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	September 15, 2025 15 septembre 2025
HALIFAX REC	Chanelle Gallant
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Court File No.: T-3278-25

HALIFAX REC

FEDERAL COURT – TRIAL DIVISION

Between:

AMANDA JOY COOPER

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Applicant’s Motion Record
Motion for Interlocutory Injunction

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TABLE OF CONTENTS

DESCRIPTION	PAGES
Notice of Motion, dated September 3, 2025	001 - 003
Affidavit of Amanda Joy Cooper, affirmed August 28, 2025	004 - 026
Memorandum of Fact and Law of the Applicant	027 - 045
Solicitor's Certificate of Service	046 - 047

FEDERAL COURT – TRIAL DIVISION

BETWEEN:

AMANDA JOY COOPER

APPLICANT

AND

ATTORNEY GENERAL OF CANADA

RESPONDENT

NOTICE OF MOTION FOR INTERLOCUTORY RELIEF

TAKE NOTICE THAT Amanda Cooper will make a motion to the Federal Court under rule 359 of the *Federal Courts Rules*.

THE MOTION IS FOR an order granting an interlocutory injunction, in particular, to require the Respondent to transfer the Applicant to an institution designated for women, until a decision is rendered in her application for judicial review pursuant to section 18.1 of the *Federal Court Act*. In the alternative, the Applicant seeks an order granting interlocutory relief of an abridgement of timelines to facilitate an expedited hearing pursuant to Federal Court Rules 8, 373(3) and 385.

The Applicant requests proceed under Rule 369(1) of the Federal Court Rules and that it be decided on the basis of written representations.

THE GROUNDS FOR THE MOTION ARE:

1. The Applicant is a trans-woman who identifies as a woman and has the anatomy of a woman.
2. On July 25, 2025, Jeff Mitchell of the Correctional Service Canada issued the decision that the Applicant would be transferred from Atlantic Institution to Millhaven Institution, both institutions designated for men (the “Decision”).
3. The Applicant is exercising her right to have the Decision judicially reviewed and states that maintaining her incarceration at an institution designated for men prior to judicial review by this Honourable Court will cause irreparable harm, as set out in the supporting materials for this motion.
4. The Applicant states that she has a strong *prima facie* case as the Decision is substantively unreasonable for the reasons detailed in the Notice of Application for Judicial Review.
5. The Applicant is continuing to experience serious irreparable harm and the balance of convenience favors granting the Applicant’s request for interlocutory relief.
6. The moving party relies on the following legislation, Rules, or points of law:
 - a. Federal Court Rules 8, 359, 366, 373, and 385
7. Such further and other grounds as this Honourable Court might allow.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The affidavit of Amanda Cooper, affirmed on August 28, 2025.

[remainder of page intentionally blank]

Dated: September 3, 2025



Emma Arnold / Jessica D. Rose

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Counsel for the Respondent

Court File No.:

FEDERAL COURT

Between:

AMANDA JOY COOPER

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF AMANDA JOY COOPER, AFFIRMED August 28, 2025

I, Amanda Joy Cooper, of Smith's Crossing, in the Province of New Brunswick, affirm and give evidence as follows:

1. I am the applicant in this matter.
2. I have personal knowledge of the evidence affirmed in this affidavit, except where otherwise stated to be based on information and belief.
3. I state in this affidavit the source of any information that is not based on my own knowledge, and I state my belief in that source.
4. I am a post-operative transgender woman presently incarcerated at Atlantic Institution, a maximum-security men's institution located in Smith's Crossing, New Brunswick.
5. I have known I was a girl/woman since age seven.

- 2001*
6. In ~~1998~~, I was designated a dangerous offender and sentenced to an indeterminate sentence. I spent 16 years in the Special Handling Unit at the Regional Reception Centre, a maximum-security institution in Quebec.
 7. In 2017, I submitted a request to Correctional Services Canada ("CSC") to be assessed for gender dysphoria. I came out as transgender in February 2020.
 8. In 2020, I began hormonal treatments, taking estradiol, spironolactone and progesterone to begin the process of transitioning. I started to use my chosen name, Amanda Joy Cooper. At the time, I was incarcerated at Saskatchewan Federal Penitentiary, in the maximum security unit of a multi-level institution. I started to wear feminine clothing, stick-on coloured false fingernails and makeup as expressions of my gender.
 9. In September 2020, I was transferred to Millhaven Institution ("Millhaven"), a federal maximum-security prison for men in Bath, Ontario.
 10. In September 2021, another prisoner started taunting and bullying me, and telling other prisoners not to use my chosen name of Amanda and to call me men's names instead. I was afraid of him and began a hunger strike to try to get CSC's attention so they would rectify the situation.
 11. After being on a hunger strike for approximately eight days, during which time I ate nothing, I was transferred to the Regional Treatment Centre, which is on the same campus as Millhaven. I was on a hunger strike for another few days until the Warden came to see me and promised I could stay at the Regional Treatment Centre for a while longer, for my safety.
 12. Sometime in ~~February 2022~~, I was transferred to the mental health range at Millhaven, where I felt comparatively safer. There was greater supervision and more activities available.
FEBRUARY 17 2022 AM
 13. In or around May 2023, I was reclassified to medium security, however I was not transferred to a medium security institution right away.
 14. In January 2024, I was transferred to the SIU at Millhaven because a prisoner started making inappropriate sexual comments to and about me, which made me fear for my safety.
 15. In April 2024, I was transferred from Millhaven to the Federal Training Centre ("FTC"), a medium/minimum security institution for men in Laval, Quebec.

16. I believed, based on conversations with various correctional officers at FTC, that once I had my gender-affirming surgery, I would be placed in a women's institution.
17. In June or July 2024, I applied for a transfer to the Joliette Institution for Women ("Joliette"). Around this time, I had a meeting with several FTC staff, including a senior staff person named Nancy Chow, and my parole officer and a programming officer, who advised me that CSC was supportive of my transfer request.
18. Approximately a month later, I met with CSC staff again and learned that CSC was no longer supporting my transfer to Joliette and that they were recommending a reclassification to maximum security based on an allegation that I had threatened a unit manager.
19. On or around early September 2024, I received a denial of my request to transfer to Joliette and around this time was also reclassified to maximum security.
20. On September 23, 2024, I underwent gender-affirming surgery in Montreal. This included operating on my upper and lower body. The surgeries included a vaginoplasty to construct my vulva and vagina, breast augmentation, and tracheal shave to alter my laryngeal prominence. I continue to take estrogen and progesterone, which I will take for the rest of my life.
21. I now have a vulva, vagina, and breasts. I do not have a penis.
22. About a week after my surgery, I was transferred to the health care area at Archambault Institution, a federal medium-security prison for men in Sainte-Anne-des-Plaines, Quebec, apparently because they had a superior healthcare unit.
23. On November 4, 2024, I was transferred to the Atlantic Institution in Smith's Crossing, New Brunswick. I have been living in the Structured Intervention Unit ("SIU") for my own safety since then.
24. Around January 2025, I again requested a transfer to a women's institution. I was denied because a minimum of six months had not yet elapsed since my previous transfer request had been denied, in September 2024.
25. In July 2025, I again requested a transfer to a women's institution. That request has not been processed by CSC. I had considered applying for transfer in March 2025, as soon as the six months had elapsed since my last transfer denial, but I understood that my previous

lawyer was taking steps to advocate for my transfer, so I waited for that to unfold. When those steps were not successful, I applied for transfer through the normal CSC channels.

26. I am fearful of being subjected to physical and sexual violence from other prisoners. Since coming out as trans, I have regularly been called a freak, a "tranny" (which is a derogatory term for a trans person) and other demeaning names, mostly by prisoners but sometimes by staff members. Once, while bringing a meal to someone's cell at Millhaven as part of my food serving job, the prisoner reached out through the food slot to grab at my buttocks. As I have attested to earlier in this affidavit, I have been bullied and threatened because of being a woman.
27. Because of my fear for my safety, I do not attend any unstructured activities, or any group activity. I only leave my cell for phone calls, meetings with the SIU Independent External Decision Maker ("IEDM"), health care, school, and program delivery. On average, I am out of my cell only a couple hours per day at most. On weekends, sometimes I am out of the cell only 20-30 minutes per day. As a result, I have very little meaningful social interaction.
28. On August 15, 2025, the IEDM issued a report about my SIU placement. This review was triggered by the fact that I had not been out of my cell at least four hours per day, nor had I had at least two hours per day of meaningful social interaction, for at least five days running.
29. A true copy of the August 15, 2025 IEDM report is attached to this affidavit at **Exhibit "A"**.
30. In their report, the IEDM observed that I have "reasonable and serious safety concerns regarding integrating into any male inmate population. As Ms. Cooper has declined integrating into an institution for men, she will end up going from one SIU to another" (para 7).
31. In the same report, the IEDM observed that "Ms. Cooper struggles with mental health issues, has remained in the SIU for over 9 months and transferring her to another institution to go directly to another SIU, is very concerning" (para 21).
32. Apart from my medications and surgeries, the only gender-affirming care I have received while incarcerated was when the Nova Institution for Women sent me a box of female clothing and hygiene products in 2024.
33. I have not received any mental health support for being a woman in a men's institution. The John Howard Society of New Brunswick has offered some support when they visit,

and their staff connected me with an organization called Chroma, which is an advocacy organization for queer people living in New Brunswick. I speak to a Chroma peer support worker every two weeks.

