

S.C.C. Court File No.:

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)**

BETWEEN:

**FRANCESCO GABRIELE QUALIZZA, JOEL THOMAS WILLIAM
ELLIS, PATRICK MERCIER, JILL LYNE DUCHESNEAU, ERIC DAVID
FAUCHER, SCOTT PETER BACON, JOSHUA MARTIN MCCULLOCH,
KYLE CORRIVEAU, JOSEPH DANIEL ERIC LOUIS MONTGRAIN,
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, 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, 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, ROBERT JAMES
TEREMCHUK, NATHANIEL J P TONDREAU, NIKOLA J GUY
TONDREAU, LISA PAULINE LEOPOLD, HAILEY NOELLE
SCHRODER, DOMINIQUE LAUZIER, VALERIE OUELLET, MORGAN
CHRISTOPHER WARREN, MARK ANDREW GOOD, SEAN MICHAEL
MARCOTTE, GABRIEL VILLENEUVE, KIRA ANNE YAKIMOVICH,
MATHIEU W PETIT-MARCEAU, KIMBERLY NEDRA ETTTEL,
CHRISTOPHER WILLIAM RAMBHAROSE, 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, SHANE THOMAS WHITSON, CHRISTIAN
KURT CARTER, MATTHEW JAMES ROWE, DAVE BOUCHARD,
LAURIE C. BAKER, FREDERIC LAUZIER, LAURA DIANNE ALLAN,
GEORGE VRINIOTIS, 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, 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, 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, MAVERICK JEREMY JOSEPH COWX, NICOLE JOHNNA CROWDER, BARTLOMIEJ DAVID CYCHNER, BEATA MARGARET CZAPLA, SARA DARBY, VIRGIL SEVERIN DESSOUROUX, SEAN ROBERT DIXON, ROBERT ADAM DOLIWA, DANIEL PIERRE DROLET, 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, MARCEL JOSEPH G E GOBEIL, TAMMY DANIELLE GREENING, EUGENE PIETER GREYLING, KEVIN CLARENCE J GRIFFIN, DOMINIC JOSEPH S GUENETTE, DARCY WAYNE HANSEN, BRETT NEVIN WELLCOME, RORY ALEXANDER HAWMAN, JAMES ADAM HEALD, KYLE KEITH HEPNER, JASON STANLEY GILBERT IGNATESCU, THANARAJAN JESUTHASAN, KEVIN THOMAS JOHNSON, RYAN GREGORY JONES, JAMIE ALEXANDER CURTIS JORSTAD, ATILA STEPHEN KADLECSIK, DUSTY LEWIS KENNEDY, HUNTER ELMER KERSEY, LIAM OWEN KIROPOULOS, CHRISTOPHER ROBERT KNORR, 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, DANIEL PAUL LOADER, GARRETT CURTIS LOGAN, JORDAN TERENCE 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, MARYLENE GINETTE S. MARTIN, MARCO MASTANTUONO, JOHANNES WOUTER MULDER, TYLER EDWIN NEUFELD, LAURA LEE NICHOLSON, KERI MERRIAM NIXON, JOSHUA BRUCE OLSON, CAROLINE MARY AUDREY OUELLET, MELANIE MARIE I. PARE, ALEXANDRU PATULARU, JOSHUA ALEXANDER PICKFORD, AGNES PINTER- KADLECSIK, 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, LAURIE ROSE, SEBASTIEN SALVAS, CAMERON
 RAY S. SANDERS, CARL JEAN G. SAVARD, TORSTEN SCHULZ,
 BLAKE ALEXANDER SHEEDY, QUINTON JAMES STENDER, CALEB
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 JOSEPH ST- GERMAIN, ROBERT CHRISTOPHER STULL, DALEN
 DREW TANNER, JUSTIN MYLES TENHAGE, JACOB CYRIL
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 TSCHETTER, MAGALI TURPIN, JULIAN PHILIP TUTINO, 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, WILLIAM H L
 LEVI WALL, KAREN PAIGE NIGHTINGALE, KEEGAN MARSH,
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 STEPHEN YOUNG SMITH, FOURAT YACOUNB YOUSIF JAJOU,
 JONATHAN MICHAEL RECOSKIE, THOMAS L. EDWARDS, LINDSAY
 ANNE MACKENZIE, SARAH EVELYN LAPRADE, DANY PILON,
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 DOBBIE, GABRIELLE CHARPENTIER, DANIEL JOHANNES
 RECKMAN, ZACHARY CLEELAND, , TARA J. MACDONALD, PAUL
 DAVID WILSON, BRENDAN V. T. LEBERT, JOCELYN LAMOTTE,
 ANTHONY J. DUKE, RILEY MALCOLM MACPHERSON, KIM NOEL
 LAUZON, WILLIAM EDWARD BRENDON, CAMERON SAMUEL
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 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

