

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.

October 11, 2023

Issued by:

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APPEAL

Pursuant to section 27(1)(a) of the *Federal Courts Act*, R.S.C., 1985, c. F-7, the Appellants appeal to the Federal Court of Appeal from paragraph 1 of the Judgment of the Honourable Mr. Justice Grammond of the Federal Court dated September 12, 2023 (respectively the “Trial Judge” and the “Judgment”).

THE APPELLANTS ASK that:

1. Costs as granted in the Judgment in favour of the Appellants against Shauna Buffalocalf (“Respondent”) be increased from \$5,000 to \$21,487.50, or such other amount as this Honourable Court may deem just;
2. The Judgment regarding Article 16.04 of the *Nekaneet Governance Act* (“Article 16.04”) be set aside and substituted with a declaration that Nekaneet First Nation may pay the legal fees and disbursements of Chief Carolyn Wahobin, Councillor Christine Mosquito, and Councillor Roberta Francis both in the Federal Court and in this Honourable Court with respect to this appeal and A-193-23;
3. Costs of this appeal against the Respondent; and
4. Such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS OF APPEAL are as follows that the Judgment erred in:

1. Finding that Rule 420 does not apply to a judicial review;
2. Finding that the Offer to Settle of the Appellants pursuant to Rule 420 did not contain an element of compromise or was otherwise not enforceable;
3. Finding that Article 16.04 prohibited Nekaneet First Nation from paying the legal fees and disbursements of Nekaneet First Nation, Chief Carolyn Wahobin, Councillor Christine Mosquito, and/or Councillor Roberta Francis in T-904-23, which proceeding furthered lawful governance of Nekaneet First Nation and was necessitated by the illegal conduct of the Respondent, *inter alia*;
4. Disregarding the submissions of all parties that Article 16.04 did not apply, and *ex mero motu* (or otherwise) finding that Nekaneet First Nation was not a proper party;
5. Misapprehending or disregarding the relief sought by the Appellants – that Nekaneet First Nation may (but is not required to) pay the legal fees and disbursements of its co-applicants Chief Carolyn Wahobin, Councillor Christine Mosquito, and Councillor Roberta Francis – and *ex mero motu* finding that Rule 400 applied and should be engaged to prohibit such payment;
6. Such further and other grounds as counsel may advise and this Honourable Court may permit.

DATED at Regina, Saskatchewan, this 11th day of October, 2023.

PHILLIPS & CO.

Per: 

Nathan Xiao-Phillips,
Solicitors for the Appellants

CONTACT INFORMATION AND ADDRESS FOR SERVICE



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