

F I L E D	FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE	D É P O S É
March 31, 2025		
Charlotte Torgerson		
EDM	26	

**Court File No.: A -33-25**

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

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**APPELLANTS' RESPONSE TO MOTION RECORD OF MARK LOLACHER**

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Valour Law  
412, 12 Vandelor Road  
St Albert, Alberta T8N 7Y2  
**Per: Catherine M. Christensen**

1. The Motion Against Discontinuance by Mark Lolacher (“Lolacher”) primarily seeks to set aside a Notice of Partial Discontinuance on Federal Court matter T-1296-23 that, it is alleged, was filed without Lolacher’s consent. The Motion argues that this action violated Federal Court Rules and the Law Society of Alberta Code of Conduct, as it was done without Lolacher’s knowledge or consent, thereby breaching professional obligations. It is the Appellants’ position that Lolacher’s failure to act on the requirements to be named as an Applicant in the Appeal was his withdrawal from further actions taken in the matter. The Appellants had all complied with a new Legal Services Agreement with Valour Legal Action Centre as well as paid any additional expense for an Appeal.

### **Dismissal of Federal Court Matter T-1296-23**

2. This matter is brought before the Federal Court as Mass tort first filed in June 2023. There was a decision on November 13, 2024, which dismissed the matter (“Coughlan decision”)<sup>1</sup>.
3. It is the Appellants’ position that only Plaintiffs that have pursued Appeal currently have standing in the matter before the Federal Court of Appeal. Lolacher does not have this standing as he failed to retain counsel and/or file for an extension of time to Appeal the Coughlan decision as a self-represented party.
4. The legal principle is that once a case is dismissed by a lower court, the case is considered completed unless an appeal is filed. This means that without filing an appeal, the decision of the lower court stands as final. Legal representation ended with the dismissal. Each Plaintiff in the original action then chose whether to retain counsel for an Appeal or to accept the end of the matter. No withdrawal of counsel under Rule 125(1) or discontinuance under Rule 165 was therefore necessary for the Plaintiffs not pursuing Appeal. Lolacher was one of the original Plaintiffs who did not retain counsel and/or meet the deadlines for participating in the Appeal as an Applicant.
5. The Partial Discontinuance referred to in this Motion, however, was demanded by Clerks at Federal Court as well as the Attorney General counsel for those Plaintiffs from the original pleadings who were not named in the Appeal.<sup>2</sup> The Appeal was not going to be

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<sup>1</sup> Federal Court Decision of November 13, 2024, attached as **Exhibit A**

<sup>2</sup> Emails with the Federal Court Clerks and Attorney General, attached as **Exhibit B**

accepted for filing unless the Partial Discontinuance was submitted by the Appellants. This is the procedure for class proceeding--not for a mass tort and therefore should not have been part of the process for the Appeal.

## **Opposing the Use of the Federal Court of Appeal for a Motion That Should Have Been Filed in Federal Court**

### **Introduction**

6. The issue before the Court is whether a Motion that was improperly filed in the Federal Court of Appeal, rather than the Federal Court, should be entertained by this Court. It is the Appellants' submission that the Motion to restore Lolacher as a Plaintiff/Appellant should not proceed in the Federal Court of Appeal, as it was not filed in the correct forum, and that procedural integrity, the proper allocation of judicial resources, and the rule of law all require that the Motion be dismissed.
7. While we understand the desire to proceed expeditiously, we submit that allowing the Federal Court of Appeal to hear a Motion that was incorrectly filed in this Court would undermine the principles of jurisdiction, judicial efficiency, and fairness. We respectfully request that the Motion be dismissed for the reasons discussed below.

### **The Federal Court of Appeal's Jurisdiction**

8. The jurisdiction of the Federal Court of Appeal is strictly defined by statute and case law. The *Federal Courts Act*, R.S.C. 1985, c. F-7, grants the Federal Court of Appeal appellate jurisdiction to hear appeals from decisions of the Federal Court and certain tribunals.<sup>3</sup> However, the Court of Appeal does not have original jurisdiction to hear Motions that properly belong before the Federal Court.
9. Motions of the nature before the Court today are typically heard by the Federal Court, which has exclusive jurisdiction over most matters of first instance under federal law. The Federal Court is tasked with adjudicating Motions such as judicial review applications, procedural Motions, and applications for interlocutory relief. As such, the Federal Court of Appeal does not possess the original jurisdiction necessary to hear this Motion. This is a fundamental procedural rule that ensures that matters are heard in the proper forum, in

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<sup>3</sup> [\*Federal Courts Act\*, R.S.C. 1985, c. F-7, s27](#)

accordance with established legal principles and the division of jurisdiction between the two courts.

10. The filing of a Motion in the wrong Court cannot be remedied by allowing the Motion to proceed in the Federal Court of Appeal. Doing so would set a dangerous precedent, permitting litigants to bypass the established jurisdictional rules, resulting in confusion and a potential overload of the appellate court's docket.

### **The Integrity of Jurisdictional Rules**

11. The division of jurisdiction between the Federal Court and the Federal Court of Appeal is a core feature of Canada's legal framework. The integrity of these rules must be preserved to maintain the proper functioning of the judicial system. Allowing a Motion that should have been filed in the Federal Court to proceed in the Federal Court of Appeal would undermine the careful balancing of jurisdictional authority between the two courts.
12. In *Canada (Attorney General) v. Mavi* (2011), 2 S.C.R. 504, the Supreme Court emphasized that Courts must respect their defined jurisdictions to ensure that litigants receive appropriate relief, and that the legal system operates efficiently and in accordance with law.<sup>4</sup> Bypassing the procedural rules by allowing Motions to be heard in the wrong forum would erode this principle and encourage future violations of jurisdictional boundaries.
13. Further, the Federal Court of Appeal's primary role is appellate in nature—reviewing decisions made by the Federal Court and certain tribunals, not acting as a Court of first instance for Motions. The hearing of Motions in the wrong forum would lead to unnecessary complications and confusion about the respective roles of the two Courts, ultimately weakening the consistency and predictability of our legal system.

### **Procedural Integrity and Legal Certainty**

14. The procedural integrity of our legal system demands that parties adhere to the appropriate processes when filing Motions. To allow this Motion to proceed in the Federal Court of Appeal would send the message that procedural rules can be disregarded

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<sup>4</sup> [\*Canada \(Attorney General\) v. Mavi\* \(2011\), 2 S.C.R., 504](#)



when it is convenient to do so. Such an approach would erode the certainty and predictability of legal proceedings.

15. In *R. v. Black* (2001), 2 S.C.R. 355, the Supreme Court reiterated that procedural rules should not be lightly disregarded, as doing so may compromise the fairness of proceedings and the integrity of the judicial process.<sup>5</sup> The proper procedure ensures that Motions are heard by the appropriate judges, with the necessary procedural protections in place. The Federal Court of Appeal, lacking original jurisdiction, is not equipped to handle Motions in the same manner as the Federal Court.
16. Additionally, failure to respect these rules would open the door to forum shopping, where litigants may strategically file Motions in the court, they believe will be most favorable to their case, rather than in the court that has proper jurisdiction. This would undermine fairness and the principles of equal access to justice.

### **Judicial Efficiency and Resource Allocation**

17. The Federal Court of Appeal is an appellate court, and its resources are designed to deal with appeals and judicial reviews from decisions made in the Federal Court. Allowing a Motion that should have been filed in the Federal Court to be heard here would detract from the Court's primary responsibilities and burden its docket unnecessarily. The Federal Court of Appeal is already tasked with handling important appellate matters and has limited resources to address Motions that fall under the purview of the Federal Court.
18. It is imperative that judicial resources be allocated efficiently, and this includes ensuring that Motions are heard in the appropriate forum. The Federal Court, with its focus on first instance matters, is better suited to address the Motion in question. Transferring the matter back to the Federal Court would allow for an efficient resolution while respecting the proper allocation of judicial duties.

### **The Importance of Procedural Fairness**

19. Finally, permitting the Federal Court of Appeal to hear a Motion that was filed in error would compromise the fairness of the judicial process. The parties involved may not have prepared their arguments in a manner appropriate for an appellate court. Given that the

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<sup>5</sup> [\*R. v Black\* \(2001\), 2 S.C.R. 355](#)

Federal Court of Appeal is not the appropriate forum for this Motion, the parties may not have anticipated that this Court would be addressing the issues. As a result, this could lead to a lack of procedural fairness for the parties, as they would have to adapt to a court that is not designed to hear the matter at hand.

## **Conclusion**

20. For the foregoing reasons, we respectfully submit that the Motion should not be heard by the Federal Court of Appeal. The Motion was improperly filed in this Court, and it belongs within the jurisdiction of the Federal Court. Allowing this Motion to proceed in the Federal Court of Appeal would violate the established principles of jurisdiction, procedural integrity, and judicial efficiency. It would also set a troubling precedent, undermining the fair and consistent operation of our legal system.
21. We request that this Motion be either dismissed or transferred back to the Federal Court for proper adjudication.

## **Incorrect Procedures Before the Court**

22. Lolacher has brought an incorrect Motion before the Court by asking for the Partial Discontinuance to be overturned for his personal case against the government. Rule 27(2)(a) outlines the timeline for the Appeal of an interlocutory Judgment which informs Lolacher that the timeline was ten (10) days to file a Notice of Appeal. As he failed to do so, it is the Appellants' submission that the correct Motion is for an Extension of Time under Rule 8(2) Extension of Time.
23. Lolacher cites in his Motion Rule 334 of the Federal Courts Rules which states that a foreign judgment registered, or an arbitral award, recognized under Rule 327 cannot be executed or enforced until proof of service of the registration or recognition order is filed, unless the court orders otherwise. Perhaps he meant to refer to Rules 334.21, 334.23, 334.3, and 334.31 which are for class proceedings; however, this action named is a mass tort therefore Rules pertaining to class proceedings do not apply.

**Bringing a Motion in Federal Court of Appeal for an Issue Which Should First Go to a Professional Tribunal and then to the Court of King's Bench of Alberta**

**Introduction**

24. The issue before this Court concerns whether a Motion related to Ms. Christensen's representation of Lolacher should be heard in the Federal Court, or whether it must first be brought before the relevant professional tribunal and then, if necessary, appealed to the Court of King's Bench of Alberta. It is the Appellants' submission that this Motion is not properly before the Federal Court and/or Federal Court of Appeal and should not be entertained at this stage.
25. The Appellants are not party to any complaints or claims Lolacher wishes to bring against Ms. Christensen nor is Ms. Christensen a party to the action. Lolacher's claims against Catherine M. Christensen are properly dealt with in Law Society of Alberta complaint process. Contrary to the non-disclosure requirement set out by the Law Society of Alberta<sup>6</sup>, Lolacher reveals a complaint submitted to the Law Society of Alberta in his Motion Record at Exhibit D of his Affidavit.<sup>7</sup> This breach by Lolacher to any party outside the Law Society and Ms. Christensen requires the Court's intervention to protect the confidentiality of the complaint process.
26. The issue at hand pertains to a professional disciplinary issue, which by statute and established legal principles must first be addressed by the relevant professional tribunal. Only after a decision has been rendered by the tribunal should the matter be taken to the Court of King's Bench of Alberta for judicial review or other appropriate relief, and not directly to the Federal Court. We respectfully submit that the Federal Court lacks jurisdiction to hear this matter at this stage and that the proper course of action is to first seek resolution through the professional tribunal and then, if necessary, pursue judicial review in the appropriate Alberta court.

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<sup>6</sup> *Legal Professions Act* s 78(3)

<sup>7</sup> Affidavit of Mark Lolacher of March 20, 2025, at Exhibit D, attached as **Exhibit C**

## **Jurisdiction of the Federal Court**

27. The Federal Court's jurisdiction is clearly defined by the *Federal Courts Act*, R.S.C. 1985, c. F-7, and is limited to matters arising under federal law. As a Court of limited jurisdiction, the Federal Court can hear cases involving federal legislation, disputes involving the federal government, and certain other matters as provided by statute. However, issues that fall under provincial jurisdiction, such as matters involving professional conduct or regulatory issues within provincial bodies, do not fall within the Federal Court's mandate unless specifically outlined in federal legislation.
28. In this case, the issue concerns a professional discipline matter, which is governed by provincial legislation and overseen by a provincial professional tribunal. As such, it falls squarely within the jurisdiction of the provincial system, and the Federal Court has no jurisdiction to hear the matter directly. The Motion should not be brought in the Federal Court because it involves a matter that is properly within the jurisdiction of a professional tribunal under provincial law.

## **Requirement for Professional Tribunal Review**

29. Many professional regulatory bodies, such as the Law Society of Alberta, are established by provincial legislation to regulate the conduct of their members and make decisions on matters related to professional discipline or regulatory compliance. These bodies are the appropriate forum for resolving disputes concerning professional conduct, licensing, and other regulatory matters.
30. In Alberta, for example, professional regulatory issues fall within the jurisdiction of the professional tribunal or body established by the relevant provincial statute. The tribunal has the specialized knowledge and authority to address the specific regulatory issues at hand. The process followed by the tribunal typically includes a hearing, a decision, and an opportunity for the parties to seek judicial review of that decision in the appropriate court.
31. If Lolacher wishes to bring a claim against Ms. Christensen, then the Court of King's Bench is the appropriate Court. The Alberta Court of King's Bench has jurisdiction over claims against lawyers licensed in Alberta. In *Templanza v Ford* 2018 ABQB 168 ("*Templanza*"), Ms. Templanza brought multiple actions against various lawyers and law

firms in Alberta stemming from a failed condominium purchase and subsequent legal disputes.<sup>8</sup> The Court ultimately dismissed the claims and declared Ms. Templanza a vexatious litigant.<sup>9</sup> A lawyer owes a duty of care to their client, not to opposing parties, unless foreseeable harm and sufficient proximity create a reasonable expectation of protection.<sup>10</sup> In this case, Ms. Christensen owes a duty of care the Appellants, not to Lolacher who failed to retain her services for this Appeal.

32. In *HOOPP Realty Inc v Emery Jamieson LLP*, 2018 ABQB 276 (“*HOOPP Realty Inc*”), HOOPP Realty sued its lawyers for negligence after losing a claim against a contractor due to a missed arbitration deadline.<sup>11</sup> A client's knowledge of an issue is deemed to be the knowledge of their lawyer, except regarding potential claims against the lawyer.<sup>12</sup> Lolacher was aware of the dismissal decision and the options regarding Appeal as well as the case ending if no Appeal was brought.
33. In addition, the Federal Court of Canada has long emphasized that issues that fall under the jurisdiction of an administrative body must first be addressed through that administrative process before judicial review can be sought. In *Neri v. Canada* 2021 FC 1443, the Court held that judicial review of decisions of administrative bodies should not be bypassed by direct recourse to the courts. Instead, the party seeking relief must exhaust the administrative process, allowing the tribunal to first address the issue. The Court’s rationale was that administrative bodies possess specialized expertise that courts lack and allowing these bodies to first make determinations ensures that decisions are based on a full understanding of the relevant context.<sup>13</sup>
34. Similarly, in *Qualizza et al v. HMTK* 2024 FC 1801, the Court reinforced the principle that administrative bodies must be given the opportunity to address issues within their specialized domain before courts intervene.<sup>14</sup> The case affirmed the necessity of following the appropriate administrative procedures, with judicial review being reserved

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<sup>8</sup> *Templanza v Ford*, 2018 ABQB 168, (“*Templanza*”) at paras 1-12

<sup>9</sup> *Templanza*, at paras 151-152

<sup>10</sup> *Templanza*, at paras 70-71

<sup>11</sup> *HOOPP Realty Inc v Emery Jamieson LLP*, 2018 ABQB 276 (“*HOOPP Realty Inc*”), at paras 1-14

<sup>12</sup> *HOOPP Realty Inc* at paras 210-211

<sup>13</sup> *Neri v. Canada*, 2021 FC 1443

<sup>14</sup> *Qualizza et al v. HMTK*, 2024 FC 1801

as a secondary remedy. This principle ensures that disputes are resolved efficiently and by the bodies best equipped to handle them.

35. In light of these precedents, the proper process in this case requires the matter to be heard by the relevant professional tribunal first. Only after that tribunal has issued a decision should the matter be taken to the Court of King's Bench of Alberta for judicial review, should the parties wish to challenge the decision. The Federal Court is not the appropriate forum for this matter at this stage.

### **Judicial Review in the Court of King's Bench of Alberta**

36. Under Alberta's *Judicial Review Act*, R.S.A. 2000, c. J-2, decisions made by administrative bodies such as professional tribunals can be reviewed by the Court of King's Bench of Alberta.<sup>15</sup> The judicial review process ensures that decisions made by these tribunals are consistent with the law and principles of natural justice. However, the proper forum for initiating judicial review is the Court of King's Bench, not the Federal Court.
37. Civil actions against lawyers are subject to judicial review and may be struck if deemed frivolous or vexatious. *Arabi v Alberta*, 2014 ABQB 295 ("*Arabi*") involved a civil action against various parties, including the Law Society of Alberta, alleging malicious prosecution and Charter breaches. The Court struck the action as frivolous and vexatious, demonstrating that while simultaneous actions are possible, they are subject to judicial scrutiny.<sup>16</sup> The Court in *Arabi* noted that the Law Society has no private duty of care to a lawyer's client during the complaint process.<sup>17</sup> The *Charter* does not apply to private individuals, and the Law Society is immune from such claims.<sup>18</sup>
38. In *Canada (Attorney General) v. Mavi* (2011), 2 S.C.R. 504, the Supreme Court emphasized that judicial review is not a matter for the Federal Court unless the matter arises under federal jurisdiction.<sup>19</sup> In the case at hand, the decision in question involves a provincial professional tribunal, and as such, the appropriate next step would be to seek

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<sup>15</sup> *Judicial Review Act*, R.S.A. 2000, c. J-2

<sup>16</sup> *Arabi v Alberta*, 2014 ABQB 295, ("*Arabi*") at paras 16-18

<sup>17</sup> *Arabi* at paras 50-51

<sup>18</sup> *Arabi* at paras 55-56

<sup>19</sup> *Canada (Attorney General) v. Maxi*, (2011), 2 S.C.R. 504

judicial review in the Court of King's Bench of Alberta. Bringing this matter directly to the Federal Court would contravene this established process.

### **Avoiding Forum Shopping and Ensuring Procedural Integrity**

39. Allowing a Motion to proceed in the Federal Court when it clearly belongs in the provincial system would open the door to forum shopping, where parties may attempt to bypass established processes by choosing a forum they perceive to be more favorable to their position. This undermines the integrity of the legal system and the careful division of jurisdiction between federal and provincial courts.
40. The principle of judicial economy also requires that matters be resolved in the appropriate forum, ensuring that each court can focus on its designated areas of jurisdiction. The Federal Court is not equipped to handle matters that fall under the purview of provincial regulatory bodies, nor is it the appropriate court to conduct a judicial review of decisions made by professional tribunals. To preserve the integrity of the legal system and the proper allocation of resources, the Motion should be brought before the professional tribunal first, and judicial review, if necessary, should occur in the Court of King's Bench of Alberta.

### **Practical Considerations and Avoiding Unnecessary Delay**

41. Finally, allowing the Motion to proceed in the Federal Court would result in unnecessary delay and complexity. If this Motion were to proceed here and later be transferred or dismissed for lack of jurisdiction, the parties would be required to start the process over in the proper forum, leading to duplication of effort and unnecessary delays in resolving the issue. This is contrary to the interest of justice, which requires timely and efficient resolution of disputes.

### **Conclusion**

42. For the foregoing reasons, we respectfully submit that this Motion should not be heard by the Federal Court. The issue raised by the Motion falls within the jurisdiction of a professional tribunal, which has the expertise and authority to handle such matters. Following the decision of the tribunal, judicial review, if necessary, should be sought in the Court of King's Bench of Alberta. The Federal Court is not the appropriate forum for

this matter and allowing it to proceed here would violate established principles of jurisdiction, judicial economy, and procedural fairness.

### **Third Party Attempting to Bring a Motion in the Federal Court of Appeal Against the Named Parties**

43. Lolacher has not filed a third-party claim against Ms. Christensen in accordance with Rule 196(1) and he does not have standing to file a Motion in this Appeal as he is not a named Applicant for the Appeal. The issue of whether a third party can properly bring a Motion in the Federal Court of Appeal against the named parties in this case must be addressed. It is the Applicant's submission that a third party's Motion in the Federal Court of Appeal is not permissible in the circumstances described, as such a Motion contravenes the procedural rules and jurisdictional limitations of the Court. For the reasons set forth below, the Motion cannot proceed in the Federal Court of Appeal and should be dismissed.

### **Jurisdiction of the Federal Court of Appeal**

44. The Federal Court of Appeal has limited jurisdiction as defined under the *Federal Courts Act*, R.S.C. 1985, c. F-7.<sup>20</sup> The Court is primarily an appellate court, tasked with hearing appeals from decisions made by the Federal Court, as well as certain decisions of federal tribunals and bodies. In general, the Federal Court of Appeal does not have original jurisdiction to hear Motions from third parties unless the matter is directly related to an appeal or judicial review of a decision made by the Federal Court or another federal body.
45. It is well-established that the Federal Court of Appeal does not serve as a forum for original Motions or applications brought by parties who are not directly involved in the matter before the Court. In order for the Federal Court of Appeal to have jurisdiction over a Motion, the Motion must be related to an appeal or a matter within its appellate function. As Lolacher failed to retain counsel along with the other Appellants and failed to bring a Motion for Extension of Time to bring a Notice of Appeal as a self-represented party, he is no longer a party directly involved in the matter.

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<sup>20</sup> [\*Federal Courts Act\*, R.S.C. 1985, c. F-7](#)



46. In *Canada (Attorney General) v. Mavi* (2011), 2 S.C.R. 504, the Supreme Court reinforced the principle that the Federal Court of Appeal has appellate jurisdiction and is not a court of first instance.<sup>21</sup> The Court's jurisdiction is limited to reviewing decisions made by the Federal Court or federal administrative bodies. A third party, who is not involved in an underlying matter before the Federal Court of Appeal, cannot initiate a Motion in this Court.
47. It is well established that a Court must accept counsel's ethical reasons for no longer representing any litigant in legal proceedings, especially if counsel is "required to withdraw in order to comply with his or her professional obligations".<sup>22</sup> It stands, therefore, that this Court does not have the jurisdiction to grant Lolacher the relief he seeks to be a named party in the Appeal brought by Ms. Christensen on behalf of her clients.

### **Standing of a Third Party to Bring a Motion in the Federal Court of Appeal**

48. In order for a party to bring a Motion before any Court, including the Federal Court of Appeal, that party must demonstrate "standing" or a legitimate interest in the subject matter of the Motion. Standing is generally granted to parties who are directly affected by the decision or order in question.
49. A third party—who is not a party to the appeal or matter before the Federal Court of Appeal—lacks the necessary standing to bring a Motion in this Court unless that third party can show they are directly affected by the outcome of the proceedings. This is in line with the principles of standing as outlined in *Thompson v. Canada* (2008), 2 FCR 303, where the Federal Court held that a third party without a direct, tangible interest in the case cannot initiate proceedings in the Court.<sup>23</sup>
50. Unless the third party in question can show a substantial and direct interest in the matter at hand, their attempt to bring a Motion in the Federal Court of Appeal will fail for lack of standing. Lolacher fails to show in his Motion how he, or Ms. Christensen, have a substantial and direct interest in this matter. His Motion Record is an attack on his former

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<sup>21</sup> *Canada (Attorney General) v. Mavi* (2011), 2 S.C.R. 504

<sup>22</sup> *R v Cunningham* 2010 SCC 10 para 48 and 49

<sup>23</sup> *Thompson v. Canada*, (2008) 2 FCR 303

lawyer rather than an argument to place him as a self-represented Applicant in the Appeal.

### **Lack of Jurisdiction for Original Motions in the Federal Court of Appeal**

51. The Federal Court of Appeal does not have the jurisdiction to hear Motions that are not directly related to an appeal, judicial review, or other matters specifically authorized by the *Federal Courts Act*. For example, in cases where the dispute does not involve a decision from the Federal Court or a federal body, the Federal Court of Appeal has no jurisdiction over such Motions.
52. In *R. v. Black* (2001), 2 S.C.R. 355, the Supreme Court of Canada reiterated that appellate courts, including the Federal Court of Appeal, do not have the authority to hear original Motions or actions.<sup>24</sup> The role of an appellate court is to review decisions made by lower courts or tribunals, not to address new issues or bring third parties into matters that are outside of the scope of an appeal.
53. The third party in question, if not involved in the original action or appeal, does not have the right to initiate proceedings in the Federal Court of Appeal. This Court's function is not to entertain Motions from unrelated parties without an existing legal relationship to the case.

### **Proper Forum for a Third Party's Motion**

54. If the third party believes they have a legitimate issue or grievance that requires legal redress, they must pursue their claims in the appropriate forum. If the matter is connected to federal legislation or jurisdiction, the third party may need to bring their Motion before the Federal Court, or, depending on the nature of the dispute, a provincial court or tribunal. If the third party seeks to challenge a decision involving the named parties, they must first determine whether they have the necessary standing and jurisdictional basis to pursue the matter in a Court of competent jurisdiction.
55. If the third party believes their Motion is based on some form of public interest or involves a matter of broader significance, they may be able to make their case in a Court

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<sup>24</sup> [\*R. v. Black\*, \(2001\), 2 S.C.R. 355](#)

that has jurisdiction over such issues, but the Federal Court of Appeal is not the appropriate forum for initiating this action.

### **Avoiding Abuse of Process**

56. Allowing a third party to bring a Motion in the Federal Court of Appeal in a case where they have no standing or jurisdictional basis would encourage abuse of the legal process. The Court's limited resources should not be diverted to matters involving parties who do not have a legitimate stake in the proceedings. Courts are intended to resolve disputes between parties who are directly involved in a legal matter, and permitting Motions by third parties could lead to unnecessary delays, inefficiencies, and confusion within the judicial system.
57. Moreover, allowing such Motions could lead to a situation where any party could attempt to involve themselves in ongoing legal proceedings, regardless of their connection to the matter. This would undermine the orderly conduct of legal proceedings and the proper allocation of judicial resources.
58. Lolacher has brought a Motion within this matter which leaves the Appellants and Respondents at a loss for a fulsome response. This offends two principles. First, a litigant has no obligation to respond to and refute bald and unsubstantiated allegations. Second, some of these pleadings offend the Rule in *kisikawpimootewin v Canada*, 2004 FC 1426 at paras 8-9, 134 ACWS (3d) 396, that litigation is an abuse of court processes when a "... defendant cannot know how to answer, and a court will be unable to regulate the proceedings ...", "bare assertions and bald statements" leave the defendant "... both embarrassed and unable to defend itself ...", and the court is unable to identify the intended argument and/or specific material facts, see also *R v Fearn*, 2014 ABQB 233 at para 23, 586 AR 182; *Arabi v Alberta*, 2014 ABQB 295 at paras 85-86, 589 AR 249; *Lee v Canada (Attorney General)*, 2018 ABQB 40 at paras 135, 141.<sup>25</sup> As Gill J observed in *Arabi v Alberta*, there is no need for a court or responding litigant to answer to claims

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<sup>25</sup> *Kisikawpimootewin v. Canada*, 2004 FC 1426, 134 ACWS (3d) 396, at paras 8-9; see also: *R. v. Fearn*, 2014 ABQB 233, 586 AR 182, at para 23; *Arabi* at paras 85-86, *Lee v. Canada (Attorney General)*, 2018 ABQB 40 at paras 135, 141

that are “gibberish”, which “simply make no sense”, or which are “illogical, impenetrable claims”.

## **Conclusion**

59. For the foregoing reasons, we respectfully submit that the Motion brought by the third party in the Federal Court of Appeal should not proceed. The Federal Court of Appeal does not have jurisdiction to hear Motions from third parties who are not involved in an appeal or judicial review, and the third party lacks the necessary standing to initiate proceedings in this Court. Additionally, the Federal Court of Appeal is not the appropriate forum for original Motions, particularly where the Motion has no direct connection to an ongoing appeal or matter before the Court.

## **Lawyer-Client Privilege in Federal Court of Canada**

### **Introduction**

60. The issue before this Court concerns the assertion of lawyer-client privilege, a fundamental principle that safeguards the confidentiality of communications between a lawyer and their client. This privilege exists to promote open and honest communication, ensuring that clients can seek legal advice and representation without fear that their confidential communications will be disclosed. In the context of the Federal Court of Canada, we submit that this privilege applies to the documents and communications in question, and that the balance of interests favours upholding the privilege.

### **The Legal Basis of Lawyer-Client Privilege in Canada**

61. Lawyer-client privilege is a well-established common law principle in Canada. The Supreme Court of Canada has confirmed its importance in several key cases, most notably in *Solosky v. The Queen* (1980), 1 S.C.R. 821. In this case, the Court emphasized that the privilege exists to encourage clients to communicate freely with their legal counsel, which, in turn, promotes the administration of justice.<sup>26</sup>

62. In the Federal Court, the application of this privilege is grounded in both the common law and statutory frameworks, such as the *Canada Evidence Act*, R.S.C. 1985, c. C-5. Section

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<sup>26</sup> [\*Solosky v. The Queen\*, \(1980\), 1 S.C.R. 821](#)

9 of the *Canada Evidence Act* specifically provides for the protection of communications between a lawyer and their client in the course of seeking legal advice.<sup>27</sup>

### **The Scope of Lawyer-Client Privilege**

63. The privilege extends to both oral and written communications, provided that they meet the following criteria:

- a. The communication must be made in confidence.
- b. The communication must be for the purpose of seeking or receiving legal advice.
- c. The communication must be between the client and the lawyer, or their representative.

64. The privilege covers not only the content of the communication but also the existence of the communication itself, as established in *R. v. McClure* (2001), 1 S.C.R. 445.<sup>28</sup> This is significant because it prevents the disclosure of information that could indirectly reveal a client's legal strategy, or the nature of the advice sought.

### **The Rationale for Protecting Lawyer-Client Privilege**

65. The underlying rationale for lawyer-client privilege is to ensure the proper functioning of the legal system by promoting candid and uninhibited communications between a client and their lawyer. In the absence of this privilege, clients may be reluctant to disclose all relevant facts to their lawyers, undermining the lawyer's ability to provide effective representation. This in turn could prejudice the client's legal interests and the fair administration of justice.

66. This principle is recognized not only in Canadian jurisprudence but also internationally. In the United States, the privilege is similarly protected under the *Attorney-Client Privilege*, and in the European Union, the privilege is enshrined under the European Court of Human Rights, which recognizes that legal professional privilege is an essential element of the right to a fair trial.

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<sup>27</sup> *Canada Evidence Act*, R.S.C. 1985, c. C-5, at s9

<sup>28</sup> *R. v. McClure*, (2001), 1 S.C.R. 445

## Exceptions to the Privilege

67. While lawyer-client privilege is a fundamental right, it is not absolute. There are recognized exceptions where the privilege may be waived, such as:
68. Where the communication was made for the purpose of committing or furthering a crime or fraud (the crime-fraud exception).
69. Where the privilege is waived by the client, either expressly or by conduct.
70. In cases where the communication is required by law, such as in circumstances where national security concerns are implicated.
71. In the case at hand, no exception to the privilege has been raised. There is no evidence to suggest that the communication was made for an unlawful purpose, nor have any of the clients waived their right to claim privilege.

