

Federal Court



Cour fédérale

**Date: 20250808**

**Docket: T-2361-25**

**Citation: 2025 FC 1362**

**Ottawa, Ontario, August 8, 2025**

**PRESENT: The Honourable Madam Justice Blackhawk**

**BETWEEN:**

**CHIEF DALE STEINHAUER**

**Applicant**

**and**

**SADDLE LAKE CREE NATION**

**Respondent**

**ORDER AND REASONS**

**UPON** an urgent motion to the Federal Court under Rule 373(3) of the *Federal Courts Rules*, SOR/98-106 [*Rules*] for a special sitting on August 6, 2025, by videoconference for an interlocutory injunction to stay the Saddle Lake Cree Nation's members' motion dated July 2, 2025, and the follow-up motion approved by the Saddle Lake Cree Nation Council dated July 3, 2025 [Decision] that, *inter alia*, removed the Applicant, Chief Steinhauer, from her elected position as Chief of the Saddle Lake Cree Nation.

**AND UPON CONSIDERING** the motion records and affidavits filed on behalf of the parties and oral arguments presented to the Court on August 6, 2025;

**AND UPON CONSIDERING** that the Respondents have conceded to an interim order to stay the Decision, pending a decision on the merits of the underlying application for judicial review;

**AND UPON CONSIDERING** the Applicant's request for additional ancillary terms to supplement the Order staying the Decision, to ensure the effective governance of the Saddle Lake Cree Nation pending this Court's decision on the merits of the underlying application for judicial review.

**AND UPON CONSIDERING** the decision of Justice Grammond in *Bellegarde v Carry the Kettle First Nation*, 2023 FC 129 [*Bellegarde*], wherein it was noted that injunctions should be tailored to remedy the specific wrong that has been proved or that is reasonably anticipated, at para 45.

**AND UPON CONSIDERING** that the Court may grant ancillary orders to ensure the effectiveness of the main relief; however, the Applicant must satisfy the conjunctive test for injunctive relief which requires a moving party demonstrate that there is a serious question; there is evidence of irreparable harm; and that the balance of convenience favours the granting of the injunction pending a decision on the merits; (*Johnny v Dease River Nation*, 2024 FC 1379 (CanLII) [*Dease River Injunction*] citing *R v Canadian Broadcasting Corp*, 2018 SCC 5 at para 12, *Manitoba (Attorney General) v Metropolitan Stores Ltd*, [1987] 1 SCR 110, 1987

CanLII 79 (SCC) and *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311 at 334, 1994 CanLII 117 (SCC) [*RJR-MacDonald*]).

[1] For the reasons below, I am granting, the interim injunctive relief sought by the Applicant and some of the requested ancillary terms.

[2] A brief note on the terminology used in these reasons for judgment and order. The terms “Indian” and “Aboriginal” appear in the *Constitution Act, 1982* and in many other pieces of Canadian legislation, policy, and jurisprudence that are relevant to the issues in this application. The terms “band” and “council of the band” appear in the *Indian Act*, to describe the elected governing body of a First Nation. I acknowledge that the terms “Indigenous,” “First Nation,” “Métis,” and “Inuit,” as appropriate, have supplanted the use of the earlier terms referenced above. I also acknowledge that is not the contemporary terminology used. Where these reasons reference specific legislation, policy, or jurisprudence, the terminology from those sources is used. I do not intend any disrespect by my use of such terminology.

## I. Background

[3] Saddle Lake Cree Nation [SLCN] is in Alberta, northeast of Edmonton and west of St. Paul. SLCN are signatory to Treaty 6. Crown Indigenous Relations and Northern Affairs Canada records indicate that there are 11, 808 registered members of the SLCN, and approximately 6, 946 of those members reside on the SLCN reserve.

[4] In 1955/1960, the SLCN developed election regulations, which appears to have removed the SLCN from the electoral scheme set out at sections 73 – 78 of the *Indian Act*, 1951, c.29, s.1, (now section 74 of the *Indian Act*, RSC 1985, c I-5) [Election Regulations]. A review of Election Regulations indicates that they are based on minutes of band meetings held at the SLCN between 1955 and 1960. The Election Regulations established *inter alia*: eligibility for nomination on council; eligibility to vote in elections; and election procedural regulations. The Election Regulations state:

Section 3

(a) Chief and Councillor are elected for a three-year term.

