SCC Court File No_____

IN THE SUPREME COURT OF CANADA

(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

BETWEEN:

KEVIN A. McLEAN

Applicant

(Prescribed Party pursuant to Rule 64(1)(a) in the Court appealed from)

and

LAW SOCIETY OF BRITISH COLUMBIA, and **TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA and KEVIN WESTELL**

Respondents

(Appellants in the Court appealed from)

and

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

Respondents

(Respondents in the Court appealed from)

and

BC ACCESS TO JUSTICE CENTRE FOR EXCELLENCE, BC PARALEGAL ASSOCIATION, CANADIAN BAR ASSOCIATION, CRIMINAL DEFENCE TRIAL LAWYERS ASSOCIATION, LAW FOUNDATION OF BC, LAW SOCIETY OF MANITOBA, LAWYERS' RIGHTS WATCH CANADA, SOCIETY OF NOTARIES PUBLIC OF BC, THE ADVOCATES' SOCIETY, FEDERATION OF LAW SOCIETIES OF CANADA, INDIGENOUS BAR ASSOCIATION OF CANADA, and WORKERS FOR ETHICAL SUBSTANCE USE POLICY

Respondents

(Prescribed Parties (rule 64(1)(b))

APPLICATION FOR LEAVE TO APPEAL
Mr. Kevin A. McLean (BA, JD, CIM) (the "Applicant")
(Pursuant to Section 40(1) of the *Supreme Court Act*, R.S.C. 1985, c. S-26, and Rule 25 of the *Rules of the Supreme Court of Canada,* SOR/2002-156)

(Document is NOT sealed, confidential or redacted: PUBLIC PROCEEDING)

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FORM 25

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

(Pursuant to Section 40(1) of the Supreme Court Act, R.S.C. 1985, c. S-26, and Rule 25(1)(a) of the Rules of the Supreme Court of Canada, SOR/2002-156)

TAKE NOTICE that **Kevin A. McLean (BA, JD, CIM)** applies for leave to appeal to the Supreme Court of Canada, under **section 40(1) of the *Supreme Court Act*, R.S.C. 1985, c. S-26**, and **Rule 25(1) of the *Rules of the Supreme Court of Canada*, SOR/2002-156**, from the judgment of the **Court of Appeal for British Columbia** (File Nos. **CA51535 / CA51536**) made on **October 14, 2026** (*2026 BCCA 406*), and the underlying orders, decisions, and administrative directions made on **August 31, 2026**, **September 8, 2026** (*2026 BCCA 372*), **September 9, 2026**, **September 28, 2026**, **October 6, 2026**, **October 13, 2026**, and **October 14, 2026** (as set out in the Schedule attached hereto pursuant to Rule 25(1)(a)),

AND FOR an Order:

1. **GRANTING** leave to appeal to this Honourable Court from the judgment of the Court of Appeal for British Columbia in *2026 BCCA 406* (pronounced October 14, 2026, and formal Form 12 Order dated October 14, 2026) and the underlying orders, decisions, directions, and registry rejections dated August 31, September 8 (*2026 BCCA 372*), September 9, September 28, October 6, October 13, and October 14, 2026;
2. **AWARDING** the Applicant his costs of this application and of the proceedings below on a full indemnity or special costs basis, or in the alternative ordering that no costs be awarded against the Applicant as a public interest litigant;
3. or any other order that the Court may deem appropriate, equitable and just;

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

1. **Statutory Authority and Constitutional Jurisdiction:** This application is brought pursuant to s. 40(1) and s. 2(1) ("final judgment") of the *Supreme Court Act*, R.S.C. 1985, c. S-26; Rule 25 of the *Rules of the Supreme Court of Canada*, SOR/2002-156; ss. 96 to 101 of the *Constitution Act, 1867*; and ss. 2(b), 7, 8, 15, 24(1), 32(1),

and 52(1) of the *Canadian Charter of Rights and Freedoms* (*Constitution Act, 1982*).

2. **Transcendent National Importance — Secret Digital Docketing ("Case Center") vs. the Open Court Principle (*Charter* s. 2(b)):** The Court of Appeal for British Columbia ("BCCA") and its Registrar erred in law and exceeded their statutory jurisdiction by issuing an extra-statutory case-management directive permitting the institutional Appellants (the Law Society of British Columbia ["LSBC"] and the Trial Lawyers Association of British Columbia ["TLABC"]) to upload their substantive Factums on August 5, 2026, into a private, non-public external digital presentation repository (**Case Center**) and "deeming" them filed and served, while withholding them entirely from the public Court Services Online ("CSO") register until after all responsive deadlines expired. In doing so, the court below violated *Rules 1(1), 25(1)*, and *48* of the *Court of Appeal Rules*, B.C. Reg. 120/2022, departed from universal Canadian appellate architecture (as codified in Ontario *Rule 4.05.3(10)–(11)*), breached the open court principle under s. 2(b) of the *Charter* (*Sherman Estate v. Donovan*, 2021 SCC 25; *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33; *Ontario (Criminal Code Review Board) v. Hale*, 1999 CanLII 3805 (ON CA)), and neutralized the statutory rights of Prescribed Parties and members of the public under s. 20 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 ("*COAA*"), and *Rule 60(1)(a)* to inspect and apply to strike non-compliant documents in open court.
3. **Statutory Incompetence to Impose Extra-Statutory Filing Embargoes Against a Prescribed Party:** As an active Applicant Party and Prescribed Party under *Rule 64(1)(a)* and *(b)* of the *Court of Appeal Rules*, the Applicant possessed mandatory statutory rights to tender procedurally compliant filings and have them accepted and docketed by the Registry pursuant to *COAA* s. 38(2), *Rule 79(5)*, and binding divisional authority in *R. v. Verma*, 2016 BCCA 307 at para. 20 (*Julius v. Oxford (Lord Bishop)* (1880), 5 App. Cas. 214 (H.L.); *Drysdale v. Dominion Coal Co.* (1904), 34 S.C.R. 328). As a purely statutory court (*COAA* s. 2), neither a single chambers justice, the Registrar, nor a three-judge division possessed any inherent or residual jurisdiction to conflict with a statute or Rule (*Baxter Student*

Housing Ltd. v. College Housing Co-operative Ltd., [1976] 2 S.C.R. 475 at p. 480) by retroactively "un-filing" already-docketed submissions (Package #4374906), issuing *sua sponte* administrative filing embargoes (August 31, 2026 and October 6, 2026 Direction 3(b)), or prospectively prohibiting the Applicant from filing any further materials and directing registry clerks to "discard" them (*2026 BCCA 406* at para. 12) in the complete absence of any statutory authority, application, prior notice, or hearing.

4. **Acts *Coram Non Judice*, Nullity *Ab Initio*, and Violation of the Judicature Guarantees (ss. 96–101):** Under this Court's foundational jurisprudence in *McLean v. Bradley*, [1878] 2 S.C.R. 535 at p. 547 and *Pong v. Quong*, [1927] S.C.R. 271 at pp. 274–276, where a judge, panel, or statutory officer steps outside the statutory conditions precedent of their office (*COAA* ss. 20, 21, 24(3)(b), 28, 35(2), 38(2), 43(1); *Rules 62, 63, 64, 79(5)*), the resulting directive is *coram non judice* (*Factum a judice, quod ad officium jure non pertinet, ratum non est*) and an absolute nullity *ab initio*, and ministerial registry officers cannot plead an *ultra vires* direction as justification for refusing to perform mandatory statutory duties. Furthermore, blocking a citizen from pursuing a legal remedy or accessing the *acta curiae* infringes ss. 96 to 101 of the *Constitution Act, 1867*—for which there is no saving provision (*Trial Lawyers Association of British Columbia v. British Columbia (AG)*, 2014 SCC 59; *MacMillan Bloedel Ltd. v. Simpson*, [1995] 4 S.C.R. 725; *Trisura Guarantee Insurance v. Duchnij*, 2021 ABCA 78; *Uhrik v. Terrigno*, 2024 ABCA 383; *Yatar v. TD Insurance Meloche Monnex*, 2024 SCC 8).
5. **Unlawful Extinguishment of Express Statutory Reopening Rights Under *COAA* s. 43(1) Prior to Order Perfection:** The BCCA Division Panel and Registry erred in law by refusing to docket and adjudicate the Applicant's timely Form 4 Notice of Application brought on October 14, 2026, under **Section 43(1) of the *COAA*** (Package #4414413), which expressly empowers "a" division of the court, on application, to amend an order made by "the" division *"to provide for any matter that should have been but was not adjudicated by the division."* Prior to the formal preparation, approval, and entry of a Form 12 Order under *Rule 66(5)*, the court below was not *functus officio* (*Canadian Broadcasting Corp. v. Manitoba*, 2021

SCC 33 at para. 33; *Menzies v. Harlos*, 1989 CanLII 2760 (BC CA)), and even after entry, *COAA* s. 43(1) (mirroring *Chandler v. Alberta Association of Architects*, [1989] 2 S.C.R. 848 and *SCC Rule* 81(1)(c)) statutorily mandates jurisdiction over unadjudicated matters.

6. **Refusal to Adjudicate Core Statutory, Evidentiary, and Procedural Nullity Issues:** In *2026 BCCA 406* (at paras. 8 and 11), the Division Panel explicitly refused to engage with the Applicant's submissions and left unadjudicated: a. The chambers judge's reliance in *2026 BCCA 372* (at para. 7) on repealed provisions of the 1996 *Court of Appeal Act* ("respondent-only" standing) in disregard of the Legislature's 2021 enactment of *COAA* ss. 20, 21, 24(3)(b) and *Rule 64(1)(a)* ("Prescribed Party" standing) (*Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27); b. The conclusive formal admissions in the LSBC's pleaded November 2022 *Intentions Paper Response* confirming that a majority of lawyers (9 of 17) and a majority of elected lawyers (5 of 9) on the regulator's board satisfies self-regulation, alongside the evidentiary record of concealed warrantless RAM extractions and kernel-level remote intrusions that prompted the enactment of ss. 78–80 of the *Legal Professions Act*, S.B.C. 2024, c. 26 (*Canada Permanent Mortgage Corp. v. Toronto*, [1951] O.R. 726 (C.A.); *Champoux v. Jefremova*, 2021 ONCA 92); c. The Applicant's September 25, 2026 application to strike the opposing parties' un-rules-sanctioned *"Joint Response Book [Sic]"*—which was never served on the 12 other Prescribed Parties as mandated by *Rules 62(4)* and *64(1)(b)* (*König v. Hobza*, 2015 ONCA 885) and which Registrar Outerbridge had formally directed on September 28, 2026, would be placed before the Division for hearing; and d. The Applicant's timely Day-7 *Rule 63* supervisory application filed October 13, 2026 (Packages #4413258 / #4413838) challenging the October 6, 2026 memorandum created by administrative staff (Samantha Servis) 33 minutes after the submission of the Applicant's *mandamus* argument, and piercing qualified administrative privilege *a fortiori* under *MacKeigan v. Hickman*, [1989] 2 S.C.R. 796, *Smith v. Jones*, [1999] 1 S.C.R. 455, and *Goldman Sachs & Co. v. Sessions*, 1999 CanLII 5317 (BC SC).

7. **Direct Application of the *Charter* to *Sua Sponte* Judicial Blockades and the Tripartite State/Personal Liability Matrix:** Because the administrative embargoes were issued *sua sponte* without any application by a party (*Jensen v. Ross*, 2014 BCCA 173 at para. 24), they constitute direct state action reviewable under ss. 2(b), 7, 15, 24(1), and 32(1) of the *Charter* (*B.C.G.E.U. v. British Columbia (AG)*, [1988] 2 S.C.R. 214 at paras. 25–26). Furthermore, this case squarely engages the national public-law and immunity question uniting *Feeney v. Canada*, 2022 FCA 190 (holding that federally appointed s. 96 judges are not employees, servants, or agents of the Federal Crown), *R. v. Germain*, 1984 CanLII 1307 (AB KB) and *Canada (AG) v. Power*, 2024 SCC 26 (establishing direct public-law state liability of the Provincial Crown under s. 24(1) of the *Charter*), and *Prefontaine v. Gosman*, 2000 ABQB 530 at para. 39 (confirming that personal judicial immunity for extra-jurisdictional acts requires a good-faith belief in jurisdiction, while statutory registrars and clerks possess zero immunity for acts they are *"not at liberty to commit"* under *Reach M.D. Inc. v. Pharmaceutical Manufacturers Assn. of Canada*, 2003 CanLII 27828 (ON CA) and *McLean v. Bradley*).
8. **Final Judgment Status Confirmed by Explicit Registry Referral to this Court:** Both the Division's unreviewable prospective embargo in para. 12 of *2026 BCCA 406* and the BCCA Registry's formal written rejection of the Applicant's *COAA* s. 43(1) reopening application on October 14, 2026—explicitly declaring: ***"Reasons were released this morning on 14OCT2026. See 2026 BCCA 406. Any further recourse can be brought to the Supreme Court of Canada. vn"***—conclusively establish that no further internal remedy exists in British Columbia and that the disposition constitutes a "final judgment" under ss. 2(1) and 40(1) of the *Supreme Court Act*.

SCHEDULE TO NOTICE OF APPLICATION FOR LEAVE TO APPEAL

(Pursuant to Rule 25(1)(a) of the Rules of the Supreme Court of Canada — Lower Court Decisions, Orders, and Directions in Chronological Order)

Item #	Court / Decision-Maker	Description of Decision, Order, or Direction	Date	Location in Record (Vol. I)
1	Court of Appeal for British Columbia (Chambers — Horsman J.A.)	**Memorandum of Direction of Madam Justice Horsman** (addressed to Deputy Registrar Torri Enderton directing a written hearing on the existing record and barring additional filings)	August 31, 2026	Vol. I, Tab 1, p. 13
2	Court of Appeal for British Columbia (Chambers — Horsman J.A.)	**Reasons for Decision of Madam Justice Horsman** (*2026 BCCA 372*, dismissing August 12, 2026 Form 4 Application and directing Registry not to accept August 28, 2026 Written Argument)	September 8, 2026	Vol. I, Tab 2, p. 15
3	Court of Appeal for British Columbia (Chambers — Horsman J.A.)	**Formal / Draft Order of Madam Justice Horsman** (pronounced September 8, 2026; circulated September 9, 2026)	September 9, 2026	Vol. I, Tab 3, p. 21
4	Court of Appeal for British Columbia (Registrar Timothy Outerbridge)	**Letter / Formal Procedural Direction of Registrar Timothy Outerbridge** (directing placement of unfiled September 25, 2026 strike application before the Division set to hear the application to vary)	September 28, 2026	Vol. I, Tab 4, p.25
5	Court of Appeal for British Columbia (Over Name of Registrar Timothy Outerbridge)	**Administrative Memorandum Over Name of Registrar Timothy Outerbridge** (pronouncing Directions 3(a) and 3(b) — The Registry Filing Embargo)	October 6, 2026	Vol. I, Tab 5, p. 29

6	Court of Appeal for British Columbia (Division — Groberman, Fenlon, and Riley JJ.A.)	**Reasons for Judgment of the Honourable Division Panel** (*2026 BCCA 406*, dismissing Form 8 variation application and September 25 strike application, and prohibiting further filings)	October 14, 2026	Vol. I, Tab 6, p. 33
7	Court of Appeal for British Columbia (Division — Groberman, Fenlon, and Riley JJ.A.)	**Draft Form 12 Order of the Honourable Division Panel** (*Rule 66(3)(c) Court of Appeal Rules*, together with October 14, 2026 Registry Rejection Notice directing recourse to the Supreme Court of Canada at Vol. III, Tab 27, p. 1758)	October 14, 2026	Vol. I, Tab 7, p. 39

SIGNED BY:

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant (*Applicant Party / Prescribed Party pro se*)
68 Abell St. (Receptionist desk) Toronto, ON M6J 0B1
Telephone: (647) 370-9354
Facsimile: 1 (416) 352-0055
Email: mclean@searchandseizure.ca

Dated at the City of Toronto, in the Province of Ontario, this **16th day of October, 2026**.

ORIGINAL TO: THE REGISTRAR Supreme Court of Canada 301 Wellington Street Ottawa, Ontario K1A 0J1

COPY TO:

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VANCOUVER CRIMINAL LAW Kyla Lee Email: kyla@vancouvercriminallaw.com *Counsel for Workers for Ethical Substance Use Policy*

NOTICE TO THE RESPONDENT: A respondent may serve and file a memorandum in response to this application for leave to appeal within 30 days of the date a file number is assigned in this matter. You will receive a copy of the letter to the applicant confirming

the file number as soon as it is assigned. If no response is filed within that time, the Registrar will submit this application for leave to appeal to the Court for consideration.

ROMAN NUMERAL I (IMPUGNED DECISIONS) (TABS 1 TO 7)

Tab 1

COURT OF APPEAL

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

MEMORANDUM

To: Torri Enderton, Deputy Registrar

From: Madam Justice Horsman

Date: August 31, 2026

RE: **TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A) vs. THE ATTORNEY GENERAL OF BRITISH COLUMBIA**
Court of Appeal File Nos: CA51535 and CA51536

Dear Ms. Enderton,

Please provide a copy of this memorandum to Mr. McLean and the parties of record on the appeal.

This memorandum addresses the Law Society of BC's letter of August 21, 2026, requesting that Kevin McLean's application filed August 12, 2026, (supported by a written submission filed August 14, 2026) be heard in writing. Mr. McLean's notice of application seeks an order permitting him to intervene on this appeal, as well as various other orders. Mr. McLean was given an opportunity to provide a letter to respond the Law Society's request. The 55-page document he submitted to the Court of Appeal Registry on August 28, 2026, contains lengthy submissions on the orders he seeks in addition to an order permitting him intervener status, but does not address the question of the mode of hearing.

Having reviewed the material, I am satisfied that it is appropriate to hear Mr. McLean's application of August 12, 2026, based on the existing written record. Mr. McLean should not attend Court on the dates currently scheduled for the hearing of the other intervener applications (September 9-10). He has not been granted a right of audience. I also direct Mr. McLean not to file any additional material in these proceedings with the Court of Appeal Registry pending my ruling on his application.

Thank you.

Tab 2

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General),* 2026 BCCA 372

Date: 20260908
Dockets: CA51535; CA51536

Docket: CA51535

Between:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

And

The Attorney General of British Columbia and The Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- and -

Docket: CA51536

Between:

The Law Society of British Columbia

Appellant
(Plaintiff)

And

The Attorney General of British Columbia and The Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

Before: The Honourable Madam Justice Horsman
(In Chambers)

(Ruling on application to intervene by Kevin A. McLean)

On appeal from: An order of the Supreme Court of British Columbia, dated April 29, 2026 (*Law Society of British Columbia v. British Columbia (Attorney General)*, 2026 BCSC 779, Vancouver Dockets S243258 and S243325).

The Applicant/Proposed Intervener, on his own behalf:	K.A. McLean
Counsel for the Appellants, Trial Lawyers Association of British Columbia and Kevin Westell (CA51535):	G. Cameron T.A. Posyniak L. Abrioux W.S. Andrews
Counsel for the Appellant, The Law Society of British Columbia (CA51536):	L. Bevan
Counsel for the Respondents, The Attorney General of British Columbia and The Lieutenant Governor in Council of British Columbia:	E.C. Lapper, K.C. T. Bant S. Ortega K. Kotliarsky
Written Submissions Filed by the Applicant/Proposed Intervener, Kevin A. McLean:	August 14, 2026
Written Submissions Filed by the Appellants, Trial Lawyers Association of British Columbia and Kevin Westell (CA51535):	August 21, 2026
Written Submissions Filed by the Appellant, The Law Society of British Columbia (CA51536):	August 21, 2026
Written Submissions Filed by the Respondents:	August 19, 2026
Place and Date of Judgment:	Vancouver, British Columbia September 8, 2026

Summary:

The applicant, Kevin McLean, applies for leave to intervene on these appeals, which challenge the dismissal of a constitutional challenge to the Legal Professions Act, S.B.C. 2024, c. 26. Held: Application dismissed. Mr. McLean seeks to use these appeals as a platform to air historical grievances about regulatory actions by the Law Society of British Columbia. He has identified no legitimate basis for intervention.

HORSMAN J.A.:

[1] Kevin McLean applies to intervene on two appeals from the judgment of Chief Justice Skolrood dismissing a constitutional challenge to Bill 21, *Legal Professions Act*, 42nd Parl, 5th Sess, British Columbia, 2024 (transition provisions assented to 16 May 2024), S.B.C. 2024, c. 26 ("Bill 21").

Background

[2] Bill 21 provides for the elimination of the self-governance and self-regulation of lawyers and instead establishes a single regulator having jurisdiction over lawyers, notaries public, and paralegals. The constitutionality of Bill 21 was challenged in two actions: one brought by the Law Society of British Columbia (the "Law Society") and one by the Trial Lawyers Association of British Columbia and one of its members, Kevin Westell (collectively, the "TLABC"). The plaintiffs alleged that Bill 21 undermined the independence of the Bar, which was said to be a constitutional principle.

[3] The two actions were heard together. In reasons for judgment issued on April 29, 2026, Chief Justice Skolrood dismissed the plaintiffs' constitutional claims: *Law Society of British Columbia v. British Columbia (Attorney General)*, 2026 BCSC 779.

[4] The Law Society and the TLABC have both appealed Chief Justice Skolrood's decision. The appeals are presently set to be heard over two days on November 16–17, 2026.

[5] At a case management conference on June 29, 2026, the Registrar of the Court of Appeal ordered that intervener applications on these appeals must be filed and served by August 14, 2026. A total of 13 intervener applications were filed. Twelve of these applications will be heard in chambers on September 9–10, 2026. The Law Society requested that Mr. McLean's application be heard in writing. All parties consented to this request. After reviewing the material and providing Mr. McLean with an opportunity to respond to the request, I directed a written hearing of his application.

[6] Mr. McLean is a twice-disbarred lawyer. After his disbarment, Mr. McLean persisted in engaging in activity that constituted the practice of law. He also commenced multiple proceedings, that were duplicative in nature, challenging regulatory actions taken by the Law Society against him. In a judgment issued on

February 23, 2018, Justice Branch held that Mr. McLean was a vexatious litigant: *McLean v. Law Society of British Columbia*, 2018 BCSC 264. Justice Branch found, among other things, that Mr. McLean had acted for an improper purpose, including the "harassment and oppression of other parties by multifarious proceedings", rather than for the purpose of asserting legitimate rights: at para. 119.

Mr. McLean's Application

[7] On August 12, 2026, Mr. McLean filed a notice of application in this Court seeking an order granting him leave to intervene on these appeals. His notice of application also seeks other orders that purportedly relate to his request to intervene. These include, for example, orders referring the appeals for summary determination pursuant to s. 21 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, and denying the Law Society standing based on its alleged bad faith in prior proceedings. Suffice to say that none of the other relief sought by Mr. McLean is grounded in the issues raised on the appeals or the rules of procedure that govern them.

[8] On August 14, 2026, Mr. McLean filed a 46-page "Memorandum of Argument for Leave to Intervene". This argument is prolix and largely incomprehensible. Mr. McLean appears to view these appeals as a platform to revisit his historical grievances about the Law Society's regulatory actions against him. It does not set out any basis to conclude that Mr. McLean meets the criteria for intervener status. He has no direct interest in the appeal in the sense that his own legal rights or obligations may be affected by the proceedings: *Halalt First Nation v. British Columbia (Environment)*, 2012 BCCA 191 at para 6 (in Chambers). He does not purport to have a broad representative base and offers no unique and different perspective on the constitutional issues, so there is no basis for public interest intervener status: *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCCA 282 at para 14 (in Chambers).

[9] On August 28, 2026, Mr. McLean submitted a further 55-page argument relating to the various other orders he seeks on his application. This document is similarly prolix and incoherent. In any event, there is no provision in Rule 61 of the *Court of Appeal Rules*, B.C. Reg. 120/2022 ("Intervener Status") authorizing the filing of a second argument on the same intervener application. The Court of

Appeal Registry marked the document as received but not filed. I direct the Registry not to accept the document for filing.

[10] In brief, Mr. McLean's application for leave to intervene demonstrates that he has no genuine or serious interest in the important constitutional issues arising on these appeals and can provide no assistance to the Court in resolving them.

Disposition

[11] Mr. McLean's August 12, 2026 notice of application is dismissed. As none of the responding parties sought their costs of this application, I make no order as to costs.

"The Honourable Madam Justice Horsman"

Tab 3

FORM 10 (RULE 66(3)(a))

COURT OF APPEAL FOR BRITISH COLUMBIA

Court of Appeal File Nos. CA51536 / CA51535

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Appellants

(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

Respondents

(Defendants)

ORDER OF A SINGLE JUSTICE

BEFORE THE HONOURABLE MADAM JUSTICE HORSMAN [IN CHAMBERS] at 800 Smithe Street, Vancouver, British Columbia, V6Z 1A8, on September 8, 2026

THE **APPLICATION** OF Mr. Kevin A. McLean, a "**Party**", pursuant to *Court of Appeal Rules,* BC Reg 120/2022, Part 9 – Applications, Division 3 – Application Hearings, rule 64(1)(a), (the "**Applicant Party**") in relation to his rule 79 "**Court Form**", particularized as the August 12, 2026, Form 4, notice of application, for leave to intervene (order number three therein) and other relief denoted at orders number 1-2, and 4-10 therein (the "**August 12 2026 Form 4 NOA**"), coming on for a hearing by way of written documents in the "existing written record" as of Monday, August 31, 2026, as per the memorandum of The Honourable Madam Justice Horsman to Ms. Torri Enderton, Deputy Registrar of the BC Court of Appeal (the "**Written Hearing**") so forwarded to the **Applicant Party** and each **Responding Party** (defined *infra*), on the date of **Tuesday, September 8, 2026**, at the Vancouver Law Courts (BC Court of Appeal) located at 800 Smithe Street, Vancouver, British Columbia, V6Z 1A8;

AND ON HEARING the **Applicant Party** via written documents; Mr. Craig A.B. Ferris, K.C., and Ms. Laura Bevan via written documents for the Appellant, Law Society of British Columbia ("LSBC"), in its capacity as a

Court of Appeal Rules, rule 64(1)(b) "**party**" (defined herein as a "**Responding Party**" or "Responding Parties" if plural); Mr. Gavin Cameron, Mr. T.A. Posyniak, Ms. L. Abrioux, Mr. W.S. Andrews for the Appellants, Trial Lawyers Association of BC ("**TLABC**") and Mr. Kevin Westell, via written documents in their capacities as a **Responding Parties**; and Ms. Emily C. Lapper, K.C., Mr. T. Bant, Mr. S. Ortega, and Ms. K. Kotliarsky via written documents for the Respondents in their capacities as **Responding Parties;**

AND ON READING the materials filed herein;

AND ON JUDGMENT BEING PRONOUNCED ON THIS DATE

1. IT IS ORDERED that the **Applicant Party's August 12 2026 Form 4 NOA** is dismissed.

2. IT IS FURTHER ORDERED that the Registry is directed not to accept the Applicant's 55 page written argument of August 28, 2026, for relief in his August 12, 2026, NOA (see: orders one to two, and four to ten) which was confirmed as "filed" in the CSO portal on August 28, 2026, but "marked" in the upper left hand corner of page one of 57 of said document as "Received not Filed".

3. IT IS FURTHER ORDERED that there is no order as to costs.

APPROVED AS TO FORM:

……..……

A Justice of the Court of Appeal

……..……..……

Signature of the Applicant Party

Mr. Kevin A. McLean

……..……..……

Signature of Ms. Laura L. Bevan

Counsel for the Appellant, The Law Society of British Columbia

……..……..……

Signature of Mr. Gavin Cameron

Counsel for the Appellants, Trial Lawyers Association of BC and Kevin Westell

……..……..……

Signature of Ms. Emily C. Lapper, K.C.

Counsel for the Respondents

Tab 4

COURT OF APPEAL

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

28 September 2026

Kevin McLean
mclean@searchandseizure.ca

Dear Mr. McLean:

RE: TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A)
vs.
THE ATTORNEY GENERAL OF BRITISH COLUMBIA
Court of Appeal File Nos: CA51535; CA51536

I have your recent letters.

I will place your unfiled application before the division set to hear your application to vary and you may address it before the Court then.

In the interim, the Court may give directions, including accepting your application for filing or asking the opposing parties to respond if they feel it is necessary.

Sincerely,

Timothy Outerbridge,
Registrar

cc: attached counsel list

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Tab 5

COURT OF APPEAL

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

6 October 2026

Kevin McLean
mclean@searchandseizure.ca

Dear Mr. McLean:

RE: TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A) vs. THE ATTORNEY GENERAL OF BRITISH COLUMBIA
Court of Appeal File Nos: CA51535; CA51536

I am writing to advise you of the following:

1. Your application to vary or cancel the order of Justice Horsman made on 18 September 2026 has been referred to a division comprised of Justices Groberman, Fenlon, and Riley;

2. As mentioned in my letter of 28 September 2026, that division also has your previously submitted and presently unfiled application;

3. That division has directed:

   a) these applications be dealt with in writing; and

   b) the registry is not to file any further material on these applications, including material presently submitted for filing.

If you continue to submit further lengthy filings to the Court, I can advise you they will likely not result in a response from me in accordance with my letter of 2 October 2026.

Sincerely,

Timothy Outerbridge,
Registrar

cc: attached counsel list

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Tab 6

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Trial Lawyers Association of British Columbia v British Columbia (Attorney General),* 2026 BCCA 406

Date: 20261014
Dockets: CA51535; CA51536

Docket: CA51535

Between:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

And

The Attorney General of British Columbia and The Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- and-

Docket: CA51536

Between:

The Law Society of British Columbia

Appellant
(Plaintiff)

The Attorney General of British Columbia and The Lieutenant Governor in Council of British Columbia

(Respondents)
(Defendants)

Before: The Honourable Mr. Justice Groberman
The Honourable Madam Justice Fenlon
The Honourable Mr. Justice Riley

On an application to vary: An order of the Court of Appeal for British Columbia, dated September 8, 2026 (*Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, 2026 BCCA 372, Vancouver Dockets CA51535 and CA51536).

The Applicant/Proposed Intervener, on his own behalf:	K.A. McLean
Counsel for the Appellants, Trial Lawyers Association of British Columbia and Kevin Westell (CA51535):	G. Cameron T.A. Posyniak L. Abrioux W.S. Andrews
Counsel for the Appellant, The Law Society of British Columbia (CA51536):	C. Ferris, KC L.L. Bevan J.S. Andrews N.L. Welsh
Counsel for the Respondents, The Attorney General of British Columbia and The Lieutenant Governor in Council of British Columbia:	E.C. Lapper, KC T. Bant S. Ortega Huerta K. Kotliarsky
Written Submissions Received:	September 9, 15, 17, and 21, 2026
Place and Date of Judgment:	Vancouver, British Columbia October 14, 2026

Written Reasons of the Court

Summary:

The applicant, Kevin McLean, applies to cancel or vary an order denying him intervener status in appeals from an order dismissing a constitutional challenge to legislation that would eliminate self-governance and self-regulation of lawyers.

Held: Application dismissed. Mr. McLean has not identified any error in the judge's reasons for denying him intervener status. Instead, he raises historical grievances against individual lawyers and the Law Society's regulators that have no relevance to either the application to vary or the underlying appeal.

Reasons for Judgment of the Court:

[1] Kevin McLean has applied under s 29 of the *Court of Appeal Act*, SBC 2021, c 6, to cancel or vary an order denying him intervener status in appeals brought by the Law Society and the Trial Lawyers Association. The appeals are from an order dismissing constitutional challenges to legislation that would eliminate self-governance and self-regulation of lawyers. This application was referred to the division for summary determination under s 21 of the *Court of Appeal Act*.

[2] Mr. McLean's original intervener application was also heard in writing. In reasons for judgment dated September 8, 2026, indexed at 2026 BCCA 372 [*Reasons*], Justice Horsman noted Mr. McLean's history of abusing legal proceedings, saying:

> [6] Mr. McLean is a twice-disbarred lawyer. After his disbarment, Mr. McLean persisted in engaging in activity that constituted the practice of law. He also commenced multiple proceedings, that were duplicative in nature, challenging regulatory actions taken by the Law Society against him. In a judgment issued on February 23, 2018, Justice Branch held that Mr. McLean was a vexatious litigant: *McLean v. Law Society of British Columbia*, 2018 BCSC 264. Justice Branch found, among other things, that Mr. McLean had acted for an improper purpose, including the "harassment and oppression of other parties by multifarious proceedings", rather than for the purpose of asserting legitimate rights: at para. 119.

[3] Justice Horsman described Mr. McLean's 46-page argument in support of his application to intervene as "prolix and largely incomprehensible", observing that he sought orders not available to an intervener: *Reasons* at para 8. For example, he sought orders that the Law Society "be denied standing and/or the right to be heard" and that the appeals be dismissed on a summary basis under s 21 of the *Court of Appeal Act*.

[4] Justice Horsman concluded that Mr. McLean did not meet the criteria for intervener status, saying:

> [8] … He has no direct interest in the appeal in the sense that his own legal rights or obligations may be affected by the proceedings: *Halalt First Nation v. British Columbia (Environment)*, 2012 BCCA 191 at para 6 (in Chambers). He does not purport to have a broad representative base and offers no unique and different perspective on the constitutional issues, so there is no basis for public interest intervener status: *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCCA 282 at para 14 (in Chambers).

She also concluded that he hoped to use the appeals as a platform to revisit historical grievances about the Law Society's regulatory actions against him.

[5] Having determined that Mr. McLean had no genuine or serious interest in the important constitutional issues arising on these appeals, and that he could provide no assistance to the Court in resolving them, Justice Horsman dismissed Mr. McLean's application: *Reasons* at para 10.

[6] On September 9, 2026, Mr. McLean filed the application to vary now before us. On September 15, he filed materials in support of that application.

[7] The appellants and respondent filed a joint response book on September 21 opposing the application to vary. On September 25, Mr. McLean attempted to file a second application seeking, among other things, to have the parties' joint response book declared "void, void *ab initio* and of no force and effect" and struck. He also sought a declaration prohibiting the parties from responding to his application to vary. This application was not accepted for filing. The registrar has nonetheless provided the unfiled application and supporting argument to us for consideration.

[8] The arguments presented by Mr. McLean in support of both applications are largely incoherent. We do not intend to engage with those submissions.

[9] In respect of the application to vary, it suffices to note that the standard of review is highly deferential. An application to vary is not a rehearing of the original application. We may not intervene unless the applicant shows the chambers judge was wrong in law, wrong in principle, or misconceived the facts: *Stanley Park Preservation Society v Vancouver Board of Parks and Recreation*, 2026 BCCA 85 at para 12.

[10] Mr. McLean has not identified an error of law, principle, or fact in Justice Horsman's analysis. Rather, his submissions revisit historical grievances against individual lawyers and the Law Society's regulators.

[11] Nor is there any basis for Mr. McLean's application to strike the parties' joint response opposing his application to vary. All parties opposed Mr. McLean's application for leave to intervene, and they are entitled to oppose his attempt to set aside the order they sought and obtained.

[12] For the reasons given, we dismiss both applications. Mr. McLean is prohibited from filing any further materials on these appeals. If he attempts to do so, the registry is directed to discard them.

"The Honourable Mr. Justice Groberman"

"The Honourable Madam Justice Fenlon"

“The Honourable Mr. Justice Riley”

TAB 7

FORM 12 (RULE 66(3)(c))

COURT OF APPEAL FOR BRITISH COLUMBIA

BETWEEN:

TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA and KEVIN WESTELL
THE LAW SOCIETY OF BRITISH COLUMBIA

Appellants
(Plaintiffs)

AND:

THE ATTORNEY GENERAL OF BRITISH COLUMBIA and
THE LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

Respondents
(Defendants)

AND:

KEVIN A. McLEAN

Applicant Party
(Applicant / Prescribed Party pursuant to Rule 64(1)(a)))

ORDER FROM AN APPLICATION TO VARY OR CANCEL

BEFORE:
The Honourable Mr. Justice Groberman
The Honourable Madam Justice Fenlon
The Honourable Mr. Justice Riley
Vancouver, British Columbia, October 14, 2026

THE APPLICATION of the Applicant Party, Mr. Kevin A. McLean (BA, JD, CIM), a Prescribed Party pursuant to Rule 64(1)(a) of the Court of Appeal Rules, B.C. Reg. 120/2022 (the "Rules"), brought pursuant to section 29 of the Court of Appeal Act, S.B.C. 2021, c. 6 (the "COAA"), and Rule 62(2) by way of a Form 8 Notice of Application filed September 9, 2026 (CSO Package #4382779), supported by the Applicant Party's Application Book filed September 15, 2026 (CSO Package #4388040) and Book of Authorities filed September 17, 2026 (CSO Package #4391194), duly served upon all parties pursuant to Rules 62(2) and 64(1)(b), to vary or cancel the Chambers Order and Reasons of The Honourable Madam Justice Horsman pronounced September 8, 2026 (2026 BCCA 372, with the unsigned Memorandum of Direction dated August 31, 2026), which dismissed the Applicant Party's August 12, 2026 Form 4 Notice of Application and directed the Registry not to accept for filing the Applicant Party's August 28, 2026 Written Argument (CSO Package #4374906);
AND THE FURTHER APPLICATION of the Applicant Party brought by way of a Form 4 Notice of Application tendered September 25, 2026 (CSO Package #4398900), September 28, 2026 (CSO Package #4399228), October 1, 2026 (CSO Package #4402771), and October 9, 2026 (CSO Package #4412400), seeking, inter alia, declarations of nullity and striking of the Appellants' and Respondents' "Joint Response Book [Sic]" dated September 21, 2026, for non-compliance with the mandatory service requirements of Rules 62(4) and 64(1)(b);
AND UPON NOTING the procedural direction of Registrar Timothy Outerbridge dated September 28, 2026, directing that the unfiled strike application be placed before the Division set to hear the application to vary; the October 4, 2026 Transmittal Letter (CSO Package #4404905) producing the Case Center Factums; the October

5–6, 2026 Form 4 Notice of Application and Written Argument for mandamus (CSO Packages #4405302 and #4406357); the administrative memorandum dated October 6, 2026, created at 10:11:19 a.m. PST (Directions 3(a) and 3(b)); and the Applicant Party's timely Day-7 Rule 63 Form 4 Notice of Application and Written Argument filed October 13, 2026 (CSO Packages #4413258 and #4413838);

AND ON the Division Panel having considered the matter in writing without an oral hearing;

AND ON the Division Panel acknowledging at paragraph 7 of 2026 BCCA 406 that the Registrar had provided the unfiled [sic] September 25, 2026 application to the Division Panel, but declaring at paragraph 8 that: “The arguments presented by Mr. McLean in support of both applications are largely incoherent. We do not intend to engage with those submissions”;

AND ON judgment being pronounced on October 14, 2026 (2026 BCCA 406), followed by the Registry's summary rejection at 1:25 p.m. PST of the Applicant Party's timely Form 4 Notice of Application under Section 43(1) of the COAA (CSO Package #4414413) to reopen and adjudicate unadjudicated matters prior to formal order entry, declaring: “Reasons were released this morning on 14OCT2026. See 2026 BCCA 406. Any further recourse can be brought to the Supreme Court of Canada. vn”;

THIS COURT ORDERS THAT:

Dismissal of Form 8 Application to Vary or Cancel (Rule 62 / COAA s. 29):

1. The Applicant Party's Form 8 Notice of Application filed September 9, 2026, under section 29 of the Court of Appeal Act, S.B.C. 2021, c. 6, and Rule 62 of the Court of Appeal Rules, seeking to cancel or vary the order of The Honourable Madam Justice Horsman pronounced September 8, 2026 (2026 BCCA 372), is dismissed but only as it relates to the relief in the Applicant Party seeking intervention.

Dismissal of Unfiled September 25, 2026 Strike Application:

2. The Applicant Party's unfiled [and rejected] Form 4 Notice of Application dated September 25, 2026, provided by the Registrar to the Division Panel, seeking to strike the Appellants' and Respondents' “Joint Response Book [Sic]” and impose sanctions under COAA s. 36, is dismissed.

Non-Adjudication of Concurrent Supervisory, Mandamus, and Rule 63 Applications:

3. No adjudication is made in respect of the Applicant Party's October 4, 2026 Transmittal (Package #4404905), the October 5–6, 2026 Mandamus Application (Packages #4405302 and #4406357), or the October 13, 2026 Rule 63 Application (Packages #4413258 and #4413838).

THIS COURT FURTHER ORDERS (SUA SPONTE) THAT:

Permanent Prospective Filing Prohibition and Registry Discard Directive (Paragraph 12 of 2026 BCCA 406):

4. Pursuant to paragraph 12 of 2026 BCCA 406, the Applicant Party, Mr. Kevin A. McLean, is permanently prohibited from filing any further materials on these Appeals (CA51535 and CA51536), and if he attempts to do so, the Registry of the Court of Appeal is directed to discard them forthwith without acceptance, docketing, or adjudication—barring:
    a. the Applicant Party's statutory reopening application brought October 14, 2026, under Section 43(1) of the Court of Appeal Act (CSO Package #4414413);
    b. (b) any supervisory application under Rule 63 of the Court of Appeal Rules and Section 35(2) of the Court of Appeal Act; and

c. (c) any application, appointment, or objection to settle the form of this Order before the Registrar or Court under Rules 66 and 68 of the Court of Appeal Rules, leaving any further recourse exclusively to the Supreme Court of Canada under section 40(1) of the Supreme Court Act.

Costs:

5. There shall be no order as to costs.

APPROVED AS TO FORM

_____

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party (Prescribed Party pursuant to Rule 64(1)(a) pro se)

_____

LAWSON LUNDELL LLP
(Craig A.B. Ferris, K.C. / Laura L. Bevan / Jonathan S. Andrews / Nicole L. Welsh)
Counsel for the Appellant, The Law Society of British Columbia (CA51536)

_____

FASKEN MARTINEAU DuMOULIN LLP
(Gavin R. Cameron / Tom Posyniak / Luc Abrioux / William Andrews)
Counsel for the Appellants, Trial Lawyers Association of British Columbia and Kevin Westell (CA51535)

_____

MINISTRY OF ATTORNEY GENERAL OF BRITISH COLUMBIA
(Emily C. Lapper, K.C. / Trevor Bant / Karin Kotliarsky / Sergio Ortega)
Counsel for the Respondents, His Majesty the King in Right of the Province of British Columbia, Attorney General of British Columbia, and Lieutenant Governor in Council

BY THE COURT:

THE REGISTRAR (OR A JUSTICE OF THE COURT OF APPEAL)

0

IN THE SUPREME COURT OF CANADA

(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

BETWEEN:

KEVIN A. McLEAN

Applicant

(Applicant Party / Prescribed Party pursuant to Rule 64(1)(a)) in the Court appealed from)

and

LAW SOCIETY OF BRITISH COLUMBIA, and **TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA and KEVIN WESTELL** (CA51535)

Respondents
(Appellants in the Court appealed from)

and

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

Respondents

(Respondents in the Court appealed from)

and

BC ACCESS TO JUSTICE CENTRE FOR EXCELLENCE, BC PARALEGAL ASSOCIATION, CANADIAN BAR ASSOCIATION, CRIMINAL DEFENCE TRIAL LAWYERS ASSOCIATION, LAW FOUNDATION OF BC, LAW SOCIETY OF MANITOBA, LAWYERS' RIGHTS WATCH CANADA, SOCIETY OF NOTARIES PUBLIC OF BC, THE ADVOCATES' SOCIETY, FEDERATION OF LAW SOCIETIES OF CANADA, INDIGENOUS BAR ASSOCIATION OF CANADA, and WORKERS FOR ETHICAL SUBSTANCE USE POLICY

Respondents

(Prescribed Parties / Interveners in the Court appealed from)

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MEMORANDUM OF ARGUMENT OF THE APPLICANT

(Pursuant to Section 40(1) of the Supreme Court Act, R.S.C. 1985, c. S-26, and Rule 25(1)(b) of the Rules of the Supreme Court of Canada, SOR/2002-156)

PART I: OVERVIEW AND STATEMENT OF FACTS

Part I(A): Overview — Issues of Transcendent National/Constitutional Importance

1. This application for leave to appeal confronts an unprecedented breakdown in the rule of law, the open court principle under s. 2(b) of the *Charter*, the structural separation of powers under the *Constitution Act, 1867* (Parliament's exclusive authority under ss. 16–57 and 91; Provincial Legislatures under s. 92), and statutory limits on appellate gatekeeping. Within constitutional litigation challenging the *Legal Professions Act*, S.B.C. 2024, c. 26 ("Bill 21")—which replaces 150 years of lawyer self-governance with a single regulator amalgamating the Law Society of British Columbia ("LSBC") and the Society of Notaries Public of British Columbia ("SNPBC," whose licensees hold master's degrees), alongside paralegal licensing (*2026 BCSC 779*)—the BCCA and its Registry erected an extra-statutory regime that inverted the *COAA* and *Rules*.
2. The COAA and the Rules deliberately modernized and displaced the *Repealed Enactments* (*Court of Appeal Act*, R.S.B.C. 1996, c. 77; *Court of Appeal Rules*, B.C. Reg. 297/2001). Enacted under s. 1(2) of the *Court Rules Act*, R.S.B.C. 1996, c. 80, and COAA s. 49 upon recommendation of the Court of Appeal Rules Committee (including the Chief Justice of British Columbia), these statutory reforms include: (a) expanding standing so that any "person," not merely respondents, may move to quash appeals, strike defective factums, or raise preliminary objections; (b) establishing "Prescribed Parties" with codified procedural rights (Rules 64(1)(a)–(b)); and (c) codifying summary dismissal under COAA s. 21, exercisable by the court and functionally engaged by applications brought by external persons. [1]
3. **The Secret Digital Docket or Shadow Registry:** At the request of the LSBC alone, the BCCA Registrar issued an extra-statutory case-management direction permitting Appellants to upload their substantive factums on August 5, 2026, into a private presentation repository (Case Center) and "deeming" them filed and served, while withholding them from the public CSO register until after all

[1] (*Yang v. Shi*, 2022 BCCA 317, Vol. III, Tab 28, Form 8 BOA Tab 65).

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responsive deadlines expired (Vol. III, Tab 13; Tab 22). When the Applicant—an active Prescribed Party under Rule 64(1)(a) since August 12, 2026—requisitioned the factums, the Manager of Records confirmed on September 29 and October 1, 2026: *"we don't have a record of any factums being filed with us, probably because of the use of Case Centre... Still no factums filed for these cases"* (Vol. III, Tab 13). Converting a presentation workspace into a shadow registry subverted Rules 25(1) and 48, violated the open court principle under s. 2(b) of the *Charter*, and neutralized the right of any "person" under COAA s. 20 and Rule 60(1)(a) to inspect and move to strike a defective factum. These s. 2(b) breaches cannot be saved under s. 1. Whether Registrar Outerbridge acted in his quasi-judicial case-management capacity on June 29, 2026, or in his administrative records-custody role in September 2026, his actions lacked any statutory, regulatory, or policy foundation meeting the "prescribed by law" threshold lacking legal authority, these breaches cannot be saved under s. 1.[2]

4. **The Extra-Statutory Filing Embargo:** Conversely, when the Applicant timely filed and served a multi-track Form 4 Notice of Application on August 12, 2026 (Vol. III, Tab 1, Sub-Tab 3A)—seeking leave to intervene (Order #3) alongside independent preliminary objections, summary dismissal under COAA s. 21, and quashing under Rule 60 (Orders #1–2, #4–10) grounded in the LSBC's pleaded November 2022 admissions (Sub-Tab 3S) and undisputed evidence of the *Concealed RAM Dump* and March 2, 2016 *Warrantless Wiretap Kernel SYS Module Dump* (Sub-Tabs 3B, 3C, 3U–3BB)—the BCCA apparatus systematically quarantined and rejected his compliant documents:

   a. On August 28, 2026, the Applicant's 57-page Written Argument supporting Orders #1–2 and #4–10 was accepted and confirmed as Status: Filed by the CSO portal at 3:55 p.m. (Package #4374906), yet defaced by a clerk on page 1 with the *ultra vires* and impermissible marking *"Received not Filed"* (**Vol. III, Tab 1, Sub-Tab 3C**);

   b. On August 31, 2026, a single chambers justice (Horsman J.A.) issued an unsigned memorandum *sua sponte* directing a written hearing on the *"existing written record"* while ordering the Applicant *"not to file any additional material in these proceedings"* (**Vol. I, Tab 1**), and on September

[2](*R. v. Therens*, [1985] 1 S.C.R. 613; *RWDSU v. Dolphin Delivery Ltd.*, [1986] 2 S.C.R. 573). L

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8, 2026 (*2026 BCCA 372*), retroactively, albeit without any legal authority, directed the Registry *"not to accept"* the already-filed August 28 Written Argument (**Vol. I, Tab 2**, para. 9);

c. After the Applicant timely filed a Form 8 Notice of Application to Vary or Cancel under *COAA* s. 29 and *Rule 62* on September 9, 2026 (**Vol. III, Tab 9**), the nominally adverse Appellants (LSBC and TLABC) and Respondents (AGBC and LGIC) collaborated to file an unauthorized hybrid document—neither a Court Form nor a document subject to the obligatory "Completion Instructions"—jointly styled *"Joint Response Book [Sic]"* and signed by counsel to those Statutory Parties on September 21, 2026, while failing to serve the 12 other Prescribed Parties contrary to *Rules 62(4)* and *64(1)(b)* (**Vol. III, Tab 2; Tab 3**);

d. When the Applicant moved on September 22 and then again on September 25, 2026 (Package #4398900) to strike the void *"Joint Response Book [Sic]"*, Clerk Shelly Lin ("sl") rejected the filing, writing: *"If you insist, you may write to the Registrar by way of a letter"* (**Vol. III, Tab 5**). After the Applicant formally insisted via a filed letter citing *R. v. Verma*, 2016 BCCA 307 at para. 20 with a focus on the very word utilized by that presiding three-judge Division (**Vol. III, Tab 6**), Registrar Timothy Outerbridge issued a formal direction on September 28, 2026, representing: ***"I will place your unfiled [sic] application before the division set to hear your application to vary and you may address it before the Court then"*** (**Vol. I, Tab 4; Vol. III, Tab 8**);

e. Yet on October 6, 2026, exactly **33 minutes** after the Applicant submitted his Written Argument for *mandamus* at 9:38 a.m. (Package #4406357, **Vol. III, Tab 16**), a staff member (Samantha Servis) created a PDF memorandum at **10:11:19 a.m.** bearing Registrar Outerbridge's name and signature (**Vol. III, Tab 24; Vol. I, Tab 5**) claiming that a division (Groberman, Fenlon, and Riley JJ.A.) had directed that **"a) these applications be dealt with in writing [contrary to the September 28, 2026 unobjected and undisturbed direction]; and b) the registry [itself] is not to file any further material on these applications, including material presently submitted for filing"**, followed by six summary CSO rejections (**Vol. III, Tab 20**);

f. When the Applicant filed a timely *Rule 63* Notice of Application on Day 7 (October 13, 2026, Packages #4413258 / #4413838) to review the October 6 directions, Clerk "sl" rejected it using the very direction under challenge (**Vol. III, Tab 24; Tab 25**);

g. On October 14, 2026, the Division released *2026 BCCA 406* (**Vol. I, Tab 6**), refusing to engage with the Applicant's arguments (para. 8), dismissing both the Form 8 variation application and the unfiled September 25 strike application in a single paragraph without addressing *Rules 62(4)* and *64(1)(b)* (para. 11), and imposing a permanent, prospective ban: ***"Mr. McLean is prohibited from filing any further materials on these appeals. If he attempts to do so, the registry is directed to discard them"*** (para. 12)—all without any application, notice, or hearing; and

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h. Finally, when the Applicant immediately tendered a statutory reopening NOA on October 14, 2026, under **Section 43(1) of the *COAA*** (Package #4414413) to adjudicate the unadjudicated matters prior to formal order entry (**Vol. III, Tab 26**), Clerk "vn" summarily rejected it at 1:25 p.m. , stating: ***"Reasons were released this morning on 14OCT2026. See 2026 BCCA 406. Any further recourse can be brought to the Supreme Court of Canada. vn"***.[3]

5. This leave application is unprecedented because the *Charter* breach is not merely a violation of the open court principle under s. 2(b), but a direct infringement of the constitutional right of access to courts at the core of Canada's constitutional architecture[4]. Here, the Applicant paid all required filing fees—including repeated $7 online submission fees—yet the Honourable Division Panel refused to engage with his submissions, dismissed them as "incoherent," and imposed a prospective filing embargo barring further materials. That is not adjudication; it is a refusal to exercise jurisdiction and an unconstitutional interference with the pursuit of a legal remedy.[5] *TLA 2014* established that measures preventing citizens from bringing disputes to court strike at the core of s. 96 of the *Constitution Act, 1867*—and unlike the *Charter*, breaches of the *Constitution Act, 1867* (including Parliament's legislative authority under ss. 16–57 and 91, the Provincial Legislatures under s. 92, and the Judicature guarantees under ss. 96–101) have **no saving provision** (*Trisura Guarantee Insurance v. Duchnij*, 2021 ABCA 78 at paras. 56–65). Even where a court formally declares legislation unconstitutional under s. 52(1) of the *Constitution Act, 1982*, the remedy of rewriting enacted text is very sparingly used (*Schachter v. Canada*, [1992] 2 S.C.R. 679). Here, without any constitutional challenge, four justices below conducted themselves as if the 2021 COAA and 2022 Rules did not exist, resurrecting abolished barriers from the *Repealed Enactments* and usurping legislative authority. Furthermore, because the Division Panel imposed the embargo *sua sponte*, the Panel itself bears the burden under s. 1 of the *Charter* (*R. v. Oakes*, [1986] 1 S.C.R. 103). It cannot meet the "prescribed by law" threshold: the embargo (a) contravened statute and regulation;

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[3](**Vol. III, Tab 27**).

[4] (*Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59 ["*TLA 2014*"] at paras. 32, 41; *Ontario (Attorney General) v. $25,610 in Canadian Currency*, 2017 ONCA 251 at para. 1)

[5](*Uhrik v. Terrigno*, 2024 ABCA 383 at para. 10; *Timm v. Canada*, 2019 FC 238).

(b) lacked any authorized, binding, accessible policy; and (c) had no common-law basis. Where the Panel's reasons are silent save for refusing to engage, these *Charter* and *Constitution Act, 1867* breaches cannot be saved.

6. Leave to appeal is imperative under s. 40(1) of the *Supreme Court Act* to resolve four questions of national importance governing: (1) digital gatekeeping and the open court principle; (2) the incompetence of statutory courts to impose *sua sponte* filing embargoes absent notice, application, and hearing; (3) statutory reopening under COAA s. 43(1) prior to *functus officio*, alongside the separation of powers and preclusion of Rule 68 order-settlement rights; and (4) the constitutional, public-law state liability, and personal judicial liability consequences of *coram non judice* (*Factum a judice, quod ad officium jure non pertinet, ratum non est*) judicial acts where decision-makers lacked belief in their jurisdiction, aggravated by an unparticularized refusal to engage with submissions.

Part I(B): Statement of the Factual and Procedural Matrix

Part I(B)(I): The Artificial Evidentiary Vacuum Created by the Appellants

7. In May 2024, the Legislature of British Columbia enacted Bill 21 (*Legal Professions Act*, S.B.C. 2024, c. 26), amalgamating the regulation of lawyers, notaries public, and licensed paralegals under a single regulator ("LPBC") governed by a 17-member board comprised of a 9-lawyer majority (5 elected by lawyers, 4 appointed by the board) (**Vol. III, Tab 1, Sub-Tab 3P; Sub-Tab 3Q**). Following a summary trial in October 2025, Chief Justice Skolrood dismissed the constitutional challenges brought by the LSBC and TLABC on April 29, 2026 (*2026 BCSC 779*, **Vol. III, Tab 28, Form 8 BOA Tab 33**). Crucial to the Appellants' subsequent appeals (CA51535 and CA51536, filed May 5, 2026, **Sub-Tabs 3M–3N**) was Skolrood C.J.'s observation at paras. 145 and 166 that *"there is **nothing** in the record to suggest that the LSBC in its current form has failed to govern lawyers in the public interest"* (**Sub-Tab 3C; Vol. III, Tab 14**). That observation was the product of an artificially sanitized record. First, the LSBC had formally admitted in its November 2022 *Response to the Ministry of Attorney General's Intentions Paper* (**Sub-Tab 3S**)—a document explicitly pleaded by the LSBC at para. 36 of

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its Notice of Civil Claim (**Sub-Tab 3P**)—that: *"In our view, self-regulation of the legal profession requires that a majority of the board that governs lawyers are themselves lawyers and a majority of the lawyer directors are elected."* Because Bill 21 provides exactly 9 lawyers out of 17 directors (a majority) and 5 elected lawyers out of 9 (a majority), the LSBC's own formal admission extinguished any justiciable *lis* regarding board composition. Second, the LSBC concealed from the trial court—just as it had previously concealed from the BCCA in 2016 to save its defence of the Applicant's civil action for damages—its own multi-year history of unlawful digital searches and seizures under its former Rule 4-43 ("Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record"): (a) A June 4, 2014 warrantless volatile-memory extraction ("Concealed RAM Dump") of the Applicant's office CPU executed at 10:59 a.m. (LOGON0604201405:59:44614OFFICECL), which was hidden from the Independent Supervising Solicitor (Robert Deane of BLG LLP) and five BCSC justices (Gerow, Bowden, Grauer, Macintosh, and Branch JJ.) for seven years until NST LLP disclosed, utilizing the words "RAM capture," a Deflate64-obfuscated zip file (KEVIN-PC-20140604-182544.zip, listing NST assistant Kimm Otto—who on August 21, 2026, transmitted as a legal assistant at Lawson Lundell LLP the LSBC's four-page MOA [sic]—as the last creator, updated 10/25/2021 12:28 PM) via a non-Canadian Citrix ShareFile link on October 25, 2021 (**Sub-Tab 3B; Sub-Tab 3C**); (b) A subsequent March 2, 2016 warrantless remote intrusion and unloading of eight kernel-level .sys drivers (dump_disk.sys, dump_LSI_SCSI.sys, dump_storport.sys, crashdmp.sys, etc.) over a 25-minute window (16:09:08 to 16:34:54) on the Applicant's home CPU utilizing seeded WMI persistence tripwires (BVTConsumer, 15 instances of CommandLineEventConsumer, and ROOT\CIMV2 root subscription) in direct violation of s. 184 of the *Criminal Code*, s. 8 of *CASL*, and Gerow J.'s residential injunction in *McLean v. LSBC*, 2015 BCSC 1431 at para. 93 (**Sub-Tab 3B; Sub-Tab 3C [Schedules D–G]; Vol. III, Tab 28, Form 8 BOA Tab 39**); and (c) The exfiltration of personal information across 39 Ethereum mainnet blocks and Binance Smart Chain nodes (**Sub-Tab 3B; Sub-Tab 3FF**). As demonstrated in **Schedule F** to the Applicant's August 28, 2026

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Written Argument (**Sub-Tab 3C**), the Legislature enacted ss. 78–80 of Bill 21 specifically to close every statutory loophole exploited by the LSBC under ss. 36–37 of the *Legal Profession Act*, S.B.C. 1998, c. 9.

Part I(B)(II): The Secret Case Center "Deemed Filing" Regime

8. On June 25, 2026, LSBC counsel wrote to Registrar Outerbridge proposing that the parties upload their factums to a new Case Center file on August 5, 2026, that *"A factum uploaded into Case Centre shall be considered duly filed and served,"* and that paper versions not be filed until October 19, 2026 (**Vol. III, Tab 13**). On June 29 and July 2, 2026, Registrar Outerbridge adopted this arrangement and directed that intervener applications be filed and served by August 14, 2026, responses by August 21, 2026, and heard by September 11, 2026 (**Vol. III, Tab 13**). Because the Appellants' Factums were uploaded only to a private Case Center folder on August 5, 2026, and never docketed on CSO, the public and non-party applicants were completely blinded to the Appellants' filed factums (**Vol. III, Tab 13; Tab 14**). On August 12, 2026, the Applicant timely filed and served his Form 4 Notice of Application (**Vol. III, Tab 1, Sub-Tab 3A**), followed on August 14, 2026, by his 46-page Memorandum of Argument for Leave to Intervene addressing Order #3 (**Sub-Tab 3B**). Both were stamped Filed by the Registry, conferring status upon the Applicant as an active Prescribed Party pursuant to *Rule 64(1)(a)* (**Sub-Tab 4**). On August 21, 2026, the LSBC and TLABC filed responsive arguments opposing the Applicant's intervention while taking no position on the 12 institutional interveners (**Sub-Tabs 3E–3G**), and the LSBC sent a letter requesting that the Applicant's application be decided in writing under *COAA* s. 26 (**Sub-Tab 3D**). On August 28, 2026, at 2:53 p.m. (more than 7 business days prior to the September 10, 2026 hearing date, in strict compliance with *Rules 54* and *60(2)*), the Applicant submitted his separate Written Argument supporting the non-intervention relief in Orders #1–2 and #4–10 (Package #4374906, **Sub-Tab 3C**). At 3:55 p.m. (6:55 p.m. EST), the CSO system issued an official notification confirming Status: Filed (**Sub-Tab 3C**), yet a registry clerk stamped the upper-left corner of the PDF "Received not Filed" (**Sub-Tab 3C**). On August 30–31, 2026,

the Applicant submitted a separate Form 4 Notice of Application and Written Argument (Package #4375678, fees paid) to strike the LSBC's standalone memorandum and paras. 8–12 of the TLABC's memorandum under *Rule 9-5* by analogy (**Sub-Tabs 3I–3J**).

Part I(B)(III): The Chambers Rulings of Horsman J.A., the Sept 28 Registrar Direction, and the "33-Minute Impossibility" for Directions 3(a) and 3(b)

9. On August 31, 2026, at 11:05 a.m. , Horsman J.A. sent an unsigned memorandum to Deputy Registrar Torri Enderton directing that the August 12 application be heard in writing *"based on the existing written record,"* barring the Applicant from attending court on September 9–10, and directing him *"not to file any additional material in these proceedings"* (**Vol. I, Tab 1**). Minutes later, Clerk Shelly Lin ("sl") rejected Package #4375678, stating: *"Please refer to the memorandum sent today. No further applications can be filed. thank you, sl"* (**Vol. III, Tab 1, Sub-Tab 3L**). On September 1, 2026, the Applicant wrote to Chief Justice Marchand invoking his *primus inter pares* supervisory authority (**Sub-Tab 3L**). On September 8, 2026, Horsman J.A. released *2026 BCCA 372* (**Vol. I, Tab 2**), dismissing the August 12 application, holding that none of the non-intervener relief was grounded in the rules (para. 7), and *sua sponte* reversing the CSO "Filed" status of the August 28 Written Argument by directing the Registry *"not to accept the document for filing"*. [6] On September 9, 2026, the Applicant timely filed a Form 8 Notice of Application to Vary or Cancel under *COAA* s. 29 and *Rule 62(2)* (**Vol. III, Tab 9**), followed by his 702-page Application Book on September 15, 2026 (**Vol. III, Tab 1**) and his 66-Tab, 1,835-page Book of Authorities on September 17, 2026 (**Vol. III, Tab 1, Sub-Tab 5; Vol. III, Tab 28**), serving all Statutory and Prescribed Parties.
10. On September 21, 2026, at 6:26 p.m. EST (3:26 p.m.), counsel for the LSBC transmitted a consolidated *"Joint Response Book [Sic]"* and cover letter on behalf of the Appellants and Respondents requesting a written hearing, but failed to serve the 12 other Prescribed Parties as mandated by *Rules 62(4)* and *64(1)(b)*.[7] When

[6] (para. 9; **Draft Form 10 Order, Vol. I, Tab 3**).
[7] (**Vol. III, Tab 2; Tab 3**).

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the Applicant submitted a Form 4 Notice of Application and Written Argument on September 22 and 25, 2026 (Packages #4394252, #4394410, #4398900) to declare the *"Joint Response Book [Sic]"* a nullity and seek sanctions under *COAA* s. 36, Clerks "JC" and "sl" rejected them, with "sl" writing on September 25: *"We are unable to accept the application and argument for filing. If you insist, you may write to the Registrar by way of a letter... sl"* (**Vol. III, Tab 4; Tab 5**). On September 27, 2026, the Applicant filed a formal letter to Registrar Outerbridge insisting on filing pursuant to *R. v. Verma*, 2016 BCCA 307 at para. 20[8] and resubmitted the Form 4 and Written Argument. On September 28, 2026, Registrar Outerbridge issued a formal direction to all counsel stating: *"I will place your unfiled application before the division set to hear your application to vary and you may address it before the Court then. In the interim, the Court may give directions, including accepting your application for filing or asking the opposing parties to respond if they feel it is necessary."*[9] No Prescribed Party applied within the 7-day window under *Rule 63(2)* (expiring October 5, 2026) to vary Registrar Outerbridge's September 28 direction. Yet on September 29, 2026, Clerk "sl" again rejected Package #4399228 (**Vol. III, Tab 10**). After the Applicant resubmitted the strike materials on October 1 (Package #4402771, **Tab 12**), forced production of the hidden Case Center Factums and submitted them on October 4 (Package #4404905, **Tab 14**), and submitted a Form 4 Notice of Application for *Mandamus* on October 5 (Package #4405302, **Tab 15**) followed by his *Mandamus* Written Argument on **Tuesday, October 6, 2026, at 9:38 a.m.** (Package #4406357, **Tab 16**), the Registry's internal metadata reveals that **33 minutes later—at 10:11:19 a.m.** —staff member Samantha Servis created a PDF letter over Registrar Outerbridge's signature (**Vol. III, Tab 24; Vol. I, Tab 5**) asserting that a division (Groberman, Fenlon, and Riley JJ.A.) had directed that *"a) these applications be dealt with in writing; and b) the **registry** is not to file any further material on these applications, including material presently submitted for filing."* At 4:09–4:10 p.m. ,

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[8] (Package #4399224, stamped **Filed** September 28, 2026, **Vol. III, Tab 6**); and (Package #4399228, **Tab 7**)

[9] (**Vol. I, Tab 4; Vol. III, Tab 8**).

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Clerk "vn" rejected all four pending packages (**Vol. III, Tab 20**). On October 7 and 8, 2026, the Applicant formally demanded confirmation of whether the Division Panel had actually convened within those 33 minutes to pronounce Directions 3(a) and 3(b), and requested a *Rule 82(1)* Application Book amendment (**Vol. III, Tab 18; Tab 24**). On October 8, Ms. Dhamkais replied solely to correct the typographical date of Horsman J.'s order to September 8 while maintaining complete silence regarding the clarification sought by the Applicant Party.

Part I(B)(IV): The October 13 Rule 63 Challenge, 2026 BCCA 406 (October 14), and the Section 43(1) Rejection (ibid)

11. On October 9, 2026, the Applicant resubmitted his six compliant filings (Package #4412400, **Vol. III, Tab 23**), which were rejected on October 13 at 12:35 p.m. . Before 4:00 p.m. on Day 7 (October 13, 2026), the Applicant timely filed and served a Form 4 Notice of Application and Written Argument under *Rule 63(1)–(2)* and *COAA* s. 35(2) (Packages #4413258 / #4413838) to review and set aside Directions 3(a) and 3(b) and pierce administrative privilege (**Vol. III, Tab 24**). At 4:10 p.m. on October 13, Clerk "sl" rejected Package #4413838 citing Direction 3(b) (**Vol. III, Tab 25**). On the morning of October 14, 2026, the Division released *2026 BCCA 406* (**Vol. I, Tab 6**). While admitting at para. 7 that the Registrar had provided the unfiled September 25 strike application to the panel, the Division declared at para. 8 that *"We do not intend to engage with those submissions,"* dismissed both applications without addressing *Rules 62(4)* and *64(1)(b)*, and ordered at para. 12: ***"Mr. McLean is prohibited from filing any further materials on these appeals. If he attempts to do so, the registry is directed to discard them."*** At 10:10 a.m. on October 14, 2026—prior to the preparation or entry of any formal Form 12 Order under *Rule 66(5)* (**Vol. I, Tab 7**)—the Applicant transmitted a Form 4 Notice of Application under **Section 43(1) of the *COAA*** (Package #4414413, fees paid) invoking the statutory jurisdiction of "a" division to amend an order of "the" division for matters that *"should have been but were not adjudicated"* (**Vol. III, Tab 26**). At 1:25 p.m. on October 14, 2026, Clerk "vn" rejected Package #4414413, stating: ***"Reasons were released this morning on***

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14OCT2026. See 2026 BCCA 406. Any further recourse can be brought to the Supreme Court of Canada. vn"[10]

PART II: QUESTIONS IN ISSUE

12. This application raises four pure questions of constitutional, statutory, and public law of transcendent national importance under s. 40(1) of the *Supreme Court Act*:

    a. **Question1: (The Open Court Principle & Digital Gatekeeping — Case Center vs. Statutory Filing):** Does an appellate court or registrar possess lawful authority to direct that core appellate documents (such as Appellants' Factums) be uploaded to an external, non-public digital presentation repository (Case Center) and "deemed filed and served," thereby bypassing the mandatory statutory register, shielding documents from public inspection, and extinguishing the statutory rights of the public and Prescribed Parties under provincial enactments to inspect, object to, or move to strike documents in open court (*Constitution Act, 1867*, ss. 96–101; *Charter*, ss. 1, 2(b), 7, and 15)?

    b. **QUESTION 2 (Statutory Incompetence of Extra-Curial Filing Embargoes):** In the absence of a formal application, prior notice, and a hearing of the same, does a statutory appellate court and/or registry possess any lawful authority to prospectively prohibit and restrain an active Prescribed Party pursuant to *Rule 64(1)(a)* from tendering compliant documents, and to summarily direct staff to discard such filings without accepting the same (*R. v. Verma*; *Baxter Student Housing*; *Rule 79(5)*; *Constitution Act, 1867*, ss. 16–57, 91, 92, 96–101; *Charter*, ss. 1, 2(b), 7, 15)?

    c. **QUESTION 3 (Statutory Reopening Under *COAA* s. 43(1), Pre-Entry & *Rule 68* Order-Settlement Jurisdiction, & Separation of Powers):** Can an appellate court or registry extinguish, through administrative memorandum or summary dismissal purported reasons, an express statutory right of application enacted by the Legislature to amend orders for *"any matter that should have been but was not adjudicated"* (*COAA* s. 43(1)), or make it impossible for a Prescribed Party to settle or object to the form of an order under *Rules 66* and *68* (thereby obstructing federal appellate rights under the *Supreme Court Act*), where the underlying matters (including nullity declarations, *Rule 63* reviews, and strike motions) were physically before the court but bypassed without adjudication prior to formal order perfection under *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 and *Chandler v. Alberta Association of Architects*, [1989] 2 S.C.R. 848? Further, is such conduct contrary to the separation of powers and a breach of the *Constitution Act, 1867* (for which no saving provision exists) by the impugned justices—specifically usurping the legislative

[10](**Vol. III, Tab 27**).

powers of Parliament (ss. 16–57, 91) and the Legislature (s. 92) and *de facto* rewriting Enactments?

d. **QUESTION 4 (Boundaries of Judicial Immunity, Acts *Coram Non Judice*, Public-Law State Liability, and Personal Liability):** Given that federally appointed s. 96 judges are not employees, servants, or agents of the Federal Crown (*Feeney v. Canada*, 2022 FCA 190; *Crowe v. Canada (AG)*, 2008 FCA 298), where judicial officers or statutory delegates issue orders or administrative embargoes *sua sponte* that exceed their lawful statutory authority (*coram non judice* and/or *Factum a judice, quod ad officium jure non pertinet, ratum non est*), does the doctrine of personal judicial immunity protect such actions if the decision-maker lacked a good-faith, legally sustainable belief in the existence of jurisdiction; can judges in such rare, particularized circumstances be held personally liable (alongside or distinct from the State) for such breaches, including *Charter* breaches; and does the *Charter* apply directly to such *sua sponte* acts to afford effective public-law state liability remedies against the Provincial Crown or personal liability remedies to affected litigants[11]?

