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F I L E D	FEDERAL COURT COUR FÉDÉRALE  December 12, 2022 12 décembre 2022  Frank Fedorak (AA)
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## FORM 301 Rule 301

**LAUREL-LEIGH LEFTHAND**

Applicant

-and-

**BEARSPAW FIRST NATION and BEARSPAW FIRST NATION COUNCIL (DARCY DIXON, PIERRE LEFTHAND, REX DANIELS, ROD HUNTER, ANTHONY BEARSPAW) ROB SHOTCLOSE AND MARVIN YELLOWHORN**

Respondents

### NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

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 Vancouver, British Columbia.

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 file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

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 APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

December 12, 2022

Issued by: (Registry Officer)

TO:

BEARSPAW FIRST NATION AND BEARSPAW FIRST NATION COUNCIL

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ROB SHOTCLOSE

Bearspaw First Nation

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## Application

This is an application for judicial review in respect of the decision by the Chief and Council and Electoral Officer of the Bearspaw First Nation who on November 8, 2022 disqualified the nomination of the Applicant Laurel-Leigh Lefthand to stand for election as a councillor of the Bearspaw First Nation because she did not reside on the Eden Valley Nation Reserve for at least six months prior to November 6, 2022 ;and

The decision by Chief and Council to uphold disqualification of Laurel-Leigh Lefthand following the Protest Hearing held on November 10, 2022 of which reasons have yet to be received by the Applicant; and

The applicant makes an application for:

1. An Order setting aside the decision of the Electoral Officer and Chief and Council on November 8, 2022 that the Applicant Laurel-Leigh Lefthand is not eligible to be nominated for the office of councillor of the Bearspaw First Nation.
2. An Order setting aside the decision of the Electoral Officer and Chief and Council on November 10, 2022 that the Applicant Laurel-Leigh Lefthand remain disqualified to be nominated for the office of councillor of the Bearspaw First Nation
3. A Declaration that the Applicant Laurel-Leigh Lefthand is eligible to run as a candidate for the position of Councillor of the Bearspaw First Nation for Eden Valley in the 2022 General Election;
4. A Declaration that s. 8.1(c) of the Bearspaw First Nation Customary Election Regulations is unconstitutional and is of no force or effect;
5. An Order declaring the election outcome for Eden Valley councillors announced November 25, 2022 invalid, and an order for a by-election to be held, according to Bearspaw First Nation Customary Election Regulations for the positions of Eden Valley Councillors only;
6. Costs of this Application on a solicitor and his own client basis or, in the alternative, costs; and
7. Such further and other relief as this Honourable Court may deem just.

The grounds for the application are:

1. On October 6, 2022, the Applicant provided notice to the Electoral Officer Marvin Yellowhorn of her intention to seek nomination via written correspondence with notice of intention to protest s. 8 and s. 5 of the Bearspaw First Nation Customary Election Regulations.

2. On November 6, 2022, the Applicant Laurel-Leigh Lefthand attended the nomination meeting of Bearspaw First Nation which was convened by the Electoral Officer Marvin Yellowhorn in accordance with the Bearspaw First Nation Customary Election Regulations so that she could be nominated to stand for election as a councillor of Bearspaw First Nation.
3. At the nomination meeting, the Deputy Electoral Officer accepted the nomination of the Applicant Laurel-Leigh Lefthand following an adherence to the nominator and seconder provisions, presentation of an application fee and a declaration, sworn under duress, regarding s. 8(c)'s residency requirement.
4. On November 8, 2022, in accordance with the Bearspaw First Nations Customary Election Regulations, the Electoral Officer, Chief and Council, Administration and legal Counsel for the First Nation held a verification meeting in which a Motion was passed disqualifying the nomination of the Applicant.
5. On November 10, 2022, in accordance with the letter issued by the Applicant on October 6, 2022 and the Bearspaw First Nation Customary Election Regulations a protest hearing was held with the Applicant in attendance. During said hearing, Chief and Council refused to hear evidence prepared by the Applicant and determined that the disqualification decision would be upheld without providing reasons.
6. Following November 10, 2022, the Applicant has requested written reasons or decisions from the outcome of the Protest Hearing, and to date has yet to receive any additional information which has extended application deadlines.
7. Section 8(c) of the Bearspaw First Nation Customary Election Regulation discriminates on the basis of Aboriginal residency and contravenes s. 15 of the *Canadian Charter of Rights and Freedoms* (Canadian Charter of Rights and Freedoms, s 15, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.)
8. The Applicant seeks to rely upon the ruling in *Janvier v. Chipewyan Prairie First Nation*, 2021 FC 539 as precedent regarding the matter in question.

This application will be supported by the following material:

1. Affidavit of Laurel-Leigh Lefthand, sworn December \_\_, 2022 (Federal Courts Rules, SOR/98-106, s 76)
2. Such other material as this honourable Court shall permit.

December 12, 2022



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Laurel-Leigh Lefthand

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[SOR/2021-151, s. 22](#)