Federal Court  Cour fédérale

Date: 20240709

Docket: T-1437-22

Citation: 2024 FC 1074

Ottawa, Ontario, July 9, 2024

PRESENT: The Honourable Mr. Justice Roy

BETWEEN:

SHANNON BRASS

Applicant

and

CLINTON KEY AND
THE KEY FIRST NATION

Respondents

ORDER AND REASONS

[1] This is a somewhat unusual matter. The Court rendered Judgment in an application made by Shannon Brass to have the election of Clinton Key, as Chief of the Key First Nation [KFN], set aside (*Brass v Key First Nation*, 2024 FC 304). The matter of costs not being resolved between the parties, the Court's Judgment on February 26, 2024, included that "[i]n case no common recommendation is to be forthcoming, written submissions no longer than seven pages

per party represented in these proceedings will be made no later than three weeks from the date of this Judgment". That gave the parties until March 18, 2024, to file their submissions.

[2] Submissions were made on behalf of Mr. Brass and Mr. Key. There were also submissions made on behalf of the KFN by the counsel who appeared throughout the proceedings, Alberta Counsel. However, Ms. Deanne Kasokeo, of Kasokeo Law, filed a Notice of Change of Solicitor dated March 13, 2024, purported to replace Alberta Counsel as counsel representing the KFN. As a result of the change of solicitors, Ms. Kasokeo asked that submissions made on behalf of the First Nation be rejected for filing. She was to serve and file other submissions by March 19, 2024.

[3] Alberta Counsel disputed vehemently the validity of a change of solicitor, having been designated by the KFN to act on its behalf by a duly adopted Band Council Resolution passed on September 1, 2022. The Resolution which confirmed the retaining of the services of Alberta Counsel was passed by Chief and Council; no resolution by Chief and Council having been adopted to duly replace that of September 1, 2022, Alberta Counsel claims to have remained the only counsel of record.

[4] For her part, Ms. Kasokeo was relying on resolutions passed by a so-called "Quorum of Council" purporting to act as representatives of the KFN. Faced with the issue of who can properly represent the KFN on the matter of costs and the continuing exchange of correspondence between the parties with copies to the Court Registry in Edmonton, the Court convened a case management court conference on Friday, March 22.

[5] At the case management conference it was decided that appropriate court motions were to be prepared and filed by the two main protagonists, Kasokeo Law and Alberta Counsel. The Court issued a Direction on March 27 which presented the process to be followed and a schedule to allow the parties to submit evidence and submissions. I reproduce paragraph 22 which provides the scope of the issue confronting the Court:

> Accordingly, the direction is for the counsel currently acting for The Key First Nation, Alberta Counsel, to offer their submissions first. These submissions should cover at least the governance structure of The Key First Nation, the Resolution under which Alberta Counsel purports to operate, including the legislative instruments (statutes or regulations) which allow for the passing of resolutions, and the authorities that support the position advanced. This should not be taken as limiting the scope of submissions a party may choose to offer. The same approach should be followed by Kasokeo Law as it purports to be operating on the basis of resolutions passed by a number of Councillors, but not by Chief and Council.

[6] In spite of relatively tight timeframes, it took longer than originally ordered for records and submissions to be served and filed; various documents were eventually submitted by the two firms, as well as counsel for Shannon Brass and Clinton Key. The record submitted by Kasokeo Law runs for 647 pages, while Alberta Counsel's is 397 pages long.

[7] In my view, the position advanced by Alberta Counsel must prevail over that of Kasokeo Law. The resolutions adopted by four councillors do not displace the resolution duly passed which appointed Alberta Counsel as the counsel representing the KFN in the litigation before this Court. My reasons follow.

I. The issue

[8] The only substantive issue before the Court is in relation to the proceedings which have resulted in the Court concluding that Mr. Shannon Brass did not prove his allegation in his contestation of the election of Chief Clinton Key (s 31 and 35 of the *First Nations Elections Act*. SC 2014, c 5 [the *FNEA* or the *Act*]). Elections are governed by the *Act* for the First Nations that have chosen to participate. It is common ground that the KFN has chosen to participate.

[9] As part of its process, the Court is called upon to determine who should conclude the representation of the KFN, as we have now reached the stage of the determination of the costs to be awarded. The issue is, simply put, who should have the right to represent the KFN. The issue is whether counsel acting for the First Nation throughout the proceedings is validly replaced by another counsel who has been selected by the so-called "Quorum of Council". Quorum of Council purports to have adopted Band Council Resolutions [BCR], the effect of which is to appoint Kasokeo Law as new counsel. If the "Quorum of Council" does not have the legal authority to adopt resolutions on behalf of the KFN, Kasokeo Law cannot be validly retained and Alberta Counsel will continue to represent the interests of the KFN until the completion of the current proceedings.

[10] The Court should also consider whether it can entertain the issue brought before it. The Federal Court may not be the repository of an inherent jurisdiction, but it has the plenary jurisdiction to manage and regulate its own proceedings (*Dugré v Canada (Attorney General)*, 2021 FCA 8, and a multitude of other cases at the appellate level including *Lee v Canada*

(Correctional Service), 2017 FCA 228, para 7-8; *Coote v Canada (Human Rights Commission)*, 2021 FCA 150, at para 16; *Hutton v Sayat*, 2023 FCA 22, at para 7 [*Hutton*]). The issue is whether the Court can manage and regulate its own proceedings where a notice of change of solicitor, under rule 124 of the *Federal Courts Rules* (SOR/98-106) is submitted and challenged in a serious way by the counsel who has acted up to now on behalf of a party (*Canada (Human Rights Commission) v Canadian Liberty Net*, [1998] 1 SCR 626, para 35-38; *Canadian Broadcasting Corp v Manitoba*, 2021 SCC 33, para 16).

II. The position of the parties

[11] Kasokeo Law, on behalf of four councillors, argues in favour of the validity of resolutions they have adopted. They have to establish that they have been validly adopted.