PART III: STATEMENT OF ARGUMENT

Part III(A): Branch A (Question 1) — Secret "Deemed Filings" in External Digital Repositories (Case Center) Violate the Open Court Principle (*Charter* s. 2(b)), Cannot Be Saved Under *Charter* s. 1, and Subvert *BCCA Rules* 25(1) & 48 and Universal Appellate Architecture (*Ontario Rule 4.05.3*)

13. The first question of national importance affects every appellate and superior court across Canada transitioning to cloud-based hearing software (**Case Center**). In the court below, Registrar Outerbridge acceded to the proposal of LSBC counsel (**Vol. III, Tab 13**) that uploading the Appellants' factums on August 5, 2026, to a private Case Center workspace would be *"considered duly filed and served"* prior to any scheduled deadlines for Prescribed Party intervention applications (August 14, 2026), while deferring paper copy filing until October.

14. **Statutory *Ultra Vires* under the *BCCA Rules*:** *Rule 25(1)* mandates that an appellant *"must file[12] and serve an appellant's factum."* Even when a justice (not a registrar) presides over case management under *Rule 48*, no provision authorizes

[11] (R. v. Germain, 1984 CanLII 1307 (AB KB); Prefontaine v. Gosman, 2000 ABQB 530; BCGEU; Canada (AG) v. Power, 2024 SCC 26)

[12] Under *Rule 1(1)* of the *Court of Appeal Rules*, "file" means *"to file the document in a court registry in accordance with the requirements under these rules or any directions of the registrar issued under section 38 of the Act."*

replacing the public court registry with a non-public third-party cloud folder. Under *Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 S.C.R. 475 at p. 480 (**Vol. III, Tab 28, Form 8 BOA Tab 5**), neither administrative convenience nor inherent jurisdiction—which the BCCA does not possess as a statutory court created under s. 2 of the *COAA* rather than a superior court of inherent jurisdiction under the **Judicature Sections** of the *Constitution Act, 1867*—can conflict with source laws.

15. **Comparative National Architecture (*Ontario Rule 4.05.3*):** The illegality of treating Case Center as a court registry in these Appeals (where even the AGBC disagreed with the proposal of LSBC's counsel) is demonstrated by comparing the Registrar's direction with Ontario's codified regulatory architecture in **Rule 4.05.3 of the *Rules of Civil Procedure***, R.R.O. 1990, Reg. 194 (enacted via O. Reg. 689/20, O. Reg. 300/24, and O. Reg. 301/24): (a) **Rule 4.05.3(11) (*Does Not Amount to Filing or Service*);[13] and** (b) **Rule 4.05.3(10) (*Document in Court File Prevails*).[14]**

16. **Violation of the Open Court Principle (*Charter* s. 2(b)), the *Hale* Control Test, and Absence of Justification Under *Charter* s. 1:** Under *Sherman Estate v. Donovan*, 2021 SCC 25, *Vancouver Sun (Re)*, 2004 SCC 43, and *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 (**Vol. III, Tab 28, Form 8 BOA Tab 12**), court records and written documents are presumptively open to the public upon filing. As Morgan J. held in *Toronto Star v. AG Ontario*, 2018 ONSC 2586, *"reportage delayed is reportage denied."* Furthermore, under *Ontario (Criminal Code Review Board) v. Hale*, 1999 CanLII 3805 (ON CA) at para. 35, an adjudicative body cannot evade public access obligations by placing records in a third-party repository (**Vol. III, Tab 13**). By hiding the Appellants' Factums in Case Center from August 5 to October 2, 2026, while the BCCA Records Manager repeatedly told the Applicant that *"Still no factums [are] filed for these cases"* (**Vol.**

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[13] *"For greater certainty, uploading documents to Case Center does not amount to the filing or service of those documents under these rules."*

[14] *"In the event of an inconsistency between information provided in a document in the court file and information provided in a document uploaded to Case Center, the information in the document in the court file prevails."*

III, Tab 13), the BCCA created a secret docket that frustrated the Legislature's 2021 expansion of *COAA* s. 20 and *Rule 60(1)(a)*.

Part III(B): Branch B (Question 2) — Statutory Appellate Courts and Registries Lack Jurisdiction to Impose Extra-Statutory Filing Embargoes, Violating the Separation of Powers and the *Constitution Act, 1867* (Which Contains No Saving Provision)

17. The second question of national importance addresses a systemic crisis across Canadian appellate registries: can a statutory court of appeal or its registrar bypass enacted enactment procedures, usurp the role of the Legislature, and impose an informal, *sua sponte*, absolute filing embargo—ordering clerks to reject or "discard" a Prescribed Party's compliant documents absent procedural fairness
18. **The Mandatory Duty to Accept Compliant Filings (*Rule 79(5)* & *R. v. Verma*):** Under *COAA* s. 38(2) and *Rule 79(5)*, the Registrar's authority to refuse a document is strictly confined to formal non-compliance with the *Rules* or a practice direction. In *R. v. Verma*, 2016 BCCA 307 at para. 20 (discussed in *McLean v. British Columbia (Attorney General)*, 2019 BCCA 133 at paras. 11–13, **Vol. III, Tab 28, Form 8 BOA Tab 42**), a three-judge division of the BCCA held unequivocally that the Registrar has zero adjudicative authority to determine jurisdiction or merit: *"if the notice that person seeks to file... complies with this Court's rules and that person insists on filing that notice, then the notice must be accepted for filing."* Under the principle in *Julius v. Oxford (Lord Bishop)* (1880), 5 App. Cas. 214 (H.L.) and *Drysdale v. Dominion Coal Co.* (1904), 34 S.C.R. 328, once a litigant tenders a compliant form and statutory fee, the ministerial power is coupled with a mandatory duty to docket it (**Vol. III, Tab 1, Sub-Tab 3J; Tab 6**).
19. **Comparative Statutory Preconditions Across Canada:** Even where a legislature or Parliament has enacted specific rules governing restrictions on filings in a proceeding (such as *Rules 66–67* of the *Rules of the Supreme Court of Canada*), **prior formal notice (Form 67) and a mandatory 10-day window to serve and file a written response (*Rule 67(2)*)** are non-dispensable statutory conditions precedent before a judge can act—and *SCC Rule 81(1)(c)* preserves the right to move to amend a judgment for overlooked matters. By contrast, a provincial appellate registrar lacks s. 18 *Supreme Court Act* chambers-judge status

(*Sydel v. Canada (Attorney General)*, 2013 FC 1116), and neither the BCCA Registrar nor the Division Panel possessed any statutory authority to dispense with an application, prior notice, and a hearing (*Homex Realty & Development Co. v. Wyoming (Village)*, [1980] 2 S.C.R. 1011, **Vol. III, Tab 28, Form 8 BOA Tab 27**), or to retroactively "un-file" already-docketed arguments (Package #4374906) and command staff to "discard" future filings outright.

20. **Nullity *Ab Initio* (*McLean v. Bradley* & *Pong v. Quong*):** Under this Court's foundational jurisprudence in *McLean v. Bradley*, [1878] 2 S.C.R. 535 at p. 547 (**Vol. III, Tab 28, Form 8 BOA Tab 37**) and *Pong v. Quong*, [1927] S.C.R. 271 at pp. 274–276 (**Vol. III, Tab 28, Form 8 BOA Tab 51**), where a judge or panel steps outside the statutory conditions precedent of their office (*COAA* ss. 28, 38(2)), the resulting direction is ***coram non judice*** or *factum a judice, quod ad officium jure non pertinet, ratum non est*) and an absolute nullity *ab initio*. Moreover, under *McLean v. Bradley*, a ministerial officer or registrar cannot plead an *ultra vires* judicial direction as a defence for refusing to perform a mandatory statutory duty.

21. **Breach of the *Constitution Act, 1867* Without Any Saving Provision and Unlawful Judicial Rewriting of Enactments:** Under the *Constitution Act, 1867*—which vests legislative authority in Parliament (ss. 16–57 and 91) and the Provincial Legislatures (s. 92) and establishes the Judicature guarantees (ss. 96–101)—there is **no saving provision** (unlike s. 1 or s. 33 of the *Charter*) for measures that usurp the legislative function, rewrite enacted statutes, strip courts of their core adjudicative function, or block citizens from pursuing a legal remedy.[15] Even where a court formally finds on a proper constitutional record that a statute violates the *Constitution Act, 1867* or the *Charter* (and cannot be saved under s. 1), the remedy of reading in or rewriting legislation is used **very sparingly** (*Schachter v. Canada*, [1992] 2 S.C.R. 679). Here, four justices of the Court below (Horsman, Groberman, Fenlon, and Riley JJ.A.) literally conducted themselves as

[15](TLA 2014 at paras. 32, 39–41; MacMillan Bloedel Ltd. v. Simpson, [1995] 4 S.C.R. 725; Trisura Guarantee Insurance v. Duchnij, 2021 ABCA 78 at paras. 56–65; Uhrik v. Terrigno, 2024 ABCA 383 at para. 10; Timm v. Canada, 2019 FC 238; Ontario (AG) v. $25,610 in Canadian Currency, 2017 ONCA 251 at para. 1; Yatar v. TD Insurance Meloche Monnex, 2024 SCC 8; Vol. III, Tab 1, Sub-Tab 5; Tab 24).

if the 2021 *COAA* and the 2022 *Rules*—which were recommended and approved by the Court of Appeal Rules Committee including the then Chief Justice under s. 1(2) of the *Court Rules Act*—did not exist. Nor can a judge or registrar unilaterally close the registry doors to a litigant, certainly not a paying one with compliant filings (*Reference re Remuneration of Judges of the Provincial Court of P.E.I.*, [1997] 3 S.C.R. 3 at para. 275 ["*Filmon Fridays*"]).

Part III(C): Branch C (Question 3) — Summary Extinguishment of Statutory Reopening Rights Under *COAA* s. 43(1) and Order-Settlement Rights Under *Rules 66 & 68* Prior to Formal Order Entry Violates Legislative Will, the Separation of Powers, *CBC v. Manitoba*, *Chandler*, and the Duty to Decide[16]

22. The third question of national importance concerns the interplay between common-law *functus officio*, formal order perfection and settlement (*Rules 66* and *68*), explicit statutory reopening enactments (*COAA* s. 43(1); *SCC Rule* 81(1)(c)), and the separation of powers.

23. **First (The Court Below Was Not *Functus Officio* Prior to Formal Order Entry, and the Embargo Tramples *Rule 68* Order-Settlement and Federal *Supreme Court Act* Rights):** In *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 at para. 33 (**Vol. III, Tab 28, Form 8 BOA Tab 12**), this Court settled the national rule: *"A court loses jurisdiction once the formal judgment has been entered."* On October 14, 2026, no Form 12 order had been drafted, approved, or entered (**Vol. I, Tab 7**). Furthermore, by ordering at para. 12 of *2026 BCCA 406* that the Applicant is prohibited from filing any further materials and directing the Registry to "discard them," the Division Panel created an unconstitutional *Catch-22*: if the Applicant disagrees with the form or content of a proposed Form 12 order, he is physically barred from filing an appointment or written objections to settle the order before the Registrar under **Rule 68** (*Settlement of orders*) or applying to review the settlement—thereby obstructing the perfection of the record and trampling his federal statutory right to seek leave to appeal to this Court under s. 40(1) of the *Supreme Court Act* and *SCC Rule 25(1)(c)*. Moreover, as the Canadian Judicial Council Review Panel recently held in *Re Justice Andrew J. Goodman* (June 23,

[16] (***Drysdale, Julius v. Oxford***)

2025, Files 24-0799 / 24-0818), a judge's mistaken belief that they are *functus officio* and unable to address grave errors is a serious error in judgment—the court is duty-bound to address the matter immediately.

24. **Second (*COAA* s. 43(1) Explicitly Overrides *Functus Officio* for Unadjudicated Matters):** Even where an order is entered, **Section 43(1) of the *COAA*** codifies a substantive reopening right : **43 (1)** *"A division of the court may, on application or on the division's own initiative, amend an order made by the division to provide for any matter that should have been but was not adjudicated by the division."* In *2026 BCCA 406*, the Division Panel explicitly declined to engage with the Applicant's submissions (para. 8: *"We do not intend to engage with those submissions"*) and left completely unadjudicated when they should have been:

    a. The pure statutory interpretation errors in *2026 BCCA 372*, where Horsman J.A. relied on the Repealed Enactments (*COAA* 1996 "respondent-only" standing) and ignored the 2021 enactment of *COAA* ss. 20, 21, 24(3)(b) and *Rule 64(1)(a)* ("Prescribed Party" standing), contrary to *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27 and Attorney General David Eby's March 15–17, 2021 Hansard statements (**Vol. III, Tab 1, Sub-Tab 4**);
    b. The objective reasonable apprehension of bias arising from Horsman J.A.'s prior Supreme Court of Canada co-counsel relationship with Crown counsel Sarah Bevan (whom the Applicant had reported for misleading the court in *2019 BCCA 133*) and the contemporaneous appearance of LSBC counsel Laura Bevan (**Vol. III, Tab 1, Sub-Tab 4; Vol. III, Tab 28, Form 8 BOA Tab 35 (*Marchand*)**);
    c. The absolute nullity of the opposing parties' un-rules-sanctioned *"Joint Response Book [Sic]"* and their breach of mandatory service on all Prescribed Parties under *Rules 62(4)* and *64(1)(b)* (**Vol. III, Tab 5; *König v. Hobza*, 2015 ONCA 885**);
    d. The October 4, 2026 transmittal incorporating the Appellants' hidden Case Center Factums and proving the extinction of justiciability via the LSBC's pleaded November 2022 admissions (**Vol. III, Tab 14; Vol. III, Tab 28, Form 8 BOA Tab 11 (*Canada Permanent*); Tab 14 (*Champoux*)**); and
    e. The timely October 13, 2026 *Rule 63* application challenging the 33-minute metadata impossibility of the October 6 memorandum (**Vol. III, Tab 24**).

25. By summarily rejecting Package #4414413 on the ground that *"Reasons were released this morning on 14OCT2026"* (**Vol. III, Tab 27**), the Registry used a *sua*

sponte, *void ab initio*, and unauthorized judicial gag order to nullify express Legislative will and thereby also violating our separation of powers. [17]

Part III(D): Branch D (Question 4) — *Sua Sponte* Judicial Embargoes Engage Direct *Charter* Scrutiny (*BCGEU*, *Jensen v. Ross*), Public-Law State Liability (*Germain*, *Power*), and Personal Liability Outside the Immunity Shield Where Jurisdiction Was Not Believed to Exist (*Feeney v. Canada*, 2022 FCA 190; *Prefontaine v. Gosman*)

26. The fourth question of national importance addresses the intersection of *sua sponte* judicial action, ss. 1 and 32(1) of the *Charter*, and the tripartite matrix of state and personal liability when judicial or ministerial officers act *coram non judice*.
27. **Direct *Charter* Application to *Sua Sponte* Administrative Blockades (*BCGEU* & *Jensen v. Ross*):** Neither the LSBC, the TLABC, nor the AGBC ever brought an application for a filing embargo against the Applicant. Both Direction 3(b) (October 6, 2026) and para. 12 of *2026 BCCA 406* (October 14, 2026) were issued *sua sponte* (*ultra petita*). In *Jensen v. Ross*, 2014 BCCA 173 at para. 24 (**Vol. III, Tab 28, Form 8 BOA Tab 29**), the BCCA held that *"judges should not act on their own motion. To do so compromises their role of impartial arbitrator."* Furthermore, under *B.C.G.E.U. v. British Columbia (Attorney General)*, [1988] 2 S.C.R. 214 at paras. 25–26, when a court steps out of its role as passive referee in a private dispute and acts *sua sponte* to issue an order regulating access to the courts—particularly in public-law constitutional litigation where the Attorney General and Lieutenant Governor in Council are parties—the court acts as a **state actor** under s. 32(1) of the *Charter*, and its order is directly subject to scrutiny under ss. 2(b), 7, 15, and 24(1) of the *Charter* and cannot be saved under s. 1 (*Oakes*).
28. **The Tripartite State and Personal Liability Matrix (*Feeney v. Canada*, *Germain*, & *Prefontaine*):** The Applicant's October 13, 2026 Written Argument (**Vol. III, Tab 24**) squarely raised the legal consequences of a *coram non judice* filing embargo under three converging lines of authority:

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[17] *Champoux v. Jefremova*, 2021 ONCA 92 at paras. 18–24 (**Vol. III, Tab 28, Form 8 BOA Tab 14**), *Hawkeye Power Corp. v. Sigma Engineering Ltd.*, 2012 BCCA 414 at paras. 57–66 (**Vol. III, Tab 28, Form 8 BOA Tab 25**), and *Drysdale v. Dominion Coal Co.* (1904), 34 S.C.R. 328 (*"until there is a decision there can be no appeal"*).

a. **Pillar 1 — Federal Crown Immunity (*Feeney v. Canada*, 2022 FCA 190 at paras. 10, 14–18; *Crowe v. Canada (AG)*, 2008 FCA 298 at para. 24):** Although provincial appellate justices are appointed federally under s. 96 of the *Constitution Act, 1867*, the Federal Court of Appeal held in *Feeney v. Canada*, 2022 FCA 190, that they are not "employees," "servants," or "agents" of the Federal Crown under the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, because employee status is incompatible with judicial independence (para. 15). Crucially, at para. 17, the Federal Courts Act noted that other legal avenues exist outside a Federal Court tort claim;
b. **Pillar 2 — Direct Public-Law Liability of the Provincial State Under *Charter* s. 24(1) (*R. v. Germain*, 1984 CanLII 1307 (AB KB) at paras. 5–9, 25–29; *Maharaj v. AG for Trinidad and Tobago (No. 2)*, [1978] 2 All E.R. 670 (P.C.); *Canada (AG) v. Power*, 2024 SCC 26):** In *Germain*, after Crown and duty counsel explicitly informed a judge in chambers during a recess that he lacked jurisdiction to remand an unrepresented accused into custody, the judge resumed court and summarily jailed him for contempt without notice (paras. 6–9). Adopting Lord Diplock's speech in *Maharaj (No. 2)*, McDonald J. held at paras. 25–29 that where an unconstitutional judicial act infringes *Charter* rights, a claim for public-law redress under s. 24(1) lies directly against **the State (the Province)**: *"This is not vicarious liability: it is a liability of the state itself. It is not a liability in tort at all: it is a liability in the public law of the state"* (para. 29); and
c. **Pillar 3 — The Threshold of Jurisdictional Belief (*Prefontaine v. Gosman*, 2000 ABQB 530 at para. 39; *McLean v. Bradley*, [1878] 2 S.C.R. 535) & Unlawful Means Conspiracy (*Reach M.D.*):** In *Prefontaine v. Gosman* at para. 39 (citing *Germain*), the court articulated the boundary of personal judicial immunity for extra-jurisdictional acts: a judge acting outside their jurisdiction is protected ***"if the judge believed that he or she was acting with jurisdiction and in the course of his or her judicial duties"*** (**Vol. III, Tab 24**). Unlike malice within jurisdiction, acting *coram non judice* (*Factum a judice, quod ad officium jure non pertinet, ratum non est*) while knowing one lacks statutory jurisdiction—especially after being placed on formal written notice of the exact statutory limits (*COAA* ss. 28, 38(2), 43(1); *Rule 79(5)*; *R. v. Verma*), just as the judge in *Germain* was placed on notice in chambers—strips away the foundation of jurisdictional belief and exposes the decision-maker to personal liability in the rarest of circumstances such as those particularized here. Furthermore, court registrars and clerks are statutory officers who possess zero judicial immunity when executing embargoes they are *"not at liberty to commit"*.[18]

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[18](*Reach M.D. Inc. v. Pharmaceutical Manufacturers Assn. of Canada*, 2003 CanLII 27828 (ON CA), quoting Lord Denning in *Torquay Hotel Co. Ltd. v. Cousins*, [1969] 2 Ch. 106 at 530; *McLean v. Bradley*, [1878] 2 S.C.R. 535 at 547; **Vol. III, Tab 24**), and qualified administrative privilege must yield *a fortiori* where digital metadata (the 33-minute interval between the 9:38 a.m. *mandamus* argument and the 10:11 a.m. Servis PDF) provides convincing evidence of an abuse of process (*MacKeigan v. Hickman*,

29. Finally, it was rather audacious—leaving aside unnecessary and legally incorrect—for the Honourable Division Panel in *2026 BCCA 406* (at para. 8) to characterize the Applicant's submissions, absent any particulars, as "incoherent," when the Honourable Division Panel itself purportedly issued Direction 3(b) in syntax that could not even distinguish, despite a formal written invitation to do so (**Vol. III, Tab 18; Tab 24**), between a procedural obligation or restriction upon a Prescribed Party versus an internal ministerial prohibition directed exclusively at the Registrar (*"the registry is not to file any further material on these applications"*).

PART IV: SUBMISSIONS IN SUPPORT OF COSTS

30. The Applicant has prosecuted these proceedings in the public interest to uphold the *Constitution Act, 1867*, the *Charter*, and the integrity of the democratic legislative reforms enacted in the *Legal Professions Act*, S.B.C. 2024, c. 26[19]. In light of the coordinated procedural defaults of the institutional Respondents (including the unserved *"Joint Response Book [Sic]"* and secret Case Center uploads) and the unconstitutional administrative embargo below, the Applicant seeks his costs of this application and of the proceedings below.

PART V: ORDER(S) SOUGHT

31. The Applicant respectfully requests an Order: **GRANTING** leave to appeal to this Honourable Court from the judgment of the Court of Appeal for British Columbia in *2026 BCCA 406* (pronounced October 14, 2026) and the underlying orders, directions, and registry rejections dated August 31, September 8 (*2026 BCCA 372*), September 28, October 6, October 13, and October 14, 2026 (**Vol. I, Tabs 1–7; Vol. III, Tabs 25 & 27**); and other relief as this Honourable Court deems just.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 16th day of October, 2026.

Mr. Kevin A. McLean (BA, JD, CIM) (Applicant)

[1989] 2 S.C.R. 796; *Smith v. Jones*, [1999] 1 S.C.R. 455; *Goldman Sachs & Co. v. Sessions*, 1999 CanLII 5317 (BC SC); *Blank v. Canada (Justice)*, 2015 FC 956; **Vol. III, Tab 24**).

[19](*British Columbia (Minister of Forests) v. Okanagan Indian Band*, 2003 SCC 71 at paras. 27–41; *Carter v. Canada (Attorney General)*, 2015 SCC 5 at paras. 137–140)

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PART VII: RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. *Rules of the Supreme Court of Canada*, SOR/2002-156, Rules 66, 67, 81(1)(c)
Amending Judgment 81 (1) A party may, on motion to a judge or the Court, request an amendment to the judgment if the judgment ... (c) overlooked or accidentally omitted a matter that should have been dealt with.

2. *Court of Appeal Act*, S.B.C. 2021, c. 6, ss. 1, 2, 10, 18, 20, 21, 24, 26, 28, 29, 32, 35, 36, 37, 38, 39, 43, 49 & *Court Rules Act*, R.S.B.C. 1996, c. 80, s. 1(2)
Preliminary objections 20 (1) The court may, on application, make any order the court considers appropriate to give effect to a preliminary objection in relation to an appeal. **(2)** A justice may, on application, (a) quash an appeal on the basis that the court lacks jurisdiction, or (b) make any order the justice considers appropriate to give effect to a preliminary objection in relation to an appeal, other than an order dismissing the appeal. **Amendments to orders 43 (1)** A division of the court may, on application or on the division's own initiative, amend an order made by the division to provide for any matter that should have been but was not adjudicated by the division.

3. *Court of Appeal Rules*, B.C. Reg. 120/2022, Rules 1, 3, 4, 25, 41, 48, 52–55, 60, 61, 62, 63, 64, 66, 68, 79, 82
Party to application hearing 64 (1) In this Division, “party”, in relation to an application, means (a) the person who brings the application in accordance with these rules, and (b) a person who is served the notice of application in accordance with these rules. **Entry of orders 66 (5)** An order of the court is entered by the registrar dating, signing and sealing the order. **Settlement of orders 68 (1)** If the parties are unable to agree on the form of an order, any party may take out an appointment before the registrar to settle the order. **Court forms and other documents 79 (5)** The registrar may refuse to accept a document for filing if the document does not comply with these rules.

ROMAN NUMERAL III
(DOCS IN SUPPORT (TABS 1 TO 28)

Tab 1

VANCOUVER
15-Sep-26
COURT OF APPEAL
REGISTRY

IE COURT OF APPEAL FOR BRITISH COLUMBIA

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

(Appellants / Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

(Respondents / Defendants)

APPLICATION BOOK OF THE APPLICANT PARTY (MR. KEVIN A. MCLEAN (BA, JD, CIM) FOR HIS FORM 8 NOTICE OF APPLICATION TO CANCEL OR VARY ORDERS OF THE HONOURABLE MADAM JUSTICE HORSMAN

Filed and served by Mr. Kevin A. McLean (BA, JD, CIM) ("**Applicant Party**") on: September 11, 2026
Date of hearing of the Applicant's Form 8 NOA to be determined by the Registrar pursuant to Rule 62

Appellants (LSBC & TLABC)	**Respondents (AGBC & LGIC)**
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Party pursuant to Rule 64 of the *Court of Appeal Rules* (defined herein as "Applicant Party")

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3	T	LSBC URL apparently dedicated to the "single legal regulator legislation" which is missing the decision of Madam Justice Gropper and the decisions of Chief Justice Mr. Skolrood	As of August 24, 2026	419-425
		AFFIDAVITS, SPECIFICALLY BUT NOT LIMITED TO "SUPPORTING AFFIDAVITS" OF THE APPLICANT SERVED ON THE LSBC IN 2021 (*NOTA BENE*: AGBC DID NOT RECEIVE COPIES OF THE SAME) [xii]		
3	U	Affidavit #4 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021	October 9, 2021	426-452
3	V	Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM sworn on October 9, 2021[xiii]:	October 24, 2021	453-463
		Applicant Party received the purported Concealed RAM Dump on October 25, 2021, from NST LLP, letter authored and signed by Ms. Julia Lockhart with Kimm Otto being the "last creator" of the "Record" (see: *FIPPA*, definitions) which has been defined as the ""Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record"[xiv]		
3	W	Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;	October 24, 2021	464-484
3	X	Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;	November 7, 2021	485-491
3	Y	Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;	November 7, 2021	492-496

3	Z	Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;	November 7, 2021	497-502
3	AA	Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;	December 8, 2021	503-517
3	BB	Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;	December 8, 2021	518-523
		Further documents involving LSBC, AGBC and **Applicant Party**		
3	CC	Document published by a notary regarding the LSBC and SNPBC entering into an memorandum of understanding ("MOU") regarding amalgamating together based upon reports from task forces et al	2015	524-526
3	DD	Document wherein LSBC requested that the BC government that the amendments to the LPA 1998 in 2018 pursuant to the amending statute be brought into force regarding the LSBC being permitted to license and regulate paralegals	March 2023	527-529
3	EE	Documents confirming that the BC government had declined to bring those amendments into force in light of, inter alia, that substantial work had been done, along with the AGBC Intentions Paper (see: *supra*), regarding the single legal regulation legislation	May 2023	530-534
3	FF	Mr. Kevin A. McLean (BA, JD, CIM) PII Access Request pursuant to *FIPPA* in June 2026 of the LSBC for various records, Personal Information of himself, involving the "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record" et al [xv]	June 2026	535-652
3	GG	Emails from the **Applicant Party** to the LSBC, TLABC and AGBC regarding his intention to apply to intervene in the Appeals and seek various orders of quashing, dismissal and revocation of standing of the Appellants	July/August 2026	653-665
		Requirements under Rule 62(2)(b) (*nota bene*: Form 8 was filed and served on September 9, 2026) (Tabs 4 and 5)		
4		Written Argument of the Applicant pursuant to Rule 62 and completion instructions	September 14, 2026	666 to 696
5		Table of Authorities pursuant to completion instructions for Application Book	September 14, 2026	697-702

- **Nothing past this line but endnotes -**

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[i] (nota bene: Registrar accepted the filing of the same on August 12, 2026, and LSBC, AGBC and TLABC were served with the same on August 13, 2026. They had seven days to file a review of a Registrar's Order or direction and did not do so)
[ii] Legal Bases: pursuant to, inter alia, Rule 61, "Intervener Status" and "Order" of the case management judge in late June 2026 that all NOA's must be filed and served by August 14, 2026, with responsive written arguments and affidavits by August 21, 2026, and to be heard before September 10, 2026 (the "CM Judge Intervention Relief Order") (nota bene: said Order was unreviewable pursuant to Rule 48 of the Court of Appeal Rules)
[iii] (nota bene: please see the case of R. v. Verma, 2016 BCCA 307 at paragraph 20 wherein the Registrar under the repealed COA and repealed Court of Appeal Rules (collectively, the "Repealed Enactments") was prohibited from not accepting filings that complied with the requirements (see: "if the notice that person seeks to file... complies with this Court's rules and that person insists on filing that notice, then the notice must be accepted for filing. Once the notice is filed, it is open to the respondent to apply to quash..."
[iv] Pursuant to the COA sections referenced and Court of Appeal Rules including but not limited to "Part 9 – Applications" (see: for example, rule 64, for "party", and time limit for the "filing" and "serving" of: (i) written argument (if any); and (ii) affidavits (nota bene: either 7 days prior to "Hearing Date" (see: Rule 60) or five business days prior "Hearing Date" (see: Rule 54 and 55)
[v] Package Number: 4374906
Submitted by: KEVIN MCLEAN
Your file number:
Court File Number: CA51535
Submitted To: BC Court of Appeal
Submitted Date:28-Aug-2026 02:53
Submitted Through: Court Services Online
Filing Comments: Dear BCCA Registry: Thank you for your previous note regarding the earlier attempted filings albeit error on my part. I was in error in selecting "Argument – Intervener" (now included as "Argument – Other" to properly denote the relevance of the written argument to relief OUTSIDE of or INDEPENDENT of seeking intervention status) for my written argument, which is NOT a "memorandum of argument prepared in accordance with the completion instructions" (see: Court of Appeal Rules, Rule 61(2)(b)(ii)). Rather, this document is my WRITTEN ARGUMENT pursuant to all other provisions of the Court of Appeal Act and the Court of Appeal Rules, and relates to the substantive relief enumerated as Orders #1–2 and #4–10 in my Form 4 Notice of Application stamped as filed on August 12, 2026. I apologize for the oversight. There were also minor errors in the earlier version (including misciting section 9 of the repealed Court of Appeal Act and replacing it with the current sections 24 and 25), and I have now corrected those issues and included the relevant enactment sections Out of an abundance of caution, I have added Schedule "H" demonstrating when I satisfied the requirement that all applications to intervene were due. This filing is the required WRITTEN ARGUMENT in relation to relief OUTSIDE the scope of seeking intervention. It is therefore not the same document as the previously submitted version and is filed anew. I shall provide a courtesy copy to the Appellants. Respondents et al. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)
[vi] Filed CA51535
CSO.Enotifications@gov.bc.ca
Fri, Aug 28, 6:55 PM
to me, mclean

Your electronic filing has been processed and the results are shown below

Court File Number: CA51535
Style of Cause:
Document Type: Memorandum of Other
Status: Filed
Package Id: 4374906
Link: https://justice.gov.bc.ca/cso/accounts/bceidNotification.do?packageNo=4374906

You can view the record and the document by clicking on the link above. If there are any problems with your filing, please do not hesitate to contact the support team via email at Courts.CSO@gov.bc.ca. (nota bene: the 6:55 p.m. was Eastern Standard Time).
[vii]
(nota bene: MOA is [sic] because it is a written argument that was required and not an MOA per se)
[viii] (nota bene: Applicant provided an unfiled copy of the same to Appellants, Respondents and other Applicant Parties on Saturday, August 29, 2026)

(nota bene number two: The Honourable Madam Justice Horsman memorandum, infra, appears to be somewhat reflexive to the same wherein she claims that she read the 55 page [sic] written argument but the argument was 30 pages with 27 pages of appendices for 57 pages. It raises questions as to whether she read the same or not and/or and whether she had pre-judged the Applicant's NOA of August 12, 2026 (see: Marchand (Litigation Guardian of) v. Public General Hospital Society of Chatham, 2000

CanLII 16946 (ONCA: Prejudgment of the merits, creditability, or excessive one-sided interventions give rise to a reasonable apprehension of bias.)

[ix] (nota bene: The Honourable Madam Justice Horsman's only discretion to exercise was whether she would refer, pursuant to section 21 of the COAA, the Appeals for summary determination. Taken at her lowest, she did so by exercising the discretion to hear the entirety of the relief in the NOA (i.e. where there were references to section 21 of the COAA).

[x]Nota bene: 11:05 a.m. PST on August 31, 2026

[xi] (nota bene: Bill 21 was passed in mid May 2024, by a majority of the Legislature. At the time Mr. Avison, KC, was the CEO and he attended on the day Bill 21 received Royal Assent)

(nota bene: LSBC pleaded its responsive public document to the AGBC Intentions Paper to modernize legal professions regulation (see: Tab 3R) denoted infra as the LSBC's Response to the Intentions Paper (see: Tab 3S)

[xii] (bodies of affidavits only included and affidavits were internally numbered from the time of making the FIPPA request for the Concealed RAM Dump Record and the Applicant received the "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record" on October 25, 2021) (Applicant precluded from filing the same as a result of The Honourable Madam Justice Horsman August 31 2026 (11:05 a.m.) memorandum or being held in potential contempt (see: Order valid from time it was made (orally or in writing) (see: definition of "Order")

[xiii] Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

[xiv] (nota bene: the "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record" was not merely data, information and intelligence from the Applicant's CPU but contained an evidentiary trial of activities of the LSBC, LIF, law firms, organizations, individuals et al from June 4, 2014, to October 25, 2021)

[xv] (nota bene: LSBC failed to respond within 30 business days to the access request)

Tab 1

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General),* 2026 BCCA 372

Date: 20260908
Dockets: CA51535; CA51536

Docket: CA51535

Between:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

And

The Attorney General of British Columbia and The Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- and -

Docket: CA51536

Between:

The Law Society of British Columbia

Appellant
(Plaintiff)

And

The Attorney General of British Columbia and The Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

Before: The Honourable Madam Justice Horsman
(In Chambers)

(Ruling on application to intervene by Kevin A. McLean)

On appeal from: An order of the Supreme Court of British Columbia, dated April 29, 2026 (*Law Society of British Columbia v. British Columbia (Attorney General)*, 2026 BCSC 779, Vancouver Dockets S243258 and S243325).

The Applicant/Proposed Intervener, on his own behalf:	K.A. McLean
Counsel for the Appellants, Trial Lawyers Association of British Columbia and Kevin Westell (CA51535):	G. Cameron T.A. Posyniak L. Abrioux W.S. Andrews
Counsel for the Appellant, The Law Society of British Columbia (CA51536):	L. Bevan
Counsel for the Respondents, The Attorney General of British Columbia and The Lieutenant Governor in Council of British Columbia:	E.C. Lapper, K.C. T. Bant S. Ortega K. Kotliarsky
Written Submissions Filed by the Applicant/Proposed Intervener, Kevin A. McLean:	August 14, 2026
Written Submissions Filed by the Appellants, Trial Lawyers Association of British Columbia and Kevin Westell (CA51535):	August 21, 2026
Written Submissions Filed by the Appellant, The Law Society of British Columbia (CA51536):	August 21, 2026
Written Submissions Filed by the Respondents:	August 19, 2026
Place and Date of Judgment:	Vancouver, British Columbia September 8, 2026

Summary:

The applicant, Kevin McLean, applies for leave to intervene on these appeals, which challenge the dismissal of a constitutional challenge to the Legal Professions Act, S.B.C. 2024, c. 26. Held: Application dismissed. Mr. McLean seeks to use these appeals as a platform to air historical grievances about regulatory actions by the Law Society of British Columbia. He has identified no legitimate basis for intervention.

HORSMAN J.A.:

[1] Kevin McLean applies to intervene on two appeals from the judgment of Chief Justice Skolrood dismissing a constitutional challenge to Bill 21, *Legal Professions Act*, 42nd Parl, 5th Sess, British Columbia, 2024 (transition provisions assented to 16 May 2024), S.B.C. 2024, c. 26 ("Bill 21").

Background

[2] Bill 21 provides for the elimination of the self-governance and self-regulation of lawyers and instead establishes a single regulator having jurisdiction over lawyers, notaries public, and paralegals. The constitutionality of Bill 21 was challenged in two actions: one brought by the Law Society of British Columbia (the "Law Society") and one by the Trial Lawyers Association of British Columbia and one of its members, Kevin Westell (collectively, the "TLABC"). The plaintiffs alleged that Bill 21 undermined the independence of the Bar, which was said to be a constitutional principle.

[3] The two actions were heard together. In reasons for judgment issued on April 29, 2026, Chief Justice Skolrood dismissed the plaintiffs' constitutional claims: *Law Society of British Columbia v. British Columbia (Attorney General)*, 2026 BCSC 779.

[4] The Law Society and the TLABC have both appealed Chief Justice Skolrood's decision. The appeals are presently set to be heard over two days on November 16–17, 2026.

[5] At a case management conference on June 29, 2026, the Registrar of the Court of Appeal ordered that intervener applications on these appeals must be filed and served by August 14, 2026. A total of 13 intervener applications were filed. Twelve of these applications will be heard in chambers on September 9–10, 2026. The Law Society requested that Mr. McLean's application be heard in writing. All parties consented to this request. After reviewing the material and providing Mr. McLean with an opportunity to respond to the request, I directed a written hearing of his application.

[6] Mr. McLean is a twice-disbarred lawyer. After his disbarment, Mr. McLean persisted in engaging in activity that constituted the practice of law. He also commenced multiple proceedings, that were duplicative in nature, challenging regulatory actions taken by the Law Society against him. In a judgment issued on

February 23, 2018, Justice Branch held that Mr. McLean was a vexatious litigant: *McLean v. Law Society of British Columbia*, 2018 BCSC 264. Justice Branch found, among other things, that Mr. McLean had acted for an improper purpose, including the "harassment and oppression of other parties by multifarious proceedings", rather than for the purpose of asserting legitimate rights: at para. 119.

Mr. McLean's Application

[7] On August 12, 2026, Mr. McLean filed a notice of application in this Court seeking an order granting him leave to intervene on these appeals. His notice of application also seeks other orders that purportedly relate to his request to intervene. These include, for example, orders referring the appeals for summary determination pursuant to s. 21 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, and denying the Law Society standing based on its alleged bad faith in prior proceedings. Suffice to say that none of the other relief sought by Mr. McLean is grounded in the issues raised on the appeals or the rules of procedure that govern them.

[8] On August 14, 2026, Mr. McLean filed a 46-page "Memorandum of Argument for Leave to Intervene". This argument is prolix and largely incomprehensible. Mr. McLean appears to view these appeals as a platform to revisit his historical grievances about the Law Society's regulatory actions against him. It does not set out any basis to conclude that Mr. McLean meets the criteria for intervener status. He has no direct interest in the appeal in the sense that his own legal rights or obligations may be affected by the proceedings: *Halalt First Nation v. British Columbia (Environment)*, 2012 BCCA 191 at para 6 (in Chambers). He does not purport to have a broad representative base and offers no unique and different perspective on the constitutional issues, so there is no basis for public interest intervener status: *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCCA 282 at para 14 (in Chambers).

[9] On August 28, 2026, Mr. McLean submitted a further 55-page argument relating to the various other orders he seeks on his application. This document is similarly prolix and incoherent. In any event, there is no provision in Rule 61 of the *Court of Appeal Rules*, B.C. Reg. 120/2022 ("Intervener Status") authorizing the filing of a second argument on the same intervener application. The Court of

Appeal Registry marked the document as received but not filed. I direct the Registry not to accept the document for filing.

[10] In brief, Mr. McLean's application for leave to intervene demonstrates that he has no genuine or serious interest in the important constitutional issues arising on these appeals and can provide no assistance to the Court in resolving them.

Disposition

[11] Mr. McLean's August 12, 2026 notice of application is dismissed. As none of the responding parties sought their costs of this application, I make no order as to costs.

"The Honourable Madam Justice Horsman"

Tab 2

FORM 10 (RULE 66(3)(a))

COURT OF APPEAL FOR BRITISH COLUMBIA

Court of Appeal File Nos. CA51536 / CA51535

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Appellants

(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

Respondents

(Defendants)

ORDER OF A SINGLE JUSTICE

BEFORE THE HONOURABLE MADAM JUSTICE HORSMAN [IN CHAMBERS] at 800 Smithe Street, Vancouver, British Columbia, V6Z 1A8, on September 8, 2026

THE **APPLICATION** OF Mr. Kevin A. McLean, a "**Party**", pursuant to *Court of Appeal Rules,* BC Reg 120/2022, Part 9 – Applications, Division 3 – Application Hearings, rule 64(1)(a), (the "**Applicant Party**") in relation to his rule 79 "**Court Form**", particularized as the August 12, 2026, Form 4, notice of application, for leave to intervene (order number three therein) and other relief denoted at orders number 1-2, and 4-10 therein (the "**August 12 2026 Form 4 NOA**"), coming on for a hearing by way of written documents in the "existing written record" as of Monday, August 31, 2026, as per the memorandum of The Honourable Madam Justice Horsman to Ms. Torri Enderton, Deputy Registrar of the BC Court of Appeal (the "**Written Hearing**") so forwarded to the **Applicant Party** and each **Responding Party** (defined *infra*), on the date of **Tuesday, September 8, 2026**, at the Vancouver Law Courts (BC Court of Appeal) located at 800 Smithe Street, Vancouver, British Columbia, V6Z 1A8;

AND ON HEARING the **Applicant Party** via written documents; Mr. Craig A.B. Ferris, K.C., and Ms. Laura Bevan via written documents for the Appellant, Law Society of British Columbia ("LSBC"), in its capacity as a

Court of Appeal Rules, rule 64(1)(b) "**party**" (defined herein as a "**Responding Party**" or "Responding Parties" if plural); Mr. Gavin Cameron, Mr. T.A. Posyniak, Ms. L. Abrioux, Mr. W.S. Andrews for the Appellants, Trial Lawyers Association of BC ("**TLABC**") and Mr. Kevin Westell, via written documents in their capacities as a **Responding Parties**; and Ms. Emily C. Lapper, K.C., Mr. T. Bant, Mr. S. Ortega, and Ms. K. Kotliarsky via written documents for the Respondents in their capacities as **Responding Parties;**

AND ON READING the materials filed herein;

AND ON JUDGMENT BEING PRONOUNCED ON THIS DATE

1. IT IS ORDERED that the **Applicant Party's August 12 2026 Form 4 NOA** is dismissed.

2. IT IS FURTHER ORDERED that the Registry is directed not to accept the Applicant's 55 page written argument of August 28, 2026, for relief in his August 12, 2026, NOA (see: orders one to two, and four to ten) which was confirmed as "filed" in the CSO portal on August 28, 2026, but "marked" in the upper left hand corner of page one of 57 of said document as "Received not Filed".

3. IT IS FURTHER ORDERED that there is no order as to costs.

APPROVED AS TO FORM:

……..……

A Justice of the Court of Appeal

……..……..……

Signature of the Applicant Party

Mr. Kevin A. McLean

……..……..……

Signature of Ms. Laura L. Bevan

Counsel for the Appellant, The Law Society of British Columbia

……..……..……

Signature of Mr. Gavin Cameron

Counsel for the Appellants, Trial Lawyers Association of BC and Kevin Westell

……..……..……

Signature of Ms. Emily C. Lapper, K.C.

Counsel for the Respondents

Tab 3

Tab 3(A)

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

VANCOUVER
12-Aug-26
COURT OF APPEAL REGISTRY

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

Mr. Kevin A. McLean (BA, JD, CIM)

Name(s) of responding person(s) to be served with the application

The above parties and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

10/09/2026

DD/MM/YYYY

Chambers applications begin at 9:30 a.m.

The applicant anticipates that this application will be…
Check only one.

☒ Contested ☐ Uncontested

Enter the section(s) or rule(s) that you are relying on for your application
E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."

Court of Appeal Act, S.B.C. 2021, c. 6, sections 1, 2, 20, 21, 24-26, 28-29, 30, 32, 35, 44-46,

Court of Appeal Rules, B.C. Reg. 120/2022, Rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75

Law and Equity Act, R.S.B.C. 1996, c. 253, Section 8.

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

Part 1 Orders: COAA, s. 32 and COR, s. 41, precautionary and pre-emptive relief

Order #1: An Order abridging or extending the time for filing and service of any documents relevant to this Form 4 and validating the filing and service of such documents and materials *nunc pro tunc*.

Order #2: An Order dispensing with any requirements under the Court of Appeal Act and/or the Court of Appeal Rules and validating the same prior to, during and/or after the hearing of the Applicant's NOA to intervene, and if leave is granted, an Order dispensing with any requirements under the aforementioned statute and regulation so that the Applicant's relief is heard as proposed.

Part 2 Orders: Relief to Intervene as a Party

Order #3: An Order granting leave to Mr. Kevin A. McLean (BA, JD, CIM) to intervene as a Party in the Appeals herein and all consequential relief flowing from the granting of such an Order;

Part 3 Orders: RELIEF RELATING TO THE APPLICANT'S PROPOSED RELIEF, IF INTERVENTION STATUS IS GRANTED, IN RELATION TO DISMISSAL AND/OR QUASHING

Order #4: An Order that the substantive relief sought below be heard on the same day as the Notice of Application to intervene (the "Intervention Application" or "NOA Intervention"), in the interests of justice and judicial economy. In the alternative, an Order that the substantive relief infra be heard within one week of the hearing of any and all notices of applications to intervene on September 2,

2026, and that it be heard in writing, or in the alternative in a hybrid format and/or orally;

Order #5: An Order that the Applicant's written argument of ten pages, provided to the Appellants and Respondents on August 10, 2026, stand as his written argument in relation to Section 21 of the *COAA* and Rule 60 of the *Court of Appeal Rules*, and that it also stand as his request to the Registrar of the BCCA and/or a Judge of the BCCA that the Appeals be referred for summary determination pursuant to section 21 of the *COAA*;

Order #6: The following Declarations:

A. a Declaration that the LSBC admitted in November 2022 in its response to the AGBC's Intentions Paper:

   i. **That an independent bar requires that lawyers constitute the majority of any regulatory board governing lawyers.** *(Intentions Paper Response, pp. 2–3)*

   ii. **That a majority of lawyers on the regulator's board is essential to self-regulation.** *(ibid.)*

   iii. **That "a majority of any board that governs lawyers must themselves be lawyers in order to preserve and protect the independence of the bar."** *(ibid., p. 3)*

   iv. **That "an independent profession requires that a majority of the board that governs lawyers are themselves lawyers."** *(ibid., p. 4)*

B. a Declaration that the LSBC publicly affirmed and reaffirmed on June 8, 2023, by way of the AGM second notice document: **"Chiefly, we have repeatedly asserted to government that lawyers must form a majority of the regulator's board. We consider such governance structure to be essential to maintaining an independent bar and an independent regulator."**

C. A Declaration that the LSBC's Notice of Civil Claim (para. 36) inaccurately paraphrased its own prior admission. The correct admission — binding upon the LSBC — was: **"Self-regulation of the legal profession requires that a majority of the board that governs lawyers are themselves lawyers, and a majority of the lawyer directors are elected."** *(Intentions Paper Response, p. 5)*

D. A Declaration that Bill 21 **provides exactly what the LSBC admitted was constitutionally required for an independent bar: 9 of 17 directors are lawyers (a lawyer majority)**; and **5 of those 9 are elected (a majority of lawyer directors elected); and**

E. Declarations that the LSBC: did **not** retract or amend any of these admissions; repeated the underlying document subject to the admissions in its May 2024 NOCC; is **bound** by them

under the law of admissions; and therefore **has no remaining justiciable issue** in its Appeal, given The Honourable Chief Justice Skolrood's finding that independence of the bar is an unwritten constitutional principle.

Order #7: An Order that the Law Society of British Columbia (the "LSBC") be denied standing and/or the right to be heard based upon fraud, bad faith, dishonesty and/or perjury in previous proceedings before the BCCA, and/or fraud by omission in the proceedings before the British Columbia Supreme Court (specifically, one interim hearing before The Honourable Madam Justice Gropper and two hearings (one interlocutory and one resulting in a final decision) before The Honourable Chief Justice Skolrood.

Order #8: An Order dismissing the Appeal of the LSBC on a summary basis pursuant to section 21 of the *Court of Appeal Act* and/or an Order quashing its Appeal section 60 of the *Court of Appeal Rules* and/or the inherent jurisdiction of the Court.

Order #9: An Order dismissing the Appeal of the TLABC on a summary basis pursuant to section 21 of the *Court of Appeal Act* and/or an Order quashing the same pursuant section 60 of the BC Court of Appeal Rules and/or the inherent jurisdiction of the Court; and

Order #10: Such other relief that this Honourable BC Court of Appeal deems just and equitable.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The Applicant may rely on the following affidavits (if necessary or applicable) which were pre-proceeding affidavits:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;

b. Affidavit #4, sworn on October 24, 2021: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with Sharefile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

i. Affidavit #11 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on January 24, 2022;

j. Affidavit #12 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on February 13, 2022;

k. Affidavit #13 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on February 13, 2022;

l. Affidavit #14 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on February 13, 2022;

m. Affidavit #15 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on February 13, 2022; and

n. Such other affidavit material that demonstrates the Applicant

courtesy notices to the Appellant and Respondents.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

12/08/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

Tab 3(B)

22 VANCOUVER
14-Aug-26
COURT OF APPEAL REGISTRY

COURT OF APPEAL FILE NOS. CA51536 / CA51535

COURT OF APPEAL

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS (Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS (Defendants)

MEMORANDUM OF ARGUMENT FOR LEAVE TO INTERVENE

Appellants (LSBC & TLABC)	Respondents (AGBC & LGIC)
Law Society of British Columbia (CA51536) **Law Firm:** Lawson Lundell LLP 1600–925 West Georgia Street, Vancouver, BC V6C 3L2 Firm Phone: **604-685-3456** **Craig A.B. Ferris, K.C.** Direct Phone: **604-631-9197** Email: cferris@lawsonlundell.com **Laura L. Bevan** Email: lbevan@lawsonlundell.com **Jonathan S. Andrews** **Nicole Leigh Welsh** **Trial Lawyers Association of BC & Kevin Westell (CA51535)** **Law Firm:** Faskens LLP (Vancouver) **Gavin Cameron** Email: gcameron@fasken.com **Tom Posyniak** Email: tposyniak@fasken.com **Laura Abrioux** Email: labrioux@fasken.com **Will Andrews**	**Attorney General of BC & Lieutenant Governor in Council (CA51536 / CA51535)** **Legal Branch:** Legal Services Branch, Ministry of Attorney General **Emily C. Lapper, K.C.** Phone: **604-660-6795** Email: Emily.Lapper@gov.bc.ca Address: 1301–865 Hornby Street, Vancouver, BC V6Z 2G3 **Trevor Bant** Phone: **236-478-0358** Email: Trevor.Bant@gov.bc.ca Address: 1001 Douglas Street, Victoria, BC V8W 9J7 **Karin Kotliarsky** Phone: **604-660-6795** Email: Karin.Kotliarsky@gov.bc.ca Address: 401–1160 Haro Street, Vancouver, BC V6E 1E2 **Sergio Ortega Huerta** Phone: **604-660-6795** Email: Sergio.Ortega@gov.bc.ca Address: 1301–865 Hornby Street, Vancouver, BC V6Z 2G3

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Applicant for Intervener Status

Part 1: Argument

A. Interest in the Appeal

1. It is respectfully submitted that the within Notice of Application (the "NOA" or "Application") for intervener status is brought to proffer the requisite legislative, technological, and immutable historical context absolutely essential for the comprehensive resolution of the profound constitutional questions raised herein. The wholesale invalidation of the *Legal Professions Act*, S.B.C. 2024, c. 26 (the "**LPA 2024**" or "**Bill 21**") was sought *in toto* by the appellants. The LSBC and TLABC's civil claims were dismissed in toto.
2. A profound, direct, and vested interest in the survival of the *LPA 2024* and the successful, statutorily mandated transition to Legal Professions British Columbia (the "**LPBC**") is possessed by the **Applicant**. As a former member of the soon to be defunct LSBC, a documented subject of the historical investigatory overreach and opaque financial practices of the Law Society of British Columbia (the "**LSBC**"), and a person directly affected by the transitional provisions delineated within the *LPA 2024*, the **Applicant** inherently holds a direct, quantifiable interest in the modernized, democratic oversight that the new legislative framework introduces. It is submitted that the statutorily mandated transition of documentary repositories necessitates rigorous, unrelenting appellate scrutiny when evaluated against the profound technological failures, surreptitious surveillance mechanisms, and active evidentiary spoliation that characterized the *status quo ante*. The **Applicant**'s ongoing legal and privacy interests are inextricably tethered to the successful implementation of a regulatory framework that is structurally, technologically, and ethically capable of securing digital assets and providing transparent accountability for historical incursions.
3. Furthermore, a broad base and incontrovertible public interest is represented herein. It is submitted that the authentic public interest—the very mandate the LSBC claims as its paramount duty to protect, yet has demonstrably failed to uphold through systematic obfuscation—is championed by this Intervention Application. Historically, the LSBC was operated behind an impenetrable veil of perceived constitutional immunity and absolute administrative opacity. It is mathematically and empirically demonstrable that an insurmountable two-thirds special majority voting structure, rigorously utilized and zealously defended by the LSBC, operated as a structural paradigm engineered to perpetuate regulatory stasis. This voting threshold effectively guaranteed that no systemic reform, meaningful public accountability, or modernization of investigatory protocols could ever be enacted internally against the self-interest of the regulatory cartel. The *status quo ante* was thus rendered structurally, politically, and legally incapable of self-correction. The Intervention Application is actively sought to ensure that this self-interested, archaic

structure is not judicially reinstated at the direct expense of public accountability, digital privacy, and the modernized, democratically responsive administration of justice.

B. Position on the Appeal

4. The respondents, His Majesty the King in Right of the Province of British Columbia and the Attorney General of British Columbia, are wholly and unequivocally supported in seeking the outright dismissal of the Appeals which the Applicant submits were intentionally bifurcated by the LSBC and TLABC. It is forcefully submitted, consistent with the binding findings of the Chief Justice Skolrood that the enactment of the *LPA 2024* constitutes a constitutionally valid, proportionate, and deeply necessary exercise of the province's exclusive legislative competence under subsection 92(13) and subsection 92(14) of the *Constitution Act, 1867*. The legislative transition to a diversified, simple-majority governance structure represents a measured, rational, and constitutionally required response to systemic institutional paralysis and documented administrative malfeasance.
5. The unwritten constitutional principle of the independence of the bar is purposively designed and jurisprudentially recognized to protect the client, guaranteeing that an advocate may fearlessly represent citizens against the state without reprisal, coercion, or intimidation. It is forcefully advanced that this principle does not, and constitutionally cannot, be interpreted to grant a corporate regulatory entity absolute immunity to operate a multi-million-dollar shadow-banking endowment fund entirely beyond the purview of appropriate provincial financial oversight. Nor, *ipso facto*, is the unfettered right to conduct warrantless volatile memory seizures under the guise of professional discipline granted to a self-regulating body, particularly when those highly invasive, dragnet seizures are actively concealed from its own internal oversight mechanisms and the judiciary. The independence of the bar operates as a shield for the citizen, not as a jurisdictional sword to be wielded by an unaccountable regulatory monopoly seeking to insulate itself from the consequences of its own ultra vires actions.
6. The legislative intervention effectuated by the *LPA 2024* must be recognized not as an unconstitutional infringement upon the independence of the bar, but rather as a mandatory, restorative measure of democratic accountability. Minimum standards of governance are designed to be imposed upon an entity that had fundamentally abrogated its fiduciary duties to both its membership and the public at large. Standard, modernized governance practices that fortify, rather than diminish, the administration of justice are reflected by the abolition of the archaic two-thirds special majority structure and the implementation of a diversified, simple-majority board. The transition to the LPBC is thereby definitively established as an *intra vires* legislative response to systemic, entrenched regulatory failure, rectifying an environment

where institutional abuses were permitted to thrive entirely unchecked by either internal dissent or external review.

C. Utility to the Court and Unique Perspective

7. In deciding whether to grant public interest intervener status under Rule 61, the Court is paramountly concerned with ensuring that important, divergent perspectives are not overlooked (*British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCCA 282). It is highly anticipated that the *LPA 2024* shall be defended by the Attorney General by relying primarily upon abstract principles of statutory interpretation, federalism, the separation of powers, and the democratic mandate of the Legislature. Conversely, 156 years of idealized, theoretical history regarding the supposed nobility and absolute necessity of unsupervised self-regulation shall be heavily relied upon by the appellants.
8. The ground-level, systemic realities of the LSBC's modern operations—and the severe technological deficiencies therein—shall not be provided to this Honourable Court by either core party. During the summary trial below, the Honourable Chief Justice Skolrood formally noted a "glaring absence of a clear rationale" for ending 150 years of lawyer self-regulation. This vital evidentiary void is definitively filled herein. Indispensable assistance shall be provided to the Court by demonstrating specific, catastrophic institutional failures of the LSBC that render the governance reforms contained in the *LPA 2024* not only constitutionally justified, but urgently required. The empirical, technological, and financial context is uniquely supplied to demonstrate *prima facie* exactly why the legislative intervention was necessitated to protect the public from its own protector.

Part 1(C)(I): The Financial Forensics of the LIF and Internal Regulatory Arbitrage

9. The proposition that they must remain entirely self-regulated to protect the public is advanced by the appellants. In direct, empirical contradiction to this idealized narrative, rigorous forensic analysis of the Lawyers Indemnity Fund (the "**LIF**") spanning the period of 2021 to 2025 demonstrates a gross, systemic departure from its statutory mandate. Rather than the operation of a conservative, duration-matched indemnification pool strictly designed to protect the public from professional negligence, the LIF was quietly metamorphosed into a highly leveraged, aggressive endowment model functioning entirely *ultra vires* its core indemnification purpose. The indemnification operations survived not through sustainable insurance premium pricing or prudent underwriting, but exclusively through the assumption of systemic liquidity and market risks in alternative asset classes.
10. By the culmination of the 2025 fiscal year, it is documented that an astonishing 88.84 percent of the LIF's 296 million dollar portfolio was aggressively deployed into high-risk equities, private infrastructure, and

illiquid mortgage funds. Such an allocation is fundamentally antagonistic to the liquidity requirements of a statutory insurance fund. To mask the mathematical reality that the LIF operated at a staggering, insolvent combined ratio of 213.5 percent in 2024, systemic internal regulatory arbitrage was engaged in. Tens of millions of dollars in mandatory regulatory fees (peaking at 23.6 million dollars) were routinely parked by the LSBC General Fund inside the LIF as an internal depository loan at nominal, sub-market yields (ranging from 3.61 percent to 4.46 percent). The LIF concurrently harvested the 7 percent to 10.6 percent equity and illiquidity premiums for itself in the open market. This opaque financial manipulation, reliant upon arbitrary actuarial mechanisms such as “appraisal smoothing” and discretionary margin adjustments, artificially inflated unrestricted net assets whilst the core underwriting operations severely hemorrhaged capital. The Court must be apprised that the LSBC’s unassailable independence was actively utilized as an opaque shield to conceal a massive, unregulated shadow-banking operation from appropriate regulatory scrutiny.

*Part 1(C)(II): The **Concealed RAM Dump**, the Nullity of Internal Oversight, and Digital Spoliation*

11. It is averred by the TLABC appellants that the *LPA 2024* theoretically violates Section 8 of the *Canadian Charter of Rights and Freedoms* because warrantless searches could theoretically be conducted by the new regulator. It is respectfully submitted that catastrophic, unconstitutional searches were *already* executed by the LSBC under the banner of absolute self-regulation. In 2014, a concealed volatile memory extraction (a random access memory or “RAM” dump) was executed by the LSBC purportedly utilizing third-party contractors and highly invasive extraction software. Unlike a static forensic hard drive copy, which is bounded, stable, and capable of being quarantined for privilege review, volatile memory is ephemeral and pulsating. This indiscriminate dragnet extraction swept up highly sensitive personal health information, running processes, active communications, and unencrypted cryptographic keys, creating a devastating privacy exposure that transcends standard documentary seizure.
12. Crucially, this highly invasive volatile memory extraction was deliberately and methodically concealed by the LSBC from its own internal oversight mechanism, the independent supervising solicitor, and subsequently from the British Columbia Supreme Court (*McLean v. The Law Society of British Columbia*, 2017 BCSC 987). Because the adjudicative body was intentionally deprived of the requisite knowledge to assess privilege over the volatile memory, the extraction must be classified in law not as a mere procedural irregularity, but as an absolute *nullity ab initio*. When the digital file was abruptly produced seven years later in October 2021 via a foreign-hosted Sharefile link, objective metadata betrayed active digital spoliation. The file was purposefully obfuscated utilizing Deflate64 compression algorithms, intentionally masking the original binary state and permanently preventing independent forensic hash-

matching, thereby destroying the evidentiary chain of custody. Certainly, as can be seen in Appendix #3 herein, the duration and complexity of forensic analysis was at a premium. Decoding of hexadecimal language, inputting and cross-referencing of the blocks in Ethereum and to later determine how underlying unregistered securities were transferred cross-chain to an EVM compatible blockchain in BSC along with on-chain and off-chain personal information and personal health information of the Applicant was not only arduous but required a vast amount of resources. However, metadata never lies.

13. Upon inflation of the hexadecimal output, the deployment of **Windows Management Instrumentation** (WMI) persistence mechanisms and sophisticated "**Living off the Land**" tactics were unmasked. This fileless backdoor, embedded within the system's core logical architecture via a hijacked BVTConsumer trigger, facilitated unauthorized remote entry attempts documented on the **Applicant**'s computer processing unit ("CPU") (not 'hard drive per se) in March 2016, shortly before the hearing of the 2016 BCCA Appeal in *McLean v. LSBC et al*. This cross-jurisdictional surveillance apparatus was operated entirely outside democratic accountability, proving *prima facie* that the prior regulatory framework was utterly deficient in protecting the privacy rights of practitioners and functioned as a continuous surveillance apparatus. It is forcefully advanced that institutional malfeasance cannot be cured by the mere substitution of executive personnel (from Mr. McGee to Mr. Avison to the interim and then permanent leadership); the overarching corporate entity maintained the obfuscation continuously, thereby rendering the argument of executive turnover entirely devoid of legal merit.

Part 1(C)(III): The Immutable Digital Trail on the Blockchain

14. The severity of the aforementioned privacy breaches were and are, in perpetuity due to the immutability of blockchain (hence its namesake), exponentially compounded by the subsequent mishandling and expropriation of the seized digital assets. Immutable Ethereum blockchain and Binance Smart Chain tracking metadata definitively demonstrated and demonstrates that the unencrypted cryptographic keys seized in the **Concealed RAM Dump** were subsequently exposed, utilized, and monetized across decentralized networks. The expropriated data was embedded within transaction payloads (msg.data) to bypass **Know Your Customer** protocols, incubate unregistered cryptographic assets (Kinglory), and facilitate cross-chain token swaps. When expropriated digital assets are permitted by a self-regulating body to bleed into decentralized networks, any presumption that the LSBC is ***uniquely qualified*** to govern the legal profession in the modern digital age is entirely obliterated by the demonstrated technological incompetence and subsequent obfuscation. This perspective from the Applicant should not only be welcomed but is needed. During the legislative debates preceding the enactment of Bill 21, several members of the opposition offered commentary that consisted largely of generalized slogans

and non-substantive aphorisms—such as the repeated assertion that there is “never a wrong time to do the right thing.” Such remarks, while rhetorically appealing, did not meaningfully engage with the structural, constitutional, or institutional issues raised by the legislation. The superficial nature of this discourse underscores the necessity of ensuring that the Court is fully apprised of the factual and historical context that was absent from the legislative record.

D. Fraud by Omission, the Obligation of Candour, and Inherent Jurisdiction

15. Officers of the court are burdened with a heightened, positive, and unrelenting obligation of candour. This obligation is particularly acute when constitutional inquiries under the *Charter* are engaged, which necessitate a robust, complete, and unblemished evidentiary record. By deliberately omitting and actively withholding the technological reality of the **Concealed RAM Dump** and the LIF’s financial maneuvers from Madam Justice Gropper and the Honourable Chief Justice Skolrood during the recent constitutional proceedings below, a profound fraudulent misrepresentation by omission was perpetrated by the LSBC. By advancing abstract, theoretical *Charter* claims regarding the sanctity of self-regulation and the peril of state search and seizure, whilst actively suppressing the empirical history of unconstitutional technological incursions committed by its own agents, a profound fraud was committed upon the court.
16. The jurisprudence governing silence, omission, and half-truths as mechanisms of deceit is unequivocal. Active concealment of a material fact is legally equivalent to an affirmative misrepresentation (Halton v. Rezaizadeh, 2004 CanLII 6236 (ON SC); *Sidhu Estate v. Bains*, 1996 CanLII 3332 (BCCA); *Alevizos v. Nirula*, 2003 MBCA 148; *Leeson v. Darlow*, 1926 CanLII 407 (ONCA)). In the proceedings below—both interlocutory and final—the constitutional adjudicators were deprived of critical historical and technological context necessary for a complete and accurate constitutional analysis. The LSBC bore a positive obligation of candour to disclose these matters. Instead, even when seeking extraordinary interlocutory relief, the LSBC and TLABC directed attention away from their own institutional conduct, thereby obscuring facts essential to the Court’s assessment.
17. Had full disclosure been made, the evidentiary record before The Honourable Madam Justice Gropper and Chief Justice Skolrood would have materially differed. Such disclosure would have provided the factual foundation necessary to contextualize the legislative response embodied in the LPA 2024, and would have informed findings relevant to judicial comity, the avoidance of collateral attack, and the necessity of legislative intervention. The absence of this disclosure impaired the ability of the courts below to fully apprehend the systemic failures that precipitated the statutory reforms. Invoking constitutional protections while simultaneously concealing prior, serious constitutional infringements

committed by the same regulatory body constitutes a profound abuse of process. Such conduct is tantamount to bad faith, fraud by omission, and a breach of the duty of candour owed to the Court.

18. It is advanced that the British Columbia Court of Appeal is expressly continued as a superior court of record pursuant to Section 2 of the *Court of Appeal Act*. As an immutable consequence of this statutory designation, absolute inherent jurisdiction is possessed by this Honourable Court to control its own process and to summarily quash proceedings that constitute an abuse of process (*MacMillan Bloedel Ltd. v. Simpson*, [1995] 3 S.C.R. 725; *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63). Section 21 of the *Court of Appeal Act* and Rule 60 of the *Court of Appeal Rules* empower the summary dismissal of appeals that are frivolous, vexatious, or otherwise constitute an abuse of process, creating a dual-track mechanism for summary determination (*Yang v. Shi*, 2022 BCCA 2563). The evidentiary record—including the Applicant's sworn affidavits from 2021–2022 and the documentary trail involving multiple law firms and entities—demonstrates a pattern of omission and concealment by the LSBC that directly engages these summary-dismissal powers.

19. The jurisprudential axiom strictly dictates that bad-faith actors forfeit their entitlement to discretionary court remedies (*Cock v. British Columbia (Labour Relations Board)*, 1960 CanLII 293 (BCCA); *Surrey Memorial Hospital and H.E.U. (Rose) (Re)*, 2005 CanLII 94087 (BC LA)). Given the LSBC's omissions and misrepresentations before the courts below—conduct that materially affected the constitutional record—it is submitted that the LSBC's appellate standing should be revoked and its appeal dismissed in limine. This consequence would apply only to the LSBC as the predecessor regulator, and not to the LPBC, which is structurally distinct and not implicated in the historical misconduct. In *Hill v. Church of Scientology of Toronto*, 1995 CanLII 59 (SCC) at para. 80, the Supreme Court of Canada reiterated that alleged *Charter* violations should not be determined in the absence of a proper evidentiary record. Courts should be reluctant to engage in *Charter* analysis in a factual vacuum. Each case must be considered on its own facts or *lack of facts*: *Danson v. Ontario* (Attorney General), 1990 CanLII 93 (SCC); *MacKay v. Manitoba*, 1989 CanLII 26 (SCC). (see: *McLean v. Law Society of British Columbia*, 2015 BCSC 661 (CanLII), at para 12).

