

**IN THE SUPREME COURT OF CANADA  
(on Appeal from the Federal Court of Appeal)**

B E T W E E N :

**CANADIAN FRONTLINE NURSES AND KRISTEN NAGLE**

Applicants  
(Appellants)

-and-

**ATTORNEY GENERAL OF CANADA**

Respondent  
(Respondent)

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**RESPONSE TO THE APPLICATION FOR LEAVE TO APPEAL**  
(Pursuant to Rule 27 of the *Rules of the Supreme Court of Canada*)

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## PART I - OVERVIEW AND SUMMARY OF FACTS

### A. Overview

1. While the first-ever declaration of a public order emergency under the *Emergencies Act* (*EA*) in February 2022 raises issues of public importance, this leave application does not engage those issues. Rather, the applicants are simply trying to relitigate discretionary rulings by the Federal Court on their lack of standing and clean hands. Their application should be dismissed.
2. On standing, the Federal Court’s discretionary finding that the applicants lacked direct standing raises no issue of public importance. The relevant principle is well settled: a party lacks direct standing if the law in question does not directly affect them. Here, the applicants were not affected by the emergency measures in any way: they never had their bank accounts frozen under the emergency measures, and they faced no risk of freezing after those measures were revoked. As a result, they lacked direct standing. And while they criticize the courts below for taking a “narrow view” of direct standing, both courts expressly *declined* to take a “narrow view.”
3. On clean hands, the Federal Court’s discretionary finding that the applicants lacked clean hands likewise raises no issue of public importance. Again, the relevant principle is well settled: courts have discretion to decline to grant equitable remedies to parties, like the applicants, who engage in misconduct, such as by lacking candour under oath or by showing bad faith or a lack of transparency. The court’s discretionary decision to deny relief on this basis attracts deference.
4. Finally, given the applicants’ lack of standing, they are not in a position to argue that the emergency measures’ freezing of bank accounts violated property rights under the *Canadian Bill of Rights* (*CBR*). After all, their property was unaffected. In any event, the emergency measures did not violate the *CBR*. Due process was afforded to all who were actually affected.

### B. Facts

#### 1) Federal Court Decision

##### *i. Applicants lack direct standing*

5. On judicial review, the Federal Court considered whether the applicants had standing to bring their application. They had asserted direct standing based on Ms. Nagle’s participation in the

Convoy protests in Ottawa. However, unlike two individuals in a related judicial review who were found to have direct standing because they had their accounts frozen (Messrs. Cornell and Gircys), neither Ms. Nagle nor Canadian Frontline Nurses (CFN) had accounts frozen as a “designated person” or a “designated entity” under the *Emergency Economic Measures Order*.<sup>1</sup> They also were not removed from participating in the Convoy—Ms. Nagle chose to leave of her own accord.<sup>2</sup> Instead, the applicants contended that they had standing because they continued to be exposed to the *possibility* of prosecution based on s. 43 of the *Interpretation Act*, notwithstanding the revocation of the emergency measures.<sup>3</sup>

6. The Federal Court found there to be no “air of reality” to this argument. This was not a case of a historical crime discovered long after a statute was amended, which the Federal Court noted was what s. 43 of the *Interpretation Act* was intended to address. The applicants’ involvement in the events of February 2022 was discoverable by authorities at the time. At this stage, it was “inconceivable” that authorities would pursue charges against the applicants under the revoked emergency measures. In the “unlikely event that might happen, it would remain open to them to challenge the constitutionality of the provisions.”<sup>4</sup>

*ii. Applicants lack clean hands*

7. The Federal Court also considered whether the applicants brought their application for judicial review with clean hands. Citing this Court’s decision in *Trial Lawyers Association* and the Federal Court of Appeal’s decision in *Laurentian Pilotage*, among others, the Federal Court noted that the clean hands doctrine “recognizes that a court can decline to grant equitable relief in favour of a party who has acted unlawfully, shown bad faith or lacked transparency.”<sup>5</sup>

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<sup>1</sup> *Emergency Economic Measures Order*, [SOR/2022-22 \(Economic Order\)](#); *Canadian Frontline Nurses v Canada (Attorney General)*, [2024 FC 42](#) at paras [164-165](#) and [177-181](#) [**FC Reasons**], **Application for Leave to Appeal Record [ALAR], Tab 1A**.

<sup>2</sup> FC Reasons at para [164](#).

<sup>3</sup> FC Reasons at para [170](#), referencing the *Emergencies Act*, RSC 1985, [c 22 \(4th Supp\)](#), the *Economic Order* and the *Emergency Measures Regulations*, [SOR/2022-21 \(Regulations\)](#).