34. On or around July 23, 2025, I received an Assessment for Decision for involuntary transfer to Millhaven ("A4D"). On the A4D, my sex is identified as female. The A4D does not address why CSC is transferring me to a men's institution instead of to a women's institution.

35. A true copy of the Transfer A4D is attached to this affidavit as Exhibit "B".

36. I gave a rebuttal to the A4D, in which I asked not to be transferred to a men's institution, but rather to a women's institution because I am a woman. I am scared and fearful for my safety in all institutions designated for men, including Atlantic and Millhaven, because I am a woman.

37. On or around August 12, 2025, I received a final decision that I will be transferred to Millhaven.

38. A true copy of the August 12, 2025 decision is attached to this affidavit as Exhibit "C".

SWORN TO at Smith's Crossing in the Province)
Of New Brunswick, this 28 day of)
August, 2025 before me:)
)
)
)
)

Meghan Fowlie



Amanda Joy Cooper
AMANDA JOY COOPER

This is marked as "Exhibit A" to the Affidavit of Amanda Joy Cooper dated this 28 day of August 2025.

Meghan Fowle



Name: COOPER, Amanda Joy 10
FPS: 053849C
Institution: Atlantic
Date of Notification: July 30, 2025
Date: August 15, 2025
Independent External Decision Maker: M. MAJEDI

**REVIEW UNDER SECTION 37.83 OF THE CORRECTIONS AND
CONDITIONAL RELEASE ACT ("CCRA"), S.C. 1992, C.20**

I. INTRODUCTION

[1] Ms. Cooper is serving an indeterminate sentence as a Dangerous Offender. Her sentence commenced in June 2001. Ms. Cooper officially changed her name to Amanda Joy Cooper in June 2024.

[2] On November 4, 2024, she was involuntarily transferred to Atlantic Institution from the Regional Reception Centre in the Quebec Region, after her gender affirmation surgery. She was placed in the Unit 5 (integrated) unit at AI; however, she raised safety concerns about integrating into the male population. Other options such as transferring her to a quieter range were unsuccessfully discussed. She was transferred to the Structured Intervention Unit (SIU) the same day. Her SIU transfer was approved on November 12, 2024, by the Warden. This is Ms. Cooper's 6th SIU Transfer. She was previously placed in the SIU at Atlantic, Millhaven, Saskatchewan, and the Federal Training Centre. She was also placed in the Special Handling Unit (SHU) in 2002 for about 16 years.

[3] Ms. Cooper has remained in the SIU for about 9 months. On July 23, 2025, her Case Management Team decided to involuntarily transfer her to Millhaven Institution to alleviate her SIU transfer. Ms. Cooper provided a rebuttal for this transfer, stating safety concerns residing in a men's institution. She is waiting to receive the Court decision regarding her Habeas Corpus application requesting to transfer to an institution for women.

[4] On July 30, 2025, we received a notification indicating that Ms. Cooper did not spend at least four hours outside of her cell and did not interact with others at least two hours, for five consecutive days, July 25 to 29, 2025.

1 *MAJ*

[5] The notice triggers a review under section 37.83(1) of the Act. I am required to determine whether CSC took all reasonable steps to provide her with opportunities to spend the minimum time required outside of her cell and interact with others. I am also required to consider whether CSC has taken all reasonable steps to encourage Ms. Cooper to accept the opportunities offered. If I find that CSC has not complied with the requirement under section 36(1) of the Act, I may make recommendations to remedy the situation under section 37.83(2) of the Act.

[6] Under s. 37.71(1) and 37.72 of the CCRA, she was notified of this review and was provided an opportunity to speak with me and/or provide written submissions. Upon her request, a telephone interview was scheduled on August 15, 2025, and I received further information from her.

II. DECISION

[7] Based on information before me, and considering Ms. Cooper's representation, I find that CSC did take all reasonable step to provide her opportunities to spend a minimum of four hours a day outside of her cell and two hours a day interacting with others. Ms. Cooper has remained in the SIU for over 9 months at Atlantic Institution for men. Ms. Cooper is a woman, placed in a men's institution. She has reasonable and serious safety concerns regarding integrating into any male inmate population. As Ms. Cooper has declined integrating into an institution for men, she will end up going from one SIU to another. Ms. Cooper has changed her legal advocate and presently, her new lawyer is making a Habeas Corpus application. It would be helpful if her inter-regional transfer is postponed pending the Court decision. The information and reasons for this decision is noted in the Analysis section.

III. ANALYSIS

[8] In arriving at this decision, I have reviewed and considered Ms. Cooper's level of security, her Correctional Plan update, and a summary of her daily activities up to August 14, 2025.

[9] In November 2024, Ms. Cooper was transferred to the SIU at Atlantic Institution upon arriving from the Quebec Region after completing a gender affirmation surgery and raising concerns for her safety to integrate into an institution for men.

[10] Ms. Cooper's level of risk was reassessed to Maximum in July 2024 while she was residing at the Federal Training Centre. Based on the Correctional Plan Update from June 2025, she is assessed as requiring a high level of interventions based on both dynamic and static factors. Ms. Cooper is assessed as having a high need for improvement in the areas of Personal/Emotional Orientation and Attitude, she is

assessed as requiring a Moderate need for improvement in the areas of Marital/Family, Employment, and Community Functioning.

[11] While in the SIU, Ms. Cooper participated in self harming and required mental health monitoring. She also initiated a hunger strike in May 2025. Although CSC believes that forcing her into a mainstream inmate population at Atlantic "would not be conducive to her overall wellbeing" her Case Management Team is not supporting her to transfer to a women institution due to safety concerns to manage her risk. To alleviate her SIU transfer, on August 12, 2025, the inter-regional flight to Millhaven Institution was approved by the A/Deputy Commissioner – Regional Headquarters, Ontario.

[12] CSC's obligations to inmates held in an SIU are set out in s. 36(1) of the CCRA, which establishes that the CSC shall, every day, between the hours of 7:00 am and 10:00 pm, provide an inmate in a structured intervention unit,

- a) an opportunity to spend a minimum of four hours outside the Inmate's cell and,
- b) an opportunity to interact, for a minimum of two hours, with others, through activities including, but not limited to,
 - (i) Programs, interventions, and services that encourage the Inmate to make progress towards the objectives of their correctional plan or that support the inmate's reintegration into the mainstream inmate population, and
 - (ii) Leisure time.

[13] On reading the relevant sections of the CCRA, and considering the entire context of the CCRA and the object of the CCRA, two questions arise:

- 1) Did CSC take all reasonable steps to provide Ms. Cooper the opportunity to spend four hours outside of his cell each day from July 25 to 29, 2025, and did CSC encourage her to avail himself of those opportunities?
- 2) If the answer is "no" what recommendations are appropriate to remedy the situation?

[14] Upon reviewing the documents and Ms. Cooper's daily time out of cell and interactions with others up to August 14, 2025, that are recorded in the daily log in the SIU-LTE module, I noted the following:

- Ms. Cooper has not accepted offers to attend unstructured leisure and exercise due to concerns for her safety,
- She has attended healthcare visit,
- She met with the Chaplain when the meeting was offered,
- She accepted some offers to meet with the social program officer,

- She continues to accept offers to participate in her educational and correctional programs,
- She has been out of her cell about an hour or two each day, this is due for not accepting offers for unstructured leisure time due to safety concerns.

[15] Ms. Cooper has declined integrating into any male population raising serious concerns for her safety. She has requested to transfer to a women's institution. She is frustrated that without having a thorough psychological assessment, CSC views that she has returned to her offence cycle. CSC has declined to facilitate a psychological risk assessment, continues to decline transferring her to a women's institution due to her level of risk. Ms. Cooper has been on hunger strikes on and off during her stay in the SIU and has been involved in self injury behaviour on many occasions.

[16] On July 27, 2025, she accepted meeting the mental health clinician; Ms. Cooper's MHNS is assessed as Medium - Some need on June 3, 2025. She has mental health diagnosis on her file. Reports noted that she has been receiving on-going mental health services and currently, she is maintained on mental health monitor with hourly checks.

[17] On August 14, 2025, Ms. Cooper submitted the following:

- She has recently changed her lawyer, and her new lawyer is in a process of making a Habeas Corpus application,
- She has serious concerns integrating in an institution for men and, if forced, she will end up in the SIU,
- She does not agree with the notation in the document dated August 12, indicating that "there are no mental or physical health concerns related to this transfer",
- She is engaged in her intervention plans, attending school and her correctional programming and meeting with the SPO.

[18] Section 32(1) establishes that the purpose of a SIU includes allowing an inmate to participate in programs and have access to services; and subsection 32(2) requires CSC to "make every reasonable effort" to ensure human contact is not impacted by physical barriers. These provisions make clear that CSC is obligated to do more than simply go to the inmate's cell once each day to give them the chance to get out of their cell.

[19] Ms. Cooper has accepted offers to attend the MM-SIU, the ICPM High Intensity Sex Offender, and social programming. She has been engaged in her educational programming and attends school. As Ms. Cooper declined to accept offers to go to the

4 MA

yard due to safety concerns, staff should provide her alternative opens in order for her to be out of her cell for at least 4 hours each day.