(b) There shall be nine Councillors for the Saddle Lake Reserve.

...

(d) The election of the Chief shall be held pursuant to the election of the Councillors and the Chief shall come from among the elected Councillors;

...

(f) A Councillor or Chief guilty of improper conduct who has had a petition requesting his/her removal, signed by 60% of the resident members of the Reserve, shall be so dismissed by the Encumbent [sic] Electoral Officer and a bi-election shall be called to fill the vacancy.

(g) The District Supervisor is the permanent Electoral Officer and it shall be his responsibility for the calling of elections at the end of each three-year term. His method of conducting nomination meetings (except for the closing of it), the secret ballot, the opening, closing, and counting of the ballots shall be the same as set forth in the Band Election Act, Section 73, of the Indian Act, as long as they do not conflict with any regulations, rules or ordinances passed by the Band. The Electoral Officer is authorised to appoint Poll Clerks, and authorized to pay the cost of the election from Band funds after the count has been submitted to Council and approved.

[5] There is no evidence in the record of revised or updated election regulations that have been accepted by the SLCN Council; ratified by the community; or provided to the Minister of Indigenous Services Canada.

[6] An undated document “Guiding Principles of Chief & Council– Saddle Lake Cree Nation #126 Treaty No. 6” appears to set out a code of conduct for members of the SLCN Council.

Extracts of the document were included in the record for this motion. A review of those extracts indicate that the document sets out general accountability principles for Council, including guidance on the “Role of Council (s. 4.2) and the Role of Chief (s. 4.10)”. The document underscores that Council are to “speak with one unified voice”, (s. 4.1). The document indicates that the “Chief has limited additional roles including chairing meetings and being the spokesperson for Council”, (s. 4.1). The document clarifies that neither the Chief nor Council members may make decisions on their own or on behalf of the Council or SLCN, (s. 4.1). I will also note that the document set out provisions at s. 4.10 for the Disqualification and Removal of a Chief or Council member from office. In his affidavit, Glen Whiskeyjack indicated that to his knowledge this document remains a draft and it has not been ratified by a BCR or members of the SLCN.

[7] On June 11, 2025, the SLCN held its general election; s. 3(b) of the Election Regulations indicates that there are (9) nine councillor positions on the SLCN Council. The successful candidates for the council positions were Eddy Makokis, Arthur Steinhauer, Charles Cardinal, Dale Steinhauer, James Steinhauer, Kevin Delver, Glen Jason Whiskeyjack, John Large and Kenton Cardinal.

[8] On June 18, 2025, the SLCN held a subsequent election for the position of Chief. This practice is consistent with the process set out at section 3(d) of the Election Regulations, the nominees for the position of Chief are selected from the successful councillor candidates. The Applicant, Chief Steinhauer, was the successful candidate.

[9] On June 19, 2025, Chief Steinhauer arranged for a traditional pipe ceremony to inaugurate the newly elected SLCN Council.

[10] Chief Steinhauer's affidavit indicates that a "pipe ceremony is a sacred act to commit through ceremony to do certain things, notably to speak the truth, to be honest, to be kind and follow Cree (nêhaiyaw) laws". I accept Chief Steinhauer's evidence that the commitments she made at the ceremony were sincere and reflect her understanding of traditional law. I also accept that this ceremony was arranged with the best of intentions.

[11] On June 20, 2025, there was an inauguration ceremony at the SLCN Pow-Wow, for the newly elected SLCN Council, this ceremony also included a pipe ceremony.

[12] On June 24, 2025, Chief Steinhauer called an "orientation" meeting for the SLCN Council. There is evidence that this meeting was open to all SLCN members.

[13] At the June 24, 2025 meeting, two members of the SLCN in attendance, Wilfred Whiskeyjack and Linda McGilvery, brought a motion for a members' meeting. Chief Steinhauer appears to have agreed to the meeting, which was scheduled for July 2, 2025. The record for this

motion indicates that Chief Steinhauer provided general notice of the July 2, 2025 meeting and developed an agenda for the meeting that was provided to members of the SLCN.

[14] On June 27, 2025, Chief Steinhauer sent a memo to members of the SLCN Council with a “to do” list of items that would be discussed at a meeting on June 30, 2025.