[12] It is certainly possible for litigants to change counsel even during ongoing proceedings. But, if a change must be accomplished, it has to be done according to the law. If there exist rules and regulations that govern how resolutions of entities are to be adopted, they must be followed. Rothstein J put it plainly and elegantly in *Long Lake Cree Nation v Canada (Minister of Indian and Northern Affairs)*, 1995 FCJ No. 1020 [*Long Lake Cree Nation*]:

> 31 On occasion, conflicts can become personal between individuals or groups on Council. But **Councils must operate according to the rule of law whether that be the written law, custom law, the Indian Act or whatever other law may be applicable. Members of Council and/or members of the Band cannot take the law into their own hands. Otherwise, there is anarchy.** The people entrust the Councillors to make decisions on their behalf and Councillors must carry out their responsibilities in a way that has regard for the people whose interest they have been elected to protect and represent. **The fundamental point is that Councils must operate according to the rule of law.**
>
> (my emphasis)

A. *Alberta Counsel*

[13] I begin with the position put forth by Alberta Counsel. The testimony of another councillor, Solomon Reece, was offered in support of the contention that the resolutions passed by four councillors were null and void to the extent that they purport to decide anything that is to be adopted by "Chief and Council". Moreover, unless rules of procedure have been made by Council, it is the *Indian Band Council Procedure Regulations* (CRC, ch 950) [*Regulations*] that control. Section 31 of the *Regulations* allows for such rules of procedure to be passed inasmuch as the rules are not inconsistent with the *Regulations*. It is common ground that the KFN never adopted such rules.

[14] It is therefore argued that the resolution that controls is the resolution passed on September 1, 2022 for the purpose of retaining Alberta Counsel, as the solicitor of record to represent the interests of the KFN in the litigation involving Shannon Brass, concerning the contested election of Clinton Key as Chief. The resolution states in part:

> At the duly convened meeting and by way of unanimous decision as indicated by the signatures below of the Chief and Council of The Key First Nation:
>
> WHEREAS Election Appeals against the election of The Key First Nation has been commenced in Federal Court and under the First Nations Elections Act (the "Election Appeals"); and
>
> WHEREAS Chief Clinton Key shall hire his own independent legal counsel;
>
> WHEREAS Key First Nation council couldn't agree on legal representation and had independently consulted with multiple legal firms;
>
> THEREFORE BE IT RESOLVED that the Band Council of The Key First Nation hereby appoints Alberta Counsel as its solicitor of

> record in the appeal ats Brass T-1437-22 and ats Papaquash T-1446-22 (the "Election Appeals");
>
> …

The resolution bears the signature of four councillors, as well as that of a mover and that of the Chief.

[15] As alluded to in the resolution, there was a conflict among factions within the Chief and Council as to who should act as counsel in the Brass matter. Indeed, the Case Management Judge in this case issued an Order on August 12, 2022, advising that if the representation issue was not resolved by August 19, the two counsel involved were to submit motions material for a hearing to take place. Clearly, the resolution appointing Alberta counsel was to resolve the dispute.

[16] Furthermore, there is no doubt that the September 1 resolution was adopted at a meeting convened properly, where the Chief and Councillors were present and voted. The vote was unanimous according to Mr. Reece. That appears to be such on the face of the resolution itself. There is no meaningful argument made concerning the validity of the resolution appointing Alberta Counsel. The issue is rather whether the resolutions purporting to terminate the counsel who appeared before this Court in the Brass matter on behalf of the KFN, Mr. Ed Picard, be replaced by Ms. Deanne Kasokeo. These are resolutions bearing numbers 286 and 287, and they each are dated March 6, 2024. They read in part:

> **Resolution 286**
>
> At a duly convened meeting of the Chief and Council of The Key First Nation:
>
> WHEREAS: The Key First Nation Chief has retained the legal services of Ed Picard for his own legal matters;

> AND WHEREAS: The Key First Nation Council has made the decision to terminate the legal services with Ed Picard for The Key First Nation Council;
>
> NOW THEREFORE BE IT DULY RESOLVED THAT: The Key First Nation terminates legal services form Ed Picard effective immediately.
>
> **Resolution 287**
>
> At a duly convened meeting of the Chief and Council of The Key First Nation:
>
> WHEREAS: The Key First Nation has retained the legal services of Deanne Kasokeo, a member of the Law Society of Saskatchewan to assist the Council on general legal matters concerning the Nation;
>
> AND WHEREAS: Deanne Kasokeo agrees to provide services to the Nation upon instructions provided by The Key First Nation Chief and Council, effective immediately;
>
> NOW THEREFORE BE IT DULY RESOLVED THAT:
>
> Deanne Kasokeo has been retained for general legal services for The Key First Nation and these services will cease upon a band council resolution stating same.

The resolutions are moved and seconded by two of the four Councillors who were present: David D. Coté, Sidney Keshane, Kimberly Keshane and Fernie O'Soup. There is no signature from Chief Clinton Key nor Councillor Solomon Reece. They are the other two elected officials. On their face, the resolutions purport to be adopted by the four councillors, acting on behalf of the KFN. What was their authority to do so is the issue to be addressed here.

[17] Mr. Reece testified that since the election of June 12, 2022, there have not been regular meetings of the Chief and Council; all meetings have been special meetings. Moreover, the four councillors who purport to replace Mr. Picard, of Alberta Counsel, also purport to hold the Chief's duties "in abeyance" through a resolution passed on August 2, 2023. These four

councillors, who call themselves collectively “Quorum of Council”, are said by Mr. Reece to have held meetings since August 2, 2023, without notice to Chief Key and Councillor Reece. Neither one has attended these meetings. More specifically concerning the meeting of March 6, 2024, paragraph 28 of Solomon Reece’s affidavit reads:

> 28. It is my understanding that, on March 6, 2024, the “Quorum of Council” once again called and held its own meeting without notice to myself or to Chief Key and without our attendance. It is my further understanding that, at that meeting, the “Quorum of Council” purported to pass three BCRs, including:
>
> a. a BCR purporting to terminate the legal services of Ed Picard (not Jonathon Wescott or Alberta Counsel). A copy of this BCR dated March 6, 2024 is attached as Exhibit “G” to this my Affidavit; and
>
> b. a BCR purporting to retain the legal services of Deanne Kasokeo as general counsel for KFN. A copy of this BCR dated March 6, 2024 is attached as Exhibit “H” to this my Affidavit.

[18] Mr. Reece also testified about the insurance policy according to which the KFN is indemnified in case it is the subject of litigation. According to the policy, the insurer is entitled to approve of counsel representing the KFN and is subrogated to the rights of the KFN to recover its costs following its successful defence of the contested election. The evidence of the senior adjuster with Cameron and Associates (affidavit and cross-examination on affidavit) leaves no doubt that Kasokeo Law has not been approved by the insurer.

[19] The position taken by Alberta Counsel is that the resolution passed on September 1, 2022, by the Councillors and the Chief, appointing Alberta Counsel, is the only valid instrument. Resolutions passed by any other entity are not resolutions of Chief and Council.