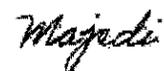
[20] Ms. Cooper is an integrated offender. She has remained in the SIU for over 9 months. Recently, CSC approved her involuntary transfer to Millhaven Institution; however, Ms. Cooper would not accept any transfer to any institution for men due to safety concerns. On July 25, 2025, she submitted a voluntary transfer application to Fraser Valley Institution.

[21] Ms. Cooper struggles with mental health issues, has remained in the SIU for over 9 months and transferring her to another institution to go directly to another SIU, is very concerning.

IV. CONCLUSION

[22] Based on all the information before me, I find CSC did meet the requirements set out in section 36(1) of the CCRA and took reasonable steps to provide Ms. Cooper with opportunities and encouraged her to participate in programs for a minimum of four hours of time out of her cell, including two hours of meaningful human contact, each day. However, as Ms. Cooper declined to accept offers to go to the yard, staff should provide her alternative options in order for her to be out of her cell for at least 4 hours each day. Furthermore, as she has reasonable safety concerns integrating into an institution for men, transferring her to Millhaven, would transfer her from one SIU to another. It would be helpful if her inter-regional transfer is postponed pending the Court decision.

M. Majedi



Independent External Decision Maker

Pursuant to the s. 23.05 of the CCRR this decision should be provided to Ms. Cooper and a representative of CSC.

V. APPENDIX

For this review, in addition to the documents that were considered for the previous decisions, I have reviewed and considered the following documents:

- Daily Activity Logs for the period July 25 to August 13, 2025,
- Casework Records, for the period July 25 to August 13, 2025,
- Assessment for Decision – Involuntary Transfer – dated July 23, 2025,

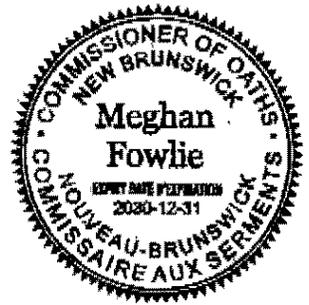
- Psychological Report, dated July 19, 2025,
- Regional Review dated July 23, 2025,
- Board Review, approving Ms. Cooper's transfer to MI, dated August 12, 2025,
- Correctional Plan Update – SIU – dated August 7, 2025, and,
- Mental Health Assessment Form – SIU – dated July 27, 2025.

15

6 *MF*

This is marked as "Exhibit B" to the
Affidavit of Amanda Joy Cooper
dated this day of 2025.

Meghan Fowle



Correctional Service
Canada

RECORDED ONCE COMPLETED
I [A] [X] B [] C
PERSONAL INFORMATION BANK

Completing Operational Unit
ATLANTIC INSTITUTION

ASSESSMENT FOR DECISION

Decision Required:

INST. TRANSFER (INVOLUNTARY)
ALLEVIATE SIU STATUS

Authority CORRECTIONAL SERVICE
Consultation

IDENTIFICATION		SENTENCE MANAGEMENT				
IFS:	053849C	Sentence:	Years	IND	Months	Days
Family Name:	COOPER	Sentence Number:		3		
Given Name(s):	AMANDA JOX	Sentence Commencement:		2001/06/20		
Sex:	FEMALE	UTA:		2018/08/09		
DOB:	1967/06/08	DPE:		2018/08/09		
Citizenship:	CANADIAN	FFE:		2021/08/09		
Deportable:	NO	SRD:				
Marital Status:	SINGLE	WED:				
Preferred Language:	ENGLISH	LTSD:				
Home Language:	GERMAN	APR:		NO		
Need for Translator:	NO	FED set at 1/2:		NO		
Alias(es):	YES	Judicial Review:		NO		
		Long Term Supervision:		NO		
		Dangerous Offender:		YES		

CASE STATUS

Schedule:	I	Release Type:	
Serious Harm Met:	YES	Release Date:	
Outstanding Charges:	NO	Cond. Release Expiry Date:	
Appeals: Crown: NO	Offender: NO	Warrant Type:	
Identification of Assistant:	NO	Warrant Issued Date:	
Identification of Elder:	NO	Warrant Status:	
Indigenous Social History Considered:		Warrant Status Date:	

AFFILIATION / 1184-02:

No Offender Affiliations

Related Correctional Plan Progress Report(s):

Related Actuarial Pool:

APPRAISAL

ASSESSMENT FOR DECISION FOR TRANSFER

CASE STATUS

This report is being generated to recommend an involuntary inter-regional transfer for Amanda COOPER to MILLHAVEN Institution to alleviate her SIU status. COOPER transferred to the SIU at Atlantic Institution on 2024-11-12 from the Federal Training Centre in Quebec. She currently resides in the Structured Intervention Unit at Atlantic Institution. At this juncture, she remains accurately classified as a maximum-security offender.

COOPER is a 58-year-old, third time Federal offender who is serving an indeterminate

ASSESSMENT FOR DECISION

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CSC 2028 (A-17-03) OMS VERS (9)

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FE 053849C OR 1967/06/08	NAME COOPER, AMANDA JOY LOC. ATLANTIC INSTITUTION
-----------------------------	------------------------------------------------------

entence as a Dangerous Offender (DO) for Sexual Assault (x4), Assault-Use of Force (x3), Forcible Confinement and Uttering Threats. Her third sentence commenced on 001-06-20. Note that there was an error in the previous documents/reports regarding the number of charges for the offence of Assault-Use of Force. She was convicted in B21 for a similar charge, now raising the number of charges to X3 rather than X2. The offences for which she was sentenced were between 1997 and 2018 (convicted for no offences while incarcerated).

COOPER is a Canadian Citizen, born in Montreal, Quebec, and speaks fluently in both English and French. There is no STG consideration in this file. She has no outstanding appeals or outstanding charges. She is not identified as a High-Profile Offender.

ISK ASSESSMENT

ISK FACTORS

COOPER has undergone full gender affirmation surgery in September 2024. She was residing at the regional hospital in the Regional Reception Centre (RRC) post-surgery. She was involuntarily transferred to Atlantic Institution on 2024-11-04. Upon arrival at Atlantic Institution site, she was met by a Correctional Manager, Security Intelligence Officer and Program Manager to discuss her needs and integration options. During the conversation, she was informed that she was identified as being able to integrate the unit 5 mainstream inmate population (integrated population). COOPER advised that she did not feel safe or comfortable integrating in a male institution having had the gender-affirmation surgery. Mitigating strategies to ensure her safety were discussed including a placement on a quieter pod at the back of a range along with safety measures in place during the unit's routine, but to no avail. As it was believed that forcing COOPER to integrate a population against her will would not achieve the desired outcome, a decision was made to transfer her to the SIU under section 34(1) (b) of the Corrections and Conditional Release Act (CCRA).

COOPER has spent substantial portions of time in the SIU since its inception. Historical information shows her SIU placements were alleviated via transfers to other maximum-security institutions.

She is not affiliated with Security Threat groups; she does have incompatibles on file but none that preclude a transfer to the proposed location. COOPER has a documented history of institutional adjustment concerns. Most recently, she has demonstrated a return to her offence cycle: reverting to behaviours such as using verbal violence, harassment and property destruction to show her disagreement with her case management team and overall management of her case.

Her security intelligence file was reviewed, there is no specific information that would preclude a transfer to the proposed location.

COOPER has participated in several intervention opportunities since her arrival in the SIU. This includes but is not limited to, CMT sessions, SIU-MM, social programs, and the Sex offender High intensity Program, which she is receiving one-on-one in the SIU. She gained employment but never opted to join a recreation group. Her SIU-CPU has remained fairly static since her SIU arrival at AI. Her CMT have encouraged her to work with them to help her reach her overall goal (transferring to a woman's site). Through her stay, multiple concerns would come up that would setback any progress made on her part. At the time of this report, COOPER's case management team

ASSESSMENT FOR DECISION

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PERSONAL INFORMATION BANK

FPS 053849C	NAME COOPER, AMANDA JOY
DOB 1967/06/08	LOC. ATLANTIC INSTITUTION

is no longer able to work efficiently with her.

COOPER identified as male at the time of her offending, given such, the actuarial tools for men will be used to assess risk. COOPER identified as a woman, at the time of this report.

A review of CD 705-7 Annex D, COOPER's index offending is considered major offence severity, serious harm was met in this case. She is a designated Dangerous Offender. The SIR is -13 showing a HIGH level of general recidivism. The CRI is 18 showing a MODERATE/HIGH static risk and a program recommendation of HIGH Intensity Sex Offender programming. COOPER was participating in the High Intensity Program from the SIU, she is still in the early stages of the program. That said, during her program participation, she has continued to show unhealthy behaviours. The undersigned opines that she remains an untreated sex offender. COOPER has not had a physically violent incidents against other staff, however she has been emotionally and psychologically violent towards staff. She has an alert on file for staff safety concerns. While in the SIU, she requires a TRA for meeting with female staff in a secured room, this TRA was never modified as she did not show manageable behaviour. At this time, COOPER is believed to be in her offence cycle making her risk for violent behaviour (be it physical, emotional, psychological) at a high risk. The most recent FRA on file shows that her risk for sexual recidivism remains well above average risk level.