## The Balancing of Interests

72. While the principle of transparency in litigation is an important consideration, it must be balanced against the need to preserve the sanctity of lawyer-client privilege. In *R. v. Bryan* (2007), 1 S.C.R. 518, the Supreme Court reiterated that the privilege is not to be easily overridden, as it protects the right to effective legal counsel and the integrity of the justice system as a whole.<sup>29</sup>
73. Lolacher has used solicitor-client communications without the consent of the Appellants who were also in receipt of these communications.<sup>30</sup>
74. Due to this disclosure, Lolacher has prejudiced the Appellants by revealing privileged communications, including legal advice given to the Appellants, to the Defendants and their counsel in Exhibit G of his Affidavit.<sup>31</sup> The use of privileged documents in legal proceedings is tightly regulated. The case of *Canada Trust Co (McDiarmid Estate) v Alberta (Infrastructure)*, 2021 ABQB 873, illustrates the importance of establishing the relevance and materiality of privileged documents before they can be used in court. In

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<sup>29</sup> [\*R. v. Bryan\* \(2007\), 1 S.C.R. 518](#)

<sup>30</sup> Affidavits of the Plaintiffs/Appellants, attached as **Exhibit D**

<sup>31</sup> Affidavit of Mark Lolacher, of March 20, 2025, at Exhibit G, attached as **Exhibit C**

this case, the court denied the use of settlement agreements between the defendant and other landowners, finding them not sufficiently relevant to the plaintiffs' case.<sup>32</sup>

75. Lolacher, as a former client, used privileged communications in his attempts to bring a Motion.<sup>33</sup> This use then resulted in them being given to opposing counsel. It could be argued that Lolacher has waived privilege, at least concerning the information disclosed; however, the Appellants have not waived privilege. This could have significant implications for the case, potentially affecting the admissibility of the evidence and the strategy of the legal proceedings. *Canadian National Railway Co. v McKercher LLP*, 2013 SCC 39 (“*Canadian National Railway Co*”)<sup>34</sup> and *R. v Neil*, 2002 SCC 70<sup>35</sup> further supports the argument that a lawyer owes a duty of loyalty to the client, which includes acting in the client's best interests and avoiding conflicts of interest. These cases emphasize that a lawyer must not compromise the client's legal position without informed consent, thereby protecting the privilege of communications.
76. The Attorney General counsel has now been placed into a conflict of interest after being privy to the Appellants’ privileged information. *Canadian National Railway Co.* articulates the dimensions of a lawyer's duty of loyalty, including avoiding conflicts of interest, commitment to the client's cause, and candour. A breach of these duties may result in disqualification, as seen in *Canadian National Railway Co* where the law firm was disqualified for breaching the bright line rule and duties of commitment and candour by representing a class action against CN while simultaneously representing CN.<sup>36</sup>
77. It needs to also be considered that a full and complete defence to this Motion would require using privileged communications. The Appellants do not consent to this disclosure. In the situation where a former client uses privileged communications in a Motion and shares it with opposing counsel without either the Appellants’ consent and the lawyer's consent, several legal principles and potential consequences come into play.
78. Firstly, solicitor-client privilege is a cornerstone of Canadian legal practice, protecting communications between a lawyer and their client made for the purpose of seeking or

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<sup>32</sup> *Canada Trust Co (McDiarmid Estate) v. Alberta (Infrastructure)*, 2021 ABQB 873, at [paras 70-73](#)

<sup>33</sup> Motion Record of Mark Lolacher 1, dated March 6, 2025, attached as **Exhibit E**; and Motion Record of Mark Lolacher 2, filed March 20, 2024, attached as **Exhibit F**

<sup>34</sup> *Canadian National Railway Co. v McKercher LLP*, 2013 SCC 39 (“*Canadian National Railway Co*”)

<sup>35</sup> *R. v Neil*, 2002 SCC 70

<sup>36</sup> *Canadian National Railway Co.*, at [para 10](#)

giving legal advice. This privilege is intended to encourage open and honest communication between clients and their legal advisors.<sup>37</sup> The privilege belongs to the client, and only the client can waive it, either explicitly or implicitly.

79. The Court cannot ask for evidence related to the lawyer-client relationship to support the relief sought by Lolacher. The lawyer-client relationship was terminated when the Appeal period lapsed and Lolacher did not retain Ms. Christensen for the Appeal. The Court has no jurisdiction to order Ms. Christensen to accept Lolacher as a client or party to the Appeal despite his vexatious and improper Motion demanding this relief.<sup>38</sup>
80. In Alberta, the Legal Profession Act stipulates that a lawyer must not disclose any information acquired in the course of their professional relationship with a client without the client's consent, except in specific circumstances such as compliance with a court order or to prevent serious harm.<sup>39</sup>
81. The case of *0678786 BC Ltd v Bennett Jones LLP* illustrates that inadvertent disclosure of privileged information does not automatically result in a waiver of privilege. The Court of Appeal of Alberta held that the privilege remains with the original client and cannot be waived by the lawyer's actions.<sup>40</sup>
82. However, in *Miller v. Miller*, 2000 ABQB 12 (“*Miller v. Miller*”), the Court found that privilege could be waived unintentionally if fairness and consistency in the proceedings require disclosure. In that case, the use of a similar document in court proceedings led to an implied waiver of privilege.<sup>41</sup> In *Miller v. Miller*, Mr. Miller waived privilege on a draft letter by using a similar final version. The Court deemed an implied waiver for fairness, allowing Ms. Miller to explore the circumstances surrounding changes to the draft.<sup>42</sup> Ms. Miller's lawyer was removed from the case due to her use of a likely stolen privileged document from Mr. Miller.
83. If a former client uses privileged communications in a motion and shares them with opposing counsel, it could be argued that the client has waived privilege, at least concerning the information disclosed. This could have significant implications for the

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<sup>37</sup> *University of Calgary v Alberta (Information and Privacy Commissioner)*, 2021 ABQB 795, at [paras 20-22](#)

<sup>38</sup> *R v Cunningham* 2010 SCC 10 para 48 and 49

<sup>39</sup> Legal Profession Act, RSA 2000, c L-8, at s 112(1)-(2)

<sup>40</sup> *0678786 BC Ltd. V. Bennett Jones LLP*, 2021 ABCA 62, at paras [21-24](#), [42-47](#)

<sup>41</sup> *Miller v. Miller*, 2000 ABQB 12 (“*Miller v. Miller*”), at paras [4](#), [39-40](#)

<sup>42</sup> *Miller v. Miller*, at paras [37](#), [39-41](#)



case, potentially affecting the admissibility of the evidence and the strategy of the legal proceedings.

84. In the case before this Court, disclosing the communications in question would compromise the Appellants' ability to seek legal advice freely and without reservation, undermining their right to a fair trial. Therefore, the balancing of interests' favour upholding the lawyer-client privilege in this matter.

### **Conclusion**

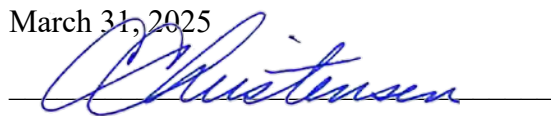
85. For the reasons set out above, we respectfully submit that the communications in question are protected by lawyer-client privilege and should not be disclosed. The privilege is a cornerstone of our legal system, and any attempt to breach it without a clear, compelling justification would undermine the integrity of the judicial process and the fundamental rights of the client. We urge this Court to uphold the privilege and protect the confidential nature of the communications in question.

### **Relief Sought**

- a. The Motion by Mark Lolacher be dismissed in its entirety for lack of jurisdiction and standing;
- b. A finding that the communications in question are protected by lawyer-client privilege and order that they be excluded from disclosure in these proceedings;
- c. All records of this Motion be sealed to maintain confidentiality, or, in the alternative, the Law Society of Alberta complaint and all solicitor-client communications be sealed and/or removed from public access;
- d. The Attorney General counsel be removed from further involvement in the file due to conflict of interest that prejudices the Appellants; and
- e. Solicitor-client costs to be paid by Mark Lolacher.

All of which is respectfully submitted.

March 31, 2025



Catherine M, Christensen  
Barrister & Solicitor

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

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**APPELLANTS' EXHIBITS**

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Valour Law  
412, 12 Vandelor Road  
St Albert, Alberta T8N 7Y2  
**Per: Catherine M. Christensen**

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**A**

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Date: 20241113

Docket: T-1296-23

Citation: 2024 FC 1801

Edmonton, Alberta, November 13, 2024

**PRESENT:** Madam Associate Judge Catherine A. Coughlan

**BETWEEN:**

**FRANCESCO GABRIELE QUALIZZA, JOEL THOMAS WILLIAM ELLIS,  
PATRICK MERCIER, JILL LYNE DUCHESNEAU, JOSEPH BENJAMIN  
STEWART, ERIC DAVID FAUCHER, SCOTT PETER BACON, STEPHEN TROY  
CHLEDOWSKI, AMANDA LEIGH BENHAM, JOSHUA MARTIN MCCULLOCH,  
KYLE CORRIVEAU, JOSEPH DANIEL ERIC LOUIS MONTGRAIN, DUSTIN  
SHANE WIEBE, STEPHEN WJ MORRIS, DAVID GARCIA VARGAS, MICHAEL  
JOSEPH LIS, NATASHA KATRINA LIS, SOLANGE SINE DJOUECHE, PETER  
VLASSOV, FREDERIC VILLENEUVE-NORMAND, ESTATE OF JONATHAN  
EMMERSON JENKINSON, VALENTIN LAVROV, MARIE-EVE LABONTE, JESSE  
DALE FRIESEN, TANIA CATHERINE NORDLI, ANDRZEJ SKULSKI, DENNIS  
JOHN PAUL TONDREAU, EMMY-LOU LAURIE FORGET, DALLAS ALEXANDER  
FLAMAND, CHELSEA ELAINE ROGAL, BARON HORDO, TAYLOR MICHAEL  
HARVIE, VANESSA RAE LAROCHELLE, JACQUELINE MARIE FRANCE  
BOEHME, JAMES PAUL DANIEL FORMOSA, KAITLYN E CAMPBELL, LUCAS  
TIMOTHY VANCUREN, JERMAINE SHERIDAN BURRELL, ANTHONY DAVID  
HIATT, MICHAEL ST-LAURENT, ARMAND EDWARD A. GARNER, AMIT SODHI,  
CAMILLE FELIX J TURGEON, SAMANTHA GWENDOLYN STYLES, CAROL-  
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KIRA ANNE YAKIMOVICH, MATHIEU W PETIT-MARCEAU, KIMBERLY  
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WARD FORSTER BROWN, DANIS DOIRON, CARL JOSEPH D RIVEST-MARIER,  
JAROSLAW T CIESINSKI, STEPHEN WILLIAM HOLT, RANDOLPH RAYMOND  
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 NEUFELD, LAURA LEE NICHOLSON, KERI MERRIAM NIXON, JONATHAN  
 NOEL, JOSHUA BRUCE OLSON, CAROLINE MARY AUDREY OUELLET,  
 JOSEPH ANTHONY PAPALIA, MELANIE MARIE I. PARE, ALEXANDRU  
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 QUILLAN, ROMAIN RACINE, DOMINIC LAURENS WILLIAM RAGETLI,  
 STEPHANE RATTE, BRYAN THOMAS RICHTER, WILLIAM RIOS, JENNA  
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 ALEXANDER DAVID ROSEN, SEBASTIEN SALVAS, CAMERON RAY S.  
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 TSCHETTER, SHELLEY DIANE TULLY, MAGALI TURPIN, JULIAN PHILIP  
 TUTINO, GREGORY VINCENT-WALKER, CADE AUSTIN WALKER, BRENNEN  
 BO ANTHONY WATSON, BENJAMIN KYLE WESTON, MATTHEW MAX  
 WHICHER, JOSHUA JAMES WHITE, ANDREW ERNEST WILKOWSKI, DONALD  
 JAMES WILLIAMS, CURTIS MALCOM WILSON, WADE GEORGE WILSON,  
 ANDREW DEAN WYCHNENKA, MARC ZORAYAN, BRANDON TYLER PETER  
 ZWICKER, WILLIAM H L LEVI WALL, KAREN PAIGE NIGHTINGALE, MARC-  
 ANTOINE POULIN, KEEGAN MARSH, RYAN MICHAEL, THOMAS PATRICK  
 HAYES, JAMES MARK CHARLEBOIS, HALSTON RANDAL NICHOLSON,  
 MELISSA-JANE SARAH KRIEGER, GIANLUCA LUCHETTA, BENJAMIN JAMES  
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 OCEGUERA, JOHN NESRALLAH, DANIEL NINIAN RODRIGUES, CORY JASON  
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 MACDONALD, PAUL DAVID WILSON, BRENDAN V. T. LEBERT, JOCELYN  
 LAMOTTE, ANTHONY J. DUKE, RILEY MALCOLM MACPHERSON, KIM NOEL  
 LAUZON, KURTIS ROCKEFELLER RUTHERFORD, SERGIU GEORGE CANDEA,  
 JESSE HENRY FIELD, WILLIAM EDWARD BRENDON, CAMERON SAMUEL  
 NOBERT, DAVID HOUDE, ALYSSA JOY BLATKEWICZ, COLIN PERRY KAISER,  
 FABRICE DOURLANT, CORY LANCE GARGIN, ANITA GRACE HESSLING,  
 JENNIFER BETHANY FRIZZLEY, DAVID ANDREW BENSON, BRANDON JOHN  
 ARMSTRONG, REJEAN BERUBE, JEAN-PHILIPPE JOSEPH BOUCHARD,  
 DHILLON DAVID COLE, PIERRE-OLIVIER COTE-GUAY, IAN M MENZIES, ERIC

**MONNIN, ELLIOT GAMACHE, NICHOLAS NEIL LLOYD CROCKER, ROBERT  
ALLAN HENDERSON, GABRIEL GILLES RJ RAMSAY, DEVIN JAMES  
MCKENNA**

**Plaintiffs**

**and**

**HIS MAJESTY THE KING IN RIGHT OF CANADA,  
CHIEF OF THE DEFENCE STAFF GENERAL WAYNE  
EYRE, VICE CHIEF OF DEFENCE STAFF  
LIEUTENANT-GENERAL FRANCES J ALLEN,  
LIEUTENANT GENERAL JOCELYN J M J PAUL, VICE  
ADMIRAL ANGUS I TOPSHEE, AND LIEUTENANT  
GENERAL ERIC J KENNY, MINISTER OF NATIONAL  
DEFENCE, THE HONOURABLE ANITA ANAND,  
FORMER DEPUTY MINISTER OF NATIONAL  
DEFENCE JODY THOMAS, SURGEON GENERAL  
MAJOR-GENERAL JGM BILODEAU, CHAPLAIN  
GENERAL BRIGADIER-GENERAL JLG BELISLE,  
JUDGE ADVOCATE GENERAL REAR-ADMIRAL  
GENEVIEVE BERNATCHEZ, AND BRIGADIER  
GENERAL LIAM WADE RUTLAND**

**Defendants**

### **JUDGMENT AND REASONS**

#### **I. Overview**

[1] The Defendants, represented by His Majesty the King in Right of Canada [Canada], bring this motion to strike the Plaintiffs' Statement of Claim without leave to amend, pursuant to Rule 221 of the *Federal Courts Rules*, SOR/98-106 [Rules].



[2] Canada argues that the Statement of Claim should be struck because it lacks the basic elements of a proper pleading and fails to disclose a reasonable cause of action. Further, Canada asserts that the Court should decline to exercise its jurisdiction to entertain the action in favour of the legislated grievance regime available to the Plaintiffs.

[3] The Plaintiffs oppose this motion. They argue that read holistically, the Statement of Claim discloses a reasonable cause of action and should not be struck. Moreover, the Plaintiffs argue that this Court ought to exercise its discretion to hear the action because the Canadian Armed Forces' [CAF] statutory grievance process cannot provide the requested remedies.

[4] For the reasons that follow, I am satisfied that the Statement of Claim fails to disclose a reasonable cause of action and must be struck without leave to amend. I am also satisfied that the Court should not exercise its residual discretion to entertain the action.

## **II. Background**

[5] The within action is a mass tort claim brought on behalf of 330 current or former members of the CAF.

[6] Several Defendants are named in this action. They include Canada, the Chief of the Defence Staff and eight other senior members of the Defence Staff, the former Minister of National Defence, and the former Deputy Minister of National Defence. All Defendants are represented by Canada in this proceeding.

[7] In 2021, the COVID-19 vaccination requirements for CAF members were set out in a series of Directives. Together, the Directives mandated that all members of the CAF be fully vaccinated against COVID-19. Exemptions were articulated for individual CAF members on the grounds of certified medical contraindications, religious grounds, or other prohibited grounds of discrimination, as specified by the *Canadian Human Rights Act*, RSC, 1985 c H-6. Failure to comply with the Directives could result in CAF members facing administrative and remedial measures, including release from the CAF.

[8] The Plaintiffs filed an initial Statement of Claim on June 21, 2023. An amended Statement of Claim was filed on July 28, 2023. The amended Statement of Claim (the “pleading”) is at issue on this motion.

[9] The Plaintiffs’ pleading alleges that the vaccination requirements under the Directives infringed the *Canadian Charter of Rights and Freedoms* [Charter] rights under s.2(a), s.2(d), s.7, s.8, and s.15(1). The Plaintiffs assert that none of the breaches are justifiable under s.1 of the *Charter*. The pleading also makes a range of allegations against each of the individual Defendants, and seeks declarations of “unlawful acts” and “breach of public trust,” among others. The Plaintiffs seek damages of \$1 million for each Plaintiff, \$350,000 for failure to comply with various statutes, regulations, and administrative policies, as well as unspecified special damages.

[10] It is noteworthy that the personal circumstances of each of the 330 Plaintiffs varies considerably. For example, according to a chart prepared by Canada from the pleading, there are roughly 120 Plaintiffs who are currently members of the CAF, while others have left the service

voluntarily, or were discharged. Some members received a COVID-19 vaccine, while others did not. All the Plaintiffs appear to object, in some manner, to the vaccine mandate under the Directives.

[11] The pleading addresses the circumstances of each Plaintiff in individual paragraphs. Each paragraph identifies the individual Plaintiff and provides some details about their CAF service, including rank, service role, and length of service. The paragraph states whether the Plaintiff received a COVID-19 vaccine and whether they sought and received an exemption under the Directives. Allegations are made about the Plaintiff's experiences after receiving, or declining to receive, the vaccine. The paragraph also sets out some of the Plaintiff's personal circumstances, such as family situation and place of residence. Each paragraph closes by noting whether the individual remains with the CAF, has resigned, or has received a discharge. Where applicable, the grounds for discharge are provided.

[12] On July 12, 2024, Canada filed the within motion to strike the pleading in its entirety, without leave to amend. The motion was originally scheduled to be heard on August 20, 2024. The hearing was adjourned because the Plaintiffs failed to meet the original filing deadlines prescribed by the Court. Late filing of the Plaintiffs' motion materials was accepted on August 15, 2024. As noted in my Written Direction of August 15, 2024, the materials submitted were not compliant with the *Rules*, but were nevertheless accepted for filing. My Direction provided that the noted anomalies in the filed materials were to be addressed at the hearing of the matter.

[13] The Court heard oral submissions from the parties on September 19, 2024 at Edmonton, Alberta.

### **III. Issues**

[14] The issues to be decided on this motion are:

- (a) Should the pleadings be struck without leave to amend pursuant to Rule 221 of the *Rules*?
- (b) Should the Court decline to take jurisdiction over this action?

#### **A. *Preliminary Issues***

[15] As noted above, a preliminary issue at the hearing of this matter was the improper filing of the Plaintiffs' motion materials.

[16] The form of motion materials is precisely prescribed by the *Rules*. Rule 363 provides that any facts to be relied upon by a party on motion should be set out in an affidavit. Rule 365(2) provides that appropriate sources may be referenced, attached to the affidavit, and included as part of the motion record. However, only affidavits and sources that are referred to in written submissions are to be included in the motion record.

[17] The Plaintiffs filed 34 affidavits of individual Plaintiffs with their motion materials. Some of these affidavits pre-date the filing of the initial Statement of Claim yet bear the style of cause and action number of the proceeding. Further, not all of the additional affidavits were referenced in the Plaintiffs' written representations.

[18] The Plaintiffs also attached secondary sources to their motion record. The secondary sources were styled as "Appendices" and were not attached to affidavits. Again, only some of the secondary sources included in the motion record were referenced in argument. At the hearing of this matter, Plaintiffs' counsel conceded that this is unacceptable under Rules 363 and 365.

[19] Because of the breach of Rules 363 and 365, I conclude that the affidavits and secondary sources were not properly before the Court on this motion. Accordingly, I did not consider them in my analysis.

**B. *Do the Pleadings Disclose a Reasonable Cause of Action?***

**(1) General Principles**

[20] Pleadings serve a pivotal role in litigation: they identify the issues between the parties. The identification of the material facts in the pleadings allows parties to prepare appropriately for litigation because parties have a clear understanding of the cause of action and the issues at play: *Mancuso v Canada (National Health and Welfare)*, 2015 FCA 227 at paras 16-17 [*Mancuso*]. Pleadings should inform the responding party of "who, when, where, how and what gave rise to

its liability”: *Mancuso* at para 19. As this Court has frequently said, parties cannot be left to speculate as to the cause of action being alleged: *Mancuso* at para 16.

[21] Rule 221(1)(a) provides that a pleading may be struck out if it is “plain and obvious” that it does not disclose a reasonable cause of action: *R v Imperial Tobacco Canada Ltd*, 2011 SCC 42 at para 17. To establish a cause of action, a pleading must allege material facts adequate to establish all elements of the alleged cause of action: *Mancuso* at para 19. On a motion to strike, pleadings must be read as generously as possible. In determining whether a reasonable cause of action exists, the material facts alleged are taken to be true, unless they are manifestly false, incapable of being proven, assumptions, or speculations: *Operation Dismantle v The Queen*, [1985] 1 SCR 441 at p 455, 1985 CanLII 74 (SCC). If the material facts alleged disclose a reasonable cause of action with some chance of success, the pleading should not be struck.

[22] When pleading *Charter* claims, the requirements for material facts apply just as in pleading other causes of action. The Supreme Court of Canada [Supreme Court] has clearly defined the substantive content of each *Charter* right. Material facts must be pled to support each component of the right in question: *Mancuso* at para 25.

[23] A pleading may also be struck under Rule 221(1)(c) on the grounds that it is scandalous, frivolous, or vexatious. A pleading may be struck as vexatious where it is “replete with bare allegations and mere conclusory statements of law,” and fails to plead material facts, making it impossible for the opposing party to respond: *Pelletier v Canada*, 2016 FC 1356 at para 23.

[24] Finally, a pleading may be struck under Rule 221(1)(f) as an abuse of process. A pleading constitutes an abuse of process when bald, conclusory allegations of bad faith are made without any evidentiary foundation: *Merchant Law Group v Canada Revenue Agency*, 2010 FCA 184 at para 34.

## **(2) Position of the Parties**

[25] Here, Canada argues that the pleading should be struck because it lacks the basic elements of a proper pleading and instead consists of bald allegations unsupported by facts; fails to connect the allegations with the named Plaintiffs; fails to plead sufficient facts to sustain *Charter* breaches; and makes unsupported allegations against the individually named Defendants. Further, Canada argues that the pleadings use vexatious language and should be struck on this ground as well.

[26] The Plaintiffs counter that the pleading, when read holistically, discloses a cause of action. The Plaintiffs rely on *Thomas v Canada (Attorney General)*, 2024 FC 655 [*Thomas*], for the proposition that a cause of action may be disclosed by a holistic reading of pleadings.

[27] I pause to note that the Plaintiffs' written representations provide scant response to Canada's motion to strike. Much of the representations are directed at the merits of the underlying claim. At the hearing of the motion, I invited counsel for the Plaintiffs on two separate occasions to address Canada's submissions that the pleading fails to disclose a reasonable cause of action. Counsel did not avail herself of that opportunity. In consequence and as exhorted by the jurisprudence, I must read the pleading as generously as possible and not fasten onto matters of

form to strike the pleading. To that end, I have undertaken a thorough review of the pleading with a view to addressing if not all of the potential causes of action, at least the majority.

**(3) *Charter Claims***

**(a) *Claims under Section 2(a) of the Charter***

[28] Section 2(a) of the *Charter* protects freedom of conscience and religion. To establish an infringement of s.2(a), the claimant must show “(1) that he or she sincerely believes in a practice or belief that has a nexus with religion, and (2) that the impugned state conduct interferes, in a manner that is non-trivial or not insubstantial, with his or her ability to act in accordance with that practice or belief”: *Ktunaxa Nation v British Columbia (Forests, Lands and Natural Resource Operations)*, 2017 SCC 54 at para 68.

[29] My reading of the pleading discloses that none of the Plaintiffs plead material facts disclosing a cause of action under s.2(a). Indeed, 174 of the 330 Plaintiffs allege that they applied for a religious exemption under the Directives. Some Plaintiffs were approved for a religious exemption, but the majority were denied. None of those who were denied a religious accommodation identify a specific religious belief or practice in which they sincerely believe. Indeed, only one Plaintiff alludes to a specific religious belief: At paragraph 19 of the pleading, Plaintiff Stephen Troy Chledowski claims that he applied for a religious accommodation as a “Pansexual Pagan.” No other material facts are pled to support his assertion. Plaintiff Troy Chledowski was one of the few Plaintiffs to allege receiving a religious accommodation under the



Directives. Further, none of the Plaintiffs identify how a religious belief was infringed or interfered with in a non-trivial manner by the Directives.

[30] I am satisfied that the pleading does not disclose a cause of action under s.2(a). The mere assertion that the Directives offend a religious belief is insufficient to support a cause of action. Material facts must be pled to support both components of the s.2(a) framework.

**(b) *Claims under Section 2(d) of the Charter***

[31] Section 2(d) of the *Charter* protects freedom of association. To establish a breach of s.2(d), the claimant must show that the activities at issue fall within the scope of s. 2(d) and that “government action has substantially interfered with those activities, in purpose or effect”: *Société des casinos du Québec inc v Association des cadres de la Société des casinos du Québec*, 2024 SCC 13 at para 33.

[32] The pleading does not identify what specific activities are at issue. Rather, at paragraph 407 of the pleading reference is made to the Plaintiffs’ right “to associate in a process of collective action to achieve workplace goals and missions ... [and] meaningful discussion and consultation about working conditions between members and their [superior officers].” However, there are no material facts pled about a specific workplace group, activity, or consultation in the pleading. In any case, the Plaintiffs have failed to plead any material facts to establish that the Directives applied to constrain the unspecified associative activities.

[33] Accordingly, in the absence of material facts, no reasonable cause of action is disclosed under s.2(d) of the *Charter*.

(c) *Claims under Section 7 of the Charter*

[34] Section 7 of the *Charter* protects life, liberty, and security of person. To establish a breach of s.7, a claimant must demonstrate that state action interferes with, or deprives them of, their right to life, liberty, or security of person. The claimant must also show that the interference or deprivation was not in accordance with the principles of fundamental justice: *Carter v Canada (Attorney General)*, 2015 SCC 5 at para 55.

[35] While some of the bare allegations in the pleadings suggest that s.7 might be engaged, the pleadings do not plead material facts that support and particularize the claims to establish a cause of action under s.7. For example, at paragraph 31 of the pleading, Plaintiff Frederic Villeneuve-Normand alleges that he suffered psychological and physical harms as a result of being “forced to be outside in severe winter conditions without shelter or adequate care for three consecutive months in the winter of 2021-2022.” While the pleading attempts to suggest that this was a form of punishment for failing to be vaccinated, there are no further material facts provided to support this allegation. The connection between this allegation and the vaccination Directives is not particularized. Without more material facts, no cause of action is disclosed.

[36] Further, the pleading fails to plead a connection to a principle of fundamental justice. At no point in the pleading are material facts pled to support the statement that the Directives were, for instance, overbroad, and therefore contrary to the principles of fundamental justice.

[37] I am satisfied that a cause of action under s.7 of the *Charter* is not established because material facts are not pled to support the allegations. Parenthetically, I note that jurisprudence from this Court has established that s.7 of the *Charter* is not infringed by vaccination mandates, because the mandates are not contrary to the principles of fundamental justice: *Lavergne-Poitras v Canada (Attorney General)*, 2021 FC 1232.

**(d) *Claims under Section 8 of the Charter***

[38] Section 8 of the *Charter* preserves an individual's right to be secure against unreasonable search and seizure. It recognizes the importance of privacy interests and protects against unjustified intrusions on privacy interests: *R v Ahmad*, 2020 SCC 11 at para 38.

[39] On my reading of the pleading, material facts are not pled to support a cause of action under s. 8. For example, at paragraph 412 of the pleading, the Plaintiffs allege that vaccination information was stored on “an unsecured network, known as Monitor Mass,” and was easily accessible. Once again, there are no material facts pled to support an intrusion upon the privacy interests of any Plaintiff. Similarly, at paragraphs 133, 149 and 332 of the pleading, three Plaintiffs allege that their belongings were searched or seized. Again, however, no material facts are pled to particularize these allegations, or to connect or establish a connection to the Directives.

[40] As with the other alleged *Charter* breaches, the pleading simply does not disclose a cause of action under s.8 of the *Charter* because of an absence of material facts.

(e) *Claims under Section 15(1) of the Charter*

[41] Section 15(1) of the *Charter* guarantees the equality of individuals under the law and protects against discrimination. To demonstrate a breach of s.15(1) of the *Charter*, the claimant must establish that “the impugned law or state action on its face or in its impact, creates a distinction based on enumerated or analogous grounds; and imposes burdens or denies a benefit in a manner that has the effect of reinforcing, perpetuating, or exacerbating disadvantage”: *Fraser v Canada (Attorney General)*, 2020 SCC 28 at para 27.

[42] No material facts are pled to support a cause of action under s.15(1). Some Plaintiffs appear to suggest that they were subject to differential treatment by their colleagues and superiors as a result of declining to receive the vaccine. For example, at paragraph 217 of the pleading, Plaintiff Laura Lee Nicholson asserts that she was required to work from home. However, no material facts are pled to support this allegation. There are simply two bald statements: that Ms. Nicholson did not receive vaccinations and that she worked from home. The alleged distinction is not particularized, and no material facts are pled to establish a connection between the alleged distinction and the Directives. Further, no material facts are pled to indicate that a burden was imposed on any Plaintiff.

[43] Based on a lack of material facts pled, I conclude that the pleading fails to raise a cause of action under s.15(1).

**(4) Other Claims**

**(a) *Unlawful Conduct Allegations***

[44] At paragraph 362 of the pleading, the Plaintiffs allege that the Chief of Defence Staff [CDS] improperly used administrative measures to punish CAF members who did not comply with the Directives rather than the adjudicative disciplinary process pursuant to the Code of Service Discipline. This, the Plaintiffs assert, denied them of the opportunity to be charged with a service offence and face a court martial before an independent tribunal.