[20] The Council is composed of the Chief and the elected Councillors (*First Nations Elections Act*, s 7). Alberta Counsel argues that although the *Indian Band Council Procedure Regulations* identify the quorum for proceedings of council as being a majority of the whole council (in the case of the KFN, 4/6), this cannot be confused with "Quorum of Council". The quorum at a duly convened meeting of council is not a subgroup calling itself "Quorum of Council". Alberta Counsel relies on *Balfour v Norway House Cree Nation*, 2006 FC 213, [2006] 4 FCR 404 [*Balfour*], where Chief Justice Blais, then of this Court, said:

> 5 The "quorum of Council" is a subgroup of the Band Council councillors that operates separately from the rest of the Band Council. It does not follow the rules laid out in the Guidelines for conducting convened meetings of Council. This subgroup of councillors should not be confused with what constitutes the quorum of the Band councillors at a convened Council meeting that is subject to the Guidelines and paragraph 2(3)(b) of the *Indian Act*.

[21] Furthermore, the resolutions passed by Quorum of Council do not meet, according to Alberta Counsel, the requirements of the *Indian Band Council Procedure Regulations*. As such, they are invalid and of no force or effect.

[22] There are no special rules of procedure adopted by the KFN pursuant to s 31 of the *Indian Band Council Procedure Regulations*. It follows, says Alberta Counsel, that, unless there exist traditional rules or customs that would be accepted by a broad consensus of a First Nation, the business on behalf of the KFN must be conducted in accordance, in particular, to the *Indian Band Council Procedure Regulations*, together of course with the *Indian Act*, RSC 1985, c I-5, and the *FNEA*.

[23] Turning to the resolutions of March 6, 2024, Alberta Counsel notes that Council exercises powers at duly convened meetings of Council. The requirement comes from ss 2(3) of the *Indian Act*:

Exercise of powers conferred on band or council	**Exercice des pouvoirs conférés à une bande ou un conseil**
2 (3) Unless the context otherwise requires or this Act otherwise provides,	**2 (3)** Sauf indication contraire du contexte ou disposition expresse de la présente loi :
(a) a power conferred on a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the electors of the band; and	**a)** un pouvoir conféré à une bande est censé ne pas être exercé, à moins de l'être en vertu du consentement donné par une majorité des électeurs de la bande;
(b) a power conferred on the council of a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the councillors of the band present at a meeting of the council duly convened.	**b)** un pouvoir conféré au conseil d'une bande est censé ne pas être exercé à moins de l'être en vertu du consentement donné par une majorité des conseillers de la bande présents à une réunion du conseil dûment convoquée.

Since no duly convened regular meetings of Chief and Council were held, only special meetings have been convened. These were held if and when they were necessary to conduct the KFN business. These meetings are held pursuant to s 3(1) of the *Indian Band Council Procedure Regulations*. The said *Regulations* provide for the rules that apply.

[24] Section 4 of the *Regulations* makes it clear that a meeting may be called by the chief or the superintendent (as defined in s 2 of the *Regulations*), and a meeting must (the English version uses "shall summon") be convened by the chief or superintendent "when requested to do so by a

majority of the members of the council". Furthermore, it is the chief who presumptively presides the meeting; the superintendent may do so, but with "the consent of a majority of the councillors present at the meeting" (s 6). It is impossible for the meeting of March 6, 2024, where "resolutions" 286 and 287 were adopted by Quorum of Council, to have followed these requirements of the *Regulations* argues Alberta Counsel.

[25] The requirements of sections 10, 12 and 13 of the *Regulations* are equally essential for resolutions to be validly adopted:

10 The presiding officer shall maintain order and decide all questions of procedure.	**10** Le président doit faire régner l'ordre et décider de toute question de procédure.
…	[…]
12 Each resolution shall be presented or read by the mover, and when duly moved and seconded and placed before the meeting by the presiding officer, shall be open for consideration.	**12** Toute motion doit être présentée ou lue par son auteur; une fois qu'elle a été proposée et appuyée en bonne et due forme et soumise à l'assemblée par le président, elle devient sujette à débat.
13 After a resolution has been placed before the meeting by the presiding officer it shall be deemed to be in the possession of the council, but it may be withdrawn by consent of the majority of the council members present.	**13** Lorsqu'une motion a été soumise à l'assemblée par le président, le Conseil est censé en avoir été saisi, mais elle peut être retirée avec le consentement de la majorité des membres du conseil présents.

[26] Alberta Counsel also argues that the March 6, 2024, resolutions were defective because notice was not provided. That is essential. Procedural fairness requires no less. Notice was not given to Councillor Reece who testified to that effect. That was challenged by Councillor

O'Soup who originally claimed that invitations to Chief Key and Councillor Reece for every meeting were made. On cross-examination, however, he was incapable of substantiating his assertion. In fact, he also claimed that Councillor Reece had notice of meetings because he knew that regular meetings were held on the first and third Tuesdays of every month (Cross-examination of Fernie O'Soup, p 29, line 17 to p 31, line 2). The problem, points Alberta Counsel, is that the meeting of March 6, 2024, took place on a Wednesday. The further suggestion of Mr. O'Soup according to which it is for the Councillor to ascertain when a meeting is to take place is inappropriate. Alberta Counsel refers to paragraph 41 of *Laboucan v Little Red River #447 First Nation*, 2010 FC 722, 372 FTR 262, where Gauthier J, then of this Court, found that "(i)t is disingenuous to even argue that Councillors (including Mr. Laboucan) ought to inquire as to when and where meetings of the Council will take place like any member of the public". The fact that it was not demonstrated that notice was given to Mr. Reece (and to Chief Key for that matter) would be enough to have Resolutions 286 and 287 declared invalid because the meeting was not duly convened.

[27] For good measure, it is argued that not being duly convened renders the meeting afoul of the principle of procedural fairness, which of course includes natural justice. It is argued that these requirements are indeed part of customary practices of First Nations. Not participating in a meeting because of not having been given notice prevents a councillor from the most basic right to be heard: *audi alteram partem*.

[28] Hence, the "resolutions" which bear numbers 286 and 287 are the expression of the view taken by the so-called "Quorum of Council". Alberta Counsel argues that "they have no legal

force or effect in and of themselves and are not enforceable …" (memorandum of fact and law, para 72).