Inmate Security Level Review

COOPER's OSL was last reviewed on 2024-07-22. On 2024-09-26, she was approved as a maximum security offender (see CSC Decision). The following ratings remain valid, as per the aforementioned CSC Decision sheet:

Institutional adjustment - HIGH; COOPER demonstrates an uncooperative attitude toward institutional programs and staff and presents a potentially serious management problem within an institution.

Escape risk - MODERATE; COOPER is unlikely to make active efforts to escape but may do so if the opportunity presents itself.

Public safety - HIGH; COOPER's criminal history involves violence, and the inmate has not demonstrated sufficient progress in addressing those dynamic factors which contributed to the violent behaviour or a willingness to attempt to address such factors.

OVERALL ASSESSMENT

As COOPER is unwilling to integrate Atlantic Institution, and she is no longer able to have productive interactions with her case management team, an involuntary transfer is being recommended. This transfer will provide COOPER with a safe environment that meet her program, language, cultural and security needs.

Millhaven Institution provided the following comments:
"MI has reviewed the proposed involuntary transfer of COOPER FPS 053849C from AI SIU to Millhaven Institution to alleviate her SIU status. Consultation with the Security Intelligence Department indicates that there are no known security concerns that would preclude this proposed transfer. Her programming needs of the High Intensity SO RCMP can be met at Millhaven. Of note, there are a few overdue SF's that should be addressed/completed/withdrawn as required prior to transfer. Beyond that, all outstanding casework must be completed by the sending site, in addition to anything

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TS 053849C	NAME COOPER, AMANDA JOY
DOB 1967/06/08	LOC. ATLANTIC INSTITUTION

that becomes due within 30 days of his transfer to MI. The most recent Correctional Plan Update was completed on 2024-11-18. We ask that an updated CPU be completed, should one be required as per CD 710-1 (i.e., changes in key ratings, etc.). Based on the above, MI is supportive of this proposed transfer."

consultation with the Security Intelligence department occurred and the following comments were provided:

"COOPER is an integrated offender with no STG concerns noted on file and no listed incompatibles at Millhaven Institution.

consultation occurred with Health Services and the following comments were provided: "After reviewing the medical file of COOPER, AMANDA JOY 053849C, there are no medical contraindications at this time that would hinder a transfer to another institution. If you have any other questions/concerns, please do not hesitate to contact healthcare."

consultation occurred with Mental Health Services and the following comments were provided:

"As her parole officer, you have indicated that Ms. COOPER is being considered for transfer to another Institution. As per section 87 of the CCRA, Mental Health Services has been asked to provide a transfer opinion. According to file review, Ms. COOPER is receiving on-going mental health services and is seen as per treatment plan. Based on the last Mental Health Needs Scale completed, which is dated 2025-06-03, she presents with MEDIUM/SOME needs in mental health. There is a noted history of suicide and or self-injury. Ms. Cooper is currently maintained on mental health monitoring with hourly checks. There is no evidence to suggest that she is currently suffering from an acute mental health disorder that would contraindicate a transfer at this time. Please note, because no mental status assessment interview was completed, the information provided cannot be taken to represent a comprehensive assessment regarding Ms. COOPER's current state of mental health. Prior to the transfer should staff become aware of acute mental health symptoms that could affect a transfer, they should refer the offender to Mental Health Services."

GENDER CONSIDERATIONS

COOPER has reported that she offended the way she did as a way to feel equal to cis-gender women. While there is recognition that her actions made her a threat to society as whole, there must also be recognition for the society expectations on gender. COOPER reports at the age of 7, she knew she was a woman. In the Sixties, there was little to no education on gender identities, expression or variations from the traditional cis-man and cis-woman. COOPER would have been surrounded with the traditional societal expectations that have deep rooted misogynist ideas. In COOPER's case, it would appear that this created an idea that a woman was one particular description with no variance on the definition. In absence of being able to meet this idea, COOPER reports she resorted to violence to feel in control of a body that she did not identify with. While this is not an excuse for COOPER's offences, there is a level of deep-rooted societal norms that caused harm to COOPER and her ability to function in a society that was unlikely to accept her gender identity. COOPER is highly encouraged to challenge the misogynist views that she would have learned throughout her life as to what gender identity means and how it varies.

Overall, it is recognized that Millhaven Institution can meet COOPER's security, language, cultural and program needs. It is therefore recommended that her transfer to Millhaven Institution be approved.

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VICTIM CONSIDERATIONS

Victim related concerns were reviewed, and the current recommendation does not present proximity issues. Additionally, given the continued security level recommendation of maximum security, her next location will provide enclosure.

DISSENTING OPINION

There are no known dissenting opinions in this case.

RECOMMENDATION

Involuntary Inter-regional Transfer to MILLHAVEN INSTITUTION: Approved

RECOMMENDATION

Dec. # Decision	Recommendation
320 INST. TRANSFER (INVOLUNTARY) ALLEVIATE SID STATUS	APPROVED MILLHAVEN INSTITUTION

DAY PAROLE OTHER LOCATION INFORMATION:

Other Location 1:

Community:

Comments:

Other Location 2:

Community:

Comments:

SPECIAL CONDITIONS

Dec. # Decision/Comment	Special Conditions

Completing Officer - Signature

BURNS, ELIZABETH
A/PAROLE OFFICER

Date
X M D
2025/07/23

CSC Supervisor - Signature

WALLACE, JEFFREY
A/MGR ASSESSMENT INTERVENTION

Date
Y M D
2025/07/23

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DOB 1967/06/08	LOC. ATLANTIC INSTITUTION

I acknowledge receipt of a copy of this document

Offender - Signature

Date		
Y	M	D

Copy provided to offender by:

Signature

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This is marked as "Exhibit C" to the
Affidavit of Amanda Joy Cooper
dated this day of 2025.

Meghan Fowle



SCC DEC/CSC DEC

Correctional Service
Canada

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REFERRAL DECISION SHEET FOR: INST. TRANSFER (INVOLUNTARY)

Decision Number
20

Current Institution or Address
ATLANTIC INSTITUTION

Purpose:
ALLEViate SIU STATUS

FFS Number
053849C
Family Name
COOPER
Given Name(s)
AMANDA JOY
Date of Birth
1967/06/08
Consultation Required

Current Cell Situation **STRUCTURED INTERVENTION**

Destination/Institution Requested **MILLHAVEN INSTITUTION** Region **ONTARIO** Country

ADDITIONAL RECOMMENDATIONS

REGIONAL TRANSFER BOARD

Comment:
Ms. Amanda Joy COOPER is being recommended for an involuntary inter-regional transfer to the Ontario region in order to provide her a safe environment and alleviate her Structured Intervention Unit (SIU) status.

There are gender considerations in this case as Ms. COOPER is a female offender residing at Atlantic Institution. She arrived at Atlantic Institution in November 2024 from the regional hospital in the Quebec Regional Reception Centre (RRC) following her gender-affirming surgery which occurred in September 2024. An individualized protocol was completed upon her arrival at Atlantic Institution.

Millhaven Institution indicates being able to meet Ms. COOPER's linguistic, intervention, and security needs, and has therefore, accepted her transfer.

The Notice of Involuntary Transfer (NOIT) was shared with Ms. COOPER on 2025-07-23 and she chose to provide a verbal rebuttal which has been considered in this recommendation.

There are no known victim concerns, or known mental/physical health concerns that could impede on the proposed transfer.

Ms. COOPER is not of Indigenous descent; therefore, Indigenous Social History (ISH) does not apply in the recommendation of this transfer.

Based on the above, the Regional Transfer Board is recommending that the involuntary inter-regional transfer to Millhaven Institution be approved.

Recommendation: **APPROVED**

Date
Y M D
2025/07/25

WONG, JESSICA
PROJECT OFFICER

REFERRAL DECISION SHEET FOR: INST. TRANSFER (INVOLUNTARY)
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DOB 1967/06/08	LOC. ATLANTIC INSTITUTION

REGIONAL HEADQUARTERS-ATLANTIC

ORDEN

Comment:

s. COOPER, you are a 58-year-old, third time federal offender who is serving an indeterminate sentence as a Dangerous Offender (DO) for Sexual Assault (x4), assault-Use of Force (x3), Forceful Confinement and Uttering Threats. Your third sentence commenced on 2001-06-20. These offences for which you sentenced were between 1997 and 2018 (convicted for two offences while incarcerated).

Review of the Sentence Management revealed no outstanding charges or active appeals.

ts. COOPER, you are currently residing in the Structured Intervention Unit (SIU) here at Atlantic Institution. You do have integration options at our site and have been processed for an involuntary interregional transfer to allow you to return to a mainstream inmate population. Millhaven Institution provided positive comments. The Notice of Involuntary Transfer (NOIT) was shared with you on 2025-07-23 and you opted to rebut the transfer in person on 2025-07-25.

In your rebuttal you mentioned that you do not want to go to MI or any other male institution for that matter regardless of security level. As you will not integrate due to the fact that you are now a woman and feel your safety would be in jeopardy, you also want to be able to complete module 2 of your current sex offender program and deal with your voluntary transfer to Fraser Valley which you just submitted.