<sup>4</sup> FC Reasons at paras [178-180](#).

<sup>5</sup> *Trial Lawyers Association of British Columbia v Royal & Sun Alliance Insurance Company of Canada*, [2021 SCC 47](#) at para [37](#) [**Trial Lawyers Association**]; *Laurentian Pilotage Authority v Corporation des Pilotes de Saint-Laurent Central Inc.*, [2019 FCA 83](#) at para [41](#) [**Laurentian Pilotage**].

8. The Federal Court concluded that Ms. Nagle had “demonstrated bad faith in these proceedings” and found at least three grounds of discrediting conduct.<sup>6</sup> First, during the stay motion at the outset of this case, Ms. Nagle circumvented the Court’s instructions against broadcasting a virtual hearing to which she had been given remote access.<sup>7</sup> Second, Ms. Nagle’s cross-examination was “replete with examples of her efforts to avoid answering questions. Her responses lacked transparency and candour.”<sup>8</sup> Third, the applicants’ misconduct continued at the judicial review hearing. Despite repeated instruction by the court to address the legal issues, Nagle/CFN’s former lead counsel “repeatedly made inappropriate and offensive political statements.”<sup>9</sup> The court noted that these “grandstanding remarks were clearly intended to play to the audience observing the hearing remotely.”<sup>10</sup>

9. Moreover, having reread their memorandum of fact and law and the transcript of their oral submissions, the court was satisfied Ms. Nagle and the CFN brought nothing of value to the proceedings. The Court found they lacked standing and dismissed their judicial review.

## 2) **Federal Court of Appeal Decision**

### *i. No palpable and overriding error in finding no direct standing*

10. On appeal, the applicants largely repeated the arguments on standing that they made before the Federal Court.<sup>11</sup> The Court of Appeal found none of these submissions to have merit and concluded there was no palpable or overriding error in the Federal Court’s decision on standing.<sup>12</sup> Neither Ms. Nagle nor CFN met the “directly affected” requirement for direct standing, which the Court acknowledged should not be given a restricted meaning. At no point were they

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<sup>6</sup> FC Reasons at paras [182-185](#).

<sup>7</sup> FC Reasons at para [183](#).

<sup>8</sup> FC Reasons at para [183](#).

<sup>9</sup> FC Reasons at [184-185](#).

<sup>10</sup> FC Reasons at para [184](#).

<sup>11</sup> *Canada (AG) v Canadian Civil Liberties Association*, [2026 FCA 6](#) at para [104-107](#) [FCA Reasons], ALAR, Tab 1C.

<sup>12</sup> FCA Reasons at para [108](#).

named a “designated person” or a “designated entity” under the *Economic Order*, none of their accounts were ever frozen, nor were they ever the subject of any measures taken under the *EA*.<sup>13</sup>

11. Furthermore, the Court of Appeal found there was no palpable and overriding error in the Federal Court’s finding that s. 43 of the *Interpretation Act* did not assist the applicants, as that provision was meant to address historical crimes discovered long after the law in question had been amended. As the court noted, Nagle/CFN’s involvement in the blockades during the short time when the Proclamation was in force was discoverable by the authorities at the time.<sup>14</sup>

12. Additionally, purely financial considerations were not a sufficient basis for granting standing, and in any event, there was no evidence of any temporary reduction in donations to the applicants or of the alleged impact on their ability to fundraise or express their views.<sup>15</sup>

13. Lastly, the Court of Appeal agreed with the Federal Court that in the unlikely event that charges were brought in relation to offences Nagle/CFN may have committed between February 14 and 22, 2022, they would always have the possibility of challenging the constitutionality of the impugned provisions pursuant to which the charges had been brought.<sup>16</sup>

***ii. No palpable and overriding error in finding a lack of clean hands***

14. The Court of Appeal also found no palpable and overriding error in the Federal Court’s dismissal of the applicants’ application for lack of clean hands. First, it was “well established” that courts “may decline judicial review remedies to a party that engages in misconduct, such as failing to show good faith, transparency and candour” (citing this Court’s decision in *Homex Realty v Wyoming*<sup>17</sup> and its own earlier decision in *Thanabalasingham*<sup>18</sup>). Second, the Federal Court had found several instances of misconduct, including posting photos of the court proceedings on

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<sup>13</sup> FCA Reasons at para [110-111](#); RSC 1985, [c 22 \(4<sup>th</sup> Supp\)](#).

<sup>14</sup> FCA Reasons at para [112](#).

<sup>15</sup> FCA Reasons at para [113](#).

<sup>16</sup> FCA Reasons at para [114](#).