E. Application of the Law to the Facts: The Test for Public Interest Intervention

20. An order granting leave to intervene is discretionary and may be made upon any terms the Court considers appropriate (*Carter v. Canada (Attorney General)*, 2012 BCCA 502). The substantive considerations applicable to intervener applications remain unaltered from those developed under the predecessor rules, as confirmed by the continuity of *stare decisis*.[i] A justice's discretion is governed by the principles set out in *Halalt First Nation v. British Columbia (Environment)*, 2012 BCCA 191, requiring

either a direct interest or a public interest coupled with a valuable, divergent perspective. The underlying incontrovertible facts on motion (Form 4 Notice of Application) engage a broad representative base.

21. In deciding whether to grant public interest intervener status, the Court is paramountly concerned with ensuring that important perspectives are **not** overlooked (*British Columbia v. Friends of Beacon Hill Park*, 2022 BCCA 383). The strict criteria from *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCCA 282 are flawlessly discharged *prima facie* herein:

    b. **Whether the case legitimately engages the interests of the proposed intervener in the public law issue raised on appeal:**
        1. It is proffered that the public law issues inextricably intertwined with this appellate proceeding are plentiful and profound. The constitutional validity of the *LPA 2024*, the structural integrity of professional self-regulation, the safeguarding of digital privacy rights against warrantless technological incursions, the unconstitutional expropriation of digital assets via decentralized blockchains, and the fiduciary obligations owed by regulatory bodies to the public are squarely engaged. The historical subjugation of these rights under the predecessor regime renders the intervention categorically legitimate.

    c. **Whether the proposed intervener has a unique and different perspective that will assist the Court in the resolution of the issues:**
        1. It is anticipated that the perspective proffered herein shall afford indispensable assistance to the Court. As queried by the Honourable Chief Justice Skolrood in the court below regarding the genesis of this legislative overhaul, the historical context of unchecked regulatory overreach constitutes a foundational rationale for the enactment. This had to be one of the foundational reasons when the Honourable David Eby was the Attorney General. Moreover, the *status quo ante* could not be permitted to carry on. While it is a recognized axiom that a democratically elected Legislature requires no explicit justification to enact statutory reform, the empirical context is uniquely supplied herein to demonstrate *prima facie* exactly why the legislative intervention was necessitated.

    d. **Whether the proposed intervener seeks to expand the scope of the appeal by raising issues not raised by the parties:**
        1. It is formally averred that an expansion of the appellate scope is strictly eschewed. No novel *lis* is introduced, nor is repetitive argumentation advanced. However, for the true independence of the bar to occur and be structurally verified, it is mandatory that divergent, consumer-centric voices be heard. This guarantees that an entrenched, archaic upper crust does not arbitrarily reign and sweep systemic failures under the rug. Strict accountability is thereby championed, ensuring the public interest is definitively achieved.

22. The Applicant does not seek to expand the scope of the appeal; he seeks to narrow it. Court time is valuable, and the LSBC has repeatedly consumed judicial resources through unmeritorious litigation—first in *McLean v. LSBC*, then before the BCSC, and now again in this Court. Fraud is often proven by inference and circumstance. Here, the LSBC and TLABC were unsuccessful on every order sought below. The remaining remedy available to this Court is to dismiss the appeals under Rule 60 and s. 21, and to revoke the LSBC's standing in light of the full factual matrix now before the Court. Whether Madam

Justice Gropper or Chief Justice Skolrood would have considered these facts relevant to the legislative process or to the LSBC's submissions is immaterial. It was not for the LSBC to unilaterally decide what the triers of fact should or should not know.

F. Adherence to Appellate Constraints for an Intervener

23. The Applicant acknowledges that an intervener's role is confined to principled submissions on points of law. He does not seek adjudication of the 2014 privacy breaches or the LIF's financial practices. The empirical record is provided solely to illuminate the legislative and historical context demonstrating why the LPA 2024 was necessary. Rather than advancing unmeritorious constitutional challenges, the LSBC should direct its institutional resources toward addressing its own historical misconduct before amalgamation. Accountability requires acknowledgment of the harm caused by the Concealed RAM Dump and related technological incursions. The TLABC's theoretical concerns regarding future searches under the new regime are misplaced; it is the old regime that produced the unconstitutional conduct. The modernized framework ensures diverse, accountable governance and abuse repetitions.

Part 2: Order Sought

24. The Applicant seeks the relief in his Form 4 Notice of Application of August 12, 2026, with specific reference to Order number three (An Order granting leave to Mr. Kevin A. McLean (BA, JD, CIM) to intervene as a Party in the Appeals herein and all consequential relief flowing from the granting of such an Order).
25. All of which is respectfully submitted

Dated at the City of Toronto, Province of Ontario, this August 12, 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant for Intervener Status

APPENDICES

APPENDIX 1: LIST OF AUTHORITIES

Authority	Citation
2122157 Ontario Inc. v. Tarion Warranty Corporation	2016 ONSC 851
Baker et al. v. Board of Education of District No. 7 - Burin	1999 CanLII 19822 (NL SC)
Beaudoin v. British Columbia (Attorney General)	2022 BCCA 66
Borowski v. Canada (Attorney General)	1989 CanLII 123 (SCC), [1989] 1 S.C.R. 342
British Columbia Civil Liberties Assn. v. Canada (Attorney General)	2018 BCCA 282
British Columbia v. Friends of Beacon Hill Park	2022 BCCA 383
Chippewas of Sarnia Band v. Canada (Attorney General)	(2000), 51 O.R. (3d) 641 (C.A.)
Cock v. British Columbia (Labour Relations Board)	1960 CanLII 293 (BCCA)
Contreras v. Thomson	2024 BCCA 357
Danson v. Ontario (Attorney General)	1990 CanLII 93 (SCC), [1990] 2 S.C.R. 1086
Equustek Solutions Inc. v. Google Inc.	2014 BCCA 448
Friedmann v. MacGarvie	2012 BCCA 109
Halalt First Nation v. British Columbia (Environment)	2012 BCCA 191
Henry v. A.B.	2026 BCCA 207
Hill v. Church of Scientology of Toronto	1995 CanLII 59 (SCC), [1995] 2 S.C.R. 1130
Homex Realty & Development v. Village of Wyoming	[1980] 2 S.C.R. 1011
J.P. v. British Columbia (Child, Family and Community Services)	2016 BCCA 124
Jadavji v. Yin	2023 BCCA 248
Jones v. Tsige	2012 ONCA 32
Landreville v. Town of Boucherville	[1978] 2 S.C.R. 801

Authority	Citation
Linkletter v. Proctorio, Incorporated	2022 BCCA 313
MacKay v. Manitoba	1989 CanLII 26 (SCC), [1989] 2 S.C.R. 357
MacMillan Bloedel Ltd. v. Simpson	[1995] 4 S.C.R. 725
Masjoody v. Trotignon	2023 BCCA 220
McLean v. Law Society of British Columbia	2015 BCSC 661
McLean v. Law Society of British Columbia	2015 BCSC 1431
McLean v. Law Society of British Columbia	2017 BCSC 987
McNeil v. Elizabeth Fry Society of Greater Vancouver	2023 BCCA 231
NHK Spring Co., Ltd. v. Cheung	2023 BCCA 243
Nisga'a Nation v. Malii	2024 BCCA 206
R. v. Spencer	2014 SCC 43
R. v. Vu	2013 SCC 60
R.R. v. Vancouver Aboriginal Child and Family Services Society	2024 BCCA 342
Snaw-Naw-As First Nation v. Canada (Attorney General)	2021 BCCA 89
Surrey Memorial Hospital and H.E.U. (Rose) (Re)	2005 CanLII 94087 (BC LA)
Thomas v. Rio Tinto Alcan Inc.	2022 BCCA 415
Toronto (City) v. C.U.P.E., Local 79	2003 SCC 63
Webb v. Genaille	2023 BCCA 372
Wu v. Murray	2023 BCCA 270
Yang v. Shi	2022 BCCA 317
Yang v. Shi	2023 BCCA 146

APPENDIX #2: STATUTES AND REGULATIONS

Enactment	Relevant Provision(s)
Competition Act, R.S.C. 1985, c. C-34	ss. 2(1), 36, 52, 52.1
Constitution Act, 1867	ss. 92(13), 92(14), 96-101
Court of Appeal Act, S.B.C. 2021, c. 6	ss. 1, 2, 21, 30(f)
Court of Appeal Rules, B.C. Reg. 120/2022	*Rules* 60, 61
Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165	ss. 4, 6(1), 6(2), 8, 10, 30.1, 42
Interpretation Act, R.S.B.C. 1996, c. 238	ss. 27(7), 35
Law and Equity Act, R.S.B.C. 1996, c. 253	s. 8
Legal Profession Act, S.B.C. 1998, c. 9	ss. 3, 37, *Rule* 4-43
Legal Professions Act, S.B.C. 2024, c. 26	ss. 3, 215-241 (Part 18, Transitional Provisions)
Personal Information Protection and Electronic Documents Act, S.C. 2000, c. 5	ss. 2, 4, 5, 6.1

APPENDIX #3 (SEVEN SUB-APPENDICES)

Appendix / Reference	Topic / Subject	Description of Evidence	Key Findings / Implications
Appendices 1 & 2	Admissions of Delayed Production	Letters from Nathanson, Schachter & Thompson LLP (NST LLP), acting for the LSBC, dated October 18 and October 25, 2021.	Definitively establishes that the purported "RAM capture" from June 2014 was withheld from the Applicant and the Courts for over seven years, only to be ultimately produced via an unsecure, cloud-based ShareFile hyperlink.
Appendix 4	Cryptographic Spoliation and the "Creator" Anomaly	Screenshots of the digital properties for the file KEVIN-PC-20140604-182544.zip and the underlying .raw extraction.	Provides visual, objective proof of spoliation: • **Post-extraction alteration:** Displays a "Last updated" timestamp of 10/25/2021 12:28PM. • **Destruction of evidentiary architecture:** Utilized the Deflated 64 compression method, making independent hash-verification impossible. • **Broken chain of custody:** The digital "Creator" is listed as Kimm Otto (a former assistant at NST LLP), completely contradicting claims of a pristine, third-party forensic chain of custody from 2014.
Appendices 5 & 6	Corporate Impersonation and Deceptive Portals	Side-by-side visual comparisons of ShareFile login portals. Contrasts NST LLP's legitimate, branded portal against the Lawyers Indemnity Fund (lif.sharefile.com).	Proves the ongoing use of a deceptive corporate shell identity. Shows the Lawyers Indemnity Fund operating behind a fabricated "Evolve Partner labs" logo for a statutory fund's secure communications network.
Appendix 7	Blockchain Migration and	Images in the public domain cross-referenced to affidavit	Serves as visual "fingerprints" proving the migration of the

	Corresponding Images	material regarding extracted visual data from BscScan and Etherscan. Identifies specific genesis blocks and token swaps associated with the Kinglory Network (0x328e...).	Applicant's expropriated data into the Binance Smart Chain. Directly links the initial local breach to the deployment of centralized, unregistered securities (0x502f...) containing *Pausable* and *onlyOwner* backdoor mechanics.

[i] (*Linkletter v. Proctorio, Incorporated, 2022 BCCA 313; R.R. v. Vancouver Aboriginal Child and Family Services Society, 2024 BCCA 342; Nisga'a Nation v. Malii, 2024 BCCA 206; McNeil v. Elizabeth Fry Society of Greater Vancouver, 2023 BCCA 231; Jadavji v. Yin, 2023 BCCA 248; NHK Spring Co., Ltd. v. Cheung, 2023 BCCA 243; Thomas v. Rio Tinto Alcan Inc., 2022 BCCA 415; Henry v. A.B., 2026 BCCA 207; Webb v. Genaille, 2023 BCCA 372).*

Appendix #1

NATHANSON, SCHACHTER & THOMPSON LLP

Karen L.M. Carteri
Murray A. Clemens, Q.C., FCIArb*
Heather E. Doi
Emily L. Hansen
R.J. Randall Hordo, Q.C., FCIArb*
Julia E. Lawn
Julia K. Lockhart
Kevin D. Loo
James C. MacInnis, Q.C.
Irwin G. Nathanson, Q.C.*
M. Caitlin Ohama-Darcus
James P. Parker
Peter J. Reardon*
Julia W. Riddle
Stephen R. Schachter, Q.C.*
Peter R. Senkpiel
Kayla K. Strong

Ardella A. Thompson (Ret.)

*Denotes Law Corporation

File: 10009-39
Reply to: Julia K. Lockhart
Email: jlockhart@nst.ca
Direct Line: 778-945-1481

18 October 2021

Kevin McLean
Unknown Address

VIA EMAIL

mclean@searchandseizure.ca

Dear Mr. McLean:

Re: Matters raised in your emails from October 8, 2021 to date

Over the weekend, you continued to send emails to me and others at the Law Society, including lengthy attachments raising arguments that are largely indecipherable. I confirm that if you wish to raise additional FOI requests, you need to send these to me by physical mail.

I further confirm that I continue to expect to be in a position to provide a copy of the RAM capture in the last week of October. However, in order to provide this to you, I require that you provide me with a mailing address to which the USB can be delivered. To avoid delay, I recommend that you provide that address to me as soon as possible.

Yours truly,

Nathanson, Schachter & Thompson LLP

Per:

JKL:mc
cc: Client

Appendix #2

NATHANSON, SCHACHTER & THOMPSON LLP

Karen L.M. Carteri
Murray A. Clemens, Q.C., FCIArb*
Heather E. Doi
Emily L. Hansen
R.J. Randall Hordo, Q.C., FCIArb*
Julia E. Lawn
Julia K. Lockhart
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Peter J. Reardon*
Julia W. Riddle
Stephen R. Schachter, Q.C.*
Peter R. Senkpiel
Kayla K. Strong

Ardella A. Thompson (Ret.)

Denotes Law Corporation

File: 10009-39
Reply to: Julia K. Lockhart
Email: jlockhart@nst.ca
Direct Line: 778-945-1481

25 October 2021

Kevin McLean
Unknown Address

VIA EMAIL

mclean@searchandseizure.ca

Dear Mr. McLean:

Re: Copy of RAM Capture

We are writing to respond to the request you confirmed on October 8, 2021 under the *Freedom of Information and Protection of Privacy Act* ("FIPPA") on the Law Society of British Columbia.

Further to that request for a copy of the RAM capture made from your computer in June 2014, I enclose a link to download that file.

Under section 52 of the FIPPA, you may apply to the Information and Privacy Commissioner for a review of the Law Society's response to your request. You have 30 business days to request a review by writing to the Office of the Information and Privacy Commissioner at the contact information provided below.

If you wish to request a review under section 52, please provide the Commissioner's office with the following information:

1. Your name, address and telephone number;
2. A copy of your request;
3. A copy of this letter; and
4. The specific reasons for requesting a review.

The Office of the Information and Privacy Commissioner can be reached at the contact information provided below:

Office of the Information and Privacy

NATHANSON, SCHACHTER & THOMPSON LLP

Commissioner for British Columbia
PO Box 9038, Stn Prov Govt
Victoria, BC V8W 9A4
Tel: (250) 387-5629 Fax: (250) 387-1696
Website address: www.oipc.bc.ca

If you have any questions regarding this response, you may contact me, by way of the contact information provided in this letter.

Yours truly,

Nathanson, Schachter & Thompson LLP

Per:

JKL:mc
cc: Client

Appendix #3

KEVIN_PC-20140604-182544... | res1.txt

```
Offset  0  1  2  3  4  5  6  7  8  9  A  B  C  D  E  F   ANSI ASCII
000030B0 3F 41 43 50 49 44 65 76 69 63 65 4D 61 74 63 68  ?ACPIDeviceMatch
000030B0 28 30 29 28 29 28 30 29 0D 0A 0D 0A 3B 0D 0A 3B  (0)()(0)    ;  ;
000030B0 20 50 43 49 20 64 65 76 69 63 65 20 68 61 63 6B   PCI device hack
000030B0 20 66 6C 61 67 73 20 72 75 6C 65 0D 0A 3B 0D 0A   flags rule  ;
000030B0 50 43 49 44 65 76 69 63 65 48 61 63 6B 20 3D 20  PCIDeviceHack =
000030BA 3F 50 43 49 44 65 76 69 63 65 4D 61 74 63 68 28  ?PCIDeviceMatch(
000030BB 30 29 28 30 2E 31 2E 32 2E 33 2E 34 29 28 30 29  0)(0.1.2.3.4)(0)
000030BC 2C 3F 50 43 49 44 65 76 69 63 65 53 65 74 48 61  ,?PCIDeviceSetHa
000030BD 63 6B 66 6C 61 67 73 28 29 28 35 2E 36 29 28 30  ckflags()(5.6)(0
000030BE 29 2C 26 0D 0A 0D 0A 3B 0D 0A 3B 20 50 43 49 20  ),&    ;  ; PCI
000030BF 64 65 76 69 63 65 20 68 61 63 6B 20 66 6C 61 67  device hack flag
000030C0 73 20 62 61 73 65 64 20 6F 6E 20 62 69 6F 73 20  s based on bios
000030C1 6D 61 74 63 68 69 6E 67 20 72 75 6C 65 0D 0A 3B  matching rule  ;
000030C2 0D 0A 50 43 49 44 65 76 69 63 65 48 61 63 6B 42    PCIDeviceHackB
000030C3 69 6F 73 4D 61 74 63 68 20 3D 20 25 42 61 73 69  iosMatch = %Basi
000030C4 63 4D 61 63 68 69 6E 65 49 44 28 30 2E 31 2E 30  cMachineID(0.1.0
000030C5 2E 32 2E 33 2E 30 2E 34 2E 30 2E 35 2E 30 2E 36  .2.3.0.4.0.5.0.6
000030C6 29 28 30 2E 31 2E 32 2E 33 2E 34 2E 35 29 28 29  )(0.1.2.3.4.5)()
000030C7 2C 20 5C 0D 0A 20 20 20 20 20 20 20 20 20 20 20  , \
000030C8 20 20 20 20 20 20 20 20 20 20 20 20 20 20 25 50                %P
000030C9 43 49 44 65 76 69 63 65 48 61 63 6B 28 37 29 28  CIDeviceHack(7)(
000030CA 36 2E 37 2E 38 2E 39 2E 31 30 2E 31 31 2E 31 32  6.7.8.9.10.11.12
000030CB 29 28 30 29 2C 26 0D 0A 0D 0A 3B 0D 0A 3B 20 50  )(0),&    ;  ; P
000030CC 43 49 20 64 65 76 69 63 65 20 68 61 63 6B 20 66  CI device hack f
000030CD 6C 61 67 73 20 62 61 73 65 64 20 6F 6E 20 43 50  lags based on CP
000030CE 55 20 6D 61 74 63 68 69 6E 67 20 72 75 6C 65 0D  U matching rule
000030CF 0A 3B 0D 0A 50 43 49 44 65 76 69 63 65 48 61 63   ;  PCIDeviceHac
000030D0 6B 43 70 75 4D 61 74 63 68 20 3D 20 3F 43 70 75  kCpuMatch = ?Cpu
000030D1 54 79 70 65 28 30 2E 31 2E 32 2E 33 29 28 30 2E  Type(0.1.2.3)(0.
000030D2 31 2E 32 2E 33 29 2C 20 5C 0D 0A 20 20 20 20 20  1.2.3), \
000030D3 20 20 20 20 20 20 20 20 20 20 20 20 20 20 20 20
000030D4 20 20 20 25 50 43 49 44 65 76 69 63 65 48 61 63    %PCIDeviceHac
000030D5 6B 28 34 29 28 34 2E 35 2E 36 2E 37 2E 38 2E 39  k(4)(4.5.6.7.8.9
000030D6 2E 31 30 29 28 30 29 2C 26 0D 0A 0D 0A 3B 0D 0A  .10)(0),&    ;
000030D7 3B 20 44 69 73 61 62 6C 65 20 41 53 50 4D 20 6F  ; Disable ASPM o
000030D8 6E 20 73 79 73 74 65 6D 73 20 77 69 74 68 20 73  n systems with s
000030D9 70 65 63 69 66 69 63 20 75 6E 73 75 70 70 6F 72  pecific unsuppor
000030DA 74 65 64 20 50 43 49 20 65 78 70 72 65 73 73 20  ted PCI express
000030DB 68 75 62 73 0D 0A 3B 0D 0A 50 43 49 44 65 76 69  hubs  ;  PCIDevi
000030DC 63 65 44 69 73 61 62 6C 65 50 63 69 45 78 70 72  ceDisablePciExpr
000030DD 65 73 73 41 53 50 4D 20 3D 20 3F 50 43 49 44 65  essASPM = ?PCIDe
000030DE 76 69 63 65 4D 61 74 63 68 28 30 29 28 30 2E 31  viceMatch(0)(0.1
000030DF 2E 32 2E 33 2E 34 29 28 30 29 2C 20 5C 0D 0A 20  .2.3.4)(0), \
```


grep "FREE MEMORY" Win2TranslatedStrings.txt > Win2UnallocatedStrings.txt

grep "metasploit" Win2StringsTranslated.txt
147782654 [kernel.99379b8e] metasploit
When the consoles volatility was used, and powershell was used to create a script, and postgres was running with a lot of listeners, it was thought that maybe metasploit should be searched for.

Not sure if it has anything to do with the malware, but this was found in unallocated memory. Usually Antivirus Scanners skip this region.

```
198051 [FREE MEMORY] : PCI device hack flags rule
198084 [FREE MEMORY] PCIDeviceHack = ?PCIDeviceMatch(0)(0.1.2.3.4)(0),?PCIDeviceSetHackflags()(5.6)(0),&
198174 [FREE MEMORY] : PCI device hack flags based on bios matching rule
198230 [FREE MEMORY] PCIDeviceHackBiosMatch = %BasicMachineID(0.1.0.2.3.0.4.0.5.0.6)(0.1.2.3.4.5)(), \
198313 [FREE MEMORY] %PCIDeviceHack(7)(6.7.8.9.10.11.12)(0),&
198385 [FREE MEMORY] : PCI device hack flags based on CPU matching rule
198440 [FREE MEMORY] PCIDeviceHackCpuMatch = ?CpuType(0.1.2.3)(0.1.2.3), \
198495 [FREE MEMORY] %PCIDeviceHack(4)(4.5.6.7.8.9.10)(0),&
198564 [FREE MEMORY] : Disable ASPM on systems with specific unsupported PCI express hubs
198637 [FREE MEMORY] PCIDeviceDisablePciExpressASPM = ?PCIDeviceMatch(0)(0.1.2.3.4)(0), \
198707 [FREE MEMORY] ?AcpiFADTBootArch()(5),|
198769 [FREE MEMORY] : Disable MSI on a system where FADT Boot Arch flags are set
198834 [FREE MEMORY] DisableMSI = ?AcpiFADTBootArch()(0)
198876 [FREE MEMORY] : Work around unreported memory at F8 for PCI arbiters
198935 [FREE MEMORY] PciBrokenMemAtF8 = \
198967 [FREE MEMORY] %BasicMachineID(0.1.0.2.3.0.4.0.5.0.6)(0.1.2.3.4.5)()
199021 [FREE MEMORY] : Match cpu type for AMD
199050 [FREE MEMORY] CpuTypeAmd = \
```

Timers:
No timers found.

Threads:

The same method was used as for the first memory image. The addresses were different, but there was one orphan thread found. Again, the executable found near the orphan thread was exported. This one was also detected as malware by one scanner on VirusTotal.

https://www.virustotal.com/en/file/9747945ce4e27ef052cd72b0c95bc22284b9a489e6e607d5146717e0fb00cf97/analysis/1464208780/

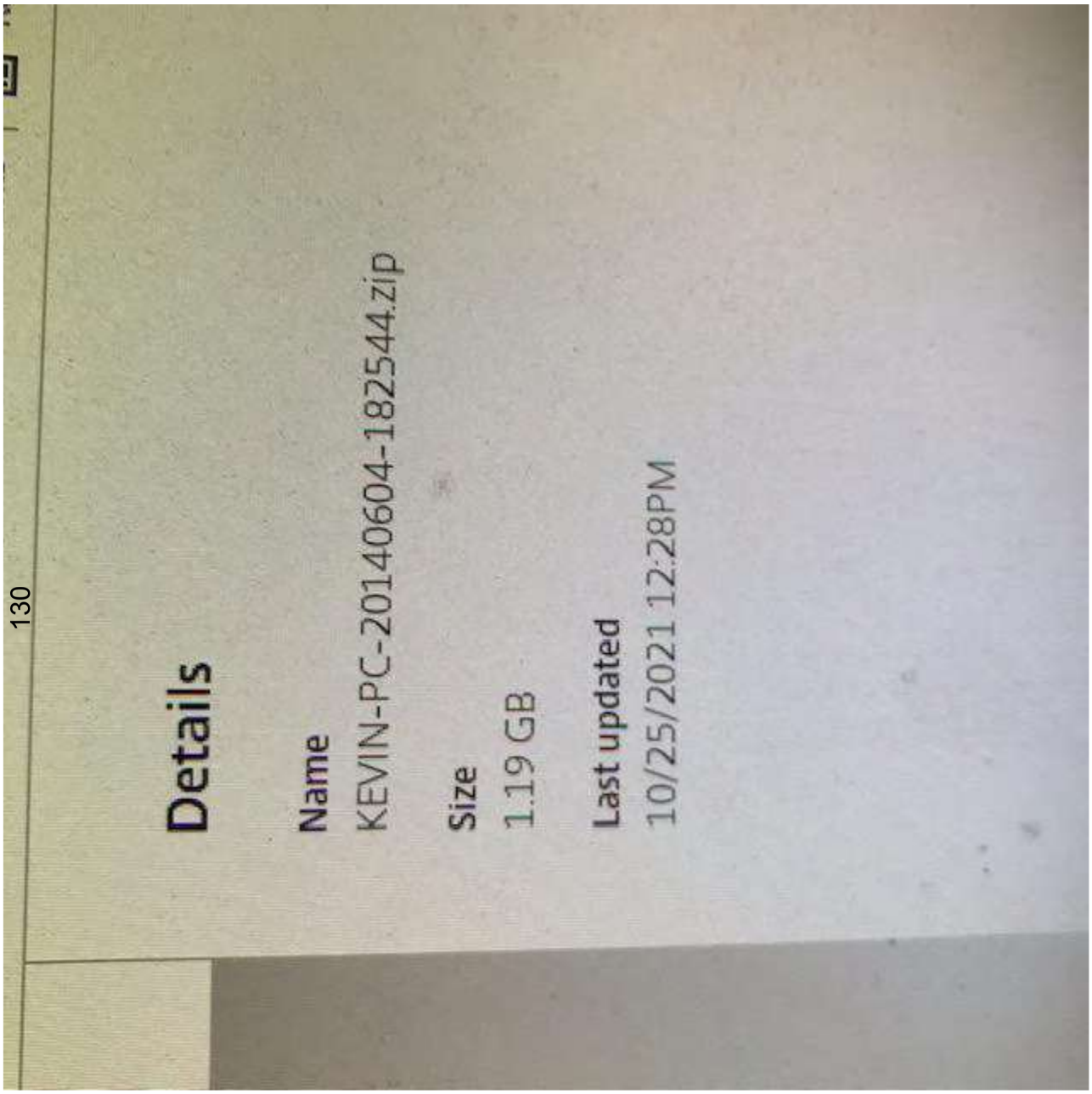
Unloaded Modules:

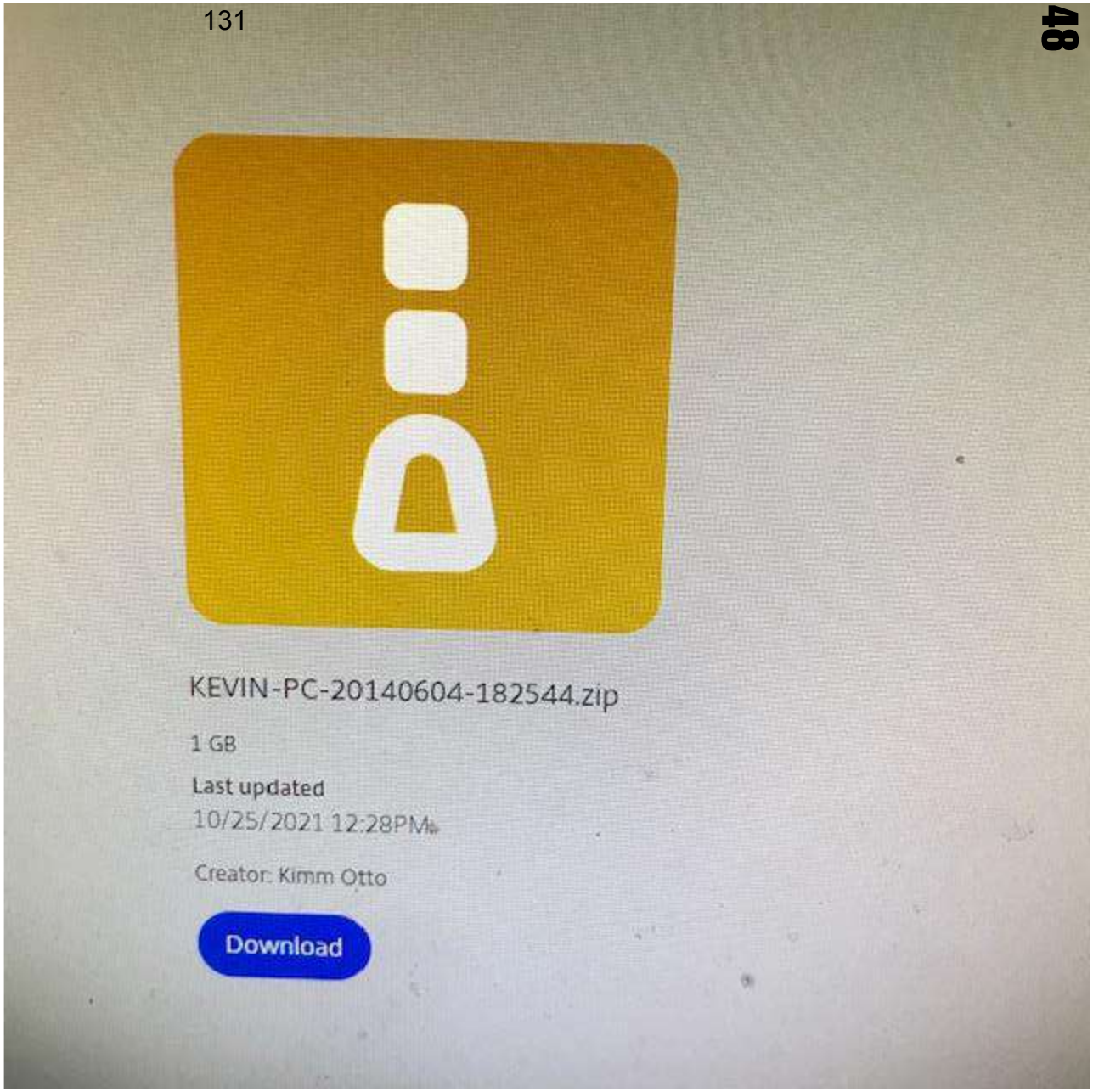
```
dump_dumpfve.sys    0x008361a000 0x8362b000 2016-03-02 16:09:08
dump_LSI_SCSI.sys   0x0083600000 0x8361a000 2016-03-02 16:09:06
dump_storport.sys   0x00879f6000 0x87a00000 2016-03-02 16:09:08
crashdmp.sys        0x0087627000 0x87634000 2016-03-02 16:09:08
rimsp86.sys         0x00a10c7000 0xa10dc000 2016-03-02 16:09:20
risdpe86.sys        0x00a10dc000 0xa10ed000 2016-03-02 16:09:20
spsys.sys           0x00a1187000 0xa11f1000 2016-03-02 16:16:39
kbdhid.sys          0x00a1010000 0xa101c000 2016-03-02 16:34:54
```

Appendix #4

(nota bene: the June 4, 2014 (Tuesday)

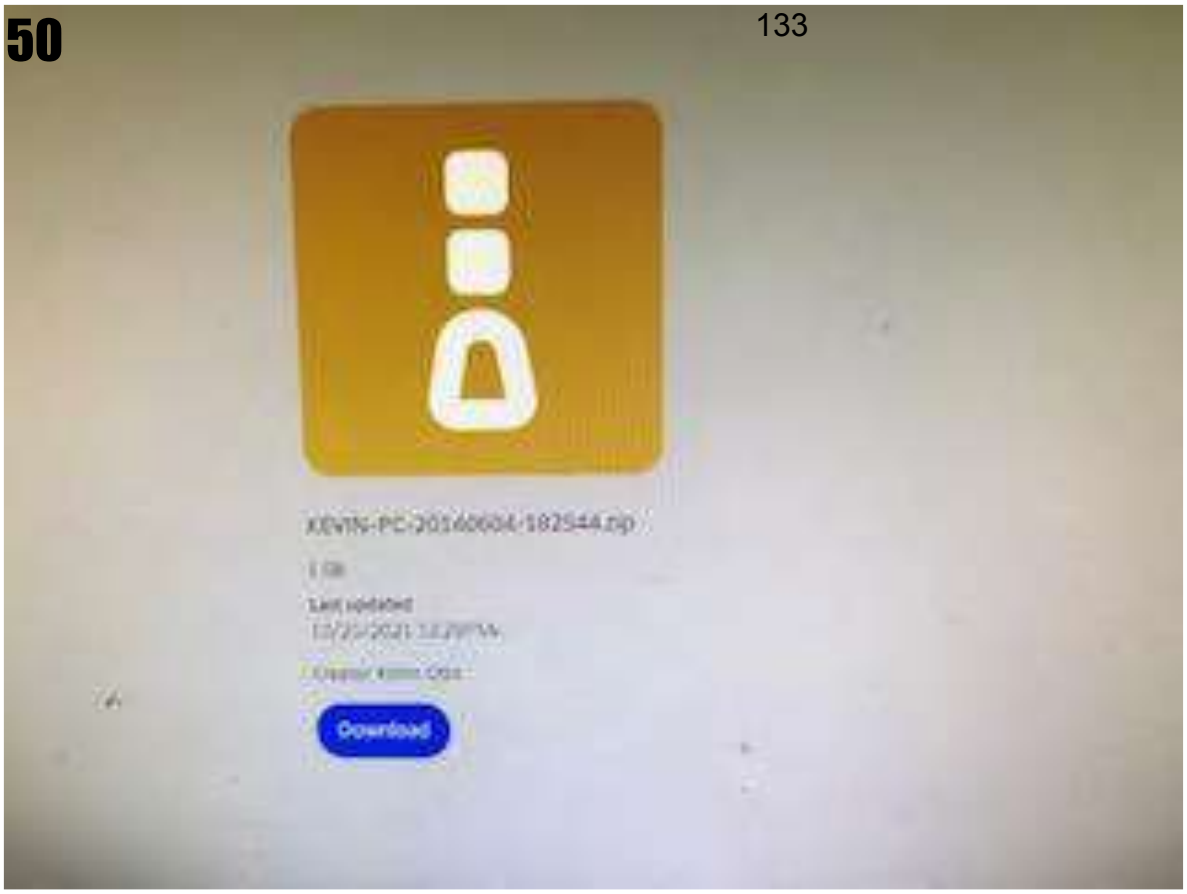
(nota bene #2: it references the PC (not the Hard Drive per se)



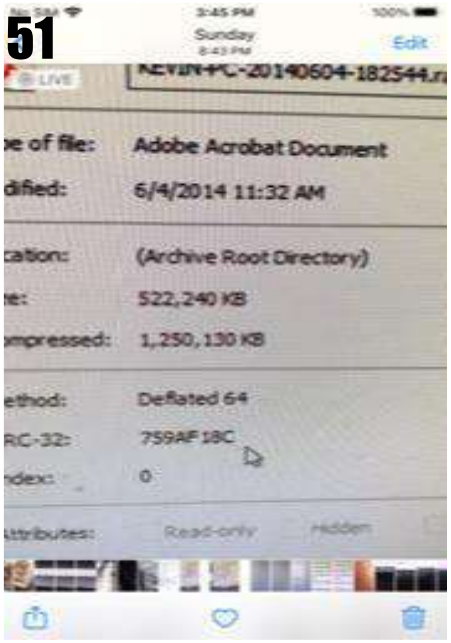

KEVIN-PC-20140604-182544.zip
1 GB
Last updated
10/25/2021 12:28PM
Creator: Kimm Otto
Download

Download
Details
Name
KEVIN-PC-20140604-182544
Size
1.19 GB
Last updated
10/25/2021 12:28PM

KEVIN-PC-20140604-182544.zip


KEVIN-PC-20140604-192544.zip
Download

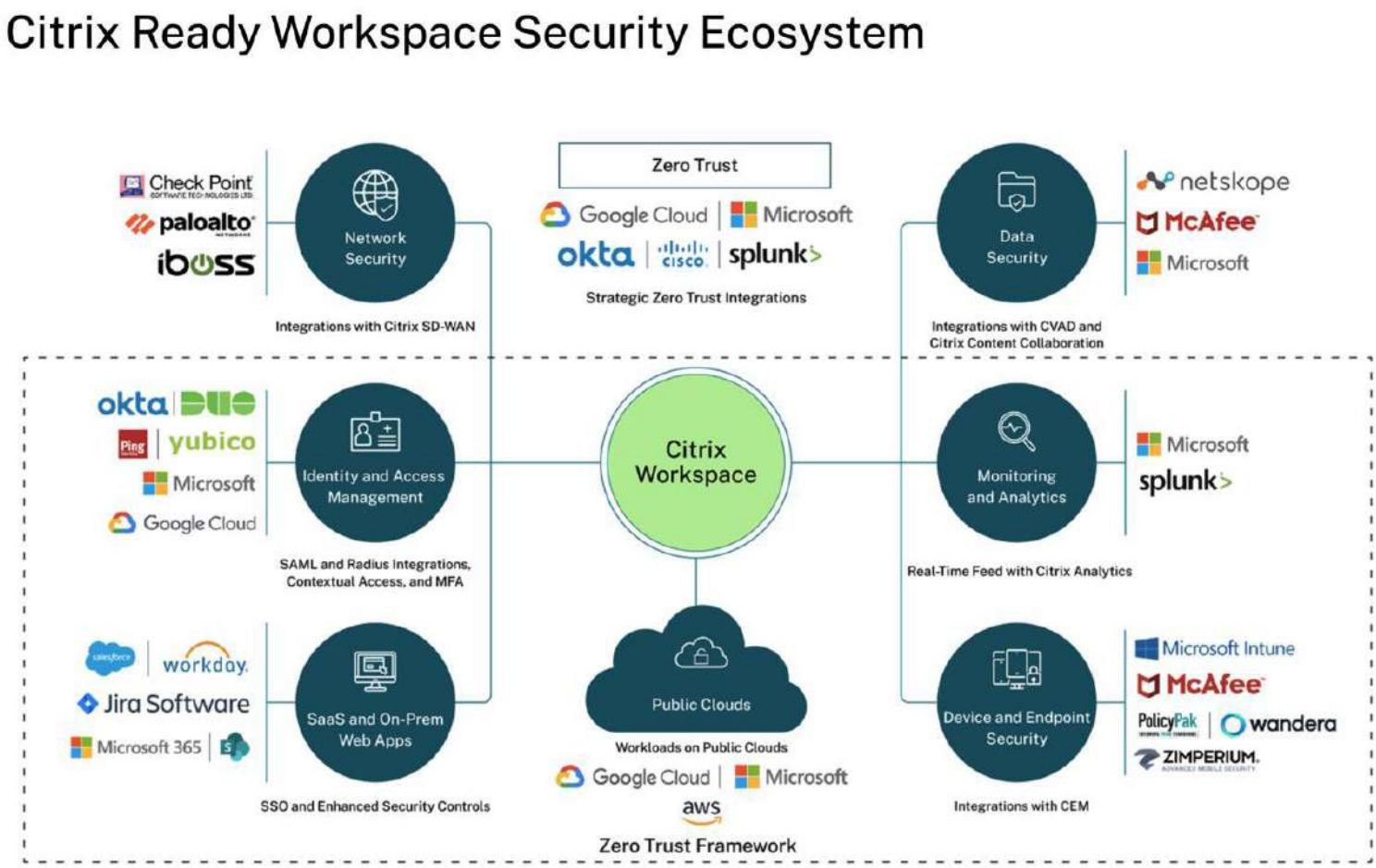
KEVIN-PC-20140604-192544.raw
Type of file: Adobe Acrobat Document
Modified: 6/4/2014 11:32 AM
Location: (Archive Root Directory)
Size: 522,240 KB
Compressed: 1,250,130 KB
Method: Deflated 64
CRC-32: 759AF18C
Index: 0
Attributes: Read-only Hidden Archive
OK
Cancel



Nothing past this line

Appendix #5

CITRIX PARTNERS IN THE ZTNA NETWORK



THE LAWYERS INDEMNITY FUND (AS IT WAS IN 2021/2022) (WHICH REMAINS THE SAME AS PER APPENDIX #6 ALBEIT WITH A REDIRECTED URL BUT THE FICTITIOUS LOGO REMAINS)

https://lif.sharefile.com/Authentication/Login

Similar to:
https://www.evolvepartners.com/partners/

EVOLVE PARTNERS INC.
Jurisdiction (home): British Columbia **Jurisdiction (EP): Number:** 1087254 **Date:** 24 Aug 2016 **Additional Information:** 2019-11-19 Active British Columbia Corporation (B.C.) Vancouver

https://opencorporates.com/companies/us_ca/C2464966
a. Brian Roach – EY
i. https://www.linkedin.com/in/brian-roach-1a820380
b. Ernst & Young (contained within the Hex Editor code)

NST LLP (AS IT WAS WITH THAT URL IN 2021/2022 WITH SHAREFILE (THE LOCATION IN WHICH NST LLP (MS. LOCKHART PROVIDED THE DOCUMENT ENTITLED "KEVIN-PC-20140604-185244)

https://nathansonschachterthompsonllp.sharefile.com/Authentication/

Logo contained when inputting that information:

nst NATHANSON, SCHACHTER & THOMPSON LLP

BLAKES (AS IT WAS IN 2021/2022 WITH SHAREFILE BASED ON THAT URL)(BLAKES LLP HAS AN ACCOUNT IN 2026 ALBEIT THEIR LOGO HAS CHANGED SLIGHTLY SINCE THEN) (SEE: APPENDIX #6)

https://blakes.sharefile.com/authentication/login

Nothing Past this Line

Appendix #6

Blakes

Welcome!

Enter your details to sign in to ShareFile

Email *

Remember me

Continue

Privacy policy

evolve Partner labs

Welcome!

Enter your details to sign in to ShareFile

Email *

Remember me

Continue

Privacy policy

Appendix #7

July 2021
IF Capital Inc.
Kinglory Inc.
Next Generation Blockchain Platform

Kinglory is growing its technology capabilities and has filed for a patent with BLG!

GLOBAL INFORMATION

Home | Business News | CSI Newsmakers | KINGLORY ANNOUNCES MARKHAM AS ITS CORPORATE HEADQUARTERS

KINGLORY ANNOUNCES MARKHAM AS ITS CORPORATE HEADQUARTERS

Markham, Ontario, July 13, 2021 (GLOBE NEWSWIRE) — On July 12th, 2021, member of

GLOBAL INFORMATION

Intrado SIGN IN

KINGlory

KINGLORY ANNOUNCES MARKHAM AS ITS CORPORATE HEADQUARTERS

July 13, 2021 12:18 ET
| Source: Kinglory Inc.

GLOBAL INFORMATION

FOX 43 Knoxville 70°

Markham, Ontario, July 13, 2021 (GLOBE NEWSWIRE) — On July 12th, 2021, member of Parliament Bob Saroya and other distinguished guests attended a ceremony to celebrate a high-tech company, Kinglory Inc., selecting Markham to be its corporate headquarters. Markham is Canada's high-tech capital, anchored by more than 1,500 international tech businesses.

With a team of over 200 technological experts from Canada, the United States, Israel and Russia, Kinglory is a public, open-source platform that is dedicated to maintaining and developing a community that anyone can contribute to.

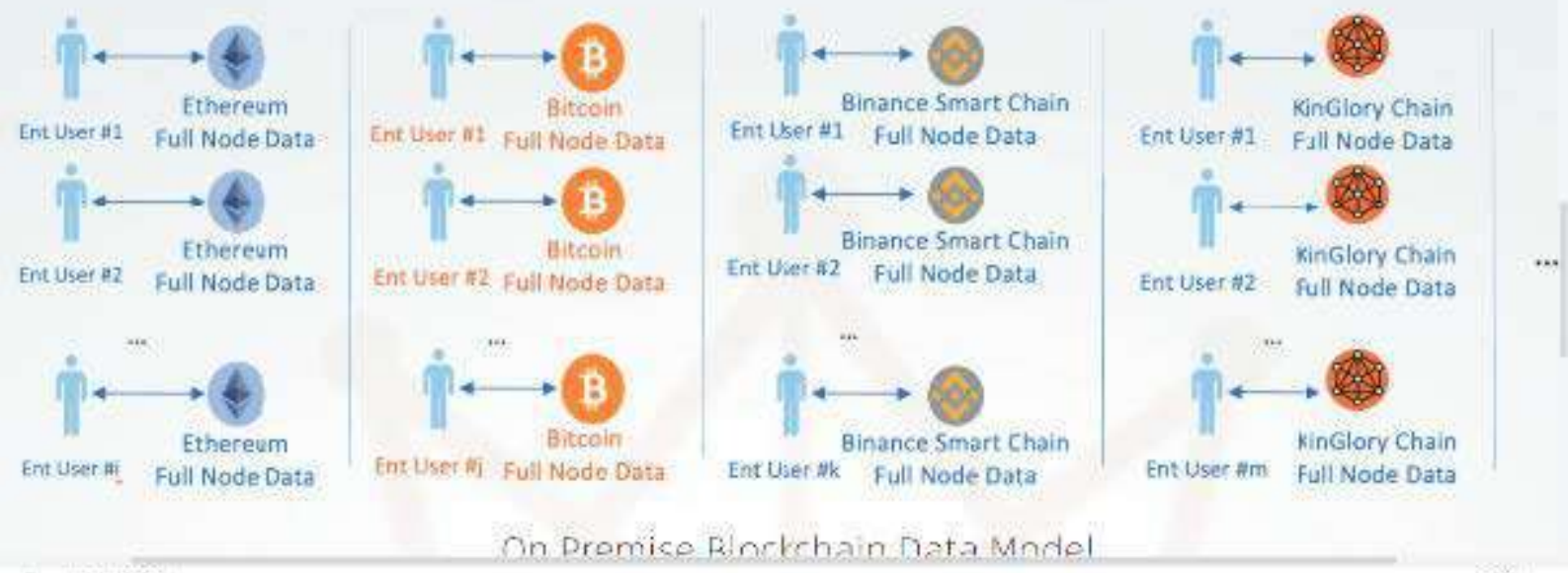
Kinglory brings a major technological overhaul to the existing blockchains in the data, network, consensus, incentive, and application layers. Kinglory utilizes state-of-the-art technological innovations to eliminate performance, security,

KINGlory Microsoft KINGlory CANADIAN

GLOBAL INFORMATION

GLOBAL INFORMATION

ata, there are data redundancy for public data, each has a disk and data cost for hosting a copy of full d



On Premise Blockchain Data Model

白皮书中文社区英文版
https://docs.qq.com/pdf/DWnZ6UUFlU1ZvQ05B
InPrivate
白皮书中文社区英文版
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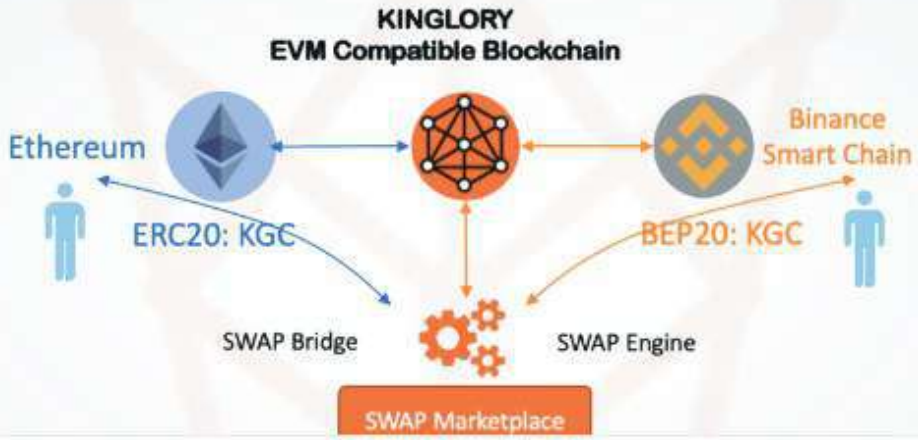
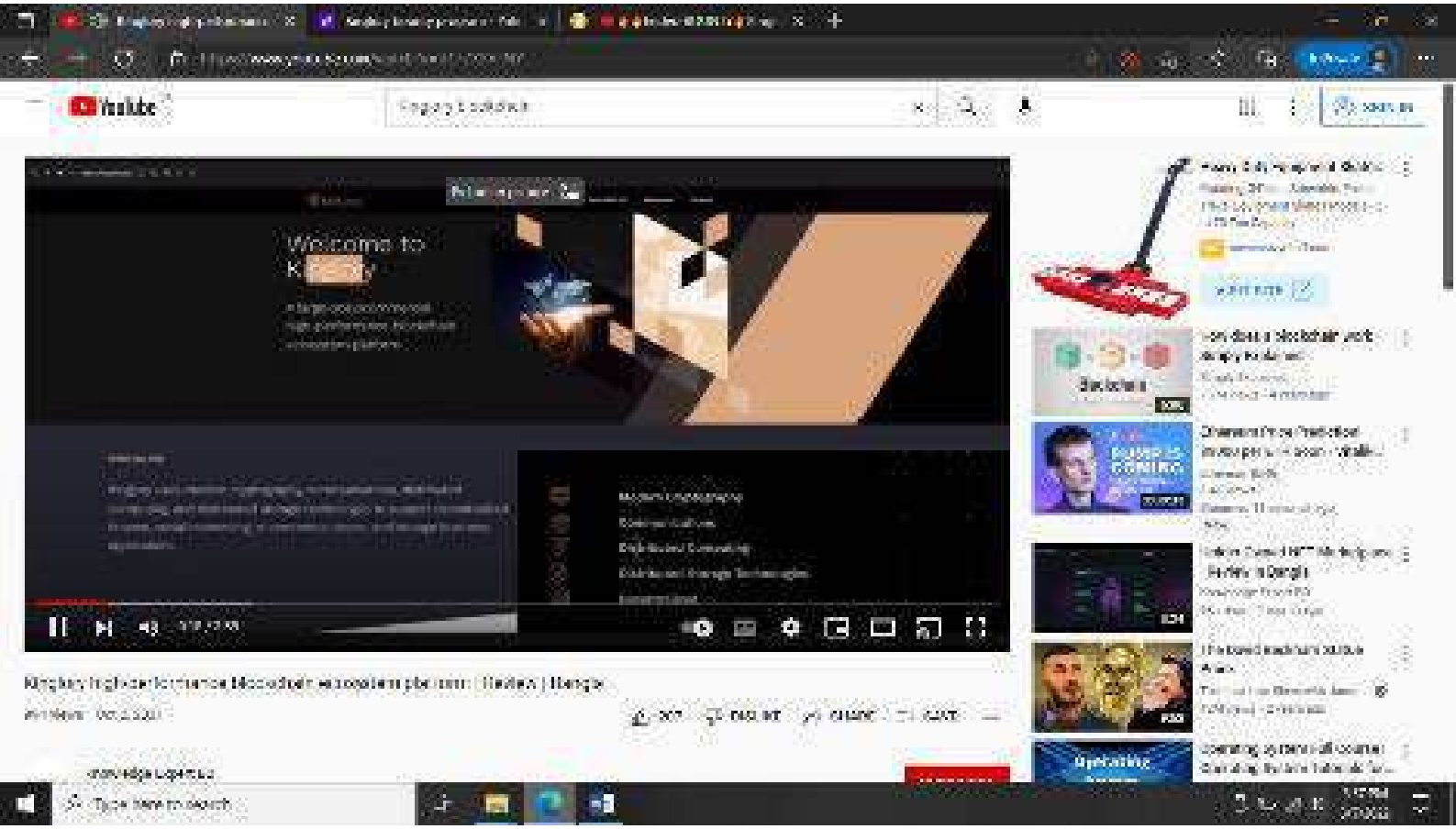
the exchange back-end. Exposing cross chain service to users need to have core native transaction agents that efficiently provide a trade or exchange of different asset with agreed price or exchange rates, it's more like a mini version of exchange to finalized to exchange, such mini version of exchange is the



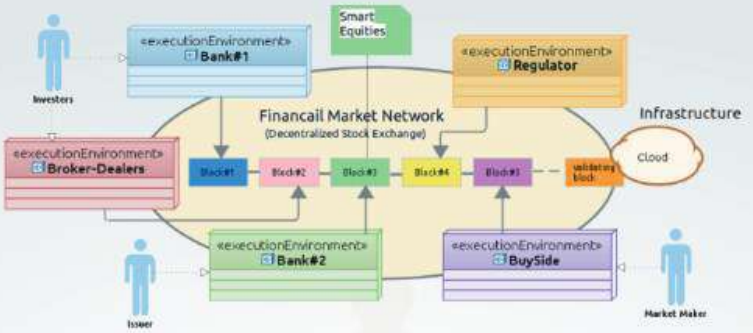
第 17 页/共 29 页
170%
Type here to search
11:08 PM
3/7/2022


Welcome to

白皮书中文社区英文版
https://docs.qq.com/pdf/DWnZ6UUFlU1ZvQ05B
InPrivate
白皮书中文社区英文版
Log In Now

6

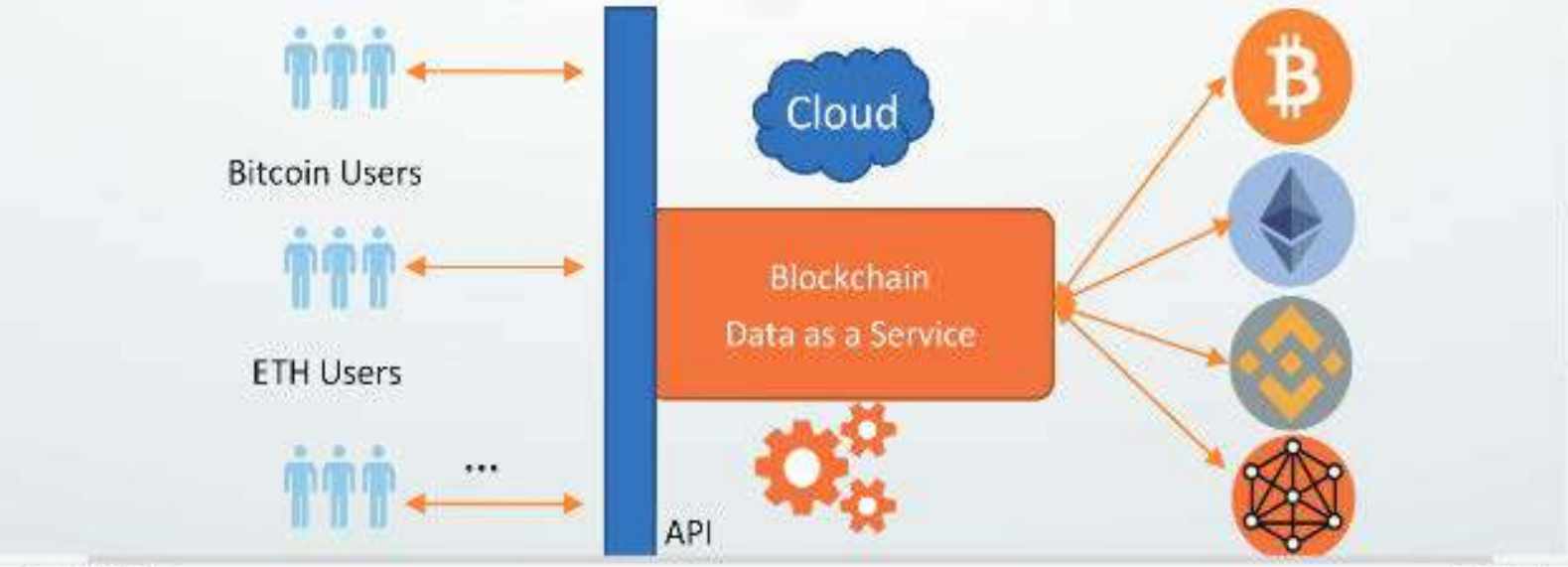
KINGlory Decentralized Application Framework (D-App Store)



Financial Market is hosted and embedded into a network that has multiple participants that to be

第 11 页/共 29 页
100%
Type here to search
8:31 AM
3/10/2022

public or programmatically if the service providers provide the right and secure data easily.



Tab 3(C)

70
VANCOUVER
28-Aug-26
Received not Filed
COURT OF APPEAL
REGISTRY

Court of Appeal File Nos. CA51536 / CA51535

COURT OF APPEAL FOR BRITISH COLUMBIA

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

(Appellants / Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

(Respondents / Defendants)

WRITTEN ARGUMENT (FACTUM) OF THE APPLICANT

PURSUANT TO ALL CITED PROVISIONS OF THE *COURT OF APPEAL ACT* (2021) AND *COURT OF APPEAL RULES* (2022) DENOTED IN THE APPLICANT'S FORM 4 NOTICE OF APPLICATION (FILED AUGUST 12, 2026) AND IN THE APPENDICES (**INDEPENDENT** OF ANY RELIEF SOUGHT TO INTERVENE CONTAINED THEREIN)

Re: Written Argument in Relation to Relief Outside the Scope of Intervention under Rule 61 but rather denoted under *supra* (by reference) and infra)

(*Nota bene*: The Applicant's Form 4 Notice of Application ("NOA") and Memorandum of Argument ("MOA") were stamped as filed on August 12 and 14, 2026, respectively. All intervener applications were required to be brought by August 14, 2026. The Applicant satisfied that requirement. This written argument relates solely to Orders #1–2 and #4–10, which are **independent** of the relief sought to intervene.)

Hearing date: **September 10, 2026**

Hearing location: The British Columbia Court of Appeal (the "BCCA") at 800 Smithe Street, Vancouver, BC, V6Z 2E1

Hearing type: chambers

Type of judge: single justice

Applicant's position on said date: seven out of seven

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WRITTEN ARGUMENT (FACTUM) OF THE APPLICANT 0

Pursuant to All Cited Provisions of the *Court of Appeal Act* (2021) and *Court of Appeal Rules* (2022) Denoted in the Applicant's Form 4 Notice of Application (Filed August 12, 2026) and in the Appendices (Independent of Any Relief Sought to Intervene Contained Therein) 0

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PART 1: STATEMENT OF FACTS AND LAW

PART 1(A): INTRODUCTION AND OVERVIEW OF THE DUAL-TRACK NOTICE OF APPLICATION

1. As expressly articulated at paragraph 166 of the summary trial decision below, The Honourable Chief Justice Skolrood—relying on an incomplete and artificially sanitized evidentiary record—concluded:

> "[166] Neither argument is compelling. As I noted above (see para. 145), there is nothing in the record to suggest that the LSBC in its current form has failed to govern lawyers in the public interest."

[Emphasis is the Applicant's]

2. It is respectfully submitted that the evidentiary record now before this Court demonstrates far more than a mere suggestion of such failure. When properly contextualized through the concealed volatile-memory extraction, the subsequent remote interception of communications through a far more egregious unloading of system modules of the Applicant's CPU then stationed at his home on March 2, 2016, (see: *infra*) (defined as "**March 2, 2016, Warrantless Remote Wiretap & Kernel Module Dump**"), and the LSBC's multi-year suppression of these facts, the record reveals a sustained and systemic departure from the LSBC's statutory and constitutional obligations.
3. At all material times, the LSBC was, in addition to the Charter, subject to section 3 of the *Legal Profession Act*, S.B.C. 1998, c. 9 ("LPA 1998"), which requires the Society to uphold and protect the public interest in the administration of justice by, inter alia, preserving and protecting the rights and freedoms of all persons. The LSBC has failed miserably under three different CEO's during that time period.
4. The Applicant, and all persons whose personal information, private communications, and volatile memory were captured in the concealed RAM dump on June 4, 2014, and the remote (see Appendices 1 and 2 to the Applicant's Memorandum of Argument for the **Intervention Application**), were, are, and remain entitled to the preservation and protection of their rights and freedoms under both statute and the Charter. Those aforementioned persons (known and unknown, and perhaps increasing with the LSBC's penchant of warrantless wiretaps of individual's property inside their homes) represent a **broad representative base**.

Part 1(A)(I): The LSBC's unaccountable response in August 2026

5. The LSBC's response in its *Memorandum of Argument* (AB, tabs 7–8) was not to deny the admissions made by its former counsel, nor to traverse the indisputable documentary record it itself produced on 25 October 2021. Instead, the LSBC elected to disclaim all accountability for its conduct while steadfastly

insisting that the entirety of the *Legal Professions Act, 2024*, S.B.C. 2024, c. 26 ("*LPA 2024*") be set aside, thereby reinstating in perpetuity the status quo ante.

6. That *status quo* was and is one in which the LSBC engaged in criminal conduct: warrantless forensic copying absent consent, and more gravely but now known to the BCCA, the execution of volatile-memory extractions—RAM dumps—that the judiciary in this country has authorized only in rare, exceptional circumstances for law enforcement agencies – not "societies", "colleges" or "professional association bodies".

Part 1(A)(II): A trip down memory land: public law unique perspectives – now in context

7. From the transcript of the hearing before The Honourable Madam Justice Gerow on March 30, 2015, in *McLean v. LSBC et al.*, BCSC File No. S-1410056:

> "Mr. Gomery, QC (as he then was):
>
> To the notion that the lawyer could examine, could authorize the production but couldn't copy is not a sensible reading of the statutory intent, in my respectful submission, that taking copies is simply an ordinary and natural part of an examination. In fact, the examining of books, records and accounts in this day and age, the alternative would be that what the statute is authorizing is that the investigators may go in, they may look, they may require him to show, but they may not actually take a photocopy. They may not actually make a record of what they're being shown. In my submission that is not a sensible reading of the statute.
>
> THE COURT:
>
> But I thought the issue here is whether or not they are entitled under this section 36 to make a rule which allows them to go in and search and seize documents on the site with -- I mean, this rule says that it's requiring a lawyer to cooperate with an investigation or examination on request. There's nothing in here which -- wait just a moment.
>
> MR. GOMERY: I understand.
>
> THE COURT: Which on a plain reading -- and if you're asking me to plainly read -- that allows a search and seizure of material in -- without consent or on request, presumably, and then you get your consent. But that's what the argument is, is that -- not that they -- I mean, if there was an investigation where they had permitted you to come in and permitted the investigation to go on, of course, you know, it makes sense that you could copy the documents in that context. What Mr. McLean is actually complaining of is that the rule that your client relied on, that took -- allowed them to go further than that. It allowed them to go in and search and seize without an order under section 37, and that's the issue, is whether or not that constitutionality of that rule is made out."

8. The next reproduction is from the hearing before Madam Justice Gerow on May 29, 2015, in *McLean v. LSBC et al.* (BCSC File No. S-1410056):

> **"LSBC**: Now, in my submission there's nothing here to express a **legislative intent** that records means anything less than records as defined in the Interpretation Act. And

having regard to the purpose, the purpose is of course the investigation of books, records and accounts of a lawyer. It is necessary that the Law Society not be **stopped cold** in its investigation if the lawyer has decided to mix personal and business records on a **hard drive**, as lawyers do.

THE COURT: Well, **they wouldn't be stopped cold**. That's the point. They would make an application under section 37, which would allow them **if they had appropriate evidence** to then go in and --
…you can't say they would be stopped cold.

They would be not able to **seize** or to copy **the entirety of a hard drive** presumably if it was within the -- **if that didn't fall within the definition of records under section 36**, but that wouldn't preclude the Law Society from then saying well, we want the computer, the hard drive computer for this particular individual. **We need to make an application to court**. So that's -- section 37 allows that, so I don't understand that submission.

MR. GOMERY: It's -- **I think I overstated it.**

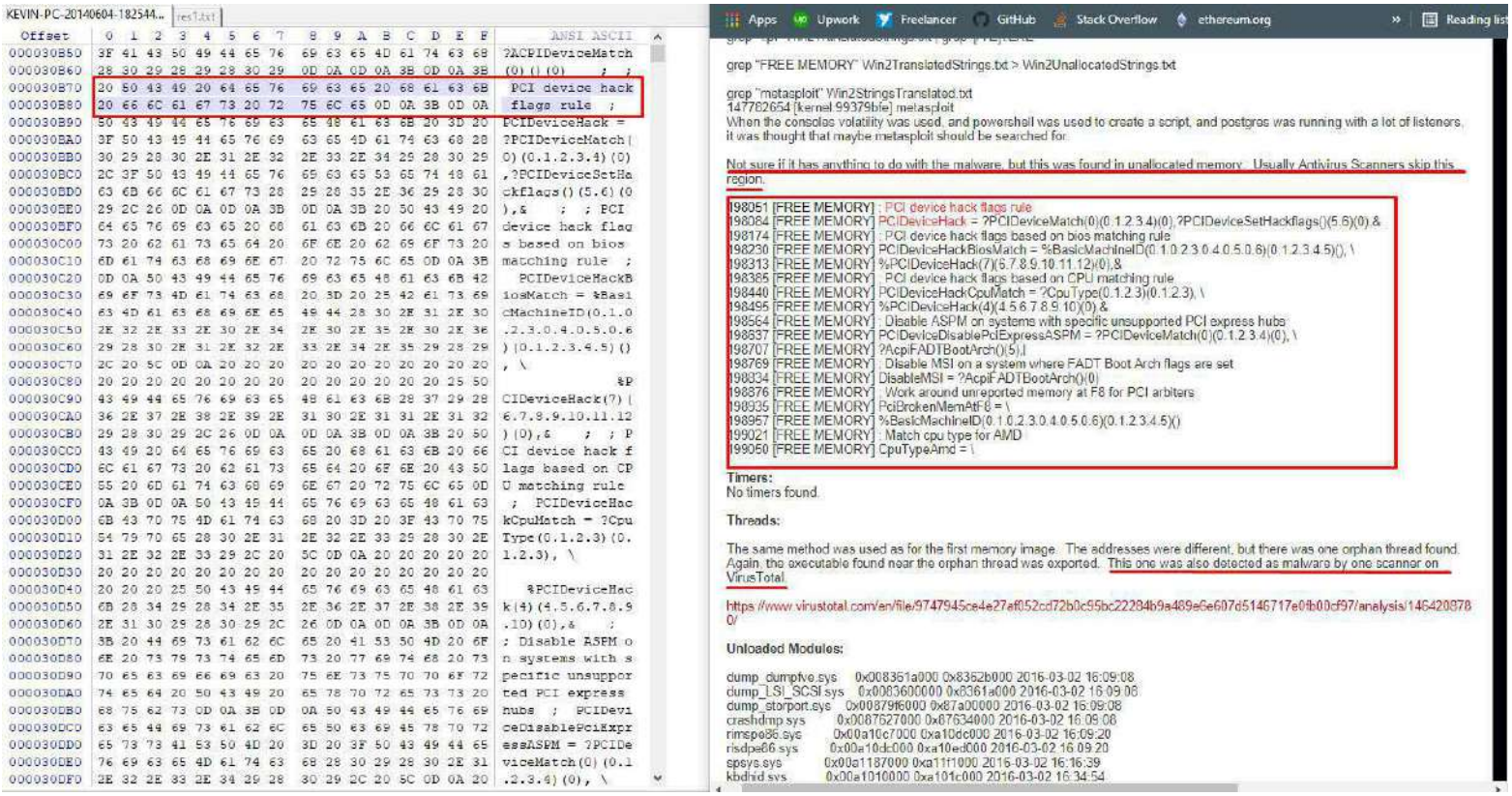
[emphasis is the Applicant's]

Part 1(A)(III): ***Why the "2014 Concealed RAM Dump" and the "Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump" Render the LSBC Incapable of Governing Lawyers (particularly the latter)***

9. Random access memory ("RAM") cannot be "copied" in any meaningful forensic sense. Unlike a hard drive—which is magnetic, stable, and capable of being imaged using industry-standard write-blockers—RAM is volatile, constantly changing, and exists only while the CPU is powered. A RAM dump requires the injection and execution of specialized software directly into the CPU's active memory space. This process alters the evidence, modifies the volatile state, and produces an output that is inherently non-verifiable. Native RAM images cannot be hash-matched (such as SHA-256) against any persistent storage medium (as RAM is not 'storage' but memory), and no forensic "write block" exists for volatile memory.
10. More specifically, RAM cannot be forensically preserved because: a. the CPU's usage immediately prior to the dump alters the volatile state; b. volatile memory is in constant flux and cannot be frozen without modification; and c. the act of creating a RAM dump necessarily changes the evidence within the CPU itself, as no mechanism exists to prevent ongoing 'writing' and 'activity' during extraction.
11. RAM contains the most sensitive information a computer ever processes: unencrypted cryptographic keys, authentication tokens, running processes, passwords (including those saved with web browsers like Chrome, Bing, Yahoo and others), unsaved drafts, fragments of communications, and device-level configuration states. It also contains the personal, private, confidential and privileged information of *any* person who used the device prior to shutdown—including non-clients, family members, friends, and

unrelated third parties. None of this information falls within the scope of “books, records and accounts” under *s. 36* of the *LPA 1998*. Since RAM would not meet the definition of “record” under the Interpretation Act either, it does not fall under section 37 of the *LPA 1998*. The Applicant has provided a comparative analysis as to why the LPA 2024 seeks to uphold and protect the public interest in the administration of justice by preserving and protecting the rights and freedoms of all persons (see: Schedule “F”).