[29] Finally, Alberta Counsel seeks to make an argument out of the insurance policy which gives the insurer the authority to approve counsel to represent the KFN in this subrogated claim. The evidence is clear that, prior to March 6, 2024, "Quorum of Council" did not consult the insurer for the purpose of obtaining consent to change counsel in the Brass matter; the insurer never approved the change, even *ex post facto*; the insurer wishes to pursue the recovery of costs in the Brass matter as a subrogated claim in accordance with its insurance policy terms; Alberta Counsel continues to be the approved counsel.

[30] It is submitted that the KFN cannot retain new counsel in the costs segment of the proceedings before the Court.

B. *Kasokeo Law*

[31] Kasokeo Law takes the view that the change of solicitor under our rule 124 is the exclusive prerogative of the KFN. "Quorum of Council" is the authorized representative of the KFN. The resolutions were duly adopted. As for the insurance policy, it is simply not relevant as an "insurance company should not dictate that a self-determining Nation must use a lawyer with whom they have had a breakdown of confidence" (memorandum of fact and law, para 2).

[32] Reliance is put on the evidence of Fernie O'Soup, one of the four councillors who passed resolutions 286 and 287, to establish that the meeting of March 6, 2024, was duly convened.

Although it was never produced before the Court, reference is made to the "First Nation's Administration Law" for the purpose of suggesting that regular meetings are held every first and third Tuesdays of each month. I note that not only the document has not been produced, but it is unknown what type of meetings this would be relating to. Furthermore, March 6, 2024, was on a Wednesday, as pointed out by Alberta Counsel. Nevertheless, Mr. O'Soup claims that the meeting schedule was known to all elected officials of the KFN.

[33] The factum asserts, without proposing any authority, that the Quorum of Council took upon itself to suspend Chief Key in August 2023 such that, "from that point on, the quorum of the council has been making the decisions through duly convened meetings, but always with notice to the Chief and Councillor Solomon [*sic*]" (para 9). There is nothing on this record that could explain the basis on which four councillors can declare that they are now acting on behalf of the KFN. No indication is given either as to what constitutes a duly convened meeting. In fact, the Quorum of Council seems to have done away with the *Regulations* as it declares that the "old INAC regulations (references as the Indian Band Council Procedure Regulations) … this is not followed anymore". No authority is offered for that proposition and no reference is made to the evidence brought before the Court through affidavits or during cross-examination.

[34] Mr. O'Soup testified that two officials from Indigenous Services Canada indicated that the department wanted to remain at arm's length on internal governance matters. He also claimed that the two officials stated that a quorum of council could convene a meeting. Solomon Reece testified that he was at the said meeting and no such thing was said. The letter of the Regional Director General for Saskatchewan of Indigenous Services Canada [ISC] of April 15, 2024,

introduced in evidence as Exhibit 4 during the Cross-examination of Mr. O'Soup on his affidavit, certainly did not suggest any position to be taken by ISC. He wrote in part:

> In accordance with the Key First Nations' resolution to be added to the Schedule of First Nations conducting their elections pursuant to the First Nations Election Act (FNEA), a Ministerial Order was issued on March 16, 2016, copy attached for your ease of reference. In accordance with the Key First Nation resolution and Ministerial Order implementing this resolution, Key First Nation elections since that date are regulated by FNEA. As such, I confirm that Canada takes no position with respect to the First Nation's governance dispute. That said, Canada must follow and comply with all laws, regulations and Canadian court decisions. Further, Canada is bound by and committed to respect the Federal Court findings and decisions regarding the governance of the First Nation and the requirements necessary to authorize decisions on behalf of the First Nation.

The factum did not refer in any way to this letter, including that the government "must follow and comply with all laws, regulations and Canadian court decisions".

[35] In fact, the whole argument appears to be premised on the postulate that "Quorum of Council" is the authorized representative of the KFN. If that is true, then, the argument goes, it can change counsel in accordance with rule 124. But the claim that Quorum of Council can morph into the Council as defined in the *FNEA* is not supported on the record before the Court by any evidence or authorities.

[36] The resolutions 286 and 287 are the most recent resolutions. They were passed, goes the contention, at a duly convened meeting; but, as pointed out earlier, the factum fails to define, or even describe, what constitutes a duly constituted meeting: what rules are invoked to declare a meeting duly constituted? The factum is silent.

[37] The factum also claims that notice was given to the Chief of the March 6, 2024 meeting. This is less than clear following the cross-examination of Mr. O'Soup (transcript, p 47, lines 10 to 19). Mr. O'Soup declined to clarify, despite a request for an undertaking made at the cross-examination on his affidavit, whether notice was given in view of the lack of certainty and precision on the part of Mr. O'Soup. The same was actually true of notice being given to Councillor Reece (transcript, p 48, lines 10 to 16). As seen before, Mr. Reece was adamant that he had not been invited to the said meeting. He was not shaken on cross-examination.

[38] In that same vein, the factum declares at paragraph 26 that a resolution is to be signed by a quorum of Chief and Council. That is true. But the issue is rather whether Quorum of Council can legitimately claim to be Chief and Council.

[39] Finally, the factum takes issue with the insurance policy being before the Court. At any rate, it is irrelevant claims Kasokeo Law. A First Nation can choose to change counsel when it suits it.

C. *The reply*

[40] The Kasokeo Law factum prompted a reply from Alberta Counsel. It takes issue with numerous statements made in the factum:

- the Financial Administration Law has not been put into evidence (as already noted, it cannot be used according to Alberta Counsel);

- the suggestion of abuse of authority and fiduciary obligations of Chief Key to justify his suspension from Council is not only irrelevant, but there was no evidence to that effect;
- there was no evidence led of existing by-laws or traditional customs of the KFN that would supersede the *Regulations*; and
- the assertion that the September 1, 2022 resolution retaining the services of Alberta Counsel did not bear a supposedly required number (Kasokeo Law suggested that the absence of a number made the resolution invalid) ignores that a numbered copy was in fact emailed to Kasokeo Law on May 9. Furthermore, the assertions concerning the validity of a resolution without a number made by Kasokeo Law were not supported by evidence or authorities.

[41] The allegation according to which the Court must accept the change of counsel is criticized. The Court does not have any obligation to accept the validity of any such change. First, it was Kasokeo Law's professional duty to diligently ascertain that the client has the authority to seek to represent the First Nation. In fact, the authority of the Quorum of Council to represent the KFN is challenged as non-existent. It was for the Councillors to establish their right to speak on behalf of Council. The suggestion, or argument, that the fact that Alberta Counsel did not seek to file its own notice of change of counsel is irrelevant. It is simply an "impractical scenario in which Alberta Counsel and Kasokeo Law would be required to file multiple back-and-forth Notices of Change of Solicitor *ad nauseum* [*sic*]" (reply factum, para 14).