[45] The Plaintiffs do not articulate the cause of action this conduct might give rise to. However, as Canada argued, paragraphs 4.16-4.18 of the Defence Administrative Orders and Directives [DAOD] 5019-4, Remedial Measures, provides that the CDS can choose either administrative or disciplinary processes. A recent case before this Court raised similar arguments and asserted that such conduct constituted abuse of process: *Hoffman v Canada (Attorney General)*, 2023 FC 1103 [Hoffman]. In that case, Justice Rochester confirmed that administrative decision makers were not precluded from using administrative measures or that they were required to proceed by way of the Code of Service Discipline: *Hoffman* at para 26. Accordingly, I find no basis in law for the Plaintiffs' argument and it too must fail.

**(b) *Tortious Claim: Misfeasance in Public Office***

[46] In oral argument, Plaintiffs' counsel argued that the underlying cause of action pled is the intentional tort of misfeasance in public office. Indeed, counsel argued that the case is not a

challenge to the vaccination Directives at all but is a claim of misfeasance arising from the illegal conduct of the CDS. Although this cause of action is not articulated with any clarity in the pleading, nor in the Plaintiffs' written representations on this motion, for completeness I will analyse the argument to determine if a tortious cause of action is established.

[47] The tort of misfeasance in a public office consists of two elements. First, the plaintiff must show that a public officer engaged in deliberate and unlawful conduct while acting in their capacity as public officers. Unlawful conduct includes conduct that is in excess of the officer's powers, exercises an improper purpose, or is a breach of statutory duty. The second element that the plaintiff must show is that the public officer was aware that the conduct in question was unlawful and that it was likely to harm the plaintiff: *Odhavji Estate v Woodhouse*, 2003 SCC 69 at paras 22-23. This awareness requires that the public officer engaged in the unlawful conduct in bad faith.

[48] The alleged unlawful conduct at issue here is not clearly articulated in the pleadings. Reading the pleadings generously, the unlawful conduct appears to be the implementation of the Directives by Canada. However, the manner in which the Directives are unlawful or were unlawfully ordered is not established. No material facts are pled to support this component of the tort.

[49] Further, the second element of the tort is not established. No material facts are pled to suggest bad faith on the part of Canada. The only indications of bad faith are found when the pleadings baldly assert that, among other claims, Canada failed to carry out safety and efficacy

testing for the vaccines, and that the Directives were premature and “promoted the fraudulent use of the biologics”: paragraph 401 of the pleading. This form of pleading is particularly problematic and runs afoul of Rule 181 which requires that allegations of breach of trust and fraud be precisely particularized.

[50] I am satisfied that no material facts are pled to establish the tort of misfeasance in public office. The pleading fails to establish a cause of action on this ground.

### **C. *Holistic Reading of the Pleadings***

[51] As noted earlier, the Plaintiffs rely on Justice Zinn’s decision in *Thomas* to suggest that the pleadings disclose a reasonable cause of action, if read holistically.

[52] While Justice Zinn does acknowledge that pleadings may be read holistically to “distinguish material facts from evidence that will prove the material facts,” *Thomas* does not assist the Plaintiffs. In *Thomas*, the Court concluded that the plaintiff had pled sufficient material facts to support each element of a claim of negligence: *Thomas* at paras 77-78. The same cannot be said of this case. Here, there are no material facts pled or evidence supplied to support the allegations. No cause of action is disclosed, either by a close reading or by a holistic reading of the pleading. Indeed, as set out at paragraphs 49 to 58 of Canada’s written representations, the lack of particulars for each of the Plaintiffs is fatal to the action. Moreover, the facts that are pled for each Plaintiff fail to show how each Plaintiff was negatively impacted by the Directives. In short, the limited material facts pled for each Plaintiff fails to tie the Plaintiffs to the general allegations of harm asserted.

**D. *Other Bases for Striking the Pleadings***

[53] In addition to the absence of material facts, the pleading is also replete with vexatious language. For example, various COVID-19 vaccines are labelled an “experimental gene therapy” and “biologics,” without any basis for these statements established. The COVID-19 pandemic is also referred to as an “emergency” without any basis indicated for the use of the quotation marks.

[54] The pleading also consists of a number of bald assertions of bad faith, which constitute an abuse of process. For example and as discussed above, the pleading asserts that the Directives “promoted the fraudulent use of the biologics.” Similar statements are present throughout the pleading, such as in the statement that in implementing the Directives some officers committed acts that were “criminal in nature.” These statements are bald allegations with no material facts pled in support.

[55] Accordingly, I conclude that the pleading should also be struck under Rule 221(1)(c) and (f).



**E. *Should Amendments be Permitted?***

[56] Rule 221(1)(a) contemplates granting leave to amend pleadings which have been struck. For leave to amend to be granted, the defect in the struck pleading must be curable by amendment: *Simon v Canada*, 2011 FCA 6 at para 8.

[57] The pervasive absence of material facts throughout the pleading is not a flaw that can be addressed by amendment. Moreover, as I conclude below, this Court should not take jurisdiction over this matter and accordingly, leave to amend should not be granted.

**F. *Should the Court Decline to Take Jurisdiction Over the Action?***

[58] Given my conclusion that the action should be struck without leave to amend, there is no need for me to consider whether the Court should exercise its discretion to take jurisdiction over the proceeding. However, for the sake of completeness, I will address that issue briefly.

[59] In support of its motion, Canada filed the affidavit of Ann-Marie De Araujo Viana (the “Viana affidavit”), Manager Professional Policies–Grievances, Canadian Armed Forces Grievance Authority. The Viana affidavit sets out the statutory and regulatory framework for the CAF grievance process established by sections 29-29.15 of the *National Defence Act* [NDA] and regulations. That framework is supplemented by the DAOD, specifically, DAOD 2017-0 *Military Grievances* and DAOD 2017-1 *Military Grievance Process*.

[60] Pursuant to subsection 29 of the NDA, CAF members who are aggrieved by any decision, act, or omission in the administration of the affairs of the CAF, for which no other process for redress is provided under the NDA, may submit a grievance. As set out in the Viana affidavit, the CAF grievance process has two levels of authority, the Initial Authority [IA] and the Final Authority [FA]. The CDS is the FA. In some circumstances there may be an independent review of the grievance by the Military Grievance External Review Committee [MGERC]. However, the CDS remains the final authority and is not bound by any findings or recommendation of the MGERC.

[61] Following a decision of the FA, dissatisfied CAF members may seek judicial review of the decision in this Court, including any appeal rights deriving therefrom.

[62] As this Court has noted on a number of occasions, the grievance process available under the NDA is broadly worded and comprehensive, capturing a wide range of issues and allowing members to seek redress for virtually any issues arising during the course of their service: *Jones v Canada*, (1994) 87 FTR 190 at paras 9-10 (TD); *Fortin v Canada (Attorney General)*, 2021 FC 1061 at paras 25-26; *Jones v Canada (Chief of Defence Staff)*, 2022 FC 1106 at para 21.

[63] As confirmed by the Supreme Court, when Parliament provides a specialized administrative scheme for the resolution of workplace conflicts, the courts should decline jurisdiction and defer to the statutory scheme in all but the most unusual circumstances: *Weber v Ontario Hydro*, [1995] 2 SCR 929 at paras 50-58 and 67, 1995 CanLII 108 (SCC); *Vaughn v Canada*, 2005 SCC 11 at para 2 [Vaughn].

[64] The Federal Court of Appeal has noted that once a defendant satisfies the Court that there is a legislative grievance scheme in place, the plaintiff bears the onus of establishing that the Court possesses residual jurisdiction that it ought to exercise: *Lebrasseur v Canada*, 2007 FCA 330 at para 19.

[65] Here, the Plaintiffs appear to argue that the grievance process is inadequate and cannot provide proper redress. For example, the Plaintiffs say that the process is not transparent because the CDS is both IA and the FA. However, as the Supreme Court found in *Vaughn*, the lack of third-party adjudication is not determinative in deciding whether a court should exercise its residual jurisdiction. Recently, the Federal Court of Appeal concluded that an allegation that the grievance process lacks independence requires evidence of bias: *Bergeron v Canada (Attorney General)*, 2022 FCA 209 at para 62.

[66] I am satisfied that the Plaintiffs have not pointed to any evidence of bias nor have they persuaded me that there are exceptional circumstances at play in this action. Quite the opposite. At the hearing, counsel argued that this action is not about the Directives but is about the larger issue of abuse of authority within the CAF. The Directives, the Plaintiffs' assert, are merely a springboard into the litigation. In my view, such broad and unfocussed assertions do not rise to the level of exceptional circumstances warranting this Court's intrusion upon the scheme devised by Parliament.

[67] Indeed, it is noteworthy that over 100 of the Plaintiffs have filed grievances arising from the Directives. At least one grievance was allowed by the MGRC though not supported by the

FA. This Court has consistently upheld the CAF grievance system and declined to exercise its exceptional jurisdiction: *Veltri v Department of National Defence Canada*, dated January 4, 2018, at paras 11-17 (Federal Court file no. T-1400-17); *Sandiford v Canada*, 2007 FC 225 at para 28-29; *Graham v Canada*, 2007 FC 210 at paras 22-23. In the present circumstances, I see no basis upon which I ought to exercise my residual jurisdiction to permit this action to continue.

#### **G. Conclusion**

[68] Based on the above analysis, I conclude the following:

1. The pleading should be struck in its entirety pursuant to Rule 221(1)(a), (c) and (f).  
The pleadings do not disclose a reasonable cause of action, fail to plead material facts, and use vexatious language throughout. Some of the assertions also constitute abuse of process.
2. Leave to amend should not be granted.
3. Further, there is no basis upon which this Court should exercise its residual jurisdiction to permit the action to proceed.

#### **IV. Costs**

[69] Both parties seek costs on this motion.

[70] The Plaintiffs seek \$5,000 in costs for this motion. As justification, the Plaintiffs cite the large number of individual claimants in the action, and the resultant preparation requirements for evidence on this motion. The Plaintiffs also note Canada's late submission of additional case law.

[71] Canada seeks \$4,500 in costs for this motion and an additional \$540 because the hearing was adjourned. Canada acknowledges that this is the top end of Column 3 of the Tariff, but submits that the sum is justified in this instance because the Plaintiffs filed an improper and voluminous motion record. As a result, in preparing for this motion, Canada has been required to review unnecessary and improperly filed documents. Canada also suggests that the quantum of costs sought is appropriate in light of the damages sought by the Plaintiffs.

[72] As costs are entirely within the discretion of the Court, I am persuaded that Canada is entitled to its costs as the successful party on the motion. As to quantum, Canada's request is reasonable and will be ordered.

**JUDGMENT in T-1296-23**

**THIS COURT'S JUDGMENT is that:**

1. The motion is allowed.
2. The action is struck without leave to amend.
3. Canada shall have costs fixed in the amount of \$5,040, inclusive of taxes and disbursements, payable jointly and severally from the Plaintiffs.

\_\_\_\_\_  
"Catherine A. Coughlan"  
Associate Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:**

T-1296-23

**STYLE OF CAUSE:**

FRANCESCO GABRIELE QUALIZZA, JOEL THOMAS WILLIAM ELLIS, PATRICK MERCIER, JILL LYNE DUCHESNEAU, JOSEPH BENJAMIN STEWART, ERIC DAVID FAUCHER, SCOTT PETER BACON, STEPHEN TROY CHLEDOWSKI, AMANDA LEIGH BENHAM, JOSHUA MARTIN MCCULLOCH, KYLE CORRIVEAU, JOSEPH DANIEL ERIC LOUIS MONTGRAIN, DUSTIN SHANE WIEBE, STEPHEN WJ MORRIS, DAVID GARCIA VARGAS, MICHAEL JOSEPH LIS, NATASHA KATRINA LIS, SOLANGE SINE DJOUECHE, PETER VLASSOV, FREDERIC VILLENEUVE-NORMAND, ESTATE OF JONATHAN EMMERSON JENKINSON, VALENTIN LAVROV, MARIE-EVE LABONTE, JESSE DALE FRIESEN, TANIA CATHERINE NORDLI, ANDRZEJ SKULSKI, DENNIS JOHN PAUL TONDREAU, EMMY-LOU LAURIE FORGET, DALLAS ALEXANDER FLAMAND, CHELSEA ELAINE ROGAL, BARON HORDO, TAYLOR MICHAEL HARVIE, VANESSA RAE LAROCHELLE, JACQUELINE MARIE FRANCE BOEHME, JAMES PAUL DANIEL FORMOSA, KAITLYN E CAMPBELL, LUCAS TIMOTHY VANCUREN, JERMAINE SHERIDAN BURRELL, ANTHONY DAVID HIATT, MICHAEL ST-LAURENT, ARMAND EDWARD A. GARNER, AMIT SODHI, CAMILLE FELIX J TURGEON, SAMANTHA GWENDOLYN STYLES, CAROL-ANN MARY T OUELLETTE, ROBERT JAMES TEREMCHUK, NATHANIEL J P TONDREAU, NIKOLA J GUY TONDREAU, LISA PAULINE LEOPOLD, HAILEY NOELLE SCHRODER, DOMINIQUE LAUZIER, VALERIE OUELLET, JOHN M GILLIS, MORGAN CHRISTOPHER WARREN, MARK ANDREW GOOD, SEAN MICHAEL MARCOTTE, MARK ANDREW LOLACHER, GABRIEL VILLENEUVE, KIRA ANNE YAKIMOVICH, MATHIEU W PETIT-MARCEAU, KIMBERLY NEDRA ETTTEL, CHRISTOPHER WILLIAM RAMBHAROSE, MICHAEL RYAN

FRANK, EVAN JEFFERY MCFATRIDGE, PIERRE-  
 ELIE LASNIER, ALESSANDRU WARD FORSTER  
 BROWN, DANIS DOIRON, CARL JOSEPH D  
 RIVEST-MARIER, JAROSLAW T CIESINSKI,  
 STEPHEN WILLIAM HOLT, RANDOLPH  
 RAYMOND JENKINS, ANDREW JOHN MACPHEE,  
 VALERIE PALIN-ROBERT, ROGER CORY STOESZ,  
 SHANE THOMAS WHITSON, CHRISTIAN KURT  
 CARTER, MATTHEW JAMES ROWE, DAVE  
 BOUCHARD, LAURIE C. BAKER, FREDERIC  
 LAUZIER, LUCAS SHANE O'CONNOR, LAURA  
 DIANNE ALLAN, GEORGE VRINIOTIS, SIENNA  
 GERMAINE QUIRK, CHARLES BRUNO  
 ALEXANDRE TURMEL, DEREK MARSHALL  
 SPROULE, SHANE MICHAEL N. SINGER,  
 JAROSLAW GRZEGORZ MARCZEWSKI,  
 CHRISTOPHER NIGHTINGALE ANDERSON,  
 FRANCIS JOSEPH MICHEL ARCHAMBAULT,  
 CHRISTOPHER RAYMOND AUSTIN, JOHN  
 ANTHONY BAKLINSKI, DAVID GLEN  
 BARKHOUSE, MICHAEL BARRETTE, DARRIN  
 THOMAS BEATON, BOBAK BEHESHTI, ANDRES  
 FELIPE BOCANEGRA BELTRAN, NATHAN KYLE  
 JOHNSON, CONRAD JOSEPH BENOIT, MATHIEU  
 BERNARD, BRIAN JAMES BEWS, MICHAEL  
 CHRISTOPHER BILL, ROBERT STEWART BISHOP,  
 JEFFERSON MALCOME BISSENGUE, STEVEN  
 BOLDUC, THOMAS GILL BONNETT, CHARLES  
 ANTHONY VALMHOR BORG, PATRICK JAMES  
 BOSCHALK, KARLA RAE BOWLER, KENNETH  
 SCOTT BRADLEY, DWAYNE ARMAND BRATZKE,  
 RYAN DOUGLAS BREAU, CHARA LOREN  
 BROWNE, WILLIAM FREDERICK BULL, MARK A  
 CALOW, JAMES GREGORY CAMERON, BRETT  
 GRANT GORDON CAMPBELL, DAMIAN RONALD  
 CAYER, JESSE SHAYNE CHAMBERS, VLADIMIR  
 CHARNINE, SHAUN KYLE CHARPENTIER,  
 DANIEL ROBERT CHESHIRE, DAVE CIMON,  
 CHARLES BENOIT-JEAN COTE, REMI COTE,  
 MATTHIEU COULOMBE, REBEKAH KATHLEEN  
 COURTNEY, MAVERICK JEREMY JOSEPH COWX,  
 JONATHAN WAYNE CROUCH, NICOLE JOHNNA  
 CROWDER, BARTLOMIEJ DAVID CYCHNER,  
 BEATA MARGARET CZAPLA, SARA DARBY,  
 BRADY DAMIEN DEDAM, VIRGIL SEVERIN  
 DESSOUROUX, SEAN ROBERT DIXON, ROBERT



ADAM DOLIWA, DANIEL PIERRE DROLET,  
 SAMUEL DROUIN, BENJAMIN GRAHAM DUNBAR,  
 MATTHEW ALEXANDER J. DURDA, STEPHEN  
 ANDREW TERENCE ELLS, AUSTIN KARN  
 FAULKNER, ERIC MICHEL C S FONTAINE,  
 WILLIAM JOSEPH R FORGET, SEAN MICHAEL  
 FRANCIS, KORY MICHAEL FRASER, JASON  
 JOSEPH KEVIN FRECHETTE, CHRISTOPHER  
 BENJAMIN FUELLERT, STEVEN JAMES GALLANT,  
 STEVEN ROY GAMBLE, TANYA LEE GAUDET,  
 EMILIE GAUTHIER-WONG, TOMMY GAUVREAU,  
 NICOLAS ALEXANDER GLEIS, MARCEL JOSEPH G  
 E GOBEIL, TAMMY DANIELLE GREENING,  
 EUGENE PIETER GREYLING, KEVIN CLARENCE J  
 GRIFFIN, DOMINIC JOSEPH S GUENETTE, DARCY  
 WAYNE HANSEN, BRETT NEVIN WELLICOME,  
 RORY ALEXANDER HAWMAN, JAMES ADAM  
 HEALD, KYLE KEITH HEPNER, JASON STANLEY  
 GILBERT IGNATESCU, THANARAJAN  
 JESUTHASAN, KEVIN THOMAS JOHNSON, GARY  
 ADAM JOHNSTON, RYAN GREGORY JONES,  
 JAMIE ALEXANDER CURTIS JORSTAD, ATTILA  
 STEPHEN KADLECSIK, DUSTY LEWIS KENNEDY,  
 HUNTER ELMER KERSEY, LIAM OWEN  
 KIROPOULOS, CHRISTOPHER ROBERT KNORR,  
 EVAN VICTOR KOZIEL, MARTIN PHILIPPE  
 LABROSSE, GERALD JN- FRITZ LAFORTUNE,  
 ANDRE LAHAYE, KELLY-LEE MARIE LAKE,  
 NICHOLAS EDWARD LANGE, SARAH-EMILIE  
 LASNIER, DOMINIC JOSEPH M. LAVOIE, TARA  
 LAVOIE, DRAKE MICHAEL LE COUTEUR, MARC  
 LECLAIR, PIERRE LEMAY, JONATHAN JOSEPH A.  
 LEMIRE, DANIEL PAUL LOADER, GARRETT  
 CURTIS LOGAN, JORDAN TERRENCE LOGAN,  
 ALEXANDRE GUY RICHARD LOISELLE, ADAM  
 FERNAND C. LUPIEN, WALTER GEORGE LYON,  
 JOSEPH BREFNI W. MACDONALD, CHRISTIEN  
 TAVIS ROGER MACDONNELL, JEAN JOSEPH  
 MADORE, CHARLES JOSEPH J. MAGNAN,  
 ANDREW ROBERT PAUL MALLORY, MARYLENE  
 GINETTE S. MARTIN, MARCO MASTANTUONO,  
 JAMIE RICHARD MCEWEN, JOHANNES WOUTER  
 MULDER, TYLER EDWIN NEUFELD, LAURA LEE  
 NICHOLSON, KERI MERRIAM NIXON, JONATHAN  
 NOEL, JOSHUA BRUCE OLSON, CAROLINE MARY  
 AUDREY OUELLET, JOSEPH ANTHONY PAPALIA,

MELANIE MARIE I. PARE, ALEXANDRU  
 PATULARU, JOSHUA ALEXANDER PICKFORD,  
 AGNES PINTER-KADLECSIK, JEAN-SIMON  
 PLAMONDON, KRISTER ALEXANDER  
 POHJOLAINEN, AURA A. PON, BRODY ALLEN  
 POZNIKOFF, STEFAN PRISACARI, MONIKA ANNA  
 QUILLAN, ROMAIN RACINE, DOMINIC LAURENS  
 WILLIAM RAGETLI, STEPHANE RATTE, BRYAN  
 THOMAS RICHTER, WILLIAM RIOS, JENNA LEIGH  
 ROBERTS, JOSHUA CALVIN ROBERTS, LAURIE  
 ROSE, RORY ALEXANDER DAVID ROSEN,  
 SEBASTIEN SALVAS, CAMERON RAY S.  
 SANDERS, CARL JEAN G. SAVARD, TORSTEN  
 SCHULZ, PAUL RUSSELL SHAPKA, BLAKE  
 ALEXANDER SHEEDY, QUINTON JAMES  
 STENDER, CALEB ETHAN M. STENER, GABRIEL-  
 ALEXANDRE ST-GELAIS, NICOLAS JOSEPH ST-  
 GERMAIN, ROBERT CHRISTOPHER STULL, JAMES  
 ROARK SUTER, DALEN DREW TANNER, JUSTIN  
 MYLES TENHAGE, JACOB CYRIL THERIAULT,  
 SIMON BOBBY H TILLY, JEAN-PHILIPPE TRUDEL,  
 ALBERT JASON TSCHETTER, SHELLEY DIANE  
 TULLY, MAGALI TURPIN, JULIAN PHILIP TUTINO,  
 GREGORY VINCENT-WALKER, CADE AUSTIN  
 WALKER, BRENNEN BO ANTHONY WATSON,  
 BENJAMIN KYLE WESTON, MATTHEW MAX  
 WHICHER, JOSHUA JAMES WHITE, ANDREW  
 ERNEST WILKOWSKI, DONALD JAMES  
 WILLIAMS, CURTIS MALCOM WILSON, WADE  
 GEORGE WILSON, ANDREW DEAN WYCHNENKA,  
 MARC ZORAYAN, BRANDON TYLER PETER  
 ZWICKER, WILLIAM H L LEVI WALL, KAREN  
 PAIGE NIGHTINGALE, MARC-ANTOINE POULIN,  
 KEEGAN MARSH, RYAN MICHAEL, THOMAS  
 PATRICK HAYES, JAMES MARK CHARLEBOIS,  
 HALSTON RANDAL NICHOLSON, MELISSA-JANE  
 SARAH KRIEGER, GIANLUCA LUCHETTA,  
 BENJAMIN JAMES WILCOX, MARK RONKIN,  
 SERGE JOSEPH LEO FAUCHER, JACOB THOMAS  
 FIDOR, LUCAS GERARD ZIEGELBAUER, SPENCER  
 DANIEL LORD, IAN OCEGUERA, JOHN  
 NESRALLAH, DANIEL NINIAN RODRIGUES, CORY  
 JASON KRUGER, STEPHEN YOUNG SMITH,  
 FOURAT YACoub YOUSIF JAJOU, ANTHONY  
 BILODEAU, JONATHAN MICHAEL RECOSKIE,  
 THOMAS L. EDWARDS, LINDSAY ANNE

MACKENZIE, SARAH EVELYN LAPRADE, DANY PILON, JAMES ANDREW COOK, DEREK JOHN GAUTHIER, DAVID ADAM DOBBIE, GABRIELLE CHARPENTIER, DANIEL JOHANNES RECKMAN, ZACHARY CLEELAND, MATEUSZ CAMERON KOWALSKI, TARA J. MACDONALD, PAUL DAVID WILSON, BRENDAN V. T. LEBERT, JOCELYN LAMOTTE, ANTHONY J. DUKE, RILEY MALCOLM MACPHERSON, KIM NOEL LAUZON, KURTIS ROCKEFELLER RUTHERFORD, SERGIU GEORGE CANDEA, JESSE HENRY FIELD, WILLIAM EDWARD BRENDON, CAMERON SAMUEL NOBERT, DAVID HOUDE, ALYSSA JOY BLATKEWICZ, COLIN PERRY KAISER, FABRICE DOURLANT, CORY LANCE GARGIN, ANITA GRACE HESSLING, JENNIFER BETHANY FRIZZLEY, DAVID ANDREW BENSON, BRANDON JOHN ARMSTRONG, REJEAN BERUBE, JEAN-PHILIPPE JOSEPH BOUCHARD, DHILLON DAVID COLE, PIERRE-OLIVIER COTE-GUAY, IAN M MENZIES, ERIC MONNIN, ELLIOT GAMACHE, NICHOLAS NEIL LLOYD CROCKER, ROBERT ALLAN HENDERSON, GABRIEL GILLES RJ RAMSAY, DEVIN JAMES MCKENNA v HIS MAJESTY THE KING IN RIGHT OF CANADA, CHIEF OF THE DEFENCE STAFF GENERAL WAYNE EYRE, VICE CHIEF OF DEFENCE STAFF LIEUTENANT-GENERAL FRANCES J ALLEN,, LIEUTENANT GENERAL JOCELYN J M J PAUL, VICE ADMIRAL ANGUS I TOPSHEE, AND LIEUTENANT GENERAL ERIC J KENNY, MINISTER OF NATIONAL DEFENCE, THE HONOURABLE ANITA ANAND, FORMER DEPUTY MINISTER OF NATIONAL DEFENCE JODY THOMAS, SURGEON, GENERAL MAJOR-GENERAL JGM BILODEAU, CHAPLAIN GENERAL BRIGADIER-GENERAL JLG BELISLE, JUDGE ADVOCATE GENERAL REAR-ADMIRAL GENEVIEVE BERNATCHEZ, AND, BRIGADIER GENERAL LIAM WADE RUTLAND EDMONTON, ALBERTA

**PLACE OF HEARING:**

**DATE OF HEARING:**

SEPTEMBER 19, 2024

**JUDGMENT AND REASONS:**

COUGHLAN A.J.

**DATED:** NOVEMBER 13, 2024

**APPEARANCES:**

Catherine M. Christensen

FOR THE PLAINTIFFS

Barry Benkendorf

FOR THE DEFENDANTS

**SOLICITORS OF RECORD:**

Valour Legal Action Centre  
St. Albert, Alberta

FOR THE PLAINTIFFS

Attorney General of Canada  
Edmonton, Alberta

FOR THE DEFENDANTS

**B**

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**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF Nette Lopez**

I, Nette Lopez, of the City of St. Albert, Alberta, SWEAR THAT:

1. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
2. I am one of the paralegals tasked on working with this matter.
3. On January 23, 2025, I submitted the Notice of Appeal for filing with the Federal Court of Appeal. On the same day I had phone conversation with the Registry Officer noting that the Notice of Appeal's style of cause must be the same with style of cause of the action T – 1296-23, and names of all Plaintiffs of the action not filing an appeal should be

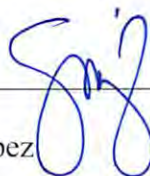
filed with the Notice of Discontinuance then Amend the Notice of Appeal style of cause striking the names of those who were wholly discontinuing their claims.

4. There are various communication and correspondences between the Federal Court of Appeal Registry Officer, Attorney General, and our office related to the discontinuance of the Plaintiffs who wholly discontinued their action for this matter attached as **Exhibit A**.

Sworn before me at St. Albert, Alberta, Canada on March 31, 2025.



Commissioner for Taking Affidavits



Nette Lopez

**Maggie Frank**  
Commissioner for Oaths  
in and for Alberta  
Commission expires *November 15, 2026*

## **INDEX OF EXHIBIT**

**Affidavit of Nette Lopez**

<b>Exhibit</b>	<b>Document Description</b>	<b>Page Number</b>
<b>A</b>	Various communication and correspondence related to Discontinuance	1



A

Exhibit A to the Affidavit of

Nette Lopez

Sworn before me on:

March 31, 20 25



**Maggie Frank**

Commissioner for Oaths  
in and for Alberta

Commission expires November 15, 2026



Department of Justice  
Canada

Ministère de la Justice  
Canada

Prairie Region  
National Litigation Sector  
300, 10423 – 101 Street NW  
Edmonton, AB T5H 0E7

Région des Prairies  
Secteur national du contentieux  
10423, rue 101 Nord-Ouest, bureau 300  
Edmonton (Alberta) T5H 0E7

Telephone/Téléphone: 780-495-7101  
Fax /Télécopieur: (780) 495-8491  
Email/Courriel: Barry.Benkendorf@JUSTICE.GC.CA

Via Email: [cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)

January 27, 2025

Valour Legal Action Centre  
412, 12 Vandelor Road  
St. Albert T8N 7Y2

**Attention: Catherine Christensen**

**Re: QUALIZZA, Francesco Gabriele, et al v HMTK, et al – A-33-25**

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My office has now received a filed copy of the Notice of Appeal. Accordingly, please find enclosed for service upon the Appellants a Notice of Appearance. We will now file it with the Federal Court of Appeal.

Upon review of the Notice of Appeal, it appears that a number of Plaintiffs who had allegedly discontinued the action are Appellants in the appeal to the Federal Court of Appeal.

Obviously, if they have discontinued they cannot appeal. Further, it is confusing for my client who would like to proceed forward with grievance matters. They cannot do that until the issue of whether these individuals have actually discontinued persists.

Please clarify your intentions in this regard.

Yours truly,

Barry Benkendorf  
Senior Counsel  
Department of Justice Canada  
BB/gb

Encl.



Department of Justice  
Canada

Ministère de la Justice  
Canada

Prairie Region  
National Litigation Sector  
300, 10423 – 101 Street NW  
Edmonton, AB T5H 0E7

Région des Prairies  
Secteur national du contentieux  
10423, rue 101 Nord-Ouest, bureau 300  
Edmonton (Alberta) T5H 0E7

Telephone/Téléphone: 780-495-7101  
Fax /Télécopieur: (780) 495-8491  
Email/Courriel: Barry.Benkendorf@JUSTICE.GC.CA

Via Email: cchristensen@valourlaw.com

January 29, 2025

Valour Legal Action Centre  
412, 12 Vandelor Road  
St. Albert T8N 7Y2

**Attention: Catherine Christensen**

**Re: QUALIZZA, Francesco Gabriele, et al v HMTK, et al – A-33-25**

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I have your letter of January 29, 2025. You represent the Appellants. You will have to create the Appeal Book. It is traditional for the appellant to provide a proposal with respect to the contents of the appeal book to the respondent.

I'm confused by your attempts to discontinue this action on behalf of some of the Plaintiffs. My questions include:

1. Why wasn't the original set of discontinuances accepted?
2. Why did you not inform me of this until now?
3. There appears to be more people discontinuing than originally set out. Is this correct?
4. Are you aware of some authority that allows you to discontinue an action before the Federal Court of Appeal?
5. Why wouldn't you have discontinued in the Federal Court?