I have reviewed the information available in relations to the transfer and your rebuttal. It is believed you can be managed at Millhaven Institution. As remaining in our SIU is not a long-term solution and there are other extenuating circumstances, which have affected AI's SIU. In terms of programming and your voluntary transfer application, all of these can still be accomplished while housed at MI. A case conference has also been asked to take place prior to your transfer so that you can bring up any concerns or issues you may have.

In taking section 28 of the Corrections and Conditional Release Act (CCRA), this transfer will allow you to transfer to a penitentiary that meets your linguistic, cultural, programming and security needs. This transfer will also serve to put an end to your SIU transfer as per section 33 of the CCRA. I would strongly encourage you to integrate upon arrival. There are no mental or physical health concerns related to this transfer. There are no victim considerations to take into consideration. Subsequently, I support this recommendation.

Recommendation: involuntary interregional transfer - Millhaven Institution - Approved

Recommendation: APPROVED

Date

Y M D

2025/07/25

KITCHELL, JEFF
A/WARDEN
ATLANTIC INSTITUTION

MCA ASSESSMENT INTERVENTION

Comment:

REFERRAL DECISION SHEET FOR: INST. TRANSFER (INVOLUNTARY)

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RFS 053849C NAME COOPER, AMANDA JOY
DOB 1967/06/08 LOC. ATLANTIC INSTITUTION

Ms. COOPER has been residing in the SIU since 2024-11-24. She is a maximum-security offender and has integration options at our site. She was processed for an involuntary interregional transfer to allow her to return to a mainstream inmate population. Positive comments were received from Millhaven Institution and the SIO department confirmed there is no information available precluding this transfer. There are no mental/physical health issues or victim concerns precluding such. Millhaven Institution is able to meet her security requirements, linguistic, cultural and programming needs. As a result, I support the team's recommendation for the involuntary transfer to Millhaven institution to allow Ms. COOPER to return to a mainstream inmate population and alleviate her SIU placement.

Recommendation: APPROVED

Date
Y M D
2025/07/25

ALLAGE, JEFFREY
/HER ASSESSMENT INTERVENTION
ATLANTIC INSTITUTION

FINAL DECISION

rationale:

Ms. Amanda Cooper, you have been proposed for an involuntary, inter-regional transfer to Millhaven Institution (MI) in the Ontario Region for the purpose of alleviating your Structured Intervention Unit status and providing you access to a mainstream population. You have resided on the Structured Intervention Unit (SIU) at Atlantic Institution (AI) in the Atlantic Region since 2024-11-04, having been placed there after it was determined that remaining in a mainstream population would jeopardize your safety.

There are gender considerations in this case. Identifying as male up to September 2017, Ms. Cooper then had her first conversation with Health Care surrounding her gender identity and the process of transitioning to female. She was recommended for feminizing hormones in May 2020, underwent full gender affirmation surgery in September 2024, and her sex has since been updated to female in the Offender Management System.

The Gender Considerations Secretariat has been included on consultations in this case and recommend that a Support Plan is created. This document will outline how Ms. Cooper's gender-related needs, safety and overall well-being will be addressed at and by Millhaven Institution. MI's Assistant Warden, Interventions confirmed on 2025-08-12 that this is in progress and planning has and will continue to include the mental health, health care, operations, and interventions departments at both the sending and receiving sites. Ms. Cooper is also scheduled to participate in a call with interventions and mental health staff at MI during the week of 2025-08-18.

Responsivity issues are evident and subsequently considered in this decision. Ms. Cooper was born in Montreal QC and raised by her strict, deeply religious and authoritarian parents alongside two older siblings. She denied being subject to abuse or neglect during her upbringing, although has shared that her father was often absent due to his employment, and there was a lot of conflict in the home. Ms. Cooper struggled with attention and focus in school, later demonstrating oppositional and defiant behaviour there, at home, and in the community. She described feelings of rejection in her youth due to her appearance and enuresis.

OFFICIAL DECISION SHEET FOR: INST. TRANSFER (INVOLUNTARY)

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FEDERAL COURT – TRIAL DIVISION

Between:

AMANDA JOY COOPER

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Applicant's Memorandum of Fact and LawMotion for Interlocutory Injunction

Emma Arnold & Jessica D. Rose

PATH Legal

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Index

OVERVIEW.....	2
PART I - FACTS	2
PART II - ISSUES.....	3
PART III - LAW AND ARGUMENT	4
ISSUE 1: Should this Honourable Court grant the Applicant’s motion for an interlocutory injunction?.....	5
First factor: Serious Issue to be Tried / Strong prima facie case	7
Second Factor: Irreparable Harm	10
Third Factor: Balance of Convenience	13
ISSUE 2: In the alternative, should this Honourable Court order that the application for judicial review be heard on an expedited basis?	14
PART IV – ORDER SOUGHT	16
PART V – LIST OF AUTHORITIES.....	18

OVERVIEW

1. This motion for interlocutory injunction seeks to have the Applicant, Amanda Joy Cooper, a trans woman, transferred to a prison designated for women. Presently, Ms. Cooper is being held in Atlantic Institution, a prison designated for men. Correctional Services Canada has approved her involuntary transfer to Millhaven Institution – another prison designated for men – which could take place any day.
2. Along with this motion for injunctive relief, Ms. Cooper has filed an application for judicial review, which asks the court to determine the lawfulness of the decision to transfer her to a men’s prison. In the interim, Ms. Cooper seeks an order for injunction. There is a serious issue to be tried, Ms. Cooper is experiencing irreparable harm as a woman in a men’s institution, and the balance of convenience weighs in favour of her transfer to an institution designated for women pending the outcome of the judicial review. In the alternative to the granting of an injunction, Ms. Cooper asks the court to hear her application for judicial review on an expedited basis.

PART I - FACTS

3. The factual background of this matter is set out in the Affidavit of Amanda Joy Cooper, affirmed August 28, 2025.
4. Briefly, the Applicant is incarcerated in the Structured Intervention Unit (“SIU”) at Atlantic Institution, a federal penitentiary designated for men located in Smith’s Crossing, New Brunswick. The Applicant is a 58-year-old trans woman, serving an indeterminate sentence.
5. Ms. Cooper identifies as a woman and has the anatomy of a woman. Ms. Cooper received a diagnosis of gender dysphoria in 2020 and underwent various gender-affirming surgeries on September 23, 2024, to construct her vulva, vagina and breasts. Ms. Cooper does not have a penis.
6. Ms. Cooper has mostly remained in the SIU since her surgeries in September 2024 because of serious fear for her physical safety. Ms. Cooper has been bullied, harassed, threatened and assaulted by other prisoners because of her gender. She only leaves her cell for programs,

phone calls, and meetings. The Independent External Decision Maker for the SIU recently observed that Ms. Cooper has “reasonable and serious safety concerns regarding integrating into any male inmate population” [emphasis added] and that transferring Ms. Cooper to another men’s institution is “very concerning”.¹

7. Ms. Cooper has made various requests for transfer to a women’s institution, the latest of which was submitted in July 2025. No decision has been rendered.
8. The Respondent, Correctional Services Canada (“CSC”), rendered a final decision on or around August 12, 2025, approving the Applicant’s transfer to Millhaven Institution (“the Decision”), another federal penitentiary designated for men, located in Kingston, Ontario.
9. The Applicant seeks relief by way of an application for judicial review in the Federal Court, in which she challenges the Respondent’s decision to transfer her to Millhaven, thus continuing her incarceration in institutions designated for men. This motion seeks an interlocutory injunction requiring the Respondent to transfer the Applicant to an institution designated for women pending the outcome of her judicial review application. In the alternative to injunctive relief, the Applicant seeks an order for expedited hearing of her application for judicial review.

PART II - ISSUES

10. There are two issues raised in this motion:
 - a) Should this Honourable Court grant the Applicant’s motion for an interlocutory injunction?
 - b) In the alternative, should this Honourable Court order that the application for judicial review be heard on an expedited basis?

¹ Affidavit of Amanda Joy Cooper, affirmed August 28, 2025 (“Cooper Affidavit”) at paras 30-31 and Exhibit A, paras 7 and 21.

PART III - LAW AND ARGUMENT

11. The Federal Court is authorized to grant interlocutory injunctions and expedited judicial review under *Federal Court Rules* 373 and 385:

Availability

373 (1) On motion, a judge may grant an interlocutory injunction.

Undertaking to abide by order

(2) Unless a judge orders otherwise, a party bringing a motion for an interlocutory injunction shall undertake to abide by any order concerning damages caused by the granting or extension of the injunction.

Expedited hearing

(3) Where it appears to a judge that the issues in a motion for an interlocutory injunction should be decided by an expedited hearing of the proceeding, the judge may make an order under rule 385.

Evidence at hearing

(4) A judge may order that any evidence submitted at the hearing of a motion for an interlocutory injunction shall be considered as evidence submitted at the hearing of the proceeding.²

...

385 (1) Unless the Court directs otherwise, a case management judge or a prothonotary assigned under paragraph 383(c) shall deal with all matters that arise prior to the trial or hearing of a specially managed proceeding and may

(a) give any directions or make any orders that are necessary for the just, most expeditious and least expensive outcome of the proceeding;

(b) notwithstanding any period provided for in these Rules, fix the period for completion of subsequent steps in the proceeding;

(c) fix and conduct any dispute resolution or pre-trial conferences that he or she considers necessary; and

² *Federal Courts Rules* SOR/98-106 at Rule 373 [*"Federal Court Rules"*].