APPLICANTS
 (Appellants)

AND:

MARK ANDREW LOLACHER, JOSEPH BENJAMIN STEWART,
 STEPHEN TROY CHLEDOWSKI, AMANDA LEIGH BENHAM, DUSTIN
 SHANE WIEBE, VALENTIN LAVROV, VANESSA RAE LAROCHELLE,
 CAROL-ANN MARY T OUELLETTE, JOHN M GILLIS, MICHAEL RYAN
 FRANK, ROGER CORY STOESZ, LUCAS SHANE O'CONNOR,
 MICHAEL BARRETTE, DARRIN THOMAS BEATON, DWAYNE

ARMAND BRATZKE, RYAN DOUGLAS BREAU, REBEKAH KATHLEEN COURTNEY, JONATHAN WAYNE CROUCH, BRADY DAMIEN DEDAM, SAMUEL DROUIN, TOMMY GAUVREAU, NICOLAS ALEXANDER GLEIS, GARY ADAM JOHNSTON, EVAN VICTOR KOZIEL, JONATHAN JOSEPH A. LEMIRE, ANDREW ROBERT PAUL MALLORY, JAMIE RICHARD MCEWEN, JONATHAN NOEL, JOSEPH ANTHONY PAPALIA, JEAN-SIMON PLAMONDON, JENNA LEIGH ROBERTS, JOSHUA CALVIN ROBERTS, RORY ALEXANDER DAVID ROSEN, PAUL RUSSELL SHAPKA, JAMES ROARK SUTER, SIMON BOBBY H TILLY, SHELLEY DIANE TULLY, GREGORY VINCENT-WALKER, BRANDON TYLER PETER ZWICKER, MARC-ANTOINE POULIN, MARK RONKIN, JACOB THOMAS FIDOR, LUCAS GERARD ZIEGELBAUER, DANIEL NINIAN RODRIGUES, ANTHONY BILODEAU, MATEUSZ CAMERON KOWALSKI, KURTIS ROCKEFELLER RUTHERFORD, SERGIU GEORGE CANDEA, JESSE HENRY FIELD, COLIN PERRY KAISER, and JENNIFER BETHANY FRIZZLEY

RESPONDENTS
(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 L 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 MAJORGENERAL JGM BILODEAU, CHAPLAIN GENERAL BRIGADIER- GENERAL JLG BELISLE, JUDGE ADVOCATE GENERAL REARADMIRAL GENEVIEVE BERNATCHEZ, and BRIGADIER GENERAL LIAM WADE RUTLAND

RESPONDENTS
(Respondents)

NOTICE OF APPLICATION FOR LEAVE TO APPEAL
(QUALIZZA et al, APPLICANTS)
(Pursuant to s. 40(1) of the *Supreme Court Act*, RSC, 1985)

TAKE NOTICE that the Applicants apply for leave to appeal to the Supreme Court of Canada, under section 40 of the *Supreme Court Act*, R.S.C., 1985, c. S-26, from the judgment of the Federal Court of Appeal, File Number A-33-25, 2025 FCA 93, made on May 7, 2025, and such further or other relief as this Honourable Court may deem appropriate;

AND FURTHER TAKE NOTICE that this application for leave to appeal is made on the following grounds:

