify and apply the correct legal test and principles for assessing the appropriate costs to be awarded to successful applicants in the circumstances of First Nation governance cases.
2. In the alternative, the Application Judge committed an error of mixed fact and law by failing to apply the correct legal test and principles when assessing the costs to be awarded to the Appellant.
3. Such further and other grounds as counsel may advise and as this Honourable Court may permit.

Date: August 31, 2023

*John
Foster
for* 
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