12. The **Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record** produced by the LSBC on October 25, 2021, contains hexadecimal metadata that reveals the exact timestamp of the volatile-memory extraction.
13. The LSBC’s misconduct did not end in 2014. On March 2, 2016—shortly before another LSBC appeal before this Honourable Court—the LSBC engaged in a second, remote, warrantless interception of communications on the Applicant’s CPU. Appendix 3 of the Applicant’s Intervention Application (BCCA-filed) contains the forensic expert’s analysis of the hexadecimal output, revealing:
    a. use of *Volatility* forensic tools;
    b. execution of PowerShell scripts;
    c. active *postgres* listeners;
    d. artifacts found in unallocated memory;
    e. differing memory addresses consistent with a second, later intrusion; and
    f. unloading of system modules (.sys files) over a 25-minute period, evidencing sustained remote access.
14. This remote intrusion was technologically enabled by the persistence mechanisms seeded during the concealed RAM dump in 2014 infra:

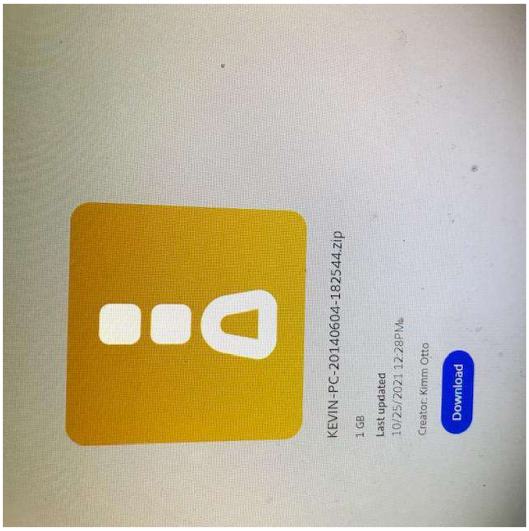


15. As demonstrated in the forensic analysis retained by the Applicant in 2021, the hexadecimal output associated with the March 2, 2016 remote entry attempt reveals multiple hallmarks of a PCI-based intrusion and fileless persistence. The following indicators were present:

    a. **"Consoles volatility was used"** — confirming that the attacker leveraged *Volatility*, a memory forensics framework, to enumerate active processes and memory regions in real time. This is consistent with an operator who already possessed the architectural blueprint of the CPU from the 2014 volatile-memory extraction.
    b. **"powershell was used to create a script"** — indicating that the remote actor executed PowerShell-based payloads, a standard technique in fileless intrusions because PowerShell runs entirely in memory and leaves no conventional executable artifacts on disk.
    c. **"postgres was running with a lot of listeners"** — demonstrating that the system had been coerced into spawning multiple unauthorized network listeners. PostgreSQL is not a native Windows service; its presence in volatile memory strongly suggests that the CPU was being used as a relay or staging node for remote command-and-control.
    d. **"found in unallocated memory"** — a critical forensic finding. Unallocated memory regions contain remnants of prior processes that were never written to disk. The presence of PCI-hack rule strings in unallocated memory confirms that the 2016 intrusion was not a standalone event but part of a continuous chain of activity originating from the concealed RAM Dump of June 4, 2014. The "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record" therefore contains not only the 2014 volatile-memory snapshot but a digital trail spanning 2014–2021, culminating in the October 25, 2021 Sharefile disclosure created by Ms. Kimm Otto (then of NST LLP, now of Lawson Lundell LLP).
    e. The **different memory addresses** between the 2014 and 2016 artifacts are consistent with two separate volatile-memory events: the first executed intra-office on June 4, 2014, and the second executed remotely on March 2, 2016. Volatile memory cannot be duplicated; each dump reflects the live state of the CPU at the moment of extraction; and
    f. The **unloading of multiple .sys modules between 16:09 and 16:34 PST** — a 25-minute window — is consistent with a remote DMA-based intrusion. .sys files are kernel-level drivers. Their sequential unloading indicates that the attacker was manipulating kernel modules to bypass privilege boundaries and reconfigure PCI device behaviour in real time.

Part 1(A)(III)(a): Ms. Kimm Otto resurfacing again

16. The metadata associated with the October 25, 2021 Sharefile disclosure confirms that Ms. Kimm Otto was the final "creator" of the digital record containing both the concealed RAM Dump and the subsequent remote-entry artifacts. This establishes a continuous chain of custody within the LSBC's agent-law firms from 2014 through 2021.



Part 1(A)(IV): Why the March 2, 2016, warrantless, unlawful, remote wiretapping and reconfiguring of the Applicant's CPU in his principal residence renders this current LSBC structure incapable of ever governing lawyers again (see: Appendix #5)

17. The forensic indicators present in the March 2, 2016, unlawful remote dump required targeted investigation into the LSBC's technological conduct. Even a single instance of such conduct would necessitate structural reform; here, the evidence demonstrates repeated incursions. The following signatures were present:

161

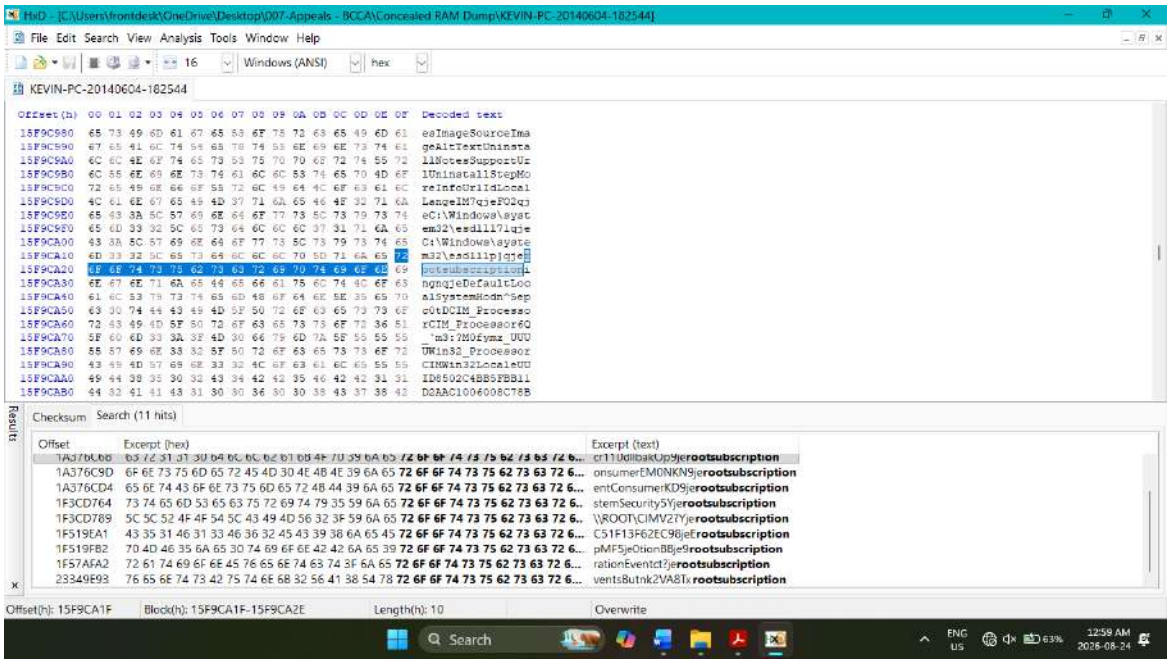
a. RDP patterns — including the hex sequence 03 00 00 followed by TPKT headers — confirming Remote Desktop Protocol activity. RDP is a remote-access mechanism that requires authentication; its presence in volatile memory during a warrantless seizure is incompatible with lawful regulatory conduct.

b. **WMI (Windows Management Instrumentation) artifacts** — including strings referencing IWbemServices and root\cimv2. These are classic indicators of WMI-based persistence, a fileless technique used by advanced intruders to execute commands remotely without creating files on disk.

c. **Unauthorized listeners** — including repeated "LISTENING" and "ESTABLISHED" strings adjacent to non-local IP addresses. This confirms that the CPU was configured to accept remote connections from external nodes, a hallmark of PCI-based DMA exploitation.

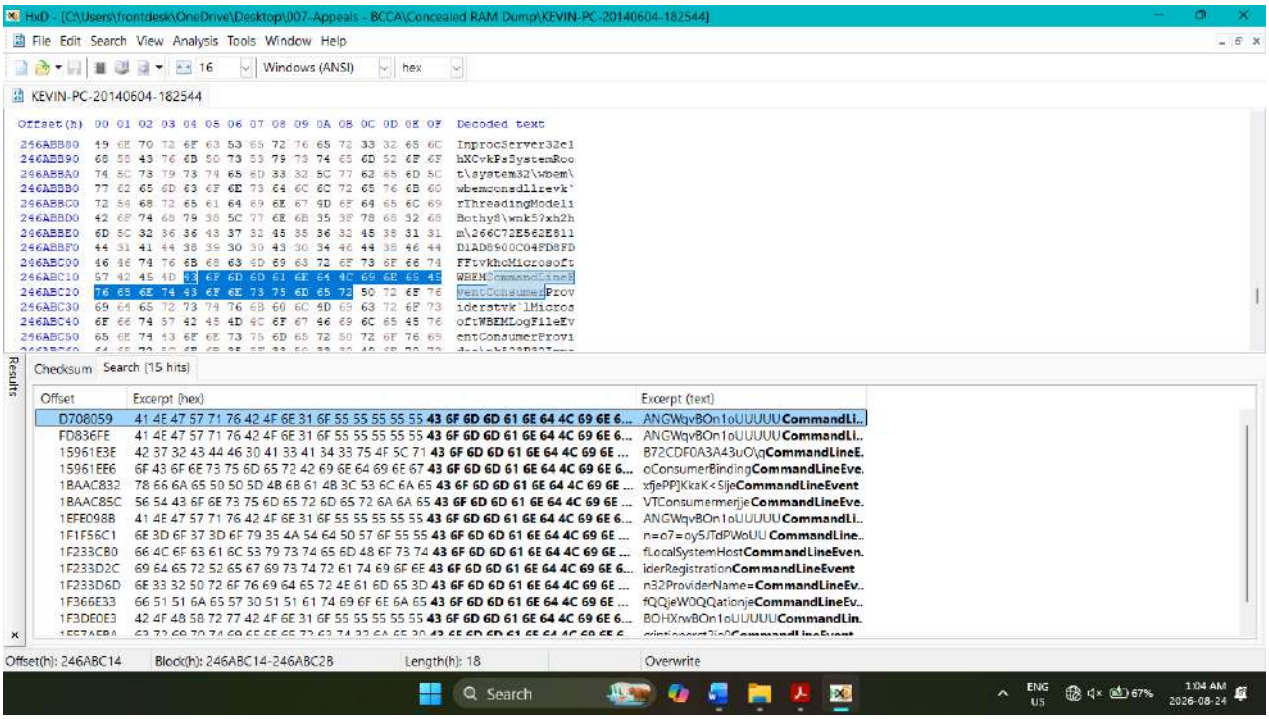
18. The presence of **rootsubscription** in a privacy-requested RAM dump is a forensic red flag of the highest order. A rootsubscription is a system-level WMI event listener that triggers hidden actions when specific conditions occur. Standard users never create such subscriptions. Their presence proves that the CPU had been modified to "listen" and "react" to remote triggers — a configuration consistent with persistent unauthorized surveillance.

19. **2**For ease of reference, the Hex editor output from the file labelled **"Kevin-PC-20140604…"** demonstrates these signatures *in situ*. The forensic artifacts therein corroborate that the LSBC's concealed volatile-memory extraction on June 4, 2014 seeded the persistence mechanisms that enabled the remote interception of communications on March 2, 2016.



Part 1(A)(IV)(a): Strings involving "CommandLineEventConsumer" or ActiveScriptEventConsumer

20. **21.** A further illustration of the concealed technological incursions appears in the lower portion of the hexadecimal output—approximately three-quarters down the page—where the Applicant identified multiple instances of *CommandLineEventConsumer* and *ActiveScriptEventConsumer* strings. Their placement deeper in the memory structure is consistent with later-in-time activity, aligning with the 2016 remote entry attempt rather than the 2014 RAM extraction.



21. The presence of fifteen (15) distinct *CommandLineEventConsumer* entries in a volatile-memory artifact—particularly in the context of a documented remote access attempt—is a forensic anomaly of the highest order. It constitutes the "smoking gun" of a WMI-based persistence mechanism: a fileless surveillance architecture capable of executing commands without leaving conventional logs or disk-based artifacts.
22. Technically, these entries represent the *Action* component of a Windows Management Instrumentation (WMI) persistence mechanism. WMI persistence operates through two components:
    a. **The Filter (Tripwire):** A trigger condition such as "on system logon," "after five minutes of uptime," or "on network state change."; and
    b. **The Consumer (Action):** The instruction executed once the tripwire is activated. The *CommandLineEventConsumer* is the most powerful and most covert of these actions, capable of launching arbitrary commands, scripts, or remote connections.
23. The text recovered by the Applicant is the WMI class definition itself—the blueprint Windows uses to understand and execute hidden command-line actions. This is not benign administrative residue; it is the structural scaffolding of a fileless backdoor.

Part 1(A)(IV)(b): Decoding the "Breadcrumbs"

24. The recovered snippet contains several highly specific indicators of intentional remote-execution design:
    a. **CreateNewConsole (Deprecated in Windows XP):** The presence of legacy definitions indicates the code was compiled using an older SDK, a common hallmark of monitoring tools and covert backdoors designed for cross-version compatibility.
    b. **CreateSeparateWowVdm:** This function enables 16-bit execution within a 32-bit environment—an elevated privilege rarely invoked by standard administrative tools.
    c. **CommandLineTemplate:** The most critical field. In a live RAM dump, the data following this string typically contains the actual command executed (e.g., PowerShell payloads, remote-IP callbacks, or script downloads). Its presence confirms that executable instructions were queued for execution.

Part 1(A)(IV)(c):Why the 15 hits matter and the legal

25. The fifteen (15) instances of *CommandLineEventConsumer* strongly suggest:
    a. **"Redundancy":** Multiple tripwires were deployed to ensure persistence even if one was deleted; and
    b. **"Memory Echoes":** Volatile memory often contains cached or paged-out copies of active structures, revealing the footprint of repeated or ongoing execution.
26. Standard administrative tools rely on *ActiveScriptEventConsumer* for benign automation. The *CommandLineEventConsumer*, by contrast, is the preferred mechanism for actors seeking to avoid detection because it:
    a. executes commands without creating scheduled-task entries;
    b. leaves no disk-based executable file; and
    c. operates entirely within native Windows components.

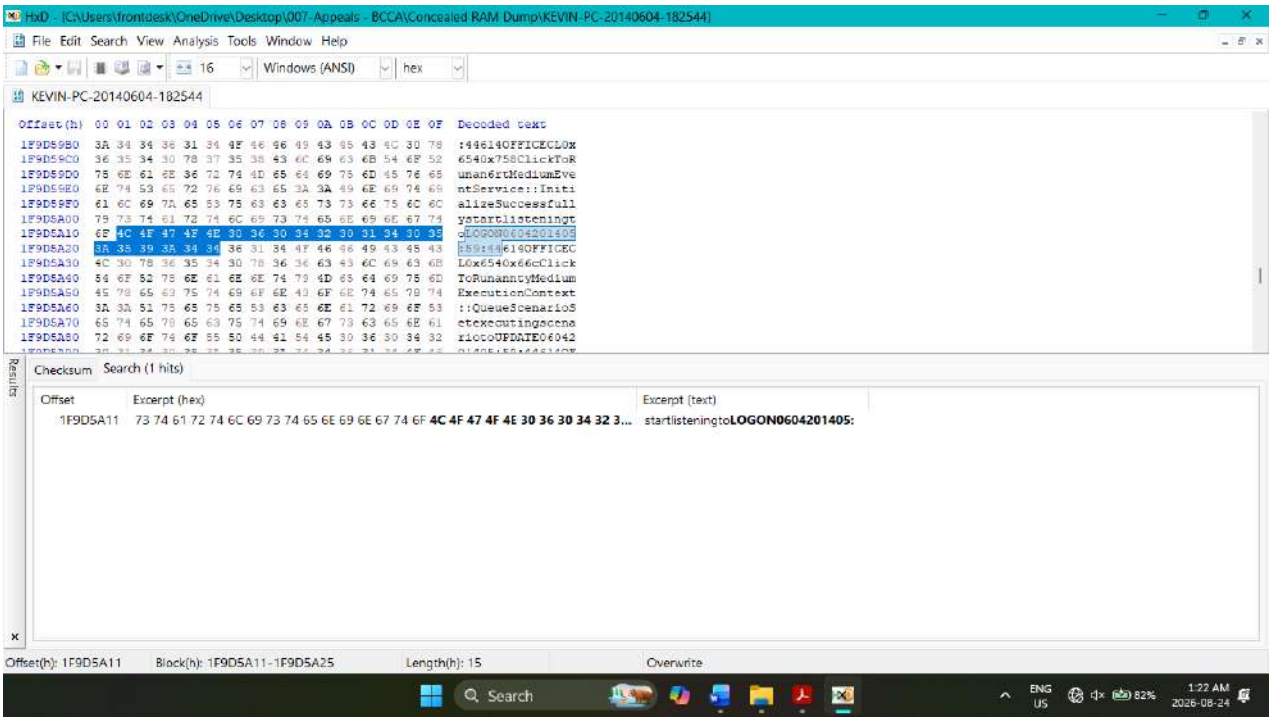
27. Its presence in a privacy-requested RAM dump—combined with the timing of the 2016 remote entry attempt—demonstrates a level of covert technological intrusion wholly incompatible with the LSBC's statutory duty to protect the public interest.

Part 1(A)(IV)(d): Why metadata never and cannot lie – why it provides the most unique perspective on the public law issues that will truncate the issues on Appeal

28. The following string, reproduced verbatim from the hexadecimal output, provides irrefutable metadata confirming the precise moment of the concealed RAM extraction:

> "InitializeSuccessfullystartlisteningto**LOGON0604201405:59:44614**OFFICECL0x6540x66cClickToRun…"

29. This is a background log generated by Microsoft Office's Click-to-Run service, which records update and licensing events. Metadata of this nature cannot be fabricated, altered, or spoofed without corrupting the underlying binary structure.



Part 1(A)(IV)(e): The Forensic Golden Nugget: The Exact Timestamp

30. On June 4, 2014, British Columbia was observing Pacific Standard Time (PST). The UTC offset was therefore seven hours, not eight.

31. Accordingly, the concealed volatile-memory extraction occurred at **10:59 a.m. PST on June 4, 2014**. This timestamp is mathematically consistent with the metadata and cannot be reconciled with the LSBC's narrative that the RAM dump occurred on June 3, 2014.
32. The Applicant did not consent to any RAM capture under the *Rule 4-43* order as none was even mentioned to him and not subject to the breadth of the Rule 4-43 Order. The order permitted forensic copying of the hard drive and paper files only. Given that Mr. Colin Cree of EFS Forensic Services Inc. was summoned from Surrey at approximately 9:45 a.m., it was mathematically impossible for him to have travelled from Surrey to downtown Vancouver, parked, set up equipment, and executed a RAM dump by 10:59 a.m. PST. The only remaining inference is that one of the three LSBC investigators—Ms. Chan, Ms. Ho, or Mr. McCartney—executed the RAM dump internally.

Part 1(A)(IV)(f): Conversion from UTC time to PST

33. The conversion from UTC time to PST requires consideration as to whether it was daylight savings time or not. On June 4, 2014, BC utilized PST so the difference of eight hours was reduced to seven hours.
34. Ergo, the time of the Concealed RAM Dump utilizing DumpIt software was at 10:59 a.m. PST on Jun 4, 2014. While the NST LLP letter does not specify the date of June 3 or 4, 2014, the metadata does not lie.
35. Ergo, since the Applicant did not consent to any conduct pursuant to the Rule 4-43 Order, which did NOT include dumping or capturing of RAM on June 3, 2014, yet the LSBC investigators Ms. Chan, Ms. Ho and Mr. McCartney remained in any event, but he in the face of being suspended conveyed consent, under duress he pleaded, to forensic copying of his hard drive and copying of his paper files, it become mathematically impossible for Mr. Colin Cree of EFS Forensic Services Inc. to have travelled rom Surrey, BC, after being summoned by Mr. McCartney (a former police officer himself) at approximately (9:45 a.m.) to downtown Vancouver, found parking and conducted the RAM Dump of the Applicant's CPU. Ergo, it was one of three LSBC employed persons.

Part 1(A)(V): The Layperson's explanation of why the LSBC in its current structure is so dangerous by commission and concealment of criminal conduct of its own

36. The remote interception of communications on March 2, 2016—nearly two years after the Concealed RAM Dump—was not an isolated technological anomaly. It was the direct, foreseeable, and technically inevitable consequence of the LSBC's concealed volatile-memory extraction on June 4, 2014. Volatile memory (RAM) contains not merely transient application data, but active kernel-level handles, unencrypted cryptographic keys, running processes, and device-level configuration states. Once seized, this data provides a complete architectural map of the target CPU, including the precise configuration of PCI devices, interrupt handlers, and firmware-level interfaces. As demonstrated in Schedule #3, the

hexadecimal output of the concealed RAM Dump revealed the presence of Windows Management Instrumentation (WMI) persistence mechanisms and a hijacked **BVTConsumer** trigger—an archetypal "fileless" persistence technique. Unlike traditional malware, fileless persistence does not rely on executable files stored on disk. Instead, it embeds itself into the logical architecture of the operating system, leveraging native Windows components (WMI, PowerShell, registry event consumers) to execute arbitrary code without leaving conventional forensic artifacts. This persistence mechanism, once seeded by the 2014 RAM extraction, enabled ongoing remote access attempts long after the initial seizure. PCI device intrusions operate by exploiting the direct memory access (DMA) capabilities inherent in PCI and PCIe architecture. DMA allows peripheral devices to read and write system memory without CPU intervention. When a regulator or its agents obtain a full volatile-memory snapshot—including active DMA mappings—they acquire the ability to replicate or spoof authorized PCI device behaviour. This enables the injection of malicious instructions, remote triggering of event consumers, and interception of CPU-level communications without requiring physical access or subsequent warrants. The March 2, 2016 interception is therefore technologically consistent with the persistence mechanisms unmasked in the 2014 RAM Dump. The Concealed RAM Dump on June 4, 2014, intra the Applicant's private office, provided the LSBC and its agents with:

a. **The CPU's full volatile state**, including active PCI device mappings;
b. **Unencrypted cryptographic keys**, enabling authentication bypass;
c. **Running WMI consumers**, enabling remote execution;
d. **Kernel-level process identifiers**, enabling targeted surveillance; and
e. **Privilege tokens**, enabling elevation without detection.

37. With this architectural blueprint, remote surreptitious monitoring could be executed through "Living off the Land" techniques—leveraging legitimate system tools to avoid detection.

38. The March 2, 2016, dumping of system modules on CPU, far worse than mere "wiretapping", on the Applicant's CPU is therefore not fresh evidence, nor is it novel. It is the natural continuation of the technological incursions already documented in the concealed RAM Dump and the metadata associated with the October 2021 Sharefile disclosure. The technological reality is unavoidable: once a regulator extracts volatile memory and conceals the extraction from its own administrative and judicial oversight, along with the AGBC, (including Madam Justice Gerow, Mr. Justice Bowden, Mr. Justice Grauer, Mr. Justice MacIntosh and Mr. Justice Branch (as they so refer), the target system is rendered permanently compromised.

39. The LSBC's conduct created a persistent, unauthorized surveillance capability that remained active through 2016 and beyond. This underscores the profound necessity of the legislative reforms embodied in the LPA 2024 and demonstrates why the prior regime was structurally incapable of protecting digital privacy, professional independence, or the administration of justice.

PART 1(B): RETURNING TO CHIEF JUSTICE SKOLROOD'S FINDINGS OF THE LSBC NOT FAILING TO GOVERN IN THE PUBLIC INTEREST AND WHAT WAS THE RATIONALE FOR CHANGE?

40. Rather, an empirical, irrefutable record establishes that the regulatory apparatus systematically contravened, and continues to contravene, the *Criminal Code*, R.S.C., 1985, c. C-46, alongside fundamental *Canadian Charter of Rights and Freedoms* (the "*Charter*") protections. By electing to advance purely procedural attacks whilst utterly failing to traverse these substantive allegations in its responsive appellate materials, the Law Society of British Columbia (the "LSBC") has tacitly reaffirmed these catastrophic contraventions without assuming a modicum of accountability.
41. The gravamen of the within application is squarely engaged. The Appellants seek the wholesale invalidation of the *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*" or "***Bill 21***") and a return to the *status quo ante*. The ultimate constitutional inquiry must therefore be posed: how can a regulatory body that actively suppressed its own history of executing unconstitutional, warrantless volatile-memory extractions ever be trusted to govern in accordance with the *Charter*? How can it be trusted to fulfill its paramount statutory duty to protect the rights and freedoms of all persons pursuant to section 3 of the predecessor *Legal Profession Act*, S.B.C. 1998, c. 9? The inescapable, jurisprudential conclusion is that it cannot.
42. The statutory architecture enabling the nullification of tainted appellate standing is expressly codified in the *Court of Appeal Act* and the *Court of Appeal Rules*. As this Honourable Court confirmed in *Yang v. Shi*, 2022 BCCA 317 as per the Honourable Justice Wilcock [in chambers] (and later affirmed in *Contreras v. Thomson*, 2024 BCCA 357), a dual-track mechanism exists for the summary termination of defective appeals: (a) a party-driven application to quash under Rule 60, and (b) a court-driven referral for summary determination under section 21.
43. Pursuant to Rule 60(1)(c), an application to quash is the proper procedural vehicle where evidence or argument is necessary to satisfy the Court that an appeal is "**manifestly devoid of substance** or merit or so devoid of merit as to constitute an abuse of process" (*Yang v. Shi*, at para. 24; *Wu v. Murray*, 2023 BCCA 270 at para. 26 as per The Honourable Mr. Justice Harris). The empirical evidence of the Concealed RAM Dump, the subsequent fileless surveillance, and the LSBC's multi-year fraud by omission flawlessly satisfies this threshold. If that does not satisfy that threshold then, at its highest for the LSBC, leaving the Honourable Chief Justice Skolrood with a misapprehension as to whether the LSBC had failed to govern lawyers in the public interest does.
44. Concurrently, a party, of which the Applicant meets the test for party status by way of intervention, may formally request that a justice or the registrar consider making a referral for summary determination under section 21(1) of the *Court of Appeal Act* (*Contreras v. Thomson*, at para. 10). As demonstrated in *Masjoody v. Trotignon*, 2023 BCCA 220, the section 21 referral mechanism is routinely employed to summarily dismiss appeals that offend the principles of finality, fairness, and the integrity of the

adjudicative process—including appeals barred by estoppel, inconsistent pleadings, or abuse of process (paras. 24–28). The LSBC's attempt to launder its unclean hands through the appellate process fits squarely within the parameters of a frivolous, vexatious, and abusive proceeding warranting a section 21 referral.

45. The LSBC's attempt to launder its unclean hands through the appellate process fits squarely within the parameters of a frivolous, vexatious, and abusive proceeding warranting a s. 21 referral. The jurisprudence is unequivocal:
    a. In *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at para. 3, the Supreme Court held that advancing irreconcilable factual positions in different proceedings is impermissible.
    b. In *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5 at para. 22, the Court confirmed that inconsistent positions in prior proceedings can constitute an abuse of process.
    c. In *Mystar Holdings Ltd. v. 247037 Alberta Ltd.*, 2009 ABQB 480, the court held that a party is not free to deliberately argue diametrically inconsistent facts in various actions, thus knowingly advancing irreconcilable positions not articulated as alternative claims.
    d. In *Glover v. Leakey*, 2016 BCSC 1624, Madam Justice Gropper (well known to the proceeding in the BCSC of which the LSBC did not seek leave to appeal) — who also decided the injunction against the LSBC — affirmed that abuse of process extends to any circumstance in which the court's procedure is used for an improper purpose.
    e. In *Jensen v. Ross*, 2014 BCCA 173, the Court held that abuse of process applies equally whether the inconsistent positions arise in a superior court or an inferior tribunal.
    f. In *Pepper's Produce Ltd. v. Medallion Realty Ltd.*, 2012 BCCA 247 at para. 28, Madam Justice Levine found that inconsistent positions cannot stand together to protect the integrity of the court's process and abuse of process must be found in such situations.
    g. In *Halagan v. Reifel*, 1997 CarswellBC 4040, Madam Justice Satanove held that a party cannot approbate and reprobate — held that pleadings and court processes are not a game to be played according to perceived strategic advantage.
    h. In *Canam Enterprises Inc. v. Coles*, 2000 O.J. No. 4930 (C.A.), the Ontario Court of Appeal affirmed the inherent jurisdiction of courts to prevent abuses of process, including professional conduct that seeks to manipulate or mislead the court.

46. Taken together, these authorities confirm that the LSBC's conduct — including concealment, circumvention of Madam Justice Gerow's injunction through remote digital entry into the Applicant's home, inconsistent factual positions, and attempts to sanitize its misconduct through the appellate process — constitutes a textbook abuse of process warranting summary dismissal under s. 21 or quashing under rule 60 of the BC Court of Appeal Rules along with the statutory jurisdiction of the BCCA to make any such orders under subsections 9(1)-(4).

PART 1(C): THE ILLUSION OF ABSOLUTE INDEPENDENCE AND THE INSURMOUNTABLE 2/3 CARTEL STRUCTURE

47. The Appellants argue that absolute, unsupervised self-regulation is an unwritten constitutional imperative. However, the historical corporate governance structure of the LSBC was structurally and mathematically engineered to prevent any meaningful internal reform, public accountability, or modernization of investigatory protocols.
48. Under Section 12 of the predecessor *Legal Profession Act*, S.B.C. 1998, c. 9, the LSBC could only enact fundamental governance changes—such as the removal of a bencher or the alteration of electoral districts—if approved by a two-thirds special majority of lawyers voting in a general referendum. This unassailable special majority requirement effectively guaranteed that no systemic reform could ever be enacted against the self-interest of the legal cartel. It insulated the governing benchers from minority dissent and external public pressure, rendering the institution structurally incapable of self-correction.
49. When a regulatory body requires a supermajority of its own self-interested members to approve structural oversight, it ceases to function as a public interest protector and devolves into a protectionist guild. ***Bill 21*** rightfully abolishes this archaic cartel architecture. By implementing a diversified board—including public appointees, notaries, and paralegals—that operates on a standard corporate simple majority, the Legislature has restored democratic functionality and aligned the legal regulator with modern administrative and corporate governance norms.
50. The institutional paralysis of the predecessor regime is explicitly evidenced by its failure to implement modernizations it formally endorsed. In 2013, the Benchers unanimously approved recommendations to merge regulatory operations with the Society of Notaries Public of British Columbia. A Memorandum of Understanding was executed to develop a joint proposal for a single regulator between the two societies, with amalgamation identified as the intended outcome. Yet, shielded by its archaic governance model, this amalgamation was never effectuated. The LSBC's inability — or unwillingness — to implement reforms it had itself approved necessitated the legislative intervention it now attacks. Indeed, at the eleventh hour, realizing that legislative change was imminent, the LSBC requested that the Attorney General bring into force amendments to the *LPA 1998* regarding licensing paralegals. By that point, however, the Province was already engaged in public consultations on the broader regulatory overhaul. The LSBC's last-minute attempt, with an appearance of desperation to shield the opening of Pandora's box(es), to salvage a fragment of the old regime only underscores the structural stagnation that compelled legislative action.

PART 1(D): TECHNOLOGICAL MALFEASANCE: THE CONCEALED RAM DUMP, FILELESS SURVEILLANCE, AND MISLEADING THE COURTS

51. The TLABC asserted in its Notice of Appeal and submissions below that ***Bill 21*** violates section 8 of the *Charter* based on the theoretical possibility that the new regulator's chief executive officer could conduct warrantless searches. They further argue that section 7 is infringed by the potential impact on a lawyer's psychological autonomy. These abstract, prospective concerns are thoroughly demolished by the empirical reality that catastrophic, unconstitutional, warrantless searches—and severe psychological intrusions—were already executed by their co-appellant, the LSBC, under the veil of absolute independence.
52. In June 2014, under the auspices of a defunct administrative rule, the LSBC authorized and executed a warrantless volatile-memory extraction against the Applicant—a "Concealed RAM Dump"—using highly invasive "DumpIt" software. The extraction was purportedly carried out by a third-party contractor, Mr. Cree (a former RCMP officer). However, in 2021, Mr. Cree confirmed that the EFS Forensic Preservation Report was materially false.[i]
53. This highly invasive dragnet seizure was deliberately and systematically concealed from the Independent Supervising Solicitor (the "ISS") that the Applicant selected in Mr. Deane. By bypassing the ISS, the LSBC unilaterally destroyed the privilege-protection protocol mandated under its own Rule 4-43 process. The concealment rendered the entire evidentiary chain irreparably tainted and established the RAM extraction as an absolute nullity *ab initio*.
54. Is this what the LSBC and TLABC are submitting must be returned to and the democratic will of the people is completely rendered moot?

PART 1(E): THE CAYTON INDICTMENT AND THE AMPLIFIED REALITY OF REGULATORY CAPTURE WITH THE BENEFIT OF THE "CONCEALED RAM DUMP & UNAUTHORIZED PI BLOCKCHAIN ACCESS DISCLOSURE RECORD"

55. The institutional paralysis and protectionist nature of the predecessor regime is not a novel assertion; it was explicitly documented by the LSBC's own independent governance reviewer. In November 2021, Mr. Harry Cayton delivered his "Report of a Governance Review of the Law Society of British Columbia" (the "**Cayton Report**").
56. Based solely upon the artificially sanitized access permitted to him, Mr. Cayton observed that the LSBC's legislative framework was archaic, and that "the power of the members to elect the Benchers and to overrule them and to stop changes to the Society's rules means that the Society acts more like a professional association than a professional regulator." He formally concluded that the historical corporate structure was fundamentally "**not fit** for a modern regulatory body."
57. It is forcefully advanced that if an independent governance expert determined the LSBC was structurally deficient based *only* upon the pristine, idealized documentation the regulator allowed him to review, his conclusions regarding regulatory capture and institutional fitness would have been exponentially more catastrophic had the LSBC been forthright. Had the LSBC not engaged in *suppressio veri*—deliberately hiding the 2014 unconstitutional RAM Dumps, the unauthorized disclosures of Personal Information and

PHI to Ethereum (Switzerland an the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump—the Cayton Report would have inevitably documented a regulatory cartel operating entirely outside the boundaries of democratically sanctioned self-regulation but more in the nature of an autocratic dictatorship without any respect for the judicial branch ("Judicial Branch") of government. Nonetheless, even on the artificial and simulacrum of a record provided to Mr. Cayton, the results of the Cayton Report were less than complimentary.

58. The fact that the LSBC actively shielded its most egregious *Charter* violations and technological nullities from its own independent governance reviewer perfectly crystallizes the absolute necessity of the legislative intervention effectuated by ***Bill 21***.

PART 1(F): FAILING TO DISCLOSE MATERIAL FACTS AND CORRECT THE RECORD: THE LSBC'S BREACH OF ITS OWN JURISPRUDENCE

59. The deliberate suppression of the Concealed RAM Dump and the LIF's financial malfeasance fundamentally engages the stringent duty of candour and integrity owed to the Court. It is profoundly hypocritical that the LSBC now seeks equitable relief from this Honourable Court while having egregiously violated the very standards of professional conduct it ruthlessly enforces against its own membership.

60. As the LSBC's own disciplinary panels have established, a lawyer's duty of candour includes the absolute obligation to disclose all material facts in an application before the court. The failure to do so has the direct potential to mislead the court and other interested parties (*Albas (Re)*, 2016 LSBC 18 at para 103). As articulated in *Law Society of BC v. Samuels*, [1999] LSBC 36: "It is an essential cornerstone of our system of justice that counsel's submissions reflect the actuality. Any departure is an assault on the integrity of that system."

61. This duty is continuous and unforgiving. In *Law Society of BC v. Galambos*, 2007 LSBC 31, and *Law Society of BC v. Nejat*, 2014 LSBC 51, the LSBC confirmed that when counsel discovers that a misrepresentation or misapprehension has been created with the court, there is a positive, immediate obligation to correct the record. Failing to correct a misapprehension once discovered constitutes actionable professional misconduct. Furthermore, knowingly permitting the filing of documents or affidavits that contain errors or omissions of material facts is, according to the LSBC in *Law Society of BC v. Foo*, [1997] LSDD No. 197, "about as serious a breach of professional conduct as can occur," ranking second only to the defalcation of trust funds.

62. The LSBC and its counsel deliberately left Chief Justice Skolrood and Madam Justice Gropper with "only part of the complete picture" (*Albas (Re)* at para 111). Nonetheless, they failed abjectly and miserably in all of their hearings before both of them which is what makes this factual matrix so unprecedented. In normal circumstances, the raising of fraud post making, issuing and endorsing of an order and decision,

is brought about by the aggrieved person against the party that has secured an unfair or unjust advantage (see:

63. By failing to advise the Court of their unconstitutional technological incursions and unregulated shadow-banking, the LSBC withheld information that possessed the absolute potential for the court to reach a different constitutional calculus regarding the necessity of ***Bill 21***.

64. The LSBC's foundational standing to bring this appeal was thus procured by an assault on the integrity of the justice system. A regulator cannot rely upon a pristine record before the Supreme Court while actively burying a Concealed RAM Dump, and then invoke the appellate jurisdiction of this Court without having ever corrected the misapprehension it engineered.

PART 1(G): FORMAL ADMISSIONS: THE ABSENCE OF A JUSTICIABLE ISSUE REMAINING FOR THE LSBC AND TLABC

65. Even if this Court were to not analyze the catastrophic *Charter* violations on a variety of persons captured by the indiscriminate RAM dump in 2014 but more forcefully in March 2016 the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump when the Applicant was not even a member of the LSBC, and the resulting abuses of process, the LSBC's appeal is functionally moot and completely devoid of a justiciable issue. The LSBC is legally bound by a series of formal admissions, made repeatedly to the public, to its membership, and formally in **its pleadings**, regarding the structural requirement for self-regulation.

66. The jurisprudence governing admissions establishes that formal admissions, deliberately conceded to an opposing party, are conclusive as to the matters admitted. The court is bound to act upon them, thereby dispensing with the need for further proof or litigation on the issue (Sopinka, Lederman and Bryant, *The Law of Evidence in Canada*, 5th ed at 138; *Canada Permanent Mortgage Corporation v. The City of Toronto*, 1951 CanLII 121 (ON CA); *Hughes v. Toronto Dominion Bank*, (2002) 21 C.P.C. 5th 388 at para 10). Pleading admissions are absolute (*Marchand (Litigation Guardian of) v. Public General Hospital Society of Chatham*, 2000 CanLII 16946 (ON CA) at para 77 (nota bene: " by an oral statement made by counsel at trial, or even counsel's silence in the face of statements made to the trial judge by opposing counsel with the intention that the statements be relied on by the judge"); *RPC Construction Ltd. v Zhiyi Zhou*, 2017 ONSC 4044 at para 45). Furthermore, an admission may be established by conduct that unequivocally communicates to the other party that a fact is not in dispute (*Quest Management Systems Inc.*, 2014 ONSC 3473 at para 67; *Champoux v. Jefremova*, 2021 ONCA 92).

67. On the sole basis of English language, grammar and syntax, along with *contra proferentem* (although not strictly necessary), the LSBC has no *lis* to litigate in its Appeal regarding the "election of lawyers" on the "new regulatory board". One of the LSBC's seminal admissions in its 2022 *Intentions Paper Response* states: "In our view, self-regulation of the legal profession requires that a majority of the board that governs lawyers are themselves lawyers and a majority of the lawyer directors are elected." This

sentence contains two independent mandatory requirements, joined by the conjunction "and." Each requirement must be satisfied separately. Each requirement is an admission. Each admission is binding.

68. A precise grammatical and legal deconstruction of the first clause is as follows:
    a. "Our view": the LSBC's formal institutional position.
    b. "Self-regulation": the asserted constitutional principle.
    c. "Of the legal profession": prepositional phrase defining the subject.
    d. "Requires": mandatory verb denoting obligation.
    e. "A majority": simple majority.
    f. "Of the board": prepositional phrase identifying the governing body.
    g. "That": restrictive determiner.
    h. "Governs": operative verb.
    i. "Lawyers": noun identifying the regulated class.
    j. "Are": linking verb.
    k. "Themselves": reflexive pronoun reinforcing composition.
    l. "Lawyers": noun completing the requirement.
69. The inescapable and unassailable conclusion is that ***Bill 21*** satisfies this clause: 9 of 17 directors are lawyers, a majority of the new proposed regulatory board.
70. The second clause, separated by the conjunction "and," is an independent requirement:
    a. "A majority": simple majority;
    b. "Of the lawyer directors": prepositional phrase narrowing the class; and
    c. "Are elected": mandatory verb denoting obligation. ***Bill 21*** satisfies this clause: 5 of the 9 lawyer directors are elected, a majority.
71. The LSBC did not state that *all* lawyer directors must be elected; that *only* elected lawyers may serve; that any *specific number* of elected lawyers is required; or that appointed lawyers undermine independence. It stated only: a majority of the lawyer directors are elected. ***Bill 21*** provides exactly that by, ironically, a democratically elected majority of members of the Legislature in 2024.
72. In June 2023, the LSBC publicly stated: "Chiefly, we have repeatedly asserted to government that lawyers must form a majority of the regulator's board." The LSBC did not repeat any requirement that the majority of lawyer directors must be elected. The LSBC did not retract or amend its 2022 admission. The LSBC did not add any new qualification or condition. Under the law of admissions, silence is fatal. A party cannot retract an admission by omission.

PART 1(G): COHERENT AND NON-PROLIX DECONSTRUCTION OF THE ENGLISH LANGUAGE

73. Furthermore, by explicitly pleading the 2022 *Intentions Paper Response* in its 2024 Notice of Civil Claim, the LSBC: (a) adopted its contents; (b) incorporated its admissions; (c) made those admissions binding

for litigation; and (d) cannot now vary, amend, or contradict them. A party cannot plead a document and then deny its meaning.

74. The LSBC cannot escape the consequence: the admission is binding. Based upon the binding jurisprudence above, the LSBC has no remaining *lis* to litigate. Its Appeal collapses under the weight of its own admissions. If the LSBC now claims otherwise, then: either the 2022 admission was binding (and the appeal is moot), or the 2022 admission was dishonest (and the LSBC acted in bad faith and has abused the process). Under either branch, the LSBC's appeal must be dismissed or quashed.

75. The TLABC's Notice of Appeal is similarly vitiated by these admissions. A meticulous review reveals a profound legal absurdity: they seek the total invalidation of ***Bill 21***, specifically targeting the creation of a single regulator and the implementation of a modernized paralegal licensing framework. Yet, as unequivocally demonstrated in paragraphs 351 through 358 of the LSBC's own 118-page Written Submissions filed before the British Columbia Supreme Court, the LSBC explicitly admitted that it spent more than a decade actively lobbying the provincial government for *exactly* those regulatory structures. In 2013, the Benchers unanimously resolved to seek a merger with the Society of Notaries Public, and as recently as March 2023, the LSBC formally requested that the government bring paralegal licensing into force.

PART 1(H): THE PROHIBITION AGAINST CONSTITUTIONAL ADJUDICATION IN A VACUUM

76. It is a foundational jurisprudential axiom, definitively established by the Supreme Court of Canada in *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, that alleged *Charter* violations or constitutional principles must never be adjudicated in a factual vacuum. As further synthesized in *Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R. 1086, and *MacKay v. Manitoba*, [1989] 2 S.C.R. 357, courts must be fiercely reluctant to engage in constitutional calculus absent a robust and complete evidentiary record.

77. By submitting a 118-page treatise to Chief Justice Skolrood detailing 150 years of idealized, theoretical history regarding the nobility of self-regulation, whilst actively suppressing the empirical history of its own *Charter* violations and the damning conclusions of the Cayton Report, a fraud was committed upon the adjudicative body. The Appellants deliberately deprived the Court of the systemic historical context requisite for a thorough constitutional balancing act. Invoking constitutional protections while actively concealing prior, severe constitutional infringements committed by the selfsame regulatory body constitutes a profound abuse of the adjudicative process.

PART 1(I): THE JURISDICTION TO QUASH: EX TURPI CAUSA, ABUSE OF PROCESS, AND FRAUD BY OMISSION

78. The doctrine of *ex turpi causa non oritur actio* dictates that bad-faith actors strictly forfeit their entitlement to discretionary court remedies. In *Cock v. British Columbia (Labour Relations Board)*, 1960 CanLII 293

(BCCA), this Honourable Court firmly established that extraordinary remedies and appellate standing will be refused to an applicant whose conduct in connection with the subject matter has been dishonest, deceitful, or calculated to circumvent the law. This equitable refusal of **public law remedies** based on the "clean hands" doctrine was subsequently elevated to a binding national standard by the Supreme Court of Canada in *Homex Realty & Development Co. v. Wyoming (Village)*, 1980 CanLII 55 (SCC).

79. The application of *Cock* stretches across the entire adjudicative spectrum. From judicial reviews of school closures (*Baker v. Burin Board of Education*, 1999 CanLII 19822 (NL SC)), to the denial of mandamus (*Re Burgin v. Township of King*, 1973 CanLII 465 (ON Div Ct); *Preston v. BC (District Director)*, 1991 CanLII 904 (BC SC)), the jurisprudence is uncompromising: litigants who engage in deceit, bad faith, or "gross breaches of good faith" forfeit their right to access public adjudicative machinery. The LSBC is not immune from this absolute standard although it has certainly conducted itself as the statutes passed by the BC Legislature and Parliament do not apply to it.

80. The LSBC for at least 12 years has purported to act above the law but no one is above the law including "societies", "not for profits", "captive insurance companies" or "indemnity funds".

81. The mechanics of this structural deceit are crystallized in the formal pleadings of the LSBC. It was the Applicant, not the LSBC, who proactively obtained protective court orders dictating that the LSBC could not do anything with the seized hard drive (see: MacIntosh J.'s orders in September 2017) – as there was no pleading of a Concealed RAM Dump in 2014 and 2015, and certainly no amendment of pleadings by the LSBC post the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump.

82. To shield this unconstitutional incursion, the LSBC actively reinforced and reaffirmed the misapprehension that only a hard drive was seized. In a formal Notice of Application filed by the LSBC in April 2017 (Supreme Court File No. S-1410056), the LSBC explicitly pleaded to the Court:

> "[23] On the morning of June 4, 2014, the plaintiff emailed Mr. Bussanich again and stated that his office was wide open for the Law Society to investigate. The plaintiff provided Mr. Bussanich with the password to his computer and stated that the investigators were at liberty to copy any documents they wanted. [24] On June 4, 2014, the investigators attended again at the plaintiffs office. The investigators took two forensic copies of the HARD DRIVE on the plaintiff's office computer. They also took copies of paper files provided by the plaintiff. [25] Nobody from the LSBC reviewed the HARD DRIVE until the conclusion of a process set out in the Rule 4-43 order for the adjudication of the plaintiffs request that certain documents be excluded from review. As it turned out, the plaintiff initiated but did not pursue the exclusion request and an independent adjudicator eventually dismissed the request."

83. By surgically focusing the Court's attention and deliberately capitalizing the "HARD DRIVE" to assure the Honourable Mr. Justice Grauer (as he then was) that data was strictly quarantined by the Rule 4-43 process, the LSBC **actively blinded** the Court to the existence of the parallel, unquarantined Concealed RAM Dump. Silence in the face of a positive duty to disclose foundational facts surrounding state-sanctioned seizures amounts to actionable deceit (see: Falsity by Omission, Silence or Inaction citing

Halsbury's Laws of England, 4th ed. reissue (London: Butterworths, 1998), vol. 31 (at para. 748)[ii] also pages 749 to 50[iii]). [iv] It is clear therefore that silence and half-truths can amount to a fraudulent misrepresentation. As explained in *Tapp and Another v. Lee* (1803), 3 Bos. & Pul. 367, 127 E.R. 200 at 203: "Fraud may consist as well in the suppression of what is true, as in the representation of what is false," and see *Curtis v. Chemical Cleaning and Dyeing Co., Ltd*., [1951] 1 All E.R. 631 (C.A.) (at p. 634):… a representation might be literally true but practically false, not because of what it said, but because of what it left unsaid. In short, because of what it implied. This is as true of an innocent misrepresentation as it is of a fraudulent misrepresentation (see: See as well *C.R.F. Holdings Ltd. et al. v. Fundy Chemical International Ltd. et al.* (1980), 1980 CanLII 586 (BC SC), 14 C.C.L.T. 87 (B.C.S.C.), aff'd on issue of liability at 1981 CanLII 488 (BC CA), [1982] 2 W.W.R. 385 (C.A.), *Ontex Resources Ltd. v. Metalore Resources Ltd.* (1990), 1990 CanLII 6952 (ON SC), 75 O.R. (2d) 513 (Gen.Div.), appeal allowed in part at (1993), 1993 CanLII 8673 (ON CA), 13 O.R. (3d) 229 (C.A.), and many other cases to like effect.

84. Finally, as explicitly noted in the May 25, 2026, Case Management letter filed by the LSBC's own counsel, the joint application record for the summary trial below contained approximately 20,000 pages, and the anticipated appeal record is expected to exceed 4,000 pages. To permit a massive, multi-week appellate hearing to proceed when the foundational standing of the Appellants is vitiated by fraud, *suppressio veri*, and binding admissions constitutes a **catastrophic waste of judicial economy**. If this Application is successful, with the judgment of Chief Justice Mr. Skolrood remaining correct and without any attempt by the Appellants to seek a stay of the continued and diligent progress of the various transitional boards to comply with the LPA 2024, then the public benefits in a more expeditious, cost-effective and just manner.

PART 2: COMPULSION TO FACE THE ERRANT ARGUMENTS OF THE LSBC AND TLABC IN RESPONSE TO THE APPLICANT'S INTERVENTION APPLICATION (WITH THE ADDITIONAL RELIEF SOUGHT THEREIN REPRODUCED IN THE FORM 4 NOA OF AUGUST 24, 2026)

PART 2(A): CHIEF JUSTICE SKOLROOD'S FINDING OF NOTHING IN THE RECORD THAT THE LSBC FAILED TO GOVERN LAWYERS IN THE PUBLIC INTEREST

85. Neither the Intervention Application nor this Notice of Application concerns *McLean v. LSBC*. The question before this Honourable Court is singular: **whether the LSBC failed to uphold and protect the public interest in the administration of justice by preserving and protecting the rights and freedoms of all persons**, as mandated by s. 3 of the *LPA 1998.*

86. At paragraph 4 of its memorandum, the LSBC dismisses the Applicant's Notice of Application as "prolix and incoherent." This is classic deflection. What is conspicuously absent from their four-page submission is the only thing that matters:

a. it does **not** deny the concealed RAM Dump of June 4, 2014;
b. it does not deny the unauthorized disclosure if Personal Information of a broad base of persons to Ethereum blockchain in 2015;
c. It does not deny the fraudulent and surreptitious remote monitoring, interception of communications, and dumping of system modules of the Applicant's CPU in his principal residence on March 2, 2016, in the form of the *Mar 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump*. This appears to have been undertaken in an effort to thumb its nose at the then-granted and binding injunction against the LSBC — an injunction expressly restraining the LSBC from "entering or attempting to enter the plaintiff's residence pursuant to that order" (see para. 93 of Madam Justice Gerow's Reasons for Judgment in *McLean v. Law Society of British Columbia*, 2015 BCSC 1431);
d. it does **not** deny the October 25, 2021 ShareFile disclosure from NST LLP to the Applicant or the LIF using a fictitious logo with its Sharefile account in Evolve Partner Lab;
e. it does **not** confront their own *Formal Admissions* regarding ***Bill 21***'s constitutionally required board composition even though Mr. Ferris, KC, a member on the Rule of Law and Lawyer Independence Committee of the LSBC (see: *infra*) pleaded the very Response to the Intentions Paper by the LSBC (see: AB, Tab, 15); and
f. it does **not** engage with a single technological fact, forensic artifact, or metadata string.

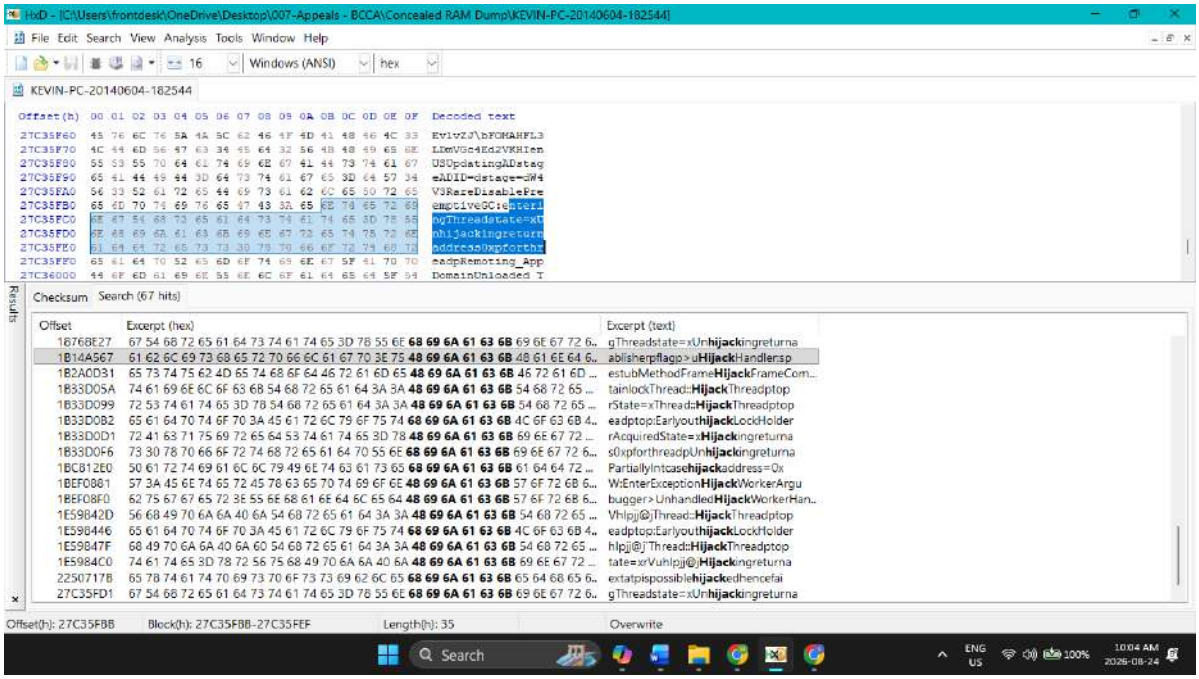
87. By attacking the Applicant rather than the evidence (the classic strawman or ad hominem attack which was certainly not in the public interest when the LSBC admits that public law issues are at stake and that the Applicant has a unique perspective), which is deserving of rebuke the LSBC has tacitly conceded that it has **no substantive answer** to the empirical record

88. .The LSBC's remaining defence rests entirely on paragraphs 5–7 and 11 of its memorandum, where it invokes the 2018 vexatious litigant order issued by Justice Branch. They attempt to wield this order as an impenetrable shield. It is the classic "doubling down on its previous fraud". This is their fatal error. The doctrine of *fraud unravels everything* (per Lord Denning in *Lazarus Estates Ltd. v. Beasley*) renders the 2018 order incapable of insulating the LSBC from scrutiny. Justice Branch's 2018 order was issued on the basis of an artificially sanitized evidentiary record—one the LSBC engineered by concealing the RAM Dump from the Court, just as it concealed it from Justice Gerow, Bowden, Grauer and Macintosh. The 2018 order is therefore a **fruit of the poisonous tree**. The modus operandi for seeking the same is now obvious with the benefit of hindsight but it is not a legal justification. And that is what the LSBC is hanging its proverbial hat on? That is frightening for the public interest. The temporal impossibility is decisive: the evidence driving this Intervention Application—the ShareFile link, the Kimm Otto metadata, the Deflate64 compression, the Binance Smart Chain tracking—was discovered in October 2021. A 2018 order cannot bar evidence of spoliation and unconstitutional surveillance committed **three years later**. Fraud, dishonesty, bad faith, extortion, and bribery form a special category of nullity that transcends all others.

Fraud vitiates judgments, contracts, and all transactions whatsoever. As Lord Denning held: "Fraud unravels everything." (*Lazarus Estates Ltd. v. Beasley*, at p. 712 cited in Landreville v. Town of Boucherville, 1978 CanLII 202 (SCC)).

PART 2(B): THE TLABC'S "PERSONAL GRIEVANCE" STRATEGY (PARAS. 8–12)

89. The TLABC's attack on the Applicant's intervention was predictable. Its argument is that the Applicant seeks to "hijack" the appeal with "peripheral issues," characterizing the concealed RAM Dump and subsequent remote interception as a "personal grievance" relating to the 2014 searches. They assert that the Applicant's evidence has "no bearing on the appeal" because the parties did not raise it. This position demands that the Court adjudicate a profound constitutional question in a **factual vacuum**.
90. If the LSBC or TLABC believed the Applicant's filings were improper, they should have brought a Notice of Application to strike or declare them a nullity. They did not. That omission is **fatal.**
91. To defeat the Applicant's representative-base argument, the LSBC need only produce the records from its warrantless volatile-memory captures on June 4, 2014 and March 2, 2016, and any other dates known to it. This would allow the Court to assess the full scope of the LSBC's conduct based on unconcealed evidence.[v]
92. If there was ever a wrong time to utilize a word, the TLABC did so. The TLABC asserts that the Applicant is attempting to "hijack" the appeal. Yet the term *hijack* appears sixty-seven times — not in the Applicant's materials — but in the LSBC's own concealed volatile-memory extraction and seven year digital evidence trial describing hijacked threads, hijacked return addresses, hijacked debugger calls, and hijacked CPU execution. The TLABC's choice of vocabulary is therefore not merely ironic; it is an inadvertent confirmation of the very technological misconduct the LSBC concealed from multiple courts for nearly a decade.
93. Yet again, the LSBC's disclosed record ("Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record") to the Applicant pursuant to *FIPPA* in 2021:



PART 2(C): THE BAFFLING WRITTEN SUBMISSION THAT "NEITHER PARTY RAISED THE ISSUE" [LSBC'S HISTORIC AND ONGOING CRIMINAL CONDUCT INVOLVING A WIDE VARIETY OF PERSONS CAPTURED BY THE RAM DUMPS (2014 AND 206)]

94. The fact that neither party raised the LSBC's historical criminal conduct makes the situation worse, not better. Silence in the face of unconstitutional conduct is not neutrality—it is complicity.
95. The Applicant readily acknowledges that the LSBC's technological sophistication—both intra-office and remote—was remarkable and impressive solely from that standpoint. Its ability to evade disclosure obligations under the *Supreme Court Civil Rules* by exfiltrating personal information to the Ethereum blockchain in Switzerland (outside GDPR jurisdiction) was highly advanced for its time. But sophistication of criminality is an **aggravating factor**, not a mitigating one. Under the new regime, such intelligence must be directed toward transparency, accountability, and public protection.
96. The TLABC submitted at paragraph 15 that interveners should be restricted to "the factual record established by the parties." That is precisely the problem—the parties' record omits the LSBC's unconstitutional conduct.
97. The LSBC's characterization of the Applicant's submissions as "prolix" and "incoherent" is unhelpful and contrary to the public interest. Complex fraud requires complex analysis. Metadata is not prolix or incoherent; it is evidence. If the LSBC believes its own documents are incoherent and prolix, its quarrel is with its agents, not the Applicant.

PART 3: DENOUEMENT AND ORDERS SOUGHT

PART 3(A): DENOUEMENT

98. The LSBC's challenge relies entirely upon the unwritten constitutional principle of the independence of the bar, which Chief Justice Skolrood expressly recognized as an unwritten constitutional principle. In their written submissions below (July 31, 2025), the LSBC advanced a 118-page theoretical treatise asserting that Bill 21's modernized, democratically accountable governance structure poses an existential threat to the public interest, and that the absolute, unsupervised self-regulatory model of the status quo ante is the sole constitutionally permissible paradigm.

99. The existential threat to the public interest was not Bill 21. It was Lawson Lundell LLP's client — the LSBC — whose conduct continues to exist as of today's date.

100. Returning to Chief Justice Skolrood's finding that there was "nothing in the record" to suggest that the LSBC had failed to govern lawyers in the public interest, and his query as to the rationale for why the BC government repealed the LPA 1998 and enacted the LPA 2024, the answer is set out in Schedule "F".

101. Once the concealed RAM dump was disclosed to Mr. Stephen King (counsel to the Ministry of Attorney General (BC)), and the **March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump** were unmasked, the Legislature closed every loophole the LSBC had exploited. The Applicant's evidentiary record supplied the missing factual predicate that Chief Justice Skolrood could not locate.

102. The Applicant may not have been the **only lawyer** subject to concealed RAM dumps intra-office and/or warrantless wiretaps of electronic devices in a home, law office, or non-law-office setting. During the relevant period since the passage of Rule 4-43, the LSBC averaged approximately five to six Rule 4-43 Orders per year. Each such order required forensic copying that typically lasted several hours, often in circumstances where lawyers would understandably step out of their offices for breakfast, lunch, or meetings. In the Applicant's case, multiple individuals used his CPUs and workstations, meaning that the concealed volatile-memory extraction and subsequent remote intrusion captured the private information of numerous third parties. The obvious inference — which this Honourable Court may draw pursuant to **section 24** and **25** of the *Court of Appeal Act* — is that other lawyers subject to Rule 4-43 Orders may likewise have been exposed to surreptitious digital intrusions without their knowledge. To permit the LSBC to proceed to a full appeal hearing months from now would be dangerous: the LSBC would continue to operate under the same structural regime that enabled warrantless RAM dumps, remote wiretapping, and kernel-level reconfiguration of computers, thereby circumventing section 184 of the *Criminal Code* for another 10 months or more while the appeal is pending. The public interest cannot tolerate such risk.

103. Moreover, what makes the current structure of the LSBC and its directing minds so dangerous is that you have Mr. Lucas, KC, espousing the importance of the Rule Of Law and in the very year that the LSBC is engaged in the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump, he published an article, "Surveillance of Electronic Communications: "Is there anybody out there?"…Yes there is. January 2016 (first published in *The Advocate*). The article, produced by the Rule of Law and Lawyer

Independence Advisory Committee, explicitly warned that government surveillance of electronic communications poses a direct threat to solicitor-client privilege and the rule of law

104. One of the committee members responsible for that publication was Mr. **Craig Ferris, K.C.**, now lead counsel for the LSBC in this proceeding. Whether the Applicant was a member of the LSBC or not, solicitor-client privilege belongs to the *client*. Engaging in the **March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump** constituted a breach of clients' constitutionalized privilege and a surfeit of breaches of the *Criminal Code*. The LSBC's answer to its own committee's warning was to engage, a mere two months later, in the very surreptitious conduct it publicly condemned.

105. Before LSBC counsel wishes to engage in such challenges to coherency and alleged prolixity in the Applicant's materials, it must first clean up its own house (what remains before amalgamation which is distinct from a merger at law), beginning with accurately citing and hyperlinking the decision of The Honourable Chief Justice Skolrood dated April 29, 2026. On its website, the LSBC has, for some months, been unable to do so. It currently states (which is "copied," not dumped):

> "**May 2026:**
>
> The Law Society filed a notice of appeal of the April 29, 2026 decision of the Supreme Court of BC dismissing our challenge to the constitutionality of the *Legal Professions Act*. The Trial Lawyers Association of BC also filed a notice of appeal." (see: Tab 16 of the Applicant's AB).

106. The hyperlink in its raw URL form provided by the LSBC on its website is: https://www.bccourts.ca/jdb-txt/sc/26/07/2026BCSC0779.htm which returns a result of: "**Judgment Not Found".**

107. For the purposes of ensuring the public, when it visits the LSBC website, has access to the decision of The Honourable Mr. Justice Skolrood, the coherent and laconic citation on the BC courts website is: https://www.bccourts.ca/jdb-txt/sc/26/07/2026BCSC0779cor1.htm.

108. Additionally, for whatever reason, the LSBC has refused to post the decision of Madam Justice Gropper, which found that the LSBC could not satisfy the second part of the injunction test, namely "irreparable harm". The correct citation for that decision is *Law Society of British Columbia v. British Columbia*, 2024 BCSC 1292 (see Applicant's Application Book at Tab 16).The correct citation of that decision is *Law Society of British Columbia v British Columbia*, 2024 BCSC 1292 (see: Applicant's Applicant Book at Tab 16).

109. If the Rule of Law matters as much as the LSBC has protested it does, then this must be its last hearing in its current structure.

PART 3(B): ORDERS SOUGHT

110. Accordingly, the Applicant seeks the relief denoted at Orders **#1–2 and #4–10** in his Form 4 Notice of Application filed on **August 12, 2026**. These orders are **independent of Order #3**, which concerns intervention relief and is addressed exclusively in the Applicant's **Rule 61 Memorandum of Argument filed on August 14, 2026**.

111. The Honourable Court directed that all applications to intervene were required to be brought by **August 14, 2026**. The Applicant complied with that requirement. His Form 4 NOA was stamped as filed on **August 12, 2026**, and expressly sought relief **outside the scope of intervention**.

112. This written argument is therefore tendered **not** under Rule 61, but under the *Court of Appeal Act* (2021) and the *Court of Appeal Rules* (2022), which contemplate the filing of a **written argument (if any)** in support of a notice of application. Under any of the provisions of the COAA or COR, the written argument is filed well in advance of such enactment deadlines.

113. This written argument is submitted pursuant to the Applicant's dual-track, albeit independent path, Form 4 NOA and the statutory and regulatory provisions cited therein. The Applicant respectfully submits that his intervention application should be heard first; and if intervention is granted, he will make oral submissions with respect to Orders **#1–2 and #4–10**, together with any incidental or consequential relief, and will tender a draft order in advance with a slight variation (if applicable) in the relevant rule so such order may be signed from the bench, and then tendered for immediate entering such that, inter alia, judicial economy and the public purse is respected.

114. Subject to oral speaking notes or outline, the Applicant will rely on his **August 14, 2026 Rule 61 MOA** to respectfully seek intervention status in the Appeals, and on this **written argument** for the relief relating to Orders **#4–10**.

115. Should an additional Notice of Application be required, the Applicant will file and pay for one and will seek any retrospective or retroactive orders as may be necessary, including relief granted ***nunc pro tunc***.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DATED: ***August 28, 2026***

Kevin A. McLean (BA, JD, CIM)

Applicant for the Moving Party

Toronto, Ontario, Canada

SCHEDULES

SCHEDULE "A": ENACTMENTS CITED

Statute / Regulation	Citation
An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities...	S.C. 2010, c. 23 ("**CASL**")
Canadian Charter of Rights and Freedoms	Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11.
Court of Appeal Act	S.B.C. 2021, c. 6.
Court of Appeal Rules	B.C. Reg. 120/2022.
Legal Profession Act	S.B.C. 1998, c. 9 (repealed).
Legal Professions Act	S.B.C. 2024, c. 26.

Reproduction of specific provisions of enactments

COURT OF APPEAL ACT, SBC 2021, C 6

Division 2 — Special Procedural Matters
Preliminary objections

20 (1)The court may, on application, make any order the court considers appropriate to give effect to a preliminary objection in relation to an appeal.
(2)A justice may, on application,
(a)quash an appeal on the basis that the court lacks jurisdiction, or
(b)make any order the justice considers appropriate to give effect to a preliminary objection in relation to an appeal, other than an order dismissing the appeal.

Referral to court for summary determination

21 (1)A justice or the registrar may refer an appeal to the court for summary determination if the justice or registrar considers that the appeal
(a)is frivolous or vexatious, or
(b)can otherwise be dismissed on a summary basis.
(2)On a referral under subsection (1), the court may dismiss all or part of the appeal if the court considers that the appeal meets the criteria set out in subsection (1) (a) or (b).
(3)Before dismissing all or part of an appeal under subsection (2), the court must give the appellant an opportunity to make written submissions or otherwise be heard.

Limiting hearings and requiring preparation of written arguments

26 (1)Before or during the hearing of a matter that is to be decided by the court, the court may do one or more of the following, either generally or in relation to a particular issue:
(a)order that the hearing be conducted
(i)in writing, or

(ii)by telephone, video conference or other means of telecommunication;
(b)order that the matter be decided without a hearing;
(c)limit the time for the hearing;
(d)limit the time for the hearing of an argument by any person.
(2)Before, during or after the hearing of a matter that is to be decided by the court, the court may order a party to prepare written arguments on any issue, whether or not the issue has been previously addressed by the party.

Power of a justice exercised by court
28 The court may exercise a power given to a justice by this Act or the rules.

General powers of a justice
30 In an appeal or other matter before the court, a justice may do one or more of the following:
(a)make orders incidental to the appeal or matter not involving a decision of the appeal on the merits;
(b)make orders or give directions for the purposes of managing the conduct of the appeal or other matter;
(c)make interim orders to prevent prejudice to any person;
(d)exercise the powers referred to in the following sections for the purposes of a matter that is to be decided by a justice:
(i)section 24 (2) (a) and (b) *[general powers of court]*;
(ii)section 26 *[limiting hearings and requiring preparation of written arguments]*;
(e)exercise the powers given to the registrar by this Act or the rules;
(f)grant leave to intervene;
(g)refer any application to the court;
(h)make any order with the consent of all parties to the appeal;
(i)in making any order, impose terms and conditions and give directions that the justice considers just.
Dispensing with rules and varying time limits
32 (1)A justice may dispense with a requirement of the rules.
(2)A justice may extend or shorten a time limit, provided in this Act or the rules, for doing an act, including the time limit for commencing an appeal or application for leave to appeal.
(3)Subsection (2) applies to an extension of a time limit even if the time limit for doing an act expires before
(a)a person applies for the extension, or
(b)the justice orders the extension.

