

Federal Court



Cour fédérale

**Date: 20260416**

**Docket: T-157-26**

**Citation: 2026 FC 430**

**Toronto, Ontario, April 16, 2026**

**PRESENT: Mr. Justice Sébastien Grammond**

**BETWEEN:**

**DIAMOND BLENMAN**

**Applicant**

**and**

**CHIEF SCOTT EASHAPPIE AND THE  
COUNCIL OF THE CARRY THE KETTLE  
NAKODA NATION**

**Respondents**

**ORDER AND REASONS**

[1] Mr. Blenman applies for *mandamus* requiring Carry the Kettle Nakoda Nation [CTK] to disclose certain financial records. I am granting CTK's motion to strike, because Mr. Blenman failed to point to any public duty requiring CTK to disclose those records.

I. Background

[2] The applicant, Mr. Blenman, is a member of CTK. He brought an application for judicial review seeking the following relief:

- An order of *mandamus* requiring CTK to produce the following documents: CTK’s consolidated financial statements for the years 2024 and 2025; an amendment to the “Legacy Trust Agreement”; “Construction Project Records”; financial statements for certain subsidiaries of CTK; “TLE Trust Records”; and a loan agreement involving CTK.
- A declaration that CTK’s policy of restricting councillors and members to viewing band council resolutions [BCR] in a physical binder at CTK’s offices is unreasonable.
- A writ of prohibition preventing CTK from withdrawing monies from the Legacy Trust until the 2025 financial statements are made public.

[3] CTK brought a motion to strike Mr. Blenman’s notice of application. It asserts that this Court lacks jurisdiction over the remedy sought; that the application raises political issues unsuited for judicial determination; that the application has no reasonable chance of success; and that it is an abuse of process.

II. Analysis

[4] I am granting CTK’s motion to strike because the application has no reasonable chance of success.

[5] Rule 221(1)(a) of the *Federal Courts Rules*, SOR/98-106, provides that a statement of claim that “discloses no reasonable cause of action” may be struck. While this rule applies to actions, a similar principle has been extended to applications for judicial review. Thus, in *David Bull Laboratories (Canada) Inc v Pharmacia Inc*, [1995] 1 FC 588 (CA) at 600, the Federal Court of Appeal held that it could strike a notice of application for judicial review that is “so clearly improper as to be bereft of any possibility of success”; see also *Canada (National Revenue) v JP Morgan Asset Management (Canada) Inc*, 2013 FCA 250 at paragraphs 47–48, [2014] 2 FCR 557. Specifically, an application for judicial review may be struck if it obviously lacks legal foundation: *Canada (Attorney General) v Valero Energy Inc*, 2020 FCA 68.

[6] The most important part of the relief sought by Mr. Blenman is a writ of *mandamus* requiring CTK to produce certain records. The Federal Court of Appeal recently restated the test for a writ of *mandamus* in *Benison v Canada (Royal Canadian Mounted Police External Review Committee)*, 2026 FCA 53 at paragraph 46:

The first four *Apotex* criteria largely coincide with the traditional requirements for the issuance of a writ of *mandamus*: the applicant must have a clear legal right to the performance of a public duty; this duty must be owed to the applicant; the public official must have no discretion to act or not; the conditions precedent to the performance of the duty must be satisfied; and the applicant must have demanded performance of the duty and been refused in words or conduct . . .

[7] In this regard, Mr. Blenman’s application faces an unsurmountable hurdle. He has not pointed to any legal rule imposing on CTK a “public duty” to disclose the records he is asking for. Nor does his notice of application allege that he has demanded performance of this alleged duty.

[8] To be sure, the *First Nations Financial Transparency Act*, SC 2013, c 7 [the Act], requires CTK to publish its consolidated financial statements and a schedule of remuneration of its chief and councillors every year on an Internet site and provide paper copies to members on demand. The notice of application, however, does not allege that CTK breached this duty or refused a request made by Mr. Blenman. Moreover, it appears that the time limit for the publication of the 2025 financial statements has not yet elapsed. Hence, the Act does not provide a legal basis for Mr. Blenman's application.

[9] Beyond this, the notice of application does not reveal any legal basis, statutory or otherwise, for CTK's alleged duty to disclose the records Mr. Blenman is seeking, and I do not know of any. Absent such a legal basis, CTK has no public duty and the application for *mandamus* is bound to fail.

[10] The same is true of Mr. Blenman's request for a declaration that the so-called "binder policy" regarding CTK's records is unreasonable. This request amounts to an application for *mandamus* requiring CTK to provide electronic copies of BCRs and other documents on demand. Here again, the application is bound to fail because Mr. Blenman has not identified any legal basis for a public duty to do so.

[11] Lastly, Mr. Blenman seeks a writ of prohibition with respect to the withdrawal of monies from the "Legacy Trust" pending the publication of the 2025 consolidated financial statements. There are no particulars whatsoever regarding the "Legacy Trust," its governing instrument or the source of the duties that would be breached by withdrawing monies. If the breach is the

failure to publish the 2025 consolidated financial statements, the time for doing so has not yet elapsed, as explained above. Hence, for the same reasons, this aspect of the application is bound to fail.

[12] At the hearing, Mr. Blenman argued that the issue of whether CTK has a duty to disclose the documents he is requesting should be decided “on a full record.” I must disagree. It is true that a motion to strike is not the proper forum to decide factual issues. Such issues can only be decided when the evidence has been filed in the record. In contrast, legal issues are properly decided on a motion to strike. Where the lack of legal basis is apparent on the face of the notice of application, nothing is gained by letting the matter run its course to a full hearing. Rather, striking the application at an early stage promotes judicial economy: *Atlantic Lottery Corp Inc v Babstock*, 2020 SCC 19 at paragraphs 18–19, [2020] 2 SCR 420.

[13] Mr. Blenman also asked me to grant him leave to amend his notice of application should I reach the conclusion that it must be struck. He suggested that he could provide more details regarding CTK’s duty to disclose at a later stage of the proceeding. I cannot accept this submission. Leave to amend can only be granted if the defect affecting the notice of application is one that can be cured by amendment. Where the defect is a lack of legal basis, this cannot be cured by amendment. Such is the case here. More generally, it was incumbent on Mr. Blenman to explain the legal basis for his application in response to the motion to strike, which squarely raised the issue.

[14] As I find that the application has no reasonable chance of success, it is not necessary to address the other grounds invoked by CTK in support of the motion to strike.

III. Disposition

[15] For the foregoing reasons, the motion to strike will be granted and the notice of application will be struck without leave to amend.

[16] As Mr. Blenman is self-represented and the matter is related to CTK's good governance, I will not award costs against him.

**ORDER in file T-157-26**

**THIS COURT ORDERS that:**

1. The Respondents' motion to strike is granted.
2. The notice of application is struck without leave to amend.
3. No costs are awarded.

"Sébastien Grammond"

Judge

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

**DOCKET:** T-157-26

**STYLE OF CAUSE:** DIAMOND BLENMAN V CHIEF SCOTT EASHAPPIE  
AND THE COUNCIL OF THE CARRY THE KETTLE  
NAKODA NATION

**PLACE OF HEARING:** BY VIDEOCONFERENCE

**DATE OF HEARING:** MARCH 26, 2026

**ORDER AND REASONS:** GRAMMOND J.

**DATED:** APRIL 16, 2026

**APPEARANCES:**

Diamond Blenman

FOR THE APPLICANT  
(ON HIS OWN BEHALF)

Riva Farrell Racette

FOR THE RESPONDENTS

**SOLICITORS OF RECORD:**

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FOR THE RESPONDENTS