<sup>17</sup> *Homex Realty v Wyoming*, [1980 CanLII 55](#), [1980] 2 SCR 1011 at [1033-1038](#) [*Homex*].

<sup>18</sup> *Canada (MCI) v Thanabalasingham*, [2006 FCA 14](#) at paras [9-11](#) [*Thanabalasingham*].

Instagram, broadcasting the hearing, avoiding answering questions during cross-examination, and inappropriate and offensive statements by their lead counsel.<sup>19</sup>

15. Concerning this final point, the Court of Appeal found that while it is a lawyer's duty to act fully and fearlessly in advancing their clients' cause, there was no palpable and overriding error in finding the applicants' former counsel had crossed a line in making "inappropriate and offensive political statements," "clearly intended to play to the audience observing the hearing remotely."<sup>20</sup>

16. For the first time on appeal, the applicants raised new bias and fairness arguments, to the effect that the Federal Court judge had refused to hear them. However, the Court of Appeal found these arguments lacked merit and should have been raised in the court below.<sup>21</sup>

### *iii. No error on Canadian Bill of Rights*

17. The applicants also argued that the *Economic Order's* "cease dealings" provisions (permitting the freezing of designated persons' accounts) permitted the seizure of property without due process of law, contrary to s. 1(a) of the *CBR*.<sup>22</sup> However, because the applicants never had their accounts frozen and the Court of Appeal upheld the Federal Court's finding they lacked standing, their *Bill of Rights* issues were not properly before the court.<sup>23</sup>

## **PART II - QUESTION IN ISSUE**

18. This leave application raises no issue of public importance.

## **PART III - STATEMENT OF ARGUMENT**

### **A. No issue of public importance on direct standing or clean hands**

19. This leave application raises no issue of public importance regarding direct standing or clean hands. The Federal Court's decision that the applicants lacked direct standing, and its decision to dismiss their application because they lacked clean hands, were first-instance

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<sup>19</sup> FCA Reasons at paras [115](#) and [71](#).

<sup>20</sup> FCA Reasons at para [116](#).

<sup>21</sup> FCA Reasons at paras 117-120.

<sup>22</sup> *Canadian Bill of Rights*, [SC 1960, c 44](#), s. [1\(a\)](#).

<sup>23</sup> FCA Reasons at paras 99, 476.

discretionary decisions<sup>24</sup> attracting the palpable and overriding error standard of appellate review, which is highly deferential.<sup>25</sup> In upholding these findings, the Court of Appeal applied settled principles of appellate review, without changing the law on direct standing or clean hands.

20. The Federal Court of Appeal has noted that “[p]alpable’ means an error that is obvious. ‘Overriding’ means an error that goes to the very core of the outcome of the case. When arguing palpable and overriding error, it is not enough to pull at leaves and branches and leave the tree standing. The entire tree must fall.”<sup>26</sup> This Court has also cautioned that “a palpable and overriding error is in the nature not of a needle in a haystack, but of a beam in the eye.”<sup>27</sup>

21. The applicants have not even mentioned—let alone challenged—the Court of Appeal’s application of these settled principles. Instead, they attempt to argue the issues *de novo* in this Court with no regard for the Court of Appeal’s decision. This is impermissible.

22. In any event, under s. [18.1](#) of the *Federal Courts Act*, the law is clear that a person seeking direct standing must establish that the challenged decision “directly affects” their rights, imposes an obligation on them, or causes them harm,<sup>28</sup> and the evidence must show more than a mere interest in a matter.<sup>29</sup> Moreover, any direct effects on a person must be non-speculative,<sup>30</sup> to help ensure that scarce judicial resources “are devoted to real controversies.”<sup>31</sup>

23. Given this unbroken line of authority, the applicants lack any basis to claim the law on direct standing under the *Federal Courts Act* is “unsettled.” And despite their submissions, the

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<sup>24</sup> *Canadian Frontline Nurses et al v Canada (AG)*, [2024 FC 42](#) at para [182](#) [*CFN*].

<sup>25</sup> *Laurentian Pilotage Authority v Corporation des Pilotes de Saint-Laurent Central Inc.*, [2019 FCA 83](#) at paras [28-29](#), [32](#), [35](#), [42](#) [*Laurentian Pilotage*]. See also *Oceanex Inc. v Canada (Transport)*, [2019 FCA 250](#) at para [11](#).

<sup>26</sup> *Benhaim v St-Germain*, [2016 SCC 48](#), [2016] 2 SCR 352 at para [38](#) [*Benhaim*], citing *South Yukon Forest Corp v R.*, [2012 FCA 165](#), 4 BLR (5th) 31 at para [46](#).