Part 5 — Powers on an Appeal
Division 1 — Powers of Court
General powers of court
24 (1)On an appeal, the court may
(a)make any order that the court appealed from could have made,
(b)impose reasonable terms and conditions in an order, and
(c)make any additional order that it considers just.
(2)The court may
(a)draw inferences of fact,
(b)exercise the powers of the Supreme Court in relation to matters of contempt of court, and
(c)exercise any original jurisdiction that may be necessary or incidental to the hearing and determination of an appeal.
(3)The court may exercise its powers
(a)even though only part of an order is being appealed, and
(b)in favour of any person, whether or not the person is a party to the appeal.

Court has power of court appealed from

25 The court has the power, authority and jurisdiction vested in the court appealed from

(a)for all purposes of and incidental to

(i)the hearing and determination of any matter, and

(ii)the amendment, execution and enforcement of any order, and

(b)for the purpose of every other authority expressly or impliedly given to the court.

Part 1 — Interpretation
Definitions and interpretation
"file", in relation to a document, means to file the document in a court registry in accordance with the requirements under these rules or any directives of the registrar issued under section 38 [directives in relation to filing] of the Act;
Part 2 — How to File and Serve Documents
General requirements for filing and serving documents
3 Unless a contrary intention appears, if a rule in these rules requires a person to file and serve a document that relates to an appeal, the person must
(a)file the document, and
(b)serve on each party to the appeal a copy of the filed version of the document.
Division 5 — Adding Additional Respondents to an Appeal
Justice may add respondents to an appeal
18 (1)A justice may make an order under subrule (2), if
(a)a person was not named as a respondent in a notice of appeal or notice of cross appeal, and
(b)the justice determines that the person has interests that could be affected by the relief sought in the appeal or cross appeal.
(2)On application by a person referred to in subrule (1) (a), a justice, in the circumstances referred to in that subrule, may order that
(a)the person be added as a respondent to the appeal,
(b)the notice of appeal or notice of cross appeal, as applicable, be amended to name the person as a respondent, and
(c)the person be served the amended notice of appeal or notice of cross appeal, as applicable.
(3)Before filing a notice of application or any other document for the purposes of commencing an application under subrule (2), a person who wishes to bring an application must obtain a hearing date for the application.
(4)A person who wishes to bring an application under this rule must file and serve the following documents at least 5 business days before the application hearing date:
(a)a notice of application in Form 4;
(b)the person's supporting affidavits, if any;
(c)the person's written argument, if any.
(5)A person who is served a notice of application under this rule may, for the purposes of responding to the application, file and serve the following documents at least 2 business days before the application hearing date:
(a)the person's supporting affidavits, if any;
(b)the person's written argument, if any.
(6)The registrar may set the date, time and place for the hearing of an application under this rule.

Part 8 — Managing the Appeal Process
Division 1 — General
Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 *[dispensing with rules and varying time limits]* of the Act:
(a)dispense with a requirement of these rules;
(b)extend the time limit provided in these rules for doing an act.
Division 1 — How to Bring and Respond to Applications Made to the Court, a Justice or the Registrar
Applications made to the court, a justice or the registrar
52 (1)Subject to subrule (2), this Division applies to every application made to the court, a justice or the registrar.
(2)This Division does not apply to the following applications:
(a)an application for leave to appeal under Rule 13 *[how to apply for leave to appeal]*;
(b)an application to be added as a respondent under Rule 18 *[justice may add respondents to an appeal]*;

(c)an application for a stay of proceedings or stay of execution under Rule 20 *[applying for a stay of proceedings or execution]*;
(d)an application referred to in Division 2 of this Part;
(e)an application to the registrar to settle an order under Rule 68 *[settling the form or content of orders]*;
(f)an application for an order that no fees are payable under Rule 85 *[order that no fees payable]*.

Application hearing date must be obtained

53 Before filing a notice of application or any other document for the purposes of commencing an application, a person who wishes to bring an application must obtain a hearing date for the application.

Notice of application

54 A person who wishes to bring an application must file and serve the following documents at least 5 business days before the application hearing date:
(a)a notice of application in Form 4;
(b)the person's supporting affidavits, if any;
(c)the person's written argument, if any.

Responding to applications

55 A person who is served a notice of application may, for the purposes of responding to the application, file and serve the following documents at least 2 business days before the application hearing date:
(a)the person's supporting affidavits, if any;
(b)the person's written argument, if any.

Registrar may set chambers application hearing date

56 The registrar may set the date, time and place for the hearing of a chambers application under these rules.

Quashing an appeal or raising a preliminary objection

60 (1)This rule applies to an application to do one or more of the following:
(a)strike part of a factum;
(b)raise a preliminary objection to an appeal;
(c)quash an appeal before it is heard.
(2)A party who wishes to apply to do anything referred to in subrule (1) must, at least 7 business days before the application hearing date, file and serve the following documents:
(a)a notice of application in Form 4;
(b)the party's supporting affidavits, if any;
(c)the party's written argument, if any.
(3)A party who is served an application referred to in subrule (2) may, for the purposes of responding to the application, file and serve the following documents at least 2 business days before the application hearing date:
(a)the party's supporting affidavits, if any;
(b)the party's written argument, if any.
(4)Unless a justice or the registrar orders otherwise, an application under this rule must be heard at the time of the hearing of the appeal.

[NOT APPLICABLE IN THIS WRITTEN ARGUMENT PER SE]

Intervener status

61 (1)A person, other than a party, interested in an appeal may apply to a justice for leave to intervene in the appeal.
(2)To apply for leave to intervene in an appeal, a person must do the following no later than 14 days after the appellant files the appellant's factum:
(a)obtain a hearing date for the application;

(b)file and serve the following documents:
(i)a notice of application in Form 4;
(i.1)the person's supporting affidavits, if any;
(ii)a memorandum of argument prepared in accordance with the completion instructions.
(2.1)A person who is served an application referred to in subrule (2) may, for the purposes of responding to the application, file and serve on each party and on the applicant, at least 2 business days before the application hearing date, the following documents:
(a)the person's supporting affidavits, if any;
(b)the person's written argument, if any.
(3)In making an order granting leave to intervene, a justice
(a)must specify the date on which the intervener's factum is due, and
(b)may make any other order the justice considers appropriate to accommodate the intervener's participation in an appeal, including
(i)limiting the issues on which the intervener may intervene,
(ii)requiring the parties to serve documents on the intervener as if the intervener were a party, or
(iii)requiring the intervener to pay additional costs incurred by any party as a result of the intervention.
(4)Unless a justice orders otherwise, an intervener's factum
(a)must be prepared in accordance with the completion instructions, and
(b)must not exceed 10 pages.
(5)An intervener may not present oral argument during the hearing of an appeal, unless a justice orders otherwise.
[am. B.C. Reg. 240/2023, s. 5.]

SCHEDULE "B" – AUTHORITIES CITED

Jurisprudence	Citation
Albas (Re)	2016 LSBC 18
Baker v. Burin Board of Education	1999 CanLII 19822 (NL SC)
C.R.F. Holdings Ltd. et al. v. Fundy Chemical International Ltd. et al.	1980 CanLII 586 (BC SC), 14 C.C.L.T. 87; aff'd 1981 CanLII 488 (BC CA), [1982] 2 W.W.R. 385
Canada Permanent Mortgage Corporation v. The City of Toronto	1951 CanLII 121 (ON CA)
Canada Trustco Mortgage Co. v. Renard	2008 BCCA 343
Canam Enterprises Inc. v. Coles	2000 O.J. No. 4930 (C.A.)
Champoux v. Jefremova	2021 ONCA 92
Cock v. British Columbia (Labour Relations Board)	1960 CanLII 293 (BCCA)
Contreras v. Thomson	2024 BCCA 357
Curtis v. Chemical Cleaning and Dyeing Co., Ltd.	[1951] 1 All E.R. 631 (C.A.)
Danson v. Ontario (Attorney General)	[1990] 2 S.C.R. 1086
First Majestic Silver Corp. v. Davila Santos	2012 BCCA 5
Glover v. Leakey	2016 BCSC 1624
Halagan v. Reifel	1997 CarswellBC 4040 (BCCA)
Hawkeye Power Corporation v. Sigma Engineering Ltd.	2012 BCCA 414
Hill v. Church of Scientology of Toronto	[1995] 2 S.C.R. 1130

Homex Realty & Development Co. v. Wyoming (Village)	1980 CanLII 55 (SCC), [1980] 2 S.C.R. 1011
Hughes v. Toronto Dominion Bank	(2002) 21 C.P.C. 5th 388 (ON CA)
Jensen v. Ross	2014 BCCA 173
Landreville v. Town of Boucherville	1978 CanLII 202 (SCC)
Law Society of BC v. Foo	[1997] LSDD No. 197
Law Society of BC v. Galambos	2007 LSBC 31
Law Society of BC v. Nejat	2014 LSBC 51
Law Society of BC v. Samuels	[1999] LSBC 36
Law Society of British Columbia v. British Columbia	2024 BCSC 1292; 2026 BCSC 779
Lazarus Estates Ltd. v. Beasley	[1956] 1 QB 702
Little Sisters Book and Art Emporium v. Canada (Minister of Justice)	2000 SCC 69, [2000] 2 S.C.R. 1120
MacKay v. Manitoba	[1989] 2 S.C.R. 357
Marchand (Litigation Guardian of) v. Public General Hospital Society of Chatham	2000 CanLII 16946 (ON CA)
Masjoody v. Trotignon	2023 BCCA 220
McLean v. LSBC et al.	2015 BCSC 1431; BCSC File No. S1410056
Mystar Holdings Ltd. v. 247037 Alberta Ltd.	2009 ABQB 480
Ontex Resources Ltd. v. Metalore Resources Ltd.	1990 CanLII 6952 (ON SC), 75 O.R. (2d) 513; appeal allowed in part at 1993 CanLII 8673 (ON CA), 13 O.R. (3d) 229
Pepper's Produce Ltd. v. Medallion Realty Ltd.	2012 BCCA 247
Preston v. BC (District Director)	1991 CanLII 904 (BC SC)
Quest Management Systems Inc.	2014 ONSC 3473
Re Burgin v. Township of King	1973 CanLII 465 (ON Div Ct)
RPC Construction Ltd. v. Zhiyi Zhou	2017 ONSC 4044
Toronto (City) v. C.U.P.E., Local 79	2003 SCC 63,
Wu v. Murray	2023 BCCA 270

109

Yang v. Shi	2022 BCCA 317

SCHEDULE "C": GLOSSARY OF TECHNOLOGICAL TERMS INVOLVED

(All definitions are tailored for judicial comprehension and directly tied to the evidentiary record in this MOA. Authoritative sources include Microsoft Windows Kernel Documentation, NIST Digital Forensics Guidelines, MITRE ATT&CK Framework, and industry-standard forensic tools such as Volatility.)

ACQUIRE To obtain possession or control of digital information. RAM dumps allow acquisition of sensitive data that was never saved to disk. (NIST SP 800-86)

ActiveScriptEventConsumer A WMI component that automatically runs scripts when triggered. Less covert than CommandLineEventConsumer but still capable of executing unauthorized actions. (Microsoft WMI Class Documentation)

APPEND To add data to an existing structure. In RAM, append operations occur when injected software writes new instructions into memory.

Ascii85 / Base64 Encoding A mathematical method for converting binary data into printable text. Frequently used by threat actors to hide malicious scripts or exfiltrate data. (RFC 1924; MITRE ATT&CK T1132)

Binance Smart Chain (BSC) / Ethereum Public, decentralized blockchains where data is permanently recorded. Once personal information is written to these chains, it becomes immutable and globally accessible.

Blockchain Exfiltration The act of transferring personal information to a public blockchain. Because blockchain data is immutable and outside GDPR jurisdiction, this constitutes permanent foreign disclosure.

BVTConsumer (WMI Persistence) A hidden WMI "tripwire" mechanism used by advanced threat actors to maintain long-term unauthorized access. (Microsoft WMI Event Consumer Documentation)

CommandLineEventConsumer A WMI component that executes hidden command-line instructions when triggered. Its presence in RAM indicates remote command execution. (Microsoft WMI Class Documentation)

CommandLineTemplate A WMI field storing the exact command to be executed when a hidden trigger fires. In RAM dumps, the data following this field reveals the actual instruction executed (PowerShell, remote callbacks, downloads).

CONFIDENTIAL Information that is private, privileged, or sensitive — including personal communications, passwords, cryptographic keys, and client data.

COPY To duplicate stored data. In forensic practice, "copy" refers to duplicating files or disk sectors. RAM cannot be copied — only dumped.

CreateNewConsole A legacy Windows function (deprecated since Windows XP) used to create a new command-line console. Its presence indicates code compiled using older SDKs, often seen in covert monitoring tools. (Microsoft Win32 API Documentation)

CreateSeparateWowVdm A Windows function enabling 16-bit execution inside a 32-bit environment. Requires elevated privileges and is rarely used by legitimate administrative tools. (Microsoft WOW Subsystem Documentation)

Crypto Trading Platform (CTP) A marketplace for buying or selling digital assets. Under securities law, custody determines whether a platform is a regulated CTP. (OSC Staff Notice 21-329)

Cross Chain Swap Moving digital assets from one blockchain to another to obscure financial trails. Analogous to money laundering. (Chainalysis AML Reports)

CPU (Central Processing Unit) The computer's "brain." Hijacking the CPU means taking control of its operations or forcing it to execute unauthorized commands.

DESTROY PRIVATE DATA To erase or corrupt confidential information. In volatile memory, destruction is often partial — fragments remain recoverable.

Direct Memory Access (DMA) A hardware feature allowing devices to read/write memory without CPU permission. When exploited, DMA enables remote surveillance and memory manipulation. (PCI SIG DMA Specification)

DISPOSE To remove or delete data. In RAM, disposal is temporary — remnants remain in unallocated memory.

DumpIt.exe A forensic tool used to extract RAM. Its presence proves the LSBC executed the RAM dump locally and without consent.

EXTRACT To pull information out of a system. RAM extraction is the most intrusive form because it requires injecting software into the CPU.

Fileless Intrusion A cyberattack that leaves no files on the hard drive. Operates entirely in memory using built-in tools (WMI, PowerShell). (MITRE ATT&CK T1059, T1047)

Fileless Surveillance Surveillance conducted entirely in memory using legitimate system tools. Leaves no logs or files.

FORMAT To structure data or prepare storage for use. In RAM, formatting operations indicate manipulation of memory regions.

Forensic Copying A bit-for-bit duplication of a hard drive or storage device. Does not include volatile memory. (NIST SP 800-101)

GAIN To obtain access or privileges. Appears when a process acquires elevated permissions or unauthorized control.

Hard Drive Long-term storage containing saved files, documents, and emails. Unlike RAM, it is stable and can be duplicated without altering its contents.

Hedging (Smart Contract Derivatives) Code designed to balance liquidity pools or execute automated market-making strategies. Legally constitutes unregistered derivatives. (Commodity Futures Act)

Hexadecimal (Hex) Code / Hex Dump A numerical representation of memory. Hex reveals timestamps, commands, and system activity exactly as they occurred.

Hijacked Thread / Hijacked Return Address Occurs when an external actor forcibly redirects a thread's execution path or alters where the CPU "returns" after completing a task.

Huffman Inflation (Decompression) The process of unpacking compressed data to reveal readable text and hidden commands.

IMPAIR To damage or interfere with data integrity. RAM extraction impairs volatile memory by altering its state.

IMPERSONATE / IMPERSONATING Pretending to be another process or user to bypass authentication.

INJECT To place unauthorized code into a running system. RAM dumps require injection of software into the CPU.

Invoke Expression / Net.WebClient (PowerShell Kill Chain) A sequence of commands used to download and execute malicious instructions entirely in memory. (Microsoft PowerShell Documentation)

Living off the Land (LotL) A strategy where attackers use built-in administrative tools (PowerShell, WMI) instead of installing malware. (MITRE ATT&CK T1218)

March 2, 2016 Remote Wiretap & Kernel Module Dump A sustained, warrantless, remote interception of the Applicant's CPU conducted from outside his residence. Unlike the 2014 local RAM dump, the 2016 event involved live remote access, active wiretapping, and kernel-level manipulation of the operating system. Forensically, the intrusion is identified by: • RDP signatures (TPKT headers), confirming remote desktop access; • PowerShell execution, indicating fileless command delivery; • Volatility forensic tool artifacts, showing real-time memory enumeration; • PostgreSQL listeners, demonstrating unauthorized network services; • WMI persistence triggers, including rootsubscription and CommandLineEventConsumer; • Unloading of eight kernel modules (dumpfve, DumpSec's, dumpstoreport, crashdmp, rmpspe86, rsdpe86, spy's, kbdhid), evidencing active reconfiguration of PCI device behaviour and privilege boundaries.

This event lasted at least 25 minutes, exceeding the LSBC's claimed 18-minute duration of the 2014 RAM dump. Kernel-level module unloading is categorically more invasive than a RAM dump: it indicates that the attacker was actively manipulating the operating system itself, not merely capturing memory.

Legally, the 2016 event constitutes a criminal interception of private communications under s. 184 of the Criminal Code, a breach of s. 8 of the Charter, and a continuation of the persistence mechanisms seeded by the concealed RAM dump of June 4, 2014. It demonstrates remote surveillance capabilities wholly incompatible with lawful regulatory conduct.

Master Treasury (Centralized Supply) A cryptographic wallet holding the majority of a token's supply, proving centralized control.

Memory Echoes Cached or paged-out copies of active structures found in volatile memory, indicating repeated or ongoing execution.

Memory Forensics (RAM Dump) A frozen snapshot of a computer's active memory at a specific moment. (Volatility Framework Documentation)

Metadata Data about data — timestamps, creators, file paths. Cannot be altered without corrupting the underlying file.

MODIFICATION Any change to data or system behaviour.

Msg.data (Input Data Hex) The hidden payload section of a blockchain transaction.

NamespaceOperationEvent A stealthy WMI trigger used to monitor internal security state and deploy countermeasures.

OVERWRITE To replace existing data. Remote intrusions overwrite return addresses, thread states, and kernel modules.

Pausable.sol / onlyOwner Smart contract modifiers granting unilateral control to the developer.

Payload (Digital Command) The instruction executed by the system — the action forced by an attacker.

PCI Device (Peripheral Component Interconnect) Hardware capable of DMA, making it a powerful vector for remote surveillance.

PowerShell A Windows administrative tool frequently hijacked for fileless attacks.

RECOVERY Retrieving data that was deleted or unsaved.

RECREATE Reconstructing system activity from memory artifacts.

Redundancy (Persistence Mechanisms) Deploying multiple hidden triggers to ensure unauthorized access remains even if one is removed.

Remote Desktop Protocol (RDP) A remote access tool requiring authentication. Its presence in RAM during a warrantless seizure indicates unauthorized access.

Remote Interception of Communications (Wiretap) Accessing a computer's communications without authorization. Illegal under s. 184 of the Criminal Code unless judicial authorization is obtained.

rootsubscription A system-level WMI listener that triggers hidden actions.

Smart Contract A self-executing program deployed on a blockchain.

Thread A single line of activity inside the CPU.

Thread State What the thread is doing at that moment — running, waiting, suspended, or executing instructions.

Time Zone Normalization (UTC) Aligning internal computer timestamps with real-world time.

UTF-16 Little Endian The encoding used by the Windows kernel to store text in memory.

Volatility (netscan) A forensic tool used to analyze RAM dumps and reconstruct network connections.

Volume Boot Record (VBR) The raw machine code at the beginning of a hard drive partition.

Wash Trading Illegal market manipulation involving self-directed trades.

Windows Management Instrumentation (WMI) The administrative nervous system of Windows, frequently exploited for unauthorized surveillance.

SCHEDULE "D": SAMPLE OF THE VERBATIM HEXADECIMAL CODE, TECHNOLOGICAL TRANSLATION, AND LEGAL & EVIDENTIARY EFFECT

#	Raw Hexadecimal / Decoded Snippet	Technological Translation	Legal & Evidentiary Effect
1	ROOT\CIMV2?Yje…rootsubscription…Yje	WMI Persistence Trigger — Hidden WMI "rootsubscription" embedded in the core Windows hardware namespace. Repeated Yje padding indicates deliberate obfuscation to evade scanners.	Intentional Backdoor — Establishes a covert digital tripwire for unauthorized, fileless remote access while evading monitoring.
2	CommandLineEventConsumer…Executes command in response to an event (15 instances)	Execution Engine — WMI class programmed to silently launch executables/scripts when the tripwire fires.	Systemic Surveillance — Fifteen redundant triggers prove persistent monitoring, not an anomaly.
3	BVTConsumer…select from __NamespaceOperationEvent	Hijacked SelfDefense Mechanism — WQL script overwriting the benign Windows BVTFilter bug, repurposed to monitor attempts to delete the backdoor.	Malicious Sophistication — Shows active evasion and selfpreservation; attempts to remove the backdoor would trigger reinstatement.
4	Absence of kerncap.vbs near BVTConsumer triggers	Forensic Exclusion of Benign Error — Legitimate Microsoft BVT glitch always includes kerncap.vbs. Its absence proves intentional modification.	Destruction of "System Error" Defence — Confirms the WMI triggers were weaponized mechanisms, not Windows errors.
5	cmd.exe…com…lnk…bat…ScriptKmn…kevin	UserSpecific Targeting — Execution	Targeted Compromise — Links payload

		environment tied directly to the Applicant's user profile ("kevin").	execution to the Applicant's session, establishing intrusion upon seclusion.
6	System.Net.WebClient + FromBase64String (140+ hits)	Fetch & Decode KillChain — Downloads encrypted payloads from remote servers and decodes them directly into RAM.	Active Exfiltration & C2 Communication — Proves unauthorized communication with external commandandcontrol infrastructure.
7	SysWOW64\WindowsPowerShell\v1.0\powershell.exe (160+ hits)	Stealth Execution Engine — 32bit PowerShell invoked on a 64bit OS to bypass security monitors.	Advanced Evasion — Known tactic used by threat actors (2014–2018) to avoid detection.
8	InvokeExpression / IEX (134 hits)	InMemory Detonator — Executes decoded payloads directly in RAM without writing to disk.	Fileless Execution — Confirms militarygrade fileless malware techniques designed to leave zero harddrive footprint.

SCHEDULE "E": COMPARATIVE ANALYSIS OF THE 2014 CONCEALED RAM DUMP AND THE 2016 REMOTE WIRETAP & KERNEL MODULE DUMP

Category	June 4, 2014 — Concealed RAM Dump (Local)	March 2, 2016 — Remote Wiretap & Kernel Module Dump (Remote)
Nature of Event	Local volatile memory extraction using DumpIt.exe	Remote, unauthorized interception of communications + kernel-level manipulation
Location	Inside Applicant's private office (1800–999 West Hastings St.)	Applicant's home office CPU (405–1333 West Georgia St.)
Duration	~18 minutes (LSBC's claim)	≥ 25 minutes (confirmed by module unload timestamps)
Method	DumpIt.exe injected into CPU to capture RAM	Remote RDP activity, WMI triggers, PowerShell execution, PCI DMA exploitation
Type of Access	Physical, local access	Remote, sustained, unauthorized access (wiretap)
Legal Characterization	Unauthorized search and seizure	Criminal wiretap under s. 184 of the Criminal Code
System Impact	Captures volatile memory; alters RAM state	Manipulates kernel drivers; unloads system modules; reconfigures PCI behaviour
Modules Unloaded	None	Eight modules unloaded: dumpfve, dumpLSISCSI, dumpstoreport, cracid, rmpspe86, rsdpe86, spsys, kbdhid
Forensic Indicators	DumpIt signature; volatile memory snapshot	RDP signatures; unauthorized listeners; PowerShell payloads; PostgreSQL listeners; Volatility netscan artifacts
Persistence Mechanisms	WMI consumers present; BVTConsumer tripwire seeded	WMI persistence firing; CommandLineEventConsumer hits (15 instances); rootsubscription present
Data Captured	Unsent emails, encryption keys, authentication tokens, PCI mappings, kernel handles	Live communications, remote command execution, kernel-level driver activity, network listeners, fileless scripts
Consent	None; not mentioned in Rule 443 Order	None; no judicial authorization; no notice
Disclosure to Court	Concealed from Gerow J., Bowden J., Grauer J., MacIntosh J., Branch J., Skolrood C.J.S.C.	Concealed from all courts and the AGBC

Regulatory Authority	No authority to seize RAM under s. 36 LPA 1998	No authority to intercept communications or manipulate kernel modules
Constitutional Impact	Breach of s. 8 Charter (unreasonable search)	Breach of s. 8 Charter + s. 184 Criminal Code violation
Public Law Consequence	Demonstrates LSBC acting outside statutory mandate	Demonstrates LSBC engaging in criminal surveillance of an opposing litigant
Risk to Public	Exposure of confidential data of all persons using the device	Persistent unauthorized surveillance capability; system compromise lasting years
Causal Link	Seeded persistence mechanisms enabling later intrusion	Intrusion technologically enabled by 2014 RAM dump

SCHEDULE "F": THE LEGISLATURE'S ADOPTION OF SS. 78–80 OF THE LPA 2024 REFLECTS A DIRECT AND RATIONAL RESPONSE TO THE PRECISE HARMS REVEALED BY THE APPLICANT'S EVIDENTIARY RECORD. EVERY PROTECTION ADDED IN THE 2024 ACT CORRESPONDS TO A STRUCTURAL VULNERABILITY EXPLOITED UNDER THE 1998 ACT. THE "RATIONALE FOR CHANGE" IS THEREFORE NOT ABSTRACT: IT IS THE APPLICANT'S EXPERIENCE (THE TRAUMAS AND NIGHTMARES INFLICTED UPON BY THE LSBC OVER 12 YEARS AND COUNTING), WHICH NOW FILL THE EVIDENTIARY LACUNA IDENTIFIED BY CHIEF JUSTICE SKOLROOD.

Part I: Historical Context and Mischief Addressed

The Legislature's adoption of ss. 78–80 of the *Legal Professions Act, 2024* (LPA 2024) reflects a direct, rational, and structurally necessary response to the precise technological and privacy harms perpetuated under the *Legal Profession Act, 1998* (LPA 1998). Under the predecessor regime, the Law Society of British Columbia (LSBC) relied upon broad, discretionary rule-making authority (s. 36) to bypass judicial oversight (s. 37).

Crucially, a sharp legal and technological distinction must be drawn between two separate events documented in the evidentiary record: (1) the June 4, 2014 Concealed RAM Dump; and (2) the March 2, 2016 Warrantless Remote Wiretap & Kernel SYS Module Dump. The latter represents a far more egregious escalation. Displeased with the stringent requirements of seeking court orders under s. 37 of the LPA, and legally incapable of obtaining lawful wiretap authorizations because it is not a "law enforcement body," the LSBC utilized the 2016 remote intrusion to circumvent federal statute—specifically section 184 of the *Criminal Code*.

The 1998 statutory architecture lacked the requisite boundaries to protect digital privacy, secure private residences from these remote criminal interceptions, or prevent the indefinite detention and spoliation of seized data to decentralized blockchains. Every explicit protection added in the 2024 Act corresponds directly to a structural vulnerability exploited under the 1998 regime to prevent a repetition of this exact technological malfeasance.

Part II: Statutory Comparison Chart

Issue	LPA 1998 (ss. 36–37)	LPA 2024 (ss. 78–80)	Which Is More Protective?
Authority to Enter Premises	**s. 36(b):** Implicit authority to investigate "books, records and accounts." Limits on entry, scope, and conditions were left entirely to subordinate legislation (Benchers' Rules), granting the regulator excessively broad discretion.	**s. 78(1):** Explicit statutory limits codified — entry permitted during business hours only, restricted to business premises only, and strictly subject to rules.	**LPA 2024** — clear, democratically enacted limits prevent administrative abuse.
Entry Into Private Residences	**Statutory silence.** The Act provided no explicit protection for private residences. The regulator historically interpreted its broad mandate under s. 36 to permit warrantless digital access and volatile-memory captures of	**s. 78(2):** Explicit prohibition. The CEO cannot enter a private residence without the express consent of the licensee or a judicial warrant. Digital intrusions are implicitly prohibited without a court order.	**LPA 2024** — major privacy upgrade; permanently closes the residential and digital loopholes historically exploited.

	devices located inside private homes.		
Search & Seizure Standard	**s. 37:** Triggered if a licensee "may have committed misconduct." An extremely broad, speculative threshold that enabled investigatory overreach.	**s. 79(3):** Demands a rigorous evidentiary threshold. Must show reasonable grounds to believe that evidence actually exists of professional misconduct or incompetence.	**LPA 2024** — establishes a higher threshold and a strictly narrowed scope.
Judicial Oversight	**s. 37(1):** While s. 37 required a court order for seizures, the regulator routinely bypassed this requirement by relying on its broad investigative powers under s. 36 to capture data without any judicial authorization.	**s. 79:** A warrant is strictly required for any intrusive search or seizure. The issuing judge must specify limits, conditions, and the exact scope of the search.	**LPA 2024** — restores and tightly interlocks judicial control, preventing the s. 36 bypass.
Production Orders	**s. 36(d):** The regulator could demand cooperation, compel the production of records, and require explanations with virtually no procedural safeguards or avenues for review.	**s. 78(3):** The CEO may order production, but this power is explicitly subject to judicial review, modification, cost orders, and requires written reasons for any resulting suspension.	**LPA 2024** — embeds procedural fairness and due process into the investigatory stage.
Protection of Personal Information	**s. 36(i) + s. 37.1:** The regulator *may* return or destroy unrelated personal info, but only "subject to rules." The statute mandated no timelines and no structural safeguards for digital privacy.	**s. 80:** Imposes mandatory judicial reporting, mandatory return of items unless continued detention is justified, strict timelines (3-month maximum), and owner access rights.	**LPA 2024** — elevates privacy protections from discretionary rules to mandatory statutory duties.
Detention of Seized Records	**No statutory limits.** The regulator could hold seized personal data and hard drives indefinitely without further judicial approval.	**s. 80(6):** Strict 3-month maximum retention period, unless the owner explicitly consents or a judge formally orders an extension.	**LPA 2024** — explicitly prevents indefinite data retention and ensures accountability.
Copying of Records	**s. 36(d):** Permitted the regulator to copy virtually anything it investigated or seized, with no explicit limits, no write-blocker mandates, and no judicial oversight.	**s. 80(3):** Copies are authorized only for explicitly detained records, placing the process squarely under judicial supervision.	**LPA 2024** — the replication of sensitive data is now strictly regulated.
Owner Access to	**Statutory silence.** No guaranteed right for the target	**s. 80(5):** The owner is guaranteed the right to	**LPA 2024** — restores

Seized Records	to inspect the seized materials or obtain copies to mount a defense.	inspect seized items at any reasonable time and obtain one copy at the regulator's expense.	transparency and equality of arms.
Scope of Search	**s. 37:** Allowed seizure of "files or other records, wherever located." Extremely broad language that was weaponized to target personal devices and volatile memory.	**s. 79(4):** The issuing judge must specifically specify the premises, strictly describe the records, impose limits, set conditions, and control the disposition.	**LPA 2024** — investigatory scope is strictly narrowed, controlled, and defined by the Court.
Oversight of Seizure Conduct	**Statutory silence.** There was no requirement to report back to a judge after a seizure was executed.	**s. 80(1):** Imposes mandatory reporting of the seizure to the issuing judge "as soon as practicable."	**LPA 2024** — adds a critical layer of post-seizure accountability.
Suspension for Non-Compliance	**No structured process.** The regulator could threaten discipline or suspension without codified procedural safeguards.	**s. 78(6)–(8):** Suspension now strictly requires written reasons, a specified duration, formal delivery, and an explicit right of review.	**LPA 2024** — administrative due process is formally codified.
Protection Against Abuse of Process	**Lacked structural safeguards.** Enabled the regulator to utilize s. 36 to conduct highly intrusive searches without judicial or external disclosure, effectively shielding unauthorized criminal interceptions.	**ss. 78–80:** Explicit limits are interlocked to prevent unauthorized digital intrusion; private residences are shielded; judicial oversight is restored; mandatory reporting and detention limits are imposed.	**LPA 2024** — structurally and permanently closes the loopholes the LSBC previously exploited.

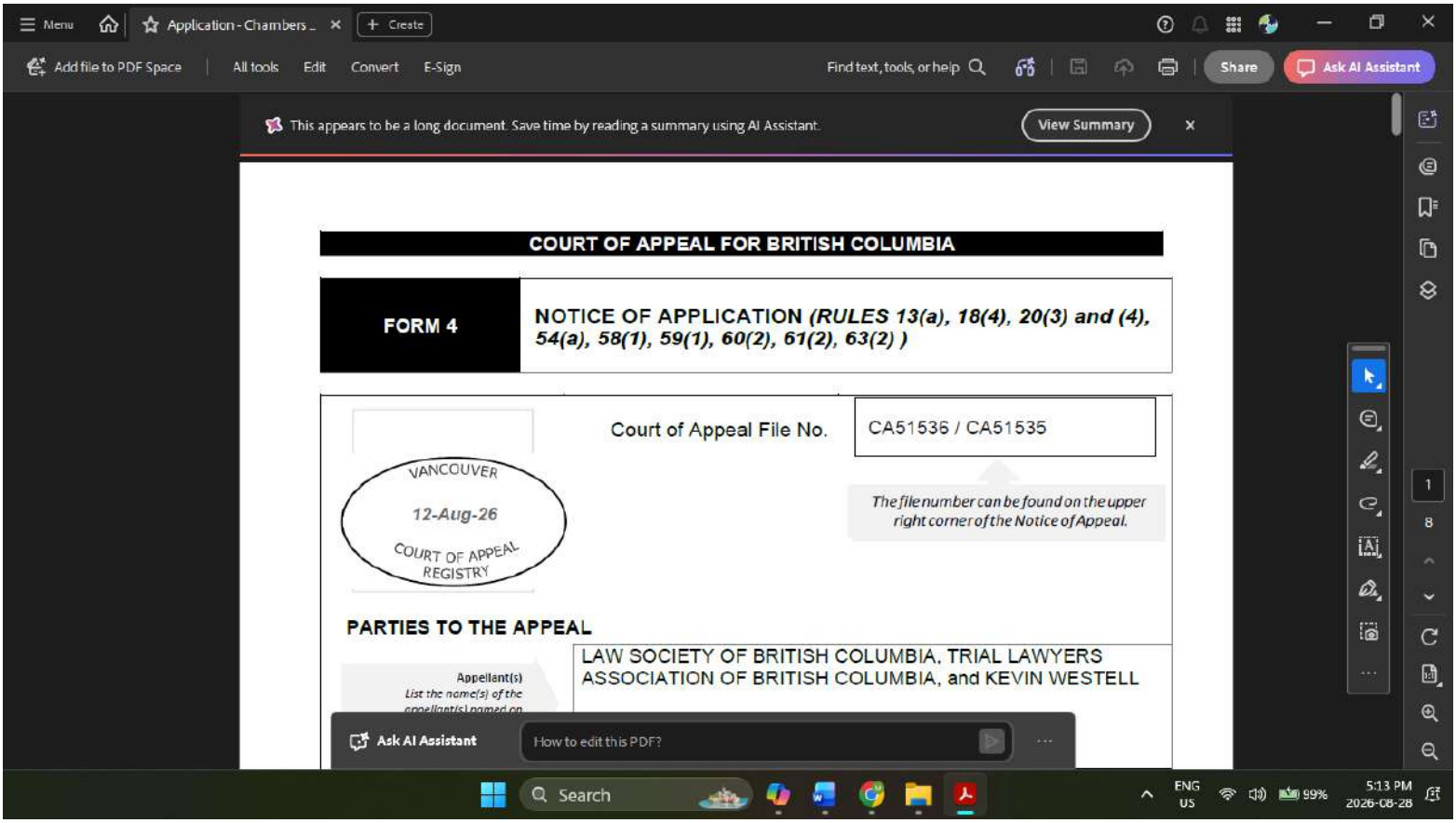
SCHEDULE "G": LEGAL AND TECHNICAL COMPARISON: RAM DUMP VS. MAR 2 2016 WARRANTLESS WIRETAP KERNEL SYS MODULE DUMP

Category	RAM Dump (Lawful Only in 3 Cases in Canadian History all involving child pornography of the most heinous life-forms (and that is charitable for those types of scum)	March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump	Could Any Warrant Authorize It?
Nature of Action	Passive capture of volatile memory	Active remote intrusion + live wiretap + kernel manipulation	No
Intrusion Level	Extreme but non-interactive	Beyond extreme — interactive, persistent, manipulative	No
System Integrity	Not altered	Altered — 8 kernel modules unloaded	No
Communication Interception	None (RAM dump ≠ wiretap)	Live interception of communications	Requires Part VI wiretap (not obtained)
Remote Access	None	Yes — remote command execution	No warrant authorizes remote intrusion
Persistence	None	Yes — WMI persistence artifacts	No
Driver / Kernel Manipulation	None	Yes — SYS module dump + driver unload	No warrant in Canada allows kernel manipulation
Command Execution	None	Yes — remote commands executed	No
Duration	Momentary snapshot	25+ minutes of active manipulation	No
Legal Basis	Judicial authorization in CP cases only	None — unauthorized Part VI wiretap + unauthorized intrusion	No
Criminal Code Compatibility	Fits within s. 487 + CP jurisprudence	Violates s. 184 (wiretap), s. 8 Charter, and system integrity principles	No

Forensic Classification	High-intrusion search	System compromise + wiretap + kernel sabotage	No

SCHEDULE "H": CSO PRINT OUT FROM THE FILE INVOLVING THE TLABC'S APPEAL (SEE: CA51536) (ALTHOUGH APPLICANT'S FILINGS FOR INTERVENTION STATUS WERE UNDER THE LSBC APPEAL FILE NUMBER CA515355)

(by reference and screenshot)



COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4	**NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))***

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

VANCOUVER
12-Aug-26
COURT OF APPEAL REGISTRY

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

the same prior to, during and/or after the hearing of the Applicant's NOA to intervene, and if leave is granted, an Order dispensing with any requirements under the aforementioned statute and regulation so that the Applicant's relief is heard as proposed.

Part 2 Orders: Relief to Intervene as a Party

Order #3: An Order granting leave to Mr. Kevin A. McLean (BA, JD, CIM) to intervene as a Party in the Appeals herein and all consequential relief flowing from the granting of such an Order;

Part 3 Orders: RELIEF RELATING TO THE APPLICANT'S PROPOSED RELIEF, IF INTERVENTION STATUS IS GRANTED, IN RELATION TO DISMISSAL AND/OR QUASHING

Order #4: An Order that the substantive relief sought below be heard on the same day as the Notice of Application to intervene (the "Intervention Application" or "NOA Intervention"), in the interests of justice and judicial economy. In the alternative, an Order that the substantive relief infra be heard within one week of the hearing of

VANCOUVER
14-Aug-26
COURT OF APPEAL REGISTRY

0

COURT OF APPEAL FILE NOS. CA51536 / CA51535

COURT OF APPEAL

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS (Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS (Defendants)

MEMORANDUM OF ARGUMENT FOR LEAVE TO INTERVENE

14Aug2026	Application - Chambers > Intervener Status	B. Olthius	E	
14Aug2026	Application - Chambers > Intervener Status	I. Knapp	E	
14Aug2026	Application - Chambers > Intervener Status	C. Bildfell	E	
14Aug2026	Application - Chambers > Intervener Status	K. Lee	E	
14Aug2026	Application - Chambers > Intervener Status	J. Maclaren	E	
14Aug2026	Application - Chambers > Intervener Status	D. Redman	E	
14Aug2026	Affidavit > Stand Alone	C .Dauvergne	E	
14Aug2026	Affidavit > Stand Alone	E. Kirkpatrick	E	
14Aug2026	Affidavit > Stand Alone	B. Olthuis	E	
14Aug2026	Affidavit > Stand Alone	I. Knapp	E	
14Aug2026	Affidavit > Stand Alone	C. Bildfell	E	
14Aug2026	Affidavit > Stand Alone	K. Lee	E	
14Aug2026	Affidavit > Stand Alone	J. Maclaren	E	
14Aug2026	Affidavit > Stand Alone	D. Redman	E	
14Aug2026	Argument > Memorandum of Intervener	K. McLean	E	
14Aug2026	Argument > Memorandum of Intervener	C. Dauvergne	E	
14Aug2026	Argument > Memorandum of Intervener	E. Kirkpatrick	E	
14Aug2026	Argument > Memorandum of Intervener	B. Olthuis	E	
14Aug2026	Argument > Memorandum of Intervener	I. Knapp	E	
14Aug2026	Argument > Memorandum of Intervener	C. Bildfell	E	
14Aug2026	Argument > Memorandum of Intervener	K. Lee	E	
14Aug2026	Argument > Memorandum of Intervener	J. Maclaren	E	
14Aug2026	Argument > Memorandum of Intervener	D. Redman	E	
13Aug2026	Affidavit > Stand Alone	J. Doyle	E	
13Aug2026	Affidavit > Stand Alone	R. Millen	E	
13Aug2026	Argument > Memorandum of Intervener	J. Doyle	E	
13Aug2026	Argument > Memorandum of Intervener	R. Millen	E	
13Aug2026	Application - Chambers > Intervener Status	J. Doyle	E	
13Aug2026	Application - Chambers > Intervener Status	R. Millen	E	
12Aug2026	Application - Chambers > Intervener Status	L. Troup	E	
12Aug2026	Application - Chambers > Intervener Status	K. McLean	E	
12Aug2026	Affidavit > Stand Alone	L. Troup	E	
12Aug2026	Argument > Memorandum of Intervener	L. Troup	E	
10Aug2026	Argument > Memorandum of Intervener	C. Senini	E	
10Aug2026	Application - Chambers > Intervener Status	C. Senini	E	
10Aug2026	Affidavit > Stand Alone	C. Senini	E	
10Aug2026	Order > Lower Court		E, P	
07Jul2026	Letter/Document > Lower Court Order	Puscar	E	
06Jul2026	Transcript > Civil	G. Cameron	E	
06Jul2026	Appeal Record > Stand Alone	G. Cameron	E, P	
02Jul2026	Letter > Stand Alone	Registry	E, P	View
02Jul2026	Letter > Stand Alone	L. Bevan	E	View
29Jun2026	Notice (of) > Hearing	T. Posyniak	E	View
29Jun2026	Letter/Document > Memo From Court	Outerbridge	E	
26Jun2026	Letter > Request to Appear Remotely (Chambers)	T. Posyniak	E	
25Jun2026	Letter > Stand Alone	C. Ferris	E, P	View
17Jun2026	Letter/Document > Letter From Court Both	Outerbridge	E	

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[i] Email correspondence between LSBC counsel (Mr. Bussanich) and LSBC investigator (Mr. McCartney) demonstrates that the RAM Dump occurred at a time when Mr. Cree could not have physically arrived from Surrey to downtown Vancouver. To his credit, Mr. Cree candidly acknowledged this after extensive correspondence under the Personal Information Protection Act, S.B.C. 2003, c. 63 ("PIPA") and the Personal Information Protection and Electronic Documents Act, S.C. 2000, c. 5 ("PIPEDA"). The LSBC's own evidence therefore confirms that the forensic report was fabricated and the volatile-memory extraction was concealed.

[ii] **When silence constitutes falsity.** There are two main classes of case in which reticence may contribute to establish a misrepresentation: (1) where known material qualifications of an absolute statement are omitted; and (2) where the circumstances raise a duty on the representor to state certain matters, if they exist, and where, therefore, the representee is entitled as against the representor to infer their non-existence from the representor's silence as to them and

[iii] way of elaboration, Halsbury's notes (at paras. 749-50):

The representor must not merely abstain from positive falsehood; he must not knowingly or willingly omit anything which is required to render completely true that which without it is not completely true. … mere incompleteness is not a factor in misrepresentation; it must always be proved clearly that it rendered what was stated fallacious and false.

Where a person has said something to another, a duty may at once arise to say more, and if he fails to discharge this duty his reticence from that point becomes an implied misrepresentation, although complete silence throughout the transaction would not have amounted to, or have afforded any evidence of, misrepresentation, or even of actionable non-disclosur

[iv] Furthermore, the illusion that the LSBC and the TLABC operate as distinct, independent entities is dismantled by the executive transfer of Mr. Don Avison, K.C., who transitioned directly from his role as CEO of the regulatory body (the LSBC) into the role of CEO of the advocacy body (the TLABC).

[v] Regardless of outcome, the Applicant's unique public law perspective—grounded entirely in the LSBC's own records of which it involves a broad representative base of persons (known and unknown)—forces two unavoidable questions, especially in light of the timing of the What We Heard Report, the Intentions Paper, and the LSBC's Response to the Intentions Paper:
What was the rationale for the legislative change?
Has the LSBC failed to govern lawyers in the public interest?
The first question is multi faceted and best answered by the Respondents.

The second question answers itself. With the benefit of the LSBC's disclosed records under FIPPA to the Applicant, Applicant's forensic analysis and the LSBC's own documentary trail, the LSBC's failure is established on its face.

Proper statutory interpretation requires analysis in the past, present, and future tenses. In all three, the answer is the same: the LSBC has failed, is failing, and will continue to fail to govern lawyers in the public interest under its current structure.

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4374906

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51535

Submitted To: BC Court of Appeal

Submitted Date: 28-Aug-2026 02:53

Submitted Through: Court Services Online

Filing Comments: Dear BCCA Registry: Thank you for your previous note regarding the earlier attempted filings albeit error on my part. I was in error in selecting "Argument – Intervener" (now included as "Argument – Other" to properly denote the relevance of the written argument to relief OUTSIDE of or INDEPENDENT of seeking intervention status) for my written argument, which is NOT a "memorandum of argument prepared in accordance with the completion instructions" (see: Court of Appeal Rules, Rule 61(2)(b)(ii)). Rather, this document is my WRITTEN ARGUMENT pursuant to all other provisions of the Court of Appeal Act and the Court of Appeal Rules, and relates to the substantive relief enumerated as Orders #1–2 and #4–10 in my Form 4 Notice of Application stamped as filed on August 12, 2026. I apologize for the oversight. There were also minor errors in the earlier version (including misciting section 9 of the repealed Court of Appeal Act and replacing it with the current sections 24 and 25), and I have now corrected those issues and included the relevant enactment sections Out of an abundance of caution, I have added Schedule "H" demonstrating when I satisfied the requirement that all applications to intervene were due. This filing is the required WRITTEN ARGUMENT in relation to relief OUTSIDE the scope of seeking intervention. It is therefore not the same document as the previously submitted version and is filed anew. I shall provide a courtesy copy to the Appellants. Respondents et al. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Print Submission Sheet

Print Receipt

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	WRITTEN ARGUMENT - Object - Quash - Procedural - LSBC v AGBC - App - Mr McLean - 28-Aug-26.pdf	No	Filed		Complete	View

Return

Tab 3(D)

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VANCOUVER
21-Aug-26
COURT OF APPEAL
REGISTRY

August 21, 2026

Laura L. Bevan*
D: 604.631.9106
F: 604.669.1620
lbevan@lawsonlundell.com

BY EMAIL

Court of Appeal for British Columbia
The Law Courts
400 – 800 Hornby Street
Vancouver, BC V6Z 2C5

Attention: Registrar Outerbridge

Law Society of British Columbia v. Attorney General of Canada et al.
British Columbia Court of Appeal File Number CA51536

Please find enclosed a copy of the Law Society of British Columbia's response to the application for leave to intervene filed by Kevin McLean in the above-noted appeal on August 14, 2026.

We write with the consent of the parties to the above-noted appeal and the companion appeal (CA51535) to request that the Court determine Mr. McLean's application for leave to intervene by conducting the hearing in writing, or alternatively by ordering the matter be determined without a hearing, in accordance with s. 26 of the *Court of Appeal Act*, S.B.C. 2021, c. 6. This letter is copied to Mr. McLean by email.

Mr. McLean is a lawyer who has been disbarred twice, including for ungovernability. His application for leave to intervene centres on his historical regulatory dealings with the Law Society. Mr. McLean's application materials refer extensively to matters that do not form part of the evidentiary record in the appeal, and which are in the parties' view irrelevant to the constitutional questions before the Court. Mr. McLean's Notice of Application refers to 13 affidavits dating from October 2021 (it is unclear if these affidavits have been filed in the Court of Appeal). Mr. McLean has been declared a vexatious litigant in the Supreme Court of British Columbia in proceedings involving the Law Society: *McLean v Law Society of British Columbia*, 2018 BCSC 264. Mr. McLean has in the past failed to attend at scheduled hearings after delivering extensive materials in advance, including before this Court.[1]

The Court has received 12 other applications for leave to intervene in the appeals. While the Registrar's initial direction was that all intervener applications would be heard on the same day,

[1] See *McLean v Law Society of British Columbia*, 2018 BCSC 264, paras. 108-115; *McLean v British Columbia (Attorney General)*, 2018 BCSC 2052, paras. 1-10; *McLean v. British Columbia*, 2019 BCCA 133; *McLean v. British Columbia (Attorney General)*, 2019 BCCA 419.

the applications have been split between September 9 and 10, 2026 due to the number of proposed interveners and time constraints.

The Registrar directed that the parties file responses to applications for leave to intervene by August 21, 2024, which will complete the written record in relation to Mr. McLean's application. In the circumstances of Mr. McLean's application, the Law Society asks the Court to consider exercising its discretion to order that the application be determined on the written materials, or without a hearing, in accordance with s. 26 of the *Court of Appeal Act*.

Yours very truly,

LAWSON LUNDELL LLP

Laura L. Bevan
*Law Corporation
LLB

Enc.

cc. Gavin Cameron [gcameron@fasken.com]; Tom Posyniak [tposyniak@fasken.com]; Laura Abrioux [labrioux@fasken.com] (Counsel for Trial Lawyers' Association of British Columbia);

Emily Lapper, K.C., [Emily.Lapper@gov.bc.ca]; Trevor Bant [Trevor.Bant@gov.bc.ca]; Sergio Ortega [Sergio.Ortega@gov.bc.ca]; Karin Kotliarsky [Karin.Kotliarsky@gov.bc.ca] (Counsel for the Attorney General of British Columbia); and

Kevin McLean [mclean@searchandseizure.ca]

Tab 3(E)

VANCOUVER
21-Aug-26
COURT OF APPEAL
REGISTRY

COURT OF APPEAL

BETWEEN:

Law Society of British Columbia

APPELLANT
(Plaintiff)

AND:

Attorney General of British Columbia and
Lieutenant Governor in Council of British Columbia

RESPONDENTS
(Defendants)

MEMORANDUM OF ARGUMENT ON THE APPLICATION FOR LEAVE TO INTERVENE OF KEVIN MCLEAN

Law Society of British Columbia

Part 1: Facts

1. This is an appeal from the order of Chief Justice Skolrood made on April 29, 2026, dismissing the Law Society's constitutional challenge to the *Legal Professions Act*, S.B.C. 2024, c. 26.[1] The Law Society's position, and the argument it will advance on appeal, is that the *Legal Professions Act* is an unconstitutional interference with the independence of the Bar.

2. This appeal is set to be heard on November 16 and 17, 2026. The Registrar has directed that any interveners that wish to participate must file and serve applications to intervene by August 14, 2026; responses to those applications should be filed and

[1] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779.

served by August 21, 2026; and the applications are to be heard by no later than September 11, 2026.

3. At the time of filing, 12 organizations have applied to intervene, in addition to Kevin McLean. These applications are set to be heard together on September 9 and 10, 2026.

4. Mr. McLean's Notice of Application filed August 12, 2026, is prolix and incoherent. In addition to a request for leave to intervene, the Notice of Application appears to seek a wide range of relief that is unnecessary, premature, and/or not available to Mr. McLean as a non-party (among other issues). This Memorandum of Argument provides the Law Society's response to Mr. McLean's request for leave to intervene. The Law Society denies that Mr. McLean's requests for any of the other relief sought in his Notice of Application are properly before the Court and reserves the right to respond to any of these requests should the Court conclude otherwise.

5. Mr. McLean's relationship with the Law Society was summarized as follows by Justice Branch in *McLean v Law Society of British Columbia*, 2018 BCSC 264 (***McLean v LSBC***):

> Mr. McLean was called to the bar on August 27, 2010. By November 20, 2013 he had already been suspended by the LSBC. His suspension was lifted on January 29, 2014, but he was only permitted to practice under certain restrictions. He was suspended again on September 18, 2014, and failed to pay his fees by December 31, 2014. At that point, the Executive Director of the LSBC made a direction that while he was still a member, he was not in good standing, and hence not permitted to practise law. On April 10, 2015, the Executive Director rescinded that direction, and Mr. McLean has not been a member of the LSBC since that date. Mr. McLean was disbarred based on one set of issues on June 29, 2015 and disbarred again based on a second set of issues on February 12, 2016.[2]

6. Between 2014 and 2018, Mr. McLean instituted a series of court actions to challenge various aspects of the Law Society's investigative and disciplinary proceedings

[2] *McLean v Law Society of British Columbia*, 2018 BCSC 264, para. 6.

leading to his disbarment, provisions of the Law Society Rules, and provisions of the *Legal Profession Act*, SBC 1998, c 9.[3]

7. In *McLean v LSBC*, Justice Branch found Mr. McLean to be a vexatious litigant and made orders, among others, enjoining Mr. McLean from "instituting any new legal proceedings, on his own behalf or on behalf of others, in the Supreme Court of British Columbia or the Provincial Court of British Columbia, without leave from the Court" (the **Branch Order**).[4] Justice Branch concluded that "Mr. McLean's conduct before this court has become vexatious, and is in need of careful judicial supervision."[5]

Part 2: Issues

8. The issue on this application is whether Mr. McLean should be granted leave to intervene in this appeal. The Law Society submits that he should not.

Part 3: Analysis

9. Mr. McLean should be denied leave to intervene for two reasons.

10. First, Mr. Branch does not meet the requirements for intervention on the grounds of private or public interest:

    a. He does not have a direct interest in the litigation, in the sense that the result of the appeal will directly affect its legal rights or impose on it some additional legal obligation with a direct prejudicial effect.[6] Mr. McLean is a twice-disbarred lawyer who has been enjoined from engaging in the practice of law.[7] The outcome of the appeal will have no impact on Mr. McLean's regulatory proceedings or the Court orders made against him.

    b. Mr. McLean does not have any representative base, the case does not legitimately engage his interests in the public law issue raised on appeal, and

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[3] See *McLean v British Columbia (Attorney General)*, 2018 BCSC 2052, paras. 11-13.
[4] *McLean v Law Society of British Columbia*, 2018 BCSC 264, para. 132.
[5] *McLean v Law Society of British Columbia*, 2018 BCSC 264, para. 120.
[6] *Carter v. Canada (Attorney General)*, 2012 BCCA 502, para. 12.
[7] *McLean v Law Society of British Columbia*, 2018 BCSC 264, para. 1, 131, 132.

he does not have a unique or distinct perspective that will assist the Court in the resolution of the issue.[8] As set out in his Notice of Application, Mr. McLean seeks to litigate matters that relate to investigative steps taken by the Law Society in regulatory proceedings against him, as well as various allegations involving the Lawyers Insurance Fund. These matters have no bearing on the issues in the appeal.

11. Second, Mr. McLean is seeking to circumvent the Branch Order (which applies to the Supreme and Provincial Courts) through this application for leave to intervene. The investigations that Mr. McLean complains of in his intervention application are the same investigations that were the subject of the many proceedings detailed in the reasons giving rise to the Branch Order. Mr. McLean's proposed intervention would not assist the Court but rather would constitute an abuse of its process.

Part 4: Order Sought

12. The Law Society seeks an order dismissing all of the relief sought in Mr. McLean's Notice of Application filed August 12, 2026.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of British Columbia, this 21st of August, 2026

Counsel for the Appellant,
The Law Society of British Columbia

[8] *R.R. v. Vancouver Aboriginal Child and Family Services Society*, 2024 BCCA 342, para. 38.

Tab 3(F)

VANCOUVER
21-Aug-26
COURT OF APPEAL
REGISTRY

COURT OF APPEAL

BETWEEN:

Law Society of British Columbia

APPELLANT
(Plaintiff)

AND:

Attorney General of British Columbia and
Lieutenant Governor in Council of British Columbia

RESPONDENTS
(Defendants)

MEMORANDUM OF ARGUMENT IN RESPONSE TO INTERVENER APPLICATIONS

Law Society of British Columbia

Part 1: Facts

1. This is an appeal from the order of Chief Justice Skolrood made on April 29, 2026, dismissing the constitutional challenge brought by the Law Society of British Columbia (the **Law Society**) to the *Legal Professions Act*, S.B.C. 2024, c. 26.[1] The Law Society's position, and the argument it will advance on appeal, is that the *Legal Professions Act* is an unconstitutional interference with the independence of the Bar.

2. This appeal is set to be heard on November 16 and 17, 2026. The Registrar has directed that any interveners that wish to participate must file and serve applications to intervene by August 14, 2026; responses to those applications should be filed and

[1] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779.

served by August 21, 2026; and the applications are to be heard by no later than September 11, 2026.

3. At the time of filing, 13 organizations and individuals have applied for leave to intervene in this appeal. Each seeks to make oral submissions at the hearing. These applications for leave to intervene are set to be heard together on September 9 and 10, 2026.

4. This Memorandum of Argument addresses the Law Society‘s position in respect of the applications for leave to intervene of the Advocates’ Society, British Columbia Access to Justice Centre for Excellence, British Columbia Paralegal Association, Canadian Bar Association, Criminal Defence Advocacy Society British Columbia, Federation of Law Societies of Canada, Indigenous Bar Association in Canada, Law Foundation of British Columbia, Law Society of Manitoba, Lawyers’ Rights Watch Canada, Society of Notaries Public of British Columbia, and Workers for Ethical Substance Use Policy (collectively, the **Applicants**).

5. The Law Society’s response to the application by Kevin McLean is addressed by means of a separate of Memorandum of Argument and is opposed.

Part 2: Issues

6. The issues raised by each of the Applicants are whether leave to intervene should be granted and, if so, on what terms.

Part 3: Analysis

7. The Law Society does not dispute the law governing intervener applications as set out in the Applicants’ materials.

8. The Law Society takes no position on whether the Applicants should be granted leave to intervene.

Oral Submissions

9. All the Applicants seek leave to make oral submissions. Most seek 10 minutes, others 30 minutes, and some do not specify the length of their proposed submissions.

10. Pursuant to Rule 61(5) of the *Court of Appeal Rules*, an intervener may not present oral argument during the hearing of an appeal, unless a justice orders otherwise.

11. Should all the proposed interveners be granted leave to make oral submissions of 10 minutes, this would occupy more than two hours of hearing time. The appeal is set for two days. The Law Society anticipates the parties will require nearly all of the scheduled hearing time to advance their respective submissions.

12. The Law Society does not consent to the Attorney General's proposal that a third hearing day be added, even if doing so is possible, to accommodate oral submissions from interveners. Rather, the Law Society submits that each intervener only be permitted to make oral submissions at the hearing should the division, upon receipt of the factums filed by all interveners, determine that doing so is advisable and the planned hearing schedule allows. In this regard, the Law Society submits that the division allocate, at most, one hour of hearing time to oral submissions of permitted interveners, divided as the Court determines.

13. Registrar Outerbridge has directed that interveners who are granted leave file factums by October 16, 2026, and that the parties update the registry about the order of oral submissions, attendance list, and courtroom capacity on November 9, 2026.

Part 4: Order Sought

14. The Law Society takes no position on the Applicants' applications for leave to intervene.

15. If any organization is granted leave to intervene, it should be on the condition that they are limited to written submissions, subject to the division, upon receipt of the factums filed by all interveners, determining that oral submissions from certain interveners are

advisable and the planned hearing schedule allows. At most, the division should limit such submissions to one hour total.

16. The Law Society consents to the September 25, 2026 deadline for intervener factums proposed by the Attorney General and agrees such factums should not exceed 10 pages.

17. The Law Society takes no position on the order sought by the Attorney General seeking leave to file a single reply factum to all interveners not exceeding 20 pages by October 13, 2026.

18. The Law Society seeks an order permitting it to file a single reply factum to all interveners not exceeding 10 pages by October 13, 2026, in addition to its 5-page reply to the respondents' factum.

19. The Law Society does not seek costs of any of these applications and respectfully submits that no costs be awarded against it.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of British Columbia, this August 21st of 2026.

Counsel for the Appellant,
The Law Society of British Columbia

Tab 3(G)

VANCOUVER
143
21-Aug-26
COURT OF APPEAL
REGISTRY

COURT OF APPEAL FILE NO. CA51535
Trial Lawyers Association of British Columbia v. Attorney General of British Columbia
Memorandum of Argument

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on April 29, 2026.

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

APPELLANTS
(PLAINTIFFS)

AND:

The Attorney General of British Columbia and the Lieutenant Governor in Council

RESPONDENTS
(DEFENDANTS)

MEMORANDUM OF ARGUMENT RESPONDING TO APPLICATIONS FOR LEAVE TO INTERVENE

Trial Lawyers Association of British Columbia and Kevin Westell

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Trial Lawyers Association of British Columbia and Kevin Westell

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Counsel for the Respondents

Part 1: OVERVIEW

1. This is the response of the Trial Lawyers Association of British Columbia and Kevin Westell (the "**appellants**") to the 13 applications to intervene. The appellants:

A. oppose the application of Kevin McLean;

B. take no position on whether the following applicants are granted leave to intervene but, if granted leave, seek to limit the terms of any intervention to factums of no more than 10 pages, limited or no oral submissions at the discretion of the division, and no expansion of the issues or factual record:

(a) the British Columbia Access to Justice Centre for Excellence ("**ACE**");

(b) the British Columbia Paralegal Association (the "**BCPA**");

(c) the Canadian Bar Association (the "**CBA**");

(d) the Criminal Defence Advocacy Society (the "**CDAS**");

(e) the Federation of Law Societies of Canada (the "**Federation**");

(f) the Indigenous Bar Association (the "**IBA**");

(g) the Law Foundation of British Columbia (the "**Law Foundation**");

(h) the Law Society of Manitoba (the "**LSM**");

(i) Lawyers' Rights Watch Canada ("**LRWC**");

(j) the Society of Notaries Public of British Columbia (the "**SNPBC**");

(k) The Advocates' Society; and

(l) Workers for Ethical Substance Use Policy ("**WESUP**"); and

C. seek the right to file and serve a single factum of up to 15 pages replying to all intervenors.[1]

2. The appellants agree with the respondents' proposed deadlines:

A. September 25, 2026, for any intervenor factums; and

B. October 13, 2026, for the appellants' single reply factum, if granted.

3. The appellants oppose any proposal to extend the hearing from two to three days. The hearing duration was premised on the issues defined by the parties. An expansion of the appeal in response to the present applications would allow intervenors to commandeer the proceeding.

Part 2: ARGUMENT

4. The appellants' overriding concern with respect to intervenors is the orderly and efficient administration of justice. Given the number and nature of the applications to intervene, there is a real danger that intervenors could overwhelm the appeal and take the litigation away from the parties. The appellants' positions on these applications reflect a balance between: (1) ensuring important viewpoints are before the Court; and (2) preventing the expansion of the appeal to the prejudice of the parties.

A. Legal principles governing applications to intervene

(a) Intervenors may not take the litigation away from the parties

5. An intervenor must not be permitted to "hijack" an appeal with peripheral issues.[2] The possibility that an applicant will change the focus of the appeal by raising new or immaterial issues weighs against granting leave.[3] The parties are meant to control the litigation by defining the issues. Intervenors that exceed their role can jeopardize fairness and impose undue burdens by forcing parties to respond to immaterial issues.[4]

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[1] The appellants' positions are summarized in Appendix "A".
[2] *Equustek Solutions Inc. v. Google Inc.*, 2014 BCCA 448 at para. 9 ("***Equustek***").
[3] *Carter v. Canada (Attorney General)*, 2012 BCCA 502 at para. 14.
[4] *J.P. v. British Columbia (Children and Family Development)*, 2016 BCCA 124 at paras. 5–6; *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018

6. That said, an intervenor must be able to present a perspective that is not already before the court. There is therefore a balance to be struck between permitting participation that adds a different perspective and avoiding the expansion of the appeal to the prejudice of the parties. This means the "niche that may be occupied by an intervenor is, therefore, necessarily a very narrow one".[5]

(b) The court may consider the orderly and efficient administration of justice

7. In assessing the number of intervenor applications, the court may consider the orderly and efficient administration of justice. The number of intervenors cannot overwhelm the appeal.[6] There is a "real danger" that too many intervenors will make an appeal more complicated and take control away from the parties: "intervenors that do not propose to do more than point out the importance of the Court's decision will simply be a burden to the parties and the Court".[7]

B. Kevin McLean should not be granted leave to intervene

8. Mr. McLean seeks to hijack the appeal.

9. Mr. McLean's application introduces issues and evidence that have no bearing on the appeal and are not raised by the parties. Mr. McLean seeks to provide "empirical, technological, and financial context" to explain why Bill 21 was needed.[8] Mr. McLean primarily highlights: (1) the Lawyers' Indemnity Fund as a "massive, unregulated shadow-banking operation";[9] and (2) alleged privacy breaches by the Law Society of British Columbia ("**LSBC**") when it searched Mr. McLean's records in 2014.[10]

BCCA 282 at para. 15. See also *R. v. McGregor*, 2023 SCC 4 at paras. 110–113 (Rowe J. in dissent, writing generally on the consequences of improper interventions).
[5] *Equustek* at para. 9.
[6] *British Columbia Civil Liberties Association* at para. 15.
[7] *R.R. v. Vancouver Aboriginal Child and Family Services Society*, 2024 BCCA 342 at paras. 40, 46.
[8] Kevin McLean, Memorandum of Argument at para. 8.
[9] Kevin McLean, Memorandum of Argument at para. 10.
[10] Kevin McLean, Memorandum of Argument at paras. 11–13.

10. No party has raised these issues, nor could they have any relevance to the issues before the Court, as defined by the factums exchanged or notices of appeal.

11. As a whole, Mr. McLean's application to intervene is a personal grievance against the LSBC. As Mr. McLean seeks leave to intervene on public interest grounds,[11] he must demonstrate it is in the Court or public's interest, not his own, to be heard.[12] The totality of the application illustrates that what Mr. McLean seeks is an opportunity to protest (anew) the LSBC's searches of his records in 2014.[13]

12. This appeal is not the forum to allow Mr. McLean to introduce new issues for his own benefit. Permitting a non-party to exercise this degree of control over the proceedings would jeopardize the orderly and efficient administration of justice.

C. The terms of any interventions should be limited

13. The appellants take no position on whether any of the applicants, other than Mr. McLean,[14] are granted leave to intervene.

14. If any applicant is granted leave to intervene, the appellants seek the following limits on their intervention in the interests of an orderly and efficient appeal.[15]

(a) Intervenors may not introduce new issues or evidence

15. The appellants seek an order that all intervenors be restricted to the record defined by the parties and not be permitted to make new factual allegations, including by referring to academic articles, reports, or other secondary sources, unless already subject to judicial interpretation.[16] An intervenor may make a legal argument provided that the

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[11] Kevin McLean, Memorandum of Argument at paras. 20, 21.
[12] *Equustek* at 8.
[13] Kevin McLean, Memorandum of Argument at paras. 12, 13, 19, referencing Mr. McLean's prior proceedings against the LSBC: *McLean v. Law Society of British Columbia*, 2015 BCSC 661; *McLean v. Law Society of British Columbia*, 2016 BCCA 368; *McLean v. Law Society of British Columbia*, 2017 BCSC 987.
[14] ACE, the BCPA, the CBA, the CDAS, the Federation, the IBA, the Law Foundation, the LSM, LWRC, the SNPBC, The Advocates' Society, and WESUP.
[15] *British Columbia Civil Liberties Association* at para. 52.
[16] *T.L. v. British Columbia (Attorney General)*, 2023 BCCA 167 at paras. 95–99.

argument relies on facts in the record.[17]

(b) Intervenor factums are limited to 10 pages

16. The appellants oppose the SNPBC's proposed factum of up to 15 pages.[18] Rule 61(4)(b) establishes that intervenor factums must not exceed 10 pages, unless otherwise ordered. There is no basis to depart from the default rule, as intervenors ought to be granted leave to intervene on narrow and precise issues.[19] This is particularly so if the SNPBC is granted leave on public interest grounds and is therefore not directly affected by the litigation.[20] Granting the SNPBC 15 pages when the appellants have limited themselves to 30 pages (inclusive of the facts and issues on appeal) would allow the SNPBC to take the case away from the parties.[21]

(c) The issue of oral submissions should be deferred

17. Any present requests for oral submissions are premature and should be denied. Requests should be deferred to and decided by the division hearing the appeal.[22]

18. To the extent the division considers oral submissions, the appellants:

A. oppose oral submissions for any intervenors;

B. in the alternative, submit the Court should determine entitlement to and duration of oral submissions based on the uniqueness and value of each intervenor's contribution; and

C. if the Court adopts a selective approach, submit that limited oral submissions are appropriate for the LSM, the Federation, and The Advocates' Society.

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[17] *T.L.* at para. 99.
[18] SNPBC Memorandum of Argument at Part 2, para. 1(b).
[19] *Equustek* at para. 9; *Carter* at para. 19.
[20] See generally *Equustek* at para. 31.
[21] *Equustek* at para. 31.
[22] ACE, the BCPA, the CBA, the CDAS, the Federation, the IBA, the Law Foundation, LWRC, The Advocates' Society, and WESUP presently seek orders permitting them to make oral submissions. See e.g. *British Columbia Civil Liberties Association* at para. 53.

(i) No oral submissions for intervenors are appropriate

19. The appellants' primary position is that no oral submissions by intervenors are appropriate. Considering the number of parties and applicants, there is a real danger that oral submissions by intervenors will overwhelm the appeal. Permitting the degree of participation sought by the intervenors would prejudicially affect the fairness of the appeal. The hearing time estimates and dates were set without knowledge of the number of applicants and degree of participation sought.

20. Although all applicants state they would not expand the issues or take focus away from the appeal, that is inconsistent with the cumulative impact of the relief sought. If the applicants were granted the oral submissions requested, their hearing time would total 90 minutes plus any time granted by the division to ACE, the BCPA, the CDAS, the IBA, the LSM, LWRC, and the SNPBC. If each of those intervenors were allowed five minutes, the intervenors' hearing time would occupy around a half day. In the context of a two-day hearing, this degree of intervenor participation is unnecessary, is prejudicial, and would take the appeal away from the parties.