1. The Federal Court of Appeal erred in law by ordering that Catherine M. Christensen remain counsel of record for Mark Andrew Lolacher and 50 other non-clients, in breach of the *Code of Conduct* for the Law Society of Alberta, sections 3.1-2 (Competence), 3.4-1 (Conflicts of Interest), and 3.7-1 (Withdrawal from Representation). This raises an issue of public importance concerning the balance between court orders and lawyers' professional ethical obligations across Canada (2025 FCA 93 at paras. 11, 18).
2. The Federal Court of Appeal erred in law by imposing obligations on Christensen, a non-party, exceeding its jurisdiction under the *Federal Courts Rules*, S.O.R./98-106, particularly Rules 1.1(2), 3, and 104. This raises an issue of public importance regarding the scope of appellate authority over non-parties in mass tort proceedings.
3. The Federal Court of Appeal erred in law by misapplying *R. v. Cunningham*, 2010 SCC 10, [2010] 1 S.C.R. 331, at paragraph 48, which mandates withdrawal when ethical issues arise, creating a conflict with established precedent. This raises an issue of public importance requiring resolution to ensure consistent application of ethical withdrawal principles.

Dated at St. Albert, Alberta, this 16th day of July 2025.


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**Counsel for the Respondents,
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 L 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 Majorgeneral
Jgm Bilodeau, Chaplain General
Brigadier-General Jlg Belisle, Judge
Advocate General Rearadmiral Genevieve
Bernatchez, and Brigadier General Liam
Wade Rutland**

MARK ANDREW LOLACHER

Self-Represented Respondent

JOSEPH BENJAMIN STEWART

Self-Represented Respondent

STEPHEN TROY CHLEDOWSKI

Self-Represented Respondent

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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 L 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 Majorgeneral
Jgm Bilodeau, Chaplain General
Brigadier-General Jlg Belisle, Judge
Advocate General Rearadmiral Genevieve
Bernatchez, and Brigadier General Liam
Wade Rutland**