<sup>27</sup> *Benhaim* at para [39](#), citing *JG v Nadeau*, [2016 QCCA 167](#) at para [77](#).

<sup>28</sup> *Laurentian Pilotage* at para [31-32](#); *Federal Courts Act*, RSC 1985, C. F-7, s. [18.1\(1\)](#); *Unifor v Vancouver Fraser Port Authority*, [2017 FC 110](#) at para [29](#); *Friends of the Canadian Wheat Board v Canada*, [2011 FCA 101](#) at para [21](#); *League for Human Rights of B'nai Brith Canada v Odynsky*, [2010 FCA 307](#) at para [58](#).

<sup>29</sup> *CFN* at para [159](#), citing *Unifor v Vancouver Fraser Port Authority*, [2017 FC 110](#) at para [29](#).

<sup>30</sup> *Hupacasath First Nation v Canada (MFAIT)*, [2015 FCA 4](#) at para [104](#) [*Hupacasath*].

<sup>31</sup> *FCA Reasons* at para [110](#).

lower courts did not adopt a “restrictive” or “narrow” approach. To the contrary, both courts accepted that courts should not give the words “directly affected” a “restricted meaning.” But, as settled law confirms, they correctly understood the applicants still needed to show more than a mere interest in the matter and provide more than mere speculation about potential future effects on them.<sup>32</sup>

24. For this reason, the applicants’ argument that they had direct standing to challenge the emergency measures because they were “within the intendment” of the *Economic Order*, and therefore did not need to “wait” to have their accounts frozen, lacks merit. In the decisions the applicants cite for this proposition—*Friends of the Canadian Wheat Board* and *Moresby*—the Court of Appeal found it was “clear” the policies being challenged applied to the litigants.<sup>33</sup> In the present case, on the other hand, the evidence tended to show the opposite. Neither Ms. Nagle nor CFN was ever named a “designated person” or a “designated entity,” and neither had their accounts frozen or faced any other consequence under the emergency measures.<sup>34</sup> They were thus not “within the intendment” of these measures in any non-speculative way so as to establish any palpable and overriding error in the Federal Court’s finding that they lacked direct standing.

25. The law is equally settled on the clean hands doctrine. As the lower courts noted, this Court and the Court of Appeal have made it clear in a series of cases that courts may decline judicial review remedies to a party which engages in misconduct, such as by failing to show good faith, transparency, and candour.<sup>35</sup> Judicial review is a discretionary equitable remedy, and the principles underpinning it have “long included the principle of disentitlement where a court, because of the conduct of the applicant, will decline the grant of the discretionary remedy.”<sup>36</sup>

26. This leave application raises no issue of public importance about the circumstances in which this doctrine may apply. Rooted in equity, the doctrine’s application is fundamentally fact-driven and discretionary, which is why findings with respect to disentitling conduct and a lack of

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<sup>32</sup> FCA Reasons at para [110](#), citing *Hupacasath* at para [104](#).

<sup>33</sup> *Friends of the Canadian Wheat Board v Canada (AG)*, [2011 FCA 101](#) at para [28](#), citing *Moresby Explorers Ltd v Canada (AG)*, [2006 FCA 144](#) at para [19](#).

<sup>34</sup> FCA Reasons at para [110-111](#).

<sup>35</sup> See *Homex* at [1033-1038](#); *Trial Lawyers Association* at para [37](#); *Laurentian Pilotage* at para [41](#); *Thanabalasingham* at paras [9-11](#).

<sup>36</sup> *Homex* at [1035](#).

clean hands attract the most deferential standard: palpable and overriding error. The Court of Appeal properly applied that standard and dismissed the applicants' appeal, because their arguments amounted to pulling at the "leaves and branches" but left the tree standing.<sup>37</sup>

27. Finally, the applicants' lack of clean hands continues even into this Court. They assert in their Rule 23C Certificate that it would be "inappropriate" for the Chief Justice to take part in this case because of an "apprehension of bias" and a "negative bias." Nonsense. The Chief Justice merely observed what anyone in Ottawa in February 2022 could observe: while many Convoy participants acted in "good faith" (de « bonne foi »), the situation was nevertheless "concerning" (« inquiétant »). These comments fall far short of establishing a *reasonable* apprehension of bias.<sup>38</sup>

28. The applicants' attack on the impartiality of this Court is the very sort of inappropriate "grandstanding" they attempted in the Federal Court to play to an audience.<sup>39</sup> As noted in a case raising similarly misplaced claims of bias on behalf of a federal Minister, "[i]n the presence of the very serious allegation of apprehension of bias, one would expect better evidence than selective statements taken from media sources."<sup>40</sup> Their serious allegations—with no basis—bear the hallmarks of their discrediting conduct and militate against granting leave.