(ii) Alternatively, limited oral submissions are appropriate for LSM, the Federation, and The Advocates' Society

21. Alternatively, if the division concludes oral submissions are appropriate, entitlement and duration should be determined on an intervenor-by-intervenor basis, with a view to the usefulness of the intervenor's contribution. This need not be an all or nothing approach: a fair and useful allocation of the hearing time would consider the uniqueness and value of an intervenor's contribution.

22. To the extent any intervenors are be in a position to present oral submissions, the appellants submit they should be limited to the LSM (10 minutes), the Federation (10 minutes), and The Advocates' Society (5 minutes). These intervenors can provide a unique and valuable contribution to the issues.

23. By their very nature, the LSM and the Federation are well-placed to discuss how independence of the bar is, or is not, respected through the operation and design of the

regulator.[23] The Federation benefits from a national perspective, for example, on ethical codes of conduct and their interplay with the institutional dimension of the independence of the bar.[24] The Federation can contextualize the issues in a way that cannot be done by the parties.

24. Similarly, the LSM brings a distinct perspective because of Bill 21's potential impact on the LSM's operations. The LSM relies on the independence of the British Columbia regulator when engaging in collaborative inter-provincial work.[25] In particular, the LSM relies on the relative parity between lawyers in Manitoba and British Columbia to permit mobility between the provinces. Accordingly, the LSM must be assured that British Columbian lawyers will practice law in Manitoba with the same degree of competence, integrity, and independence as lawyers called in Manitoba.[26] In this and other ways, the absence of an independent regulator in British Columbia may "impact dramatically" aspects of the LSM's operations.[27]

25. As the LSM and the Federation can provide their submissions from the lens of non-party legal regulators, the appellants will submit the LSM and Federation can assist the Court with unique perspectives. This militates in favour of limited oral submissions.

26. The appellants also anticipate supporting 5 minute oral submissions for The Advocates' Society. The Advocates' Society proposes to address a legal framework to assess <u>any</u> legislation that threatens independence of the bar, not just Bill 21.[28] The Advocates' Society's proposed submission goes to the issues raised by the parties, but provides a broader, distinct perspective that is not put forward by other participants. The appellants anticipate a submission that this lens would be of assistance to the Court and would not expand the issues on appeal.

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[23] Law Society of Manitoba, Memorandum of Argument at paras. 18–19; Federation of Law Societies of Canada, Memorandum of Argument at para. 11.
[24] Federation of Law Societies of Canada, Memorandum of Argument at para. 13.
[25] Law Society of Manitoba, Memorandum of Argument at paras. 7–8.
[26] Affidavit #1 of Leah Kasokowsky, made August 12, 2026, at para. 16.
[27] Affidavit #1 of Leah Kasokowsky, made August 12, 2026, at paras. 26–27.
[28] The Advocates' Society, Memorandum of Argument at paras. 18, 24, 27.

27. In the result, 5–10 minute oral submissions are sufficient to address the discrete submissions proposed by the LSM, the Federation, and The Advocates' Society, and are fair in the context of the proceeding and number of parties.

D. The hearing should not be extended to three days

28. The appellants oppose any proposal to extend the hearing to three days.

29. The appellants and respondents set the hearing days considering what was appropriate to canvas the issues on appeal. The appellants then defined the issues in their factum, with the hearing days in mind. To now revise the duration in response to the present applications would allow intervenors to hijack the appeal and to expand the issues. An expansion of the appeal would be prejudicial to the appellants.

Part 3: ORDER SOUGHT

30. The appellants submit the following relief should be granted:

A. an order restricting any intervenors to factums of up to 10 pages each, filed and served by September 25, 2026;

B. an order restricting any intervenors to the issues and factual record established by the parties;

C. an order deferring requests to present oral submissions to the division hearing the appeal; and

D. an order granting the appellants the right to file and serve a single factum replying to all intervenors of up to 15 pages, by October 13, 2026.

All of which is respectfully submitted on August 21, 2026.

Signed by:
Gavin Cameron
AC3B07833A6B4D9...

Gavin Cameron, Tom Posyniak, Laura Abrioux, and Will Andrews

Counsel for the Appellants, Trial Lawyers Association of British Columbia and Kevin Westell

APPENDIX "A": APPELLANTS' POSITIONS ON INTERVENOR APPLICATIONS

Applicant	*Relief Sought*	*Appellants' Position*
British Columbia Access to Justice Centre for Excellence ("ACE")	To intervene	No position
	Factum of up to 10 pages	Consent
	Oral submissions	Defer to division; no oral submissions
British Columbia Paralegal Association ("BCPA")	To intervene	No position
	Factum of up to 10 pages	Consent
	Oral submissions to extent ordered	Defer to division; no oral submissions
Canadian Bar Association ("CBA")	To intervene	No position
	Factum of up to 10 pages	Consent
	Oral submissions up to 30 minutes	Defer to division; no oral submissions
Criminal Defence Advocacy Society ("CDAS")	To intervene	No position
	Factum of up to 10 pages	Consent
	Oral submissions	Defer to division; no oral submissions
Federation of Law Societies of Canada ("Federation")	To intervene	Consent
	Factum of up to 10 pages	Consent
	Oral submissions up to 30 minutes	Defer to division; 10 minutes
Indigenous Bar Association ("IBA")	To intervene	No position
	Factum of up to 10 pages	Consent
	Oral submissions	Defer to division; no oral submissions

Applicant	*Relief Sought*	*Appellants' Position*
Kevin McLean	To intervene (Order #3)	Oppose
	Factum of 10 pages (Order #5)	Oppose
	Substantive relief (Orders #4–9)	Oppose
Law Foundation of British Columbia ("Law Foundation")	To intervene	No position
	Factum of up to 10 pages	Consent
	Oral submissions up to 10 minutes	Defer to division; no oral submissions
Law Society of Manitoba ("LSM")	To intervene	No position
	Factum of up to 10 pages	Consent
	Leave to apply to present oral submissions	Agree to defer; 10 minutes
Lawyers' Rights Watch Canada ("LRWC")	To intervene	No position
	Factum of up to 10 pages	Consent
	Oral submissions	Defer to division; no oral submissions
Society of Notaries Public of British Columbia ("SNPBC")	To intervene	No position
	Factum of up to 15 pages	10 pages
	Leave to apply to present oral submissions	Agree to defer; no oral submissions
The Advocates' Society	To intervene	No position
	Factum of up to 10 pages	Consent
	Oral submissions up to 10 minutes	Defer to division; 5 minutes
Workers for Ethical Substance Use Policy ("WESUP")	To intervene	No position
	Factum of up to 10 pages	Consent
	Oral submissions up to 10 minutes	Defer to division; no oral submissions

Tab 3(H)

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535/CA51536 - Trial Lawyers Association v. AGBC / LSBC v. AGBC - McLean intervener application

Chambers <Chambers@bccourts.ca> Wed, Aug 26, 2026 at 2:32 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "cferris@lawsonlundell.com" <cferris@lawsonlundell.com>, "lbevan@lawsonlundell.com" <lbevan@lawsonlundell.com>, "jandrews@lawsonlundell.com" <jandrews@lawsonlundell.com>, "nwelsh@lawsonlundell.com" <nwelsh@lawsonlundell.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "gcameron@fasken.com" <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>

Dear Mr. McLean,

Please see below message from the chambers Judge:

"If Mr. McLean wishes to provide a letter of response to the Law Society's letter of August 21, 2026, he should deliver it by this Friday, August 28, 2026. The chambers judge will provide direction on the request that Mr. McLean's application proceed in writing early next week."

Attached is a copy of the Law Society's letter of August 21, 2026 for your reference.

Thank you,

Shelly Lin

Manager/Chambers Scheduler

Court of Appeal for British Columbia

400-800 Hornby St., | Vancouver, BC | V6Z 2C5

phone: 604.660.2859

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Tab $3(\mathbf{I})$

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

Name(s) of responding person(s) to be served with the application

The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

10/09/2026

DD/MM/YYYY

Chambers applications begin at 9:30 a.m.

The applicant anticipates that this application will be…
Check only one.

☒ Contested ☐ Uncontested

Enter the section(s) or rule(s) that you are relying on for your application
E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."

Court of Appeal Act, S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, 44-46,

Court of Appeal Rules, B.C. Reg. 120/2022 (the "*COR",* "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75

Law and Equity Act, R.S.B.C. 1996, c. 253, Section 8.

Interpretation Act, R.S.B,C 1996, c 238

All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's memorandum of argument in support of this August, 29, 2026, Notice of Application ("**August 29 NOA**") seeking relief *infra* along with previously provided to the Appellants, Respondents and other intervenors and/or participants, submitted

for filing and filed documents in the herein Appeal proceedings (**"Appellate Proceedings**")

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

Part 1 Orders — Procedural Relief

Order #1: An Order abridging or extending (if applicable) the time for filing and/or service of all documents relating to this Form 4 and validating all filings *nunc pro tunc*.

Order #2: An Order dispensing with or varying any requirements under the *Court of Appeal Act* and/or the *Court of Appeal Rules* necessary to permit the hearing of this **August 29 NOA** on September 10, 2026, wherein the Applicant is the seventh of seven applicants on that day, and validating all steps taken prior to, during, and after the hearing.

Part 2 Orders — Relief to Strike LSBC's Memorandum of Argument

Order #3: An Order striking and removing from the court file physically and electronically on CSO in both Appeals **in its entirety** the written argument filed by the Law Society of British Columbia on August 21, 2026, solely in response to Mr. McLean's August 12, 2026, NOA (the "**August 12 NOA**"), on the grounds that, *inter alia*, it is scandalous, frivolous, vexatious, irrelevant, unnecessary, prejudicial, legally meritless, and/or an abuse of process.

Part 3 Orders: Relief to Strike Portions of TLABC/Westell "WRITTEN ARGUMENT"

Order #4: An Order striking and black line redacting **paragraphs 8–12** of the Memorandum of Argument served and filed by the Trial Lawyers Association of British Columbia and Kevin Westell on **August 21, 2026**, on the, inter alia, grounds that these paragraphs constitute collateral attacks, contain irrelevant, unnecessary, frivolous, vexatious, and/or prejudicial material, and are an abuse of process.

Part 4: Declarations

Order #5: A **Declaration** that the Law Society of British Columbia was aware of the Applicant's commencement of the BC Court of Appeal proceeding, under file or docket number **CA45786** involving himself and the Attorney General of British Columbia in late December 2018, and all material steps, applications, directions, and orders, including the publicly issued decision in April 2019 by The Honourable Mr. Justice Tysoe of the BCCA indexed by neutral citation *McLean v. British Columbia*, 2019 BCCA 133, thereafter, and did not object at any point or seek to be added as a respondent, an intervener, or *amicus curiae*, when the Applicant was a party (Appellant). A further **Declaration** that, as a consequence of the same, the LSBC and TLABC, in part, by virtue by Mr. Avison, KC's position as CEO of the LSBC in 2019 and CEO of TLABC in 2026, have, by the LSBC's **"WRITTEN ARGUMENT"** denoted *supra* and portions of the TLABC's **"WRITTEN ARGUMENT"** denoted *supra*, engaged in fraudulent, bad faith and/or dishonest conduct and/or abuse of process upon the BCCA in these herein Appellate Proceeding

Part 5 Orders: Special Costs

Order #6: An Order awarding **special costs (inclusive of the Applicant's disbursements)**, in an amount to assessed or lump

at the presiding Judge's discretion, payable forthwith, against counsel (emphasis on the signatory of what appears to be the signature of Ms. Laura Bevan[i] of Lawson Lundell LLP) for the Law Society of British Columbia, or in the alternative the directing minds and/or instructing representatives of the LSBC personally, for filing and serving scandalous, frivolous, vexatious, irrelevant, unnecessary, and abusive material, such special costs to be earmarked, held in trust in a lawyer's trust account, and paid to the benefit of the new regulator known as **Legal Professions British Columbia** forthwith upon amalgamation as per the statute defined herein as the *LPA 2024*.

Order #7: An Order awarding **special costs (inclusive of the Applicant's disbursements)**, in an amount to assessed or lump at the presiding Judge's discretion, payable forthwith, against counsel (emphasis on the signatory of the **"WRITTEN ARGUMENT"** in Mr. Gavin Cameron of Faskens LLP) for the Trial Lawyers Association of British Columbia or in the alternative against the CEO of the TLABC in Mr. Avison KC personally, for the serving and filing or instructing and/or authorizing the serving and filing of scandalous, frivolous, vexatious, irrelevant, unnecessary, and abusive material, special costs to be earmarked, held in trust in a lawyer's trust account, and paid to the benefit of the new regulator known as **Legal Professions British Columbia** forthwith upon amalgamation as per the statute defined herein as the *LPA 2024*.

Part 6 Orders: Residual

Order #8: An Order that a draft order may be presented by the Applicant on the day or prior to the September 10, 2026, hearings, vetted by the BCCA Registry, signed from the bench, entered forthwith, and dispensing with the need for the signature of the

Appellants. A further Order that any such provided draft Order by the Applicant shall be deemed to be filed and filed on the day he provides the same via email to the BCCA Registry via any physical, mail or electronic means, and stamped accordingly.

Order #9: An Order that the Applicant may provide an Application Book via the portal under a similarly named title or via email to the BCCA Registry and such provision of the same shall be deemed file at the time of provision such to it being properly indexed, paginated, hyperlinked and bookmarked; and

Order #10: Such further or other relief as this Honourable Court deems just and equitable.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The Applicant may rely on any or all of the following in relation to the relief sought in the Applicant's written argument inclusive of schedules and reference to other documents:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST LLP's account with ShareFile and Citrix located and accessed outside of Canada;
c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;
d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;
e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this **August 29 NOA**.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

30/08/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

[i]NOTA BENE: For clarity, the reference to *Ms. Laura L. Bevan* (called in **2009**) of Lawson Lundell LLP, counsel for the Law Society of British Columbia in these Appeals, is **not** to be confused with *Ms. Sarah A. Bevan* (called in **2004**), barrister and solicitor and employed legal counsel to the Ministry of Attorney General of British Columbia, who appeared as sole counsel of record for the Attorney General of British Columbia in the Applicant's prior appeal commenced in December 2018 under docket **CA45786**, and who is identified as counsel in the publicly issued decision of The Honourable Mr. Justice Tysoe in **McLean v. British Columbia, 2019 BCCA 133**.

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4375678

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 31-Aug-2026 11:30

Submitted Through: Court Services Online

Filing Comments: Dear BCCA and esteemed Registrar: As promised and represented on Saturday evening of August 29, 2026, I would be filing said Form 4 NOA and a written argument as soon as possible. These filings are consistent with that representation and will be provided to the Appellants, Respondents and others in the relevant email thread and list. Thank you as always for your services and assisting the public interest. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Print Submission Sheet

Print Receipt

Registry Notice

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	WRITTEN ARGUMENT - NOA - Strike MOAs - LSBC v AGBC - Applicant - Mr McLean - Aug-31-2026.pdf	No	Rejected	☑	Complete	View
Application - Chambers - General	Form 4 - NOA - Striking MOAs - LSBC et al v. AGBC et al - Applicant Mr McLean - 2026-08-30.pdf	No	Rejected	☑	Complete	View

Return

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4375678

Account ID:71252

Client ID:122957

Date: August 31, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	129182569	1515740684	Aug 31, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

BRITISH COLUMBIA

Ministry of Attorney General
Court Services Online
Submission Sheet

Court File #: CA51536
Cross Reference #: Not Provided
Package ID: 4375678
Date Submitted: 31-AUG-2026 11:30 am

Submitted By: KEVIN MCLEAN
Client ID: 122957
Account ID: 71252
KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Chambers - General	N	Rejected	31-AUG-2026	Not Processed	N	$ 80.00	
2	Argument - Other	N	Rejected	31-AUG-2026	Not Required	N	$ 0.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	129182569	31-AUG-2026 11:30 AM	1515740684	00404G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

Tab 3(J)

Court of Appeal File Nos. CA51536 / CA515355

IN THE COURT OF APPEAL FOR BRITISH COLUMBIA

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

(Appellants / Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

(Respondents / Defendants)

WRITTEN ARGUMENT OF THE APPLICANT PERTAINING TO THE AUGUST 30 2026 NOTICE OF APPLICATION

Hearing date: **September 10, 2026**
Hearing location: The British Columbia Court of Appeal (the "BCCA") at 800 Smithe Street, Vancouver, BC, V6Z 2E1
Commencement of chambers: 9:30 a.m.
Hearing type: chambers
Type of judge: single justice
Applicant's position on said date: seven out of seven

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PART 1: INTRODUCTION, PROCEDURAL POSTURE, AND IDENTIFICATION OF THE IMPUGNED ACTA

1. The Applicant repeats and relies upon the facts contained in his tendered and/or provided, filed and/or served **"documents** as of today's date. He repeats and relies upon the definitions contained therein.
2. The Applicant seeks the relief contained in the August 12 and 30 NOA's.
3. It is acknowledged that a formal scheduling directive regulating the filing of intervention applications was promulgated by the British Columbia Court of Appeal (the "**Court of Appeal**"). Although an explicit formal directive or order was not immediately accessible to the public, the registry of the Court of Appeal graciously provided notification of the requisite timelines upon the initial submission of materials, and strict conformity with said schedule was dutifully maintained.
4. As no explicit statutory right of reply is readily apparent within the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "***Court of Appeal Rules***"), the insertion of highly objectionable, scandalous, and legally incompetent material within the responsive filings compels immediate action to preserve the unassailable integrity of the appellate record.
5. The materials currently impugned encompass specific, severable components of the memorandums of argument (the "**Memorandums of Argument**") submitted in opposition to the pending intervention application. Specifically, the Notice of Application is advanced to strike the following absolute nullities:
    a. The standalone memorandum of argument directed exclusively at the Applicant by the Law Society of British Columbia (the "**LSBC**"), in its entirety; and
    b. The black-line redaction of paragraphs 8 through 12, inclusive, of the memorandum of argument filed by the Trial Lawyers Association of British Columbia (the "**TLABC**") and Kevin Westell.
6. It is concomitantly established that upon the striking of the aforementioned offending **"documents**, the residual, non-impugned written arguments are rendered completely devoid of any substantive legal analysis or foundational bases with which to defend against the relief in the **Aug 12 NOA**. No relief is sought in this regard in relation to the generalized memorandum of argument tendered by the LSBC applicable to all applications of all interveners.

PART 2: STATEMENT OF ISSUES

7. This Notice of Application raises both procedural and substantive issues of law concerning the jurisdiction of the Court of Appeal, the proper characterization and treatment of documents filed in response to an intervention application, the limits of amendment under Rule 82, the separation of trial and appellate proceedings, and the professional obligations of counsel. The issues are organized thematically as follows:

PART 2(A): INITIAL ISSUES OF LAW

Part 2(A)(I): Practice and Procedure

Part 2(A)(I)(a): Definition of "Document"; Lacunas; Striking of Documents or Portions Thereof; and Related Procedural Questions

a. **Issue #1:** What constitutes a "document" within the meaning of the *Court of Appeal Act* ("COAA") and the *Court of Appeal Rules* ("COR"), and whether responsive written arguments fall within that definition for the purposes of striking or expungement.
b. **Issue #2:** (a) Whether the COAA or COR authorize a "person" to apply to strike documents filed in the Court of Appeal. (b) If so, whether the COAA and/or COR provide explicit or implicit jurisdiction for a justice of the Court of Appeal to strike documents, and under which statutory provision or rule such jurisdiction arises. (c) If not expressly provided, which provision of the COAA and/or COR authorizes an **analogous application** of the *BC Supreme Court Civil Rules*, and specifically which rule(s) govern the striking of documents other than pleadings or petitions.
c. **Issue #3:** Whether the analogous BC Supreme Court Civil Rules—particularly Rule 9-5(1)(a–d), which expressly applies to "documents other than pleadings"—and their judicial interpretation render the LSBC's and TLABC's responsive written arguments subject to striking.
d. **Issue #4:** When Rule 9-5(1)(a–d) is applied by analogy pursuant to s. 18(2) of the COAA, what evidentiary requirements or restrictions govern such applications, and whether those requirements vary depending on which clause of Rule 9-5(1) is invoked.

Part 2(A)(I)(b):Amendment of Filed Documents in the Court of Appeal

e. **Issue #5:** Whether the LSBC's written argument and the TLABC's written argument fall within any of the exceptions under COR Rule 82(2)–(4) or Rule 82(5). If not, what steps would the LSBC or TLABC be required to take under Rule 82(1) to amend their filed documents.
f. (a) If the LSBC sought consent of the parties or leave of a justice or the Registrar to amend, would such amendments be permissible at common law given that the LSBC has already filed a general written argument applicable to all intervenor applications? Further, would the LSBC require a formal order of the Court of Appeal to amend past the filing deadline prescribed by the Court's intervention schedule?
g. (b) If the TLABC sought to amend its written argument, what would be the practical and legal effect of removing paragraphs 8–12, and whether such removal would constitute inconsistent pleading or an impermissible attempt to sanitize scandalous material after the fact.

PART 2(B): SUBSTANTIVE ISSUES OF LAW

Part 2(B)(I): Nature of Proceedings

h. **Issue #6:** Whether a lower-court proceeding and an appellate proceeding constitute a single continuous proceeding or are, at law, distinct and separate proceedings governed by different statutes, rules, jurisdictional limits, and evidentiary regimes.

PART 2(B)(II): STRIKING OF DOCUMENTS AND CONSEQUENTIAL RELIEF

The Law Society of British Columbia (LSBC)

i. **Issue #7:** Whether the LSBC's four-page written argument filed on August 21, 2026:(a) discloses no reasonable defence to the relief sought in the August 12 NOA; (b) is demonstrably unnecessary, scandalous, frivolous, or vexatious; (c) may prejudice, embarrass, or delay the fair hearing of the proceeding; and/or (d) constitutes an absolute abuse of the process of the Court.

The Trial Lawyers Association of British Columbia (TLABC)

j. **Issue #8:** Whether paragraphs 8–12 of the TLABC's four-page written argument filed on August 21, 2026:(a) disclose no reasonable defence to the relief sought in the August 12 NOA; (b) are demonstrably unnecessary, scandalous, frivolous, or vexatious; (c) may prejudice, embarrass, or delay the fair hearing of the proceeding; and/or (d) constitute an absolute abuse of the process of the Court.

PART 2(C): THE LAWYERS' OBLIGATIONS

k. **Issue #9:** Whether counsel for the LSBC and TLABC, as officers of the Court and members of the LSBC, have breached their legal and professional obligations by engaging in conduct that they knew or ought to have known would assist or encourage dishonesty, fraud, or abuse of process, through the serving and filing of written arguments sought to be struck in whole or in part.

PART 2(E): COSTS

l. **Issue #10:** Whether the conduct of LSBC counsel, Ms. Laura Bevan, is deserving of judicial rebuke and whether the Court of Appeal must disassociate itself from such conduct. If so, whether special costs should be awarded personally against counsel or against the LSBC.

m. **Issue #11:** Whether the conduct of TLABC counsel, Mr. Gavin Cameron, is deserving of judicial rebuke and whether the Court of Appeal must disassociate itself from such conduct. If so, whether special costs should be awarded personally against counsel or against the TLABC.

PART 3: ARGUMENT

PART 3(A): LEGAL BASES

Part 3(A)(I): The Inapplicability of Rule 60(1)(a) and the Analogous Application of Civil Rules

8. It is systematically established that *Rule 60(1)(a)* of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "***Court of Appeal Rules***"), vests jurisdiction strictly to "strike part of a factum." Consequently, this specific subrule is rendered definitively inapplicable to the striking of a written argument, denoted as memorandums of argument by the TLABC and LSBC, advanced in response to an NOA.

9. Therefore, pursuant to section 18 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "***COAA***"), the analogous application of *Rule 9-5* of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 (the "**BCSC Civil Rules**"), is irrevocably mandated to adjudicate the expungement of such incidental documentation and affiliated submissions. A "reasonable defence" is jurisprudentially defined as a substantive legal or factual rejoinder that possesses a modicum of tenability, functioning to traverse or mitigate the

allegations advanced. An assertion completely devoid of legal foundation or factual substantiation definitively fails to meet this threshold.

10. When there is no statutory or prescribed definition of a word, term or phrase, the starting point is the English dictionary.

Part 3(A)(II): "Reasonable" and "Defence"

11. It is trite that "reasonable" connotes the objective person standard and "defence" is analogized to that of defending anything in a proceeding including the impugned MOA's of the LSBC and portions of the TLABC's MOA.

Part 3(A)(III): The Jurisprudence of Rule 9-5(1)(b) (prejudice, embarrass or delay a hearing) and (c) – Unnecessary, Scandalous, Frivolous, and Vexatious Pleading, Petition or ***"documents***

12. *Rules 9-5(1)(b)* and *(c)* of the *BCSC Civil Rules* are customarily adjudicated in tandem.

Part 3(A)(III)(a): no statutory or prescribed definitions

13. "Unnecessary": means something is not needed, not required, or more than what is wanted (see: https://dictionary.cambridge.org/dictionary/english/unnecessary).
14. "Scandalous": adjective that means shocking, disgraceful, or deeply offensive to accepted moral standards and public decency; or offensive to propriety or morality (see: https://www.merriam-webster.com/dictionary/scandalous).
15. "Frivolous": behaving in a silly way and not taking anything seriously (see: https://dictionary.cambridge.org/dictionary/english/frivolous) and having no sound basis (as in fact or law) (see: Merriam-Webster Online Dictionary).
16. "Vexatious": intended to harass (see: Merriam-Webster Online Dictionary).
17. "Prejudice": injury or damage resulting from some judgment or action of another in disregard of one's rights especially : detriment to one's legal rights or claims (see: Merriam-Webster Online Dictionary).
18. "Embarrassment": to hamper the movement of, or to make intricate : complicate(Merriam-Webster Online Dictionary)
19. "Delay": the act of postponing, hindering, or causing something to occur more slowly than normal : the state of being delayed (see: Merriam-Webster Online Dictionary).

Part 3(A)(III)(b): Jurisprudential analysis of the above prescribed language

20. While exhaustive enactment definitions encapsulating when a pleading or submission is “unnecessary,” “scandalous,” “frivolous,” or “vexatious,” or when it may “prejudice, embarrass or delay,” does not exist, an expansive body of jurisprudence illuminates the qualitative character of **“documents** vulnerable to expungement beneath these provisions.

Part 3(A)(III)(b)(i): Embarrassing, Unnecessary, Vexatious, Frivolous

21. Irrelevancy and embarrassment are systematically established when pleadings are so profoundly obfuscated that comprehension of the core allegations is rendered functionally impossible.
22. A **“document”** is classified as “embarrassing” and “scandalous” if it is so entirely irrelevant that it threatens to entangle the parties in useless financial attrition and prejudices the adjudication by precipitating disputes completely disconnected from the substantive *lis*. A **“document”** is further classified as embarrassing if the genuine issue is not articulated in an intelligible format, if it is excessively prolix, or if it inappropriately integrates irrelevant facts, evidentiary components, or premature legal argumentation.
23. A **“document”** is deemed “unnecessary” or “vexatious” if it fundamentally fails to advance any claim or defence recognized within the common law.

Part 3(A)(III)(b)(i):Prejudicial

24. A submission **“document”** is definitively prejudicial if its architecture is explicitly calculated to confound the opposing party, thereby rendering a coherent rejoinder exceptionally arduous or entirely impossible, as codified in *McNutt v. A.G. Canada et al.*, 2004 BCSC 1113 (*the “McNutt Decision”*), at para. 41.

Part 3(A)(III)(b)(i):Scandalous **“documents**

25. The characterization of a **“document”** as scandalous is invoked when the drafting is so extraordinarily defective that it subjects the respective parties to unwarranted expense or forces the litigation of matters completely extraneous to the foundational claim, as elucidated in *Gill v. Canada*, 2013 BCSC 1703 (*the “Gill Decision”*), at para. 9.

Part 3(A)(III)(b)(ii):Frivolous **“documents**

26. Furthermore, a **“document”** is deemed “frivolous” if it is manifestly unsustainable—for instance, due to the absolute preclusion imposed by the doctrine of estoppel. These axioms are definitively articulated in *Citizens for Foreign Aid Reform Inc. v. Canadian Jewish Congress*, 1999 CanLII 5860 (BC SC) (*the “Citizens for Foreign Aid Reform Decision”*), at para. 47.

27. Lastly, a submission is strictly frivolous if it remains utterly devoid of substantive foundation, is fanciful or groundless, functionally trifles with the solemnity of the adjudicative body, or inexcusably squanders judicial economy, as established in *Simon v. Canada (Attorney General)*, 2015 BCSC 924 (*the "Simon Decision"*), at para. 95.

Part 3(A)(III)(b)(iii): Further jurisprudence on intertwining language principles

28. The foundational principles animating an application pursuant to *Rule 9-5(1)(b), (c)*, and *(d)* were comprehensively synthesized in *Sahyoun v. Ho*, 2015 BCSC 392 (*the "Sahyoun Decision"*). Within the *Sahyoun Decision*, at paragraphs 58 through 63, the Court systematically adopted the framework articulated in *Willow v. Chong*, 2013 BCSC 1083 (*the "Willow Decision"*), affirming that a pleading is demonstrably unnecessary or vexatious if it serves no useful purpose and merely wastes public resources. It was further established, relying upon *Keddie v. Dumas Hotels Ltd.* (1985), 1985 CanLII 417 (BC CA) (*the "Keddie Decision"*), that an "embarrassing" **"document"** is one so irrelevant that its preservation involves useless expense. Most crucially, relying upon *Virk v. Brar*, 2012 BCSC 1004 (*the "Virk Decision"*), the Court recognized a profound overlap betwixt and between the subsections, confirming that a submission devoid of a reasonable cause or defence can concurrently be struck as unnecessary, frivolous, vexatious, and an absolute abuse of the court's process should the litigant persist in advancing defective positions.

Part 3(A)(III)(c): Analogous Application of Rule 9-5(1)(d) – Abuse of Process and Evidentiary Parameters (distinct from 9-5(1)(a))

29. It is a foundational legal axiom that an application mounted pursuant to *Rule 9-5(1)(d)* of the *BCSC Civil Rules* does not compel the adjudicative body to assume the truth of the facts pleaded, a stark departure from the strictures of *Rule 9-5(1)(a)*. This distinction is unequivocally affirmed in *Krist v. British Columbia*, 2017 BCCA 78 (*the "Krist Decision"*), at para. 28.
30. The doctrine of abuse of process operates as a flexible, inherent jurisdictional safeguard engineered to preclude proceedings that are manifestly oppressive or vexatious, or that fundamentally violate the immutable principles of justice undergirding the community's standard of fair play and decency. The doctrine is primarily concerned with the preservation of a fair trial process and the unimpeachable integrity of the administration of justice, as articulated by the Supreme Court of Canada in *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 (*the "C.U.P.E. Decision"*), at paras. 35-37.
31. The doctrine of abuse of process possesses a profound breadth of application across disparate legal contexts. It is routinely operationalized to neutralize scenarios wherein litigation operates as a collateral

attack upon distinct proceedings, undermines the absolute finality of judgments, or constitutes an impermissible endeavor to re-litigate substantive matters that have been historically and definitively resolved. This principle is reinforced in both the *C.U.P.E. Decision* and *Chapman v. Canada (Minister of Indian and Northern Affairs)*, 2003 BCCA 665 (*the "Chapman Decision"*), at para. 20. To further buttress this imperative, the venerable legal maxim *Nemo debet bis vexari pro una et eadem causa* (no man shall be placed twice in jeopardy for the same offence or cause) is explicitly invoked.

32. The overarching concept of an abuse of process is inherently generalized, ensuring that the recognized categories of abuse remain permanently open. Consequently, the doctrine retains the uninhibited capacity to capture any conceivable circumstance in which the procedural apparatus of the court is operationalized for an improper, ulterior purpose, as established in *SWS Marketing Inc. v. 1125003 B.C. Ltd.*, 2022 BCSC 2166, aff'd 2023 BCCA 225 (*the "SWS Marketing Decision"*), at para. 41.

33. Actions that definitively fall within the ambit of abuse of process explicitly include proceedings engineered to deceive the adjudicative body, filings constituting a mere sham, the utilization of court procedure in a manner that is manifestly unfair or dishonest, the prosecution of baseless or useless *acta*, or the initiation of multiple or successive proceedings designed solely to oppress or harass opposing entities, as outlined in *0742848 B.C. Ltd. v. Squamish (District)*, 2017 BCSC 2177 (*the "Squamish District Decision"*), at para. 23.

34. The operationalization of this doctrine is further illuminated by *9095900 Canada Ltd. v. Baikoghli*, 2026 BCSC 839 (*the "Baikoghli Decision"*). Within the *Baikoghli Decision*, The Honourable Justice Lachance definitively held that *Rule 9-5(1)(d)* explicitly authorizes the striking of pleadings as an abuse of process, wherein contextual evidence is affirmatively permitted (paras. 38–39). It was established that abuse of process encompasses *res judicata* and cause of action estoppel, yet extends far beyond these technical demarcations to preclude the undermining of finality, judicial economy, and the integrity of the adjudicative process (paras. 40–44, 59–64).

Part 3(A)(III)(c)(i):Evidentiary Admissibility on Applications Pursuant to Rule 9-5(1):

35. It remains a critical procedural imperative that no extrinsic evidence is admissible within an application brought strictly beneath *Rule 9-5(1)(a)*. Conversely, evidence is affirmatively rendered admissible within applications pursued pursuant to *Rules 9-5(1)(b), (c)*, or *(d)*. However, the admissibility of such evidence is strictly demarcated; it is permitted solely for the explicit purpose of demonstrating that the impugned pleadings or submissions are demonstrably unnecessary, scandalous, frivolous, vexatious, prejudicial, embarrassing, or constitute an absolute abuse of process, as codified within the *Chapman Decision*, at para. 14.

36. No evidentiary record is required to determine whether the LSBC's four-page written argument or paragraphs 8–12 of the TLABC's written argument disclose a "reasonable defence" to the relief sought in the August 12 NOA. This issue is resolved purely as a matter of law. The defect is not factual — it is jurisdictional and doctrinal. The Appellants have directly affronted the authority of the Court of Appeal by invoking an antecedent 2018 order of the Supreme Court of British Columbia to undermine, contradict, and collaterally attack the Court's own acceptance of jurisdiction in docket **CA45786**, an appeal commenced by the Applicant in late December 2018. That jurisdiction was subsequently affirmed and reaffirmed through multiple appellate determinations, including those of **The Honourable Madam Justice Stromberg-Stein**, **The Honourable Mr. Justice Tysoe**, and other members of the Court. A responsive written argument that attempts to relitigate or invalidate the Court's prior exercise of jurisdiction — by reference to a lower-court order that functus officio rendered spent — cannot, as a matter of law, constitute a reasonable defence. It is a textbook collateral attack and an abuse of process.

PART 3(B): THE COAA, SPECIFIC PROVISIONS AND THE INTERPRETATION ACT (BC)

37. Section 20 of the *Court of Appeal Act* ("COAA") governs preliminary objections and is **not confined to parties**. The statutory language permits "the court" or "a justice," *on application*, to make any order necessary to give effect to a preliminary objection, including quashing an appeal for lack of jurisdiction. By contrast, **Rule 60 of the Court of Appeal Rules** is expressly confined to **parties**, as only a party may apply to quash an appeal under Rule 60(1)(a). The LSBC and TLABC, neither of whom are parties to the appeal, cannot invoke Rule 60 to ground any purported jurisdictional objection. Their responsive written arguments therefore fall outside the scope of Rule 60 and cannot be characterized as proper preliminary objections.
38. Further, the LSBC's own admissions in its response to the Attorney General's Intentions Paper—where it conceded that only a majority of lawyers need comprise the new regulator's board—render any purported jurisdictional challenge untenable. The Respondents were not required to plead the law of admissions; the admissions bind the LSBC independently.
39. Accordingly, the Court's jurisdiction to strike documents, grant declaratory relief, and issue ancillary orders arises under ss. 24 and 25 of the COAA, which empower the Court to:(a) **make any order that the court appealed from could have made** (s. 24(1)(a)); (b) **make any additional order that it considers just** (s. 24(1)(c)); and (c) **exercise any original jurisdiction necessary or incidental to the hearing and determination of an appeal** (s. 25(1)(c)).
40. These provisions collectively authorize the Court to control its own process, strike scandalous or abusive documents, and prevent collateral attacks on its jurisdiction.

Part 3(B)(I): *The "May" becomes a "Must" in relation to when an application is made*

41. The permissive term "may" does not always confer unfettered discretion. Context, purpose, and statutory design can transform "may" into "must" when the power is conferred for the benefit of a defined class of persons and when the conditions for its exercise are met. The leading authority is *Julius v. Oxford (Lord Bishop)* (1880), 5 App. Cas. 214 (H.L.), where Lord Cairns held at pp. 222–23:

> "But there may be something in the nature of the thing empowered to be done, something in the object for which it is to be done, something in the conditions under which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so."

42. This principle is dispositive: when a statutory power exists to effectuate a legal right, the permissive language becomes mandatory once the right-holder invokes the power.

43. *Julius* has been repeatedly adopted in Canadian jurisprudence:

    a. ***Labour Relations Board v. The Queen*, 1955 CanLII 82 (SCC)** Kerwin C.J. and the Court held that although the statute used permissive language ("may rescind or amend"), the Board was **under a duty** to act when properly called upon.
        i. "Although the language… was permissive, it imposed a duty upon the Board to exercise this power when properly called upon to do so."
    b. ***Re Pentagon Construction Co. Ltd.*, 1959 CanLII 828 (ON HCJ)** Hughes J. reaffirmed *Julius*, quoting Earl Cairns L.C.: Where a power is deposited with a public officer for the purpose of being used for the benefit of persons… that power ought to be exercised, and the Court will require it to be exercised." Lord Blackburn added: "The enabling words are construed as compulsory whenever the object of the power is to effectuate a legal right."
    c. ***Regina v. Ontario Labour Relations Board, Ex parte TRW Electronic Components Ltd.*, [1970] 2 O.R. 40** Fraser J. confirmed that enabling words are construed as mandatory where the object is to effectuate a legal right.
    d. **(d) *Regina v. Moore*, 1985 CanLII 1971 (ON CA)** Mackinnon A.C.J.O. held that once statutory conditions are met, the court has **no discretion** to refuse the finding:
        i. "In such cases the exercise of the power depends not upon the court's discretion, but upon proof of the circumstances… and 'may' relates to the contingency of proof."

44. These authorities collectively establish that when a statutory power exists to effectuate a legal right, the decision-maker is **obligated** to act once the right-holder invokes the power.

45. Ergo, the Court of Appeal is **obligated** to hear and determine the Applicant's Notices of Application, and the relief to strike must be heard **first**. If the LSBC's four-page written argument is struck in its entirety, and paragraphs 8–12 of the TLABC's written argument are struck, the Appellants are left with **no defence** to the relief sought in the August 12 NOA.

46. The Attorney General of British Columbia ("AGBC") opposes intervention but does **not** oppose Orders 4–10. The AGBC's opposition rests on two grounds: (i) alleged absence of a broad representative base; and (ii) alleged expansion of issues in the appeals.

47. As to (i), the technological and legal analysis—particularly the decoding of hexadecimal data from the LSBC's FIPPA "record"—demonstrates that the Applicant represents the **broadest base of affected**

persons in the history of intervention applications. This is a domain unfamiliar to most lawyers, and the AGBC may not have previously appreciated its breadth.

48. As to (ii), the relief sought does **not** expand the issues; it narrows them, protects judicial economy, and prevents misuse of public resources. It would be contrary to the AGBC's mandate to oppose relief that reduces cost, time, and complexity.

49. Neither the LSBC nor the TLABC has brought an application to set aside the entirety of the proceeding between the Applicant and the AGBC in docket CA45786, nor have they sought to vacate any step, order, or declaration therein. They have not sought to challenge the Court's prior exercise of jurisdiction, nor have they attempted to alter the common law precedent arising from that appeal.

50. Accordingly, the Court has **no jurisdiction** to revisit or disturb CA45786. Conversely, the Applicant's Notices of Application fall squarely within the Court's jurisdiction and **obligate** the Court to hear and determine them. This obligation does not guarantee success on the merits, but it does compel adjudication.

Part 3(B)(II): Section 30 of the COAA

51. Pursuant to subsections 30(a) and (b) of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "***COAA***"), the jurisdiction to make the order sought is definitively established. These provisions provide as follows: "In an appeal or other matter before the court, a justice may do one or more of the following: (a) make orders incidental to the appeal or matter not involving a decision of the appeal on the merits;(b) make orders or give directions for the purposes of managing the conduct of the appeal or other matter". The jurisprudential interpretation of these provisions is unequivocally elucidated in *Delane Industry Co. Ltd. v. Tsawwassen Quay Market Corporation*, 2024 BCCA 107 (*the "Delane Industry Decision"*), at para. 12, wherein it was held:"[12] The broad language used in these subsections is intended to empower a justice to make orders incidental to an appeal that are shown to be required in the interests of justice. I see no reason to give the language used by the legislature in ss. 30(a) and (b) an unduly restrictive meaning: see *Mott v. Pacific National Exhibition*, 2001 BCCA 731 at para. 30. The words "incidental to the appeal" encompass the making of an order "that has a minor or subordinate role in relation to the outcome of the appeal": *Strata Plan 1229 v. Trivantor Investments International Ltd.* (1996), 24 B.C.L.R. (3d) 292 (C.A.), 76 B.C.A.C. 289 at para. 25. I consider the order sought on this application to be an order "incidental to the appeal". Plainly, it is not an order involving a decision of the appeal on the merits. Further, I am satisfied it is in the interests of justice that the order be made.

PART 3(C):THE DOCTRINE OF ABUSE OF PROCESS (GENERAL)

52. The doctrine of abuse of process is further buttressed by authorities that are incontrovertibly dispositive:

a. In the *C.U.P.E. Decision*, at para. 3, the Supreme Court of Canada held that advancing irreconcilable factual positions in different proceedings is strictly impermissible
b. In *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5 (*the "First Majestic Decision"*), at para. 22, the Court confirmed that inconsistent positions maintained in prior proceedings effectively constitute an abuse of process.
c. In *Mystar Holdings Ltd. v. 247037 Alberta Ltd.*, 2009 ABQB 480 (*the "Mystar Holdings Decision"*), the court ruled that a party is strictly prohibited from deliberately arguing diametrically inconsistent facts across various actions, thus knowingly advancing irreconcilable positions not articulated as alternative claims.
d. In *Glover v. Leakey*, 2016 BCSC 1624 (*the "Glover Decision"*), Madam Justice Gropper affirmed that abuse of process extends to any circumstance in which the procedure of the court is operationalized for an improper or ulterior purpose.
e. In *Jensen v. Ross*, 2014 BCCA 173 (*the "Jensen Decision"*), the Court established that the doctrine of abuse of process applies equally whether the inconsistent positions arise within a superior court or an inferior tribunal.
f. In *Pepper's Produce Ltd. v. Medallion Realty Ltd.*, 2012 BCCA 247 (*the "Pepper's Produce Decision"*), at para. 28, Madam Justice Levine found that inconsistent positions cannot stand concurrently, and to protect the integrity of the judicial process, an abuse of process must be found in such situations
g. In *Halagan v. Reifel*, 1997 CarswellBC 4040 (*the "Halagan Decision"*), Madam Justice Satanove held that a party cannot approbate and reprobate, establishing that court processes are not a game to be manipulated according to perceived strategic advantage
h. In *Canam Enterprises Inc. v. Coles*, 2000 O.J. No. 4930 (C.A.) (*the "Canam Enterprises Decision"*), the Ontario Court of Appeal affirmed the inherent jurisdiction of courts to preclude abuses of process, explicitly inclusive of professional conduct architected to manipulate or mislead the adjudicative body.

PART 3(D): APPEALS ARE SEPARATE PROCEEDINGS GOVERNING BY THE HIGHER COURT WHICH IS NOT BOUND BY LOWER COURT DECISIONS

53. It is a foundational principle of Canadian appellate jurisprudence that an appeal is not a continuation of the trial-level proceeding, nor is it a mere procedural extension of the lower court action. Rather, an appeal constitutes a **jurisdictionally independent and procedurally distinct proceeding**, governed by a separate statutory regime and adjudicated by a different court exercising a different function. This separation is not conceptual or rhetorical; it is legally absolute.

Part 3(D)(I): Appeals Exist Only by Statute — They Are Not Continuations of the Trial

54. The Supreme Court of Canada has unequivocally held that **there is no common law right of appeal**. Appeals exist solely because a legislature has chosen to create them. In *Kourtessis v. M.N.R.*, [1993] 2 S.C.R. 53, the Court confirmed that an appeal is a "creature of statute," meaning that the appellate process is not a natural or automatic extension of the trial, but a **new proceeding** created by legislative enactment.
55. This statutory bifurcation is reflected in British Columbia's procedural architecture:
    a. **The lower-court proceeding** is governed by the *Supreme Court Act* and the *Supreme Court Civil Rules* (or Provincial Court equivalents).

b. **The appeal proceeding** is commenced under the *Court of Appeal Act*, S.B.C. 2021, c. 6, and governed by the *Court of Appeal Rules*.

56. The filing of a Notice of Appeal does not "continue" the trial. It **initiates a new proceeding** before a different court, with different judges, different jurisdiction, different powers, and different procedural requirements.

Part 3(D)(II): Functus Officio — The Lower Court's Jurisdiction Ends Completely

57. The doctrine of **functus officio** is the jurisprudential firewall separating the trial from the appeal. Once a final judgment is pronounced and entered, the trial judge's jurisdiction is exhausted. The lower court is legally prohibited from revisiting, altering, or continuing the proceeding, save for narrow clerical exceptions.
58. In *Chandler v. Alberta Association of Architects*, [1989] 2 S.C.R. 848, the Supreme Court of Canada held that once a tribunal has reached a final decision, "its jurisdiction is spent." The British Columbia Court of Appeal reaffirmed this principle in *Esteghamat-Ardakani v. Taherkhani*, 2023 BCCA 50, holding that once a final order is entered, the lower court is functus officio and the proceeding is concluded. Any further legal action must occur in a **new proceeding** — the appeal.
59. This doctrine is dispositive: **If the lower court's proceeding is legally over, the appeal cannot be its continuation.**

Part 3(D)(III): The Lawyer's Retainer Ends — A New Proceeding Requires New Representation

60. Rule 22-6(1) of the *Supreme Court Civil Rules* provides that a lawyer of record remains counsel only "until the proceeding is concluded." Once the final order is entered, the lower-court proceeding is concluded, and the lawyer's retainer terminates automatically.
61. If a party wishes to appeal, they must:
    a. commence a **new proceeding** (Notice of Appeal), and
    b. retain counsel anew for that separate appellate proceeding.
62. This procedural reality reinforces the doctrinal separation between trial and appeal.

Part 3(D)(IV): The Closed Record — The Appeal Is Not a Trial De Novo

63. The evidentiary regime further confirms the separation. The appellate court does not conduct a new trial, hear witnesses, or re-open the factual record. The appeal is restricted to the "four corners" of the lower-court record.

64. Fresh evidence may only be admitted through a specific, stringent application under the *Palmer* test (*Palmer v. The Queen*, [1980] 1 S.C.R. 759). This evidentiary wall exists precisely because the lower-court proceeding is **closed**, and the appeal is a **separate statutory review**, not a continuation.

Part 3(D)(V): Summary of the principles of an appellate proceeding being distinct from an BCSC proceeding

65. The separation between trial and appeal is established through:
    a. **Statutory creation** of appeals (*Kourtessis*).
    b. **Functus officio**, which terminates lower-court jurisdiction (*Chandler*; *Esteghamat-Ardakani*).
    c. **Termination of the lawyer's retainer** upon conclusion of the lower-court proceeding (Rule 22-6).
    d. **The closed appellate record**, requiring Palmer applications for fresh evidence (*Palmer*).
66. These principles collectively establish that an appeal is a **distinct proceeding**, governed by a separate statutory regime, adjudicated by a different court, and insulated from the lower-court process.

Part 3(D)(VI): Conclusion and Public Interest Implications

67. The Appellants' written arguments, as particularized herein, disclose **no reasonable defence** to the relief sought in the Applicant's August 12 Notice of Application. They are, in their structure and content, **prejudicial, embarrassing, and obstructive** to the fair hearing of the proceeding. They contain **scandalous, frivolous, vexatious, and unnecessary** assertions that fall squarely within the categories warranting expungement under Rule 9-5(1)(b)–(d).
68. Concurrently, the documents constitute an **abuse of process**. They attempt to collaterally attack the Court's acceptance of jurisdiction in December 2018, the Attorney General's attornment to that jurisdiction, and the LSBC's longstanding knowledge of the proceeding — all without having brought any application to set aside or challenge docket CA45786.
69. The filings were plainly motivated by apprehension: apprehension of the LSBC's own admissions, apprehension of the documentary record demonstrating systemic governance failures, and apprehension of the Applicant's ability to expose the LSBC's technological misconduct spanning more than a decade. These failures include, inter alia:
    a. the **Concealed RAM Dump** of June 2014;
    b. the **unauthorized disclosure of personal information and PHI** to foreign blockchains outside PIPEDA and GDPR protection; and
    c. the **March 2, 2016 Warrantless Wiretap Kernel SYS Module Dump**.
70. These events form part of the rationale for the legislative overhaul reflected in ss. 78–80 of the *Legal Professions Act, 2024*, replacing ss. 36, 37, and 88 of the repealed LPA 1998. They raise a serious and

unresolved question: whether the LSBC has injected malicious software into the CPUs of other members since the advent of Rule 4-43 in 2010.

Part 3(D)(VI)(a): CASL implications for the current structure that has failed and is failing to govern lawyers in the public interest and protects the rights and freedoms of all person

71. Under Canada's Anti-Spam Legislation ("CASL"), S.C. 2010, c. 23, the LSBC's conduct was not merely unlawful — it was reckless, self-interested, and indifferent to the risks imposed upon its membership. CASL was enacted to protect Canadians from unauthorized electronic incursions, and the LSBC's actions fall squarely within the statutory prohibitions.
72. CASL establishes a comprehensive regulatory perimeter prohibiting unauthorized installation or execution of computer programs on another person's device. Parliament enacted CASL to safeguard the Canadian economy and the privacy rights of individuals by regulating intrusive digital conduct.
73. Section 8(1) of CASL prohibits the installation or causing of installation of a computer program on another person's system without **express, informed consent**. Section 10 imposes heightened disclosure obligations where the program accesses private data, alters system parameters, or circumvents access controls. Absent such disclosure, any purported consent is a legal nullity.
74. Section 20 of CASL empowers the CRTC to impose **administrative monetary penalties ("AMPs")** up to $10,000,000 for non-individual entities. Section 20(3) requires consideration of the nature, scope, duration, and financial benefit of the intrusion.
75. The software-installation prohibitions came into force on January 1, 2015. Any executable code, surveillance artifact, or persistent mechanism deployed after that date falls within CASL's enforcement perimeter.
76. On June 4, 2014, under the guise of executing a Rule 4-43 production order, LSBC investigators executed **DumpIt.exe** directly into the Applicant's CPU and volatile RAM — a technological intrusion wholly outside the statutory scope of "books, records and accounts" under s. 36 of the LPA 1998.
77. Volatile memory contains real-time computational data, cryptographic tokens, ephemeral keys, privileged communications, and active processes. Extracting RAM is categorically distinct from copying static records and necessarily alters the CPU's internal state. The LSBC's actions exceeded statutory authority and breached privilege-protection protocols.
78. The volatile extraction was concealed from the Independent Supervising Solicitor, bypassing mandatory safeguards and rendering the entire investigatory chain **null and void ab initio**. The LSBC engaged in *suppressio veri* and *suggestio falsi*, undermining the integrity of the process.

Part 3(D)(VI)(a)(i):The March 2, 2016 Warrantless Wiretap and Kernel Module Dump

79. On March 2, 2016, the LSBC executed a remote technological intrusion into the Applicant's personal terminal — the **Warrantless Wiretap Kernel SYS Module Dump**.
80. This intrusion exploited fileless persistence vectors seeded during the 2014 volatile extraction. Forensic analysis reveals RDP handshakes, PowerShell payloads, PostgreSQL listeners, and the unloading of eight kernel-level modules over twenty-five minutes.
81. Hexadecimal metadata produced by the LSBC in 2021 confirms that the 2014 and 2016 intrusions formed a unified, persistent surveillance architecture. Fifteen "CommandLineEventConsumer" instances and "ROOT\CIMV2 rootsubscription" hooks enabled kernel-level execution without leaving binaries on the hard drive.
82. The 2016 intrusion constituted a **warrantless interception of private communications**, engaging ss. 184 and 342.1 of the *Criminal Code*. The conduct crossed the threshold from administrative overreach into criminal technological malfeasance.

Part 3(D)(VI)(a)(ii):Canada's Anti-Spam Legislation and the Administrative Monetary Penalty Framework

83. CASL prohibits unauthorized installation and execution of computer programs. Section 8(1) applies to regulatory bodies acting in the course of external regulatory activity. Section 10 requires heightened disclosure. Section 20 authorizes AMPs up to $10,000,000.
84. The March 2, 2016 intrusion occurred fourteen months after s. 8 came into force. The LSBC's remote execution of diagnostic scripts and memory-extraction software constituted an ongoing violation of CASL, triggering full statutory liability.
85. If the LSBC has deployed these technological intrusions against other members — or continues to do so — its potential statutory liabilities under CASL could reach a magnitude capable of bankrupting the organization outright. Such exposure would leave the LSBC's membership without a regulator and destabilize the administration of justice in British Columbia. **Ergo, this risk must have formed part of the rationale for legislative reform by the Chief Law Officer of the Province**, who could not permit a regulator facing existential CASL liability to continue governing the legal profession.

PART 3(E): THE DOCTRINE OF STARE DECISIS

86. Within judicial frameworks predicated upon the common law, the foundational doctrine of *stare decisis*—etymologically derived from Latin, signifying "to stand by things decided"—operates as an immutable mandate obligating adjudicative bodies to adhere to historical precedents when rendering determinations

upon analogous factual matrices. The strict application of this doctrine definitively ensures consistency, predictability, and fundamental fairness within the administration of justice. The doctrine is systematically bifurcated into two primary dimensions: vertical and horizontal. Vertical *stare decisis* is jurisprudentially defined as the hierarchical, top-down application of precedent. It structurally dictates that an inferior tribunal is strictly bound by the determinations promulgated by superior courts within coordinate jurisdiction. Lower adjudicative bodies are strictly and mandatorily bound by the rulings of the superior appellate courts stationed above them. A stable judicial hierarchy is meticulously architected, ensuring that jurisprudential interpretation is uniformly and unequivocally applied across a designated territorial jurisdiction. Determinations pronounced by the BCCA must be strictly adhered to by the BCSC, just as rulings of the Supreme Court of Canada impose an absolute binding obligation upon all appellate and trial courts nationally. However, that is not at issue because neither of the Appellant have brought a motion to overturn any of the decisions of the BCCA. Moreover, it is more than just a mere decision but the entire proceeding under docket number 45786 would have to be rendered by a binding decision to have been void or void ab initio and not merely voidable. The BCCA has no such jurisdiction to entertain the same and it Is not before the BCCA. The Applicant would be entitled by responding to a notice of application to address the same.

PART 3(F): THE STRIKING OF INCIDENTAL "DOCUMENT'S AND THE JURISPRUDENCE OF WALKER V. JOHN DOE AS PER JUSTICE BUTLER AS HE THEN WAS

87. In *Walker v. John Doe*, 2014 BCSC 830 (*the "Walker Decision"*), it was definitively established by The Honourable Mr. Justice Butler that the jurisdiction granted by *Rule 9-5(1)* of the *BCSC Civil Rules* extends beyond originating pleadings to encompass "other **"documents**" filed within a proceeding.
88. Within the *Walker Decision*, the underlying substantive dispute involved a litigant inserting a cost-threat into a formally mandated rule notice, which was purportedly intended by the plaintiff to merely remind experts of their duties pursuant to *Rule 11-2* (paras. 6-8). The defendant entity (ICBC) sought the striking of the cost-threat on the grounds that it was unnecessary, prejudicial, and fundamentally abusive, arguing that such tactical deployments inherently intimidate experts and severely interfere with the administration of justice (para. 5). The plaintiff countered by advancing the proposition that the court ostensibly lacked the requisite jurisdiction to strike correspondence, cautioning that granting such relief would inevitably precipitate a floodgate of analogous applications (para. 6).
89. The Honourable Mr. Justice Butler unequivocally concluded that a *Rule 11-6(10)* notice constitutes a Rules-mandated **"document"** systematically engineered to formally delineate a party's trial posture regarding admissibility (paras. 7-8). Consequently, it was held that *Rule 9-5(1)* definitively extends to an "other **"document"**" of precisely that classification, thereby confirming that absolute jurisdiction is vested within the adjudicative body to either strike or amend the offending instrument (paras. 8-9).

90. It was further articulated that the imposition of special costs or analogous punitive sanctions against non-parties, explicitly inclusive of witnesses, remains a highly unusual and exceptional jurisprudential mechanism (paras. 11-12). Witness immunity is recognized as a profoundly entrenched legal doctrine within British Columbia, dictating that the levying of costs against expert witnesses necessitates extraordinarily rare circumstances (paras. 12-13). Accordingly, it was determined that no substantive foundation existed to justify the issuance of formal notice declaring an intent to seek personal special costs against the retained experts (para. 13).
91. *Rule 11-6(10)* is structurally architected to contemplate the formal notification of admissibility objections, and explicitly not the notification of prospective cost claims against expert witnesses (para. 13). The pre-emptive procedure established within the Rules for advance admissibility challenges fundamentally eliminates any pre-trial necessity to weaponize cost threats against experts (para. 13).
92. Crucially, the Court concluded that the impugned notices were entirely devoid of any particulars capable of substantiating an award of special costs against non-parties (para. 14). In the complete absence of any legitimate necessity to "remind" experts of their formalized duties, the threatening statement was determined to be reasonably calculated to intimidate the experts or intentionally discourage the provision of evidence. Such aggressive deployments constitute a flagrant misuse of procedural mechanisms and are strictly recognized as an absolute abuse of process (para. 14). Threats of special costs seamlessly embedded within boilerplate notices are profoundly unnecessary and predictably operate to discourage expert participation by artificially thrusting the experts into an adversarial posture (para. 15).
93. As explicitly held by The Honourable Mr. Justice Butler: "In the circumstances of this case the notice to the expert of a claim for special costs against them is also an abuse of the court's process... As there is no need to remind the experts of their duty to the court, the only reason I can discern for the plaintiff's statement that he 'shall' seek costs and other sanctions against the experts personally would be to intimidate the experts, or discourage them from giving evidence. Such actions are a misuse of the court's procedure and must be recognized as an abuse of the court's process: Behn v. Moulton Contracting Ltd., 2013 SCC 26 at paras. 39-41."

PART 3(H):THE JURISPRUDENCE OF BEHN V. MOULTON CONTRACTING LTD. AND WILSON V. THE QUEEN

94. The doctrine of abuse of process is profoundly illuminated and further buttressed by the stringent prohibition against collateral attacks and the equitable preclusion of self-help remedies, as definitively articulated by the Supreme Court of Canada in *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26 (*the "Behn Decision"*).
95. The factual matrix within the *Behn Decision* involved the Crown granting logging licences to a corporate entity to harvest timber upon the territory of a First Nation. Subsequently, specific members of that Aboriginal community erected a camp that effectively blocked the corporate entity's access to the

designated logging sites. When the corporate entity initiated a tort action against those members, the members advanced a defence asserting that the underlying licences were inherently void due to a purported breach of the constitutional duty to consult and an infringement of treaty rights.

96. The Supreme Court of Canada definitively held that the failure of a party to challenge the validity of legal authorizations at the appropriate temporal juncture—opting instead to deploy self-help remedies and subsequently mount a defense based upon those unaddressed historical grievances—constitutes a flagrant abuse of process. As elucidated by the Court at paragraph 38, had the objectors acted when the authorizations were initially granted, the legal mechanisms existed to suspend the operations until the jurisdictional issues were properly resolved, rather than leading the opposing entity to believe it was free to commence operations.

97. As further articulated at paragraphs 39 through 42, the doctrine of abuse of process invokes the inherent power of the adjudicative body to preclude the misuse of its procedure in a manner that is manifestly unfair or brings the administration of justice into disrepute. It is definitively established that permitting a litigant to belatedly resurrect issues that ought to have been rigorously addressed in prior, appropriate legal contexts is tantamount to condoning self-help remedies. Such strategic maneuvering represents a complete repudiation of the duty of mutual good faith necessitated within the adjudicative framework.

98. Concomitantly, the foundational rule prohibiting collateral attacks upon judicial determinations is unequivocally codified in *Wilson v. The Queen*, 1983 CanLII 35 (SCC), [1983] 2 S.C.R. 59 (*the "Wilson Decision"*). It is a fundamental, immutable legal axiom that a court order, pronounced by a tribunal possessing the requisite jurisdiction to make it, stands and remains absolutely binding and conclusive unless it is lawfully quashed or set aside upon direct appeal. A collateral attack—defined jurisprudentially as an attack mounted within proceedings other than those explicitly architected to reverse, vary, or nullify the originating order or judgment—is strictly and permanently impermissible.

Part 3(H)(i):Application of Rule 9-5 Criteria to the Offending Submissions

99. The complete absence of any conceptual lacuna shielding the offending memorandums is definitively established when subjected to the strictures of *Rule 9-5*. The entirety of the four-page submission tendered by the LSBC, alongside the impugned paragraphs of the TLABC submission, fall catastrophically beneath the required jurisprudential thresholds:

    a. **Discloses No Reasonable Defence:** The offending materials definitively fail to articulate any cognizable defence to the relief sought within the August 12 NOA intervention application. An assertion predicated upon a defunct lower-court order to bar appellate standing is fundamentally devoid of legal foundation.
    b. **Scandalous, Unnecessary, Frivolous, and Vexatious:** The submissions are strictly scandalous because the attempt to assert an unassailable institutional authority, whilst concurrently suppressing the execution of warrantless, kernel-level digital incursions upon a private residence, is profoundly shocking and highly offensive to the foundational principles of

public morality and adjudicative decency. The submissions serve absolutely no useful purpose for the occasion; they functionally fail to advance any substantive counter-argument to the established legal tests for intervention. The materials remain utterly devoid of serious legal value, functioning exclusively as a groundless mechanism to obfuscate the substantive *lis*. The submissions are manifestly engineered to annoy and structurally derail the proceedings. Revealingly, the responsive materials explicitly admit that the Applicant satisfies two components of the four-part legal test for intervention, yet they vexatiously evade engaging with the substantive merits.

c. **Prejudice, Embarrass, or Delay ("PED"):** The architecture of these submissions is explicitly calculated to confound the adjudicative process. By weaponizing an inapplicable order to manufacture a procedural blockade, they have already inflicted concrete prejudice and delay, necessitating the formulation and filing of this very Notice of Application to rectify the resulting procedural entanglement.

d. **Abuse of Process ("AOP"):** As established in the *Baikoghli Decision* and the *C.U.P.E. Decision*, the deliberate advancement of inconsistent legal postures and the operationalization of collateral attacks fundamentally violate the integrity of the administration of justice.

PART 3(I):TRANSGRESSION OF HIERARCHY, STARE DECISIS, AND THE ABUSE OF PROCESS

100. As exhaustively elucidated within the preceding discourse on *stare decisis*, it is a foundational tenet of appellate practice that an appellate proceeding constitutes a distinct, severable, and superior jurisdictional entity from any underlying lower court proceeding. Vertical precedents strictly compel inferior tribunals, whereas horizontal precedents govern coordinate courts. It is a fundamental axiom that an order pronounced by a justice of the BCSC, explicitly inclusive of the 2018 order pronounced by The Honourable Mr. Justice Branch (the "**Branch Order**"), cannot, and does not, preemptively dictate or restrict the superior appellate jurisdiction of the BCCA. Such reliance is legally meritless.

101. Applying the binding jurisprudence synthesized within the *Walker Decision*, it is mathematically and legally impossible to rely upon an inapplicable lower court determination that definitively pre-dates binding appellate jurisprudence, particularly in circumstances where the Applicant operated formally as an appellant within the superseding appellate matrix.

102. The four-page written argument filed by the LSBC, alongside paragraphs 8 through 12 of the written argument filed by the TLABC, conspicuously and deliberately omit any reference to the appellate proceeding convened under docket number CA45786. All material steps, applications, directions, and orders—expressly inclusive of the publicly issued determination by The Honourable Mr. Justice Tysoe in *McLean v. British Columbia*, 2019 BCCA 133 (*the "McLean 2019 Decision"*), wherein the Applicant operated definitively as an appellant—are willfully suppressed from the BCCA in the responsive materials.

103. The jurisprudential principles synthesized within the *Behn Decision* and the *Wilson Decision* are mathematically dispositive of the Appellants' current procedural posture. It is a matter of incontrovertible judicial record that standing was conclusively determined and formalized within the appellate architecture in 2018, and subsequently affirmed and reaffirmed throughout 2019.

104. At that precise temporal juncture, the LSBC possessed the uninhibited capacity to object, seek addition as a respondent, or act as *amicus curiae* during the progression of the *McLean 2019 Decision*. Concurrently, no issue regarding standing was historically raised by the AGBC, which is strictly recognized as the correct posture in law. The LSBC, however, elected to remain entirely silent, willfully bypassing the appropriate procedural mechanism to ventilate any purported jurisdictional grievances.

105. To permit the LSBC to presently resurrect a defunct, lower-court order to obstruct an intervention application within the BCCA in 2026—after intentionally sleeping on its rights during the 2018 and 2019 appellate proceedings—constitutes an impermissible collateral attack and a profound abuse of process. Utilizing the *Wilson Decision*, the 2019 appellate recognition of standing remains absolutely binding and immune from collateral sabotage in this distinct proceeding.

106. Analogous to the *Walker Decision*, the deliberate insertion of a defunct, lower-court order into responsive appellate materials, whilst willfully suppressing the superseding *McLean 2019 Decision*, is not deployed for any legitimate adjudicative purpose. Rather, it is operationalized to manufacture an unsupportable procedural barrier and to intimidate or derail the intervention application without supporting particulars. Such calculated omissions and misuses of the appellate procedure are strictly recognized as an absolute abuse of the process of the court.

107. Furthermore, applying the *Behn Decision*, the delayed procedural ambuscade effectuated by the LSBC is tantamount to an unconscionable self-help remedy. It represents a complete repudiation of the mutual good faith expected within the administration of justice. The venerable maxim *Vigilantibus non dormientibus aequitas subvenit* (equity aids the vigilant, not those who slumber on their rights) operates to definitively estop the Appellants from manufacturing a retroactive standing objection to secure a perceived strategic advantage. Applying the complementary maxim formulated by Herbert Broom, *Allegans contraria non est audiendus* (a person making contradictory allegations is not to be heard), the Appellants are strictly estopped from approbating and reprobating their legal posture.

108. Because the continued reliance upon an inapplicable lower-court order to bar appellate standing operates in direct contravention of the hierarchical structure of the judiciary, the equitable principles of comity, and the absolute prohibition against collateral attack, such reliance constitutes an absolute constitutional nullity, definitively void *ab initio*, rather than a mere procedural irregularity. As the legal maxim dictates, *Actus curiae neminem gravabit* (an act of the court shall prejudice no man); the judiciary cannot permit its processes to be utilized to validate such egregious overreach, thereby preserving the fundamental *status quo ante* of the court's unimpeachable integrity.

109. As definitively established in *Heller v. Law Society of British Columbia*, 2026 BCSC 431 (*the "Heller Decision"*), at paragraph 24, an impugned **"document"** will only be struck if it is structurally incapable of being amended to cure the defect. It was articulated that an applicant must overcome a high jurisprudential bar, demonstrating the existence of a "radical defect." The complete absence of any

foundational standing to advance the defunct lower-court order within a superior appellate matrix unequivocally constitutes precisely such a radical defect. Furthermore, any subsequent attempt to radically alter the pleaded positions to sanitize the scandalous, offending material would inexorably constitute impermissible inconsistent pleading. To approbate and reprobate within the identical proceeding is, in and of itself, an egregious abuse of process, strictly contravening the equitable maxim *Allegans contraria non est audiendus* (a person making contradictory allegations is not to be heard). Consequently, the offending materials are inherently doomed to be struck from the appellate record.

PART #3(J): A FINAL POINT ABOUT MR. CAMERON'S ALLEGED SIGNATURE ON THE TLABC MOA

110. It is respectfully noted that the TLABC's written argument bears the digital signature of Mr. Gavin Cameron, yet Mr. Cameron's automatic email reply at 8:11 a.m. on August 21, 2026 stated that he was away from the office on holiday until August 24, 2026 and unable to respond to emails. The TLABC's written argument was subsequently transmitted by Ms. Abrioux in the afternoon of August 21, 2026. This discrepancy raises a legitimate question as to whether Mr. Cameron personally signed the document, whether his signature was affixed by another individual, or whether the document was executed without his contemporaneous review. Given the solemnity of filings before this Court, the authenticity and provenance of counsel's signature is a matter of professional responsibility and procedural integrity.

111. Mr. Cameron's automatic email reply at 11:11 a.m. on August 21, 2026 stated: *"I am out of the office on vacation until Monday August 24, and unable to respond to emails."* Yet the TLABC's written argument filed that same day bears his digital signature and was circulated by Ms. Abrioux in the afternoon. This discrepancy raises a legitimate concern as to whether Mr. Cameron personally signed the document, whether his signature was affixed by another individual during his absence, or whether the document was executed without his contemporaneous review. These matters fall squarely within the Court's supervisory jurisdiction over the integrity of its process and may properly be addressed in the context of costs, including attribution of responsibility for any irregularity. It is further noted that Mr. Ferris, K.C., was away until August 28, 2026, yet did **not** sign the LSBC's impugned MOA — underscoring the expectation that counsel unavailable due to vacation do not execute appellate filings.