[15] On July 2, 2025, the SLCN Members meeting was held at 6:00 pm at the Saddle Lake Arena.

[16] At the July 2, 2025 meeting, certain members of the SLCN appear to have expressed frustration that Chief Steinhauer had stepped in to organize the members’ meeting. The members appointed Sheryl Cardinal as Chair of the meeting.

[17] The record for this motion indicates that certain members expressed frustration with Chief Steinhauer’s conduct and with “unilateral” actions taken by the Chief. At the July 2, 2025, meeting, a motion was advanced by the members which stated:

THEREFORE, BE IT RESOLVED THAT, owing to the breaches, demonstrated poor conduct, lack of understanding of the Chieftain role, and considering the Federal Court decisions cited above, the membership of Saddle Lake Cree Nation does hereby move to:

- Immediately remove the current Chief from office and that a new general election be called for September 2025;
- Appoint the 2022-2025 Chief and Council to maintain governance and ensure compliance with all legal and fiduciary requirements until a new Chief and Council is duly elected;
- Reinstate all dissolved boards, to restore legal compliance and effective oversight;

- Initiate a full review of recent leadership decisions for further breaches of custom code and to restore band member trust. A report back to membership at the next scheduled meeting will be prioritized;
- That a new election, be called for end of September 2025, with an updated Custom Election Regulation as per Federal Court directive ensuring broad consensus of the band members of the Saddle Lake Cree Nation including the relations of Goodfish Lake.

[Members' Motion]

[18] The Members' Motion is signed by Linda McGilvery and Valerie Steinhauer. It is not clear from the record how many members were present for this meeting. The record indicates that 128 members voted in favour and 58 members opposed the Members Motion.

[19] The record indicates that at the July 2, 2025 meeting, Chief Steinhauer polled members of the SLCN Council for their views on the Members' Motion. The record indicates that all members of the SLCN Council indicated that they would support the "will of the people".

[20] On June 3, 2025, by way of motion, Council members Glen Jason Whiskeyjack, John Large, James Steinhauer, Charles Cardinal and Eddy Makokis "certified and approved the Member Motion to remove the current Chief and Council and call for a New Election" [Motion].



## II. Discussion

### A. *Order and ancillary provisions*

[21] Based on a review of the record for this motion, I am concerned that relationships between the Applicant and other members of the SLCN Council have been negatively impacted. Some mistakes were made; however, I believe there is also a desire on the part of the Applicant and the Respondents to turn the page and begin to work together to serve their electorate.

[22] The Applicant argued that the individually named Respondents, Councillors Glen Jason Whiskeyjack, John Large and James Steinhauer, together with Councillors Charles Cardinal and Eddy Makokis have “highjacked” the SLCN Council and are the “quorum”. There was insufficient evidence to permit the Court to assess this issue, and in any event, it is not necessary to determine this issue in the context of the present motion.

[23] That said, this Court has considered what constitutes proper quorum of a band council and the requirements for a duly convened band council meeting. This Court has found that “[t]he law is clear; the [Band] Council is composed of both the councillors, not just some of them, and the Chief.” (*Brass v Key First Nation*, 2024 FC 1074 [*Brass Representations*] at paras 59–60). This Court has been clear that a “subgroup” or a so-called “quorum of Council” that operates separately from the elected band council, does not follow the rules for the conduct of a meeting should not be confused with what is quorum of a band, (*Brass Representations*, at para 60).

[24] At a minimum, quorum is the number of persons required to constitute a valid meeting.

As noted above, as there are nine members of the SLCN Council, a minimum of five members of the SLNC Council are required for a valid meeting, (*Dennis v Community Panel of the Adams Lake Indian Band*, 2010 FC 62, at para 13). In addition, this Court has noted that democratic principles and procedural fairness require more than simply achieving minimum quorum, rather the “spirit and intention” should be respected. In my view, in addition to the minimum requirement for quorum, the jurisprudence indicates that a duly convened meeting requires that notice of the meeting be provided to all members of council, and that all members of council have the ability to participate, (*Key v Cote*, 2025 FC 1329 at paras 127-133, citing *Peguis First Nation v Bear*, 2017 FC 179, at para 58; *Vollant v Sioui*, 2006 FC 487 at para 36 and *Balfour v Norway House Cree Nation*, 2006 FC 231 at paras 12-14).