In any event, it is apparent that at each step there is some period of delay arising from your difficulties with the Federal Court and the Federal Court of Appeal.

Please confirm whether/ once this new discontinuance has been accepted for filing by the Court of Appeal.

Yours truly,

Barry Benkendorf  
Senior Counsel  
Department of Justice Canada  
BB/gb

**BY EMAIL: Barry.Benkendorf@JUSTICE.GC.CA**

January 29, 2025

**Department of Justice Canada  
Prairie Region  
300, 10423 101 Street NW  
Edmonton, AB T5H 0E7**

**Attention: Barry Benkendorf**

Dear Mr. Benkendorf:

**Re : QUALIZZA et al v HMTK et al  
A – 33 – 25**

---

Further to the above noted matter, the Notice of Discontinuance served on December 12, 2024 was not accepted and filed by the Federal Court.

There are total of 51 Appellants that wish to wholly discontinue their action. I have amended the Style of Cause of the Notice of Appeal to comply with *Rule 79*.

I will look forward to your agreement on the materials to be included in the Appeal book without further delay.

Regards,  
**VALOUR LEGAL ACTION CENTRE**  
Per:



Catherine M. Christensen  
Barrister & Solicitor  
Email: cchristensen@valourlaw.com





**BY EMAIL: Barry.Benkendorf@JUSTICE.GC.CA**

February 3, 2025

**Department of Justice Canada  
Prairie Region  
300, 10423 101 Street NW  
Edmonton, AB T5H 0E7**

**Attention: Barry Benkendorf**

Dear Mr. Benkendorf:

**Re : *QUALIZZA et al v HMTK et al*  
A – 33 – 25 Notice of Appeal**

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Further to the above noted matter and your letter on January 29, 2025, please see enclosed filed Notice of Discontinuance for your record.

My office would like to request for your consent for filing the informal motion to file the Amended Notice of Appeal striking the names of the Appellants who wholly discontinued their action to comply with Rule 76. Please enclosed Amended Notice of Appeal for your review and consent.

Once your consent is received, we will proceed to file the documents with the Federal Court of Appeal.

Regards,  
**VALOUR LEGAL ACTION CENTRE**  
Per:

Catherine M. Christensen

Barrister & Solicitor

Email: [cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)  
encl.

<b>FEDERAL COURT OF APPEAL</b>		<b>D E P O S E</b>
<b>COUR D'APPEL FÉDÉRALE</b>		
<b>F</b>	January 31, 2025	
<b>I</b>	31 janvier 2025	
<b>L</b>		
<b>E</b>	Irena Stojanovska	
<b>D</b>		
<b>EDMONTON, AB</b>		<b>5</b>

Court File No: A – 33 – 25

**FEDERAL COURT OF APPEALS****BETWEEN:****FRANCESCO GABRIELE QUALIZZA et al.****APPELLANTS****AND****HIS MAJESTY THE KING IN RIGHT OF CANADA et al.****RESPONDENTS****NOTICE OF DISCONTINUANCE**

The following Appellants wholly discontinues their action.

1. Michael Barrette
2. Darrin Thomas Beaton
3. Amanda Leigh Benham
4. Dwayne Armand Bratzke
5. Ryan Douglas Breau
6. Stephen Troy Chledowski
7. Rebekah Kathleen Courtney
8. Jonathan Wayne Crouch
9. Brady Damien Dedam
10. Samuel Drouin
11. Michael Ryan Frank
12. Jennifer Bethany Frizzley
13. Tommy Gauvreau
14. John M Gillis
15. Nicolas Alexander Gleis

16. Gary Adam Johnston
17. Collin Perry Kaiser
18. Evan Victor Koziel
19. Jonathan Joseph A. Lemire
20. Mark Andrew Lolacher
21. Andrew Robert Paul Mallory
22. Jamie Richard McEwen
23. Jonathan Noel
24. Carol-Ann Mary T Ouellette
25. Joseph Anthony Papalia
26. Jean-Simon Plamondon
27. Jenna Leigh Roberts
28. Joshua Calvin Roberts
29. Rory Alexander David Rosen
30. Paul Russell Shapka
31. Roger Cory Stoesz
32. James Roark Suter
33. Simon Bobby H Tilly
34. Shelley Diane Tully
35. Gregory Vincent-Walker
36. Brandon Tyler Peter Zwicker
37. Anthony Bilodeau
38. Sergiu George Candea
39. Jacob Thomas Fidor
40. Jesse Henry Field
41. Mateusz Cameron Kowalski
42. Vanessa Rae Larochelle
43. Valentin Lavrov
44. Lucas Shane O'Connor
45. Marc-Antoine Poulin
46. Daniel Ninian Rodrigues

- 47. Mark Ronkin
- 48. Kurtis Rockefeller Rutherford
- 49. Joseph Benjamin Stewart
- 50. Dustin Shane Wiebe
- 51. Lucas Gerard Ziegelbauer

January 28, 2025



Catherine M. Christensen  
Barrister & Solicitor  
Valour Legal Action Centre  
412 – 12 Vandelor Road,  
St. Albert, AB T8N7Y2  
780-544-1813/866-560-9826  
[cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)

TO: Barry Benkendorf  
c/o Department of Justice Canada  
Prairie Region  
300, 10423 – 101 Street NW,  
Edmonton, AB T5H 0E7



**FEDERAL COURT OF APPEALS**

**BETWEEN :**

Francesco Gabriele Qualizza, Joel Thomas William Ellis, Patrick Mercier, Jill Lyne Duchesneau, ~~Joseph Benjamin Stewart~~, Eric David Faucher, Scott Peter Bacon, ~~Stephen Troy Chledowski~~, ~~Amanda Leigh Benham~~, Joshua Martin Mcculloch, Kyle Corriveau, Joseph Daniel Eric Louis Montgrain, ~~Dustin Shane Wiebe~~, Stephen Wj Morris, David Garcia Vargas, Michael Joseph Lis, Natasha Katrina Lis, Solange Sine Djoueche, Peter Vlassov, Frederic Villeneuve-Normand, Estate Of Jonathan Emmerson Jenkinson, ~~Valentin Lavrov~~, Marie-Eve Labonte, Jesse Dale Friesen, Tania Catherine Nordli, Andrzej Skulski, Dennis John Paul Tondreau, Emmy-Lou Laurie Forget, Dallas Alexander Flamand, Chelsea Elaine Rogal, Baron Hordo, Taylor Michael Harvie, ~~Vanessa Rae Laroche~~, Jacqueline Marie France Boehme, James Paul Daniel Formosa, Kaitlyn E Campbell, Lucas Timothy Vancuren, Jermaine Sheridan Burrell, Anthony David Hiatt, Michael St-Laurent, Armand Edward A. Garner, Amit Sodhi, Camille Felix J Turgeon, Samantha Gwendolyn Styles, ~~Carol Ann Mary T Ouellette~~, Robert James Teremchuk, Nathaniel J P Tondreau, Nikola J Guy Tondreau, Lisa Pauline Leopold, Hailey Noelle Schroder, Dominique Lauzier, Valerie Ouellet, ~~John M Gillis~~, Morgan Christopher Warren, Mark Andrew Good, Sean Michael Marcotte, ~~Mark Andrew Lolacher~~, Gabriel Villeneuve, Kira Anne Yakimovich, Mathieu W Petit-Marceau, Kimberly Nedra Ettel, Christopher William Rambharose, ~~Michael Ryan Frank~~, Evan Jeffery Mcfatridge, Pierre-Elie Lasnier, Alessandru Ward Forster Brown, Danis Doiron, Carl Joseph D Rivest-Marier, Jaroslaw T Ciesinski, Stephen William Holt, Randolph Raymond Jenkins, Andrew John Macphee, Valerie Palin-Robert, ~~Roger Cory Stoesz~~, Shane

Thomas Whitson, Christian Kurt Carter, Matthew James Rowe, Dave Bouchard,  
 Laurie C. Baker, Frederic Lauzier, ~~Lucas-Shane O'connor~~, Laura Dianne Allan,  
 George Vrinotis, Sienna Germaine Quirk, Charles Bruno Alexandre Turmel,  
 Jaroslaw Grzegorz Marczewski, Christopher Nightingale Anderson, Francis  
 Joseph Michel Archambault, Christopher Raymond Austin, John Anthony  
 Baklinski, David Glen Barkhouse, ~~Michael Barrette~~, ~~Darrin Thomas Beaton~~, Bobak  
 Beheshti, Andres Felipe Bocanegra Beltran, Nathan Kyle Johnson, Conrad  
 Joseph Benoit, Mathieu Bernard, Brian James Bews, Michael Christopher Bill,  
 Robert Stewart Bishop, Jefferson Malcome Bissengue, Steven Bolduc, Thomas  
 Gill Bonnett, Charles Anthony Valmhor Borg, Patrick James Boschalk, Karla Rae  
 Bowler, Kenneth Scott Bradley, ~~Dwayne Armand Bratzke~~, ~~Ryan Douglas Breau~~,  
 Chara Loren Browne, William Frederick Bull, Mark A Calow, James Gregory  
 Cameron, Brett Grant Gordon Campbell, Damian Ronald Cayer, Jesse Shayne  
 Chambers, Vladimir Charnine, Shaun Kyle Charpentier, Daniel Robert Cheshire,  
 Dave Cimon, Charles Benoit-Jean Cote, Remi Cote, Matthieu Coulombe, ~~Rebekah~~  
~~Kathleen Courtney~~, Maverick Jeremy Joseph Cowx, ~~Jonathan Wayne Crouch~~,  
 Nicole Johnna Crowder, Bartlomiej David Cychner, Beata Margaret Czapla, Sara  
 Darby, ~~Brady Damien Dedam~~, Virgil Severin Dessouroux, Sean Robert Dixon,  
 Robert Adam Doliwa, Daniel Pierre Drolet, ~~Samuel Drouin~~, Benjamin Graham  
 Dunbar, Matthew Alexander J. Durda, Stephen Andrew Terence Ells, Austin Karn  
 Faulkner, Eric Michel C S Fontaine, William Joseph R Forget, Sean Michael  
 Francis, Kory Michael Fraser, Jason Joseph Kevin Frechette, Christopher  
 Benjamin Fuellert, Steven James Gallant, Steven Roy Gamble, Tanya Lee Gaudet,  
 Emilie Gauthier-Wong, ~~Tommy Gauvreau~~, ~~Nicolas Alexander Gleis~~, Marcel Joseph  
 G E Gobeil, Tammy Danielle Greening, Eugene Pieter Greyling, Kevin Clarence J  
 Griffin, Dominic Joseph S Guenette, Darcy Wayne Hansen, Brett Nevin Wellicome,  
 Rory Alexander Hawman, James Adam Heald, Kyle Keith Hepner, Jason Stanley  
 Gilbert Ignatescu, Thanarajan Jesuthasan, Kevin Thomas Johnson, ~~Gary Adam~~  
~~Johnston~~, Ryan Gregory Jones, Jamie Alexander Curtis Jorstad, Attila Stephen  
 Kadlecsik, Dusty Lewis Kennedy, Hunter Elmer Kersey, Liam Owen Kiropoulos,  
 Christopher Robert Knorr, ~~Evan Victor Koziel~~, Martin Philippe Labrosse, Gerald

Jn- Fritz Lafortune, Andre Lahaye, Kelly-Lee Marie Lake, Nicholas Edward Lange, Sarah-Emilie Lasnier, Dominic Joseph M. Lavoie, Tara Lavoie, Drake Michael Le Couteur, Marc Leclair, Pierre Lemay, ~~Jonathan Joseph A. Lemire~~, Daniel Paul Loader, Garrett Curtis Logan, Jordan Terrence Logan, Alexandre Guy Richard Loiselle, Adam Fernand C. Lupien, Walter George Lyon, Joseph Brefni W. Macdonald, Christien Tavis Roger Macdonnell, Jean Joseph Madore, Charles Joseph J. Magnan, ~~Andrew Robert Paul Mallory~~, Marylene Ginette S. Martin, Marco Mastantuono, ~~Jamie Richard Mcewen~~, Johannes Wouter Mulder, Tyler Edwin Neufeld, Laura Lee Nicholson, Keri Merriam Nixon, ~~Jonathan Noel~~, Joshua Bruce Olson, Caroline Mary Audrey Ouellet, ~~Joseph Anthony Papalia~~, Melanie Marie I. Pare, Alexandru Patularu, Joshua Alexander Pickford, Agnes Pinter-Kadlecsik, ~~Jean-Simon Plamondon~~, Krister Alexander Pohjolainen, Aura A. Pon, Brody Allen Poznikoff, Stefan Prisacari, Monika Anna Quillan, Romain Racine, Dominic Laurens William Ragetli, Stephane Ratte, Bryan Thomas Richter, William Rios, ~~Jenna Leigh Roberts~~, ~~Joshua Calvin Roberts~~, Laurie Rose, ~~Rory Alexander David Rosen~~, Sebastien Salvas, Cameron Ray S. Sanders, Carl Jean G. Savard, Torsten Schulz, ~~Paul Russell Shapka~~, Blake Alexander Sheedy, Quinton James Stender, Caleb Ethan M. Stener, Gabriel-Alexandre St-Gelais, Nicolas Joseph St-Germain, Robert Christopher Stull, ~~James Reark Suter~~, Dalen Drew Tanner, Justin Myles Tenhage, Jacob Cyril Theriault, ~~Simon Bobby H Tilly~~, Jean-Philippe Trudel, Albert Jason Tschetter, ~~Shelley Diane Tully~~, Magali Turpin, Julian Philip Tutino, ~~Gregory Vincent Walker~~, Cade Austin Walker, Brennen Bo Anthony Watson, Benjamin Kyle Weston, Matthew Max Whicher, Joshua James White, Andrew Ernest Wilkowski, Donald James Williams, Curtis Malcom Wilson, Wade George Wilson, Andrew Dean Wychnenka, Marc Zorayan, ~~Brandon Tyler Peter Zwicker~~, William H L Levi Wall, Karen Paige Nightingale, ~~Marc Antoine Poulin~~, Keegan Marsh, Ryan Michael, Thomas Patrick Hayes, James Mark Charlebois, Halston Randal Nicholson, Melissa-Jane Sarah Krieger, Gianluca Luchetta, Benjamin James Wilcox, ~~Mark Ronkin~~, Serge Joseph Leo Faucher, ~~Jacob Thomas Fidor~~, ~~Lucas Gerard Ziegelbauer~~, Spencer Daniel Lord, Ian Oceguela, John Nesrallah, ~~Daniel Ninian Rodrigues~~, Cory Jason Kruger, Stephen Young Smith, Fourat

Yacoub Yousif Jajou, ~~Anthony Bilodeau~~, Jonathan Michael Recoskie, Thomas L. Edwards, Lindsay Anne Mackenzie, Sarah Evelyn Laprade, Dany Pilon, James Andrew Cook, Derek John Gauthier, David Adam Dobbie, Gabrielle Charpentier, Daniel Johannes Reckman, Zachary Cleeland, ~~Mateusz Cameron Kowalski~~, Tara J. Macdonald, Paul David Wilson, Brendan V. T. Lebert, Jocelyn Lamotte, Anthony J. Duke, Riley Malcolm Macpherson, Kim Noel Lauzon, ~~Kurtis Rockefeller Rutherford~~, ~~Sergiu George Candea~~, ~~Jesse Henry Field~~, William Edward Brendon, Cameron Samuel Nobert, David Houde, Alyssa Joy Blatkewicz, ~~Colin Perry Kaiser~~, Fabrice Dourlent, Cory Lance Gargin, Anita Grace Hessling, ~~Jennifer Bethany Frizzley~~, David Andrew Benson, Brandon John Armstrong, Rejean Berube, Jean-Philippe Joseph Bouchard, Dhillon David Cole, Pierre-Olivier Cote-Guay, Ian M Menzies, Eric Monnin, Elliot Gamache, Nicholas Neil Lloyd Crocker, Robert Allan Henderson, Gabriel Gilles Rj Ramsay, Devin James Mckenna

#### APPELLANTS

AND

His Majesty the King in Right of Canada, Chief of the Defence Staff General Wayne Eyre, Vice Chief of Defence Staff Lieutenant-General Frances J Allen, Lieutenant General Jocelyn J M J Paul, Vice Admiral Angus I Topshee, and Lieutenant General Eric J Kenny, Minister of National Defence, The Honourable Anita Anand, Former Deputy Minister of National Defence Jody Thomas, Surgeon General Major-General JGM Bilodeau, Chaplain General Brigadier- General JLG Belisle, Judge Advocate General Rear-Admiral Genevieve Bernatchez, and Brigadier General Liam Wade Rutland

#### RESPONDENTS

## Amended Notice of Appeal

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears below.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Edmonton, Alberta

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the [Federal Courts Rules](#) and serve it on the appellant's solicitor or, if the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the [Federal Courts Rules](#) instead of serving and filing a notice of appearance.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

23 January 2025

Issued by: \_\_\_\_\_ (Registry Officer)

Rice Howard Place  
10060 Jasper Avenue  
Tower 1, Suite 530  
Edmonton, Alberta  
T5J 3R8

**TO:**

**HIS MAJESTY THE KING IN RIGHT OF CANADA**

**Department of Justice Canada**

**Floor 1, 10423 101 Street NW**

**Edmonton, AB T5J 4Y8**

**TO:**

**Chief of Defence Staff, General Wayne Eyre**

**Department of Justice Canada**

**Floor 1, 10423 101 Street NW**

**Edmonton, AB T5J 4Y8**

**TO:**

**Vice Chief of Defence Staff, Lieutenant General Frances J Allen**

**Department of Justice Canada**

**Floor 1, 10423 101 Street NW**

**Edmonton, AB T5J 4Y8**

**TO:**

**Minister of Defence, The Honourable Anita Anand**

**Department of Justice Canada**

**Floor 1, 10423 101 Street NW**

**Edmonton, AB T5J 4Y8**

**TO:**

**Former Deputy Minister of Defence, Jody Thomas**

**Department of Justice Canada**

**Floor 1, 10423 101 Street NW**

**Edmonton, AB T5J 4Y8**

**TO:**

**Surgeon General, Major General JGM Bilodeau  
Department of Justice Canada  
Floor 1, 10423 101 Street NW  
Edmonton, AB T5J 4Y8**

**TO:**

**Chaplain-General, Brigadier General JLG Belisle  
Department of Justice Canada  
Floor 1, 10423 101 Street NW  
Edmonton, AB T5J 4Y8**

**TO:**

**Judge Advocate General, Rear Admiral G Bernatchez  
Department of Justice Canada  
Floor 1, 10423 101 Street NW  
Edmonton, AB T5J 4Y8**

**TO:**

**Brigadier General LW Rutland  
Department of Justice Canada  
Floor 1, 10423 101 Street NW  
Edmonton, AB T5J 4Y8**

**TO:**

**Commander Royal Canadian Navy, Vice Admiral AI Topshee  
Department of Justice Canada  
Floor 1, 10423 101 Street NW  
Edmonton, AB T5J 4Y8**

## Appeal

THE APPELLANTS APPEAL to the Federal Court of Appeal under section 27 of the *Federal Courts Act*, RSC 1985 c F-7, from the order of Justice Michael D Manson dated January 14, 2025 dismissing the Appellants' Motion for an Extension to Appeal, under Federal Court file no. T- 1296-23 related to the decision of Associate Judge Catherine A. Coughlan of the Federal Court dated November 13, 2024, striking the Appellants' Statement of Claim without leave to amend pursuant to Rule 221 of the Federal Courts Rules.

THE APPELLANTS ASK for the following relief:

1. An order granting the Appellants' leave to file the Notice to Appeal;
2. An order setting aside the Federal Court's decision striking the Statement of Claim;
3. An order reinstating the Statement of Claim or, alternatively, granting the Appellants leave to amend their pleadings;
4. Prejudgment and post-judgment interest;
5. The costs of this appeal, including GST and other taxes applicable, on a full indemnity basis; and
6. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS OF APPEAL are as follows:

1. **Procedural Issues in the Appeal Motion.** The Appellants' Motion for extension was rejected due to procedural error. While this error was acknowledged, it primarily affected how the Motion was processed rather than the substantive merits of the Appeal itself. The Court was too strict in its application of Rule 82 given the unique circumstances of several hundred Plaintiffs requiring legal advice. The Court also did not allow for amendment of the pleadings on procedural errors.
2. **Failure to Engage with the Appellants' *Charter* Claims.** The Federal Court erred in striking the Statement of Claim without substantively engaging with the Appellants' claims under sections 2(a), 2(d), 7, 8, and 15(1) of the *Canadian Charter of Rights and Freedoms*. In doing so, the Court failed to recognize the unique vulnerability experienced by CAF members due to the rigid hierarchical structure of the military. This structure places extraordinary control over



members' lives that do not exist in civilian employment contexts. The imbalance of power creates systemic barriers to autonomy and justice. By failing to engage meaningfully with the Appellants' claims and prematurely striking the Statement of Claim without leave to amend, the Federal Court perpetuated these systemic vulnerabilities and undermined the Appellants' ability to access justice and to hold executive decision-makers accountable. Notably, the Federal Court did not address the findings and recommendations of the Military Grievances External Review Committee ("MGERC"), an independent administrative tribunal appointed to review military grievances and provide findings and recommendations to the CDS. The MGERC identified section 7 *Charter* breaches after reviewing the grievance files of some of the Appellants. This oversight contributed to an erroneous conclusion regarding the Appellants' claims.

3. **Emerging case law leaves the law uncertain requiring clarification from the Federal Court of Appeal.** In *Payne v Canada* 2025 FC 5, the court ruled that it is "it is not plain and obvious that the Plaintiffs have grievance rights in relation to those claims [related to Charter of Rights and Freedoms]" at para 4. While this was a decision related to Federal employees, the issue of grievance systems and how they apply is also an important issue for the Canadian Armed Forces. In *Payne*, the Court allowed for the pleadings to be amended for material facts which was denied to the Appellants in this action.
4. **Jurisdictional Error and Failure to Apply Relevant Precedent.** The Federal Court erred in concluding that the CAF grievance process was an adequate alternative remedy, contrary to the principles set out in *Strickland v Canada (Attorney General)* 2015 SCC 37 and related jurisprudence. The grievance process cannot provide remedies for systemic constitutional violations, particularly where the issues raised extend beyond the chain of command and require judicial oversight, as seen in *Bernath v Canada*, 2007 FC 104, and affirmed by *Bernath v Canada*, 2007 FCA 400. A case running concurrently to the Appellants' cases has determined that the grievance system cannot be sued for claims related to *Charter Rights (Payne Harvey & Molaro v HMTK* 2025 FC 5 "Payne")) which now creates conflicting decisions within the Federal Court system on the same issue. This conflict creates uncertainty in the legal system for Plaintiffs subject to a grievance process in their employment.
5. **Failure to Consider the Limits of the CAF Grievance System.** The Federal Court failed to consider the findings of the 2021 *Report of the Third Independent Review Authority to the Minister of National Defence*, prepared by the Honourable Morris J. Fish, C.C., Q.C., which highlighted systemic delays,

inadequate remedial capacity (including the lack of power to grant financial relief as a remedy to a grievance or to reverse administrative release found to be unwarranted), and significant barriers to justice in the CAF grievance system. The reliance on this process ignored its inability to address constitutional claims, breaches of informed consent, and other serious issues raised by the Appellants.

6. **Failure to Consider the Breadth of Remedies Required.** The Appellants' claims involve constitutional and systemic issues beyond the jurisdiction of the CAF grievance process. The Federal Court failed to recognize that only a judicial review process can address such issues comprehensively and hold executive decision-makers accountable as was decided in *Payne*.
7. **Procedural Unfairness in Ignoring Systemic Delays in Grievances.** The Court failed to adequately consider the systemic delays and lack of timely remedies in the CAF grievance process, which were highlighted in independent reviews such as those completed by the Right Honourable Antonio Lamer P.C., C.C., C.D. and the Honourable Morris J. Fish, C.C., Q.C.. These delays rendered the grievance process ineffective and unsuitable as an alternative remedy. The *Military Justice System Time Standards* sets a presumptive ceiling of 18 months for the completion of court martials; the process that would have been followed had the legislative framework provided in section 126 of the *NDA* been adhered to by Command. Twice that amount of time (over three years) has already elapsed as the Appellants navigate the CAF grievance system and attempt to seek a remedy through the Federal Court. To date, not one of the Plaintiffs have received a decision by the Final Authority on their grievances. This delay in receiving a decision from the Final Authority prejudices the Plaintiffs in their ability to bring a claim within a reasonable time as well as seek review by the Court.
8. **Failure to Address the Impact of Regulatory Barriers on Grievance Filing.** The Court overlooked that approximately 230 Appellants did not file grievances within the narrow three-month regulatory deadline, shortened further by the expedited release process experienced by many of the Appellants. By focusing only on the grievances submitted by a subset of Appellants, the Court failed to acknowledge the broader systemic barriers to justice faced by CAF members under the CAF COVID-19 vaccination mandate.
9. **Reliance on Non-Party Grievance (Paragraph 67).** The Federal Court improperly relied on a grievance decided by the Chief of the Defence Staff ("CDS") from an individual not party to the proceedings. While the grievance

concerned similar issues, it did not reflect the Appellants' experiences or their unresolved grievances. Including a Final Authority decision on a grievance of a third party was misleading to the Court. This reliance then skewed the analysis and failed to account for the fact that all of the Appellants' grievances remain unresolved due to systemic barriers.

10. **Failure to Properly Apply the Legislative Scheme of the *National Defence Act* (“NDA”) (Paragraph 45).** The Federal Court erred by overlooking the legislative framework provided in section 126 of the *NDA* and instead applying Defence Administrative Orders and Directives (“DAOD”) 5019-4, a subordinate policy instrument designed to address conduct deficiencies such as alcohol misconduct, prohibited drug use, hateful conduct, and sexual misconduct. DAOD 5019-4 is issued under the authority of the Deputy Minister and the Chief of the Defence Staff and does not have the statutory force of section 126 of the *NDA*. The Court’s reliance on *Hoffman v Canada (Attorney General)*, which pertains to sexual misconduct—a category explicitly addressed under DAOD 5019-4—was inappropriate and distinguishable from the Appellants’ case. This misapplication of law undermined the proper legal and procedural analysis required in the context of the Canadian Armed Forces (“CAF”) COVID-19 vaccination mandate and its enforcement mechanisms.
11. **Availability of New Evidence Undermining the Legal Basis of the Mandate.** New evidence obtained after the Federal Court dismissed the claim directly challenges the legal basis upon which the CAF justified its COVID-19 vaccination mandate, which restricted members’ rights. This evidence includes statements from the CDS and the Director Force Health Protection/Communicable Disease Control Program indicating that COVID-19 vaccination was not a *bona fide* operational requirement sufficient to justify a broad vaccination mandate. As this evidence was unavailable at the time of the Federal Court’s decision, it warrants appellate consideration to ensure a complete and accurate evaluation of the mandate’s legality and its impact on the rights of CAF members.
12. **Improper Use of Rule 221 and Denial of Leave to Amend.** The Court struck the Statement of Claim under Rule 221, concluding that it disclosed no reasonable cause of action, failed to plead material facts, used vexatious language throughout, and included assertions that constituted abuse of process, without granting leave to amend. The noted deficiencies were procedural and related to a breach of Rules 363 and 365, and not to a lack of evidence. The premature dismissal of the claim was contrary to established legal principles favoring access to justice and the right to amend pleadings to address any

perceived deficiencies. The Appellants contend that the pleading disclosed reasonable causes of action and raised significant legal and factual issues, which merited consideration on their merits.

23 January 2025



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Catherine M. Christensen  
Barrister & Solicitor  
Valour Legal Action Centre  
412, 12 Vandelor Road  
St Albert, AB T8N 7Y2  
780-544-1318  
Fax 866-560-9826  
cchristensen@valourlaw.com



Prairie Region  
National Litigation Sector  
300, 10423 – 101 Street NW  
Edmonton, AB T5H 0E7

Région des Prairies  
Secteur national du contentieux  
10423, rue 101 Nord-Ouest, bureau 300  
Edmonton (Alberta) T5H 0E7

Telephone/Téléphone: 780-495-7101  
Fax /Télécopieur: (780) 495-8491  
Email/Courriel: Barry.Benkendorf@JUSTICE.GC.CA

Via E-mail: cchristensen@valourlaw.com

February 4, 2025

Valour Legal Action Centre  
412, 12 Vandelor Road  
St. Albert T8N 7Y2

**Attention: Catherine Christensen**

**Re: QUALIZZA, Francesco Gabriele, et al v HMTK, et al – A-33-25**

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I have your letter of February 3, 2025. Because you have not answered the questions I posed in my letter of January 29, 2025 I am still unclear as to the intent of the Plaintiffs here.

More specifically, is it the intention of those parties listed in the filed notice of discontinuance to discontinue the action or the appeal? While the notice of discontinuance indicates they are discontinuing the action, the filing of the document at the Federal Court of Appeal (rather than the Federal Court) leads to the lack of clarity. In other words, I do not want to have a situation where the 51 individuals who discontinued in the Federal Court of Appeal suddenly become parties again should you be successful on the appeals.

Please confirm that the 51 individuals listed in the notice of discontinuance are out of the action permanently - no matter what may happen in any future appeals on this matter.

Once I have confirmation that they are out of the action for good, I can seek instructions to consent as I will know exactly what I am consenting to.

I still have yet to hear from you with respect to the proposed contents of the appeal book.

Yours truly,

Barry Benkendorf  
Senior Counsel  
Department of Justice Canada  
BB/kr





BY EMAIL: [Barry.Benkendorf@JUSTICE.GC.CA](mailto:Barry.Benkendorf@JUSTICE.GC.CA)

February 7, 2025

Department of Justice Canada  
Prairie Region  
300, 10423 101 Street NW  
Edmonton, AB T5H 0E7

Attention: Barry Benkendorf

Dear Mr. Benkendorf:

Re : ***QUALIZZA et al v HMTK et al***  
**A – 33 – 25 Notice of Appeal**

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Further to the above noted matter and your letter on February 4, 2025, I confirm that all 51 individuals who wholly discontinued their action are discontinuing as Appellants and Plaintiffs to Qualizza et al v HMTK et al Appeal and all other related court matters for A -33 25 and T- 1296 -23.

A proposed contents of the Appeal Book will be provided to your office in a timely manner.

Regards,  
**VALOUR LEGAL ACTION CENTRE**  
Per:

Catherine M. Christensen  
Barrister & Solicitor  
Email: [cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)



Department of Justice  
Canada

Ministère de la Justice  
Canada

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National Litigation Sector  
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Région des Prairies  
Secteur national du contentieux  
10423, rue 101 Nord-Ouest, bureau 300  
Edmonton (Alberta) T5H 0E7

Telephone/Téléphone: 780-495-7101  
Fax /Télécopieur: (780) 495-8491  
Email/Courriel: Barry.Benkendorf@JUSTICE.GC.CA

*Via e-mail:* [cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)

March 4, 2025

Valour Legal Action Centre  
412, 12 Vandelor Road  
St. Albert T8N 7Y2

**Attention: Catherine Christensen**

**Re: QUALIZZA, Francesco Gabriele, et al v HMTK, et al – A-33-25**

---

Further to Ms. Lopez's email of March 3, 2025, I consent to your office bringing a motion to amend the Notice of Appeal. However, I do this on the condition that you also serve your motion on Mr. Lolacher, as obviously he takes the position that the discontinuance should not have been filed on his behalf.