[42] The reply repeats to some extent issues discussed in Alberta Counsel's first factum. The reply challenges the contention that resolutions 286 and 287 of March 6, 2024, are valid. The meeting was not duly convened because notice to all Chief and Council was not given and Quorum of Counsel is simply not the quorum of Chief and Council.

[43] The evidence does not support an allegation that notice was given to Chief Key and Councillor Reece. The reply seeks to be more specific. Under cross-examination, Mr. O'Soup was uncertain when notice had been given and he suggested that Mr. Reece "already knows" the schedule of regular meetings which are said to be on the first and third Tuesdays of every month. Obviously, says Alberta Counsel, that is demonstrably incorrect as the meeting of March 6, 2024, was on a Wednesday. Relying on *Gamblin v Norway House Cree Nation Band Council*, 2012 FC 1536 [*Gamblin*], a decision of Mandamin J, the Court in that case said that "(a) council decision cannot be validly made where not all the councillors were given notice of the meeting". The resolutions 286 and 287 purportedly adopted by Council are invalid for that reason alone.

[44] It is not because four councillors constitute a quorum that that quorum becomes the governing body. As a matter of fact, Kasokeo Law did not offer any authority for that bold proposition.

[45] Moreover, there is no evidence that there exists any traditional rules or customs generating broad consensus in the KFN to suggest that the procedural requirements of the *Indian Band Council Procedure Regulations* are superseded, or that would support the suggestion that a Quorum of Council could substitute as the governing body of the KFN.

[46] Finally, the reply contends that the insurance policy, which is properly before the Court, "may be ultimately determinative" (para 23). The reply faults Kasokeo Law for not explaining why the insurance policy is not relevant, yet the reply, nor the initial submissions by Alberta Counsel, explain either why that is relevant to the point of being determinative.

D. *Shannon Brass and Clinton Key*

[47] The Court allowed Shannon Brass and Clinton Key, the two main protagonists, the opportunity to offer views. Both did.

[48] Shannon Brass states, through counsel, that the Court ought to accept on its face the Notice of Change of Solicitor. If the Court were to "look behind" such notice, counsel suggests that the following principles apply:

> Proper authorization in First Nations is generally exercised by Band Council Resolution. Notably, Band Council Resolutions are valid so long as they meet the requisite quorum requirements and are passed at a duly convened meeting, with notice to all Chief and Council. However, it is not open to Chief and/or Councillors to ignore notices and then claim they had no such notice, and failure to attend, despite notice, could be construed as a waiver.
>
> (Submissions of S. Brass, para 10)

[49] Shannon Brass is also critical of Alberta Counsel for not having filed its own Notice of Change of Solicitor, thus inviting the inference that Alberta Counsel knew it lacked authority to do so. Finally, the challenge to a resolution retaining counsel ought to be through a challenge in a provincial Superior Court because that constitutes a private law matter. The same applies to a subrogated claim governed by an insurance contract.

[50] Unsurprisingly, Clinton Key supports the position put forth by Alberta Counsel. The submissions are couched in terms of upholding the integrity of the legal system and of this Court's process.

[51] The Federal Court is vested with plenary authority to regulate its own proceedings (*Hutton*). Clinton Key suggests that the Court can consider the Code of Professional Conduct of a Law Society in the context of counsel's withdrawal from a case. As I read the submissions, it looks like counsel for Clinton Key seeks to fault Kasokeo Law for the following:

- the successor lawyer must be satisfied that the former counsel has been discharged by the client;
- in this case, that may mean that discharging the counsel of record at a duly convened meeting for which proper notice had been given; the lack of evidence on that front is noticeable and decisive. The Court ought to accept Councillor Reece's evidence that notice was not given;
- withdrawal of counsel should occur at an appropriate time; and
- counsel must operate on the standard of a competent lawyer. In effect, Clinton Key complains that the new counsel appeared in this case at the last minute, with costs submissions that were submitted which were not adequate. Alberta Counsel should be allowed to represent the KFN on the matter of costs.

III. Analysis

[52] Given the extremely acrimonious atmosphere surrounding the governance of the KFN, I have chosen to present perhaps more fully than would otherwise be required the evidence and

the arguments offered by the parties in this matter. And this constitutes a simple matter: who should represent the interests of the KFN on the issue of costs to be awarded as the successful party defending the contested election of Mr. Clinton Key as the Chief of the KFN? A group of Councillors have submitted resolutions passed, they say, on behalf of the KFN, to replace the counsel of record in this case by a different counsel.

[53] The counsel of record, Alberta Counsel, contends that the resolutions cannot be valid as they were not adopted in accordance with the applicable rules. Indeed, the group of four Councillors, calling themselves the "Quorum of Council", have no standing to pass any resolution on behalf of the KFN. That is the issue and Kasokeo Law had to satisfy the Court that such authority existed.

[54] As has been found time and again, the Federal Court has the plenary jurisdiction to regulate its own proceedings. That is just what it is asked to do here. Can someone file a Notice of Change of Solicitor, pursuant to the Rules of the Federal Courts in an ongoing proceeding, and thus expel the counsel of record who had been operating on the basis of an apparently valid resolution passed unanimously by the elected officials, acting as the Chief and Council? I need refer to only one authority, the recent decision of the Chief Justice of the Federal Court of Appeal in *Hutton* for the proposition that this Court has such jurisdiction:

> [7] Apart from the powers that derive from subsection 50(1) of the *Federal Courts Act*, this Court and the Federal Court are also vested with the plenary authority to regulate their proceedings and control the integrity of their own processes. Indeed, as stated on numerous occasions both by the Supreme Court and this Court, the Federal Courts must have the powers necessary to manage their own proceedings just like the provincial superior courts: see, for example, *Canada (Human Rights Commission) v. Canadian*

> *Liberty Net*, 1998 CanLII 818 (SCC), [1988] 1 S.C.R. 626 at paras. 35-36; *R v. Cunningham*, 2010 SCC 10, [2010] 1 S.C.R. 331 at para. 19; *Windsor (City) v. Canadian Transit Co.*, 2016 SCC 54, [2016] 2 S.C.R. 617 at para. 33 (footonote [*sic*] 1); *Lee v. Canada (Correctional Service)*, 2017 FCA 228, [2017] F.C.J. No. 1131 (QL) at paras. 7-9; *Dugré v. Canada (Attorney General)*, 2021 FCA 8, [2021] F.C.J. No. 50 (QL) at para. 20 [*Dugré*]; *Coote v. Canada (Human Rights Commission)*, 2021 FCA 150 at para. 16; *Fabrikant v. Canada*, 2018 FCA 171 at para. 3. This entails the power to stay a proceeding when it is necessary to deal with problematic litigation conduct: *ViiV Healthcare Company v. Gilead Sciences Canada, Inc.*, 2021 FCA 122 at para. 24; *Dugré* at para. 38; *Coote v. Lawyers' Professional Indemnity Company*, 2013 FCA 143, 229 A.C.W.S. (3d) 935 at para. 4 [*Coote*].