(d) subject to subsection 50(1), hear and determine all motions arising prior to the assignment of a hearing date.³

12. While the Rules specifically contemplate expedited judicial review as an alternative to injunction, the court also enjoys broad authority to truncate the normal timelines pursuant to Rule 8:

Extension or abridgement

8 (1) On motion, the Court may extend or abridge a period provided by these Rules or fixed by an order.⁴

13. Federal Court Rules 358-371 provide the guidelines for filing a motion.⁵ The Court may set down dates to hear a motion, or give any direction or any orders that are necessary to ensure the just and expeditious determination of the proceeding.

ISSUE 1: Should this Honourable Court grant the Applicant’s motion for an interlocutory injunction?

14. The applicant seeks a mandatory interlocutory injunction requiring CSC to transfer her to an institution designated for women until the underlying judicial review is decided. The applicant bears the burden on a balance of probabilities to satisfy the court that all three branches of the test for interlocutory injunction have been met.
15. The legal test for interlocutory injunctions is well settled. In the leading case *RJR-MacDonald Inc v Canada*, the Supreme Court of Canada set forth the three-stage test for courts to apply when considering an application for an interlocutory injunction:

43 Metropolitan Stores adopted a three-stage test for courts to apply when considering an application for either a stay or an interlocutory injunction. First, a preliminary assessment must be made of the merits of the case to ensure that there

³ [Federal Court Rules](#) at Rule 385.

⁴ [Federal Court Rules](#) at Rule 8.

⁵ [Federal Court Rules](#) at Rules 358 – 371.

is a serious question to be tried. Secondly, it must be determined whether the Applicant would suffer irreparable harm if the application were refused. Finally, an assessment must be made as to which of the parties would suffer greater harm from the granting or refusal of the remedy pending a decision on the merits. It may be helpful to consider each aspect of the test and then apply it to the facts presented in these cases.⁶

[emphasis added]

16. However, the test for injunction should not be applied mechanically. In *Saint Mary's University v. Atlantic University Sport*, 2017 NSSC 294, the court adopted the following passage from *Injunctions and Specific Performance* (Toronto: Thomson Reuters Canada Limited, Looseleaf, updated to 2018):

48 In *Injunctions and Specific Performance* (Toronto: Canada Law Book, looseleaf), Sharpe J. warns against taking too formalistic an approach when dealing with an injunction motion, stating at 2.600 to 2.630:

Although reference has been made throughout the discussion to the *American Cyanamid* formula, it now seems clear that neither it nor its adoption by the Supreme Court of Canada should be applied mechanically. As already noted, there has been a significant retreat from the assertion that consideration of the merits should never play an important role. The seeming rigidity of the remaining items in the formula is also regrettable, and the direction given by *Cyanamid* and *RJR-MacDonald* should be seen as guidelines rather than firm rules. The terms "irreparable harm", "*status quo*" and "balance of convenience" do not have a precise meaning. They are more properly seen as guides which take colour and definition in the circumstances of each case. More importantly, they ought not to be seen as separate, water-tight categories. These factors relate to each other, and strength on one part of the test ought to be permitted to compensate for weakness on another. The Manitoba Court of Appeal has quite properly held that "it is not necessary . . . to follow the consecutive steps set out in the *American Cyanamid* judgment in an inflexible way; nor it is [*ibid*] necessary to treat the relative strength of each party's case only as a last step in the process". A similar view was expressed by the Saskatchewan Court of Appeal:

⁶ *RJR-MacDonald Inc v Canada* [1994] 1 SCR 311 ["*RJR-MacDonald*"] at para 43.

. . . the strength of case, irreparable harm and balance of convenience considerations, although prescribed and necessary parts of the analysis mandated by the Supreme Court, are nonetheless not usefully seen as an inflexible straitjacket. Instead, they should be regarded as the framework in which a court will assess whether an injunction is warranted in any particular case. The ultimate focus of the court must always be on the justice and equity of the situation in issue. As will be seen, there are important and considerable interconnections between the three tests. They are not watertight compartments.

Treating the checklist of factors as a "multi-requisite test" will often produce results which do not reflect the balance of risks and do not minimize the risk of non-compensable harm. As Lord Hoffman stated, a "box-ticking approach does not do justice to the complexity of a decision as to whether or not to grant an interlocutory injunction".

The list of factors which the courts have developed -- relative strength of the case, irreparable harm and balance of convenience -- should not be employed as a series of independent hurdles. They should be seen in the nature of evidence relevant to the central issue of assessing the relative risks of harm to the parties from granting or withholding interlocutory relief.⁷

[Citations omitted]

First factor: Serious Issue to be Tried / Strong prima facie case

17. On a motion for interlocutory injunction, the motions judge must make a preliminary assessment of whether there is a “serious issue to be tried” in the underlying application.⁸ The first element of the test for a *mandatory* interlocutory injunction typically requires the applicant to meet a higher threshold than for a prohibitory injunction: that of a “strong *prima facie* case”.⁹ While “the exact legal standard remains controversial”, an applicant for mandatory injunction generally must “demonstrate an elevated threshold beyond that of the application not being frivolous or vexatious”.¹⁰ The Supreme Court of Canada has

⁷ *Saint Mary's University v Atlantic University Sport Association*, [2017 NSSC 294](#) at [para 48](#).

⁸ *RJR-MacDonald*, *supra* at para 43.

⁹ *R v Canadian Broadcasting Corp.* [2018 SCC 5](#) (“CBC”) at [para 15](#).

¹⁰ *Calin v Canada (Public Safety and Emergency Preparedness)* [2018 FC 731](#) (“Calin”) at [para 12](#).

described the strong *prima facie* case as one where the applicant has established a “strong and clear chance of success”.¹¹

18. There is an argument to be made that the case at bar is exempt from meeting a heightened threshold. This court in *Calin* observed that certain factors militate toward applying a more relaxed threshold than a strong *prima facie* case, such as whether “the loss of the Applicant’s liberty raises a highly prejudicial form of irreparable harm”.¹² In the case at bar, Ms. Cooper is experiencing prolonged, self-imposed isolation in a segregated state because of her placement in a men’s institution. Her loss of liberty is patently severe, and a highly prejudicial form of irreparable harm. This court has consistently taken the view that the approach to the threshold “has to remain a flexible one”, particularly where the consequences of a denial of the injunction “could have dire consequences” for the applicant.¹³
19. The impugned Decision is *prima facie* unreasonable. The applicant’s circumstances readily satisfy the first element of the test, regardless of whether the threshold is a serious issue to be tried or something more stringent. Ms. Cooper is a woman with a vagina. According to CSC, her sex is “female”.¹⁴ Ms. Cooper’s placement in a men’s prison is wholly inconsistent with section 15 of the *Charter*; and the legislation and policies that govern the correctional system. This court concluded in *Boulachanis* (described in greater detail below) that “there is *prima facie* discrimination when a trans person is forced to use facilities reserved for people of their anatomical sex, when they do not correspond to their gender identity or expression”¹⁵; certainly, the gender discrimination experienced by Ms. Cooper is that much more pronounced given that her anatomy is also female.

¹¹ *CBC*, *supra* at [para 15](#).

¹² *Calin*, *supra* at [para 16](#).

¹³ *Okojie v Canada (Citizenship and Immigration)* [2019 FC 880](#) at [para 86](#).

¹⁴ Cooper Affidavit at Exhibit B.

¹⁵ *Boulachanis v Canada (Attorney General)* [2019 FC 456](#) at [para 35](#) [“*Boulachanis*”].

20. While the *Charter*¹⁶, the *Canadian Human Rights Act*¹⁷ and the *Corrections and Conditional Release Act* (“CCRA”) supply the overarching principles of non-discrimination and least restrictive confinement¹⁸ that guide correctional decision-making, Commissioner’s Directive 100: Gender Diverse Offenders (“CD 100”) provides the precise process by which trans prisoners receive their institutional placement. CD 100 unambiguously states that prisoners will be placed according to their gender identity, however in the event there are overriding health or safety concerns, a prisoner may be placed according to their sex.¹⁹ Ms. Cooper’s sex is female and her gender identity is woman. According to CSC’s own policy matrix, there is nothing to distinguish Ms. Cooper from a cisgender woman in the placement process. There is simply no lawful justification for detaining her in an institution designated for men.

21. The case of *Boulachanis* is instructive. In *Boulachanis*, the applicant, a trans woman, sought a judicial review of her placement in a men’s institution and an interlocutory injunction for transfer to a women’s institution. Unlike Ms. Cooper, Ms. Boulachanis was pre-operative and therefore had male genitalia. Notwithstanding that Ms. Boulachanis had male anatomy, this court granted the mandatory injunction, finding that the “refusal to transfer Ms. Boulachanis to a women’s institution constitutes *prima facie* discrimination”.²⁰ We note that the Federal Court’s decision to grant an injunction was

¹⁶ Section 15(1) of the *Charter* provides that “[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.”: [Canadian Charter of Rights and Freedoms](#), Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), c 11 [“*Charter*”].

