

Court File No. T- -20

Vanc

FEDERAL COURT OF CANADA

BETWEEN:

COUNCILOR SPENCE COUTLEE

Applicant

– and –

**LOWER NICOLA INDIAN BAND,
CHIEF STUART JACKSON,
COUNCILOR WILLIAM BOSE,
COUNCILOR LUCINDA SEWARD,
COUNCILOR WILLIAM SANDY,
COUNCILOR ROBIN HUMPHREY,
COUNCILOR AARON SUMEXHELTZA,
COUNCILOR CONNIE JOE**

Respondents

NOTICE OF APPLICATION

Pursuant to s. 18 AND 18.1, 18.1(4) of the *Federal Courts Act*

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TO THE RESPONDENT:

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 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.

Date: _____

Issued by:

(Registry Officer)

Address of local office: 701 West Georgia Street P.O. Box 10065 Vancouver,
British Columbia V7Y 1B6

TO:

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Respondents

NOTICE OF APPLICATION

Pursuant to s. 18 AND 18.1, 18.1(4) of the *Federal Courts Act*

Application

This is an application for judicial review, in respect of s.18, s.18.1, s.181(4) of the *Federal Court Act*, made by Spence Coutlee, in respect of a decision by the Lower Nicola Indian

Band Chief and Council (the “LNIB C&C”), a Band as defined at s. 2(1) of the *Indian Act*, as represented by Chief Stuart Jackson and Councilors William Bose, Lucinda Seward, William Sandy, Robin Humphrey, Connie Joe and Aaron Sumexheltza. In the decision, dated October 6, 2020 where the LNIB C&C purported to Adopt the May 4th, 2020 Chief and Council meeting minutes with noted change (the “Decision”).

The applicant makes application for *Orders*;

1. declaring the Decision of the LNIB C&C to Adopt the May 4th, 2020 Chief and Council meeting minutes with noted change to be invalid and unlawful;
2. to quash the Decision of the LNIB C&C to Adopt the May 4th, 2020 Chief and Council meeting minutes with noted change;
3. for an interim, interlocutory or permanent injunction to prohibit or restrain the LNIB C&C from convening, adopting or validating LNIB C&C meetings that are not in accordance with the *Lower Nicola Indian Band Chief and Council Policy* throughout the balance of the LNIB C&C term of Office, that expires October 2022, or until further order of this *Court*;
4. That members of the LNIB C&C who organized, aided in the organization of, participated in, or attended any unlawful LNIB C&C meetings, to be liable proportionally for any and all expenses procured by the LNIB, including but not limited to legal and professional fees, to the finances the LNIB forthwith as per Rule 334.12, 334.16(1);
5. Declaring that the members of the LNIB C&C who either voted in favor of the Decisions, or chaired the meeting of the Decision where in breach of their fiduciary duty and band laws;
6. And in addition to or in the alternative of, that the LNIB C&C and the Applicant will receive thorough and impartial professional legal services, as agreed to between the parties, to train, instruct and advise the parties on interpretation, understanding, roles, duties, authority and otherwise the general purpose of the

Lower Nicola Indian Band Chief and Council Policy, the LNIB Financial Administration Law and other relevant LNIB laws and policies towards achieving good governance for the members of the LNIB and not limited to conflict of interest, agenda, meetings, notice, suspensions, and other related and relevant topics by either party, with urgency and promptness, starting within 2 weeks of this order.

7. costs

The grounds for the application are:

1. The Decision adopted meeting minutes of an unlawfully convened meeting
2. There was no notice, schedule, decision, or otherwise due process allowing or following of the *Lower Nicola Indian Band Chief and Council Policy* in regards to the meeting for which the meeting minutes were adopted.
3. The Decision was contrary to the *Lower Nicola Indian Band Custom Election Rules: Final (including approved amendments 2013)* which does not allow for the LNIB C&C to hold or adopt meeting minutes for meetings that were held contrary to the *Lower Nicola Indian Band Chief and Council Policy*
4. The LNIB C&C failed to be reasonable in making its decision
5. The LNIB C&C failed to observe its own laws and policies
6. The Applicant feels strongly that it is his fiduciary duty to bring this matter before the courts before the governance of the LNIB is trajected off course.
7. This Decision is a continuation of ongoing conduct of the LNIB C&C in following its own rules regarding meeting, agendas, decisions, and similar.
8. The LNIB C&C erred in law or breached the rules of natural justice, procedural fairness, and bias

9. such other reasons that may be put forward at the hearing of the Application and the Court may allow.
10. The LNIB C&C made a decision to adopt meeting minutes of an unlawful meeting that occurred outside of the jurisdiction or rules provided for within the Lower Nicola Indian Band Chief and Council Policy, or otherwise, and assumed jurisdiction and authoritarian claim over the fair and due process required of the LNIB C&C, and secondarily by doing so, also approved very act of holding an unlawful meeting in the first place.

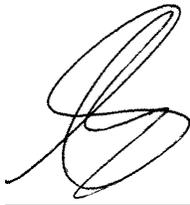
This application will be supported by the following material:

1. The Affidavit of Councilor Spence Coutlee.
2. Such further and other material as counsel may advise and the *Court* permit.

The applicants requests the LNIB C&C as listed herein to send, or have sent, a certified copy of the following material that is not in the possession of the applicant but is in the possession of LNIB C&C members listed herein and to the Registry:

1. Schedule, agenda, minutes, and notice of the meeting, including specific dates and times of the May 4th, 2020 meeting.
2. The accounts of Mr. David Wotherspoon, Dentons Canada LLP regarding attending, preparing and reporting of or in relation to the May 4th, 2020 meeting
3. Agenda, account and review of discussions of the May 4, 2020 meeting
4. Emails and any exchange of documents among the LNIB C&C, Dentons Canada LLP related to the May 4, 2020 meeting

November 5, 2020



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