PART 5: ORDERS SOUGHT

112. Consequently, the following relief in the Form 4 is respectfully sought along with the relief in the Applicant's August 12 NOA as a comprehensive order appended here at Schedule "C".

ALL OF WHICH IS RESPECTFULLY SUBMITTED on August 31, 2026:

Mr. Kevin A. McLean (BA, JD, CIM)

SCHEDULE A: ENACTMENTS CITED

- *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11
- *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "***COAA***")
- *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "***Court of Appeal Rules***")
- *Criminal Code*, R.S.C., 1985, c. C-46
- *Legal Professions Act*, S.B.C. 2024, c. 26 (the "**LPA 2024**")
- *Supreme Court Civil Rules*, B.C. Reg. 168/2009 (the "**BCSC Civil Rules**")

SCHEDULE B: AUTHORITIES CITED

- *0742848 B.C. Ltd. v. Squamish (District)*, 2017 BCSC 2177
- *100 Main Street East Ltd. v. Sakas* (1974), 1974 CanLII 637 (ON HCJ)
- *100 Main Street East Ltd. v. Sakas* (1975), 1975 CanLII 381 (ON CA)
- *131843 Canada Inc. v. Double "R" (Toronto) Ltd.* (1992), 7 C.P.C. (3d) 15 (Ont. Gen. Div.)
- *9095900 Canada Ltd. v. Baikoghli*, 2026 BCSC 839
- *Albion Securities Co. v. Milne*, 1999 CarswellBC 2297
- *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26
- *Blackwell Stores Ltd. v. Okanagan-Similkameen (Regional District)*, 2000 BCSC 1550
- *Canada (AG) v. Bedford*, 2013 SCC 72
- *Canada Trustco Mortgage Co. v. Renard*, 2008 BCCA 343
- *Canam Enterprises Inc. v. Coles*, 2000 O.J. No. 4930 (C.A.)
- *Carter v. Canada (AG)*, 2015 SCC 5
- *Chapman v. Canada (Minister of Indian and Northern Affairs)*, 2003 BCCA 665
- *Citizens for Foreign Aid Reform Inc. v. Canadian Jewish Congress*, 1999 CanLII 5860 (BC SC)
- *Delane Industry Co. Ltd. v. Tsawwassen Quay Market Corporation*, 2024 BCCA 107
- *Dimitriadis v. Bowen Valley Ranch Corp.*, [1995] B.C.J. No. 2281 (S.C.)
- *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5
- *Gill v. Canada*, 2013 BCSC 1703
- *Glover v. Leakey*, 2016 BCSC 1624
- *Halagan v. Reifel*, 1997 CarswellBC 4040
- *Hawkeye Power Corporation v. Sigma Engineering Ltd.*, 2012 BCCA 414
- *Heller v. Law Society of British Columbia*, 2026 BCSC 431
- *Hemming v. Newton*, 2006 BCSC 1748
- *Hill v. Hill*, 2016 ABCA 49
- *International Corona Resources Ltd. v. LAC Minerals Ltd.* (1988), 1988 CanLII 4534 (ON HCJ)
- *Jensen v. Ross*, 2014 BCCA 173
- *Keddie v. Dumas Hotels Ltd.* (1985), 1985 CanLII 417 (BC CA)
- *Krist v. British Columbia*, 2017 BCCA 78
- *Landreville v. Town of Boucherville*, 1978 CanLII 202 (SCC)
- *Law Society of BC v. Foo*, 1997 LSDD No. 197
- *Law Society of BC v. Galambos*, 2007 LSBC 31
- *Law Society of BC v. Nejat*, 2014 LSBC 51
- *Law Society of BC v. Samuels*, 1999 LSBC 36
- *Lazarus Estates Ltd. v. Beasley*, [1956] 1 QB 702
- *Long v. Redbranch Investments Ltd.*, 2018 BCCA 358
- *McLean v. British Columbia*, 2019 BCCA 133
- *McNutt v. A.G. Canada et al.*, 2004 BCSC 1113
- *Mott v. Pacific National Exhibition*, 2001 BCCA 731
- *Mystar Holdings Ltd. v. 247037 Alberta Ltd.*, 2009 ABQB 480
- *Nazmdeh v. Spraggs*, 2010 BCCA 131
- *Nuttall v. Krekovich*, 2018 BCCA 334
- *O'Connell Electric Ltd. v. British Columbia Hydro & Power Authority*, 2006 BCSC 1632
- *Pepper's Produce Ltd. v. Medallion Realty Ltd.*, 2012 BCCA 247
- *R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42
- *Rodaro v. Royal Bank of Canada* (2002), 2002 CanLII 41834 (ON CA)
- *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519
- *Sahyoun v. Ho*, 2015 BCSC 392
- *Shoolestani v. Ichikawa*, 2017 BCSC 1589
- *Simon v. Canada (Attorney General)*, 2015 BCSC 924

- *Strata Plan 1229 v. Trivantor Investments International Ltd.* (1996), 24 B.C.L.R. (3d) 292 (C.A.)
- *Strohmaier v. British Columbia (Attorney General)*, 2015 BCSC 1189
- *SWS Marketing Inc. v. 1125003 B.C. Ltd.*, 2022 BCSC 2166
- *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63
- *Virk v. Brar*, 2012 BCSC 1004
- *Walker v. John Doe*, 2014 BCSC 830
- *Willow v. Chong*, 2013 BCSC 1083
- *Wilson v. The Queen*, 1983 CanLII 35 (SCC), [1983] 2 S.C.R. 59
- *Young v. Young*, [1993] 4 S.C.R. 3
- *Zhang v. Chen*, 2024 BCSC 285

SCHEDULE "C": DRAFT COMPREHENSIVE ORDER TENDERED BY THE APPLICANT

FORM 10 (RULE 66(3)(a))

COURT OF APPEAL FOR BRITISH COLUMBIA

Court of Appeal File Nos. CA51536 / CA51535

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS

(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS

(Defendants)

ORDER OF A SINGLE JUSTICE

BEFORE THE HONOURABLE PRESIDING CHAMBERS JUSTICE IN CHAMBERS

THE HONOURABLE JUSTICE _____ in

Vancouver, British Columbia, with judgment being issued in chambers on September 10, 2026

THE APPLICATIONS OF the Applicant, Mr. Kevin A. McLean, specifically particularized defined as the August 12, 2026 Notice of Application (the "*August 12 NOA*") and the August 30, 2026 Notice of Application (the "*August 30 NOA*") [seeking leave to intervene, the striking of responsive memorandums, declarations regarding statutory interpretation, formal admissions, and abuses of process, the summary dismissal and quashing of the appeals, and awards of special costs et al.], coming on for hearing on September 10, 2026 at Vancouver, British Columbia;

AND ON HEARING Mr. Kevin A. McLean appearing in person, and Mr. Craig A.B. Ferris, K.C et al of Lawson Lundell LLP. and Mr. Gavin Cameron et al of Faskens LLP appearing as counsel for the Appellants (LSBC and TLABC respectively), and Ms. Emily C. Lapper, K.C. et al appearing as counsel for the Respondents;

AND ON READING the materials filed herein;

AND ON JUDGMENT BEING PRONOUNCED ON THIS DATE;

The following orders and declarations were made on September 10, 2026:

Order #1: IT IS ORDERED that the time for the filing and service of the *August 12 NOA* and the *August 30 NOA* is abridged, and the filing and service of said **"documents"** and all accompanying materials are validated *nunc pro tunc*.

Order #2: IT IS FURTHER ORDERED that, pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*"), and *Rule 41* of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*"), the requirement delineated within *Rule 60* stipulating that strictly a 'party' may apply to quash an appeal is hereby dispensed with, and the Applicant is affirmatively granted the requisite standing, by variance of the requirement of that rule for the limited purpose to advance the applications to quash under Rule 60 in addition to the other grounds to have the LSBC Appeal and TLABC Appeals not heard which do not require "party" status.

Order #3: IT IS FURTHER ORDERED that leave is granted to Mr. Kevin A. McLean to intervene in the within appeals, with all consequential relief flowing from the granting of such status.

Order #4: IT IS FURTHER ORDERED that the written argument filed by the Law Society of British Columbia on August 21, 2026, directed solely in response to the *August 12 NOA*, is struck in its entirety and shall be removed from the court file, both physically and electronically on the Court Services Online repository.

Order #5: IT IS FURTHER ORDERED that paragraphs 8 through 12, inclusive, of the Memorandum of Argument served and filed by the Trial Lawyers Association of British Columbia and Kevin Westell on August 21, 2026, are struck and black-line redacted from the court record.

Order #6: IT IS FURTHER ORDERED AND DECLARED that the Law Society of British Columbia is irrevocably bound by its formal admissions, explicitly pleaded in its Notice of Civil Claim, that the unwritten constitutional principle of the independence of the bar is satisfied by a regulatory board comprised of a majority of lawyers, of which a majority of those lawyer directors are elected, and that the *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"), definitively fulfills these admitted requirements.

Order #7: IT IS FURTHER ORDERED AND DECLARED that the Appellants, having failed to intervene or raise standing objections during the 2019 appellate proceedings in *McLean v. British Columbia*, 2019 BCCA

133, are strictly estopped from mounting a collateral attack on the standing of the Applicant in the present proceedings, thereby rendering their reliance upon the 2018 lower-court order an absolute abuse of process.

Order #8: IT IS FURTHER ORDERED AND DECLARED that the Appellants, by and through the filing of their respective memorandums of argument on August 21, 2026, have engaged in a flagrant abuse of the process of this Honourable Court by attempting to collaterally attack the binding appellate determinations previously pronounced by The Honourable Madam Justice Stromberg-Stein and The Honourable Mr. Justice Tysoe under docket number CA45786 (*McLean v. British Columbia*); such abuse is definitively established by the Appellants' impermissible reliance upon an inapplicable order of an inferior tribunal, which is inherently devoid of any jurisdictional authority to restrict the standing of the Applicant, either historically as an appellant or presently as an intervener.

Order #9: IT IS FURTHER ORDERED AND DECLARED that the deliberate suppression of the historical volatile-memory extractions and subsequent remote digital incursions from the adjudicators of the British Columbia Supreme Court constitutes a fraud by omission, thereby vitiating the equitable right of the Law Society of British Columbia to be heard in this appellate proceeding.

Order #10: IT IS FURTHER ORDERED AND DECLARED that, pursuant to section 8 and subsection 27(1) of the *Interpretation Act*, R.S.B.C. 1996, c. 238 (the "*Interpretation Act*"), the statutory provisions of the *COAA* and the regulatory provisions of the *Court of Appeal Rules* are remedial in character and must receive such fair, large, and liberal construction as best ensures the attainment of their objects; consequently, pursuant to subsection 24(3)(b) and section 25 of the *COAA*, this Honourable Court is fully empowered to exercise its statutory, incidental, and original jurisdiction in favour of any person, irrespective of formal party designation, to prevent a perversion of justice and protect the paramount public interest.

Order #11: IT IS FURTHER ORDERED AND DECLARED that, the Law Society of British Columbia having explicitly pleaded its response to the Intentions Paper within its Notice of Civil Claim, the Respondents were not required to formally or technically plead the law of admissions in rejoinder; by operation of law, the conclusive nature of said admissions activates the full jurisdiction of this Court pursuant to subsections 24(1)(a), 24(1)(c), and 24(2)(c) of the *COAA* to make any order that the court appealed from could have made, to make any additional order considered just, and to exercise all original and incidental jurisdiction necessary to summarily determine the within proceedings and extinguish the unmeritorious appeals.

Order #12: IT IS FURTHER ORDERED that, pursuant to, inter alia, sections 20, 21, 24 and 25 and 30 of the *COAA* and Rule 60 of the COR, the appeal advanced by the Law Society of British Columbia is summarily

dismissed and/or quashed on the foundational basis that the Court lacks jurisdiction, as the formal admissions tendered by said appellant definitively extinguish any remaining justiciable issues. It is further DECLARED that the LSBC's Appeal was an abuse of process.

Order #13: IT IS FURTHER ORDERED that, that, pursuant to, inter alia, sections 20, 21, 24 and 25 and 30 of the *COAA* and Rule 60 of the COR the appeal advanced by the Trial Lawyers Association of British Columbia and Kevin Westell is summarily dismissed and quashed, and further declared to be an abuse of process.

Order #14: IT IS FURTHER ORDERED that special costs, inclusive of disbursements, are awarded as a lump sum payable forthwith against counsel (signatory of the offending MOA solely directed at Mr. Kevin A. McLean (BA, JD, CIM)) for the Law Society of British Columbia and counsel (signatory of the offending portions of the filed MOA) for the Trial Lawyers Association of British Columbia, with such funds to be strictly earmarked, held in a legal trust account, and exclusively remitted to the benefit of Legal Professions British Columbia upon amalgamation pursuant to the *LPA 2024*.

Order #15: IT IS FURTHER ORDERED that the provision of an Application Book via the portal or electronic mail by the Applicant is deemed filed at the time of provision, and the requirement for the approval as to form and signature of this Order by counsel for the Appellants and counsel for the Respondents is hereby dispensed with.

A Justice of the Court of Appeal

APPROVED AS TO FORM:

……..……..... ……..…….

……..

Signature of Mr. Kevin A. McLean

Applicant

Tab 3(K)

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

COURT OF APPEAL

MEMORANDUM

To: Torri Enderton, Deputy Registrar

From: Madam Justice Horsman

Date: August 31, 2026

RE: **TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A) vs. THE ATTORNEY GENERAL OF BRITISH COLUMBIA**
Court of Appeal File Nos: CA51535 and CA51536

Dear Ms. Enderton,

Please provide a copy of this memorandum to Mr. McLean and the parties of record on the appeal.

This memorandum addresses the Law Society of BC's letter of August 21, 2026, requesting that Kevin McLean's application filed August 12, 2026, (supported by a written submission filed August 14, 2026) be heard in writing. Mr. McLean's notice of application seeks an order permitting him to intervene on this appeal, as well as various other orders. Mr. McLean was given an opportunity to provide a letter to respond the Law Society's request. The 55-page document he submitted to the Court of Appeal Registry on August 28, 2026, contains lengthy submissions on the orders he seeks in addition to an order permitting him intervener status, but does not address the question of the mode of hearing.

Having reviewed the material, I am satisfied that it is appropriate to hear Mr. McLean's application of August 12, 2026, based on the existing written record. Mr. McLean should not attend Court on the dates currently scheduled for the hearing of the other intervener applications (September 9-10). He has not been granted a right of audience. I also direct Mr. McLean not to file any additional material in these proceedings with the Court of Appeal Registry pending my ruling on his application.

Thank you.

Tab 3(L)

URGENT

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Reply via email: mclean@searchandseizure.ca

Date: September 1, 2026

Sending method: Via Email at first instance and filed through the CSO portal

TO:

The Court of Appeal for British Columbia

800 Hornby Street

Vancouver, BC V6Z 2C5

Attention: The Honourable Chief Justice Leonard Marchand, Chief Justice of British Columbia

CC:

Tom Posyniak tposyniak@fasken.com; Laura Abrioux labrioux@fasken.com; Will Andrews wandrews@fasken.com; Lapper, Emily AG:EX emily.lapper@gov.bc.ca; Bant, Trevor AG:EX trevor.bant@gov.bc.ca; Kotliarsky, Karin AG:EX karin.kotliarsky@gov.bc.ca; Ortega, Sergio AG:EX sergio.ortega@gov.bc.ca; lkt@tdslaw.com lkt@tdslaw.com; Ian Knapp iknapp@macfuj.com; amackenzie@macfuj.com amackenzie@macfuj.com; bolthuis bolthuis@ovcounsel.com; dredman dredman@arvayfinlay.ca; David Wu dwu@arvayfinlay.ca; cbildfell@mccarthy.ca cbildfell@mccarthy.ca; Frame, Lindsay lframe@mccarthy.ca; roy.millen roy.millen@blakes.com; nicholas.tollefson@blakes.com nicholas.tollefson@blakes.com; JoeyDoyle joey@doyledefence.ca; ekirkpatrick ekirkpatrick@mcewanpartners.com; CDauvergne@litigationchambers.com cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca jmaclaren@accessprobono.ca; kyla kyla@vancouvercriminallaw.com; rpeck rpeck@peckandcompany.ca; Caroline Senini csenini@peckandcompany.ca; pmueller@peckandcompany.ca pmueller@peckandcompany.ca; Laura Bevan lbevan@lawsonlundell.com; Jonathan Andrews (3270) - 14Flr jandrews@lawsonlundell.com; Nicole Welsh (3193) - 14Flr nwelsh@lawsonlundell.com; cferris cferris@lawsonlundell.com; lgrant@lawsonlundell.com lgrant@lawsonlundell.com; mring@lawsonlundell.com mring@lawsonlundell.com; ccrane ccrane@ovcounsel.com; Chris Pang cpang@ovcounsel.com; mmiharija@ovcounsel.com mmiharija@ovcounsel.com; szarb@macfuj.com szarb@macfuj.com; Lever, Vanessa AG:EX vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com kotto@lawsonlundell.com

SUBJECT I: REQUEST FOR DIRECTIONS AND INVOCATION OF INHERENT SUPERVISORY JURISDICTION AS PRIMUS INTER PARES

SUBJECT II: COURT OF APPEAL FILE NUMBERS CA51536 / CA51535 – ERRONEOUS REJECTION OF FILINGS, UNCONSTITUTIONAL ADMINISTRATIVE GATEKEEPING, AND DESIGNATION AS A CHIEF'S CASE

To the attention of the Primus Inter Pares of the BCCA in the Honourable Mr. Chief Justice Mr. Marchand (with copies to the above)

PART 1: INTRODUCTION, PROCEDURAL CLARIFICATION, AND THE UNREAD CORRESPONDENCE

1. I write regarding the above-noted appellate proceedings.
2. Where the word "motion" is used, it refers to a Form 4 Notice of Application.
3. It is respectfully submitted that the immediate, supervisory intervention of the Chief Justice is necessitated by an *ultra vires* administrative overreach orchestrated by the registry of the Court of Appeal for British Columbia (the "Registry"). This overreach has resulted in the erroneous rejection of validly submitted appellate materials, thereby actively frustrating the Applicant's statutory right to be heard on a motion to strike. Furthermore, as all counsel and interested parties are explicitly copied on this *cor*respondence, it is formally re*cor*ded that this does not constitute an *ex parte* or out-of-court communication.
4. While I have just read the document (email) today in light of the improper rejection of my paid for and submitted filings of yesterday's date (see: Tab 1), t**he chambers judge's August 26 email (or relaying of language of the same) did not prohibit filing a motion (an NOA) to strike. The Registry misinterpreted it and unlawfully rejected my Form 4 and Written Argument of yesterday's date. I complied with the chambers judge's direction by submitting my response letter on August 28 although unaware of the same as I had submitted for filings earlier in the week an MOA and Form 4 out of abundance of caution (i.e. reproduction of some of the language from the filed August 12 NOA). I now respectfully request directions from the Chief Justice regarding the filing and scheduling of my NOA to strike the LSBC's MOA directed at me and part of the TLABC's MOA (see: paragraphs 8 to 12).**
5. As a foundational matter of procedural clarity, it must be formally and unequivocally re*cor*ded that the electronic *cor*respondence ostensibly emanating from an undisclosed chambers justice on August 26, 2026, alongside the enclosed *cor*respondence of the Law Society of British Columbia (the "LSBC") dated

August 21, 2026, was inadvertently missed. It was not accessed, read, or comprehended by the undersigned until today's date, September 1, 2026.

6. However, it is strenuously advanced that, having now meticulously reviewed the August 26, 2026 email today, the *cor*respondence is entirely devoid of any directive, order, or prohibition barring the Applicant from filing an independent Form 4 Notice of Application (the "Form 4 NOA") and a Memorandum of Argument (the "MOA") to strike offending materials. The email explicitly and exclusively addresses a timeline for a responsive letter to a frivolous, tactical communication dispatched by the LSBC. It absolutely does not extinguish, stay, or suspend the Applicant's statutory rights to bring a formal motion to strike the MOAs. To be unequivocally clear: nothing within that email dictates that the Applicant cannot file a NOA and written argument to strike the MOAs.
7. Notwithstanding this profound jurisdictional reality, the administrative rejection of the Form 4 NOA and MOA submitted on August 31, 2026, constitutes an absolute nullity. The Registry predicated this rejection upon a catastrophic misinterpretation of a mere two-sentence relaying of commentary from an undisclosed chambers justice, unilaterally declaring that "no further applications could be filed." It is forcefully asserted that nowhere within the four corners of the August 26 email, read today, does it state that no further applications can be filed. The Registry possesses zero adjudicative jurisdiction to unilaterally fabricate a procedural bar against the advancement of an independent, statutory motion. Such gatekeeping operates *ultra vires*, conflates administrative compliance with substantive statutory rights, and usurps the judicial function.

PART 2: THE SEVERABILITY OF THE RESPONSE LETTER AND THE NOA TO STRIKE (NOT THE LSBC LETTER OF SEPTEMBER 21, 2026) BUT THE ENTIRETY OF THE MOA OF THE LSBC SOLELY DIRECT AT MR. KEVIN A. MCLEAN (BA, JD, CIM) AND PARAGRAPHS 8 TO 12 OF THE TLABC MOA

5. A fundamental jurisprudential and procedural distinction must be drawn—and is strenuously maintained herein—between responding to a frivolous letter advanced by one party, and formally applying to strike scandalous, vexatious, and offending material advanced by two different appellants. On August 26, 2026, directions were issued requesting a letter of response to the *cor*respondence authored by the LSBC. Strict compliance with that narrow directive was inadvertently but effectively achieved on August 28, 2026, wherein a comprehensive response was submitted and appropriately stamped "Received Not Filed" by the Registry. This submission perfectly satisfied the narrow administrative directive of the chambers justice.

6. The subsequent filings submitted on August 31, 2026, however, had absolutely nothing to do with the LSBC's frivolous letter. They were not responsive *cor*respondence; rather, they constituted an independent, substantive motion to strike objectionable materials contained within the MOA of the LSBC in its entirety, as well as specific paragraphs (8 through 12) of the MOA filed by the Trial Lawyers Association of British Columbia (the "TLABC").
7. To reiterate strenuously: the email read today does not say, nor imply, that the Applicant cannot file a NOA and written argument to strike the MOAs. The motion to strike is a distinct, severable, and statutorily protected procedural vehicle that is wholly disconnected from the informal, letter-writing campaign orchestrated by the LSBC.
8. Irrespective of how the overarching "mode of hearing" is ultimately decided by the chambers justice, the substantive issue of whether the LSBC's MOA and portions of the TLABC's MOA can be permitted to stand remains fully justiciable and strictly subject to a motion to strike.
9. The optics surrounding the LSBC's procedural posture are inescapable. The *cor*respondence from Lawson Lundell LLP, explicitly requesting that the matter proceed in writing or without a hearing, represents a strategic maneuver architected to avoid the open court principle. It is transparently evident that the LSBC is deeply apprehensive of a public ventilation of the evidentiary re*cor*d—specifically the concealed, warrantless volatile-memory extractions (the RAM Dumps) and the subsequent remote interceptions. Open courts are a constitutional imperative, and attempts to suppress oral advocacy via frivolous letters must not be permitted to implicitly bar independent motions to strike.

PART 3: THE ULTRA VIRES NATURE OF ADMINISTRATIVE GATEKEEPING

10. The Registry possesses no inherent or statutory authority to unilaterally reject a motion directed at striking objectionable material based upon a general directive regarding letter *cor*respondence. Such an action operates in direct contravention of the established rules of court, particularly when the underlying judicial *cor*respondence read today contains no such prohibition.
11. As illuminated by the Federal Court in *Sydel v. Canada (Attorney General)*, 2013 FC 1116, a critical distinction exists between the Registrar of the Supreme Court of Canada—who operates as a quasi-judicial officer with explicit powers to act in the capacity of a judge in certain situations—and provincial court registries. The Registry of the Court of Appeal operates as an administrative arm of the executive branch. It possesses absolutely no adjudicative power to refuse the filing of a paid, compliant motion, nor can it unilaterally extinguish a litigant's access to the courts by extrapolating a letter-writing deadline into a blanket ban on statutory applications. To permit the Registry to do so is to permit an infringement

of the core jurisdiction of the superior courts, a principle strictly protected under section 96 of the *Constitution Act, 1867*, as definitively established in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59. This naturally extends to the BCCA although the BCCA is not a superior court per se but any such lacunas are filled by the *COAA* and *COR*.

12. As articulated within the legal maxims compiled by Herbert Broom, *actus curiae neminem gravabit* (an act of the court shall prejudice no man), which dictates that an administrative or procedural error by the Registry cannot operate to extinguish substantive, statutory rights to be heard on a motion to strike. Furthermore, the maxim *boni judicis est ampliare jurisdictionem* (it is the duty of a good judge to enlarge his jurisdiction) compels the exercise of the inherent supervisory jurisdiction to rectify such administrative lawlessness.

PART 4: THE STATUTORY IMPERATIVE OF THE COURT OF APPEAL ACT AND RULES

13. The rejection of the Form 4 NOA and MOA is strictly prohibited by the governing legislative framework. An appeal and its corollary applications are creatures of statute, governed explicitly by the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*"), and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Court of Appeal Rules").
14. Specifically, the *Court of Appeal Rules* mandate stringent temporal constraints for the filing of applications. Rule 54 dictates that a notice of application must be filed and served at least five (5) business days before the application hearing date. Furthermore, Rule 60, which governs applications to quash an appeal or raise preliminary objections (including the striking of a factum or argument), explicitly commands that such documents must be filed and served at least seven (7) business days prior to the hearing date.
15. The Applicant's submission of the Form 4 NOA and MOA on August 31, 2026, for a hearing date of September 10, 2026, was a strict exercise of statutory compliance designed to satisfy these five- and seven-day procedural mandates. The email from chambers, read today, does not—and procedurally cannot—override these strict temporal regulations. The Registry's administrative refusal to accept these filings actively frustrates compliance with Rule 54 and Rule 60 and purports to extinguish the substantive rights guaranteed under sections 20, 24, 30, and 32 of the *COAA*.
16.

PART 5: THE DOCTRINE OF PRIMUS INTER PARES AND THE 13 CHIEF JUSTICE DUTIES

16. Since the 1995 adjudication in *Ruffo v. Conseil de la magistrature*, [1995] 4 S.C.R. 267 (the "Ruffo Decision"), the doctrine of primus inter pares (the "Primus Inter Pares") has emerged as a substantive,

rather than merely ceremonial, designation of seniority. This inherent doctrine is unequivocally buttressed by section 7 of the *Court of Appeal Act*, which statutorily codifies that the Chief Justice possesses supreme judicial rank and precedence over all other judges of the courts of British Columbia. This absolute statutory primacy operationalizes the doctrine, which has incrementally evolved through the interstices of judicial precedent to recognize that a Chief Justice of a Section 96 Court possesses an inherent suite of responsibilities that need not be explicitly conferred by statute or regulation (collectively, the "13 Chief Justice Duties"):

a. ultimate jurisdiction (the "Ultimate Jurisdiction"): The possession of the definitive and final authority over the adjudicative and administrative functions of the Court, ensuring that the judicial hierarchy remains intact and that the status quo ante is preserved against unauthorized deviation;
b. constitutional trust stewards (the "Constitutional Trust Stewards"): The non-delegable responsibility to serve as the primary guardian of the constitutional trust bestowed upon the judicial branch by the sovereign and the citizenry, a trust that is predicated upon the absolute neutrality of the bench;
c. imperviously influenced mandate (the "Imperviously Influenced Mandate"): The requirement to remain completely impervious to external influences, bearing the unique burden of ensuring the Court as a whole remains insulated from such pressures, whether they be political, executive, or administrative (see: *Faber c. R.*, 2015 QCCS 12, paragraph 111);
d. master of the roster (the "Master of the Roster"): The absolute authority over the scheduling and distribution of judicial resources, preventing the emergence of "judicial silos" or the arbitrary and ad hoc assumption of jurisdiction by individual members of the bench;
e. self-assignment power (the "Self-Assignment Power"): The inherent authority to take over or self-assign matters of profound institutional significance where high-quality justice or the reputation of the tribunal is at risk due to administrative capture;
f. administrative steward (the "Administrative Steward"): The duty to oversee the clerical and registry functions as a necessary extension of judicial sovereignty, ensuring that the administrative arm of the court does not operate in a state of lawlessness or procedural stasis;

g. institutional reputation guardian (the "Institutional Reputation Guardian"): The obligation to serve as the face of the Court and the protector of its standing in the public eye, rectifying any conduct that may cast a pall upon the perceived impartiality of the judiciary;
h. efficiency operation duty (the "Efficiency Operation Duty"): The responsibility to ensure the seamless and efficient operation of all Court functions, preventing the occurrence of administrative lacunae or the functional stagnation of the list;
i. ethical compliance guarantee (the "Ethical Compliance Guarantee"): The occupation of a preferred position to ensure and guarantee absolute compliance with judicial ethics within the tribunal, acting as the final arbiter of professional conduct; and
j. complaint laying power (the "Complaint Laying Power"): The intrinsic authority to initiate formal complaints against colleagues where ethical breaches are identified, a power that is central to the self-regulating nature of the judicature
k. puisne judge removal power (the "Puisne Judge Removal Power"): The authority to relieve or reassign a colleague from judicial duties during the pendency of ethical inquiries or complaints, thereby preserving the public's perception of institutional integrity;
l. moral barometer (the "Moral Barometer"): The role of serving as the ethical and integrity barometer for the entire judicial institution, setting the standard for comportment and professionalism; and
m. moral authority (the "Moral Authority"): The power to impose judicial will upon other puisne judges through the exercise of moral authority regarding directives to which they may not be legally subject but are ethically bound to follow for the collective good.

PART 6: CANADIAN JUDICIAL COUNCIL V. GIROUARD AND THE SUPERVISORY JURISDICTION OVER COLLEAGUES

17. As definitively reaffirmed by the Federal Court of Appeal in *Canadian Judicial Council v. Girouard*, 2019 FCA 148 (the "*Girouard Decision*"), at paragraphs 42 through 44, the supervisory jurisdiction of the Chief Justice is inextricably linked to their relationship with their "colleagues." Citing paragraph 59 of the *Ruffo Decision*, the *Girouard Decision* at paragraph 43 emphasizes that, first, because of the Chief Justice's role as coordinator, events that may raise ethical issues are more readily brought to their attention. Secondly, because of the Chief Justice's elevated status, they are uniquely and optimally situated to deal with such delicate matters, thereby relieving the other judges of the court of the inherently difficult task of laying a complaint against one of their own colleagues where necessary. The utilization of the word

"colleagues" is of paramount importance; it solidifies the premise that the Chief Justice, acting as *Primus Inter Pares*, is the exclusive and indispensable conduit through which internal ethical lapses and administrative lawlessness must be addressed to preserve the institutional integrity of the court.

PART 7: THE JUSTIFICATION FOR A CHIEF'S CASE EVEN ON AN INTERIM BASIS LIKE THAT OF THE HONOURABLE MR. CHIEF JUSTICE BALDOVI OF THE MANITOBA'S KING'S BENCH

18. The Law Society of Manitoba will be well aware of this decision from its jurisdiction which was upheld at its Court of Appeal and leave being denied at the SCC.
19. The circumstances encompassing these appellate proceedings demand the invocation of the Self-Assignment Power and the designation of this matter as a "Chief's case." As articulated in *R. v. Baldovi et al*, 2016 MBQB 90 (the "*Baldovi Decision*"), at paragraph 72, a matter presents as a Chief's case when it is defined by:

    (i) its challenges;
    (ii) its controversies;
    (iii) its high-profile nature; and/or
    (iv) circumstances which place the focus squarely upon the integrity of the court.

20. The application of the law to the facts herein is unequivocal. The evidentiary record details deeply controversial and high-profile allegations involving the LSBC, specifically encompassing unauthorized, warrantless volatile-memory extractions and subsequent remote interceptions of communications. These actions, allegedly concealed from multiple justices of the British Columbia Supreme Court over a span of years, touch upon the very integrity of the court's process. Even if the ultimate adjudication of these initial questions proves not to be determinative in a strictly legal sense, the stakes are of such magnitude that no one is more appropriately positioned to conduct such adjudications than the Chief Justice. As established in the Baldovi Decision, where a link to ethical and institutional integrity exists, the Chief Justice as *Primus Inter Pares* is uniquely placed to provide the necessary leadership to ensure public confidence in the judiciary is maintained.

PART 8: THE ADMINISTRATIVE STEWARD AND THE PREVENTION OF ADMINISTRATIVE CAPTURE

20. Furthermore, the role of the Chief Justice as the Administrative Steward must be operationalized to correct the Registry's overreach. As comprehensively analyzed in Professor Peter W. Hogg's seminal article, *The Role of a Chief Justice in Canada*, (1993-94) 19:1 Queen's Law Journal 248-260 (the "Hogg Article"), the Chief Justice occupies a delicate interface between the judiciary and the administrative

apparatus. While dependent upon the executive for resources, the Chief Justice retains absolute, constitutionally protected authority over sittings, dockets, and the assignment of judges to prevent administrative capture.

21. Applying the principles elucidated in the Hogg Article to the present facts, the Registry's refusal to accept the Form 4 NOA and MOA constitutes an administrative usurpation of the judicial function. The Chief Justice must exercise the Administrative Steward duty to ensure the clerical arm of the court does not operate in procedural stasis or dictate substantive legal rights, particularly when the correspondence relied upon by the Registry (read by the Applicant today) contains absolutely no prohibition against the filing of independent motions. The Registry must be directed to stamp the submitted filings, thereby returning the determination of the motion to strike to the adjudicative realm.

PART 9: CONCLUSION, RESERVATION OF RIGHTS TO MANDAMUS, AND REQUEST FOR DIRECTIONS

22. It is respectfully requested that the Chief Justice of the Court of Appeal for British Columbia intervene in this matter, direct the Registry to formally stamp and file the Form 4 NOA and MOA submitted on August 31, 2026, and provide directions regarding the Applicant's independent, statutory right to apply to strike the offending materials. Irrespective of whether the Chief Justice intervenes to assume oversight, the Registry is strictly required by law to stamp the Applicant's filings.
23. The Registry's refusal to accept the filings is predicated upon a catastrophic misreading of a mere two-sentence relaying of commentary from an undisclosed chambers justice. Should the Registry fail to formally stamp the Applicant's filings by tomorrow's date, the Applicant expressly reserves the right to bring a formal Notice of Application for a writ of *mandamus*. Such an application will rigorously satisfy the eight-part legal test for *mandamus* as definitively articulated by the Federal Court of Appeal in *Apotex Inc. v. Canada (Attorney General)*, 1993 CanLII 3004 (FCA). It is respectfully submitted, however, that by bringing this *ultra vires* gatekeeping to the immediate attention of the Chief Justice on an urgent basis, the administrative failure to stamp the documents will be swiftly rectified, thereby obviating the need for extraordinary prerogative relief.
24. Simply put, the LSBC does not want open courts or any of the, by its admission, unique and important perspectives on public law issues that I have to speak to and contained within my currently filed and provided documents, and does wish for me to speak in open court about it. Why would it not want that? The question answers itself.

25. As noted, Tab 6, the decision of The Honourable Mr. Justice Tysoe in 2019 dismissing the AGBC's then application as to my standing to intervene herein.
26. It is further requested that the Chief Justice assume oversight of this matter as a Chief's case to ensure that the integrity of the appellate process remains unimpeachable, and that the strategic attempts to circumvent the open court principle are decisively neutralized.
27. I thank the Chief Justice's in advance for directing the court staff to stamp my Form 4 NOA and written argument (see: Tabs 4 and 5) which are submitted and paid for again as separate filings and to be heard on September 10, 2026. I cannot be denied the right to apply to strike the impugned document (MOA) of the LSBC and paragraphs 8-12 of the TLABC. I may or may not be successful but I am entitled to have access to the BCCA to do so. I look forward to receiving the LSBC's and TLABC's responsive materials within the prescribed timelines (i.e. at least two business day beforehand).
28. I thank all for the indulgence but I was compelled to draw this to the immediate attention of the Chief Justice of the BCCA in light of the rejections of documents that were required to be stamped as filed.
29. I will be ready on September 10, 2026, as the seventh of seven applicants to speak to the relief in my Form 4 NOA of August 12, 2026, with its supporting materials inclusive but not limited to my August 14, 2026, memorandum of argument, and that of my NOA Form 4 to strike of August 30, 2026, and its supporting materials inclusive but not limited to the written argument.

Yours truly,

Mr. Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca

Enclosures by filing

1. The previously rejected Form 4 NOA to strike the LSBC's MOA solely directed at the Applicant (Mr. Kevin A. McLean (BA, JD, CIM)) and the written argument in support of the same

Enclosures to this letter

Tab 1: Registry Filings Confirmations and Rejection Notices

Tab 2: Chambers *cor*respondence (August 26, 2026)

Tab 3: LSBC Letter (August 21, 2026)

Tab 4: Form 4 Notice of Application (August 31, 2026)

Tab 5: Memorandum of Argument (August 31, 2026)

Tab 6: *McLean v. British Columbia*, 2019 BCCA 133

Tab 0

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BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4375678
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	31Aug2026
Filing Comments:	Dear BCCA and esteemed Registrar: As promised and represented on Saturday evening of August 29, 2026, I would be filing said Form 4 NOA and a written argument as soon as possible. These filings are consistent with that representation and will be provided to the Appellants, Respondents and others in the relevant email thread and list. Thank you as always for your services and assisting the public interest. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Chambers - General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4375678

Account ID:71252

Client ID:122957

Date: August 31, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	129182569	1515740684	Aug 31, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

BRITISH COLUMBIA

Ministry of Attorney General
Court Services Online
Submission Sheet

Court File #: CA51536
Cross Reference #: Not Provided
Package ID: 4375678
Date Submitted: 31-AUG-2026 11:30 am

Submitted By: KEVIN MCLEAN
Client ID: 122957
Account ID: 71252
KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Chambers - General	N	Submitted	31-AUG-2026	Not Processed	N	$ 80.00	
2	Argument - Other	N	Submitted	31-AUG-2026	Not Required	N	$ 0.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	129182569	31-AUG-2026 11:30 AM	1515740684	00404G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4375678 **Submission Date: August 31, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 31-AUG-2026

Please refer to the memorandum sent today. No further applications can be filed.

thank you,
sl

Please keep a copy of this report for your records.

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4375678

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 31-Aug-2026 11:30

Submitted Through: Court Services Online

Filing Comments: Dear BCCA and esteemed Registrar: As promised and represented on Saturday evening of August 29, 2026, I would be filing said Form 4 NOA and a written argument as soon as possible. These filings are consistent with that representation and will be provided to the Appellants, Respondents and others in the relevant email thread and list. Thank you as always for your services and assisting the public interest. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Print Submission Sheet

Print Receipt

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	WRITTEN ARGUMENT - NOA - Strike MOAs - LSBC v AGBC - Applicant - Mr McLean - Aug-31-2026.pdf	No	Submitted	☑	Complete	View Withdraw
Application - Chambers - General	Form 4 - NOA - Striking MOAs - LSBC et al v. AGBC et al - Applicant Mr McLean - 2026-08-30.pdf	No	Submitted	☑	Complete	View Withdraw

Return

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4375678

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 31-Aug-2026 11:30

Submitted Through: Court Services Online

Filing Comments: Dear BCCA and esteemed Registrar: As promised and represented on Saturday evening of August 29, 2026, I would be filing said Form 4 NOA and a written argument as soon as possible. These filings are consistent with that representation and will be provided to the Appellants, Respondents and others in the relevant email thread and list. Thank you as always for your services and assisting the public interest. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Print Submission Sheet

Print Receipt

Registry Notice

Documents | Payment Status

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	WRITTEN ARGUMENT - NOA - Strike MOAs - LSBC v AGBC - Applicant - Mr McLean - Aug-31-2026.pdf	No	Rejected	☑	Complete	View
Application - Chambers - General	Form 4 - NOA - Striking MOAs - LSBC et al v. AGBC et al - Applicant Mr McLean - 2026-08-30.pdf	No	Rejected	☑	Complete	View

Return

Tab 2

LAWSON LUNDELL LLP

Suite 1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2
T: 604.685.3456

VANCOUVER
21-Aug-26
COURT OF APPEAL
REGISTRY

August 21, 2026

Laura L. Bevan*
D: 604.631.9106
F: 604.669.1620
lbevan@lawsonlundell.com

BY EMAIL

Court of Appeal for British Columbia
The Law Courts
400 – 800 Hornby Street
Vancouver, BC V6Z 2C5

Attention: Registrar Outerbridge

Law Society of British Columbia v. Attorney General of Canada et al.
British Columbia Court of Appeal File Number CA51536

Please find enclosed a copy of the Law Society of British Columbia's response to the application for leave to intervene filed by Kevin McLean in the above-noted appeal on August 14, 2026.

We write with the consent of the parties to the above-noted appeal and the companion appeal (CA51535) to request that the Court determine Mr. McLean's application for leave to intervene by conducting the hearing in writing, or alternatively by ordering the matter be determined without a hearing, in accordance with s. 26 of the *Court of Appeal Act*, S.B.C. 2021, c. 6. This letter is copied to Mr. McLean by email.

Mr. McLean is a lawyer who has been disbarred twice, including for ungovernability. His application for leave to intervene centres on his historical regulatory dealings with the Law Society. Mr. McLean's application materials refer extensively to matters that do not form part of the evidentiary record in the appeal, and which are in the parties' view irrelevant to the constitutional questions before the Court. Mr. McLean's Notice of Application refers to 13 affidavits dating from October 2021 (it is unclear if these affidavits have been filed in the Court of Appeal). Mr. McLean has been declared a vexatious litigant in the Supreme Court of British Columbia in proceedings involving the Law Society: *McLean v Law Society of British Columbia*, 2018 BCSC 264. Mr. McLean has in the past failed to attend at scheduled hearings after delivering extensive materials in advance, including before this Court.[1]

The Court has received 12 other applications for leave to intervene in the appeals. While the Registrar's initial direction was that all intervener applications would be heard on the same day,

[1] See *McLean v Law Society of British Columbia*, 2018 BCSC 264, paras. 108-115; *McLean v British Columbia (Attorney General)*, 2018 BCSC 2052, paras. 1-10; *McLean v. British Columbia*, 2019 BCCA 133; *McLean v. British Columbia (Attorney General)*, 2019 BCCA 419.

the applications have been split between September 9 and 10, 2026 due to the number of proposed interveners and time constraints.

The Registrar directed that the parties file responses to applications for leave to intervene by August 21, 2024, which will complete the written record in relation to Mr. McLean's application. In the circumstances of Mr. McLean's application, the Law Society asks the Court to consider exercising its discretion to order that the application be determined on the written materials, or without a hearing, in accordance with s. 26 of the *Court of Appeal Act*.

Yours very truly,

LAWSON LUNDELL LLP

Laura L. Bevan
*Law Corporation
LLB

Enc.

cc. Gavin Cameron [gcameron@fasken.com]; Tom Posyniak [tposyniak@fasken.com]; Laura Abrioux [labrioux@fasken.com] (Counsel for Trial Lawyers' Association of British Columbia);

Emily Lapper, K.C., [Emily.Lapper@gov.bc.ca]; Trevor Bant [Trevor.Bant@gov.bc.ca]; Sergio Ortega [Sergio.Ortega@gov.bc.ca]; Karin Kotliarsky [Karin.Kotliarsky@gov.bc.ca] (Counsel for the Attorney General of British Columbia); and

Kevin McLean [mclean@searchandseizure.ca]

Tab 3

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VANCOUVER
28-Aug-26
Received not Filed
COURT OF APPEAL
REGISTRY

Court of Appeal File Nos. CA51536 / CA51535

COURT OF APPEAL FOR BRITISH COLUMBIA

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

(Appellants / Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

(Respondents / Defendants)

WRITTEN ARGUMENT (FACTUM) OF THE APPLICANT

PURSUANT TO ALL CITED PROVISIONS OF THE *COURT OF APPEAL ACT* (2021) AND *COURT OF APPEAL RULES* (2022) DENOTED IN THE APPLICANT'S FORM 4 NOTICE OF APPLICATION (FILED AUGUST 12, 2026) AND IN THE APPENDICES (**INDEPENDENT** OF ANY RELIEF SOUGHT TO INTERVENE CONTAINED THEREIN)

Re: Written Argument in Relation to Relief Outside the Scope of Intervention under Rule 61 but rather denoted under *supra* (by reference) and infra)

(*Nota bene*: The Applicant's Form 4 Notice of Application ("NOA") and Memorandum of Argument ("MOA") were stamped as filed on August 12 and 14, 2026, respectively. All intervener applications were required to be brought by August 14, 2026. The Applicant satisfied that requirement. This written argument relates solely to Orders #1–2 and #4–10, which are **independent** of the relief sought to intervene.)

Hearing date: **September 10, 2026**

Hearing location: The British Columbia Court of Appeal (the "BCCA") at 800 Smithe Street, Vancouver, BC, V6Z 2E1

Hearing type: chambers

Type of judge: single justice

Applicant's position on said date: seven out of seven

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PART 1: STATEMENT OF FACTS AND LAW

PART 1(A): INTRODUCTION AND OVERVIEW OF THE DUAL-TRACK NOTICE OF APPLICATION

1. As expressly articulated at paragraph 166 of the summary trial decision below, The Honourable Chief Justice Skolrood—relying on an incomplete and artificially sanitized evidentiary record—concluded:

> "[166] Neither argument is compelling. As I noted above (see para. 145), there is nothing in the record to suggest that the LSBC in its current form has failed to govern lawyers in the public interest."

[Emphasis is the Applicant's]

2. It is respectfully submitted that the evidentiary record now before this Court demonstrates far more than a mere suggestion of such failure. When properly contextualized through the concealed volatile-memory extraction, the subsequent remote interception of communications through a far more egregious unloading of system modules of the Applicant's CPU then stationed at his home on March 2, 2016, (see: *infra*) (defined as "**March 2, 2016, Warrantless Remote Wiretap & Kernel Module Dump**"), and the LSBC's multi-year suppression of these facts, the record reveals a sustained and systemic departure from the LSBC's statutory and constitutional obligations.
3. At all material times, the LSBC was, in addition to the Charter, subject to section 3 of the *Legal Profession Act*, S.B.C. 1998, c. 9 ("LPA 1998"), which requires the Society to uphold and protect the public interest in the administration of justice by, inter alia, preserving and protecting the rights and freedoms of all persons. The LSBC has failed miserably under three different CEO's during that time period.
4. The Applicant, and all persons whose personal information, private communications, and volatile memory were captured in the concealed RAM dump on June 4, 2014, and the remote (see Appendices 1 and 2 to the Applicant's Memorandum of Argument for the **Intervention Application**), were, are, and remain entitled to the preservation and protection of their rights and freedoms under both statute and the Charter. Those aforementioned persons (known and unknown, and perhaps increasing with the LSBC's penchant of warrantless wiretaps of individual's property inside their homes) represent a **broad representative base**.

Part 1(A)(I): The LSBC's unaccountable response in August 2026

5. The LSBC's response in its *Memorandum of Argument* (AB, tabs 7–8) was not to deny the admissions made by its former counsel, nor to traverse the indisputable documentary record it itself produced on 25 October 2021. Instead, the LSBC elected to disclaim all accountability for its conduct while steadfastly

insisting that the entirety of the *Legal Professions Act, 2024*, S.B.C. 2024, c. 26 ("*LPA 2024*") be set aside, thereby reinstating in perpetuity the status quo ante.

6. That *status quo* was and is one in which the LSBC engaged in criminal conduct: warrantless forensic copying absent consent, and more gravely but now known to the BCCA, the execution of volatile-memory extractions—RAM dumps—that the judiciary in this country has authorized only in rare, exceptional circumstances for law enforcement agencies – not "societies", "colleges" or "professional association bodies".

Part 1(A)(II): A trip down memory land: public law unique perspectives – now in context

7. From the transcript of the hearing before The Honourable Madam Justice Gerow on March 30, 2015, in *McLean v. LSBC et al.*, BCSC File No. S-1410056:

> "Mr. Gomery, QC (as he then was):
>
> To the notion that the lawyer could examine, could authorize the production but couldn't copy is not a sensible reading of the statutory intent, in my respectful submission, that taking copies is simply an ordinary and natural part of an examination. In fact, the examining of books, records and accounts in this day and age, the alternative would be that what the statute is authorizing is that the investigators may go in, they may look, they may require him to show, but they may not actually take a photocopy. They may not actually make a record of what they're being shown. In my submission that is not a sensible reading of the statute.
>
> THE COURT:
>
> But I thought the issue here is whether or not they are entitled under this section 36 to make a rule which allows them to go in and search and seize documents on the site with -- I mean, this rule says that it's requiring a lawyer to cooperate with an investigation or examination on request. There's nothing in here which -- wait just a moment.
>
> MR. GOMERY: I understand.
>
> THE COURT: Which on a plain reading -- and if you're asking me to plainly read -- that allows a search and seizure of material in -- without consent or on request, presumably, and then you get your consent. But that's what the argument is, is that -- not that they -- I mean, if there was an investigation where they had permitted you to come in and permitted the investigation to go on, of course, you know, it makes sense that you could copy the documents in that context. What Mr. McLean is actually complaining of is that the rule that your client relied on, that took -- allowed them to go further than that. It allowed them to go in and search and seize without an order under section 37, and that's the issue, is whether or not that constitutionality of that rule is made out."

8. The next reproduction is from the hearing before Madam Justice Gerow on May 29, 2015, in *McLean v. LSBC et al.* (BCSC File No. S-1410056):

> **"LSBC**: Now, in my submission there's nothing here to express a **legislative intent** that records means anything less than records as defined in the Interpretation Act. And

having regard to the purpose, the purpose is of course the investigation of books, records and accounts of a lawyer. It is necessary that the Law Society not be **stopped cold** in its investigation if the lawyer has decided to mix personal and business records on a **hard drive**, as lawyers do.

THE COURT: Well, **they wouldn't be stopped cold**. That's the point. They would make an application under section 37, which would allow them **if they had appropriate evidence** to then go in and --
…you can't say they would be stopped cold.

They would be not able to **seize** or to copy **the entirety of a hard drive** presumably if it was within the -- **if that didn't fall within the definition of records under section 36**, but that wouldn't preclude the Law Society from then saying well, we want the computer, the hard drive computer for this particular individual. **We need to make an application to court**. So that's -- section 37 allows that, so I don't understand that submission.

MR. GOMERY: It's -- **I think I overstated it.**

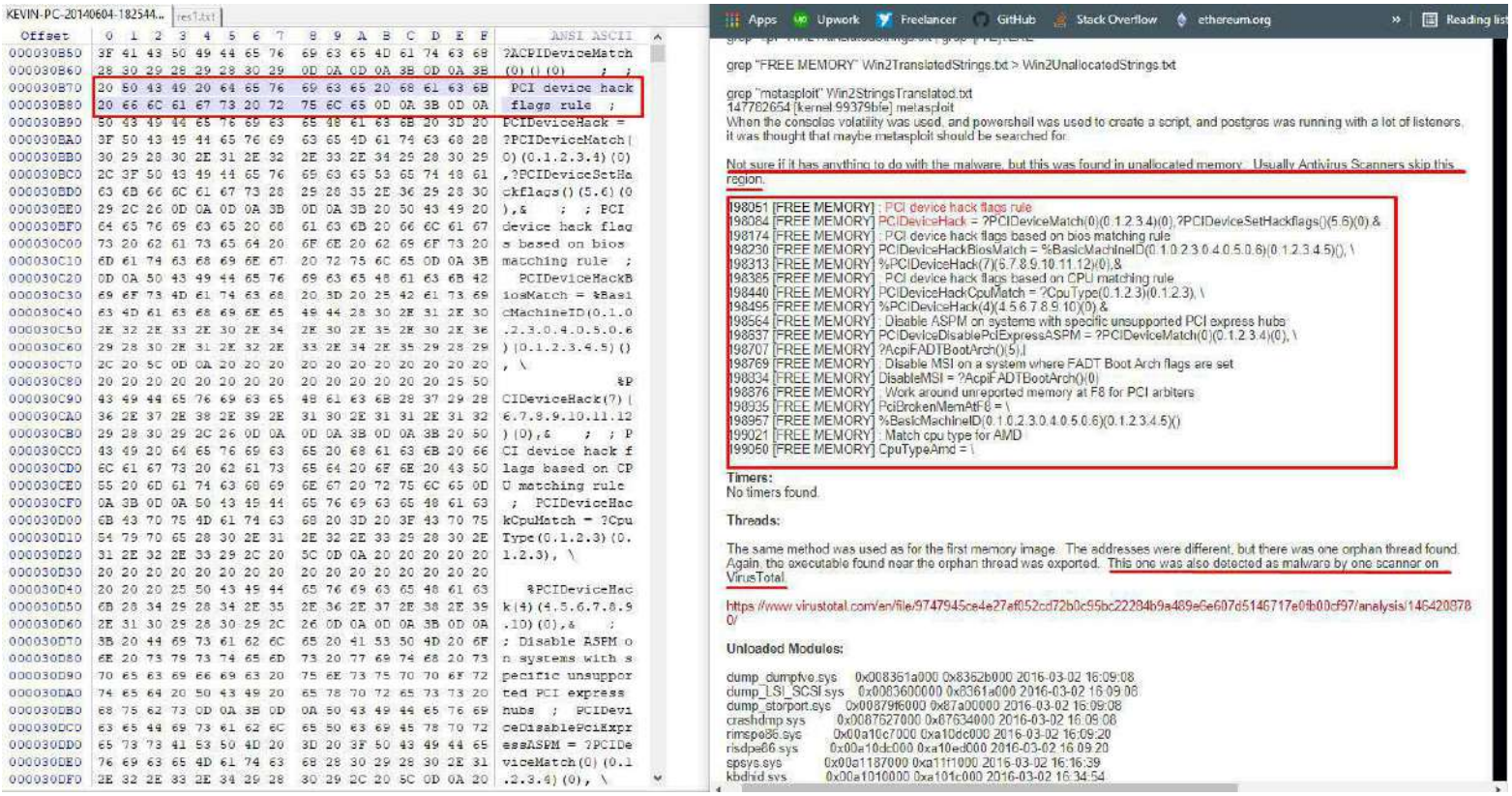
[emphasis is the Applicant's]

Part 1(A)(III): ***Why the "2014 Concealed RAM Dump" and the "Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump" Render the LSBC Incapable of Governing Lawyers (particularly the latter)***

9. Random access memory ("RAM") cannot be "copied" in any meaningful forensic sense. Unlike a hard drive—which is magnetic, stable, and capable of being imaged using industry-standard write-blockers—RAM is volatile, constantly changing, and exists only while the CPU is powered. A RAM dump requires the injection and execution of specialized software directly into the CPU's active memory space. This process alters the evidence, modifies the volatile state, and produces an output that is inherently non-verifiable. Native RAM images cannot be hash-matched (such as SHA-256) against any persistent storage medium (as RAM is not 'storage' but memory), and no forensic "write block" exists for volatile memory.
10. More specifically, RAM cannot be forensically preserved because: a. the CPU's usage immediately prior to the dump alters the volatile state; b. volatile memory is in constant flux and cannot be frozen without modification; and c. the act of creating a RAM dump necessarily changes the evidence within the CPU itself, as no mechanism exists to prevent ongoing 'writing' and 'activity' during extraction.
11. RAM contains the most sensitive information a computer ever processes: unencrypted cryptographic keys, authentication tokens, running processes, passwords (including those saved with web browsers like Chrome, Bing, Yahoo and others), unsaved drafts, fragments of communications, and device-level configuration states. It also contains the personal, private, confidential and privileged information of *any* person who used the device prior to shutdown—including non-clients, family members, friends, and

unrelated third parties. None of this information falls within the scope of “books, records and accounts” under *s. 36* of the *LPA 1998*. Since RAM would not meet the definition of “record” under the Interpretation Act either, it does not fall under section 37 of the *LPA 1998*. The Applicant has provided a comparative analysis as to why the LPA 2024 seeks to uphold and protect the public interest in the administration of justice by preserving and protecting the rights and freedoms of all persons (see: Schedule “F”).

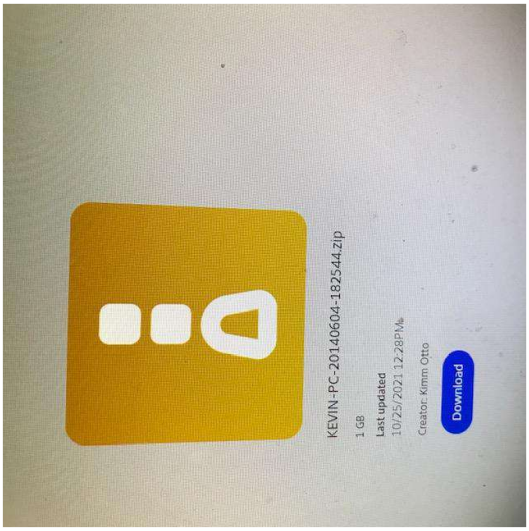
12. The **Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record** produced by the LSBC on October 25, 2021, contains hexadecimal metadata that reveals the exact timestamp of the volatile-memory extraction.
13. The LSBC’s misconduct did not end in 2014. On March 2, 2016—shortly before another LSBC appeal before this Honourable Court—the LSBC engaged in a second, remote, warrantless interception of communications on the Applicant’s CPU. Appendix 3 of the Applicant’s Intervention Application (BCCA-filed) contains the forensic expert’s analysis of the hexadecimal output, revealing:
    a. use of *Volatility* forensic tools;
    b. execution of PowerShell scripts;
    c. active *postgres* listeners;
    d. artifacts found in unallocated memory;
    e. differing memory addresses consistent with a second, later intrusion; and
    f. unloading of system modules (.sys files) over a 25-minute period, evidencing sustained remote access.
14. This remote intrusion was technologically enabled by the persistence mechanisms seeded during the concealed RAM dump in 2014 infra:



15. As demonstrated in the forensic analysis retained by the Applicant in 2021, the hexadecimal output associated with the March 2, 2016 remote entry attempt reveals multiple hallmarks of a PCI-based intrusion and fileless persistence. The following indicators were present:
    a. **"Consoles volatility was used"** — confirming that the attacker leveraged *Volatility*, a memory forensics framework, to enumerate active processes and memory regions in real time. This is consistent with an operator who already possessed the architectural blueprint of the CPU from the 2014 volatile-memory extraction.
    b. **"powershell was used to create a script"** — indicating that the remote actor executed PowerShell-based payloads, a standard technique in fileless intrusions because PowerShell runs entirely in memory and leaves no conventional executable artifacts on disk.
    c. **"postgres was running with a lot of listeners"** — demonstrating that the system had been coerced into spawning multiple unauthorized network listeners. PostgreSQL is not a native Windows service; its presence in volatile memory strongly suggests that the CPU was being used as a relay or staging node for remote command-and-control.
    d. **"found in unallocated memory"** — a critical forensic finding. Unallocated memory regions contain remnants of prior processes that were never written to disk. The presence of PCI-hack rule strings in unallocated memory confirms that the 2016 intrusion was not a standalone event but part of a continuous chain of activity originating from the concealed RAM Dump of June 4, 2014. The "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record" therefore contains not only the 2014 volatile-memory snapshot but a digital trail spanning 2014–2021, culminating in the October 25, 2021 Sharefile disclosure created by Ms. Kimm Otto (then of NST LLP, now of Lawson Lundell LLP).
    e. The **different memory addresses** between the 2014 and 2016 artifacts are consistent with two separate volatile-memory events: the first executed intra-office on June 4, 2014, and the second executed remotely on March 2, 2016. Volatile memory cannot be duplicated; each dump reflects the live state of the CPU at the moment of extraction; and
    f. The **unloading of multiple .sys modules between 16:09 and 16:34 PST** — a 25-minute window — is consistent with a remote DMA-based intrusion. .sys files are kernel-level drivers. Their sequential unloading indicates that the attacker was manipulating kernel modules to bypass privilege boundaries and reconfigure PCI device behaviour in real time.

Part 1(A)(III)(a): Ms. Kimm Otto resurfacing again

16. The metadata associated with the October 25, 2021 Sharefile disclosure confirms that Ms. Kimm Otto was the final "creator" of the digital record containing both the concealed RAM Dump and the subsequent remote-entry artifacts. This establishes a continuous chain of custody within the LSBC's agent-law firms from 2014 through 2021.



Part 1(A)(IV): Why the March 2, 2016, warrantless, unlawful, remote wiretapping and reconfiguring of the Applicant's CPU in his principal residence renders this current LSBC structure incapable of ever governing lawyers again (see: Appendix #5)

17. The forensic indicators present in the March 2, 2016, unlawful remote dump required targeted investigation into the LSBC's technological conduct. Even a single instance of such conduct would necessitate structural reform; here, the evidence demonstrates repeated incursions. The following signatures were present:

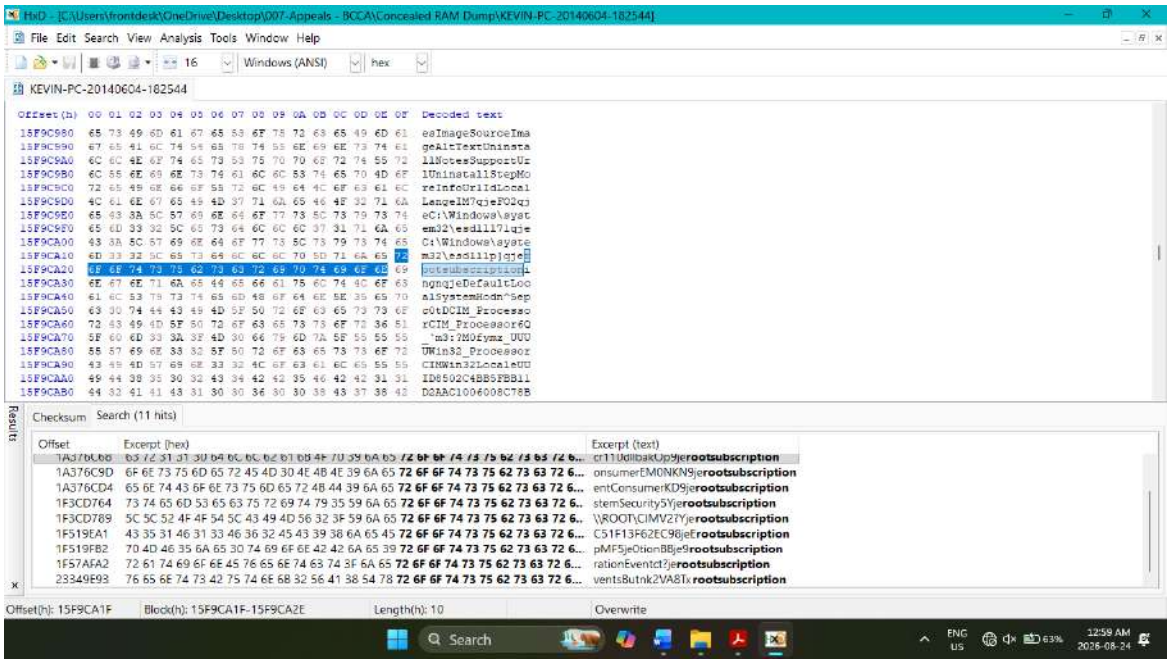
a. RDP patterns — including the hex sequence 03 00 00 followed by TPKT headers — confirming Remote Desktop Protocol activity. RDP is a remote-access mechanism that requires authentication; its presence in volatile memory during a warrantless seizure is incompatible with lawful regulatory conduct.

b. **WMI (Windows Management Instrumentation) artifacts** — including strings referencing IWbemServices and root\cimv2. These are classic indicators of WMI-based persistence, a fileless technique used by advanced intruders to execute commands remotely without creating files on disk.

c. **Unauthorized listeners** — including repeated "LISTENING" and "ESTABLISHED" strings adjacent to non-local IP addresses. This confirms that the CPU was configured to accept remote connections from external nodes, a hallmark of PCI-based DMA exploitation.

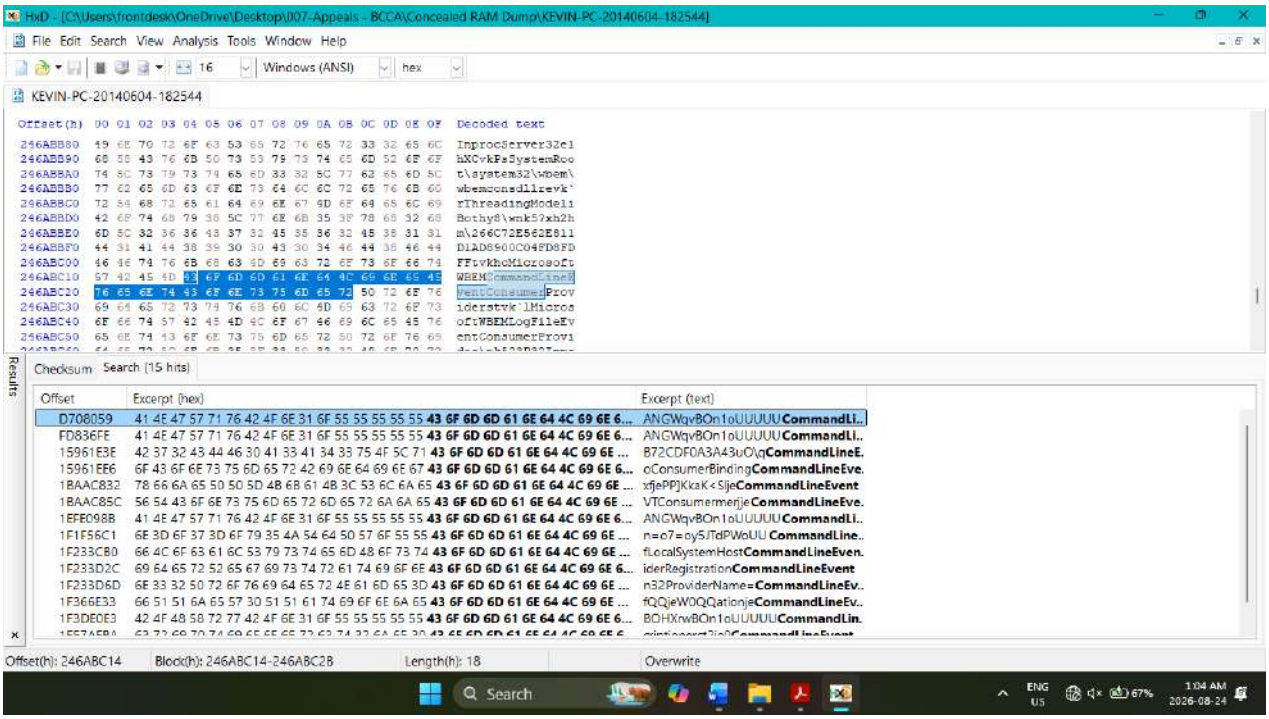
18. The presence of **rootsubscription** in a privacy-requested RAM dump is a forensic red flag of the highest order. A rootsubscription is a system-level WMI event listener that triggers hidden actions when specific conditions occur. Standard users never create such subscriptions. Their presence proves that the CPU had been modified to "listen" and "react" to remote triggers — a configuration consistent with persistent unauthorized surveillance.

19. **2**For ease of reference, the Hex editor output from the file labelled **"Kevin-PC-20140604…"** demonstrates these signatures *in situ*. The forensic artifacts therein corroborate that the LSBC's concealed volatile-memory extraction on June 4, 2014 seeded the persistence mechanisms that enabled the remote interception of communications on March 2, 2016.



Part 1(A)(IV)(a): Strings involving "CommandLineEventConsumer" or ActiveScriptEventConsumer

20. **21.** A further illustration of the concealed technological incursions appears in the lower portion of the hexadecimal output—approximately three-quarters down the page—where the Applicant identified multiple instances of *CommandLineEventConsumer* and *ActiveScriptEventConsumer* strings. Their placement deeper in the memory structure is consistent with later-in-time activity, aligning with the 2016 remote entry attempt rather than the 2014 RAM extraction.



21. The presence of fifteen (15) distinct *CommandLineEventConsumer* entries in a volatile-memory artifact—particularly in the context of a documented remote access attempt—is a forensic anomaly of the highest order. It constitutes the "smoking gun" of a WMI-based persistence mechanism: a fileless surveillance architecture capable of executing commands without leaving conventional logs or disk-based artifacts.
22. Technically, these entries represent the *Action* component of a Windows Management Instrumentation (WMI) persistence mechanism. WMI persistence operates through two components:
    a. **The Filter (Tripwire):** A trigger condition such as "on system logon," "after five minutes of uptime," or "on network state change."; and
    b. **The Consumer (Action):** The instruction executed once the tripwire is activated. The *CommandLineEventConsumer* is the most powerful and most covert of these actions, capable of launching arbitrary commands, scripts, or remote connections.
23. The text recovered by the Applicant is the WMI class definition itself—the blueprint Windows uses to understand and execute hidden command-line actions. This is not benign administrative residue; it is the structural scaffolding of a fileless backdoor.

Part 1(A)(IV)(b): Decoding the "Breadcrumbs"

24. The recovered snippet contains several highly specific indicators of intentional remote-execution design:
    a. **CreateNewConsole (Deprecated in Windows XP):** The presence of legacy definitions indicates the code was compiled using an older SDK, a common hallmark of monitoring tools and covert backdoors designed for cross-version compatibility.
    b. **CreateSeparateWowVdm:** This function enables 16-bit execution within a 32-bit environment—an elevated privilege rarely invoked by standard administrative tools.
    c. **CommandLineTemplate:** The most critical field. In a live RAM dump, the data following this string typically contains the actual command executed (e.g., PowerShell payloads, remote-IP callbacks, or script downloads). Its presence confirms that executable instructions were queued for execution.

Part 1(A)(IV)(c):Why the 15 hits matter and the legal

25. The fifteen (15) instances of *CommandLineEventConsumer* strongly suggest:
    a. **"Redundancy":** Multiple tripwires were deployed to ensure persistence even if one was deleted; and
    b. **"Memory Echoes":** Volatile memory often contains cached or paged-out copies of active structures, revealing the footprint of repeated or ongoing execution.
26. Standard administrative tools rely on *ActiveScriptEventConsumer* for benign automation. The *CommandLineEventConsumer*, by contrast, is the preferred mechanism for actors seeking to avoid detection because it:
    a. executes commands without creating scheduled-task entries;
    b. leaves no disk-based executable file; and
    c. operates entirely within native Windows components.