I cannot think of a more pressing requirement to exercise the plenary jurisdiction than having to decide who can appear before the Court where the contestation concerns the Rules of the Court and the appearance of counsel before this Court.

[55] The Court should summarily dispose of some arguments made by the parties. First, the argument according to which there should have been a competition between Kasokeo Law and Alberta Counsel as to who would have the latest notice of change of solicitor in order to prevail. That is without merit. Alberta Counsel challenged as soon as was possible the Notice of Change of Solicitor as being without authority in this case. It can hardly be clearer that their position was unambiguous. Nothing else was needed.

[56] Mr. Clinton Key suggested that the Court take somehow into account professional obligations lawyers have towards clients and the courts. He says that codes of professional conduct "establish standards of public policy that the court should consider" (Observations and Submissions, para 10). Mr. Key does not expand on what should be done by the Court and what effect, as a legal matter, this could have on the narrow issue the Court must decide. I respectfully

decline to entertain any further this matter that is first and foremost the province of other entities. Here, we have counsel who is representing the interests of individuals who claim to have the right to pass a resolution, the purpose of which is to change counsel in a case before the Federal Court. That dispute is litigated and this is the only issue before the Court that requires a response.

[57] Alberta Counsel submits that the insurance policy where the insurer can accept counsel defending the interests of the insuree, and is subrogated in the rights of the insuree, may be ultimately determinative. Alberta Counsel never explained how. The insurance contract appears to be solely between the KFN and the insurer. If the KFN were to be in breach of the terms of its contract, it would be a matter between those two parties and recourses may be undertaken. But that has nothing to do with who should be representing the KFN in these proceedings. If the change of counsel is properly made, which is the only issue before the Court, then whether or not the insurance arrangement is respected becomes a matter between the insurer and the insuree.

[58] That takes us to the crux of the matter. The KFN has chosen to have its elections governed by the *FNEA*. The *Indian Act* provides the definition of "council of the band" according to the election regime under which a First Nation operates:

council of the band means	**conseil de la bande**
(a) in the case of a band to which section 74 applies, the council established pursuant to that section,	**a)** Dans le cas d'une bande à laquelle s'applique l'article 74, le conseil constitué conformément à cet article;

(b) in the case of a band that is named in the schedule to the *First Nations Elections Act*, the council elected or in office in accordance with that Act,	**b)** s'agissant d'une bande dont le nom figure à l'annexe de la *Loi sur les élections au sein de premières nations*, le conseil élu ou en place conformément à cette loi;
(c) in the case of a band whose name has been removed from the schedule to the *First Nations Elections Act* in accordance with section 42 of that Act, the council elected or in office in accordance with the community election code referred to in that section, or	**c)** s'agissant d'une bande dont le nom a été radié de l'annexe de la *Loi sur les élections au sein de premières nations* conformément à l'article 42 de cette loi, le conseil élu ou en place conformément au code électoral communautaire visé à cet article;
(d) in the case of any other band, the council chosen according to the custom of the band, or, if there is no council, the chief of the band chosen according to the custom of the band; (*conseil de la bande*)	**d)** s'agissant de toute autre bande, le conseil choisi selon la coutume de celle-ci ou, en l'absence d'un conseil, le chef de la bande choisi selon la coutume de celle-ci. (*council of the band*)

[59] According to the *FNEA*, the Council consists of the Chief and the elected councillors; s 7 provides:

Composition	**Composition**
7 (1) The council of a participating First Nation is to consist of one chief and, for every 100 members of that First Nation, one councillor, but the number of councillors is not to be less than two or more than 12.	**7 (1)** Le conseil d'une première nation participante se compose d'un chef, ainsi que d'au moins deux et d'au plus douze conseillers, à raison d'un conseiller pour cent membres de la première nation.

Reduction — number of councillors	**Réduction du nombre de postes de conseiller**
(2) Despite subsection (1), the council may, by resolution, reduce the number of councillor positions but to not less than two. The reduction is applicable as of the next election that is not a by-election.	**(2)** Malgré le paragraphe (1), le conseil peut, par résolution, réduire le nombre de postes de conseiller sans toutefois aller en deçà de deux; la réduction s'applique à compter de l'élection suivante qui n'est pas une élection partielle.

The law is clear; the Council is composed of both the councillors, not just some of them, and the Chief. As can be seen, the Council, that is the Chief and the elected councillors, operates largely on the basis of resolution (see also, among others, *Knibb Developments Ltd v Siksika Nation*, 2021 FC 1214, para 10).

[60] The law is equally clear as to who is elected (s 23: the highest number of votes) and how a seat becomes vacant:

Term of office	**Mandat**
28 (1) Subject to subsection (2) and section 29, the chief and councillors of a participating First Nation hold office for four years commencing at the expiry of the term of office of the chief and councillors that they replace.	**28 (1)** Sous réserve du paragraphe (2) et de l'article 29, le mandat du chef et des conseillers d'une première nation participante commence à la fin de celui du chef et des conseillers qu'ils remplacent et dure quatre ans.
Term of office ceases	**Vacance**
(2) A chief or councillor of a participating First Nation ceases to hold office if	**(2)** Le poste de chef ou de conseiller d'une première nation participante devient vacant dans l'un ou l'autre des cas suivants :

(a) they are convicted of an indictable offence and sentenced to a term of imprisonment of more than 30 consecutive days;	**a)** le titulaire est déclaré coupable d'un acte criminel et a été condamné à une peine d'emprisonnement de plus de trente jours consécutifs;
(b) they are convicted of an offence under this Act;	**b)** il est condamné pour une infraction à la présente loi;
(c) they die or resign from office;	**c)** il meurt ou démissionne;
(d) a court sets aside their election under subsection 35(1); or	**d)** un tribunal invalide son élection en vertu du paragraphe 35(1);
(e) they are removed from office by means of a petition in accordance with the regulations.	**e)** il est révoqué de son poste au moyen d'une pétition présentée en conformité avec les règlements.