¹⁷ Section 3(1) of the *Act* provides that “[f]or all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.” [emphasis added]: [Canadian Human Rights Act](#) (RSC, 1985, c H-6).

¹⁸ Two of the guiding principles in CSC’s enabling legislation require respectively that “the Service uses the least restrictive measures consistent with the protection of society, staff members and offenders” and that “correctional policies, programs and practices respect gender... differences, sexual orientation and gender identity and expression, and are responsive to the special needs of women... and other groups”: [Corrections and Conditional Release Act](#), SC 1992, c 20 at paras 4(c) and (g).

¹⁹ [CD 100](#) at para 36.

²⁰ [Boulachanis](#), *supra* at [para 3](#).

stayed by the Federal Court of Appeal, pending appeal.²¹ There is no reported decision of the appeal. However, this court has not retreated from the line of reasoning that led it to grant an injunction in *Boulachanis*. Earlier this year, the Honourable Justice Conroy granted injunctive relief to another (pre-operative) trans woman incarcerated in a men's prison, ordering CSC to transfer her to a women's prison pending the hearing of her judicial review.²²

22. Regardless of which threshold is applied, Ms. Cooper's application for judicial review satisfies the first part of the test for a mandatory interlocutory injunction. The Decision runs contrary to the applicable Commissioner's Directives, is inconsistent with the *Corrections and Conditional Release Act*, and violates the applicant's *Charter* and legislative right to be free from discrimination based on gender. The Decision to transfer Ms. Cooper to another men's prison rather to a women's prison is unreasonable, and the Applicant's ultimate success on judicial review is not merely probable but very likely.

Second Factor: Irreparable Harm

23. The Supreme Court in *RJR-MacDonald* described this second stage of the interlocutory injunction test as follows:

58 At this stage the only issue to be decided is whether a refusal to grant relief could so adversely affect the applicants' own interests that the harm could not be remedied if the eventual decision on the merits does not accord with the result of the interlocutory application.

59 "Irreparable" refers to the nature of the harm suffered rather than its magnitude. It is harm which either cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other. Examples of the former include instances where one party will be put out of business by the court's decision; where one party will suffer permanent market loss or irrevocable damage to its business reputation; or where a permanent loss of natural resources will be the result when a challenged activity is not enjoined. The fact that one party may be impecunious does not automatically determine the application in favour of

²¹ *Canada (Procureur général) c Boulachanis* [2019 FCA 100](#).

²² *Bagnald v Attorney General of Canada* (Court File No. T-982-25), oral decision issued March 24, 2025 (written reasons pending).

the other party who will not ultimately be able to collect damages, although it may be a relevant consideration.²³

[citations omitted]

24. Where there is evidence that an event will cause “some level of harm” to the Applicant, this element of the injunction test will be made out.²⁴ In the context of continued placement in a correctional facility that does not align with an individual’s gender identity, evidence that such placement would cause psychological distress establishes irreparable harm. The stresses and harms resulting from being incarcerated in a men’s institution cannot be undone by a later transfer to an institution designated for women.²⁵ Rather, these harms will continue to accumulate for the duration of the Applicant’s detention in an institution designated for men and cannot be reversed.
25. The Applicant is distressed at the prospect of being held in an institution designated for men for any longer than she’s had to endure already and strongly opposes her continued detainment in an institution designated for men on two grounds. First, the Applicant’s incarceration at a men’s institution is seriously harming her mental and physical wellbeing. Ms. Cooper has an ongoing, realistic fear for her safety.²⁶ She has participated in “self injury behaviour on many occasions” while in the SIU,²⁷ and requires mental health monitoring with hourly checks.²⁸ Ms. Cooper has been bullied and harassed because of her gender since she began the process of coming out, to the extent that she staged a hunger strike to urge CSC to place her in a safer unit.²⁹ However, since her gender-affirming surgeries, she has additional reasons to fear being sexually victimized.³⁰ In a review dated August 15, 2015, the Independent External Decision Maker for the SIU noted Ms. Cooper’s mental health challenges³¹ and echoed Ms. Cooper’s

²³ *RJR-MacDonald*, *supra* at paras 58-59.

²⁴ *Devlin v Canada (Attorney General)* 2020 NSSC 238 at para 11 [“Devlin”].

²⁵ *Devlin*, *supra*, at para 12.

²⁶ Cooper Affidavit, paras 14 and 26.

²⁷ Cooper Affidavit, Exhibit A at para 15.

²⁸ Cooper Affidavit, Exhibit A at para 16.

²⁹ Cooper Affidavit, paras 10-11.

³⁰ Cooper Affidavit, para 26.

³¹ Cooper Affidavit at para 31 and Exhibit A, para 21.

anxiety about her safety, noting her “reasonable and serious safety concerns regarding integrating into any male inmate population”.³²

26. Second and relatedly, Ms. Cooper is, and will remain, in a self-imposed segregated state while incarcerated at a men’s institution. She leaves her cell only for essential meetings and appointments, and as a result, has very little meaningful interaction with others.³³ On weekends, Ms. Cooper sometimes leaves her cell for only 20-30 minutes in a day.³⁴ Ms. Cooper’s lack of time outside her cell and scarcity of social interaction has been so significant to attract the IEDM review process.³⁵ It is widely recognized by Canadian courts that segregation “imposes a psychological stress capable of producing serious permanent observable negative mental health effects”³⁶ and is thereby “a form of irreparable harm that can support an application for an interlocutory injunction”, where other criteria are met.³⁷
27. There is no reasonable basis to conclude that Ms. Cooper will be safer to integrate into the general population at a different men’s institution - a perspective that is shared by the IEDM, who notes that “transferring her to another institution to go directly to another SIU, is very concerning”.³⁸ Though Ms. Cooper acknowledges that an order for injunction is the jurisdiction of the court and not the IEDM, it is notable that the IEDM observed it “would be helpful if her inter-regional transfer is postponed pending the Court decision” on the lawfulness of her placement.³⁹
28. In *Boulachanis*, CSC argued that transferring the applicant to a different men’s institution would relieve her fear for her safety and therefore her segregated state, but the court rejected this argument, finding that “the threat Ms. Boulachanis is facing, from what one can reasonably infer, is the result of prejudices against trans people that would largely be

³² Cooper Affidavit at para 30 and Exhibit A, para 7.

³³ Cooper Affidavit, para 27.

³⁴ *Ibid.*

³⁵ Cooper Affidavit at para 28.

³⁶ *Boulachanis* at para 63, citing *Canadian Civil Liberties Association v Canada*, [2019 ONCA 243](#) at para 73.

³⁷ *Boulachanis* at para 66.

³⁸ Cooper Affidavit at paras 30 and 36, and Exhibit A, paras 7 and 21.

³⁹ Cooper Affidavit at Exhibit A, para 22.

widespread in the male prison population... It can be assumed that a similar threat would rapidly emerge in another men's institution...".⁴⁰ It is reasonable to infer that Ms. Cooper would remain in an SIU range after her transfer to Millhaven, and that only a women's institution will offer a sufficiently safe environment for her to integrate into the general population.

Third Factor: Balance of Convenience

29. 21. In *RJR-MacDonald*, the Court described the third and final element of the injunction test in these terms:

62 The third test to be applied in an application for interlocutory relief was described by Beetz J. in *Metropolitan Stores* at p. 129 as: "a determination of which of the two parties will suffer the greater harm from the granting or refusal of an interlocutory injunction, pending a decision on the merits". In light of the relatively low threshold of the first test and the difficulties in applying the test of irreparable harm in Charter cases, many interlocutory proceedings will be determined at this stage.

63 The factors which must be considered in assessing the "balance of inconvenience" are numerous and will vary in each individual case. In *American Cyanamid*, Lord Diplock cautioned, at p. 408, that:

[i]t would be unwise to attempt even to list all the various matters which may need to be taken into consideration in deciding where the balance lies, let alone to suggest the relative weight to be attached to them. These will vary from case to case.

He added, at p. 409, that "there may be many other special factors to be taken into consideration in the particular circumstances of individual cases."⁴¹

30. The Applicant will suffer greater damage if she is held in an institution designated for men for the duration of her incarceration than the Respondent will suffer if the injunction is granted. As detailed earlier in these submissions, the Applicant remains at risk of diverse and serious

⁴⁰ *Boulachanis supra* at [para 61](#).

⁴¹ *RJR-MacDonald supra* at paras 62-63.

harms while incarcerated at Atlantic Institution and will be burdened by the same harms if transferred to Millhaven.

31. Ms. Cooper submits that she does not pose a risk to the safety of the offenders or staff at institutions designated for women such that the balance of convenience favours the Respondent. However, to the extent that the Respondent attributes risk to the Applicant's placement in an institution designated for women, it has the expertise and resources to ensure the safety and security of the Applicant and the institution, just as it does in relation to other woman prisoners who present risk. It is therefore no answer for CSC to rely on its assessment of Ms. Cooper's security risk to seek her continued placement in an institution that does not correspond to her sex or gender.
32. The balance of convenience favours the Applicant. Ms. Cooper respectfully submits that the tri-partite test is met, and the Court ought to grant the interlocutory injunction requiring CSC to transfer her to an institution for women.