### **B. No issue of public importance on the *Canadian Bill of Rights***

29. Given the lack of any issue of public importance or palpable and overriding error with respect to the applicants' lack of standing, they are in no position to argue that the *Economic Order* violated property rights under the *CBR*.<sup>41</sup> Even if they had standing, their arguments would still face the fundamental problem that the *Economic Order* did not interfere with *their* property. Neither Ms. Nagle nor the CFN had their accounts frozen. Their challenge is thus an abstract attack on the *Economic Order*, speculating that they *could* have been treated unfairly *if* their accounts had been frozen. But a law's fairness cannot be challenged in the abstract.<sup>42</sup>

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<sup>37</sup> *Benheim* at para 38.

<sup>38</sup> *Wewaykum Indian Band v Canada*, [2003 SCC 45](#), [2003] 2 SCR 259 at para 60.

<sup>39</sup> FC Reasons at para 184.

<sup>40</sup> *Zupko v Canada (MCI)*, [2010 FC 1319](#) at para 19.

<sup>41</sup> *Canadian Bill of Rights*, [SC 1960, c 44, s.1\(a\)](#) [*CBR*].

<sup>42</sup> *Green v Law Society of Manitoba*, [2017 SCC 20](#) at paras 18 and 54–56.

30. In any event, neither the *Regulations* nor the *Economic Order* violated s. 1(a) of the *CBR* and there is no issue of public importance raised by this issue. The “right of the individual to [...] enjoyment of property, and the right not to be deprived thereof except by due process of law” in s. 1(a) is not constitutional and is not absolute.<sup>43</sup>

31. In fact, s. 1(a) of the *CBR* codifies procedural protections against the deprivation of property that existed in 1960,<sup>44</sup> and its process protections do not apply to the making of a law of general application (a legislative decision)—such as the making of the *Economic Order* (and the *Regulations*).<sup>45</sup> It is only the application of such laws that is relevant, with fairness requirements being flexible and context specific.<sup>46</sup> In the context of an emergency, procedural fairness need not always be satisfied when the original decision is made,<sup>47</sup> but could be satisfied later in the process if the measures were maintained or continued after the immediate urgency.<sup>48</sup>

32. At most, *Authorson* requires notice and an opportunity to contest any deprivation of property rights under s. 1(a) of the *CBR*. In this case, any such requirements were met. Police provided notices to those potentially subject to the *Economic Order*, and individuals were given the opportunity to contest being subject to the *Economic Order* by informing the police they were prevented from leaving (e.g., their vehicle was blocked in) and unable to comply with the *Regulations*, and they were able to contact financial service providers to have their accounts unfrozen.<sup>49</sup>

33. In light of the process requirements noted in *Authorson*, there is no need for further “guidance” from this Court concerning the application of s. 1(a) of the *CBR* in these circumstances. That is particularly the case given that the applicants’ accounts were never frozen, making this an abstract challenge. Given that the applicants suffered no property interference, there is no way for

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<sup>43</sup> *Hogan v The Queen*, [1975] 2 SCR 574 at [583-585](#); *Robertson and Rosetanni v The Queen* [\[1963\] SCR 651](#) at [655](#).

<sup>44</sup> *Authorson v Canada (AG)*, [2003 SCC 39](#), [2003] 2 SCR 40 at paras [10](#), [44](#), [52](#), [57](#).  
[*Authorson*]

<sup>45</sup> *Authorson* at paras [40-41](#).

<sup>46</sup> *Canada (MCI) v Vavilov*, [2019 SCC 65](#) at para [77](#).

<sup>47</sup> *Cardinal v Kent Institution*, [1985] [2 SCR 643](#) at para [16](#).

<sup>48</sup> *Ross v Mohawk Council of Kanesatake*, [2003 FCT 531](#) at para [79](#).

<sup>49</sup> Beaudoin Affidavit, paras 25, 26 & 29, **Respondent’s Record**, Tab 2, p 22

them to challenge, or for this Court to evaluate, a decision-making process that did not occur in relation to them.

**PART IV - SUBMISSIONS ON COSTS**

34. The AGC seeks costs of this application.

**PART V - NATURE OF ORDER SOUGHT**

35. The AGC seeks an Order dismissing the applicants' leave application and granting costs of the application to the AGC.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

Dated at Vancouver, B.C. and Toronto, Ontario this 17th day of April 2026.