Concerning s 28(2)(e), the *FNEA* specifies that the regulations referred to are to be made by the Governor-in-Council:

41 The Governor in Council may make regulations with respect to elections, including regulations respecting	**41** Le gouverneur en conseil peut prendre des règlements régissant les élections et, notamment, des règlements concernant :
…	[…]
(g) the removal from office of a chief or councillor of a participating First Nation by means of a petition, including	**g)** la révocation du chef ou d'un conseiller d'une première nation participante au moyen d'une pétition à cet effet et, notamment :
(i) the percentage of electors of that First Nation who must sign that petition, and	**(i)** le pourcentage nécessaire d'électeurs de cette première nation qui doivent signer la pétition,

(ii) the period during which that petition is to be filed;	**(ii)** la période au cours de laquelle la pétition doit être présentée;

As is evident, the *FNEA* is prescriptive and it provides the framework under which the election in participating First Nations is to take place. It also provides for the removal of elected officials, including by using sections 31 and 35 to contest elections within a period of thirty days after the day the results of a contested election were announced. Here, there is no evidence, on this record, that any of those elected officials have been removed. The question is therefore what is the basis on which Quorum of Council can legitimately operate on behalf of the KFN.

[61] For ease of reference, I reproduce again the description made of what is a "Quorum of Council" in *Balfour*:

> [5] The "quorum of Council" is a sub-group of the Band Council councillors that operates separately from the rest of the Band Council. It does not follow the rules laid out in the guidelines for conducting convened meetings of Council. This sub-group of councillors should not be confused with what constitutes the quorum of the Band councillors at a convened Council meeting that is subject to the guidelines and paragraph 2(3)(b) of the *Indian Act*.

The description is on all fours with the evidence presented in this case. That is clearly what the four Councillors of the KFN are when they refer to themselves as "Quorum of Council". They are a sub-group and there is no legal authority that is derived from the mere *ad hoc* creation of that group. I add that there is no evidence, or argument, that has been presented that would give "Quorum of Council" any authority to supplant the Council as defined in the *FNEA*.

[62] But there is more. S 2(3)(b) of the *Indian Act* requires that the "power conferred on the council of a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the councillors of the band present at a meeting of the council duly convened". This constitutes the most basic requirement. Whatever power is to be exercised by Council, that is the Chief and the elected councillors according to s 7 of the *FNEA*, a duly convened meeting is required.

[63] In the case at bar, the resolution of September 1, 2022, appointing Alberta Counsel for the purpose of this litigation was not seriously contested. Kasokeo Law suggested in their memorandum of fact and law, more than was demonstrated, that the said resolution did not bear a number. That is more form than substance. But at any rate, Alberta Counsel informed the Court in their Reply, in view of the argument about the resolution not being numbered, that actually the resolution bears a number (#109). Accordingly, even that argument, although very weak in the first place, does not resist the most basic scrutiny: the 109 resolution was validly adopted by Chief and Council. Such is not the case with respect to resolutions 286 and 287. The evidence marshalled before the Court does not satisfy the basic requirement that they be adopted by the Council as defined in the *FNEA* and that notice had been given to the Chief and the five Councillors for them to participate in the meeting. Everything points in the direction of a group of councillors, calling themselves the "Quorum of Council", having taken unto themselves to suspend the Chief of his functions as the elected Chief and then deciding that the counsel duly appointed by the Council was to be removed.

[64] In my view, the evidence led before the Court takes us to one conclusion – notice was not properly given to one Councillor and the Chief. It would be surprising if notice had been properly given to Chief Key in March 2024 after he had been suspended on August 2, 2023: "Clinton Key's duties as Chief of The Key First Nation are hereby held in abeyance with pay …". I note that the resolution (Exhibit E to the affidavit of Solomon Reece), which does not bear a number, provides that an opportunity "to explain why this should not happen" was to be given on August 31, 2023. We do not know whether there was any follow-up.

[65] Even more decisively, Councillor Reece testified that he was not given notice of the meeting on March 6. When Councillor O'Soup attempted to argue that notice had been given, he could not prove that such was the case; then he declared during his cross-examination that at any rate Councillor Reece would have known that Council meetings were on the first and third Tuesdays of every month (March 6, 2024 was on a Wednesday); and finally he chose not to present further evidence of notice being given after being asked to do so at his cross-examination on his affidavit. The weight of the evidence supports the testimony of Solomon Reece that notice was not given.

[66] Having reviewed the evidence very carefully, the Court cannot find any support for the resolutions 286 and 287 having been adopted at a meeting of Council duly convened. A meeting of Quorum of Council is not a meeting of Council as defined in the *FNEA* and there was not evidence that those required to attend were given notice.

[67] With the greatest of respect, the authorities cited for the following propositions are of no assistance to the four councillors: (1) the resolutions were passed at a duly convened meeting (*Bellegarde v Carry the Kettle First Nation*, 2024 FC 699, para 68 [*Bellegarde*]); (2) with notice to Chief and Council (*Gamblin*, para 78), and (3) signed by a quorum of Chief and Council (*Bellegarde*, para 5; *Key First Nation v Lavallee*, 2021 FCA 123, para 45).

[68] First, paragraph 68 of *Bellegarde* reads:

> [68] In my view, the same rationale applies to CTKFN. When CTKFN Council adopted the BCRs to remove the Applicants, it acted as the Council recognized under subsection 2(1) of the *Indian Act* to represent and govern the Nation and manage CTKFN for the well-being of its members. Moreover, as held by Justice McDonald, the Special Meeting in this case was "duly convened within the meaning of Subsection 2(3) of the *Indian Act*," which is further evidence that CTKFN Council was acting as the "council of the band" recognized under subsection 2(1) of the *Indian Act* and therefore purporting to exercise powers of governance originating perhaps in custom, but also under a concurrent "source" found under the *Act*. Indeed, the Special Meeting – and the process followed by CTKFN – aimed at removing elected officials recognized under the *Act*, to later be substituted by other elected officials recognized under the *Act*, following a by-election. The impacts of the BCRs therefore related to the application of the *Act*. Furthermore, the BCRs to remove elected councillors are inherently a governance issue.

The general statement does not serve any purpose connected with the matter to be decided here.