Yours truly,

Barry Benkendorf  
Senior Counsel  
Department of Justice Canada  
BB/gb

CC: Nette Lopez via email: [nettel@valourlaw.com](mailto:nettel@valourlaw.com)

PHONE CALL ACTIVITY SHEET

DATE: 2025 09 23

TIME: 1:30pm

TO/FROM: FC - Ikeny

SUBJECT: 1-0 Appeal

STAFF INITIAL: htee

APPOINTMENT:

EMAIL :

PHONE #: 780-495-4659

NOTES:

- NOA. - needs changes to be filed -
- ① - Style of Cause needs to be the same as Soc T-1296-23. How about the names of withdrawal? <sup>#4?</sup>
- ② - Hearing location. enter
- ③ - remove the FC file no. on Page #1 but enter on the 1st para.
- then resubmit.
- \* All plaintiffs who discontinued
- \* file notice of discontinuance.
- We can Amend NOA as informal motion.

Note: Note

changes instructions sitrop to cme

- cme : okay style of cause -



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PHONE CALL ACTIVITY SHEET

---

DATE: 2025 01 21

TIME: 10am

TO/FROM: #CA - Ivana

SUBJECT: A-3385

STAFF INITIAL: V

APPOINTMENT:

EMAIL :

PHONE #: 780-495-4651

NOTES:

- Since NOA is now filed, file all discontinuances
- Consent file together with Amended NOA Style of Cause  
How about <sup>Cause</sup> rule 79(1)(a) & (b)?
- FC clerk - needs Crown Consent - to Amend style of Cause.  
- Use Style of Cause (not Amended)
- rule 79(1)(a)(b) not applicable, Amending SDC  
needs order from Justice - by informal  
motion - Crown's consent.
- Note notes: - update AOS, per email to  
Ivana the updated AOS for just discontinuation



**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**QUALIZZA, FRANCESCO GABRIELE, AND OTHERS**

**APPELLANTS**

**AND:**

**HIS MAJESTY THE KING IN RIGHT OF CANADA, AND OTHERS**

**RESPONDENTS**

**AFFIDAVIT OF Mark Lolacher**

I, Mark Lolacher, of P.O Box 693 Athabasca Stn Main, in the Town of Athabasca, in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I make this affidavit in support of my motion for an order to set aside the Notice of Partial Discontinuance filed on January 31, 2025, by my counsel, Ms. Catherine M. Christensen ("Ms. Christensen"), as the Notice was filed without my knowledge, consent, or proper authorization.
2. I was not notified by Ms. Christensen or any other party regarding the filing of the Notice of Discontinuance. At no time was I informed that such a Notice was being filed on my behalf, nor did I authorize or consent to its filing.
3. I did not receive a copy of the Notice of Discontinuance, nor was I provided with any communication from Ms. Christensen indicating that it had been filed, was being considered, or was under preparation.
4. On January 25, 2025, I sent an email to Ms. Christensen requesting an update on various unresolved issues, including her request for a donation to her not-for-profit corporation and a sudden change in her fee structure from contingency to non-contingency. These concerns were substantial, and I believed it was my right as a client to seek clarification. I did not expect that raising these valid concerns would lead to her withdrawal as my counsel and my removal from the proceedings. Attached hereto as **Exhibit "A"** is a copy of this email.



5. On January 27, 2025, I received an email from Ms. Christensen stating that she no longer represented me in any legal capacity. She claimed that her decision to withdraw had been "made clear in meetings and written communications." However, at no time did Ms. Christensen explicitly inform me of her intention to withdraw, nor was I invited to any meeting to discuss her withdrawal. Attached hereto as **Exhibit "B"** is a copy of this email.
6. The last communication I had received from Ms. Christensen prior to this indicated that she was still prepared to represent me in the appeal, and that the appeal was progressing. Attached hereto as **Exhibit "C"** is a copy of this email dated December 9, 2024.
7. Following the January 27 email, I immediately contacted the Federal Court in Edmonton to inquire about the status of my involvement in the appeal and sought guidance on the necessary next steps. Attached hereto as **Exhibit "D"** is a copy of this email to the Federal Court.
8. On February 3, 2025, I was notified by the Federal Court that the Notice of Discontinuance had been filed on January 31, 2025, on behalf of several appellants, including myself. Attached hereto as **Exhibit "E"** is a copy of this email from the Federal Court along with attachments evidencing service of the Notice of Partial Discontinuance on Counsel for the Respondents.
9. On February 19, 2025, I received further notification from the Federal Court indicating that Ms. Christensen had filed correspondence on February 11, 2025, stating that I had taken no steps to retain her further and that documents removing her as my counsel had been filed. Attached hereto as **Exhibit "F"** is a copy of this correspondence.
10. On February 20, 2025, I submitted correspondence to the Federal Court in response to Ms. Christensen's letter of February 11. In this letter, I outlined my efforts, beginning November 27, 2024, to engage with Ms. Christensen and seek clarification on various outstanding matters. I explained that despite my clear and direct requests, I had faced significant difficulty in obtaining straightforward responses from Ms. Christensen. I requested guidance from the Court on how to proceed with reinstating my status as an appellant. Attached hereto as **Exhibit "G"** is a copy of this correspondence.
11. On February 28, 2025, I received a notification of a notation from the Court indicating that the Court could not provide specific guidance on how to proceed. The notation also confirmed that while Ms. Christensen had claimed in her letter of February 11 that documents removing her as my counsel had been filed, no such documents were found in the Court's records. Attached hereto as **Exhibit "H"** is a copy of this notation from The Honourable Mr. Justice Laskin located in the Recorded Entry Summary column of the Federal Court of Appeal website.
12. To date, I have not been served with a copy of the Notice of Partial Discontinuance, nor has Ms. Christensen provided a justifiable reason for her withdrawal as my counsel, nor have I been served with a proper notice of withdrawal.
13. Given these circumstances, I respectfully request that the Court:
  - a) Set aside the Notice of Partial Discontinuance filed by Ms. Christensen on

January 31, 2025, as it was filed without my knowledge, consent, or proper procedural steps;

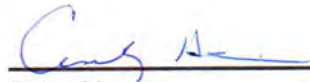
- b) Reinstate my status as an Appellant in the above-captioned matter, thereby ensuring my continued participation in the appeal process; and
- c) Require Ms. Christensen to comply with the withdrawal procedures set out in Rules 124 and 125 of the Federal Court Rules, and s. 3.7-1 of the Law Society of Alberta Code of Conduct.

14. I make this affidavit in good faith, believing the facts stated herein to be true and to the best of my knowledge and belief.

SWORN (or Affirmed) BEFORE ME at the )  
Town of Athabasca, in the Province of Alberta, )  
Canada on the 26 day of March, 2025 )



Mark Lolacher  
Appellant



Print Name:

A Commissioner for Oaths  
in and for Alberta

Expiry:

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

### INDEX OF EXHIBITS

For Affidavit of Mark Lolacher Sworn on 20<sup>th</sup> March, 2025

EXHIBIT	DESCRIPTION	PAGE NO.
Exhibit "A"	January 25, 2025 email from M. Lolacher to C. Christensen	11
Exhibit "B"	January 27, 2025 email from C. Christensen to M. Lolacher	14
Exhibit "C"	December 9, 2024 email from C. Christensen to M. Lolacher	15
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**MARK LOLACHER, PLAINTIFF IN FEDERAL COURT ACTION NO. T-1296-23**

From mlolacher

To Catherine Christensen

Date Saturday, January 25th, 2025 at 4:14 PM

January 25, 2025

SENT VIA E-MAIL: [cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)

Valour Law

412, 12 Vandelor Road

St. Albert, AB T8N 7Y2

Attn: Catherine Christensen

**RE: MARK LOLACHER, PLAINTIFF IN FEDERAL COURT ACTION NO. T-1296-23**

Dear Ms. Christensen,

I am writing to follow up on your email from January 21 regarding the requested payment for the "Appeal cost" and the signed Legal Services Agreement for the appeal. Unfortunately, both of my children have been ill with the flu, and I was unable to check my email until today. That said, I have several important questions that I would like to address.

First, I seek clarification on the new Legal Services Agreement related to *Qualizza et al. v. HMTK et al.* While the agreement seems to pertain specifically to the appeal, I find the terms unclear, particularly in regard to the services it covers. The agreement refers to "legal services described in the Agreement" and "the work described," but fails to specify what these services entail or provide a clear plan for moving forward. I would greatly appreciate a more detailed explanation of what is included, and what I can expect.

I am also uncertain about the status of the appeal. In Ms. Frank's email from December 11, she mentioned that "The Notice of Appeal is being filed and served today," and I was to receive a copy once the document was returned from the Court. However, I have yet to receive that document or any confirmation that the appeal was filed as indicated. Moreover, your communication on January 15 stated that the motion was denied on procedural grounds, which raises further questions. Was the appeal ever filed, or was a motion submitted and rejected due to errors or missed deadlines? Additionally, your message mentioned that the Notice of Appeal would be filed on January 16, yet I have not received confirmation that this occurred. This lack of clarity has left me unsure about the current status of the case.

Additionally, I am confused as to why a new legal agreement is being presented at this stage. The Contingency Fee Retainer Agreement I signed with Valour Legal Action Centre ("VLAC") in February 2022 clearly states that a new agreement would be required only if the case proceeded to trial and an appeal was filed afterward. Since no trial has taken place, and the motion to extend the time for an appeal was denied, I don't understand why a new agreement is necessary now, particularly one with non-contingency terms. Could you please clarify the need for this new fee structure and how the current work falls outside the scope of the existing Contingency Fee Retainer Agreement?

This is Exhibit "A" referred to in the  
Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 2025

Cindy Lou Hanson

A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027



I also wish to address some concerning statements made in previous communications. Specifically, I was incorrectly accused of "considering litigation against VLAC and the Board" and of making "disparaging comments in a public forum." Furthermore, it was stated that you were prepared to accept that you would be representing me for the Appeal but would withdraw as my counsel should the Appeal be successful and the litigation continue. These statements misrepresent my position and have left me feeling unfairly characterized. I would appreciate the opportunity to clarify my stance and have these inaccuracies addressed.

Another issue I would like to raise involves my privacy. On January 23, I was removed from the "Signal Update" chat group, which was created to keep clients informed about important case developments. When I inquired about the removal, [REDACTED], the chat moderator, who is a fellow plaintiff in this action, explained that it was due to my failure to pay the appeal fee and submit the new Legal Services Agreement. This disclosure of my financial obligations without my consent is troubling, particularly as the Contingency Fee Retainer Agreement is between myself and VLAC. I find it inappropriate and humiliating that such personal information was shared with another plaintiff, and I would appreciate an explanation for this.

On January 24, I discovered that I had also been removed from the "Signal 4% Your Stories" chat group, which was created for plaintiffs to share personal experiences for social media fundraising campaigns. When I inquired about this with the group's moderator, "[REDACTED]," I asked for clarification on who he truly was, as I suspected he might be using a pseudonym. He declined to reveal his real identity, citing privacy concerns. In response to my query about my removal, he explained that he was told that I was no longer on the lawsuit, and was instructed by [REDACTED] to remove me from the chat group. Additionally, a screenshot surfaced, between "[REDACTED]" and [REDACTED], suggesting that VLAC had instructed the removal of certain individuals, including myself from the chat groups. Given these developments, I would greatly appreciate clarification on whether I have indeed been removed from the lawsuit entirely, and why someone who is using a fake name, appears to have access to information pertaining to my client status with your firm.

Lastly, I have several questions about the ongoing case. I would like an update on how errors in documents, missed deadlines, and improper pleadings might affect the appeal, as well as any related legal fees.

To summarize, I would appreciate clarification on the following:

1. Was the appeal ever filed, and if not, when will it be filed?
2. What specific services are covered under the new Legal Services Agreement?
3. Why is a new Legal Services Agreement necessary when the Contingency Fee Retainer Agreement should still apply at this stage?
4. Can you address the incorrect statements made about me considering litigation against VLAC, making disparaging comments, and misrepresenting my position?
5. Why was I removed from the Signal chat groups, and why was information about my financial obligations and my status as a client of your firm shared without my consent?
6. Can you clarify whether I have been removed from the lawsuit entirely?
7. Who is "[REDACTED]" in the Signal chat group, and why is an individual with a pseudonym moderating that group and privy to my personal information?
8. Can you provide an update on the case's progress, particularly regarding errors, missed deadlines, and their potential impact on the appeal or legal fees?

I would greatly appreciate more transparent communication moving forward, as the current lack of clarity over the past several months has caused considerable stress and left me feeling excluded from the process.

Thank you for your attention to these matters. I look forward to your prompt response.



Sincerely,

Mark Lolacher

Sent with [Proton Mail](#) secure email.

**RE: MARK LOLACHER, PLAINTIFF IN FEDERAL COURT ACTION NO. T-1296-23**

From Catherine Christensen

To mlolacher

Date Monday, January 27th, 2025 at 7:47 AM

Mr. Lolacher

This is Exhibit " B " referred to in the  
Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 20 25

Cindy Lou Hanson  
A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

As you did not sign the Legal Services Agreement for the Appeal and did not pay the requisite donation to Valour Legal Action Centre by the clear deadlines, I no longer represent you in any legal matter. This ending to my representation was made clear in meetings and written communications to everyone in the 1.0 lawsuit.

You, like others who chose not to proceed, were removed from the VLAC Signal groups. You are mistaken to believe that this was exclusive to you.

Best wishes on your future endeavours.

Regards,

Catherine M. Christensen

Barrister & Solicitor

Valour Law/Valour Legal Action Centre

412, 12 Vandelor Road

St Albert, AB T8N 7Y2

780-544-2200/780-544-1813

**CONFIDENTIALITY WARNING:** This e-mail message is intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this message in error, or are not the named recipient(s), please immediately notify the sender and delete this e-mail message

**RE: MARK LOLACHER, PLAINTIFF IN FEDERAL COURT ACTION NO. T-1296-23**

From Catherine Christensen

To mlolacher

CC Naomi Auber

Date Monday, December 9th, 2024 at 10:32 AM

This is Exhibit "C" referred to in the  
Affidavit ofMark LolacherSworn before me this 20 dayof March A.D., 2025Cindy Lou HansonA Notary Public, A Commissioner for Oaths  
in and for AlbertaCindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

Mark

It is my understanding that you wish to continue with the OP VALOUR 1.0 litigation which is now heading for Appeal. I am prepared to accept that I will be representing you for this Appeal.

I will, however, withdraw as your counsel should the Appeal be successful and the litigation will continue. I am informing you of this change now so that you have ample time to engage other counsel, should you wish to continue the lawsuit against the CAF. VLAC has been informed of my decision.

Access to Signal groups is not guaranteed to any client. These groups that are controlled by VLAC and/or myself are available at our sole discretion. Access to the Privileged group was suspended due to others having access to privileged lawyer-client communications and then potentially using them in a public forum. I am required to protect my clients' communications from this type of activity, which I have done.

I am aware that there were conversations you had with a previous member of the Board of Directors indicating that you and/or your spouse were considering litigation against VLAC and the Board. Therefore, as of this email, should you have any other questions, I will respond via email only.

Catherine

Catherine M. Christensen

Barrister &amp; Solicitor

Valour Law/Valour Legal Action Centre

412, 12 Vandelor Road

St Albert, AB T8N 7Y2

780-544-2200/780-544-1813



# INQUIRY RE: LEGAL REPRESENTATION WITHDRAWAL AND CASE STATUS, FEDERAL COURT ACTION NO. T-1296-23

From mlolacher  
 To EDM\_reception@fct-cf.ca  
 Date Monday, January 27th, 2025 at 5:24 PM

This is Exhibit " D " referred to in the  
 Affidavit of

Mark Lolacher  
 Sworn before me this 20 day  
 of March A.D., 2025

Dear Sir/Madam:

Andy Lou Hanson  
 A Notary Public, A Commissioner for Oaths  
 in and for Alberta

A Commissioner for Oaths  
 in and for the Province of Alberta  
 My Commission Expires Oct. 11, 2027

I am writing to inquire about the status of my participation as a plaintiff in the above-noted action. Today, my legal counsel, Catherine M. Christensen, withdrew from representing me, for arbitrary reasons and failed to provide proper notice of her withdrawal. I believe this decision is rooted in unfair prejudice against me, and I am concerned about the implications this has on my participation in this case going forward.

Given these circumstances, I am seeking clarification on the next steps to ensure that I can continue my involvement in this matter, especially as Ms. Christensen had indicated that the case was being prepared for appeal and had previously indicated that she was prepared to represent me for said appeal.

The prospect of finding new legal representation at this stage in the case would undoubtedly put a significant financial strain on myself and my family. The cost of hiring a new lawyer, coupled with the potential disruption of an already complex legal process, would be an extremely burdensome challenge.

For context, I have also reached out to the Law Society of Alberta to address this, and other issues that I have had with Ms. Christensen for the past several months.

I would greatly appreciate your guidance on how to proceed under these challenging circumstances.

Thank you for your attention to this matter. I look forward to your response.

Sincerely,

Mark Lolacher

Sent with [Proton Mail](#) secure email.

**RE: INQUIRY RE: LEGAL REPRESENTATION WITHDRAWAL AND CASE STATUS,  
FEDERAL COURT ACTION NO. T-1296-23**

From EDM\_reception@fct-cf.ca  
To mlolacher  
Date Monday, February 3rd, 2025 at 12:39 PM

This is Exhibit " E " referred to in the  
Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 2025

Cindy H.

A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson

A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

Good afternoon,

The attached notice of discontinuance was filed in A-33-25 on behalf of several appellants. If you feel that this was filed incorrectly please call out office. (780)495-2502.

Kind regards,

LINDSAY KRIEGER

Registry Officer | Agent du greffe

Courts Administration Service | Service administratif des tribunaux judiciaires

Edmonton Local Office | Bureau local de Edmonton

PH: 780-495-4651 | F : 780-495-4681



Courts Administration  
Service

Service administratif des  
tribunaux judiciaires

Canada

**From:** mlolacher <[mlolacher@protonmail.com](mailto:mlolacher@protonmail.com)>

**Sent:** Monday, January 27, 2025 5:25 PM

**To:** EDM\_Reception <[EDM\\_Reception@fct-cf.ca](mailto:EDM_Reception@fct-cf.ca)>

**Subject:** INQUIRY RE: LEGAL REPRESENTATION WITHDRAWAL AND CASE STATUS, FEDERAL COURT ACTION NO. T-1296-23

Dear Sir/Madam:



ID 9

<b>FEDERAL COURT OF APPEAL</b>		<b>DEPOSE</b>
<b>COUR D'APPEL FÉDÉRALE</b>		
<b>FILED</b>	January 31, 2025 31 janvier 2025	
Irena Stojanovska		
<b>EDMONTON, AB</b>		6

## FEDERAL COURT OF APPEAL

### BETWEEN:

**Francesco Gabriele Qualizza, Joel Thomas William Ellis, Patrick Mercier, Jill Lyne Duchesneau, Joseph Benjamin Stewart, Eric David Faucher, Scott Peter Bacon, Stephen Troy Chledowski, Amanda Leigh Benham, Joshua Martin McCulloch, Kyle Corriveau, Joseph Daniel Eric Louis Montgrain, Dustin Shane Wiebe, Stephen Wj Morris, David Garcia Vargas, Michael Joseph Lis, Natasha Katrina Lis, Solange Sine Djoueche, Peter Vlassov, Frederic Villeneuve-Normand, Estate Of Jonathan Emmerson Jenkinson, Valentin Lavrov, Marie-Eve Labonte, Jesse Dale Friesen, Tania Catherine Nordli, Andrzej Skulski, Dennis John Paul Tondreau, Emmy-Lou Laurie Forget, Dallas Alexander Flamand, Chelsea Elaine Rogal, Baron Hordo, Taylor Michael Harvie, Vanessa Rae Laroche, Jacqueline Marie France Boehme, James Paul Daniel Formosa, Kaitlyn E Campbell, Lucas Timothy Vancuren, Jermaine Sheridan Burrell, Anthony David Hiatt, Michael St-Laurent, Armand Edward A. Garner, Amit Sodhi, Camille Felix J Turgeon, Samantha Gwendolyn Styles, Carol-Ann Mary T Ouellette, Robert James Teremchuk, Nathaniel J P Tondreau, Nikola J Guy Tondreau, Lisa Pauline Leopold, Hailey Noelle Schroder, Dominique Lauzier, Valerie Ouellet, John M Gillis, Morgan Christopher Warren, Mark Andrew Good, Sean Michael Marcotte, Mark Andrew Lolacher, Gabriel Villeneuve, Kira Anne Yakimovich, Mathieu W Petit-Marceau, Kimberly Nedra Ettel, Christopher William Rambharose, Michael Ryan Frank, Evan Jeffery Mcfatridge, Pierre-Elie Lasnier, Alessandru Ward Forster Brown, Danis Doiron, Carl Joseph D Rivest-Marier, Jaroslaw T Ciesinski, Stephen William Holt, Randolph Raymond Jenkins, Andrew John Macphee, Valerie Palin-Robert, Roger Cory Stoesz, Shane Thomas Whitson, Christian Kurt Carter, Matthew James Rowe, Dave Bouchard, Laurie C. Baker, Frederic Lauzier, Lucas Shane O'connor, Laura Dianne Allan, George Vrinotis, Sienna Germaine Quirk, Charles Bruno Alexandre Turmel, Jaroslaw Grzegorz Marczewski, Christopher Nightingale Anderson,**



Francis Joseph Michel Archambault, Christopher Raymond Austin, John Anthony Baklinski, David Glen Barkhouse, Michael Barrette, Darrin Thomas Beaton, Bobak Beheshti, Andres Felipe Bocanegra Beltran, Nathan Kyle Johnson, Conrad Joseph Benoit, Mathieu Bernard, Brian James Bews, Michael Christopher Bill, Robert Stewart Bishop, Jefferson Malcome Bissengue, Steven Bolduc, Thomas Gill Bonnett, Charles Anthony Valmhor Borg, Patrick James Boschalk, Karla Rae Bowler, Kenneth Scott Bradley, Dwayne Armand Bratzke, Ryan Douglas Breau, Chara Loren Browne, William Frederick Bull, Mark A Calow, James Gregory Cameron, Brett Grant Gordon Campbell, Damian Ronald Cayer, Jesse Shayne Chambers, Vladimir Charnine, Shaun Kyle Charpentier, Daniel Robert Cheshire, Dave Cimon, Charles Benoit-Jean Cote, Remi Cote, Matthieu Coulombe, Rebekah Kathleen Courtney, Maverick Jeremy Joseph Cowx, Jonathan Wayne Crouch, Nicole Johnna Crowder, Bartlomiej David Cychner, Beata Margaret Czapla, Sara Darby, Brady Damien Dedam, Virgil Severin Dessouroux, Sean Robert Dixon, Robert Adam Doliwa, Daniel Pierre Drolet, Samuel Drouin, Benjamin Graham Dunbar, Matthew Alexander J. Durda, Stephen Andrew Terence Ells, Austin Karn Faulkner, Eric Michel C S Fontaine, William Joseph R Forget, Sean Michael Francis, Kory Michael Fraser, Jason Joseph Kevin Frechette, Christopher Benjamin Fuellert, Steven James Gallant, Steven Roy Gamble, Tanya Lee Gaudet, Emilie Gauthier-Wong, Tommy Gauvreau, Nicolas Alexander Gleis, Marcel Joseph G E Gobeil, Tammy Danielle Greening, Eugene Pieter Greyling, Kevin Clarence J Griffin, Dominic Joseph S Guenette, Darcy Wayne Hansen, Brett Nevin Wellicome, Rory Alexander Hawman, James Adam Heald, Kyle Keith Hepner, Jason Stanley Gilbert Ignatescu, Thanarajan Jesuthasan, Kevin Thomas Johnson, Gary Adam Johnston, Ryan Gregory Jones, Jamie Alexander Curtis Jorstad, Attila Stephen Kadlecik, Dusty Lewis Kennedy, Hunter Elmer Kersey, Liam Owen Kiropoulos, Christopher Robert Knorr, Evan Victor Koziel, Martin Philippe Labrosse, Gerald Jn- Fritz Lafortune, Andre Lahaye, Kelly-Lee Marie Lake, Nicholas Edward Lange, Sarah-Emilie Lasnier, Dominic Joseph M. Lavoie, Tara Lavoie, Drake Michael Le Couteur, Marc Leclair, Pierre Lemay, Jonathan Joseph A. Lemire, Daniel Paul Loader, Garrett Curtis Logan, Jordan Terrence Logan, Alexandre Guy Richard Loiselle, Adam Fernand C. Lupien, Walter George Lyon, Joseph Brefni W. Macdonald, Christien Tavis Roger Macdonnell, Jean Joseph Madore, Charles Joseph J. Magnan, Andrew Robert Paul Mallory, Marylene Ginette S. Martin, Marco Mastantuono, Jamie Richard Mcewen, Johannes Wouter Mulder, Tyler Edwin Neufeld, Laura Lee Nicholson, Keri Merriam Nixon, Jonathan Noel, Joshua Bruce Olson, Caroline Mary Audrey Ouellet,



Joseph Anthony Papalia, Melanie Marie I. Pare, Alexandru Patularu, Joshua Alexander Pickford, Agnes Pinter-Kadlecsik, Jean-Simon Plamondon, Krister Alexander Pohjolainen, Aura A. Pon, Brody Allen Poznikoff, Stefan Prisacari, Monika Anna Quillan, Romain Racine, Dominic Laurens William Ragetli, Stephane Ratte, Bryan Thomas Richter, William Rios, Jenna Leigh Roberts, Joshua Calvin Roberts, Laurie Rose, Rory Alexander David Rosen, Sebastien Salvas, Cameron Ray S. Sanders, Carl Jean G. Savard, Torsten Schulz, Paul Russell Shapka, Blake Alexander Sheedy, Quinton James Stender, Caleb Ethan M. Stener, Gabriel-Alexandre St-Gelais, Nicolas Joseph St-Germain, Robert Christopher Stull, James Roark Suter, Dalen Drew Tanner, Justin Myles Tenhage, Jacob Cyril Theriault, Simon Bobby H Tilly, Jean-Philippe Trudel, Albert Jason Tschetter, Shelley Diane Tully, Magali Turpin, Julian Philip Tutino, Gregory Vincent-Walker, Cade Austin Walker, Brennen Bo Anthony Watson, Benjamin Kyle Weston, Matthew Max Whicher, Joshua James White, Andrew Ernest Wilkowski, Donald James Williams, Curtis Malcom Wilson, Wade George Wilson, Andrew Dean Wychnenka, Marc Zorayan, Brandon Tyler Peter Zwicker, William H L Levi Wall, Karen Paige Nightingale, Marc- Antoine Poulin, Keegan Marsh, Ryan Michael, Thomas Patrick Hayes, James Mark Charlebois, Halston Randal Nicholson, Melissa-Jane Sarah Krieger, Gianluca Luchetta, Benjamin James Wilcox, Mark Ronkin, Serge Joseph Leo Faucher, Jacob Thomas Fidor, Lucas Gerard Ziegelbauer, Spencer Daniel Lord, Ian Oceguela, John Nesrallah, Daniel Ninian Rodrigues, Cory Jason Kruger, Stephen Young Smith, Fourat Yacoub Yousif Jajou, Anthony Bilodeau, Jonathan Michael Recoskie, Thomas L. Edwards, Lindsay Anne Mackenzie, Sarah Evelyn Laprade, Dany Pilon, James Andrew Cook, Derek John Gauthier, David Adam Dobbie, Gabrielle Charpentier, Daniel Johannes Reckman, Zachary Cleeland, Mateusz Cameron Kowalski, Tara J. Macdonald, Paul David Wilson, Brendan V. T. Lebert, Jocelyn Lamotte, Anthony J. Duke, Riley Malcolm Macpherson, Kim Noel Lauzon, Kurtis Rockefeller Rutherford, Sergiu George Candea, Jesse Henry Field, William Edward Brendon, Cameron Samuel Nobert, David Houde, Alyssa Joy Blatkewicz, Colin Perry Kaiser, Fabrice Dourlent, Cory Lance Gargin, Anita Grace Hessling, Jennifer Bethany Frizzley, David Andrew Benson, Brandon John Armstrong, Rejean Berube, Jean-Philippe Joseph Bouchard, Dhillon David Cole, Pierre-Olivier Cote-Guay, Ian M Menzies, Eric Monnin, Elliot Gamache, Nicholas Neil Lloyd Crocker, Robert Allan Henderson, Gabriel Gilles Rj Ramsay, Devin James Mckenna

**APPELLANTS**



AND

His Majesty the King in Right of Canada, Chief of the Defence Staff General Wayne Eyre, Vice Chief of Defence Staff Lieutenant-General Frances J Allen, Lieutenant General Jocelyn J M J Paul, Vice Admiral Angus I Topshee, and Lieutenant General Eric J Kenny, Minister of National Defence, The Honourable Anita Anand, Former Deputy Minister of National Defence Jody Thomas, Surgeon General Major-General JGM Bilodeau, Chaplain General Brigadier- General JLG Belisle, Judge Advocate General Rear-Admiral Genevieve Bernatchez, and Brigadier General Liam Wade Rutland

RESPONDENTS

#### AFFIDAVIT OF SERVICE

I, Nette Lopez, Paralegal, of the City St. Albert, in Province of Alberta,  
SWEAR THAT:

1. On January 29, 2025, I sent a Notice of Discontinuance of the following Appellants to Barry Benkendorf, Counsel for the Respondents @ [barry.benkendorf@justice.gc.ca](mailto:barry.benkendorf@justice.gc.ca).
  1. Michael Barrette
  2. Darrin Thomas Beaton
  3. Amanda Leigh Benham
  4. Dwayne Armand Bratzke
  5. Ryan Douglas Breau
  6. Stephen Troy Chledowski
  7. Rebekah Kathleen Courtney
  8. Jonathan Wayne Crouch
  9. Brady Damien Dedam
  10. Samuel Drouin
  11. Michael Ryan Frank
  12. Jennifer Bethany Frizzley
  13. Tommy Gauvreau
  14. John M Gillis
  15. Nicolas Alexander Gleis
  16. Gary Adam Johnston
  17. Collin Perry Kaiser
  18. Evan Victor Koziel
  19. Jonathan Joseph A. Lemire
  20. Mark Andrew Lolacher
  21. Andrew Robert Paul Mallory
  22. Jamie Richard McEwen
  23. Jonathan Noel

24. Carol-Ann Mary T Ouellette
25. Joseph Anthony Papalia
26. Jean-Simon Plamondon
27. Jenna Leigh Roberts
28. Joshua Calvin Roberts
29. Rory Alexander David Rosen
30. Paul Russell Shapka
31. Roger Cory Stoesz
32. James Roark Suter
33. Simon Bobby H Tilly
34. Shelley Diane Tully
35. Gregory Vincent-Walker
36. Brandon Tyler Peter Zwicker
37. Anthony Bilodeau
38. Sergiu George Candea
39. Jacob Thomas Fidor
40. Jesse Henry Field
41. Mateusz Cameron Kowalski
42. Vanessa Rae Larochelle
43. Valentin Lavrov
44. Lucas Shane O'Connor
45. Marc-Antoine Poulin
46. Daniel Ninian Rodrigues
47. Mark Ronkin
48. Kurtis Rockefeller Rutherford
49. Joseph Benjamin Stewart
50. Dustin Shane Wiebe
51. Lucas Gerard Ziegelbauer

2. I confirm that Mr. Benkendorf, Counsel for the Respondents, received the document. Attached to my Affidavit and marked as Exhibit "A" is the email confirmation that it was successfully delivered to Mr. Benkendorf's email. .