*John Provart for*

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**MICHAEL A. FEDER, K.C. / JOHN PROVART  
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## PART VI -TABLE OF AUTHORITIES

TAB	DESCRIPTION	Paragraph cited
<b>STATUTES AND REGULATIONS</b>		
1.	<i>Canadian Bill of Rights</i> , SC 1960, c 44 <a href="#">EN</a> / <a href="#">FR</a>	4, 17
2.	<i>Emergencies Act</i> , RSC 1985, c 22 (4 <sup>th</sup> Supp), s 17 <a href="#">EN</a> / <a href="#">FR</a>	1
3.	<i>Emergency Measures Regulations</i> , SOR/2022-21 <a href="#">EN</a> / <a href="#">FR</a>	5
4.	<i>Emergency Economic Measures Order</i> , SOR/2022-22 <a href="#">EN</a> / <a href="#">FR</a>	5
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6.	<i>Interpretation Act</i> , RSC 1985, c I-21, s. 43. <a href="#">EN</a> / <a href="#">FR</a>	5, 6, 11
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1.	<i>Authorson v Canada (AG)</i> , 2003 SCC 39 <a href="#">EN</a> / <a href="#">FR</a>	31-33
2.	<i>Benhaim v St-Germain</i> , 2016 SCC 48 <a href="#">EN</a> / <a href="#">FR</a>	20
3.	<i>Canada (Attorney General) v Canadian Civil Liberties Association</i> , 2026 FCA 6 <a href="#">EN</a> / <a href="#">FR</a>	10
4.	<i>Canada (MCI) v Thanabalasingham</i> , 2006 FCA 14 <a href="#">EN</a> / <a href="#">FR</a>	14, 25
5.	<i>Canada (MCI) v Vavilov</i> , 2019 SCC 65 <a href="#">EN</a> / <a href="#">FR</a>	31
6.	<i>Canadian Frontline Nurses et al v Canada (AG)</i> , 2024 FC 42 <a href="#">EN</a> / <a href="#">FR</a>	5, 19
7.	<i>Cardinal v Kent Institution</i> , [1985] 2 SCR 64 <a href="#">EN</a> / <a href="#">FR</a>	31
8.	<i>Friends of the Canadian Wheat Board v Canada</i> , 2011 FCA 101 <a href="#">EN</a> / <a href="#">FR</a>	22, 24
9.	<i>Green v Law Society of Manitoba</i> , <a href="#">2017 SCC 20</a> <a href="#">EN</a> / <a href="#">FR</a>	31

TAB	DESCRIPTION	Paragraph cited
10.	<i>Hogan v The Queen</i> , [1975] 2 SCR 574 <a href="#">EN</a> / <a href="#">FR</a>	30
11.	<i>Homex Realty v Wyoming</i> , 1980 CanLII 55 <a href="#">EN</a> / <a href="#">FR</a>	14, 25
12.	<i>Hupacasath First Nation v Canada (MFAIT)</i> , 2015 FCA 4 <a href="#">EN</a> / <a href="#">FR</a>	22
13.	<i>JG v Nadeau</i> , 2016 QCCA 167 <a href="#">EN</a> / <a href="#">FR</a>	20
14.	<i>Laurentian Pilotage Authority v Corporation des Pilotes de Saint-Laurent Central Inc.</i> , 2019 FCA 83 <a href="#">EN</a> / <a href="#">FR</a>	7, 19, 22, 25
15.	<i>League for Human Rights of B'nai Brith Canada v Odynsky</i> , 2010 FCA 307 <a href="#">EN</a> / <a href="#">FR</a>	22
16.	<i>Moresby Explorers Ltd v Canada (AG)</i> , 2006 FCA 144 <a href="#">EN</a> / <a href="#">FR</a>	24
17.	<i>Oceanex Inc. v Canada (Transport)</i> , 2019 FCA 250 <a href="#">EN</a> / <a href="#">FR</a>	19
18.	<i>Robertson and Rosetanni v The Queen</i> , [1963] SCR 651 <a href="#">EN</a> / <a href="#">FR</a>	30
19.	<i>Ross v Mohawk Council of Kanesatake</i> , 2003 FCT 531 <a href="#">EN</a> / <a href="#">FR</a>	31
20.	<i>South Yukon Forest Corp v R.</i> , 2012 FCA 165 <a href="#">EN</a> / <a href="#">FR</a>	20
21.	<i>Trial Lawyers Association of British Columbia v Royal &amp; Sun Alliance Insurance Company of Canada</i> , 2021 SCC 47 <a href="#">EN</a> / <a href="#">FR</a>	7, 25
22.	<i>Unifor v Vancouver Fraser Port Authority</i> , 2017 FC 110 <a href="#">EN</a> / <a href="#">FR</a>	22
23.	<i>Wewaykum Indian Band v Canada</i> , 2003 SCC 45 <a href="#">EN</a> / <a href="#">FR</a>	27
24.	<i>Zupko v Canada (MCI)</i> , 2010 FC 1319 <a href="#">EN</a> / <a href="#">FR</a>	28