[69] The reference to paragraph 78 of *Gamblin* not only does not support the proposition for which it is advanced, but it arguably runs counter to it. In order to more fully appreciate what Mandamin J found, one must read what he refers to in paragraph 77 when he says at paragraph 78 that he agreed with Blais J, in a case I have already mentioned twice for the proposition that a Quorum of Council is not Council:

> [77] In *Balfour*, Justice Blais, as he then was, strongly criticized the decision making processes used by the same NHCN Council in respect of other decisions. Justice Blais stated:
>
> > 3. Should the sub-group of Band councillors be allowed to exist?
> >
> > 45 The applicant contests the fact that a sub-group has been created. He contends that when decisions are taken by the smaller group of councillors, the rules regarding quorum, notices and the recording of decisions and minutes are not respected.
> >
> > …
> >
> > 49 … I find that it is permissible for a sub-group of Band Council members to meet outside the formal confines of Band Council meeting to discuss issues concerning the Band. However, a distinction must be drawn between the latter and what has occurred in the present matter. That is, it is not permissible for the sub-group of Band councillors to make decisions in secret and subsequently have those decisions rubber stamped at future Band Council meetings without regard to the Band Council guidelines or the provisions of the Indian Act.
> >
> > [Emphasis added in the original]
>
> [78] I agree with Justice Blais. A council decision cannot be validly made where not all the councillors were given notice of the meeting. However, such a decision may be subsequently ratified at a council meeting where notice is given, opportunity to participate is provided to all members of council, and the matter is not already finally decided.

A sub-group can certainly meet, nothing prevents that. But they do not speak for Council. In the case at bar, there is no credible evidence that Council, meaning the Chief and the elected councillors, validly met.

[70] I fail to see how paragraph 45 of *Key First Nation v Lavallee*, which I reproduce here, can be of any assistance in these proceedings:

> [45] The decision of band council to retain a law firm becomes a decision of the band as a whole and binds the band. The relationship can readily be analogized to that of a municipal council approving a recommendation to contract for legal services on behalf of a municipality. In the circumstances of this case, however, the question that lies at the heart of the application is whether the decision of council to retain SWL was made with the required notice to the community, requisite quorum and other procedural obligations of the *Indian Act*.

I am equally puzzled by the reference to paragraph 5 of *Bellegarde*:

> [5] For the following reasons, the Applications are granted. The CTKFN Band Council Resolutions [BCR], removing the Applicants from their positions as elected members of CTKFN Council, are invalid. Council did not have the quorum nor the qualified majority required by the CTKFN *Cega-Kin Nakoda Oyate Custom Election Act [Election Act]* to adopt the BCRs and remove the Applicants from elected office. Moreover, the Tribunal that is required to be established pursuant to paragraph 12(7)(i) of the *Election Act* to provide a recommendation to a Council to remove an elected official from office was improperly constituted.

It is difficult to see the relevance of paragraph 5, especially in view of the fact that this community had chosen to implement its own election procedure by adopting the Cega-Kin Nakoda Oyate Custom Election Act. At any rate, the resolution was found to be invalid.

[71] Alberta Counsel argued that the *Indian Band Council Procedure Regulations* control. Indeed, in their reply, they argue that “Ms. Kasokeo has failed to provide evidence of any existing KFN bylaws or traditional customs of KFN which would supersede the governance procedures set out in the Indian Band Council Procedure Regulations, CRC c 950” (para 6). That assumes, of course, that the *Regulations* apply where the council was elected on the basis of the *FNEA*.

[72] Without deciding whether the *Regulations* apply as a matter of law, or even can be regarded as providing some form of general guidance, there is no need to seek further support to establish the flawed process followed in this case. The *Regulations* address issues such (1) who can call special meetings of council, (2) the required presence of members, (3) what constitutes a quorum, (4) who presides the meetings, (5) who decides questions of procedure and the order of business, and (6) how resolutions are moved and dealt with. Alberta Counsel argues that the *Regulations* were clearly not followed in the case at bar. That may well be the case. However, Alberta Counsel failed to show how these *Regulations*, given that it appears that the Council to which the *Regulations* apply is "the council of a Band elected pursuant to section 74 of the Indian Act" (*Indian Band Council Procedure Regulations*, s 2), can be of assistance. The question is left open.

[73] Since there is no need to go any further than what has already been addressed directly, I decline to comment on the application of the *Regulations* to these proceedings.

IV. Conclusion

[74] The Court concludes that resolutions bearing numbers 286 and 287 cannot be resolutions passed by the Council of the Key First Nation in the absence of evidence of a persuasive nature that Chief Clinton Key and Councillor Solomon Reece were given adequate notice. The evidence before the Court is that the so-called "Quorum of Council" sought to operate as a sub-group of the First Nation Council, operating independently of the legally constituted Council consisting of the Chief and the elected councillors. Such a sub-group may exist, but it cannot substitute itself for the Council.

[75] The wise words of Rothstein J, already cited earlier at paragraph 11, continue to resonate close to thirty years later and even more so in this case. In *Long Lake Cree Nation*, he wrote:

> 31 On occasion, conflicts can become personal between individuals or groups on Council. But Councils must operate according to the rule of law whether that be the written law, custom law, the Indian Act or whatever other law may be applicable. Members of Council and/or members of the Band cannot take the law into their own hands. Otherwise, there is anarchy. The people entrust the Councillors to make decisions on their behalf and Councillors must carry out their responsibilities in a way that has regard for the people whose interest they have been elected to protect and represent. The fundamental point is that Councils must operate according to the rule of law.

[76] As a result, the Court will consider the submissions on costs presented by Alberta Counsel on behalf of the KFN, as well as those made on behalf of Shannon Brass and Clinton Key. An Order concerning costs will follow.

ORDER in T-1437-22

THIS COURT ORDERS:

The counsel of record on behalf of the Key First Nation shall continue to be the Alberta Counsel. The submissions as to costs have already been filed on behalf of Shannon Brass, Clinton Key and the Key First Nation. Unless the Court hears otherwise from these parties before July 15, 2024, the matter of costs shall be decided on the basis of the written submissions duly served before March 18, 2024.

"Yvan Roy"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1437-22
STYLE OF CAUSE:	SHANNON BRASS v CLINTON KEY AND THE KEY FIRST NATION

WRITTEN SUBMISSIONS CONSIDERED AT OTTAWA, ONTARIO.

ORDER AND REASONS:	ROY J.
DATED:	JULY 9, 2024

WRITTEN REPRESENTATIONS BY:

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