Sworn before me at the City of St. Albert, in the Province of Alberta on January 31, 2025.

  
CATHERINE M. CHRISTENSEN  
BARRISTER & SOLICITOR  
Commissioner for Oaths  
In and for Alberta

  
Signature of Deponent

## **Nette Lopez**

---

**From:** Nette Lopez  
**Sent:** January 29, 2025 11:22 AM  
**To:** Benkendorf, Barry; Bombini, Giustina  
**Cc:** Catherine Christensen  
**Subject:** RE: QUALIZZA et al v HMTK et al \_ A-33-25  
**Attachments:** 2025 01 28 QUALIZZA et al AMENDED Notice of Appeal.pdf; 2025 01 29 QUALIZZA correspondence to Crown.pdf; 2025 01 28 QUALIZZA Notice of Discontinuance A-33-25.pdf

Good morning, Mr. Benkendorf

Further to the above-noted matter, please see attached of the following for service upon you.

- Notice of Discontinuance
- Amended Notice of Appeal

We will file the same with the Federal Court of Appeals.

Regards,

Nette Lopez | Paralegal  
Valour Law/Valour Legal Action Centre  
[nettel@valourlaw.com](mailto:nettel@valourlaw.com)  
Per:  
**Valour Law**  
Barrister and Solicitor  
[www.valourlaw.com](http://www.valourlaw.com)  
412 – 12 Vandelor Rd., St. Albert, AB T8N 7Y2

Exhibit A to the Affidavit of  
Nette Lopez  
Sworn before me on:  
January 31 2025

  
Catherine M. Christensen  
Barrister & Solicitor  
Commissioner for Oaths  
in and for Alberta

**CONFIDENTIALITY WARNING:** This e-mail message is intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this message in error, or are not the named recipient(s), please immediately notify the sender and delete this e-mail message

*This email address is not a valid address for service pursuant to Rule 11.21 of the Alberta Rules of Court*

**Nette Lopez**

---

**From:** postmaster@013gc.onmicrosoft.com  
**To:** Benkendorf, Barry  
**Sent:** January 29, 2025 11:23 AM  
**Subject:** Delivered: RE: QUALIZZA et al v HMTK et al \_ A-33-25

**Your message has been delivered to the following recipients:**

Benkendorf, Barry (Barry.Benkendorf@JUSTICE.GC.CA)

Subject: RE: QUALIZZA et al v HMTK et al \_ A-33-25



RE: QUALIZZA et  
al v HMTK et a...



**FEDERAL COURT OF APPEAL  
COUR D'APPEL FÉDÉRALE**

February 11, 2025  
11 Février 2025

**RECEIVED / REÇU  
EDMONTON, AB**

**Valour Law**

*Catherine M. Christensen Professional Corporation*

412, 12 Vandelor Road  
St. Albert, AB T8N 7Y2  
780-544-1813/Fax 866-560-9826

[www.valourlaw.com](http://www.valourlaw.com)

BY EMAIL EDM\_Reception@fct-cf.ca

February 11, 2025

**Federal Court  
Edmonton Local Office  
Edmonton, AB**

**Attention: Irena Stojanovska**

Dear Madam:

**Re: A-33-25 Francesco Gabriele Qualizza et al. v. His Majesty the King in Right of  
Canada**

**Mark Lolacher Correspondence**

This is Exhibit "F" referred to in the  
Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 2025

Cindy Lou Hanson  
A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

Further to your email regarding correspondence received by the Court by Mr. Mark Lolacher, I will remind you that his letter contains lawyer-client communications which are subject to privilege. In that regard, you sent this correspondence to opposing counsel who should not have been privy to such communications.

Regardless, Mr. Lolacher has taken no steps to retain me further in his legal matters. Documents removing me as his counsel have already been filed with the Court.

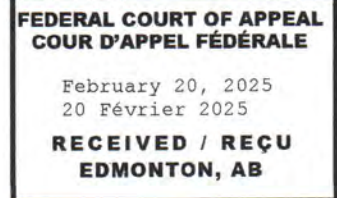
As such, I consider the matter closed insofar as the Federal Court is concerned.

Regards,  
**VALOUR LAW**  
Per:



Catherine M. Christensen  
Barrister & Solicitor  
Email: [cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)  
cc Barry Benkendorf by email

Mark Lolacher  
P.O. Box 693  
Athabasca Stn Main  
Athabasca, AB T9S 2A6  
Phone: (780) 224-2491



Via E-mail: EDM\_Reception@fct-cf-ca

February 20, 2025

Federal Court of Appeal – Edmonton  
Scotia Place Tower  
10060 Jasper Avenue, Suite 530, P.O. Box 51  
Edmonton, AB T5J 3R8

**Attention: Registrar**

**Dear Sir/Madam:**

**Re: Request for Guidance on Reinstatement as Appellant  
Federal Court of Appeal No.: A-33-25**

This is Exhibit "G" referred to in the  
Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 20 25

Cindy Lou Hanson

A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 20 27

I am writing in response to the statement made by Ms. Catherine M. Christensen, my former counsel, in her letter to the Court dated February 11, 2025, in which she asserts that I have taken no steps to retain her further in this legal matter. I respectfully submit that this assertion is inaccurate and wish to clarify the record with the following facts:

1. In February 2022, I entered into a Contingency Fee Retainer Agreement with Valour Legal Action Centre ("VLAC"), and made a monetary donation to VLAC.
2. On November 27, 2024, after being abruptly removed from Ms. Christensen's online messenger chat groups, which were intended to discuss the details of the case with Plaintiffs, I reached out to her for clarification, requesting a meeting to discuss.
3. On December 6, 2024, after no meaningful response from Ms. Christensen, I emailed her a formal letter, seeking clarification and attempting to discuss the matter further.
4. On December 9, 2024, I received an email from Ms. Christensen confirming her intention to represent me in the Appeal. This email also falsely claimed that I had considered pursuing litigation against her.
5. Later on December 9, 2024, I sent a follow-up email to Ms. Christensen refuting the accusation that I had ever considered pursuing legal action against her and respectfully requesting an opportunity to defend myself.
6. On December 11, 2024, I received an email from Ms. Christensen's office requesting that I sign a new non-contingency Legal Services Agreement and provide an additional donation to VLAC.
7. On December 31, 2024, I sent an e-mail to Ms. Christensen to follow-up on my request to address the false accusations made against me in her December 9 email as I was concerned about the status of our lawyer-client relationship, and was unsure of what was happening with the case.



8. On January 2, 2025, I received an email from Ms. Christensen's office stating that no response was required from her office. This email included new false accusations along with a statement that, if I no longer wished to retain her services, I should inform her in writing and she would notify the Court of her withdrawal.

I would like to state unequivocally that I never indicated, either verbally or in writing, that I no longer wished to retain Ms. Christensen.

9. On January 21, 2025, Ms. Christensen's office sent an email requesting that I send the previously requested donation to VLAC, along with the signed Legal Services Agreement. The email did not mention that failure to comply with this request would result in Ms. Christensen discontinuing her representation in this matter.

10. On January 25, 2025, I sent an email to Ms. Christensen seeking clarification on the new Legal Services Agreement, the status of the Appeal, and the unresolved issues. In this e-mail, I expressed my confusion about the need for a new, non-contingency legal agreement. The original Contingency Fee Retainer Agreement clearly indicated that a new agreement would only be necessary if the case proceeded to trial and an appeal was filed. Since no trial had taken place, I was perplexed as to why this new agreement was being presented. Additionally, I sought clarification regarding the unresolved issues surrounding the false accusations made against me as well as a breach of my privacy, in which Ms. Christensen's office shared information regarding my financial obligations with her firm with another Plaintiff without my consent.

9. On January 27, 2025, Ms. Christensen informed me by email that she no longer represented me. She stated that this was because I did not pay the donation to VLAC, or sign the new Legal Services Agreement.

10. On January 27, 2025, I notified the Court via email that Ms. Christensen had withdrawn from representing me, for what I felt were arbitrary reasons, and expressed my concern about the implications this would have on my participation in the case. I also requested guidance on the next steps.

11. On February 3, 2025, I received a response from the Court, indicating that a Notice of Discontinuance had been filed on January 31, 2025, listing my name among several appellants.

12. On February 3, 2025, I sent a formal letter to the Court seeking guidance on reinstating my status as an appellant.

I sincerely hope that the Court will recognize my consistent intention to remain actively involved in all matters related to this case. I have made numerous attempts to engage with Ms. Christensen in order to address various concerns, but regrettably, these efforts have often resulted in confusion and frustration. Despite my clear and direct requests, I have encountered difficulty in obtaining straightforward responses, and, unfortunately, there has been much resistance in providing the necessary clarification.

I would like to clarify that the letter I submitted to the Court on February 3, 2025, does not include any communications subject to lawyer-client privilege. The letter primarily outlines the difficulties I faced in my interactions with Ms. Christensen and seeks the Court's guidance on how to address the impact of her withdrawal from representing me.

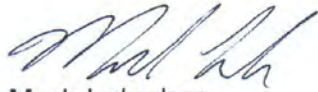
In light of these challenges, I respectfully request the Court's guidance on how I may be reinstated as an appellant in this case. I have not voluntarily withdrawn from the appeal, and

the issues I have faced with Ms. Christensen have left me without the necessary clarity to move forward. I am seeking the Court's assistance to determine the proper course of action to ensure my continued participation in this appeal.

I appreciate any direction the Court can provide regarding the resolution of these issues and the necessary steps to restore my status as an appellant.

Thank you for your attention to this matter. Please do not hesitate to contact me if you require any further information or copies of relevant communications.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Lolacher', with a stylized, cursive script.

Mark Lolacher



02-26 to determine content of appeal book to enable the timely and efficient disposition of the appeal filed on 26-FEB-2025

null 2025-03-03 Ottawa Acknowledgment of Receipt received from Both parties (via email) with respect to Direction (Laskin J.A.) dated 28-FEB-2025 placed on file on 03-MAR-2025

null 2025-02-28 Ottawa Written directions of the Court: The Honourable Mr. Justice Laskin dated 28-FEB-2025 directing " Please inform Mr. Lolacher in response to his letters of February 3 and 20, 2025 seeking guidance from the Court, that the Court, as a neutral decision-maker, is not in a position to provide parties or potential parties with guidance as to how to proceed. Furthermore, while Registry Officers may attempt to assist litigants with simple administrative steps relating to process and procedure, it is also not their place to provide legal advice to litigants, actual or potential (Ralph Thom v. Her Majesty The Queen, 2007 FCA 249 at para. 14). While Ms. Christensen states in her letter to the Court of February 11, 2025 that documents removing her as Mr. Lolacher's counsel "have already been filed with the Court," the Court can find no indication that this is the case. " Decisions Book other than J&O, volume 3, page 472, received on 28-FEB-2025 Confirmed in writing to the party(ies)

null 2025-02-24 Ottawa Communication from Registry to Judicial Administrator dated 24-FEB-2025 re: ID. 11, 14, 15 and 17

This is Exhibit " H " referred to in the Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 20 25

Cindy Lou Hanson

A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson

A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

**D**

---

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF CORY LANCE GARGIN**

**I, CORY LANCE GARGIN, of Halifax, Nova Scotia, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
- 3. I make this Affidavit in support of my response to against the Motion of Mark Lolacher made in this action on March 20, 2025.**
- 4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of**

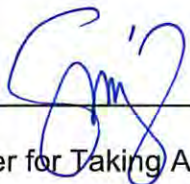
Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
6. On November 19, 2024 and November 27, 2024, I met with Ms. Christensen in Zoom meetings for a consultation regarding my legal matter. During the meeting, Ms. Christensen provided me with detailed legal advice regarding my situation, including the relevant laws, my rights, and potential options.
7. During the consultation, Ms. Christensen explained the following key points of advice:
  - Explanation of the applicable laws, risks, or options available;
  - Potential courses of action and recommended legal strategies;
  - The choice to not proceed further would end the case for me and her representation for me would be complete;
  - An additional legal service agreement would be required to continue with my matter;
  - Timelines related to the courses of action; and
  - Costs of proceeding with the case.
8. After receiving the legal advice, I had the opportunity to ask questions and seek clarification from Ms. Christensen. I confirm that I fully understood the advice that was provided, including the potential consequences of each option. I also

understand that I was encouraged to carefully consider my options before taking any action.

9. Recordings of the Zoom meetings were available to me for a minimum of ten days after the meeting for my further review.
10. Ms. Christensen's office sent out emails to my current email address with information and deadlines related to proceeding with further action in the Federal Court of Appeal on November 28, 2024 and December 11, 2024. Ms. Christensen's office also sent reminders to me when deadlines were pending on December 11, 2024, December 16, 2024, January 12, 2025, and January 15-21, 2025. Options for payment and/or subsidies were also offered.
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12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March <sup>5<sup>th</sup></sup> ~~24<sup>th</sup>~~, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
CORY LANCE GARGIN

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF STEPHEN HOLT**

**I, STEPHEN HOLT, of Kingston, Ontario, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
- 3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.**
- 4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of**

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
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Sworn before me at St. Albert, Alberta, Canada on March 26, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
STEPHEN HOLT

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025



**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF EVAN JEFFERY MCFATRIDGE**

**I, EVAN JEFFERY MCFATRIDGE , of Trenton, Nova Scotia, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
- 3. I make this Affidavit in support of my response to against the Motion of Mark Lolacher made in this action on March 20, 2025.**
- 4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of**

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
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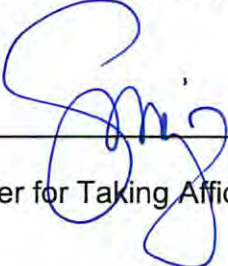
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Sworn before me at St. Albert, Alberta, Canada on March 26 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
EVAN JEFFERY MCFATRIDGE

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF PATRICK MERCIER**

I, PATRICK MERCIER, of Shelbourne, Nova Scotia, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.
4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
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Sworn before me at St. Albert, Alberta, Canada on March 26, 2025.

  
Commissioner for Taking Affidavits

  
PATRICK MERCIER

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF ALEXANDRU PATULARU**

I, ALEXANDRU PATULARU, of Windsor, Ontario, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response to against the Motion of Mark Lolacher made in this action on March 20, 2025.
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Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

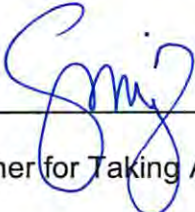
5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
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Sworn before me at St. Albert, Alberta, Canada on March 26, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
ALEXANDRU PATULARU

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF ROBERT STULL**

**I, ROBERT STULL, of Petawawa, Ontario, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
- 3. I make this Affidavit in support of my response to against the Motion of Mark Lolacher made in this action on March 20, 2025.**
- 4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of**

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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Sworn before me at St. Albert, Alberta, Canada on March 26, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
ROBERT STULL

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF WILLIAM H.L. LEVI WALL**

I, William H.L. Levi Wall, of Spruce Grove, Alberta, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
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Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

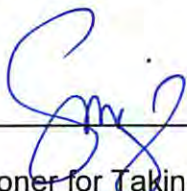
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Sworn before me at St. Albert, Alberta, Canada on March 26 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
WILLIAM H.L. LEVI WALL

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025



**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF BENJAMIN JAMES WILCOX**

I, BENJAMIN JAMES WILCOX, of Frankford, Ontario, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response to against the Motion of Mark Lolacher made in this action on March 20, 2025.
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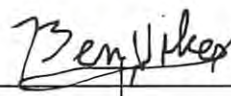
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Sworn before me at St. Albert, Alberta, Canada on March 26, 2025.



Commissioner for Taking Affidavits

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025



BENJAMIN JAMES WILCOX

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF CHRISTOPHER RAYMOND AUSTIN**

**I, CHRISTOPHER RAYMOND AUSTIN, of Spruce Grove, Alberta, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
- 3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.**
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Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

  
\_\_\_\_\_  
CHRISTOPHER RAYMOND AUSTIN



**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF SEAN ROBERT DIXON**

**I, SEAN ROBERT DIXON, of Ottawa, Ontario, SWEAR THAT:**

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response to against the Motion of Mark Lolacher made in this action on March 20, 2025.
4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of

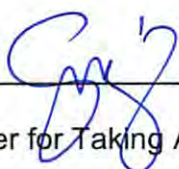
Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
6. On November 19, 2024 and November 27, 2024, I met with Ms. Christensen in Zoom meetings for a consultation regarding my legal matter. During the meeting, Ms. Christensen provided me with detailed legal advice regarding my situation, including the relevant laws, my rights, and potential options.
7. During the consultation, Ms. Christensen explained the following key points of advice:
  - Explanation of the applicable laws, risks, or options available;
  - Potential courses of action and recommended legal strategies;
  - The choice to not proceed further would end the case for me and her representation for me would be complete;
  - An additional legal service agreement would be required to continue with my matter;
  - Timelines related to the courses of action; and
  - Costs of proceeding with the case.
8. After receiving the legal advice, I had the opportunity to ask questions and seek clarification from Ms. Christensen. I confirm that I fully understood the advice that was provided, including the potential consequences of each option. I also

understand that I was encouraged to carefully consider my options before taking any action.

9. Recordings of the Zoom meetings were available to me for a minimum of ten days after the meeting for my further review.
10. Ms. Christensen's office sent out emails to my current email address with information and deadlines related to proceeding with further action in the Federal Court of Appeal on November 28, 2024 and December 11, 2024. Ms. Christensen's office also sent reminders to me when deadlines were pending on December 11, 2024, December 16, 2024, January 12, 2025, and January 15-21, 2025. Options for payment and/or subsidies were also offered to me.
11. Ms. Christensen did not decide which legal strategy I would take. I understood that the final decision regarding how to proceed was mine to make, and I was advised to take time to think about my options.
12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 26, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
SEAN ROBERT DIXON

Ramonn~~ette~~ Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF BENJAMIN GRAHAM DUNBAR**

**I, BENJAMIN GRAHAM DUNBAR, of Beaumont, Alberta, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
- 3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.**
- 4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of**

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
6. On November 19, 2024 and November 27, 2024, I met with Ms. Christensen in Zoom meetings for a consultation regarding my legal matter. During the meeting, Ms. Christensen provided me with detailed legal advice regarding my situation, including the relevant laws, my rights, and potential options.
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8. After receiving the legal advice, I had the opportunity to ask questions and seek clarification from Ms. Christensen. I confirm that I fully understood the advice that was provided, including the potential consequences of each option. I also

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11. Ms. Christensen did not decide which legal strategy I would take. I understood that the final decision regarding how to proceed was mine to make, and I was advised to take time to think about my options.

12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
BENJAMIN GRAHAM DUNBAR

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025



**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF MARCEL JOSEPH G.E. GOBEIL**

**I, MARCEL JOSEPH G.E. GOBEIL, of Valcartier, Quebec, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
- 3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.**
- 4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of**

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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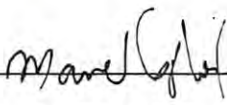
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12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

  
\_\_\_\_\_  
MARCEL JOSEPH G.E. GOBEIL

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF RANDOLPH RAYMOND JENKINS**

I, RANDOLPH RAYMOND JENKINS, of Calgary, Alberta, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.
4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
6. On November 19, 2024 and November 27, 2024, I met with Ms. Christensen in Zoom meetings for a consultation regarding my legal matter. During the meeting, Ms. Christensen provided me with detailed legal advice regarding my situation, including the relevant laws, my rights, and potential options.
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Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

*Randolph Raymond Jenkins*

\_\_\_\_\_  
RANDOLPH RAYMOND JENKINS

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF KIM NOEL LAUZON**

**I, KIM NOEL LAUZON, of Shelbourne, Nova Scotia, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
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Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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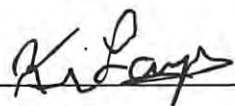
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Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
KIM NOEL LAUZON

Ramonnnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF DOMINIC JOSEPH M LAVOIE**

**I, DOMINIC JOSEPH M LAVOIE, of Jonquière, Quebec, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
- 3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.**
- 4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of**

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolachër permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
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Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
DOMINIC JOSEPH M LAVOIE

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF CHRISTIEN TAVIS ROGER MACDONELL**

**I, CHRISTIEN TAVIS ROGER MACDONELL, of Esquimalt, British Columbia SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
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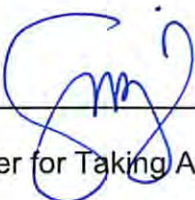
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Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires

  
\_\_\_\_\_  
CHRISTIEN T.R. MACDONELL

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF JEAN JOSEPH MADORE**

I, JEAN JOSEPH MADORE, of Quebec City, Quebec, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
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Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

\_\_\_\_\_  
Commissioner for Taking Affidavits

Ramonnnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

\_\_\_\_\_  
JEAN JOSEPH MADORE

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF CAROLINE MARIE AUDREY OUELLET**

**I, CAROLINE MARIE AUDREY OUELLET, of Donnacona, Quebec, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
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7. During the consultation, Ms. Christensen explained the following key points of advice:
  - o Explanation of the applicable laws, risks, or options available;
  - o Potential courses of action and recommended legal strategies;
  - o The choice to not proceed further would end the case for me and her representation for me would be complete;
  - o An additional legal service agreement would be required to continue with my matter;
  - o Timelines related to the courses of action; and
  - o Costs of proceeding with the case.
8. After receiving the legal advice, I had the opportunity to ask questions and seek clarification from Ms. Christensen. I confirm that I fully understood the advice that was provided, including the potential consequences of each option. I also



understand that I was encouraged to carefully consider my options before taking any action.

9. Recordings of the Zoom meetings were available to me for a minimum of ten days after the meeting for my further review.

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11. Ms. Christensen did not decide which legal strategy I would take. I understood that the final decision regarding how to proceed was mine to make, and I was advised to take time to think about my options.

12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
CAROLINE MARIE AUDREY OUELLET

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025



**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF VALERIE OUELLET**

I, VALERIE OUELLET, of Granby, Quebec, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.
4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
6. On November 19, 2024 and November 27, 2024, I met with Ms. Christensen in Zoom meetings for a consultation regarding my legal matter. During the meeting, Ms. Christensen provided me with detailed legal advice regarding my situation, including the relevant laws, my rights, and potential options.
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11. Ms. Christensen did not decide which legal strategy I would take. I understood that the final decision regarding how to proceed was mine to make, and I was advised to take time to think about my options.

12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
VALERIE OUELLET

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF ROMAIN RACINE**

**I, ROMAIN RACINE, of St-Jérôme, Quebec, SWEAR THAT:**

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.
4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of


Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
ROMAIN RACINE

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF SHANE MICHAEL N. SINGER**

I, SHANE MICHAEL N. SINGER, of Shubenacadie, Nova Scotia, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.
4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of



Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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  - An additional legal service agreement would be required to continue with my matter;
  - Timelines related to the courses of action; and
  - Costs of proceeding with the case.
8. After receiving the legal advice, I had the opportunity to ask questions and seek clarification from Ms. Christensen. I confirm that I fully understood the advice that was provided, including the potential consequences of each option. I also

understand that I was encouraged to carefully consider my options before taking any action.

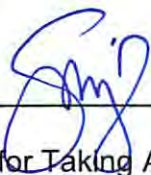
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11. Ms. Christensen did not decide which legal strategy I would take. I understood that the final decision regarding how to proceed was mine to make, and I was advised to take time to think about my options.

12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
SHANE MICHAEL N. SINGER

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF DEREK MARSHALL SPROULE**

I, DEREK MARSHALL SPROULE, of Sturgeon County, Alberta, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.
4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
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  - Costs of proceeding with the case.
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12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
Commissioner for Taking Affidavits

  
DEREK MARSHALL SPROULE

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF BRENNEN BO ANTHONY WATSON**

I, BRENNEN BO ANTHONY WATSON, of Trenton, Ontario, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response to against the Motion of Mark Lolacher made in this action on March 20, 2025.
4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
BRENNEN BO ANTHONY WATSON

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF JOSHUA JAMES WHITE**

**I, JOSHUA JAMES WHITE, of Gibbons, Alberta, SWEAR THAT:**

- 1. I am an Appellant in the above matter.**
- 2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.**
- 3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.**
- 4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of**

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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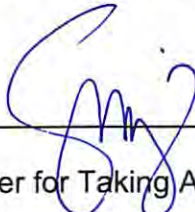
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Sworn before me at St. Albert, Alberta, Canada on March 27, 2025.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
JOSHUA JAMES WHITE

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF EUGENE PIETER GREYLING**

I, EUGENE PIETER GREYLING, of Oromocto, New Brunswick, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.
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Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 28, 2025.

  
Commissioner for Taking Affidavits

  
EUGENE PIETER GREYLING

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025



**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF ALEXANDRE GUY RICHARD LOISELLE**

I, ALEXANDRE GUY RICHARD LOISELLE, of South Maitland, Nova Scotia, SWEAR  
THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
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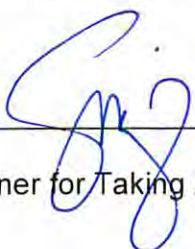
Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

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12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 28, 2025.

  
Commissioner for Taking Affidavits

  
ALEXANDRE G. R. LOISELLE

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

**AFFIDAVIT**

**AFFIDAVIT OF SARA DARBY**

I, SARA DARBY, of Orleans, Ontario, SWEAR THAT:

1. I am an Appellant in the above matter.
2. I have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true. Silence on any point should not be considered an admission of the same.
3. I make this Affidavit in support of my response against the Motion of Mark Lolacher made in this action on March 20, 2025.
4. I am one of the clients in this matter and I have received legal advice from Catherine M. Christensen, a lawyer licensed to practice law in the Province of

Alberta, in relation to a mass tort filed against His Majesty the King et al regarding actions of the Canadian Armed Forces chain-of-command.

5. At no time did I grant Mark Lolacher permission to use any communications between myself and Ms. Christensen, including private conversations on the Signal app. I considered these conversations to be confidential between lawyer and client.
6. On November 19, 2024 and November 27, 2024, I met with Ms. Christensen in Zoom meetings for a consultation regarding my legal matter. During the meeting, Ms. Christensen provided me with detailed legal advice regarding my situation, including the relevant laws, my rights, and potential options.
7. During the consultation, Ms. Christensen explained the following key points of advice:
  - Explanation of the applicable laws, risks, or options available;
  - Potential courses of action and recommended legal strategies;
  - The choice to not proceed further would end the case for me and her representation for me would be complete;
  - An additional legal service agreement would be required to continue with my matter;
  - Timelines related to the courses of action; and
  - Costs of proceeding with the case.
8. After receiving the legal advice, I had the opportunity to ask questions and seek clarification from Ms. Christensen. I confirm that I fully understood the advice that was provided, including the potential consequences of each option. I also

understand that I was encouraged to carefully consider my options before taking any action.

9. Recordings of the Zoom meetings were available to me for a minimum of ten days after the meeting for my further review.


10. Ms. Christensen's office sent out emails to my current email address with information and deadlines related to proceeding with further action in the Federal Court of Appeal on November 28, 2024 and December 11, 2024. Ms. Christensen's office also sent reminders to me when deadlines were pending on December 11, 2024, December 16, 2024, January 12, 2025, and January 15-21, 2025. Options for payment and/or subsidies were also offered.

11. Ms. Christensen did not decide which legal strategy I would take. I understood that the final decision regarding how to proceed was mine to make, and I was advised to take time to think about my options.

12. Ms. Christensen clearly explained that no legal outcome can be guaranteed, as the outcome of legal matters may depend on various factors beyond anyone's control. I was fully informed of the risks and uncertainties associated with my legal matter.

Sworn before me at St. Albert, Alberta, Canada on March 27 2025.

  
Commissioner for Taking Affidavits

  
SARA DARBY

Ramonnette Lopez  
Commissioner for Oaths  
in and for Alberta  
Commission expires 12 December 2025

**E**

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**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**FRANCESCO GABRIELE QUALIZZA, AND OTHERS**

**APPELLANTS**

**AND:**

**HIS MAJESTY THE KING IN RIGHT OF CANADA, AND OTHERS**

**RESPONDENTS**

**NOTICE OF APPEAL**

TAKE NOTICE THAT the Appellant, Mark Lolacher, respectfully appeals the decision of the Federal Court of Appeal, dated January 31, 2025, whereby the Notice of Discontinuance was accepted and filed without the Appellant's consent or proper service. The grounds for the appeal are as follows:

1. The Notice of Discontinuance was filed without the Appellant's consent, and the Appellant did not authorize or instruct the filing of such a document.
2. The Appellant was not properly served with the Notice of Discontinuance, and as such, the 30-day period to challenge the document has not yet commenced.
3. The filing of the Notice of Discontinuance was done in violation of the Federal Court Rules, as the proper procedures for service and filing were not followed.
4. The Appellant suffered unfair prejudice as a result of the improper filing, including the loss of the ability to pursue the claim due to lack of notice and improper discontinuance.

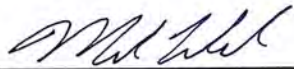
**RELIEF SOUGHT**

The Appellant, Mark Lolacher, respectfully requests that the Federal Court of Appeal order the

following relief:

1. That the Notice of Discontinuance filed on January 31, 2025, be set aside.
2. That the Appellant be reinstated as an Appellant in this matter, with all rights to continue pursuing the appeal.
3. That the Appellant be granted an extension of time, if necessary, to file a response or take further action in the appeal process.
4. Any other relief that the Court may deem just and appropriate in the circumstances.

Dated this 3 day of March, 2025, in the Town of Athabasca, in the Province of Alberta.