AMANDA LEIGH BENHAM

Self-Represented Respondent

DUSTIN SHANE WIEBE

Self-Represented Respondent

VALENTIN LAVROV

Self-Represented Respondent

VANESSA RAE LAROCHELLE

Self-Represented Respondent

CAROL-ANN MARY T OUELLETTE

Self-Represented Respondent

JOHN M GILLIS

Self-Represented Respondent

MICHAEL RYAN FRANK

Self-Represented Respondent

ROGER CORY STOESZ

Self-Represented Respondent

LUCAS SHANE O'CONNOR

Self-Represented Respondent

MICHAEL BARRETTE

Self-Represented Respondent

DARRIN THOMAS BEATON

Self-Represented Respondent

DWAYNE ARMAND BRATZKE

Self-Represented Respondent

RYAN DOUGLAS BREAU

Self-Represented Respondent

REBEKAH KATHLEEN COURTNEY

Self-Represented Respondent

JONATHAN WAYNE CROUCH

Self-Represented Respondent

BRADY DAMIEN DEDAM

Self-Represented Respondent

SAMUEL DROUIN

Self-Represented Respondent

TOMMY GAUVREAU

Self-Represented Respondent

NICOLAS ALEXANDER GLEIS

Self-Represented Respondent

GARY ADAM JOHNSTON

Self-Represented Respondent

EVAN VICTOR KOZIEL

Self-Represented Respondent

JONATHAN JOSEPH A. LEMIRE

Self-Represented Respondent

ANDREW ROBERT PAUL MALLORY

Self-Represented Respondent

JAMIE RICHARD MCEWEN

Self-Represented Respondent

JONATHAN NOEL

Self-Represented Respondent

JOSEPH ANTHONY PAPALIA

Self-Represented Respondent

JEAN-SIMON PLAMONDON

Self-Represented Respondent

JENNA LEIGH ROBERTS

Self-Represented Respondent

JOSHUA CALVIN ROBERTS

Self-Represented Respondent

RORY ALEXANDER DAVID ROSEN

Self-Represented Respondent

PAUL RUSSELL SHAPKA

Self-Represented Respondent

JAMES ROARK SUTER

Self-Represented Respondent

SIMON BOBBY H TILLY

Self-Represented Respondent

SHELLEY DIANE TULLY

Self-Represented Respondent

GREGORY VINCENT-WALKER

Self-Represented Respondent

BRANDON TYLER PETER ZWICKER

Self-Represented Respondent

MARC-ANTOINE POULIN

Self-Represented Respondent

MARK RONKIN

Self-Represented Respondent

JACOB THOMAS FIDOR

Self-Represented Respondent

LUCAS GERARD ZIEGELBAUER

Self-Represented Respondent

DANIEL NINIAN RODRIGUES

Self-Represented Respondent

ANTHONY BILODEAU

Self-Represented Respondent

MATEUSZ CAMERON KOWALSKI

Self-Represented Respondent

**KURTIS ROCKEFELLER
RUTHERFORD**

Self-Represented Respondent

SERGIU GEORGE CANDEA

Self-Represented Respondent

JESSE HENRY FIELD

Self-Represented Respondent

COLIN PERRY KAISER

Self-Represented Respondent

JENNIFER BETHANY FRIZZLEY

Self-Represented Respondent

NOTICE TO THE RESPONDENT OR INTERVENER: A respondent or intervener may serve and file a memorandum in response to this application for leave to appeal within 30 days after the day on which a file is opened by the Court following the filing of this application for leave to appeal or, if a file has already been opened, within 30 days after the service of this application for leave to appeal. If no response is filed within that time, the Registrar will submit this application for leave to appeal to the Court for consideration under section 43 of the *Supreme Court Act*.

SCHEDULE A

- A. Judgment and Reasons of the Federal Court dated November 13, 2024, *Qualizza v. Canada*, [2024 FC 1801](#)
- B. Order of the Federal Court dated January 14, 2025
- C. Direction of the Federal Court of Appeal dated February 28, 2025
- D. Reasons for Order of the Federal Court of Appeal dated May 7, 2025, *Qualizza v. Canada*, [2025 FCA 93](#)
- E. Order of the Federal Court of Appeal dated May 7, 2025
- F. Direction of the Federal Court of Appeal dated June 10, 2025

Federal Court



Cour fédérale

Date: 20250114

Docket: T-1296-23

Ottawa, Ontario, January 14, 2025

PRESENT: The Honourable Mr. Justice Manson**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,
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 ANN MARY T OUELLETTE, ROBERT JAMES TEREMCHUK, NATHANIEL J P
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 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,
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MICHAEL BARRETTE, DARRIN THOMAS BEATON, BOBAK BEHESHTI,
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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
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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
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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 TERENCE 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**

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

ORDER

[1] This is an appeal of the decision of Madam Associate Judge Coughlan dated November 13, 2024 [Judgment], striking the Applicant's pleadings without leave to amend under Rule 221 of the *Federal Courts Rules*, SOR/98-106 [Rules] and seeking an extension of time to do so in writing pursuant to Rule 369 of the *Rules*.

I. Statement of Facts

[2] On November 13, 2024, Associate Judge Coughlan struck out the within action without leave to amend. The Associate Judge found that the Amended Statement of Claim did not disclose a cause of action, and that the Court was without jurisdiction as the Plaintiffs were obliged to use the grievance system.

[3] The deadline to appeal the decision of a “prothonotary” is 10 days, as set out in Rule 51 of the *Rules*. The Plaintiffs brought this motion on December 12, 2024, 29 days after the Judgment was issued.

II. Preliminary Issues

A. *Improper Notice of Motion*

[4] The preamble to the Plaintiffs’ Notice of Motion indicates that the “Applicants will make a motion to the Court in writing under Rule 51(1) of the Federal Courts Rules.” The Plaintiffs’ Notice of Motion does not cite to Rule 8, which is the applicable rule that would apply to a motion for an extension of time.

[5] The Plaintiffs first seek “leave for the motion to be heard with written representation under *Federal Courts Act* Section 369.2(1).” Given that the Plaintiffs appear to rely on Rule 369.2(1) of the *Rules*, and that rule applies to motions brought in the Federal Court of Appeal, it is not applicable here. The appropriate rule is Rule 369(1).

[6] The Plaintiffs also seek “leave for an extension of time to apply for an Appeal of a prothonotary order.” What in fact the Plaintiffs are seeking is an extension of time.