[25] The Applicant has demonstrated that she has met the conjunctive tripartite test for an injunction to permit this Court to set out additional ancillary terms for the Order. There is a serious issue to be determined in the underlying application for judicial review; notably the authority to the Applicant from her elected position; there is evidence of irreparable harm, notably harms to her reputation and her ability to fulfill the functions of her elected position; and the balance of convenience favours granting some additional conditions on an interim basis to ensure the functioning of the SLCN Council.

#### B. *Proper Parties*

[26] The Applicant has named certain individual members of the SLCN Council and the SLCN as the respondents in this matter. The Applicant argued that she consents to adding two

additional members of the SLCN Council, E. Makokis and C. Cardinal as respondent parties, as they approved the July 3, 2025 Motion. In addition, the Applicant argued that in her view, the SLCN is not a proper respondent party, and should be removed as a party.

[27] Conversely, the Respondents argued that the SLCN is the proper respondent party and the individually named respondents ought to be removed as parties.

[28] As noted above, the evidence in support of this motion does not establish that certain councillors on the SLCN Council have been operating as a “subgroup”.

[29] The Respondent’s have persuaded me that the proper respondent party for this motion and the underlying judicial review is the SLCN. Section 2 of the *Federal Courts Act*, 2002, c.8, s.14, defines “federal board”. A review of this Court’s jurisprudence establishes that generally, “the Federal Court has jurisdiction to review decisions of a First Nation council where the issue is over a matter that is “public” in nature, and where the source of jurisdiction originates from an Act of Parliament such as the Indian Act, including where the power also involves the application of Indigenous law, customs or practices of the First Nation”. This power extends to Chiefs and Councillors acting or purporting to act in their official capacity pursuant to those powers, (*Bellegarde v. Carry the Kettle First Nation*, 2024 FC 699, at para 29)

[30] The power at issue in this motion and the underlying application for judicial review is in relation to the selection and removal of members of the SLCN Council. In my view, the power is “public” in nature and clearly flows from an application of the Election Regulations and is an

application of the *Indian Act*. Further, I agree with the Respondent, that the entire SLCN is ultimately impacted by the litigation and the relief sought.

[31] The Applicant has not persuaded me that it is appropriate in this matter to name the individual councillors as respondents in this motion or the underlying application. Accordingly, the style of cause for this matter will be amended forthwith and with immediate effect.

C. *Costs*

[32] The Applicant seeks her costs on an elevated and lump sum scale to be payable forthwith. The Applicant argued that the Respondents have not made good faith efforts to resolve the litigation, that as the sole female member of the SLCN Council, there is a power imbalance, and she argued that it seems likely the Respondents' legal fees are being paid by the SLCN.

[33] The Respondents argued that good faith efforts have been made to reach an agreement. I note that while an agreement on an interim order was not reached, the Respondents conceded that an interim stay Order to preserve the *status quo* and to restore the SLCN Council is warranted. Further, I note that the Respondents suggested additional ancillary terms for an order, that helped focus discussions on this issue at the hearing of the motion.

[34] The Respondents argued that there are no grounds for extraordinary costs sought by the Applicant, they argue that costs should be determined at the conclusion of the judicial review.

[35] I will note that the success on this motion is largely the Applicant's. In *Whalen v Fort McMurray No 468 First Nation*, 2019 FC 1119 at paragraph 27, Justice Sebastien Grammond highlighted principles to inform costs awards in the context of First Nation Governance disputes. By way of summary, costs awards are at the discretion of the judge, considering all relevant factors; the imbalance between the financial resources of an applicant and a First Nation or a party whose legal fees may be paid by the Nation; and if the dispute contributes to a clarification of the Nations laws or governance framework.

[36] There was no evidence to determine if the SLCN is covering the legal fees for Respondents. That said, as a practical matter, it is not lost on me that individuals who have a voice on a First Nation's council, are often in a position to have their legal costs reimbursed by the First Nation (*Ojibway Nation of Saugeen v Deroose*, 2022 FC 870 at para 11; see also *Red Pheasant First Nation v Whitford*, 2023 FCA 29, at para 69).

[37] Finally, I note that there is some evidence that this motion is steeped in a history of internal governance issues at the SLCN; in my view the issues are not novel or complex.