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Mark Lolacher  
Appellant

**FEDERAL COURT OF APPEAL**

BETWEEN:

**FRANCESCO GABRIELE QUALIZZA, AND OTHERS**

APPELLANTS

AND:

**HIS MAJESTY THE KING IN RIGHT OF CANADA, AND OTHERS**

RESPONDENTS

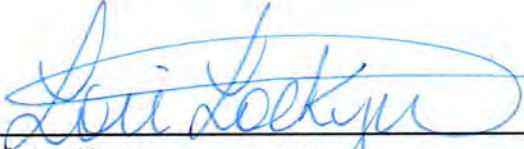
**AFFIDAVIT**

I, **Mark Lolacher**, of P.O. Box 693 Athabasca Stn Main, in the Town of Athabasca, in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am an Appellant in the above-noted matter and make this affidavit in support of my appeal of the decision to accept and file the Notice of Discontinuance in this case.
2. I did not receive any notice from my former lawyer or any other party regarding the filing of the Notice of Discontinuance. I was not informed that such a notice was being filed on my behalf, nor did I authorize or consent to the filing of this document.
3. I was not provided with a copy of the Notice of Discontinuance. At no time did I receive a document or communication from my lawyer or the Respondent indicating that the Notice of Discontinuance had been filed or was being considered.
4. On January 27, 2025, I contacted the Federal Court of Appeal Registry by email to seek clarification regarding the status of this case. Attached hereto as **Exhibit "A"** is a copy of this e-mail.
5. On February 3, 2025, I received a response from the Registry, informing me that a Notice of Discontinuance had been filed in this matter on behalf of several appellants, including myself. However, I had not been served with the Notice of Discontinuance, nor had I given my consent for its filing. Attached hereto as **Exhibit "B"** is a copy of this e-mail.
6. Because I was not served with the Notice of Discontinuance and did not receive proper notice of its filing, I did not have the opportunity to challenge the filing within the prescribed 30-day period. As such, I submit that the time limit for challenging the document has not yet commenced, due to the lack of proper service and notice.


7. As a result of not being given notice of the Notice of Discontinuance and not receiving a copy of it, I have been deprived of the opportunity to pursue my claim and challenge the filing within the appropriate time frame. This has caused significant prejudice, as I now seek to have the Notice of Discontinuance set aside and be reinstated as the Appellant in this matter.
8. I am respectfully requesting that the Court set aside the Notice of Discontinuance, reinstate my status as Appellant in this matter, and grant me the right to continue pursuing this matter in the Federal Court of Appeal.
9. I make this affidavit in good faith, believing the facts stated herein to be true to the best of my knowledge and belief.

SWORN (or Affirmed) BEFORE ME at the )  
 Town of Athabasca, in the Province of Alberta, )  
 Canada on the 3 day of March, 2025 )

  
 \_\_\_\_\_  
 Print Name:

A Commissioner for Oaths  
 in and for Alberta  
 Expiry:

**LORI-ANN LOCKYER**  
 A Commissioner for Oaths  
 in and for the Province of Alberta  
 My Commission expires March 3, 2026

  
 \_\_\_\_\_  
 Mark Lolacher  
 Appellant

**INQUIRY RE: LEGAL REPRESENTATION WITHDRAWAL AND CASE STATUS, FEDERAL COURT ACTION NO. T-1296-23**

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From mlolacher

To EDM\_reception@fct-cf.ca

Date Monday, January 27th, 2025 at 5:24 PM

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Dear Sir/Madam:

I am writing to inquire about the status of my participation as a plaintiff in the above-noted action. Today, my legal counsel, Catherine M. Christensen, withdrew from representing me, for arbitrary reasons and failed to provide proper notice of her withdrawal. I believe this decision is rooted in unfair prejudice against me, and I am concerned about the implications this has on my participation in this case going forward.

Given these circumstances, I am seeking clarification on the next steps to ensure that I can continue my involvement in this matter, especially as Ms. Christensen had indicated that the case was being prepared for appeal and had previously indicated that she was prepared to represent me for said appeal.

The prospect of finding new legal representation at this stage in the case would undoubtedly put a significant financial strain on myself and my family. The cost of hiring a new lawyer, coupled with the potential disruption of an already complex legal process would be an extremely burdensome challenge.

For context, I have also reached out to the Law Society of Alberta to address this, and other issues that I have had with Ms. Christensen for the past several months.

I would greatly appreciate your guidance on how to proceed under these challenging circumstances.

Thank you for your attention to this matter. I look forward to your response.

Sincerely,

Mark Lolacher

Sent with [Proton Mail](#) secure email.



Exhibit "B"

**RE: INQUIRY RE: LEGAL REPRESENTATION WITHDRAWAL AND CASE STATUS,  
FEDERAL COURT ACTION NO. T-1296-23**

---

From EDM\_reception@fct-cf.ca  
To mlolacher  
Date Monday, February 3rd, 2025 at 12:39 PM

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Good afternoon,

The attached notice of discontinuance was filed in A-33-25 on behalf of several appellants. If you feel that this was filed incorrectly please call out office. (780)495-2502.

Kind regards,

LINDSAY KRIEGER

Registry Officer | Agent du greffe

Courts Administration Service | Service administratif des tribunaux judiciaires

Edmonton Local Office | Bureau local de Edmonton

PH: 780-495-4651 | F : 780-495-4681



Courts Administration  
Service

Service administratif des  
tribunaux judiciaires

Canada

**From:** mlolacher <[mlolacher@protonmail.com](mailto:mlolacher@protonmail.com)>

**Sent:** Monday, January 27, 2025 5:25 PM

**To:** EDM\_Reception <[EDM\\_Reception@fct-cf.ca](mailto:EDM_Reception@fct-cf.ca)>

**Subject:** INQUIRY RE: LEGAL REPRESENTATION WITHDRAWAL AND CASE STATUS, FEDERAL COURT ACTION NO. T-1296-23

Dear Sir/Madam:

**F**

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**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**QUALIZZA, FRANCESCO GABRIELE, AND OTHERS**

**APPELLANTS**

**AND:**

**HIS MAJESTY THE KING IN RIGHT OF CANADA, AND OTHERS**

**RESPONDENTS**

**NOTICE OF MOTION**

**TAKE NOTICE THAT** the Appellant, Mark Lolacher, will make a motion to the Court in writing under Rule 369 of the *Federal Court Rules*.

**THE MOTION IS FOR:**

1. An Order setting aside the Notice of Partial Discontinuance filed on January 31, 2025 by the Appellant's lawyer, Ms. Catherine M. Christensen ("Ms. Christensen"), as it was filed without the Appellant's consent and in contravention of Rule 334 of the *Federal Court Rules*.
2. An Order reinstating the Appellant's status in this action and restoring the Appellants full participation in the proceedings.

3. An Order requiring the Appellant's lawyer, Ms. Christensen, be required to comply with the proper procedures for withdrawal as outlined in Rule 124 and 125 of the *Federal Court Rules*, and s. 3.7-1 [1] and [2] of the Law Society of Alberta Code of Conduct, including notifying the Appellant, providing a justifiable reason to withdraw from representation, and filing the appropriate withdrawal documents with the Court.
4. Any further or additional relief as this Honourable Court deems just and equitable in the circumstances.

**THE GROUNDS FOR THE MOTION ARE:**

5. Ms. Christensen filed a Notice of Partial Discontinuance (the "Notice") without the Appellant's consent or knowledge, which is in contravention of the *Federal Court Rules*, specifically Rule 334, which governs the discontinuance of a proceeding. The Appellant did not provide any authorization or instruction to discontinue any part of the claim on the Appellant's behalf, and Ms. Christensen failed to follow the proper procedure under the *Rules*, causing harm to the Appellant's legal position and participation in these proceedings.
6. The Appellant was not informed in advance of the filing of the Notice, in contravention of s. 3.2-1 [3] of the Law Society of Alberta Code of Conduct, which mandates that lawyers provide courteous, thorough, and prompt service, including timely communication with clients. Additionally, s. 3.2-1 [5] (a) requires that a lawyer keep the client reasonably informed. Ms. Christensen's failure to adequately communicate and obtain the Appellant's consent not only constitutes a breach of her professional obligations but also deprived the Appellant of the opportunity to make fully informed decisions.
7. Ms. Christensen withdrew from representation as the Appellant's lawyer, without adhering to the appropriate procedures under Rule 124 and 125 of the *Federal Court Rules*, and s. 3.7-1 [1] and [2] of the Law Society of Alberta Code of Conduct regarding withdrawal of counsel. Specifically, Ms. Christensen failed to file the required notice and did not act in accordance with the ethical obligations to notify the Appellant about the withdrawal, thus further prejudicing the Appellant's position in the case.

8. The Appellant has suffered significant prejudice and harm as a result of Ms. Christensen's improper actions, including being removed from the proceedings without consent, not being informed of this decision, and being left without representation due to Ms. Christensen's failure to properly withdraw. This has disrupted the Appellant's ability to effectively participate in the litigation and keep apprised of matters involving the case.

**THE FOLLOWING DOCUMENTARY EVIDENCE** in support of this motion is as follows:

9. Affidavit of Mark Lolacher outlining the facts and circumstances surrounding the discontinuance, the improper withdrawal, the failure of communication, and the prejudice suffered as a result of Ms. Christensen's actions.

10. *Federal Court Rules* 124, 125, and 334, with references to the relevant provisions regarding discontinuance and withdrawal of counsel, to demonstrate the breach of these rules by Ms. Christensen.

11. s. 3.7-1 and 3.2-1 of the Law Society of Alberta Code of Conduct.

12. Part 11 of the *Federal Court Rules* will be relied upon to support the Appellant's request for further or additional relief, including the recovery of costs or damages resulting from the improper actions of Ms. Christensen. This section grants the Court the jurisdiction to provide equitable remedies and relief as deemed just and necessary in the circumstances of a case. In this matter, the Appellant seeks to restore their legal rights and remedy the harm caused by the lawyer's breach of her professional obligations, improper withdrawal, and failure to comply with procedural rules. Part 11 provides the legal basis for seeking damages or other appropriate relief to restore fairness and justice in the proceedings.

15. ***Canadian National Railway Co. v McKercher LLP*, 2013 SCC 39, [2013] 2 S.C.R. 649** is relied upon to support the Appellant's argument that the lawyer owes a duty of loyalty to the client, which includes acting in the client's best interests and avoiding conflicts of interest. The case emphasizes that a lawyer must not act in a way that compromises the client's legal position without informed consent. Ms. Christensen's failure to communicate with



the Appellant before filing the Notice of Discontinuance and the subsequent withdrawal from representation constitutes a violation of this duty of loyalty, as it undermined the Appellant's position and caused harm.

16. **R. v Neil, 2002 SCC 70, [2002] 3 SCR 631** is relied upon to reinforce the principle that lawyers must avoid conflicts of interest and must act in the best interests of their clients. It highlights that a lawyer's duty of loyalty is paramount and that a lawyer must not represent or take actions that harm the client's interests without the client's informed consent. The Appellant is relying on this case to demonstrate that Ms. Christensen's failure to inform the Appellant of the discontinuance and the improper withdrawal from representation violated her professional obligations and created a conflict of interest, which prejudiced the Appellant's ability to continue participating in these proceedings.

Dated this 20 day of March, 2025, in the Town of Athabasca, in the Province of Alberta.



Mark Lolacher  
P.O. Box 693  
Athabasca Stn Main  
Athabasca, AB T9S 2A8  
Phone: (780) 224-2491  
Email: [mlolacher@protonmail.com](mailto:mlolacher@protonmail.com)

**TO:** Federal Court of Appeal Registry

**AND TO:** Counsel for the Respondents:  
DEPARTMENT OF JUSTICE CANADA  
Prairie Regional Office  
300, 10423 – 101 Street  
Edmonton, AB T5H 0E7  
**Attention: Barry Benkendorf**  
  
Phone: (780) 495-7101  
Fax: (780) 495-8491  
Email: [Barry.Benkendorf@justice.gc.ca](mailto:Barry.Benkendorf@justice.gc.ca)

**AND TO:**

Counsel for the Appellants:  
VALOUR LEGAL ACTION CENTRE  
412, 12 Vandelor Road  
St. Albert, AB T8N 7Y2

**Attention: Catherine Christensen**

Phone: (780) 544-1318

Fax: (866) 560-9826

Email: [cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)

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**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**QUALIZZA, FRANCESCO GABRIELE, AND OTHERS**

**APPELLANTS**

**AND:**

**HIS MAJESTY THE KING IN RIGHT OF CANADA, AND OTHERS**

**RESPONDENTS**

**AFFIDAVIT OF Mark Lolacher**

I, Mark Lolacher, of P.O Box 693 Athabasca Stn Main, in the Town of Athabasca, in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I make this affidavit in support of my motion for an order to set aside the Notice of Partial Discontinuance filed on January 31, 2025, by my counsel, Ms. Catherine M. Christensen ("Ms. Christensen"), as the Notice was filed without my knowledge, consent, or proper authorization.
2. I was not notified by Ms. Christensen or any other party regarding the filing of the Notice of Discontinuance. At no time was I informed that such a Notice was being filed on my behalf, nor did I authorize or consent to its filing.
3. I did not receive a copy of the Notice of Discontinuance, nor was I provided with any communication from Ms. Christensen indicating that it had been filed, was being considered, or was under preparation.
4. On January 25, 2025, I sent an email to Ms. Christensen requesting an update on various unresolved issues, including her request for a donation to her not-for-profit corporation and a sudden change in her fee structure from contingency to non-contingency. These concerns were substantial, and I believed it was my right as a client to seek clarification. I did not expect that raising these valid concerns would lead to her withdrawal as my counsel and my removal from the proceedings. Attached hereto as **Exhibit "A"** is a copy of this email.



5. On January 27, 2025, I received an email from Ms. Christensen stating that she no longer represented me in any legal capacity. She claimed that her decision to withdraw had been "made clear in meetings and written communications." However, at no time did Ms. Christensen explicitly inform me of her intention to withdraw, nor was I invited to any meeting to discuss her withdrawal. Attached hereto as **Exhibit "B"** is a copy of this email.
6. The last communication I had received from Ms. Christensen prior to this indicated that she was still prepared to represent me in the appeal, and that the appeal was progressing. Attached hereto as **Exhibit "C"** is a copy of this email dated December 9, 2024.
7. Following the January 27 email, I immediately contacted the Federal Court in Edmonton to inquire about the status of my involvement in the appeal and sought guidance on the necessary next steps. Attached hereto as **Exhibit "D"** is a copy of this email to the Federal Court.
8. On February 3, 2025, I was notified by the Federal Court that the Notice of Discontinuance had been filed on January 31, 2025, on behalf of several appellants, including myself. Attached hereto as **Exhibit "E"** is a copy of this email from the Federal Court along with attachments evidencing service of the Notice of Partial Discontinuance on Counsel for the Respondents.
9. On February 19, 2025, I received further notification from the Federal Court indicating that Ms. Christensen had filed correspondence on February 11, 2025, stating that I had taken no steps to retain her further and that documents removing her as my counsel had been filed. Attached hereto as **Exhibit "F"** is a copy of this correspondence.
10. On February 20, 2025, I submitted correspondence to the Federal Court in response to Ms. Christensen's letter of February 11. In this letter, I outlined my efforts, beginning November 27, 2024, to engage with Ms. Christensen and seek clarification on various outstanding matters. I explained that despite my clear and direct requests, I had faced significant difficulty in obtaining straightforward responses from Ms. Christensen. I requested guidance from the Court on how to proceed with reinstating my status as an appellant. Attached hereto as **Exhibit "G"** is a copy of this correspondence.
11. On February 28, 2025, I received a notification of a notation from the Court indicating that the Court could not provide specific guidance on how to proceed. The notation also confirmed that while Ms. Christensen had claimed in her letter of February 11 that documents removing her as my counsel had been filed, no such documents were found in the Court's records. Attached hereto as **Exhibit "H"** is a copy of this notation from The Honourable Mr. Justice Laskin located in the Recorded Entry Summary column of the Federal Court of Appeal website.
12. To date, I have not been served with a copy of the Notice of Partial Discontinuance, nor has Ms. Christensen provided a justifiable reason for her withdrawal as my counsel, nor have I been served with a proper notice of withdrawal.
13. Given these circumstances, I respectfully request that the Court:
  - a) Set aside the Notice of Partial Discontinuance filed by Ms. Christensen on

January 31, 2025, as it was filed without my knowledge, consent, or proper procedural steps;

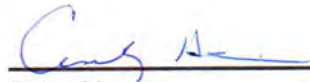
- b) Reinstate my status as an Appellant in the above-captioned matter, thereby ensuring my continued participation in the appeal process; and
- c) Require Ms. Christensen to comply with the withdrawal procedures set out in Rules 124 and 125 of the Federal Court Rules, and s. 3.7-1 of the Law Society of Alberta Code of Conduct.

14. I make this affidavit in good faith, believing the facts stated herein to be true and to the best of my knowledge and belief.

SWORN (or Affirmed) BEFORE ME at the )  
Town of Athabasca, in the Province of Alberta, )  
Canada on the 26 day of March, 2025 )



Mark Lolacher  
Appellant



Print Name:

A Commissioner for Oaths  
in and for Alberta

Expiry:

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

### INDEX OF EXHIBITS

For Affidavit of Mark Lolacher Sworn on 20<sup>th</sup> March, 2025

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**MARK LOLACHER, PLAINTIFF IN FEDERAL COURT ACTION NO. T-1296-23**

From mlolacher

To Catherine Christensen

Date Saturday, January 25th, 2025 at 4:14 PM

January 25, 2025

SENT VIA E-MAIL: [cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)

Valour Law

412, 12 Vandelor Road

St. Albert, AB T8N 7Y2

Attn: Catherine Christensen

This is Exhibit "A" referred to in the  
Affidavit ofMark LolacherSworn before me this 20 dayof March A.D., 2025Cindy Lou HansonA Notary Public, A Commissioner for Oaths  
in and for AlbertaCindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027**RE: MARK LOLACHER, PLAINTIFF IN FEDERAL COURT ACTION NO. T-1296-23**

Dear Ms. Christensen,

I am writing to follow up on your email from January 21 regarding the requested payment for the "Appeal cost" and the signed Legal Services Agreement for the appeal. Unfortunately, both of my children have been ill with the flu, and I was unable to check my email until today. That said, I have several important questions that I would like to address.

First, I seek clarification on the new Legal Services Agreement related to *Qualizza et al. v. HMTK et al.* While the agreement seems to pertain specifically to the appeal, I find the terms unclear, particularly in regard to the services it covers. The agreement refers to "legal services described in the Agreement" and "the work described," but fails to specify what these services entail or provide a clear plan for moving forward. I would greatly appreciate a more detailed explanation of what is included, and what I can expect.

I am also uncertain about the status of the appeal. In Ms. Frank's email from December 11, she mentioned that "The Notice of Appeal is being filed and served today," and I was to receive a copy once the document was returned from the Court. However, I have yet to receive that document or any confirmation that the appeal was filed as indicated. Moreover, your communication on January 15 stated that the motion was denied on procedural grounds, which raises further questions. Was the appeal ever filed, or was a motion submitted and rejected due to errors or missed deadlines? Additionally, your message mentioned that the Notice of Appeal would be filed on January 16, yet I have not received confirmation that this occurred. This lack of clarity has left me unsure about the current status of the case.

Additionally, I am confused as to why a new legal agreement is being presented at this stage. The Contingency Fee Retainer Agreement I signed with Valour Legal Action Centre ("VLAC") in February 2022 clearly states that a new agreement would be required only if the case proceeded to trial and an appeal was filed afterward. Since no trial has taken place, and the motion to extend the time for an appeal was denied, I don't understand why a new agreement is necessary now, particularly one with non-contingency terms. Could you please clarify the need for this new fee structure and how the current work falls outside the scope of the existing Contingency Fee Retainer Agreement?



I also wish to address some concerning statements made in previous communications. Specifically, I was incorrectly accused of "considering litigation against VLAC and the Board" and of making "disparaging comments in a public forum." Furthermore, it was stated that you were prepared to accept that you would be representing me for the Appeal but would withdraw as my counsel should the Appeal be successful and the litigation continue. These statements misrepresent my position and have left me feeling unfairly characterized. I would appreciate the opportunity to clarify my stance and have these inaccuracies addressed.

Another issue I would like to raise involves my privacy. On January 23, I was removed from the "Signal Update" chat group, which was created to keep clients informed about important case developments. When I inquired about the removal, [REDACTED], the chat moderator, who is a fellow plaintiff in this action, explained that it was due to my failure to pay the appeal fee and submit the new Legal Services Agreement. This disclosure of my financial obligations without my consent is troubling, particularly as the Contingency Fee Retainer Agreement is between myself and VLAC. I find it inappropriate and humiliating that such personal information was shared with another plaintiff, and I would appreciate an explanation for this.

On January 24, I discovered that I had also been removed from the "Signal 4% Your Stories" chat group, which was created for plaintiffs to share personal experiences for social media fundraising campaigns. When I inquired about this with the group's moderator, [REDACTED], I asked for clarification on who he truly was, as I suspected he might be using a pseudonym. He declined to reveal his real identity, citing privacy concerns. In response to my query about my removal, he explained that he was told that I was no longer on the lawsuit, and was instructed by [REDACTED] to remove me from the chat group. Additionally, a screenshot surfaced, between [REDACTED] and [REDACTED], suggesting that VLAC had instructed the removal of certain individuals, including myself from the chat groups. Given these developments, I would greatly appreciate clarification on whether I have indeed been removed from the lawsuit entirely, and why someone who is using a fake name, appears to have access to information pertaining to my client status with your firm.

Lastly, I have several questions about the ongoing case. I would like an update on how errors in documents, missed deadlines, and improper pleadings might affect the appeal, as well as any related legal fees.

To summarize, I would appreciate clarification on the following:

1. Was the appeal ever filed, and if not, when will it be filed?
2. What specific services are covered under the new Legal Services Agreement?
3. Why is a new Legal Services Agreement necessary when the Contingency Fee Retainer Agreement should still apply at this stage?
4. Can you address the incorrect statements made about me considering litigation against VLAC, making disparaging comments, and misrepresenting my position?
5. Why was I removed from the Signal chat groups, and why was information about my financial obligations and my status as a client of your firm shared without my consent?
6. Can you clarify whether I have been removed from the lawsuit entirely?
7. Who is "[REDACTED]" in the Signal chat group, and why is an individual with a pseudonym moderating that group and privy to my personal information?
8. Can you provide an update on the case's progress, particularly regarding errors, missed deadlines, and their potential impact on the appeal or legal fees?

I would greatly appreciate more transparent communication moving forward, as the current lack of clarity over the past several months has caused considerable stress and left me feeling excluded from the process.

Thank you for your attention to these matters. I look forward to your prompt response.

Sincerely,

Mark Lolacher

Sent with [Proton Mail](#) secure email.



**RE: MARK LOLACHER, PLAINTIFF IN FEDERAL COURT ACTION NO. T-1296-23**

From Catherine Christensen

To mlolacher

Date Monday, January 27th, 2025 at 7:47 AM

Mr. Lolacher

This is Exhibit " B " referred to in the  
Affidavit of  
Mark Lolacher

Sworn before me this 20 day

of March A.D., 20 25

Cindy Lou Hanson  
A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

As you did not sign the Legal Services Agreement for the Appeal and did not pay the requisite donation to Valour Legal Action Centre by the clear deadlines, I no longer represent you in any legal matter. This ending to my representation was made clear in meetings and written communications to everyone in the 1.0 lawsuit.

You, like others who chose not to proceed, were removed from the VLAC Signal groups. You are mistaken to believe that this was exclusive to you.

Best wishes on your future endeavours.

Regards,

Catherine M. Christensen

Barrister & Solicitor

Valour Law/Valour Legal Action Centre

412, 12 Vandelor Road

St Albert, AB T8N 7Y2

780-544-2200/780-544-1813

**CONFIDENTIALITY WARNING:** This e-mail message is intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this message in error, or are not the named recipient(s), please immediately notify the sender and delete this e-mail message

**RE: MARK LOLACHER, PLAINTIFF IN FEDERAL COURT ACTION NO. T-1296-23**

From Catherine Christensen

To mlolacher

CC Naomi Auber

Date Monday, December 9th, 2024 at 10:32 AM

This is Exhibit "C" referred to in the  
Affidavit ofMark LolacherSworn before me this 20 dayof March A.D., 20 25Cindy Lou HansonA Notary Public, A Commissioner for Oaths  
in and for AlbertaCindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

Mark

It is my understanding that you wish to continue with the OP VALOUR 1.0 litigation which is now heading for Appeal. I am prepared to accept that I will be representing you for this Appeal.

I will, however, withdraw as your counsel should the Appeal be successful and the litigation will continue. I am informing you of this change now so that you have ample time to engage other counsel, should you wish to continue the lawsuit against the CAF. VLAC has been informed of my decision.

Access to Signal groups is not guaranteed to any client. These groups that are controlled by VLAC and/or myself are available at our sole discretion. Access to the Privileged group was suspended due to others having access to privileged lawyer-client communications and then potentially using them in a public forum. I am required to protect my clients' communications from this type of activity, which I have done.

I am aware that there were conversations you had with a previous member of the Board of Directors indicating that you and/or your spouse were considering litigation against VLAC and the Board. Therefore, as of this email, should you have any other questions, I will respond via email only.

Catherine

Catherine M. Christensen

Barrister &amp; Solicitor

Valour Law/Valour Legal Action Centre

412, 12 Vandelor Road

St Albert, AB T8N 7Y2

780-544-2200/780-544-1813

# INQUIRY RE: LEGAL REPRESENTATION WITHDRAWAL AND CASE STATUS, FEDERAL COURT ACTION NO. T-1296-23

From mlolacher

To EDM\_reception@fct-cf.ca

Date Monday, January 27th, 2025 at 5:24 PM

This is Exhibit " D " referred to in the  
Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 2025

Andy Lou Hanson

A Notary Public, A Commissioner for Oaths  
in and for Alberta

A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

Dear Sir/Madam:

I am writing to inquire about the status of my participation as a plaintiff in the above-noted action. Today, my legal counsel, Catherine M. Christensen, withdrew from representing me, for arbitrary reasons and failed to provide proper notice of her withdrawal. I believe this decision is rooted in unfair prejudice against me, and I am concerned about the implications this has on my participation in this case going forward.

Given these circumstances, I am seeking clarification on the next steps to ensure that I can continue my involvement in this matter, especially as Ms. Christensen had indicated that the case was being prepared for appeal and had previously indicated that she was prepared to represent me for said appeal.

The prospect of finding new legal representation at this stage in the case would undoubtedly put a significant financial strain on myself and my family. The cost of hiring a new lawyer, coupled with the potential disruption of an already complex legal process, would be an extremely burdensome challenge.

For context, I have also reached out to the Law Society of Alberta to address this, and other issues that I have had with Ms. Christensen for the past several months.

I would greatly appreciate your guidance on how to proceed under these challenging circumstances.

Thank you for your attention to this matter. I look forward to your response.

Sincerely,

Mark Lolacher

Sent with [Proton Mail](#) secure email.



**RE: INQUIRY RE: LEGAL REPRESENTATION WITHDRAWAL AND CASE STATUS,  
FEDERAL COURT ACTION NO. T-1296-23**

From EDM\_reception@fct-cf.ca  
To mlolacher  
Date Monday, February 3rd, 2025 at 12:39 PM

This is Exhibit " E " referred to in the  
Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 2025

Cindy H.

A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

Good afternoon,

The attached notice of discontinuance was filed in A-33-25 on behalf of several appellants. If you feel that this was filed incorrectly please call out office. (780)495-2502.