[7] Finally, the Plaintiffs apply for “leave to commence an application for Appeal under the *Federal Courts Act* Section 51(1).” The Court assumes again that the Plaintiffs intend to rely on Rule 51(1) of the *Rules*, but leave is not required to appeal a decision of an Associate Judge.

[8] Accordingly, the only request that may be considered in this proceeding is the request for an extension of time to appeal the Judgment under Rule 8 of the *Rules*.

B. *Improper Affidavit*

[9] In support of the Notice of Motion, the Plaintiffs rely on an affidavit sworn by counsel for the Plaintiffs (the “Affidavit”). This is improper under Rule 82 of the *Rules*, which reads:

Use of solicitor’s affidavit

82 Except with leave of the Court, a solicitor shall not both depose to an affidavit and present argument to the Court based on that affidavit.

[10] This rule has been interpreted to mean that lawyers “should not provide evidence in respect of contentious matters” (*Toys “R” Us (Canada) Ltd v Herbs “R” Us Wellness Society*, 2020 FC 682 at paras 10-11, and *Cross-Canada Auto Body Supply (Windsor) Ltd v Hyundai Auto Canada*, 2006 FCA 133 at paras 4-5). As the Affidavit here speaks to the steps supposedly taken in an attempt to explain the delay, it is evidence on a fundamental question in this motion, and the Affidavit will be disregarded.

III. Test for an Extension of Time

[11] The Plaintiffs have correctly set out the four factors the Court must consider on a motion for an extension of time:

- a) Did the moving party have a continuing intention to pursue the application?
- b) Is there some potential merit to the application?
- c) Has the respondent been prejudiced from the delay?
- d) Does the moving party have a reasonable explanation for the delay?

(Canada (Attorney General) v Hennelly, 1999 CanLII 8190 (FCA), 167 FTR 158; *Canada (Attorney General) v Larkman*, 2012 FCA 204 at paras 61-62)

A. *Continuing intention to appeal*

[12] The only evidence put forward in support of this factor is the Affidavit, which I have found inadmissible.

[13] Moreover, the Affidavit is silent with respect to any material facts in support of an intent to appeal; there is no assertion from any of the Plaintiffs that they always intended to appeal, just that the decision to appeal was made by December 11, 2024.

[14] This part of the test is not met.

B. *Potential merit of the appeal*

[15] In this case, the Affidavit and written submissions of the Plaintiffs are silent as to how the Appeal might be successful.

[16] Associate Judge Coughlan found two separate bases to strike the action: (i) the Amended Statement of Claim did not disclose a cause of action; and (ii) the Plaintiffs were obliged to follow the grievance process.

[17] The Plaintiffs would need to convince the Court on appeal that the Order contains palpable and overriding errors or errors of law on both findings (*Hospira Healthcare Corporation v Kennedy Institute of Rheumatology*, 2016 FCA 215 at para 79, citing *Housen v Nikolaisen*, 2002 SCC 33). No material facts are provided in this regard and there is no palpable and overriding error.

[18] The Plaintiffs have not met this element of the test.

C. *Prejudice to the Defendants*

[19] The Defendants do not assert that they will suffer any prejudice from the delay that has occurred so far. However, there is no explanation as to why the Plaintiffs did not provide their

motion record now, if they intend to proceed with the appeal in writing as claimed, or what a “full motion record for an Appeal” will consist of.

[20] In effect, the Plaintiffs seek leave to proceed with the filing of some kind of motion by the end of January.

[21] The delay that has occurred to date will be compounded by an indefinite delay going forward. The Defendants are almost certainly going to be prejudiced.

D. *Reasonable explanation for the delay*

[22] Even if the Affidavit was admissible, which it is not, it does not explain the delay in any rational sense.

[23] Moreover, there is no reasonable explanation for what the Plaintiffs intend to do, and why creating a motion record will take until January 31, 2025 (approximately six weeks from the date this motion was filed). This delay is unreasonable.

[24] The interests of justice do not justify the Court allowing poorly prosecuted litigation to proceed forward when there is no likelihood of success. The motion is dismissed.

IV. Costs

[25] The Plaintiffs shall pay costs to the Defendants in the amount of \$1080.