ISSUE 2: In the alternative, should this Honourable Court order that the application for judicial review be heard on an expedited basis?

33. If the court dismisses Ms. Cooper's motion for injunction, it is authorized under Rules 8 and 373(3) to order the judicial review to proceed on an expedited basis.⁴² The factors to be considered on a motion to abridge timelines are as follows:
 - a) Whether the proceeding is really urgent or does the moving party simply prefer the matter be expedited;
 - b) Whether prejudice will ensue to the responding party if the matter is expedited;
 - c) Whether the matter will be moot if it is not expedited; and
 - d) Whether expediting the matter will prejudice other litigants by jumping the queue.⁴³

⁴² *Federal Court Rules* at Rule 8 and 373(3).

⁴³ *St-Cyr v Canada (Attorney General)* [2021 FC 107](#) at [para 16](#).

34. In the recent decision of *MacKinnon v Canada*⁴⁴, this court observed that “[i]n assessing prejudice to the responding party, the Court may consider the nature and complexity of the proceeding... If the issues raised and the evidentiary record are not complex, this will weigh in favour of granting the request for an expedited hearing... However, if those issues or the evidentiary record are complex, this will weigh against granting the request.”⁴⁵ Ultimately, the court must ensure that an expedited schedule does not compromise the fairness of the proceeding.⁴⁶
35. The parties could be ready quickly for the application for judicial review. The facts and evidentiary record are not expected to be complex. CSC will not be prejudiced by a quick hearing; it is aware that Ms. Cooper wishes to be transferred to a women’s institution⁴⁷ and presumably is cognizant of the issues Ms. Cooper has raised in her application for judicial review.
36. In *Imperial Oil Resources Ventures Limited v. Canada (Fisheries and Oceans)*⁴⁸, the court heard a motion for injunctive relief relating to a ministerial authorization of an oil sands project. In the underlying judicial review application, the applicant Imperial Oil challenged Canada’s decision to withdraw its authorization for an oil sands project. Imperial Oil sought an injunction prohibiting Canada from withdrawing the authorization which would have had the effect of allowing Imperial Oil to begin construction on a “huge”⁴⁹ mining project. Alternatively, Imperial Oil sought an expedited hearing for judicial review.
37. The court dismissed the injunction motion but granted the applicant’s request for an expedited judicial review hearing, pursuant to Rule 373(3). The court’s reasons suggest that while a serious issue was made out, there was insufficient evidence of the irreparable harm to the applicant, “especially if the Application for Judicial Review is heard on an expedited basis”.⁵⁰

⁴⁴ *MacKinnon v Canada (Attorney General)* [2025 FC 105](#) [“*MacKinnon*”].

⁴⁵ *MacKinnon supra* at [para 26](#).

⁴⁶ *MacKinnon supra* at [para 39](#).

⁴⁷ Cooper Affidavit at para 25.

⁴⁸ *Imperial Oil Resources Ventures Limited v. Canada (Fisheries and Oceans)* [2008 FC 382](#) [“*Imperial Oil*”].

⁴⁹ *Imperial Oil* at [para 2](#).

⁵⁰ *Imperial Oil supra* at [para 21](#).

The court concluded that “a short term delay will most likely not be a major impediment in the overall schedule of the project. Moreover, Imperial Oil stands to loose [sic] a lot more if they were to do more work and expand further capital investment, only to see their Application for Judicial Review dismissed by the Court in a year or so.”⁵¹ The court ordered the judicial review hearing to take place approximately six weeks following the motion hearing.

38. The case at bar can be distinguished in important ways from *Imperial Oil*. First, the court in *Imperial Oil* did not have compelling evidence of irreparable harm in the record. On the other hand, Ms. Cooper faces palpable threats to her physical and emotional wellbeing at the hands of prisoners and staff and is living in a segregated state to protect herself from harm. Second, an injunction granted for *Imperial Oil* would have resulted in the initiation of a large-scale oil sands project, which would have been exceedingly difficult to reverse if the application for judicial review had eventually been dismissed. Here, Ms. Cooper’s motion for injunction seeks to have her placed in a women’s institution. If her judicial review application ultimately fails, Ms. Cooper’s placement in a women’s prison is easily reversible by CSC.
39. Though dealing with very different subject matter, the *Imperial Oil* decision nevertheless confirms that where important, time-sensitive issues are brought to the court that do not meet the threshold for granting an injunction, the court is empowered to order very quick timelines for judicial review, perhaps on a schedule proposed by counsel.⁵² We submit that while an interlocutory injunction is the appropriate remedy in the circumstances, if the court dismisses the injunction motion, it ought to order an expedited judicial review. The proceeding is urgent and there is no significant prejudice to CSC if the filing and hearing deadlines are abridged.

PART IV – ORDER SOUGHT

40. The Supreme Court has declared that the “[t]he fundamental question is whether the granting of an injunction is just and equitable in all of the circumstances of the case.”⁵³ Granting the applicant’s motion for an interlocutory injunction requiring CSC to transfer the Applicant to a

⁵¹ *Imperial Oil supra* at [para 23](#).

⁵² *Imperial Oil supra* at [para 26](#).

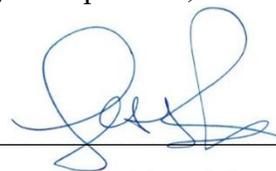
⁵³ *Google Inc v Equustek Solutions Inc*, [2017 SCC 34](#), at [para 25](#).

women's institution is both just and equitable in the given circumstances. If the court declines to grant the motion, an expedited judicial review would be appropriate, to ensure the reasonableness of Ms. Cooper's placement is determined promptly.

41. The Applicant respectfully requests that this Honourable Court grant her motion for injunction, or alternatively, an expedited hearing for judicial review.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Dartmouth, in the Province of Nova Scotia, this 3rd day of September, 2025.



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Counsel for the Respondent

PART V – LIST OF AUTHORITIES

Acts & Regulations

1. *Federal Courts Act* [RSC 1985, c F-7](#)
2. *Corrections and Conditional Release Act* [S.C 1992 c. 20](#)
3. *Canadian Human Rights Act* [RSC 1985 c H-6](#).
4. *Canadian Charter of Rights and Freedoms Part 1 of the Constitution Act 1982*, being [Schedule B to the Canada Act 1982 \(UK\), c 11](#).

Jurisprudence

1. *Boulachanis v Canada (Attorney General)* [2019 FC 456](#).
2. *Calin v Canada (Citizenship and Immigration)* [2018 FC 707](#).
3. *Canada (Attorney General) v Boulachanis* [2019 FCA 100](#).
4. *Canadian Civil Liberties Association v Canada* [2019 ONCA 243](#).
5. *Devlin v Canada (Attorney General)* [2020 NSSC 238](#).
6. *Google Inc. v Equustek Solutions Inc.* [2017 SCC 34](#).
7. *Imperial Oil Resources Ventures Limited v. Canada (Fisheries and Oceans)* [2008 FC 382](#).
8. *MacKinnon v Canada (Attorney General)* [2025 FC 105](#).
9. *Okojie v Canada (Citizenship and Immigration)* [2019 FC 880](#).
10. *R v Canadian Broadcasting Corp.* [2018] [1 SCR 196](#).
11. *RJR – MacDonald Inc. v. Canada (Attorney General)* [1994] [1 S.C.R. 311](#).
12. *Saint Mary's University v. Atlantic University Sport Association* [2017 NSSC 294](#).
13. *St-Cyr v Canada (Attorney General)* [2021 FC 107](#).

Other Sources

1. [Commissioner's Directive 100:Gender diverse offenders](#)

Court File No.: T-3278-25
HALIFAX REGISTRY

FEDERAL COURT

BETWEEN:

AMANDA JOY COOPER

Applicant

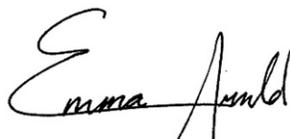
and

ATTORNEY GENERAL OF CANADA

Respondent

SOLICITOR'S CERTIFICATE OF SERVICE – FORM 146B

I, Emma Arnold, Solicitor, certify that I caused the Respondent, The Attorney General of Canada, to be duly served with the Motion Record of the Applicant for the Applicant's Motion for Injunction and Letter to the Court, by email to Laura Rhodes and Kaitlin Stephens of the Federal Department of Justice, on September 4, 2025.



(Signature of Solicitor)



T-3278-25 - Motion for Interlocutory Relief

From Emma Arnold <e.arnold@pathlegal.ca>

Date Thu 2025-09-04 4:19 PM

To Rhodes, Laura (she/her/elle/la) <laura.rhodes@justice.gc.ca>; Stephens, Kaitlin (she/her/elle/la) <kaitlin.stephens@justice.gc.ca>

Cc Grant, Emily <emily.grant@justice.gc.ca>; Megan MacDonald <m.macdonald@pathlegal.ca>

 2 attachments (2 MB)

2025-09-04 - Cover letter for Injunction Motion.pdf; 2025-09-04 - Motion Record of Applicant.pdf;

Good afternoon Laura and Kaitlin,

Please find attached the Applicant's cover letter to Court and motion record for her motion for interlocutory relief in relation to the above-noted matter. Both documents will be filed with the court this afternoon.

Thank you,
Emma

Emma Arnold (she/her)

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