Kind regards,

LINDSAY KRIEGER

Registry Officer | Agent du greffe

Courts Administration Service | Service administratif des tribunaux judiciaires

Edmonton Local Office | Bureau local de Edmonton

PH: 780-495-4651 | F : 780-495-4681



Courts Administration  
Service

Service administratif des  
tribunaux judiciaires

Canada

**From:** mlolacher <[mlolacher@protonmail.com](mailto:mlolacher@protonmail.com)>

**Sent:** Monday, January 27, 2025 5:25 PM

**To:** EDM\_Reception <[EDM\\_Reception@fct-cf.ca](mailto:EDM_Reception@fct-cf.ca)>

**Subject:** INQUIRY RE: LEGAL REPRESENTATION WITHDRAWAL AND CASE STATUS, FEDERAL COURT ACTION NO. T-1296-23

Dear Sir/Madam:

ID 9

<b>FEDERAL COURT OF APPEAL</b>		<b>DEPOSE</b>
<b>COUR D'APPEL FÉDÉRALE</b>		
<b>FILED</b>	January 31, 2025 31 janvier 2025	
Irena Stojanovska		
<b>EDMONTON, AB</b>		6

**FEDERAL COURT OF APPEAL****BETWEEN:**

**Francesco Gabriele Qualizza, Joel Thomas William Ellis, Patrick Mercier, Jill Lyne Duchesneau, Joseph Benjamin Stewart, Eric David Faucher, Scott Peter Bacon, Stephen Troy Chledowski, Amanda Leigh Benham, Joshua Martin McCulloch, Kyle Corriveau, Joseph Daniel Eric Louis Montgrain, Dustin Shane Wiebe, Stephen Wj Morris, David Garcia Vargas, Michael Joseph Lis, Natasha Katrina Lis, Solange Sine Djoueche, Peter Vlassov, Frederic Villeneuve-Normand, Estate Of Jonathan Emmerson Jenkinson, Valentin Lavrov, Marie-Eve Labonte, Jesse Dale Friesen, Tania Catherine Nordli, Andrzej Skulski, Dennis John Paul Tondreau, Emmy-Lou Laurie Forget, Dallas Alexander Flamand, Chelsea Elaine Rogal, Baron Hordo, Taylor Michael Harvie, Vanessa Rae Laroche, Jacqueline Marie France Boehme, James Paul Daniel Formosa, Kaitlyn E Campbell, Lucas Timothy Vancuren, Jermaine Sheridan Burrell, Anthony David Hiatt, Michael St-Laurent, Armand Edward A. Garner, Amit Sodhi, Camille Felix J Turgeon, Samantha Gwendolyn Styles, Carol-Ann Mary T Ouellette, Robert James Teremchuk, Nathaniel J P Tondreau, Nikola J Guy Tondreau, Lisa Pauline Leopold, Hailey Noelle Schroder, Dominique Lauzier, Valerie Ouellet, John M Gillis, Morgan Christopher Warren, Mark Andrew Good, Sean Michael Marcotte, Mark Andrew Lolacher, Gabriel Villeneuve, Kira Anne Yakimovich, Mathieu W Petit-Marceau, Kimberly Nedra Ettel, Christopher William Rambharose, Michael Ryan Frank, Evan Jeffery Mcfatridge, Pierre-Elie Lasnier, Alessandru Ward Forster Brown, Danis Doiron, Carl Joseph D Rivest-Marier, Jaroslaw T Ciesinski, Stephen William Holt, Randolph Raymond Jenkins, Andrew John Macphee, Valerie Palin-Robert, Roger Cory Stoesz, Shane Thomas Whitson, Christian Kurt Carter, Matthew James Rowe, Dave Bouchard, Laurie C. Baker, Frederic Lauzier, Lucas Shane O'connor, Laura Dianne Allan, George Vrinotis, Sienna Germaine Quirk, Charles Bruno Alexandre Turmel, Jaroslaw Grzegorz Marczewski, Christopher Nightingale Anderson,**



Francis Joseph Michel Archambault, Christopher Raymond Austin, John Anthony Baklinski, David Glen Barkhouse, Michael Barrette, Darrin Thomas Beaton, Bobak Beheshti, Andres Felipe Bocanegra Beltran, Nathan Kyle Johnson, Conrad Joseph Benoit, Mathieu Bernard, Brian James Bews, Michael Christopher Bill, Robert Stewart Bishop, Jefferson Malcome Bissengue, Steven Bolduc, Thomas Gill Bonnett, Charles Anthony Valmhor Borg, Patrick James Boschalk, Karla Rae Bowler, Kenneth Scott Bradley, Dwayne Armand Bratzke, Ryan Douglas Breau, Chara Loren Browne, William Frederick Bull, Mark A Calow, James Gregory Cameron, Brett Grant Gordon Campbell, Damian Ronald Cayer, Jesse Shayne Chambers, Vladimir Charnine, Shaun Kyle Charpentier, Daniel Robert Cheshire, Dave Cimon, Charles Benoit-Jean Cote, Remi Cote, Matthieu Coulombe, Rebekah Kathleen Courtney, Maverick Jeremy Joseph Cowx, Jonathan Wayne Crouch, Nicole Johnna Crowder, Bartlomiej David Cychner, Beata Margaret Czapla, Sara Darby, Brady Damien Dedam, Virgil Severin Dessouroux, Sean Robert Dixon, Robert Adam Doliwa, Daniel Pierre Drolet, Samuel Drouin, Benjamin Graham Dunbar, Matthew Alexander J. Durda, Stephen Andrew Terence Ells, Austin Karn Faulkner, Eric Michel C S Fontaine, William Joseph R Forget, Sean Michael Francis, Kory Michael Fraser, Jason Joseph Kevin Frechette, Christopher Benjamin Fuellert, Steven James Gallant, Steven Roy Gamble, Tanya Lee Gaudet, Emilie Gauthier-Wong, Tommy Gauvreau, Nicolas Alexander Gleis, Marcel Joseph G E Gobeil, Tammy Danielle Greening, Eugene Pieter Greyling, Kevin Clarence J Griffin, Dominic Joseph S Guenette, Darcy Wayne Hansen, Brett Nevin Wellicome, Rory Alexander Hawman, James Adam Heald, Kyle Keith Hepner, Jason Stanley Gilbert Ignatescu, Thanarajan Jesuthasan, Kevin Thomas Johnson, Gary Adam Johnston, Ryan Gregory Jones, Jamie Alexander Curtis Jorstad, Attila Stephen Kadlecisk, Dusty Lewis Kennedy, Hunter Elmer Kersey, Liam Owen Kiropoulos, Christopher Robert Knorr, Evan Victor Koziel, Martin Philippe Labrosse, Gerald Jn- Fritz Lafortune, Andre Lahaye, Kelly-Lee Marie Lake, Nicholas Edward Lange, Sarah-Emilie Lasnier, Dominic Joseph M. Lavoie, Tara Lavoie, Drake Michael Le Couteur, Marc Leclair, Pierre Lemay, Jonathan Joseph A. Lemire, Daniel Paul Loader, Garrett Curtis Logan, Jordan Terrence Logan, Alexandre Guy Richard Loiselle, Adam Fernand C. Lupien, Walter George Lyon, Joseph Brefni W. Macdonald, Christien Tavis Roger Macdonnell, Jean Joseph Madore, Charles Joseph J. Magnan, Andrew Robert Paul Mallory, Marylene Ginette S. Martin, Marco Mastantuono, Jamie Richard Mcewen, Johannes Wouter Mulder, Tyler Edwin Neufeld, Laura Lee Nicholson, Keri Merriam Nixon, Jonathan Noel, Joshua Bruce Olson, Caroline Mary Audrey Ouellet,



Joseph Anthony Papalia, Melanie Marie I. Pare, Alexandru Patularu, Joshua Alexander  
 Pickford, Agnes Pinter-Kadlecsik, Jean-Simon Plamondon, Krister Alexander  
 Pohjolainen, Aura A. Pon, Brody Allen Poznikoff, Stefan Prisacari, Monika Anna Quillan,  
 Romain Racine, Dominic Laurens William Ragetli, Stephane Ratte, Bryan Thomas  
 Richter, William Rios, Jenna Leigh Roberts, Joshua Calvin Roberts, Laurie Rose, Rory  
 Alexander David Rosen, Sebastien Salvas, Cameron Ray S. Sanders, Carl Jean G.  
 Savard, Torsten Schulz, Paul Russell Shapka, Blake Alexander Sheedy, Quinton James  
 Stender, Caleb Ethan M. Stener, Gabriel-Alexandre St-Gelais, Nicolas Joseph St-  
 Germain, Robert Christopher Stull, James Roark Suter, Dalen Drew Tanner, Justin Myles  
 Tenhage, Jacob Cyril Theriault, Simon Bobby H Tilly, Jean-Philippe Trudel, Albert Jason  
 Tschetter, Shelley Diane Tully, Magali Turpin, Julian Philip Tutino, Gregory Vincent-  
 Walker, Cade Austin Walker, Brennen Bo Anthony Watson, Benjamin Kyle Weston,  
 Matthew Max Whicher, Joshua James White, Andrew Ernest Wilkowski, Donald James  
 Williams, Curtis Malcom Wilson, Wade George Wilson, Andrew Dean Wychnenka, Marc  
 Zorayan, Brandon Tyler Peter Zwicker, William H L Levi Wall, Karen Paige Nightingale,  
 Marc- Antoine Poulin, Keegan Marsh, Ryan Michael, Thomas Patrick Hayes, James Mark  
 Charlebois, Halston Randal Nicholson, Melissa-Jane Sarah Krieger, Gianluca Luchetta,  
 Benjamin James Wilcox, Mark Ronkin, Serge Joseph Leo Faucher, Jacob Thomas Fidor,  
 Lucas Gerard Ziegelbauer, Spencer Daniel Lord, Ian Oceguela, John Nesrallah, Daniel  
 Ninian Rodrigues, Cory Jason Kruger, Stephen Young Smith, Fourat Yacoub Yousif Jajou,  
 Anthony Bilodeau, Jonathan Michael Recoskie, Thomas L. Edwards, Lindsay Anne  
 Mackenzie, Sarah Evelyn Laprade, Dany Pilon, James Andrew Cook, Derek John  
 Gauthier, David Adam Dobbie, Gabrielle Charpentier, Daniel Johannes Reckman, Zachary  
 Cleeland, Mateusz Cameron Kowalski, Tara J. Macdonald, Paul David Wilson, Brendan V.  
 T. Lebert, Jocelyn Lamotte, Anthony J. Duke, Riley Malcolm Macpherson, Kim Noel  
 Lauzon, Kurtis Rockefeller Rutherford, Sergiu George Candea, Jesse Henry Field, William  
 Edward Brendon, Cameron Samuel Nobert, David Houde, Alyssa Joy Blatkewicz, Colin  
 Perry Kaiser, Fabrice Dourlent, Cory Lance Gargin, Anita Grace Hessling, Jennifer  
 Bethany Frizzley, David Andrew Benson, Brandon John Armstrong, Rejean Berube, Jean-  
 Philippe Joseph Bouchard, Dhillon David Cole, Pierre-Olivier Cote-Guay, Ian M Menzies,  
 Eric Monnin, Elliot Gamache, Nicholas Neil Lloyd Crocker, Robert Allan Henderson,  
 Gabriel Gilles Rj Ramsay, Devin James Mckenna

**APPELLANTS**

AND

His Majesty the King in Right of Canada, Chief of the Defence Staff General Wayne Eyre, Vice Chief of Defence Staff Lieutenant-General Frances J Allen, Lieutenant General Jocelyn J M J Paul, Vice Admiral Angus I Topshee, and Lieutenant General Eric J Kenny, Minister of National Defence, The Honourable Anita Anand, Former Deputy Minister of National Defence Jody Thomas, Surgeon General Major-General JGM Bilodeau, Chaplain General Brigadier- General JLG Belisle, Judge Advocate General Rear-Admiral Genevieve Bernatchez, and Brigadier General Liam Wade Rutland

RESPONDENTS

#### AFFIDAVIT OF SERVICE

I, Nette Lopez, Paralegal, of the City St. Albert, in Province of Alberta,  
SWEAR THAT:

1. On January 29, 2025, I sent a Notice of Discontinuance of the following Appellants to Barry Benkendorf, Counsel for the Respondents @ [barry.benkendorf@justice.gc.ca](mailto:barry.benkendorf@justice.gc.ca).
  1. Michael Barrette
  2. Darrin Thomas Beaton
  3. Amanda Leigh Benham
  4. Dwayne Armand Bratzke
  5. Ryan Douglas Breau
  6. Stephen Troy Chledowski
  7. Rebekah Kathleen Courtney
  8. Jonathan Wayne Crouch
  9. Brady Damien Dedam
  10. Samuel Drouin
  11. Michael Ryan Frank
  12. Jennifer Bethany Frizzley
  13. Tommy Gauvreau
  14. John M Gillis
  15. Nicolas Alexander Gleis
  16. Gary Adam Johnston
  17. Collin Perry Kaiser
  18. Evan Victor Koziel
  19. Jonathan Joseph A. Lemire
  20. Mark Andrew Lolacher
  21. Andrew Robert Paul Mallory
  22. Jamie Richard McEwen
  23. Jonathan Noel



24. Carol-Ann Mary T Ouellette
25. Joseph Anthony Papalia
26. Jean-Simon Plamondon
27. Jenna Leigh Roberts
28. Joshua Calvin Roberts
29. Rory Alexander David Rosen
30. Paul Russell Shapka
31. Roger Cory Stoesz
32. James Roark Suter
33. Simon Bobby H Tilly
34. Shelley Diane Tully
35. Gregory Vincent-Walker
36. Brandon Tyler Peter Zwicker
37. Anthony Bilodeau
38. Sergiu George Candea
39. Jacob Thomas Fidor
40. Jesse Henry Field
41. Mateusz Cameron Kowalski
42. Vanessa Rae Larochelle
43. Valentin Lavrov
44. Lucas Shane O'Connor
45. Marc-Antoine Poulin
46. Daniel Ninian Rodrigues
47. Mark Ronkin
48. Kurtis Rockefeller Rutherford
49. Joseph Benjamin Stewart
50. Dustin Shane Wiebe
51. Lucas Gerard Ziegelbauer

2. I confirm that Mr. Benkendorf, Counsel for the Respondents, received the document. Attached to my Affidavit and marked as Exhibit "A" is the email confirmation that it was successfully delivered to Mr. Benkendorf's email. .

Sworn before me at the City of St. Albert, in the Province of Alberta on January 31, 2025.

  
CATHERINE M. CHRISTENSEN  
BARRISTER & SOLICITOR  
Commissioner for Oaths  
In and for Alberta

  
Signature of Deponent

## **Nette Lopez**

---

**From:** Nette Lopez  
**Sent:** January 29, 2025 11:22 AM  
**To:** Benkendorf, Barry; Bombini, Giustina  
**Cc:** Catherine Christensen  
**Subject:** RE: QUALIZZA et al v HMTK et al \_ A-33-25  
**Attachments:** 2025 01 28 QUALIZZA et al AMENDED Notice of Appeal.pdf; 2025 01 29 QUALIZZA correspondence to Crown.pdf; 2025 01 28 QUALIZZA Notice of Discontinuance A-33-25.pdf

Good morning, Mr. Benkendorf

Further to the above-noted matter, please see attached of the following for service upon you.

- Notice of Discontinuance
- Amended Notice of Appeal

We will file the same with the Federal Court of Appeals.

Regards,

Nette Lopez | Paralegal  
Valour Law/Valour Legal Action Centre  
[nettel@valourlaw.com](mailto:nettel@valourlaw.com)

Per:

**Valour Law**

Barrister and Solicitor

[www.valourlaw.com](http://www.valourlaw.com)

412 – 12 Vandelor Rd., St. Albert, AB T8N 7Y2

Exhibit A to the Affidavit of  
Nette Lopez  
Sworn before me on:  
January 31 2025

  
Catherine M. Christensen  
Barrister & Solicitor  
Commissioner for Oaths  
in and for Alberta

**CONFIDENTIALITY WARNING:** This e-mail message is intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this message in error, or are not the named recipient(s), please immediately notify the sender and delete this e-mail message

*This email address is not a valid address for service pursuant to Rule 11.21 of the Alberta Rules of Court*

**Nette Lopez**

---

**From:** postmaster@013gc.onmicrosoft.com  
**To:** Benkendorf, Barry  
**Sent:** January 29, 2025 11:23 AM  
**Subject:** Delivered: RE: QUALIZZA et al v HMTK et al \_ A-33-25

**Your message has been delivered to the following recipients:**

Benkendorf, Barry (Barry.Benkendorf@JUSTICE.GC.CA)

Subject: RE: QUALIZZA et al v HMTK et al \_ A-33-25



RE: QUALIZZA et  
al v HMTK et a...

**FEDERAL COURT OF APPEAL  
COUR D'APPEL FÉDÉRALE**

February 11, 2025  
11 Février 2025

**RECEIVED / REÇU  
EDMONTON, AB**

**Valour Law**

*Catherine M. Christensen Professional Corporation*

412, 12 Vandelor Road  
St. Albert, AB T8N 7Y2  
780-544-1813/Fax 866-560-9826

[www.valourlaw.com](http://www.valourlaw.com)

BY EMAIL EDM\_Reception@fct-cf.ca

February 11, 2025

**Federal Court  
Edmonton Local Office  
Edmonton, AB**

**Attention: Irena Stojanovska**

Dear Madam:

**Re: A-33-25 Francesco Gabriele Qualizza et al. v. His Majesty the King in Right of  
Canada**

**Mark Lolacher Correspondence**

This is Exhibit "F" referred to in the  
Affidavit of

Mark Lolacher

Sworn before me this 20 day  
of March A.D., 2025

Cindy Lou Hanson  
A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

Further to your email regarding correspondence received by the Court by Mr. Mark Lolacher, I will remind you that his letter contains lawyer-client communications which are subject to privilege. In that regard, you sent this correspondence to opposing counsel who should not have been privy to such communications.

Regardless, Mr. Lolacher has taken no steps to retain me further in his legal matters. Documents removing me as his counsel have already been filed with the Court.

As such, I consider the matter closed insofar as the Federal Court is concerned.

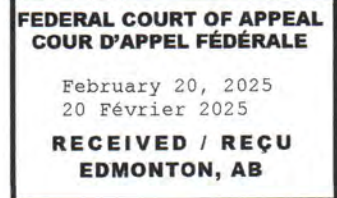
Regards,  
**VALOUR LAW**  
Per:



Catherine M. Christensen  
Barrister & Solicitor  
Email: [cchristensen@valourlaw.com](mailto:cchristensen@valourlaw.com)  
cc Barry Benkendorf by email



Mark Lolacher  
P.O. Box 693  
Athabasca Stn Main  
Athabasca, AB T9S 2A6  
Phone: (780) 224-2491



Via E-mail: EDM\_Reception@fct-cf-ca

February 20, 2025

Federal Court of Appeal – Edmonton  
Scotia Place Tower  
10060 Jasper Avenue, Suite 530, P.O. Box 51  
Edmonton, AB T5J 3R8

**Attention: Registrar**

**Dear Sir/Madam:**

**Re: Request for Guidance on Reinstatement as Appellant  
Federal Court of Appeal No.: A-33-25**

This is Exhibit "G" referred to in the  
Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 20 25

Cindy Lou Hanson

A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 20 27

I am writing in response to the statement made by Ms. Catherine M. Christensen, my former counsel, in her letter to the Court dated February 11, 2025, in which she asserts that I have taken no steps to retain her further in this legal matter. I respectfully submit that this assertion is inaccurate and wish to clarify the record with the following facts:

1. In February 2022, I entered into a Contingency Fee Retainer Agreement with Valour Legal Action Centre ("VLAC"), and made a monetary donation to VLAC.
2. On November 27, 2024, after being abruptly removed from Ms. Christensen's online messenger chat groups, which were intended to discuss the details of the case with Plaintiffs, I reached out to her for clarification, requesting a meeting to discuss.
3. On December 6, 2024, after no meaningful response from Ms. Christensen, I emailed her a formal letter, seeking clarification and attempting to discuss the matter further.
4. On December 9, 2024, I received an email from Ms. Christensen confirming her intention to represent me in the Appeal. This email also falsely claimed that I had considered pursuing litigation against her.
5. Later on December 9, 2024, I sent a follow-up email to Ms. Christensen refuting the accusation that I had ever considered pursuing legal action against her and respectfully requesting an opportunity to defend myself.
6. On December 11, 2024, I received an email from Ms. Christensen's office requesting that I sign a new non-contingency Legal Services Agreement and provide an additional donation to VLAC.
7. On December 31, 2024, I sent an e-mail to Ms. Christensen to follow-up on my request to address the false accusations made against me in her December 9 email as I was concerned about the status of our lawyer-client relationship, and was unsure of what was happening with the case.



8. On January 2, 2025, I received an email from Ms. Christensen's office stating that no response was required from her office. This email included new false accusations along with a statement that, if I no longer wished to retain her services, I should inform her in writing and she would notify the Court of her withdrawal.

I would like to state unequivocally that I never indicated, either verbally or in writing, that I no longer wished to retain Ms. Christensen.

9. On January 21, 2025, Ms. Christensen's office sent an email requesting that I send the previously requested donation to VLAC, along with the signed Legal Services Agreement. The email did not mention that failure to comply with this request would result in Ms. Christensen discontinuing her representation in this matter.
10. On January 25, 2025, I sent an email to Ms. Christensen seeking clarification on the new Legal Services Agreement, the status of the Appeal, and the unresolved issues. In this e-mail, I expressed my confusion about the need for a new, non-contingency legal agreement. The original Contingency Fee Retainer Agreement clearly indicated that a new agreement would only be necessary if the case proceeded to trial and an appeal was filed. Since no trial had taken place, I was perplexed as to why this new agreement was being presented. Additionally, I sought clarification regarding the unresolved issues surrounding the false accusations made against me as well as a breach of my privacy, in which Ms. Christensen's office shared information regarding my financial obligations with her firm with another Plaintiff without my consent.
9. On January 27, 2025, Ms. Christensen informed me by email that she no longer represented me. She stated that this was because I did not pay the donation to VLAC, or sign the new Legal Services Agreement.
10. On January 27, 2025, I notified the Court via email that Ms. Christensen had withdrawn from representing me, for what I felt were arbitrary reasons, and expressed my concern about the implications this would have on my participation in the case. I also requested guidance on the next steps.
11. On February 3, 2025, I received a response from the Court, indicating that a Notice of Discontinuance had been filed on January 31, 2025, listing my name among several appellants.
12. On February 3, 2025, I sent a formal letter to the Court seeking guidance on reinstating my status as an appellant.

I sincerely hope that the Court will recognize my consistent intention to remain actively involved in all matters related to this case. I have made numerous attempts to engage with Ms. Christensen in order to address various concerns, but regrettably, these efforts have often resulted in confusion and frustration. Despite my clear and direct requests, I have encountered difficulty in obtaining straightforward responses, and, unfortunately, there has been much resistance in providing the necessary clarification.

I would like to clarify that the letter I submitted to the Court on February 3, 2025, does not include any communications subject to lawyer-client privilege. The letter primarily outlines the difficulties I faced in my interactions with Ms. Christensen and seeks the Court's guidance on how to address the impact of her withdrawal from representing me.

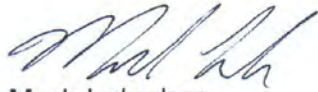
In light of these challenges, I respectfully request the Court's guidance on how I may be reinstated as an appellant in this case. I have not voluntarily withdrawn from the appeal, and

the issues I have faced with Ms. Christensen have left me without the necessary clarity to move forward. I am seeking the Court's assistance to determine the proper course of action to ensure my continued participation in this appeal.

I appreciate any direction the Court can provide regarding the resolution of these issues and the necessary steps to restore my status as an appellant.

Thank you for your attention to this matter. Please do not hesitate to contact me if you require any further information or copies of relevant communications.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Lolacher', with a stylized, cursive script.

Mark Lolacher



02-26

to determine content of appeal book to enable the timely and efficient disposition of the appeal filed on 26-FEB-2025

null

2025-03-03

Ottawa

Acknowledgment of Receipt received from Both parties (via email) with respect to Direction (Laskin J.A.) dated 28-FEB-2025 placed on file on 03-MAR-2025

null

2025-02-28

Ottawa

Written directions of the Court: The Honourable Mr. Justice Laskin dated 28-FEB-2025 directing " Please inform Mr. Lolacher in response to his letters of February 3 and 20, 2025 seeking guidance from the Court, that the Court, as a neutral decision-maker, is not in a position to provide parties or potential parties with guidance as to how to proceed. Furthermore, while Registry Officers may attempt to assist litigants with simple administrative steps relating to process and procedure, it is also not their place to provide legal advice to litigants, actual or potential (Ralph Thom v. Her Majesty The Queen, 2007 FCA 249 at para. 14). While Ms. Christensen states in her letter to the Court of February 11, 2025 that documents removing her as Mr. Lolacher's counsel "have already been filed with the Court," the Court can find no indication that this is the case. " Decisions Book other than J&O, volume 3, page 472, received on 28-FEB-2025 Confirmed in writing to the party(ies)

null

2025-02-24

Ottawa

Communication from Registry to Judicial Administrator dated 24-FEB-2025 re: ID. 11, 14, 15 and 17

This is Exhibit " H " referred to in the Affidavit of

Mark Lolacher

Sworn before me this 20 day

of March A.D., 20 25

Cindy Lou Hanson

A Notary Public, A Commissioner for Oaths  
in and for Alberta

Cindy Lou Hanson

A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires Oct. 11, 2027

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**QUALIZZA, FRANCESCO GABRIELE, AND OTHERS**

**APPELLANTS**

**AND:**

**HIS MAJESTY THE KING IN RIGHT OF CANADA, AND OTHERS**

**RESPONDENTS**

**WRITTEN REPRESENTATIONS of Mark Lolacher**

**PART I: STATEMENT OF FACTS**

1. The Appellant was a member of the above-noted action and retained Catherine M. Christensen, Counsel for the Appellants ("Ms. Christensen"), to represent their interests in the matter.
2. On January 31, 2025, Ms. Christensen filed a Notice of Partial Discontinuance (the "Notice") with the Court, which had the effect of removing the Appellant from the action. The Appellant did not authorize or consent to the filing of this Notice. Furthermore, the Appellant was not notified in advance that the Notice was being filed, in clear violation of applicable rules and Ms. Christensen's professional obligations.

3. At no point did Ms. Christensen properly communicate with the Appellant regarding the filing of the Notice, nor did she seek the Appellant's consent before proceeding with this action. This failure to communicate is in direct contravention of s. 3.2-1 [3] of the Law Society of Alberta Code of Conduct, which mandates that a lawyer must communicate effectively with the client, as well as s. 3.2-5(a), which requires a lawyer to keep the client reasonably informed and report developments to the client in a timely manner.
4. Despite previously agreeing to represent the Appellant in the appeal, Ms. Christensen notified the Appellant by email on January 27, 2025, that she would be withdrawing from representing the Appellant.
5. On January 29, 2025, Ms. Christensen served the Notice to Counsel for the Respondents.
6. On January 31, 2025, Ms. Christensen filed the Notice with the Court.
7. Throughout this process, Ms. Christensen failed to adhere to the proper withdrawal procedures as outlined in Rules 124 and 125 of the *Federal Court Rules*, as well as s. 3.7-1 of the Law Society of Alberta Code of Conduct. The Appellant was not provided with the required notice of withdrawal, and Ms. Christensen did not file the necessary documentation with the Court, effectively leaving the Appellant without legal representation.
8. As a result of these actions, the Appellant has suffered significant prejudice and harm, including being improperly removed from the action, left without legal representation, and unable to effectively participate in the litigation. The Appellant's legal position has been severely compromised, and the Appellant now seeks an order to have the Notice set aside and their participation in the action reinstated, and for the Court to compel Ms. Christensen to comply with proper withdrawal procedures.

## **PART II: STATEMENT OF POINTS IN ISSUE**

9. Whether the Notice filed by Ms. Christensen should be set aside, as it was filed without the Appellant's consent and in violation of Rule 334 of the *Federal Court Rules*.



10. Whether the Appellant's status in the action should be reinstated and their full participation in the proceedings restored.

11. Whether Ms. Christensen should be required to comply with the procedures for withdrawal under Rules 124 and 125 of the *Federal Court Rules*, and s. 3.7-1 of the Law Society of Alberta Code of Conduct, including proper notification of the Appellant and filing the appropriate documentation with the Court.

12. Whether the Appellant was prejudiced by Ms. Christensen's actions and is entitled to any further relief, including the recovery of damages or costs.

### **PART III: SUBMISSIONS**

13. **Breach of Rule 334 and the Discontinuance of the Action:** The Notice filed by Ms. Christensen should be set aside because it was filed without the Appellant's knowledge or consent and in violation of Rule 334 of the *Federal Court Rules*, which governs the discontinuance of proceedings. The Appellant did not provide any instruction or authorization to discontinue any part of the claim on the Appellant's behalf, and the filing of the Notice prejudiced the Appellant's position. The Court has the discretion to set aside any order or document that has been improperly filed, particularly when such actions result in harm to a party's legal rights.

14. **Failure to Notify the Appellant and Breach of Professional Obligations:** s. 3.2-1 [3] of the Law Society of Alberta Code of Conduct requires a lawyer to communicate effectively with the client. Ms. Christensen's failure to inform the Appellant of the Notice prior to its filing constitutes a breach of these professional obligations. This failure also reflects a violation of the duty of loyalty, which the Supreme Court emphasized in *Canadian National Railway Co. v McKercher LLP*, 2013 SCC 39, [2013] 2 S.C.R. 649. In that case, the Court highlighted that lawyers owe a duty of loyalty to their clients, meaning that they must act in the best interests of their clients, free from conflicts of interest and without compromising the client's position. By failing to consult with the Appellant and obtain their consent before discontinuing the action, Ms. Christensen acted in a way that undermined this duty of loyalty, causing

unnecessary harm to the Appellant.

15. Furthermore, in *R. v Neil*, 2002 SCC 70 (CanLII), [2002] 3 SCR 631, the Supreme Court reiterated that lawyers must avoid conflicts of interest and must act solely in the best interests of their clients. Ms. Christensen's failure to notify the Appellant and obtain their informed consent before discontinuing the action on the Appellant's behalf constitutes not only a breach of professional obligations but also a failure to act in the Appellant's best interests, thereby creating a conflict where the Appellant's legal rights were prejudiced without their knowledge or consent. This conduct undermines the trust and integrity fundamental to the lawyer-client relationship.

16. **Improper Withdrawal of Counsel:** Under Rules 124 and 125 of the *Federal Court Rules*, when a lawyer withdraws from representing a client, they are required to file a Notice with the Court and provide adequate notice to the client. Ms. Christensen failed to comply with these requirements, leaving the Appellant without representation and further complicating the Appellant's ability to continue in the action. Ms. Christensen's actions were in clear violation of the procedural rules and the ethical obligations of counsel.

17. **Prejudice and Harm:** The Appellant has suffered substantial prejudice as a result of Ms. Christensen's actions. The improper partial discontinuance of the action and failure to withdraw in accordance with the *Rules* has left the Appellant without representation, and the Appellant has been removed from an action in which they had a vested interest. The Appellant seeks the restoration of their status in the action to ensure that their legal rights are preserved and that they may continue to participate in the litigation.

#### **PART IV: ORDER SOUGHT**

18. An Order setting aside the Notice filed by Ms. Christensen, as it was filed without the Appellant's consent and in violation of Rule 334 of the *Federal Court Rules*.

19. An Order reinstating the Appellant's status in the action and restoring the Appellant's full participation in the proceedings.



20. An Order requiring Ms. Christensen to comply with the withdrawal procedures set out in Rules 124 and 125 of the *Federal Court Rules*, and s. 3.7-1 of the Law Society of Alberta Code of Conduct including proper notification to the Appellant, the filing of the appropriate documents with the Court, and providing the Appellant with a justifiable reason for terminating the relationship.

21. Any further or additional relief as this Honourable Court deems just and equitable in the circumstances, including the recovery of costs or damages resulting from Ms. Christensen's improper actions, pursuant to Part 11 of the *Federal Court Rules*.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

Dated this 20 day of March, 2025, in the Town of Athabasca, in the Province of Alberta.



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Mark Lolacher  
P.O. Box 693  
Athabasca Stn Main  
Athabasca, AB T9S 2A8  
Phone: (780) 224-2491  
Email: [mlolacher@protonmail.com](mailto:mlolacher@protonmail.com)

## **PART V: LIST OF AUTHORITIES**

### **Statutes and Regulations**

1. *Federal Court Rules*, SOR/98-106, r. 124, 125, 334, and Part 11.
2. Law Society of Alberta Code of Conduct, c. 19, s. 3.2-1 [3] and s. 3.2.5(a), and s. 3.7-1.

### **Jurisprudence**

3. *Canadian National Railway Co. v. McKercher LLP*, 2013 SCC 39, [2013] 2 S.C.R. 649
4. *R. v. Neil*, 2002 SCC 70, [2002] 3 S.C.R. 631

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**Francesco Gabriele Qualizza and Others**

**APPELLANTS**

**AND**

**His Majesty the King In Right of Canada and Others**

**RESPONDENTS**

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**APPELLANTS' BOOK OF AUTHORITIES**

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Valour Law  
412, 12 Vandelor Road  
St Albert, Alberta T8N 7Y2  
**Per: Catherine M. Christensen**

## **Legislation**

[Canada Evidence Act, R.S.C. 1985, c. C-5](#)

[Federal Courts Act, R.S.C. 1985, c. F-7](#)

[Judicature Act, R.S.A. 2000, c. J-2](#)

[Legal Profession Act, RSA 2000, c L-8](#)

## **Case Law**

[Canada \(Attorney General\) v. Mavi](#) (2011), 2 S.C.R. 504

[Canadian National Railway Co. v McKercher LLP](#), 2013 SCC 39

[R. v. Black](#) (2001), 2 S.C.R. 355

[R. v. Bryan](#) (2007), 1 S.C.R. 518

[R v Cunningham](#) 2010 SCC 10

[R. v. McClure](#) (2001), 1 S.C.R. 445

[R. v Neil, 2002 SCC 70](#)

[Solosky v. The Queen](#) (1980), 1 S.C.R. 821

[Neri v. Canada](#) 2021 FC 1443

[kisikawpimootewin v Canada](#) 2004 FC 1426

[Qualizza et al v. HMTK](#) 2024 FC 1801

[Thompson v. Canada](#) (2008), 2 FCR 303

[0678786 BC Ltd v Bennett Jones LLP](#), 2021 ABCA 62

[Arabi v Alberta](#) 2014 ABQB 295

[Canada Trust Co \(McDiarmid Estate\) v Alberta \(Infrastructure\)](#) 2021 ABQB 873

[HOOPP Realty Inc v Emery Jamieson LLP](#) 2018 ABQB 276

[Lee v Canada \(Attorney General\)](#) 2018 ABQB 40

[Miller v. Miller](#) 2000 ABQB 12



*R v Fearn*, 2014 ABQB 233

*Templanza v Ford* 2018 ABQB 168

*University of Calgary v Alberta (Information and Privacy Commissioner)* 2021 ABQB 795