THIS COURT ORDERS that:

1. The motion is dismissed.
2. The Plaintiffs shall pay costs to the Defendants in the amount of \$1080.

"Michael D. Manson"

Judge

Federal Court of Appeal



Cour d'appel fédérale

TO: Judicial Administrator

FROM: Laskin J.A.

DATE: February 28, 2025

RE: A-33-25
Francesco Gabriele Qualizza, et al. v. His Majesty the King.

DIRECTION

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.

"JBL"

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250507

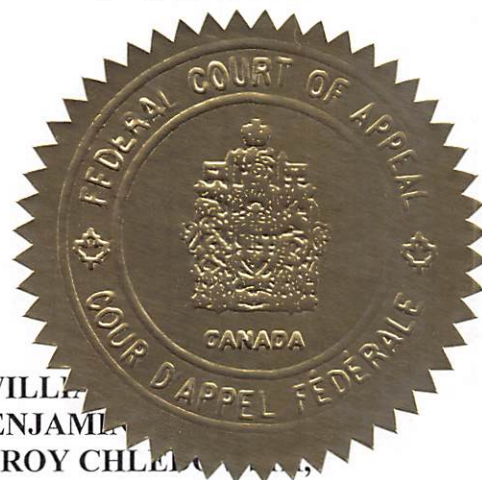
Docket: A-33-25

Ottawa, Ontario, May 07, 2025

Present: LOCKE J.A.

BETWEEN:

FRANCESCO GABRIELE QUALIZZA, JOEL THOMAS WILLIAMS, PATRICK MERCIER, JILL LYNE DUCHESNEAU, JOSEPH BENJAMIN, ERIC DAVID FAUCHER, SCOTT PETER BACON, STEPHEN TROY CHLIEH, 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, 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 WELLCOME, RORY ALEXANDER HAWMAN,
JAMES ADAM HEALD, KYLE KEITH HEPNER, JASON STANLEY GILBERT
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 MULDER, TYLER EDWIN NEUFELD, LAURA LEE NICHOLSON, KERI MERRIAM
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 ALEXANDER DAVID ROSEN, SEBASTIEN SALVAS, CAMERON RAY S. SANDERS,
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 PHILIPPE TRUDEL, ALBERT JASON TSCHETTER, SHELLEY DIANE TULLY,
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 WESTON, MATTHEW MAX WHICHER, JOSHUA JAMES WHITE,
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 WILSON, WADE GEORGE WILSON, ANDREW DEAN WYCHNENKA, MARC
 ZORAYAN, BRANDON TYLER PETER ZWICKER, WILLIAM H L LEVI WALL,
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 RYAN MICHAEL, THOMAS PATRICK HAYES, JAMES MARK CHARLEBOIS,
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 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
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 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 L 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

ORDER

THIS COURT ORDERS that

1. Mark Lolacher's motion to set aside the partial notice of discontinuance filed on January 31, 2025 is granted and said notice is set aside.
2. Mr. Lolacher is an appellant in the present appeal and Catherine M. Christensen remains his counsel of record.
3. The appellants shall pay Mr. Lolacher's costs of this motion, forthwith, in the all-inclusive amount of \$2,000.

I HEREBY CERTIFY that the above document is a true copy of the original files in the Court./

JE CERTIFIE que le document ci-dessus est une copie conforme à l'original déposé au dossier de la Cour fédérale.

"George R. Locke"

J.A.

Filing date 7-May-2025
Date de dépôt

Dated
Fait le

I. LAVIOLETTE-DUVAL
REGISTRY OFFICER
AGENT DU GREFFE

Federal Court of Appeal



Cour d'appel fédérale

TO : Judicial Administrator

FROM : Gleason J.A.

DATE : June 10, 2025

RE : A-33-25

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 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 Vriniotis, 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-Kadlecisk, 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 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 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 L 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

DIRECTION

The amended appeal book may be filed and will replace the appeal book originally filed. The appellants' memorandum of fact and law and proofs of service, submitted May 30, 2025 may also be filed.