**FEDERAL COURT**

**BETWEEN:**

**CANADIAN FRONTLINE NURSES AND KRISTEN NAGLE**

Applicants

and

**ATTORNEY GENERAL OF CANADA**

Respondent

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**AFFIDAVIT OF DENIS BEAUDOIN**

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Court File No.: T-316-22

**FEDERAL COURT**

**BETWEEN:**

**CANADIAN CIVIL LIBERTIES ASSOCIATION**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

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**AFFIDAVIT OF DENIS BEAUDOIN**

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Court File No.: T-347-22

**FEDERAL COURT**

**BETWEEN:**

**CANADIAN CONSTITUTION FOUNDATION**

Applicant

and

**ATTORNEY GENERAL OF CANADA**

Respondent

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**AFFIDAVIT OF DENIS BEAUDOIN**

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**FEDERAL COURT**

B E T W E E N:

**JEREMIAH JOST, EDWARD CORNELL, VINCENT GIRCYS, and HAROLD RISTAU**

Applicants

and

**GOVERNOR IN COUNCIL, HER MAJESTY IN RIGHT OF CANADA, ATTORNEY  
GENERAL OF CANADA, and MINISTER OF PUBLIC SAFETY AND EMERGENCY  
PREPAREDNESS**

Respondents

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**AFFIDAVIT OF DENIS BEAUDOIN**

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I, Denis Beaudoin, of the city of Ottawa, in the Province of Ontario, swear that:

1. I am a superintendent for the Royal Canadian Mounted Police (RCMP). My current position is Director of Financial Crime, Federal Policing Criminal Operations. I have served in this position since 2021. My responsibilities in this role include overseeing financial crime operations for the RCMP nationally.
2. In this capacity, I was responsible for overseeing the use of the economic measures put in place under the Emergencies Act proclamation. I developed the process used by the RCMP for verifying and sharing information with financial institutions as described below. As such, I have personal knowledge of the information in my affidavit.

#### Economic Order and Regulations

3. On February 15, 2022, the Governor General in Council enacted the Emergency Economic Measures Order found at P.C. 2022-108 of the CTR (the Order), as well as the Emergencies Measures Regulations found at P.C. 2022-107 of the CTR (the Regulations), pursuant to its proclamation the previous day that a public order emergency existed.
4. On February 23, 2022, the Order and Regulations were revoked and ceased to apply.
5. The Order and Regulations did not apply retroactively and applied only to individuals who acted in contravention of sections 2 to 5 of the Regulations between February 15 and 23, 2022.

#### Objective and Scope of the Order and Regulations

6. The RCMP's primary role with respect to implementing the measures was to provide financial service providers with information gathered by police about people and companies potentially involved in illegal activities, which the financial service providers could use to ensure their compliance with the Order.
7. The Order gave financial institutions the ability to freeze financial products of individuals and companies involved in prohibited activities and gave law enforcement authority to share information with financial institutions with the ultimate goal to end illegal acts peacefully.

#### Implementation of the Order

8. Neither the Order nor Regulations specified a procedure through which financial service providers would identify individuals or entities that met the definition of "designated person" under the Order.

9. In practice, the police provided financial service providers with information about particular individuals or entities, which the financial service providers could use in conjunction with other information at their disposal to make their own determinations about whether they needed to take steps to comply with the Order.
10. Once the Order came into effect, the RCMP worked closely with municipal and provincial policing partners, including the Ontario Provincial Police (OPP) and Ottawa Police Service (OPS), to collect relevant information regarding persons, vehicles and entities that were believed to be directly or indirectly involved in prohibited activities.
11. The RCMP served as the conduit for sharing all information between police and financial service providers. The OPP and OPS provided the RCMP with relevant information in their possession and the RCMP validated this information and then shared it with financial service providers. I attach as **Exhibit "A"** a copy of a blank template that the RCMP used to provide the information it described, if available, to financial institutions.
12. During the eight days that the Order was in place from February 15 to 23, 2022, the RCMP disclosed information to banks, the Canadian Bankers Association, the Investment Industry Regulatory Organization of Canada, the Canadian Securities Administrators, credit unions, and the Mutual Fund Dealers Association of Canada.
13. The RCMP shared two main types of information with financial service providers: information obtained from the OPP and OPS regarding individuals already identified as part of their criminal investigations into the illegal protests and blockades; and information regarding trucks and other vehicles located in downtown Ottawa.
14. Initially, the RCMP shared with financial service providers the identities of 15 entities that the OPP and OPS had identified as suspects of their criminal investigation. Financial service providers used this information to determine whether to take action in order to comply with their obligations under the Order.
15. With respect to the second type of information, the OPP collected licence plate information and other identifying information of vehicles blockading downtown Ottawa. The RCMP then collected information from police and public sources to corroborate the presence of individuals and vehicles in the illegal protest. This information was then shared with financial service providers so that they could decide whether to take action in order to comply with the Order.
16. The RCMP and other law enforcement agencies focused their efforts on identifying and disclosing information pertaining to individuals and entities who were actively involved in illegal action, either by organizing or influencing the illegal activities or by being present at the illegal protest.