[38] Having regard to Rules 400, 401, 407 and Tariff B of the *Rules*, including factors articulated in Rule 400(3), and having regard to the success of the Applicant on the motion, costs of this motion are awarded pursuant to Tariff B, top range of Column III, (*Allergan Inc v Sandoz Canada Inc*, 2021 FC 186 at para 24, and *Brass v Key First Nation*, 2024 FC 1226 at para 33) payable forthwith.

**ORDER**

**THIS COURT ORDERS that:**

1. The motion for an interim injunction is granted as follows:
  - a. The Decision, (the Members' Motion dated July 2, 2025 and the SLCN Motion dated July 3, 2025) is stayed pending the resolution of the underlying application for judicial review. Accordingly, Chief Steinhauer is re-instated to her position as elected Chief of the SLCN and there shall be no general election at the end of September 2025.
  - b. In the interim, the following Directions shall Guide the SLCN Council:
    - i) Chief Steinhauer and all elected councillors of the SLCN [SLCN Council] shall have access to SLCN email, phones, computers, electronic document servers, and the Band offices 24 hours a day, seven days per week to permit SLCN Council members to perform their professional duties as elected members of Council.
    - ii) Administrative staff of the SLCN are to report to the SLCN Council. SLCN Council members do not have the authority to change SLCN administrative staff's working hours or terms of employment.
    - iii) Administrative Staff and Portfolio Heads shall arrange for training of the newly elected SLCN Council as needed.
    - iv) Administrative Staff and Portfolio heads shall provide regular updates/reports to the SLCN Council.

- v) Administrative Staff and Portfolio Heads shall arrange to transfer appropriate responsibilities to members of the 2025 elected SLCN Council, including - appointments to boards, corporations and signing authorities.
- vi) The SLCN Council meet on Tuesdays at the Council Chambers for regular meetings.
- vii) SLCN Council decisions are to be made by consensus.
- viii) SLCN Council meetings are to be co-chaired by the Chief of the SLCN and a member of the SLCN Council.
- ix) SLCN Council meeting co-chairs are to provide notice of all meetings 72 hours in advance. A request for items to be added to the agenda is to be sent to all members of the SLCN 72 hours in advance of the meeting date. An agenda for all meetings is to be circulated 24 hours in advance of a meeting, the co-chairs may not unreasonably refuse to add items to the meeting agendas.  
  
Exceptions may be granted to permit the addition of urgent/time sensitive matters to a meeting agenda that were unknown to the parties within the timeframes noted above.
- x) Chief of the SLCN votes on matters only as is necessary to break a tie or to achieve quorum.
- xi) Where consensus is not achieved, the matter will be tabled to the next meeting for further discussion. In the event consensus is still not achieved, there shall be a vote by members of the SLCN

Council at a duly convened meeting, and a simple majority will carry the matter.

xii) In the event a decision is required on a time sensitive matter and consensus cannot be achieved and the matter cannot wait until the next meeting for further discussion, there shall be a vote by members of the SLCN Council at a duly convened meeting, and a simple majority will carry the matter.

xiii) SLCN Council meetings shall be open to members of the SLCN. SNLC members are observers at SLCN Council meetings. The following exceptions are applicable to this provision:

1. The Applicant is to be excused from discussions at meetings pertaining to this litigation;
2. Members of the SLCN are to be excused from discussions at meetings that involve private business between an individual member of the SLCN and the SLCN Council (e.g. issues pertaining to an individual member's home);
3. Business related to 1 or 2 shall be scheduled for discussion at the end of SLCN Council meeting, to permit full SNLC Council and member participation as appropriate.

xiv) The parties may request a case management meeting or bring a motion pursuant to Rule 399.

2. The style of cause shall be amended to reflect the Respondent as the Saddle Lake Cree Nation forthwith and with immediate effect.



3. The Applicant shall be awarded her costs in respect of this motion based on the top range of Tariff B, Schedule III, forthwith.

"Julie Blackhawk"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-2361-25

**STYLE OF CAUSE:** CHIEF DALE STEINHAUER v SADDLE LAKE CREE  
NATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** AUGUST 6, 2025

**ORDER AND REASONS:** BLACKHAWK J.

**DATED:** AUGUST 8, 2025

**APPEARANCES:**

Orlagh O’Kelly	FOR THE APPLICANT
Janet L. Hutchison	FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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