The Registry has also sought direction pursuant to Rule 72 of the *Federal Courts Rules*, S.O.R./98-106 (the *Rules*) regarding a Notice of Appeal submitted on behalf of the appellants and Ms. Christensen, counsel of record for the appellants, which names the appellant, Mark Andrew Lolacher, as a respondent. This document has not been filed. The Notice of Appeal purports to appeal to this Court the Order of the Court issued by Justice Locke on May 7, 2025. In the Notice of Appeal, the appellants also seek an order removing Ms. Christensen as counsel of record for 51 of the appellants. The Notice of Appeal was signed by another solicitor, Bath-Shéba van den Berg of the firm Ergonomy Law.

The Notice of Appeal may not be filed. It is wholly irregular because this Court has no jurisdiction to sit in appeal from one of its orders. An appeal lies from an order of this Court, with leave, only to the Supreme Court of Canada. The Notice of Appeal is also irregular in that it substitutes someone else as solicitor of record, names one of the appellants, Mark Andrew Lolacher, as a respondent and counsel of record as an appellant without any order from the Court changing the style of cause or replacing counsel of record.

As was noted in the Reasons for this Court's Order of May 7, 2025, the proper procedure when counsel wishes to get off the record is for the solicitor to bring a motion under Rule 125 of the *Rules*. Counsel other than the counsel of record may act on behalf of the counsel of record in such a motion. Indeed, Rule 82 of the *Rules* provides that a solicitor shall not depose an affidavit and present arguments to the Court in respect of their affidavit, except with leave. Thus, if Ms. Christensen wishes to bring a motion under Rule 125 and files an affidavit in support of the motion, she should either be represented by another solicitor, such as Bath-Shéba van den Berg, or seek leave of the Court under Rule 82 to file the affidavit and present the motion. Her motion record in support of any such motion must be served on all parties for whom she formerly acted, as provided in Rule 125(2). In addition, in accordance with Rule 369.2(1), such motion should be brought in writing or request an oral hearing in accordance with Rule 369.2(2).

As also noted in the Reasons for this Court's Order of May 7, 2025, Mr. Lolacher, on his own volition, may take steps to no longer be represented in this appeal by Ms. Christensen. He may either file a notice under Rule 124 to appoint a new solicitor (using Form 124A) if he hires new counsel or a notice to act in person (using Form 124C). These steps may also be taken by any of the appellants.

The Registry has also sought direction regarding several documents submitted subsequent to the Notice of Appeal, none of which have been filed.

The first of these is a motion record submitted on behalf of Ms. Christensen by Bath-Shéba van den Berg to remove Ms. Christensen as counsel of record on behalf of 51 of the appellants, to set aside and stay this Court's Order of May 7, 2025, and to "sever" the appellant, Mark Andrew Lolacher, from the other appellants. It is unclear who the respondents and appellants are on this motion as the style of cause in the Notice of Motion lists only one appellant and respondent and then uses "et al.". It appears from the affidavit of service that this motion record was served only on counsel from the Department of Justice (who appeared on behalf of the governmental respondents) and Mr. Lolacher, but not on the other 50 appellants for whom Ms. Christensen no longer acts. This motion record may not be filed as it is wholly irregular. To the extent it seeks to appeal this Court's Order of May 7, 2025, as noted, this Court has no jurisdiction to hear an appeal from one of its orders. To the extent it seeks an order removing Ms. Christensen as counsel of record for Mr. Lolacher and 51 other respondents, the motion record has not been properly served. The stay application appears to be ancillary to the other relief sought.

The remaining documents in respect of which the Registry seeks direction were submitted in response to the foregoing motion or in reply to the responding motion records. None of them may be filed as there is nothing to respond or reply to given that the motion record discussed in the preceding paragraph cannot be filed.

So long as this appeal is outstanding, unless and until a motion is properly brought under Rule 125 and the Court removes Ms. Christensen as counsel of record for some of the appellants or until, one, some or all of them file notice(s) under Rule 124, Ms. Christensen continues to be the solicitor of record for all the above listed appellants unless she or they die, she is appointed to public office, incompatible with the solicitor's profession, or is suspended or disbarred as a solicitor. To the extent

that Mr. Lolacher wishes to make a complaint about Ms. Christensen, his remedy lies with the Law Society of Alberta and not with this Court. Indeed, all the foregoing should have been abundantly clear from the Reasons for this Court's Order of May 7, 2025.

“MJLG”