17. The RCMP did not disclose information pertaining to those who made donations in support of the protests or who purchased merchandise supporting the protests as it would have had no immediate impact to end the protest peacefully.
18. The RCMP communicated information to financial institutions but did not advise on the methods financial institutions should use to ensure compliance with the Order.
19. In a number of instances, the RCMP decided to not disclose information to the financial service providers following the investigative phase. The reasons for not disclosing were that there was not enough information to believe the person or entity was involved, the plate was invalid in the police database system, the person was attempting to leave but was unable, or it was no longer believed the person or entity was involved (either left on their own accord or were removed by police).
20. In total, the RCMP disclosed information on approximately 57 entities and individuals to financial service providers and approximately 257 accounts were frozen by financial institutions pursuant to the Order. Some individuals or entities had multiple accounts or services frozen.
21. Additionally, the RCMP identified and disclosed 170 Bitcoin wallet addresses to virtual currency financial service providers via a series of cryptocurrency alerts. These accounts received funds linked to the HonkHonkHodl crowdfunding campaign, which raised 20.7 Bitcoin with a value of between \$1 million to \$1.2 million during the period during which the Order was in force. No personal information was included in those alerts and this information was available publicly. I attach the three cryptocurrency alerts provided by the RCMP to financial service providers as **Exhibit "B"**.
22. The alerts noted that these e-wallets were linked to a joint RCMP and OPP/OPS investigation and directed the providers to cease facilitating transactions involving these e-wallets and to disclose relevant transaction information to the RCMP.
23. The RCMP clearly communicated to these electronic financial service providers that the Order was not to be applied retroactively and could only be applied while the Order was in effect.
24. Although the RCMP did not give information to financial institutions to enable them to freeze accounts of persons who had donated for use in the convoys and illegal blockades, some information was publicly available about donations that had been made to "GiveSendGo" for use in the illegal blockades.

### Efforts to Minimize Negative Impact

25. The RCMP attempted to contact many of the individuals or entities whose information was to be disclosed to financial service providers, in order to re-confirm their ongoing participation in prohibited activities. For example, a number of individuals contacted by the RCMP confirmed that they were participating in the blockade in Ottawa and that they refused to leave. At that point, the RCMP advised the individuals of the Order and the risk that their bank accounts could be frozen.
26. Some people indicated when contacted that they wanted to leave, but were not in a position to do so because the streets were not cleared. These people were instructed to be ready and to make sure their truck was ready to leave when the streets were cleared. The information on these persons was not provided to the financial service providers.
27. The persons identified by the OPS and the OPP as suspects in their criminal investigation were not contacted prior to their information being shared.
28. After the illegal blockade was cleared, the RCMP reached out to some people to ascertain if it was their intention to return. Some indicated that they were not going back because they did not want their accounts frozen.
29. The Order imposed on financial service providers a duty to determine on a continuous basis if they were in possession of property owned, held or controlled by or on behalf of a designated person. Individuals who had their account frozen would have to contact their financial service provider to make arrangements to unfreeze their account. They could do this as soon as they stopped participating in the activities targeted by the Order. The RCMP facilitated this process by remaining in communication with financial service providers to assist them in assessing the involvement of their clients in the illegal activities.
30. On February 21, 2022, the RCMP communicated with the financial service providers and advised them that, without taking into account independent information available to financial entities, the RCMP no longer believes the individuals or entities disclosed were engaged in conduct or activities prohibited under the EMR, and therefore no longer met the criteria of a designated person under the Order. Attached as **Exhibit "C"** is an email with the subject line "Emergency Economic Measures Order (EEMO) - SITUATIONAL UPDATE."
31. Attached as **Exhibit "D"** is a copy of the RCMP statement about the unfreezing of accounts released by the RCMP on February 23, 2022.
32. The RCMP did not share information with insurance providers because the goal remained to facilitate a peaceful end to the blockade by allowing fully insured drivers to remove their vehicles from downtown Ottawa of their own volition.