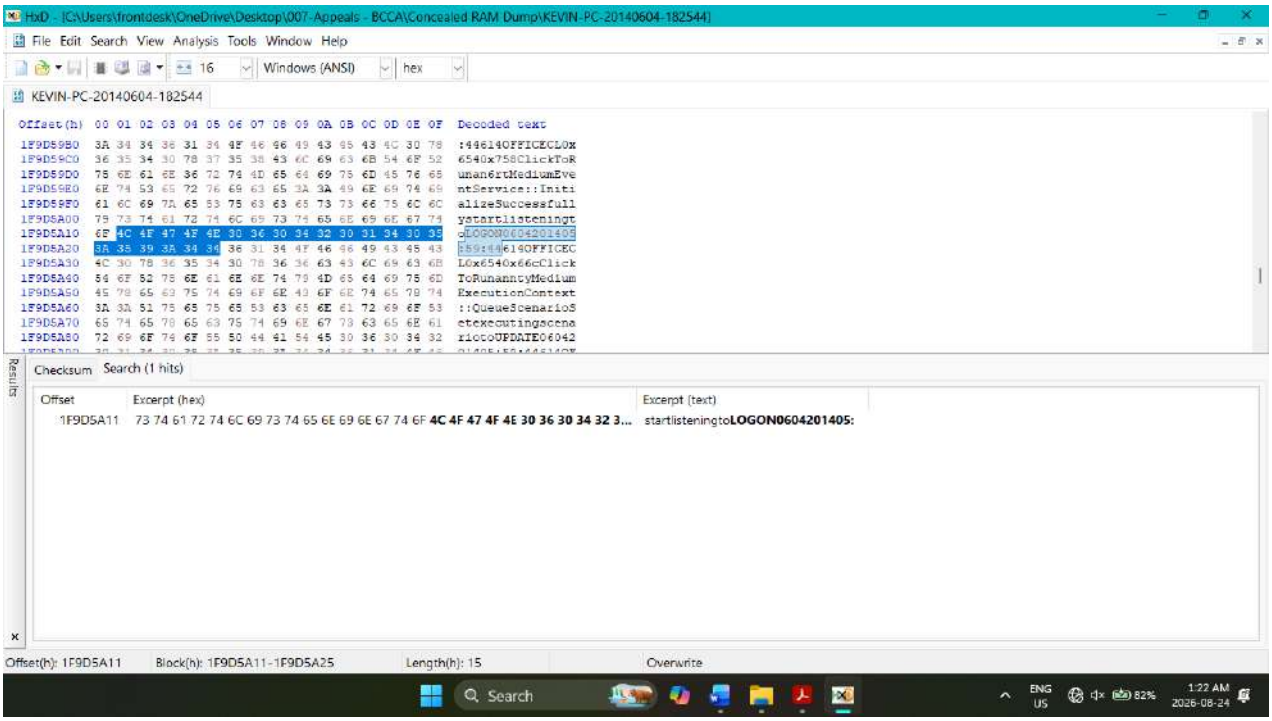
27. Its presence in a privacy-requested RAM dump—combined with the timing of the 2016 remote entry attempt—demonstrates a level of covert technological intrusion wholly incompatible with the LSBC's statutory duty to protect the public interest.

Part 1(A)(IV)(d): Why metadata never and cannot lie – why it provides the most unique perspective on the public law issues that will truncate the issues on Appeal

28. The following string, reproduced verbatim from the hexadecimal output, provides irrefutable metadata confirming the precise moment of the concealed RAM extraction:

> "InitializeSuccessfullystartlisteningto**LOGON0604201405:59:44614**OFFICECL0x6540x66cClickToRun…"

29. This is a background log generated by Microsoft Office's Click-to-Run service, which records update and licensing events. Metadata of this nature cannot be fabricated, altered, or spoofed without corrupting the underlying binary structure.



Part 1(A)(IV)(e): The Forensic Golden Nugget: The Exact Timestamp

30. On June 4, 2014, British Columbia was observing Pacific Standard Time (PST). The UTC offset was therefore seven hours, not eight.

31. Accordingly, the concealed volatile-memory extraction occurred at **10:59 a.m. PST on June 4, 2014**. This timestamp is mathematically consistent with the metadata and cannot be reconciled with the LSBC's narrative that the RAM dump occurred on June 3, 2014.
32. The Applicant did not consent to any RAM capture under the *Rule 4-43* order as none was even mentioned to him and not subject to the breadth of the Rule 4-43 Order. The order permitted forensic copying of the hard drive and paper files only. Given that Mr. Colin Cree of EFS Forensic Services Inc. was summoned from Surrey at approximately 9:45 a.m., it was mathematically impossible for him to have travelled from Surrey to downtown Vancouver, parked, set up equipment, and executed a RAM dump by 10:59 a.m. PST. The only remaining inference is that one of the three LSBC investigators—Ms. Chan, Ms. Ho, or Mr. McCartney—executed the RAM dump internally.

Part 1(A)(IV)(f): Conversion from UTC time to PST

33. The conversion from UTC time to PST requires consideration as to whether it was daylight savings time or not. On June 4, 2014, BC utilized PST so the difference of eight hours was reduced to seven hours.
34. Ergo, the time of the Concealed RAM Dump utilizing DumpIt software was at 10:59 a.m. PST on Jun 4, 2014. While the NST LLP letter does not specify the date of June 3 or 4, 2014, the metadata does not lie.
35. Ergo, since the Applicant did not consent to any conduct pursuant to the Rule 4-43 Order, which did NOT include dumping or capturing of RAM on June 3, 2014, yet the LSBC investigators Ms. Chan, Ms. Ho and Mr. McCartney remained in any event, but he in the face of being suspended conveyed consent, under duress he pleaded, to forensic copying of his hard drive and copying of his paper files, it become mathematically impossible for Mr. Colin Cree of EFS Forensic Services Inc. to have travelled rom Surrey, BC, after being summoned by Mr. McCartney (a former police officer himself) at approximately (9:45 a.m.) to downtown Vancouver, found parking and conducted the RAM Dump of the Applicant's CPU. Ergo, it was one of three LSBC employed persons.

Part 1(A)(V): The Layperson's explanation of why the LSBC in its current structure is so dangerous by commission and concealment of criminal conduct of its own

36. The remote interception of communications on March 2, 2016—nearly two years after the Concealed RAM Dump—was not an isolated technological anomaly. It was the direct, foreseeable, and technically inevitable consequence of the LSBC's concealed volatile-memory extraction on June 4, 2014. Volatile memory (RAM) contains not merely transient application data, but active kernel-level handles, unencrypted cryptographic keys, running processes, and device-level configuration states. Once seized, this data provides a complete architectural map of the target CPU, including the precise configuration of PCI devices, interrupt handlers, and firmware-level interfaces. As demonstrated in Schedule #3, the

hexadecimal output of the concealed RAM Dump revealed the presence of Windows Management Instrumentation (WMI) persistence mechanisms and a hijacked **BVTConsumer** trigger—an archetypal "fileless" persistence technique. Unlike traditional malware, fileless persistence does not rely on executable files stored on disk. Instead, it embeds itself into the logical architecture of the operating system, leveraging native Windows components (WMI, PowerShell, registry event consumers) to execute arbitrary code without leaving conventional forensic artifacts. This persistence mechanism, once seeded by the 2014 RAM extraction, enabled ongoing remote access attempts long after the initial seizure. PCI device intrusions operate by exploiting the direct memory access (DMA) capabilities inherent in PCI and PCIe architecture. DMA allows peripheral devices to read and write system memory without CPU intervention. When a regulator or its agents obtain a full volatile-memory snapshot—including active DMA mappings—they acquire the ability to replicate or spoof authorized PCI device behaviour. This enables the injection of malicious instructions, remote triggering of event consumers, and interception of CPU-level communications without requiring physical access or subsequent warrants. The March 2, 2016 interception is therefore technologically consistent with the persistence mechanisms unmasked in the 2014 RAM Dump. The Concealed RAM Dump on June 4, 2014, intra the Applicant's private office, provided the LSBC and its agents with:

a. **The CPU's full volatile state**, including active PCI device mappings;
b. **Unencrypted cryptographic keys**, enabling authentication bypass;
c. **Running WMI consumers**, enabling remote execution;
d. **Kernel-level process identifiers**, enabling targeted surveillance; and
e. **Privilege tokens**, enabling elevation without detection.

37. With this architectural blueprint, remote surreptitious monitoring could be executed through "Living off the Land" techniques—leveraging legitimate system tools to avoid detection.

38. The March 2, 2016, dumping of system modules on CPU, far worse than mere "wiretapping", on the Applicant's CPU is therefore not fresh evidence, nor is it novel. It is the natural continuation of the technological incursions already documented in the concealed RAM Dump and the metadata associated with the October 2021 Sharefile disclosure. The technological reality is unavoidable: once a regulator extracts volatile memory and conceals the extraction from its own administrative and judicial oversight, along with the AGBC, (including Madam Justice Gerow, Mr. Justice Bowden, Mr. Justice Grauer, Mr. Justice MacIntosh and Mr. Justice Branch (as they so refer), the target system is rendered permanently compromised.

39. The LSBC's conduct created a persistent, unauthorized surveillance capability that remained active through 2016 and beyond. This underscores the profound necessity of the legislative reforms embodied in the LPA 2024 and demonstrates why the prior regime was structurally incapable of protecting digital privacy, professional independence, or the administration of justice.

PART 1(B): RETURNING TO CHIEF JUSTICE SKOLROOD'S FINDINGS OF THE LSBC NOT FAILING TO GOVERN IN THE PUBLIC INTEREST AND WHAT WAS THE RATIONALE FOR CHANGE?

40. Rather, an empirical, irrefutable record establishes that the regulatory apparatus systematically contravened, and continues to contravene, the *Criminal Code*, R.S.C., 1985, c. C-46, alongside fundamental *Canadian Charter of Rights and Freedoms* (the "*Charter*") protections. By electing to advance purely procedural attacks whilst utterly failing to traverse these substantive allegations in its responsive appellate materials, the Law Society of British Columbia (the "LSBC") has tacitly reaffirmed these catastrophic contraventions without assuming a modicum of accountability.
41. The gravamen of the within application is squarely engaged. The Appellants seek the wholesale invalidation of the *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*" or "***Bill 21***") and a return to the *status quo ante*. The ultimate constitutional inquiry must therefore be posed: how can a regulatory body that actively suppressed its own history of executing unconstitutional, warrantless volatile-memory extractions ever be trusted to govern in accordance with the *Charter*? How can it be trusted to fulfill its paramount statutory duty to protect the rights and freedoms of all persons pursuant to section 3 of the predecessor *Legal Profession Act*, S.B.C. 1998, c. 9? The inescapable, jurisprudential conclusion is that it cannot.
42. The statutory architecture enabling the nullification of tainted appellate standing is expressly codified in the *Court of Appeal Act* and the *Court of Appeal Rules*. As this Honourable Court confirmed in *Yang v. Shi*, 2022 BCCA 317 as per the Honourable Justice Wilcock [in chambers] (and later affirmed in *Contreras v. Thomson*, 2024 BCCA 357), a dual-track mechanism exists for the summary termination of defective appeals: (a) a party-driven application to quash under Rule 60, and (b) a court-driven referral for summary determination under section 21.
43. Pursuant to Rule 60(1)(c), an application to quash is the proper procedural vehicle where evidence or argument is necessary to satisfy the Court that an appeal is "**manifestly devoid of substance** or merit or so devoid of merit as to constitute an abuse of process" (*Yang v. Shi*, at para. 24; *Wu v. Murray*, 2023 BCCA 270 at para. 26 as per The Honourable Mr. Justice Harris). The empirical evidence of the Concealed RAM Dump, the subsequent fileless surveillance, and the LSBC's multi-year fraud by omission flawlessly satisfies this threshold. If that does not satisfy that threshold then, at its highest for the LSBC, leaving the Honourable Chief Justice Skolrood with a misapprehension as to whether the LSBC had failed to govern lawyers in the public interest does.
44. Concurrently, a party, of which the Applicant meets the test for party status by way of intervention, may formally request that a justice or the registrar consider making a referral for summary determination under section 21(1) of the *Court of Appeal Act* (*Contreras v. Thomson*, at para. 10). As demonstrated in *Masjoody v. Trotignon*, 2023 BCCA 220, the section 21 referral mechanism is routinely employed to summarily dismiss appeals that offend the principles of finality, fairness, and the integrity of the

adjudicative process—including appeals barred by estoppel, inconsistent pleadings, or abuse of process (paras. 24–28). The LSBC's attempt to launder its unclean hands through the appellate process fits squarely within the parameters of a frivolous, vexatious, and abusive proceeding warranting a section 21 referral.

45. The LSBC's attempt to launder its unclean hands through the appellate process fits squarely within the parameters of a frivolous, vexatious, and abusive proceeding warranting a s. 21 referral. The jurisprudence is unequivocal:
    a. In *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at para. 3, the Supreme Court held that advancing irreconcilable factual positions in different proceedings is impermissible.
    b. In *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5 at para. 22, the Court confirmed that inconsistent positions in prior proceedings can constitute an abuse of process.
    c. In *Mystar Holdings Ltd. v. 247037 Alberta Ltd.*, 2009 ABQB 480, the court held that a party is not free to deliberately argue diametrically inconsistent facts in various actions, thus knowingly advancing irreconcilable positions not articulated as alternative claims.
    d. In *Glover v. Leakey*, 2016 BCSC 1624, Madam Justice Gropper (well known to the proceeding in the BCSC of which the LSBC did not seek leave to appeal) — who also decided the injunction against the LSBC — affirmed that abuse of process extends to any circumstance in which the court's procedure is used for an improper purpose.
    e. In *Jensen v. Ross*, 2014 BCCA 173, the Court held that abuse of process applies equally whether the inconsistent positions arise in a superior court or an inferior tribunal.
    f. In *Pepper's Produce Ltd. v. Medallion Realty Ltd.*, 2012 BCCA 247 at para. 28, Madam Justice Levine found that inconsistent positions cannot stand together to protect the integrity of the court's process and abuse of process must be found in such situations.
    g. In *Halagan v. Reifel*, 1997 CarswellBC 4040, Madam Justice Satanove held that a party cannot approbate and reprobate — held that pleadings and court processes are not a game to be played according to perceived strategic advantage.
    h. In *Canam Enterprises Inc. v. Coles*, 2000 O.J. No. 4930 (C.A.), the Ontario Court of Appeal affirmed the inherent jurisdiction of courts to prevent abuses of process, including professional conduct that seeks to manipulate or mislead the court.

46. Taken together, these authorities confirm that the LSBC's conduct — including concealment, circumvention of Madam Justice Gerow's injunction through remote digital entry into the Applicant's home, inconsistent factual positions, and attempts to sanitize its misconduct through the appellate process — constitutes a textbook abuse of process warranting summary dismissal under s. 21 or quashing under rule 60 of the BC Court of Appeal Rules along with the statutory jurisdiction of the BCCA to make any such orders under subsections 9(1)-(4).

PART 1(C): THE ILLUSION OF ABSOLUTE INDEPENDENCE AND THE INSURMOUNTABLE 2/3 CARTEL STRUCTURE

47. The Appellants argue that absolute, unsupervised self-regulation is an unwritten constitutional imperative. However, the historical corporate governance structure of the LSBC was structurally and mathematically engineered to prevent any meaningful internal reform, public accountability, or modernization of investigatory protocols.
48. Under Section 12 of the predecessor *Legal Profession Act*, S.B.C. 1998, c. 9, the LSBC could only enact fundamental governance changes—such as the removal of a bencher or the alteration of electoral districts—if approved by a two-thirds special majority of lawyers voting in a general referendum. This unassailable special majority requirement effectively guaranteed that no systemic reform could ever be enacted against the self-interest of the legal cartel. It insulated the governing benchers from minority dissent and external public pressure, rendering the institution structurally incapable of self-correction.
49. When a regulatory body requires a supermajority of its own self-interested members to approve structural oversight, it ceases to function as a public interest protector and devolves into a protectionist guild. ***Bill 21*** rightfully abolishes this archaic cartel architecture. By implementing a diversified board—including public appointees, notaries, and paralegals—that operates on a standard corporate simple majority, the Legislature has restored democratic functionality and aligned the legal regulator with modern administrative and corporate governance norms.
50. The institutional paralysis of the predecessor regime is explicitly evidenced by its failure to implement modernizations it formally endorsed. In 2013, the Benchers unanimously approved recommendations to merge regulatory operations with the Society of Notaries Public of British Columbia. A Memorandum of Understanding was executed to develop a joint proposal for a single regulator between the two societies, with amalgamation identified as the intended outcome. Yet, shielded by its archaic governance model, this amalgamation was never effectuated. The LSBC's inability — or unwillingness — to implement reforms it had itself approved necessitated the legislative intervention it now attacks. Indeed, at the eleventh hour, realizing that legislative change was imminent, the LSBC requested that the Attorney General bring into force amendments to the *LPA 1998* regarding licensing paralegals. By that point, however, the Province was already engaged in public consultations on the broader regulatory overhaul. The LSBC's last-minute attempt, with an appearance of desperation to shield the opening of Pandora's box(es), to salvage a fragment of the old regime only underscores the structural stagnation that compelled legislative action.

PART 1(D): TECHNOLOGICAL MALFEASANCE: THE CONCEALED RAM DUMP, FILELESS SURVEILLANCE, AND MISLEADING THE COURTS

51. The TLABC asserted in its Notice of Appeal and submissions below that ***Bill 21*** violates section 8 of the *Charter* based on the theoretical possibility that the new regulator's chief executive officer could conduct warrantless searches. They further argue that section 7 is infringed by the potential impact on a lawyer's psychological autonomy. These abstract, prospective concerns are thoroughly demolished by the empirical reality that catastrophic, unconstitutional, warrantless searches—and severe psychological intrusions—were already executed by their co-appellant, the LSBC, under the veil of absolute independence.
52. In June 2014, under the auspices of a defunct administrative rule, the LSBC authorized and executed a warrantless volatile-memory extraction against the Applicant—a "Concealed RAM Dump"—using highly invasive "DumpIt" software. The extraction was purportedly carried out by a third-party contractor, Mr. Cree (a former RCMP officer). However, in 2021, Mr. Cree confirmed that the EFS Forensic Preservation Report was materially false.[i]
53. This highly invasive dragnet seizure was deliberately and systematically concealed from the Independent Supervising Solicitor (the "ISS") that the Applicant selected in Mr. Deane. By bypassing the ISS, the LSBC unilaterally destroyed the privilege-protection protocol mandated under its own Rule 4-43 process. The concealment rendered the entire evidentiary chain irreparably tainted and established the RAM extraction as an absolute nullity *ab initio*.
54. Is this what the LSBC and TLABC are submitting must be returned to and the democratic will of the people is completely rendered moot?

PART 1(E): THE CAYTON INDICTMENT AND THE AMPLIFIED REALITY OF REGULATORY CAPTURE WITH THE BENEFIT OF THE "CONCEALED RAM DUMP & UNAUTHORIZED PI BLOCKCHAIN ACCESS DISCLOSURE RECORD"

55. The institutional paralysis and protectionist nature of the predecessor regime is not a novel assertion; it was explicitly documented by the LSBC's own independent governance reviewer. In November 2021, Mr. Harry Cayton delivered his "Report of a Governance Review of the Law Society of British Columbia" (the "**Cayton Report**").
56. Based solely upon the artificially sanitized access permitted to him, Mr. Cayton observed that the LSBC's legislative framework was archaic, and that "the power of the members to elect the Benchers and to overrule them and to stop changes to the Society's rules means that the Society acts more like a professional association than a professional regulator." He formally concluded that the historical corporate structure was fundamentally "**not fit** for a modern regulatory body."
57. It is forcefully advanced that if an independent governance expert determined the LSBC was structurally deficient based *only* upon the pristine, idealized documentation the regulator allowed him to review, his conclusions regarding regulatory capture and institutional fitness would have been exponentially more catastrophic had the LSBC been forthright. Had the LSBC not engaged in *suppressio veri*—deliberately hiding the 2014 unconstitutional RAM Dumps, the unauthorized disclosures of Personal Information and

PHI to Ethereum (Switzerland an the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump—the Cayton Report would have inevitably documented a regulatory cartel operating entirely outside the boundaries of democratically sanctioned self-regulation but more in the nature of an autocratic dictatorship without any respect for the judicial branch ("Judicial Branch") of government. Nonetheless, even on the artificial and simulacrum of a record provided to Mr. Cayton, the results of the Cayton Report were less than complimentary.

58. The fact that the LSBC actively shielded its most egregious *Charter* violations and technological nullities from its own independent governance reviewer perfectly crystallizes the absolute necessity of the legislative intervention effectuated by ***Bill 21***.

PART 1(F): FAILING TO DISCLOSE MATERIAL FACTS AND CORRECT THE RECORD: THE LSBC'S BREACH OF ITS OWN JURISPRUDENCE

59. The deliberate suppression of the Concealed RAM Dump and the LIF's financial malfeasance fundamentally engages the stringent duty of candour and integrity owed to the Court. It is profoundly hypocritical that the LSBC now seeks equitable relief from this Honourable Court while having egregiously violated the very standards of professional conduct it ruthlessly enforces against its own membership.

60. As the LSBC's own disciplinary panels have established, a lawyer's duty of candour includes the absolute obligation to disclose all material facts in an application before the court. The failure to do so has the direct potential to mislead the court and other interested parties (*Albas (Re)*, 2016 LSBC 18 at para 103). As articulated in *Law Society of BC v. Samuels*, [1999] LSBC 36: "It is an essential cornerstone of our system of justice that counsel's submissions reflect the actuality. Any departure is an assault on the integrity of that system."

61. This duty is continuous and unforgiving. In *Law Society of BC v. Galambos*, 2007 LSBC 31, and *Law Society of BC v. Nejat*, 2014 LSBC 51, the LSBC confirmed that when counsel discovers that a misrepresentation or misapprehension has been created with the court, there is a positive, immediate obligation to correct the record. Failing to correct a misapprehension once discovered constitutes actionable professional misconduct. Furthermore, knowingly permitting the filing of documents or affidavits that contain errors or omissions of material facts is, according to the LSBC in *Law Society of BC v. Foo*, [1997] LSDD No. 197, "about as serious a breach of professional conduct as can occur," ranking second only to the defalcation of trust funds.

62. The LSBC and its counsel deliberately left Chief Justice Skolrood and Madam Justice Gropper with "only part of the complete picture" (*Albas (Re)* at para 111). Nonetheless, they failed abjectly and miserably in all of their hearings before both of them which is what makes this factual matrix so unprecedented. In normal circumstances, the raising of fraud post making, issuing and endorsing of an order and decision,

is brought about by the aggrieved person against the party that has secured an unfair or unjust advantage (see:

63. By failing to advise the Court of their unconstitutional technological incursions and unregulated shadow-banking, the LSBC withheld information that possessed the absolute potential for the court to reach a different constitutional calculus regarding the necessity of ***Bill 21***.

64. The LSBC's foundational standing to bring this appeal was thus procured by an assault on the integrity of the justice system. A regulator cannot rely upon a pristine record before the Supreme Court while actively burying a Concealed RAM Dump, and then invoke the appellate jurisdiction of this Court without having ever corrected the misapprehension it engineered.

PART 1(G): FORMAL ADMISSIONS: THE ABSENCE OF A JUSTICIABLE ISSUE REMAINING FOR THE LSBC AND TLABC

65. Even if this Court were to not analyze the catastrophic *Charter* violations on a variety of persons captured by the indiscriminate RAM dump in 2014 but more forcefully in March 2016 the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump when the Applicant was not even a member of the LSBC, and the resulting abuses of process, the LSBC's appeal is functionally moot and completely devoid of a justiciable issue. The LSBC is legally bound by a series of formal admissions, made repeatedly to the public, to its membership, and formally in **its pleadings**, regarding the structural requirement for self-regulation.

66. The jurisprudence governing admissions establishes that formal admissions, deliberately conceded to an opposing party, are conclusive as to the matters admitted. The court is bound to act upon them, thereby dispensing with the need for further proof or litigation on the issue (Sopinka, Lederman and Bryant, *The Law of Evidence in Canada*, 5th ed at 138; *Canada Permanent Mortgage Corporation v. The City of Toronto*, 1951 CanLII 121 (ON CA); *Hughes v. Toronto Dominion Bank*, (2002) 21 C.P.C. 5th 388 at para 10). Pleading admissions are absolute (*Marchand (Litigation Guardian of) v. Public General Hospital Society of Chatham*, 2000 CanLII 16946 (ON CA) at para 77 (nota bene: " by an oral statement made by counsel at trial, or even counsel's silence in the face of statements made to the trial judge by opposing counsel with the intention that the statements be relied on by the judge"); *RPC Construction Ltd. v Zhiyi Zhou*, 2017 ONSC 4044 at para 45). Furthermore, an admission may be established by conduct that unequivocally communicates to the other party that a fact is not in dispute (*Quest Management Systems Inc.*, 2014 ONSC 3473 at para 67; *Champoux v. Jefremova*, 2021 ONCA 92).

67. On the sole basis of English language, grammar and syntax, along with *contra proferentem* (although not strictly necessary), the LSBC has no *lis* to litigate in its Appeal regarding the "election of lawyers" on the "new regulatory board". One of the LSBC's seminal admissions in its 2022 *Intentions Paper Response* states: "In our view, self-regulation of the legal profession requires that a majority of the board that governs lawyers are themselves lawyers and a majority of the lawyer directors are elected." This

sentence contains two independent mandatory requirements, joined by the conjunction "and." Each requirement must be satisfied separately. Each requirement is an admission. Each admission is binding.

68. A precise grammatical and legal deconstruction of the first clause is as follows:
    a. "Our view": the LSBC's formal institutional position.
    b. "Self-regulation": the asserted constitutional principle.
    c. "Of the legal profession": prepositional phrase defining the subject.
    d. "Requires": mandatory verb denoting obligation.
    e. "A majority": simple majority.
    f. "Of the board": prepositional phrase identifying the governing body.
    g. "That": restrictive determiner.
    h. "Governs": operative verb.
    i. "Lawyers": noun identifying the regulated class.
    j. "Are": linking verb.
    k. "Themselves": reflexive pronoun reinforcing composition.
    l. "Lawyers": noun completing the requirement.
69. The inescapable and unassailable conclusion is that ***Bill 21*** satisfies this clause: 9 of 17 directors are lawyers, a majority of the new proposed regulatory board.
70. The second clause, separated by the conjunction "and," is an independent requirement:
    a. "A majority": simple majority;
    b. "Of the lawyer directors": prepositional phrase narrowing the class; and
    c. "Are elected": mandatory verb denoting obligation. ***Bill 21*** satisfies this clause: 5 of the 9 lawyer directors are elected, a majority.
71. The LSBC did not state that *all* lawyer directors must be elected; that *only* elected lawyers may serve; that any *specific number* of elected lawyers is required; or that appointed lawyers undermine independence. It stated only: a majority of the lawyer directors are elected. ***Bill 21*** provides exactly that by, ironically, a democratically elected majority of members of the Legislature in 2024.
72. In June 2023, the LSBC publicly stated: "Chiefly, we have repeatedly asserted to government that lawyers must form a majority of the regulator's board." The LSBC did not repeat any requirement that the majority of lawyer directors must be elected. The LSBC did not retract or amend its 2022 admission. The LSBC did not add any new qualification or condition. Under the law of admissions, silence is fatal. A party cannot retract an admission by omission.

PART 1(G): COHERENT AND NON-PROLIX DECONSTRUCTION OF THE ENGLISH LANGUAGE

73. Furthermore, by explicitly pleading the 2022 *Intentions Paper Response* in its 2024 Notice of Civil Claim, the LSBC: (a) adopted its contents; (b) incorporated its admissions; (c) made those admissions binding

for litigation; and (d) cannot now vary, amend, or contradict them. A party cannot plead a document and then deny its meaning.

74. The LSBC cannot escape the consequence: the admission is binding. Based upon the binding jurisprudence above, the LSBC has no remaining *lis* to litigate. Its Appeal collapses under the weight of its own admissions. If the LSBC now claims otherwise, then: either the 2022 admission was binding (and the appeal is moot), or the 2022 admission was dishonest (and the LSBC acted in bad faith and has abused the process). Under either branch, the LSBC's appeal must be dismissed or quashed.

75. The TLABC's Notice of Appeal is similarly vitiated by these admissions. A meticulous review reveals a profound legal absurdity: they seek the total invalidation of ***Bill 21***, specifically targeting the creation of a single regulator and the implementation of a modernized paralegal licensing framework. Yet, as unequivocally demonstrated in paragraphs 351 through 358 of the LSBC's own 118-page Written Submissions filed before the British Columbia Supreme Court, the LSBC explicitly admitted that it spent more than a decade actively lobbying the provincial government for *exactly* those regulatory structures. In 2013, the Benchers unanimously resolved to seek a merger with the Society of Notaries Public, and as recently as March 2023, the LSBC formally requested that the government bring paralegal licensing into force.

PART 1(H): THE PROHIBITION AGAINST CONSTITUTIONAL ADJUDICATION IN A VACUUM

76. It is a foundational jurisprudential axiom, definitively established by the Supreme Court of Canada in *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, that alleged *Charter* violations or constitutional principles must never be adjudicated in a factual vacuum. As further synthesized in *Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R. 1086, and *MacKay v. Manitoba*, [1989] 2 S.C.R. 357, courts must be fiercely reluctant to engage in constitutional calculus absent a robust and complete evidentiary record.

77. By submitting a 118-page treatise to Chief Justice Skolrood detailing 150 years of idealized, theoretical history regarding the nobility of self-regulation, whilst actively suppressing the empirical history of its own *Charter* violations and the damning conclusions of the Cayton Report, a fraud was committed upon the adjudicative body. The Appellants deliberately deprived the Court of the systemic historical context requisite for a thorough constitutional balancing act. Invoking constitutional protections while actively concealing prior, severe constitutional infringements committed by the selfsame regulatory body constitutes a profound abuse of the adjudicative process.

PART 1(I): THE JURISDICTION TO QUASH: EX TURPI CAUSA, ABUSE OF PROCESS, AND FRAUD BY OMISSION

78. The doctrine of *ex turpi causa non oritur actio* dictates that bad-faith actors strictly forfeit their entitlement to discretionary court remedies. In *Cock v. British Columbia (Labour Relations Board)*, 1960 CanLII 293

(BCCA), this Honourable Court firmly established that extraordinary remedies and appellate standing will be refused to an applicant whose conduct in connection with the subject matter has been dishonest, deceitful, or calculated to circumvent the law. This equitable refusal of **public law remedies** based on the "clean hands" doctrine was subsequently elevated to a binding national standard by the Supreme Court of Canada in *Homex Realty & Development Co. v. Wyoming (Village)*, 1980 CanLII 55 (SCC).

79. The application of *Cock* stretches across the entire adjudicative spectrum. From judicial reviews of school closures (*Baker v. Burin Board of Education*, 1999 CanLII 19822 (NL SC)), to the denial of mandamus (*Re Burgin v. Township of King*, 1973 CanLII 465 (ON Div Ct); *Preston v. BC (District Director)*, 1991 CanLII 904 (BC SC)), the jurisprudence is uncompromising: litigants who engage in deceit, bad faith, or "gross breaches of good faith" forfeit their right to access public adjudicative machinery. The LSBC is not immune from this absolute standard although it has certainly conducted itself as the statutes passed by the BC Legislature and Parliament do not apply to it.

80. The LSBC for at least 12 years has purported to act above the law but no one is above the law including "societies", "not for profits", "captive insurance companies" or "indemnity funds".

81. The mechanics of this structural deceit are crystallized in the formal pleadings of the LSBC. It was the Applicant, not the LSBC, who proactively obtained protective court orders dictating that the LSBC could not do anything with the seized hard drive (see: MacIntosh J.'s orders in September 2017) – as there was no pleading of a Concealed RAM Dump in 2014 and 2015, and certainly no amendment of pleadings by the LSBC post the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump.

82. To shield this unconstitutional incursion, the LSBC actively reinforced and reaffirmed the misapprehension that only a hard drive was seized. In a formal Notice of Application filed by the LSBC in April 2017 (Supreme Court File No. S-1410056), the LSBC explicitly pleaded to the Court:

> "[23] On the morning of June 4, 2014, the plaintiff emailed Mr. Bussanich again and stated that his office was wide open for the Law Society to investigate. The plaintiff provided Mr. Bussanich with the password to his computer and stated that the investigators were at liberty to copy any documents they wanted. [24] On June 4, 2014, the investigators attended again at the plaintiffs office. The investigators took two forensic copies of the HARD DRIVE on the plaintiff's office computer. They also took copies of paper files provided by the plaintiff. [25] Nobody from the LSBC reviewed the HARD DRIVE until the conclusion of a process set out in the Rule 4-43 order for the adjudication of the plaintiffs request that certain documents be excluded from review. As it turned out, the plaintiff initiated but did not pursue the exclusion request and an independent adjudicator eventually dismissed the request."

83. By surgically focusing the Court's attention and deliberately capitalizing the "HARD DRIVE" to assure the Honourable Mr. Justice Grauer (as he then was) that data was strictly quarantined by the Rule 4-43 process, the LSBC **actively blinded** the Court to the existence of the parallel, unquarantined Concealed RAM Dump. Silence in the face of a positive duty to disclose foundational facts surrounding state-sanctioned seizures amounts to actionable deceit (see: Falsity by Omission, Silence or Inaction citing

Halsbury's Laws of England, 4th ed. reissue (London: Butterworths, 1998), vol. 31 (at para. 748)[ii] also pages 749 to 50[iii]). [iv] It is clear therefore that silence and half-truths can amount to a fraudulent misrepresentation. As explained in *Tapp and Another v. Lee* (1803), 3 Bos. & Pul. 367, 127 E.R. 200 at 203: "Fraud may consist as well in the suppression of what is true, as in the representation of what is false," and see *Curtis v. Chemical Cleaning and Dyeing Co., Ltd*., [1951] 1 All E.R. 631 (C.A.) (at p. 634):… a representation might be literally true but practically false, not because of what it said, but because of what it left unsaid. In short, because of what it implied. This is as true of an innocent misrepresentation as it is of a fraudulent misrepresentation (see: See as well *C.R.F. Holdings Ltd. et al. v. Fundy Chemical International Ltd. et al.* (1980), 1980 CanLII 586 (BC SC), 14 C.C.L.T. 87 (B.C.S.C.), aff'd on issue of liability at 1981 CanLII 488 (BC CA), [1982] 2 W.W.R. 385 (C.A.), *Ontex Resources Ltd. v. Metalore Resources Ltd.* (1990), 1990 CanLII 6952 (ON SC), 75 O.R. (2d) 513 (Gen.Div.), appeal allowed in part at (1993), 1993 CanLII 8673 (ON CA), 13 O.R. (3d) 229 (C.A.), and many other cases to like effect.

84. Finally, as explicitly noted in the May 25, 2026, Case Management letter filed by the LSBC's own counsel, the joint application record for the summary trial below contained approximately 20,000 pages, and the anticipated appeal record is expected to exceed 4,000 pages. To permit a massive, multi-week appellate hearing to proceed when the foundational standing of the Appellants is vitiated by fraud, *suppressio veri*, and binding admissions constitutes a **catastrophic waste of judicial economy**. If this Application is successful, with the judgment of Chief Justice Mr. Skolrood remaining correct and without any attempt by the Appellants to seek a stay of the continued and diligent progress of the various transitional boards to comply with the LPA 2024, then the public benefits in a more expeditious, cost-effective and just manner.

PART 2: COMPULSION TO FACE THE ERRANT ARGUMENTS OF THE LSBC AND TLABC IN RESPONSE TO THE APPLICANT'S INTERVENTION APPLICATION (WITH THE ADDITIONAL RELIEF SOUGHT THEREIN REPRODUCED IN THE FORM 4 NOA OF AUGUST 24, 2026)

PART 2(A): CHIEF JUSTICE SKOLROOD'S FINDING OF NOTHING IN THE RECORD THAT THE LSBC FAILED TO GOVERN LAWYERS IN THE PUBLIC INTEREST

85. Neither the Intervention Application nor this Notice of Application concerns *McLean v. LSBC*. The question before this Honourable Court is singular: **whether the LSBC failed to uphold and protect the public interest in the administration of justice by preserving and protecting the rights and freedoms of all persons**, as mandated by s. 3 of the *LPA 1998.*

86. At paragraph 4 of its memorandum, the LSBC dismisses the Applicant's Notice of Application as "prolix and incoherent." This is classic deflection. What is conspicuously absent from their four-page submission is the only thing that matters:

a. it does **not** deny the concealed RAM Dump of June 4, 2014;
b. it does not deny the unauthorized disclosure if Personal Information of a broad base of persons to Ethereum blockchain in 2015;
c. It does not deny the fraudulent and surreptitious remote monitoring, interception of communications, and dumping of system modules of the Applicant's CPU in his principal residence on March 2, 2016, in the form of the *Mar 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump*. This appears to have been undertaken in an effort to thumb its nose at the then-granted and binding injunction against the LSBC — an injunction expressly restraining the LSBC from "entering or attempting to enter the plaintiff's residence pursuant to that order" (see para. 93 of Madam Justice Gerow's Reasons for Judgment in *McLean v. Law Society of British Columbia*, 2015 BCSC 1431);
d. it does **not** deny the October 25, 2021 ShareFile disclosure from NST LLP to the Applicant or the LIF using a fictitious logo with its Sharefile account in Evolve Partner Lab;
e. it does **not** confront their own *Formal Admissions* regarding ***Bill 21***'s constitutionally required board composition even though Mr. Ferris, KC, a member on the Rule of Law and Lawyer Independence Committee of the LSBC (see: *infra*) pleaded the very Response to the Intentions Paper by the LSBC (see: AB, Tab, 15); and
f. it does **not** engage with a single technological fact, forensic artifact, or metadata string.

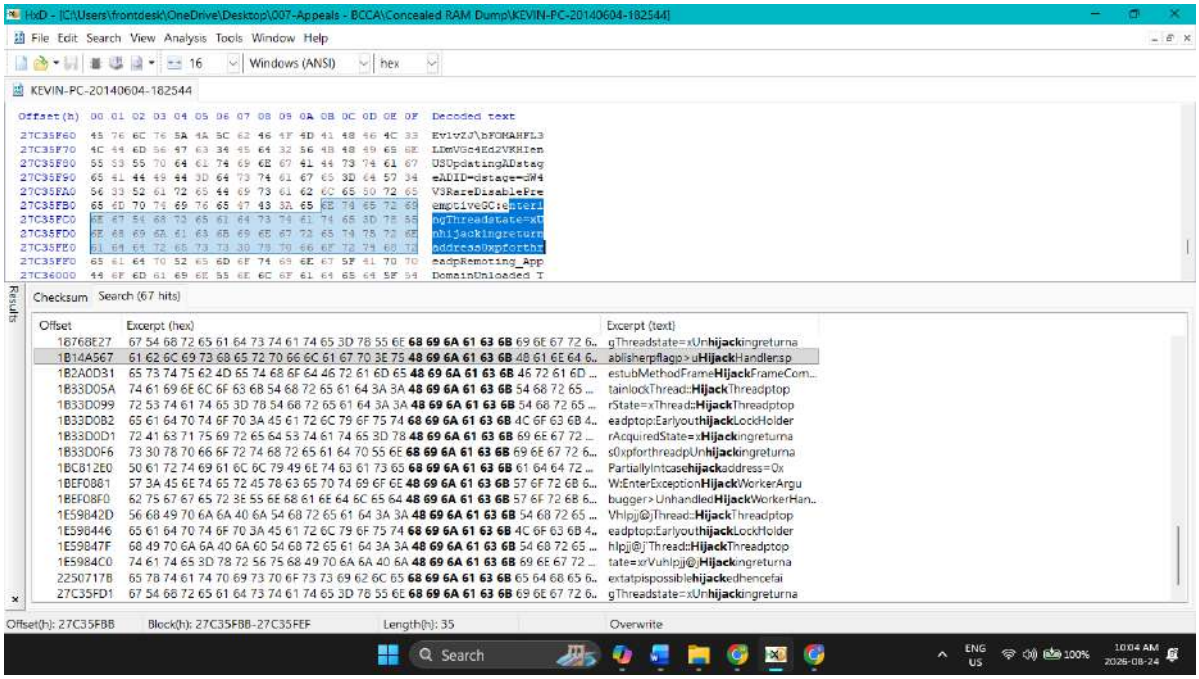
87. By attacking the Applicant rather than the evidence (the classic strawman or ad hominem attack which was certainly not in the public interest when the LSBC admits that public law issues are at stake and that the Applicant has a unique perspective), which is deserving of rebuke the LSBC has tacitly conceded that it has **no substantive answer** to the empirical record

88. .The LSBC's remaining defence rests entirely on paragraphs 5–7 and 11 of its memorandum, where it invokes the 2018 vexatious litigant order issued by Justice Branch. They attempt to wield this order as an impenetrable shield. It is the classic "doubling down on its previous fraud". This is their fatal error. The doctrine of *fraud unravels everything* (per Lord Denning in *Lazarus Estates Ltd. v. Beasley*) renders the 2018 order incapable of insulating the LSBC from scrutiny. Justice Branch's 2018 order was issued on the basis of an artificially sanitized evidentiary record—one the LSBC engineered by concealing the RAM Dump from the Court, just as it concealed it from Justice Gerow, Bowden, Grauer and Macintosh. The 2018 order is therefore a **fruit of the poisonous tree**. The modus operandi for seeking the same is now obvious with the benefit of hindsight but it is not a legal justification. And that is what the LSBC is hanging its proverbial hat on? That is frightening for the public interest. The temporal impossibility is decisive: the evidence driving this Intervention Application—the ShareFile link, the Kimm Otto metadata, the Deflate64 compression, the Binance Smart Chain tracking—was discovered in October 2021. A 2018 order cannot bar evidence of spoliation and unconstitutional surveillance committed **three years later**. Fraud, dishonesty, bad faith, extortion, and bribery form a special category of nullity that transcends all others.

Fraud vitiates judgments, contracts, and all transactions whatsoever. As Lord Denning held: "Fraud unravels everything." (*Lazarus Estates Ltd. v. Beasley*, at p. 712 cited in Landreville v. Town of Boucherville, 1978 CanLII 202 (SCC)).

PART 2(B): THE TLABC'S "PERSONAL GRIEVANCE" STRATEGY (PARAS. 8–12)

89. The TLABC's attack on the Applicant's intervention was predictable. Its argument is that the Applicant seeks to "hijack" the appeal with "peripheral issues," characterizing the concealed RAM Dump and subsequent remote interception as a "personal grievance" relating to the 2014 searches. They assert that the Applicant's evidence has "no bearing on the appeal" because the parties did not raise it. This position demands that the Court adjudicate a profound constitutional question in a **factual vacuum**.
90. If the LSBC or TLABC believed the Applicant's filings were improper, they should have brought a Notice of Application to strike or declare them a nullity. They did not. That omission is **fatal.**
91. To defeat the Applicant's representative-base argument, the LSBC need only produce the records from its warrantless volatile-memory captures on June 4, 2014 and March 2, 2016, and any other dates known to it. This would allow the Court to assess the full scope of the LSBC's conduct based on unconcealed evidence.[v]
92. If there was ever a wrong time to utilize a word, the TLABC did so. The TLABC asserts that the Applicant is attempting to "hijack" the appeal. Yet the term *hijack* appears sixty-seven times — not in the Applicant's materials — but in the LSBC's own concealed volatile-memory extraction and seven year digital evidence trial describing hijacked threads, hijacked return addresses, hijacked debugger calls, and hijacked CPU execution. The TLABC's choice of vocabulary is therefore not merely ironic; it is an inadvertent confirmation of the very technological misconduct the LSBC concealed from multiple courts for nearly a decade.
93. Yet again, the LSBC's disclosed record ("Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record") to the Applicant pursuant to *FIPPA* in 2021:



PART 2(C): THE BAFFLING WRITTEN SUBMISSION THAT "NEITHER PARTY RAISED THE ISSUE" [LSBC'S HISTORIC AND ONGOING CRIMINAL CONDUCT INVOLVING A WIDE VARIETY OF PERSONS CAPTURED BY THE RAM DUMPS (2014 AND 206)]

94. The fact that neither party raised the LSBC's historical criminal conduct makes the situation worse, not better. Silence in the face of unconstitutional conduct is not neutrality—it is complicity.
95. The Applicant readily acknowledges that the LSBC's technological sophistication—both intra-office and remote—was remarkable and impressive solely from that standpoint. Its ability to evade disclosure obligations under the *Supreme Court Civil Rules* by exfiltrating personal information to the Ethereum blockchain in Switzerland (outside GDPR jurisdiction) was highly advanced for its time. But sophistication of criminality is an **aggravating factor**, not a mitigating one. Under the new regime, such intelligence must be directed toward transparency, accountability, and public protection.
96. The TLABC submitted at paragraph 15 that interveners should be restricted to "the factual record established by the parties." That is precisely the problem—the parties' record omits the LSBC's unconstitutional conduct.
97. The LSBC's characterization of the Applicant's submissions as "prolix" and "incoherent" is unhelpful and contrary to the public interest. Complex fraud requires complex analysis. Metadata is not prolix or incoherent; it is evidence. If the LSBC believes its own documents are incoherent and prolix, its quarrel is with its agents, not the Applicant.

PART 3: DENOUEMENT AND ORDERS SOUGHT

PART 3(A): DENOUEMENT

98. The LSBC's challenge relies entirely upon the unwritten constitutional principle of the independence of the bar, which Chief Justice Skolrood expressly recognized as an unwritten constitutional principle. In their written submissions below (July 31, 2025), the LSBC advanced a 118-page theoretical treatise asserting that Bill 21's modernized, democratically accountable governance structure poses an existential threat to the public interest, and that the absolute, unsupervised self-regulatory model of the status quo ante is the sole constitutionally permissible paradigm.

99. The existential threat to the public interest was not Bill 21. It was Lawson Lundell LLP's client — the LSBC — whose conduct continues to exist as of today's date.

100. Returning to Chief Justice Skolrood's finding that there was "nothing in the record" to suggest that the LSBC had failed to govern lawyers in the public interest, and his query as to the rationale for why the BC government repealed the LPA 1998 and enacted the LPA 2024, the answer is set out in Schedule "F".

101. Once the concealed RAM dump was disclosed to Mr. Stephen King (counsel to the Ministry of Attorney General (BC)), and the **March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump** were unmasked, the Legislature closed every loophole the LSBC had exploited. The Applicant's evidentiary record supplied the missing factual predicate that Chief Justice Skolrood could not locate.

102. The Applicant may not have been the **only lawyer** subject to concealed RAM dumps intra-office and/or warrantless wiretaps of electronic devices in a home, law office, or non-law-office setting. During the relevant period since the passage of Rule 4-43, the LSBC averaged approximately five to six Rule 4-43 Orders per year. Each such order required forensic copying that typically lasted several hours, often in circumstances where lawyers would understandably step out of their offices for breakfast, lunch, or meetings. In the Applicant's case, multiple individuals used his CPUs and workstations, meaning that the concealed volatile-memory extraction and subsequent remote intrusion captured the private information of numerous third parties. The obvious inference — which this Honourable Court may draw pursuant to **section 24** and **25** of the *Court of Appeal Act* — is that other lawyers subject to Rule 4-43 Orders may likewise have been exposed to surreptitious digital intrusions without their knowledge. To permit the LSBC to proceed to a full appeal hearing months from now would be dangerous: the LSBC would continue to operate under the same structural regime that enabled warrantless RAM dumps, remote wiretapping, and kernel-level reconfiguration of computers, thereby circumventing section 184 of the *Criminal Code* for another 10 months or more while the appeal is pending. The public interest cannot tolerate such risk.

103. Moreover, what makes the current structure of the LSBC and its directing minds so dangerous is that you have Mr. Lucas, KC, espousing the importance of the Rule Of Law and in the very year that the LSBC is engaged in the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump, he published an article, "Surveillance of Electronic Communications: "Is there anybody out there?"…Yes there is. January 2016 (first published in *The Advocate*). The article, produced by the Rule of Law and Lawyer

Independence Advisory Committee, explicitly warned that government surveillance of electronic communications poses a direct threat to solicitor-client privilege and the rule of law

104. One of the committee members responsible for that publication was Mr. **Craig Ferris, K.C.**, now lead counsel for the LSBC in this proceeding. Whether the Applicant was a member of the LSBC or not, solicitor-client privilege belongs to the *client*. Engaging in the **March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump** constituted a breach of clients' constitutionalized privilege and a surfeit of breaches of the *Criminal Code*. The LSBC's answer to its own committee's warning was to engage, a mere two months later, in the very surreptitious conduct it publicly condemned.

105. Before LSBC counsel wishes to engage in such challenges to coherency and alleged prolixity in the Applicant's materials, it must first clean up its own house (what remains before amalgamation which is distinct from a merger at law), beginning with accurately citing and hyperlinking the decision of The Honourable Chief Justice Skolrood dated April 29, 2026. On its website, the LSBC has, for some months, been unable to do so. It currently states (which is "copied," not dumped):

> "**May 2026:**
>
> The Law Society filed a notice of appeal of the April 29, 2026 decision of the Supreme Court of BC dismissing our challenge to the constitutionality of the *Legal Professions Act*. The Trial Lawyers Association of BC also filed a notice of appeal." (see: Tab 16 of the Applicant's AB).

106. The hyperlink in its raw URL form provided by the LSBC on its website is: https://www.bccourts.ca/jdb-txt/sc/26/07/2026BCSC0779.htm which returns a result of: "**Judgment Not Found".**

107. For the purposes of ensuring the public, when it visits the LSBC website, has access to the decision of The Honourable Mr. Justice Skolrood, the coherent and laconic citation on the BC courts website is: https://www.bccourts.ca/jdb-txt/sc/26/07/2026BCSC0779cor1.htm.

108. Additionally, for whatever reason, the LSBC has refused to post the decision of Madam Justice Gropper, which found that the LSBC could not satisfy the second part of the injunction test, namely "irreparable harm". The correct citation for that decision is *Law Society of British Columbia v. British Columbia*, 2024 BCSC 1292 (see Applicant's Application Book at Tab 16).The correct citation of that decision is *Law Society of British Columbia v British Columbia*, 2024 BCSC 1292 (see: Applicant's Applicant Book at Tab 16).

109. If the Rule of Law matters as much as the LSBC has protested it does, then this must be its last hearing in its current structure.

PART 3(B): ORDERS SOUGHT

110. Accordingly, the Applicant seeks the relief denoted at Orders **#1–2 and #4–10** in his Form 4 Notice of Application filed on **August 12, 2026**. These orders are **independent of Order #3**, which concerns intervention relief and is addressed exclusively in the Applicant's **Rule 61 Memorandum of Argument filed on August 14, 2026**.

111. The Honourable Court directed that all applications to intervene were required to be brought by **August 14, 2026**. The Applicant complied with that requirement. His Form 4 NOA was stamped as filed on **August 12, 2026**, and expressly sought relief **outside the scope of intervention**.

112. This written argument is therefore tendered **not** under Rule 61, but under the *Court of Appeal Act* (2021) and the *Court of Appeal Rules* (2022), which contemplate the filing of a **written argument (if any)** in support of a notice of application. Under any of the provisions of the COAA or COR, the written argument is filed well in advance of such enactment deadlines.

113. This written argument is submitted pursuant to the Applicant's dual-track, albeit independent path, Form 4 NOA and the statutory and regulatory provisions cited therein. The Applicant respectfully submits that his intervention application should be heard first; and if intervention is granted, he will make oral submissions with respect to Orders **#1–2 and #4–10**, together with any incidental or consequential relief, and will tender a draft order in advance with a slight variation (if applicable) in the relevant rule so such order may be signed from the bench, and then tendered for immediate entering such that, inter alia, judicial economy and the public purse is respected.

114. Subject to oral speaking notes or outline, the Applicant will rely on his **August 14, 2026 Rule 61 MOA** to respectfully seek intervention status in the Appeals, and on this **written argument** for the relief relating to Orders **#4–10**.

115. Should an additional Notice of Application be required, the Applicant will file and pay for one and will seek any retrospective or retroactive orders as may be necessary, including relief granted ***nunc pro tunc***.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DATED: ***August 28, 2026***

Kevin A. McLean (BA, JD, CIM)

Applicant for the Moving Party

Toronto, Ontario, Canada

SCHEDULES

SCHEDULE "A": ENACTMENTS CITED

Statute / Regulation	Citation
An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities...	S.C. 2010, c. 23 ("**CASL**")
Canadian Charter of Rights and Freedoms	Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11.
Court of Appeal Act	S.B.C. 2021, c. 6.
Court of Appeal Rules	B.C. Reg. 120/2022.
Legal Profession Act	S.B.C. 1998, c. 9 (repealed).
Legal Professions Act	S.B.C. 2024, c. 26.

Reproduction of specific provisions of enactments

COURT OF APPEAL ACT, SBC 2021, C 6

Division 2 — Special Procedural Matters
Preliminary objections

20 (1)The court may, on application, make any order the court considers appropriate to give effect to a preliminary objection in relation to an appeal.
(2)A justice may, on application,
(a)quash an appeal on the basis that the court lacks jurisdiction, or
(b)make any order the justice considers appropriate to give effect to a preliminary objection in relation to an appeal, other than an order dismissing the appeal.

Referral to court for summary determination

21 (1)A justice or the registrar may refer an appeal to the court for summary determination if the justice or registrar considers that the appeal
(a)is frivolous or vexatious, or
(b)can otherwise be dismissed on a summary basis.
(2)On a referral under subsection (1), the court may dismiss all or part of the appeal if the court considers that the appeal meets the criteria set out in subsection (1) (a) or (b).
(3)Before dismissing all or part of an appeal under subsection (2), the court must give the appellant an opportunity to make written submissions or otherwise be heard.

Limiting hearings and requiring preparation of written arguments

26 (1)Before or during the hearing of a matter that is to be decided by the court, the court may do one or more of the following, either generally or in relation to a particular issue:
(a)order that the hearing be conducted
(i)in writing, or

(ii)by telephone, video conference or other means of telecommunication;
(b)order that the matter be decided without a hearing;
(c)limit the time for the hearing;
(d)limit the time for the hearing of an argument by any person.
(2)Before, during or after the hearing of a matter that is to be decided by the court, the court may order a party to prepare written arguments on any issue, whether or not the issue has been previously addressed by the party.

Power of a justice exercised by court
28 The court may exercise a power given to a justice by this Act or the rules.

General powers of a justice
30 In an appeal or other matter before the court, a justice may do one or more of the following:
(a)make orders incidental to the appeal or matter not involving a decision of the appeal on the merits;
(b)make orders or give directions for the purposes of managing the conduct of the appeal or other matter;
(c)make interim orders to prevent prejudice to any person;
(d)exercise the powers referred to in the following sections for the purposes of a matter that is to be decided by a justice:
(i)section 24 (2) (a) and (b) *[general powers of court]*;
(ii)section 26 *[limiting hearings and requiring preparation of written arguments]*;
(e)exercise the powers given to the registrar by this Act or the rules;
(f)grant leave to intervene;
(g)refer any application to the court;
(h)make any order with the consent of all parties to the appeal;
(i)in making any order, impose terms and conditions and give directions that the justice considers just.
Dispensing with rules and varying time limits
32 (1)A justice may dispense with a requirement of the rules.
(2)A justice may extend or shorten a time limit, provided in this Act or the rules, for doing an act, including the time limit for commencing an appeal or application for leave to appeal.
(3)Subsection (2) applies to an extension of a time limit even if the time limit for doing an act expires before
(a)a person applies for the extension, or
(b)the justice orders the extension.

Part 5 — Powers on an Appeal
Division 1 — Powers of Court
General powers of court
24 (1)On an appeal, the court may
(a)make any order that the court appealed from could have made,
(b)impose reasonable terms and conditions in an order, and
(c)make any additional order that it considers just.
(2)The court may
(a)draw inferences of fact,
(b)exercise the powers of the Supreme Court in relation to matters of contempt of court, and
(c)exercise any original jurisdiction that may be necessary or incidental to the hearing and determination of an appeal.
(3)The court may exercise its powers
(a)even though only part of an order is being appealed, and
(b)in favour of any person, whether or not the person is a party to the appeal.

Court has power of court appealed from

25 The court has the power, authority and jurisdiction vested in the court appealed from

(a)for all purposes of and incidental to

(i)the hearing and determination of any matter, and

(ii)the amendment, execution and enforcement of any order, and

(b)for the purpose of every other authority expressly or impliedly given to the court.

Part 1 — Interpretation
Definitions and interpretation
"file", in relation to a document, means to file the document in a court registry in accordance with the requirements under these rules or any directives of the registrar issued under section 38 [directives in relation to filing] of the Act;
Part 2 — How to File and Serve Documents
General requirements for filing and serving documents
3 Unless a contrary intention appears, if a rule in these rules requires a person to file and serve a document that relates to an appeal, the person must
(a)file the document, and
(b)serve on each party to the appeal a copy of the filed version of the document.
Division 5 — Adding Additional Respondents to an Appeal
Justice may add respondents to an appeal
18 (1)A justice may make an order under subrule (2), if
(a)a person was not named as a respondent in a notice of appeal or notice of cross appeal, and
(b)the justice determines that the person has interests that could be affected by the relief sought in the appeal or cross appeal.
(2)On application by a person referred to in subrule (1) (a), a justice, in the circumstances referred to in that subrule, may order that
(a)the person be added as a respondent to the appeal,
(b)the notice of appeal or notice of cross appeal, as applicable, be amended to name the person as a respondent, and
(c)the person be served the amended notice of appeal or notice of cross appeal, as applicable.
(3)Before filing a notice of application or any other document for the purposes of commencing an application under subrule (2), a person who wishes to bring an application must obtain a hearing date for the application.
(4)A person who wishes to bring an application under this rule must file and serve the following documents at least 5 business days before the application hearing date:
(a)a notice of application in Form 4;
(b)the person's supporting affidavits, if any;
(c)the person's written argument, if any.
(5)A person who is served a notice of application under this rule may, for the purposes of responding to the application, file and serve the following documents at least 2 business days before the application hearing date:
(a)the person's supporting affidavits, if any;
(b)the person's written argument, if any.
(6)The registrar may set the date, time and place for the hearing of an application under this rule.

Part 8 — Managing the Appeal Process
Division 1 — General
Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 *[dispensing with rules and varying time limits]* of the Act:
(a)dispense with a requirement of these rules;
(b)extend the time limit provided in these rules for doing an act.
Division 1 — How to Bring and Respond to Applications Made to the Court, a Justice or the Registrar
Applications made to the court, a justice or the registrar
52 (1)Subject to subrule (2), this Division applies to every application made to the court, a justice or the registrar.
(2)This Division does not apply to the following applications:
(a)an application for leave to appeal under Rule 13 *[how to apply for leave to appeal]*;
(b)an application to be added as a respondent under Rule 18 *[justice may add respondents to an appeal]*;

(c)an application for a stay of proceedings or stay of execution under Rule 20 *[applying for a stay of proceedings or execution]*;
(d)an application referred to in Division 2 of this Part;
(e)an application to the registrar to settle an order under Rule 68 *[settling the form or content of orders]*;
(f)an application for an order that no fees are payable under Rule 85 *[order that no fees payable]*.

Application hearing date must be obtained

53 Before filing a notice of application or any other document for the purposes of commencing an application, a person who wishes to bring an application must obtain a hearing date for the application.

Notice of application

54 A person who wishes to bring an application must file and serve the following documents at least 5 business days before the application hearing date:
(a)a notice of application in Form 4;
(b)the person's supporting affidavits, if any;
(c)the person's written argument, if any.

Responding to applications

55 A person who is served a notice of application may, for the purposes of responding to the application, file and serve the following documents at least 2 business days before the application hearing date:
(a)the person's supporting affidavits, if any;
(b)the person's written argument, if any.

Registrar may set chambers application hearing date

56 The registrar may set the date, time and place for the hearing of a chambers application under these rules.

Quashing an appeal or raising a preliminary objection

60 (1)This rule applies to an application to do one or more of the following:
(a)strike part of a factum;
(b)raise a preliminary objection to an appeal;
(c)quash an appeal before it is heard.
(2)A party who wishes to apply to do anything referred to in subrule (1) must, at least 7 business days before the application hearing date, file and serve the following documents:
(a)a notice of application in Form 4;
(b)the party's supporting affidavits, if any;
(c)the party's written argument, if any.
(3)A party who is served an application referred to in subrule (2) may, for the purposes of responding to the application, file and serve the following documents at least 2 business days before the application hearing date:
(a)the party's supporting affidavits, if any;
(b)the party's written argument, if any.
(4)Unless a justice or the registrar orders otherwise, an application under this rule must be heard at the time of the hearing of the appeal.

[NOT APPLICABLE IN THIS WRITTEN ARGUMENT PER SE]

Intervener status

61 (1)A person, other than a party, interested in an appeal may apply to a justice for leave to intervene in the appeal.
(2)To apply for leave to intervene in an appeal, a person must do the following no later than 14 days after the appellant files the appellant's factum:
(a)obtain a hearing date for the application;

(b)file and serve the following documents:
(i)a notice of application in Form 4;
(i.1)the person's supporting affidavits, if any;
(ii)a memorandum of argument prepared in accordance with the completion instructions.
(2.1)A person who is served an application referred to in subrule (2) may, for the purposes of responding to the application, file and serve on each party and on the applicant, at least 2 business days before the application hearing date, the following documents:
(a)the person's supporting affidavits, if any;
(b)the person's written argument, if any.
(3)In making an order granting leave to intervene, a justice
(a)must specify the date on which the intervener's factum is due, and
(b)may make any other order the justice considers appropriate to accommodate the intervener's participation in an appeal, including
(i)limiting the issues on which the intervener may intervene,
(ii)requiring the parties to serve documents on the intervener as if the intervener were a party, or
(iii)requiring the intervener to pay additional costs incurred by any party as a result of the intervention.
(4)Unless a justice orders otherwise, an intervener's factum
(a)must be prepared in accordance with the completion instructions, and
(b)must not exceed 10 pages.
(5)An intervener may not present oral argument during the hearing of an appeal, unless a justice orders otherwise.
[am. B.C. Reg. 240/2023, s. 5.]

SCHEDULE "B" – AUTHORITIES CITED

Jurisprudence	Citation
Albas (Re)	2016 LSBC 18
Baker v. Burin Board of Education	1999 CanLII 19822 (NL SC)
C.R.F. Holdings Ltd. et al. v. Fundy Chemical International Ltd. et al.	1980 CanLII 586 (BC SC), 14 C.C.L.T. 87; aff'd 1981 CanLII 488 (BC CA), [1982] 2 W.W.R. 385
Canada Permanent Mortgage Corporation v. The City of Toronto	1951 CanLII 121 (ON CA)
Canada Trustco Mortgage Co. v. Renard	2008 BCCA 343
Canam Enterprises Inc. v. Coles	2000 O.J. No. 4930 (C.A.)
Champoux v. Jefremova	2021 ONCA 92
Cock v. British Columbia (Labour Relations Board)	1960 CanLII 293 (BCCA)
Contreras v. Thomson	2024 BCCA 357
Curtis v. Chemical Cleaning and Dyeing Co., Ltd.	[1951] 1 All E.R. 631 (C.A.)
Danson v. Ontario (Attorney General)	[1990] 2 S.C.R. 1086
First Majestic Silver Corp. v. Davila Santos	2012 BCCA 5
Glover v. Leakey	2016 BCSC 1624
Halagan v. Reifel	1997 CarswellBC 4040 (BCCA)
Hawkeye Power Corporation v. Sigma Engineering Ltd.	2012 BCCA 414
Hill v. Church of Scientology of Toronto	[1995] 2 S.C.R. 1130

Homex Realty & Development Co. v. Wyoming (Village)	1980 CanLII 55 (SCC), [1980] 2 S.C.R. 1011
Hughes v. Toronto Dominion Bank	(2002) 21 C.P.C. 5th 388 (ON CA)
Jensen v. Ross	2014 BCCA 173
Landreville v. Town of Boucherville	1978 CanLII 202 (SCC)
Law Society of BC v. Foo	[1997] LSDD No. 197
Law Society of BC v. Galambos	2007 LSBC 31
Law Society of BC v. Nejat	2014 LSBC 51
Law Society of BC v. Samuels	[1999] LSBC 36
Law Society of British Columbia v. British Columbia	2024 BCSC 1292; 2026 BCSC 779
Lazarus Estates Ltd. v. Beasley	[1956] 1 QB 702
Little Sisters Book and Art Emporium v. Canada (Minister of Justice)	2000 SCC 69, [2000] 2 S.C.R. 1120
MacKay v. Manitoba	[1989] 2 S.C.R. 357
Marchand (Litigation Guardian of) v. Public General Hospital Society of Chatham	2000 CanLII 16946 (ON CA)
Masjoody v. Trotignon	2023 BCCA 220
McLean v. LSBC et al.	2015 BCSC 1431; BCSC File No. S1410056
Mystar Holdings Ltd. v. 247037 Alberta Ltd.	2009 ABQB 480
Ontex Resources Ltd. v. Metalore Resources Ltd.	1990 CanLII 6952 (ON SC), 75 O.R. (2d) 513; appeal allowed in part at 1993 CanLII 8673 (ON CA), 13 O.R. (3d) 229
Pepper's Produce Ltd. v. Medallion Realty Ltd.	2012 BCCA 247
Preston v. BC (District Director)	1991 CanLII 904 (BC SC)
Quest Management Systems Inc.	2014 ONSC 3473
Re Burgin v. Township of King	1973 CanLII 465 (ON Div Ct)
RPC Construction Ltd. v. Zhiyi Zhou	2017 ONSC 4044
Toronto (City) v. C.U.P.E., Local 79	2003 SCC 63,
Wu v. Murray	2023 BCCA 270

Yang v. Shi	2022 BCCA 317

SCHEDULE "C": GLOSSARY OF TECHNOLOGICAL TERMS INVOLVED

(All definitions are tailored for judicial comprehension and directly tied to the evidentiary record in this MOA. Authoritative sources include Microsoft Windows Kernel Documentation, NIST Digital Forensics Guidelines, MITRE ATT&CK Framework, and industry-standard forensic tools such as Volatility.)

ACQUIRE To obtain possession or control of digital information. RAM dumps allow acquisition of sensitive data that was never saved to disk. (NIST SP 800-86)

ActiveScriptEventConsumer A WMI component that automatically runs scripts when triggered. Less covert than CommandLineEventConsumer but still capable of executing unauthorized actions. (Microsoft WMI Class Documentation)

APPEND To add data to an existing structure. In RAM, append operations occur when injected software writes new instructions into memory.

Ascii85 / Base64 Encoding A mathematical method for converting binary data into printable text. Frequently used by threat actors to hide malicious scripts or exfiltrate data. (RFC 1924; MITRE ATT&CK T1132)

Binance Smart Chain (BSC) / Ethereum Public, decentralized blockchains where data is permanently recorded. Once personal information is written to these chains, it becomes immutable and globally accessible.

Blockchain Exfiltration The act of transferring personal information to a public blockchain. Because blockchain data is immutable and outside GDPR jurisdiction, this constitutes permanent foreign disclosure.

BVTConsumer (WMI Persistence) A hidden WMI "tripwire" mechanism used by advanced threat actors to maintain long-term unauthorized access. (Microsoft WMI Event Consumer Documentation)

CommandLineEventConsumer A WMI component that executes hidden command-line instructions when triggered. Its presence in RAM indicates remote command execution. (Microsoft WMI Class Documentation)

CommandLineTemplate A WMI field storing the exact command to be executed when a hidden trigger fires. In RAM dumps, the data following this field reveals the actual instruction executed (PowerShell, remote callbacks, downloads).

CONFIDENTIAL Information that is private, privileged, or sensitive — including personal communications, passwords, cryptographic keys, and client data.

COPY To duplicate stored data. In forensic practice, "copy" refers to duplicating files or disk sectors. RAM cannot be copied — only dumped.

CreateNewConsole A legacy Windows function (deprecated since Windows XP) used to create a new command-line console. Its presence indicates code compiled using older SDKs, often seen in covert monitoring tools. (Microsoft Win32 API Documentation)

CreateSeparateWowVdm A Windows function enabling 16-bit execution inside a 32-bit environment. Requires elevated privileges and is rarely used by legitimate administrative tools. (Microsoft WOW Subsystem Documentation)

Crypto Trading Platform (CTP) A marketplace for buying or selling digital assets. Under securities law, custody determines whether a platform is a regulated CTP. (OSC Staff Notice 21-329)

Cross Chain Swap Moving digital assets from one blockchain to another to obscure financial trails. Analogous to money laundering. (Chainalysis AML Reports)

CPU (Central Processing Unit) The computer's "brain." Hijacking the CPU means taking control of its operations or forcing it to execute unauthorized commands.

DESTROY PRIVATE DATA To erase or corrupt confidential information. In volatile memory, destruction is often partial — fragments remain recoverable.

Direct Memory Access (DMA) A hardware feature allowing devices to read/write memory without CPU permission. When exploited, DMA enables remote surveillance and memory manipulation. (PCI SIG DMA Specification)

DISPOSE To remove or delete data. In RAM, disposal is temporary — remnants remain in unallocated memory.

DumpIt.exe A forensic tool used to extract RAM. Its presence proves the LSBC executed the RAM dump locally and without consent.

EXTRACT To pull information out of a system. RAM extraction is the most intrusive form because it requires injecting software into the CPU.

Fileless Intrusion A cyberattack that leaves no files on the hard drive. Operates entirely in memory using built-in tools (WMI, PowerShell). (MITRE ATT&CK T1059, T1047)

Fileless Surveillance Surveillance conducted entirely in memory using legitimate system tools. Leaves no logs or files.

FORMAT To structure data or prepare storage for use. In RAM, formatting operations indicate manipulation of memory regions.

Forensic Copying A bit-for-bit duplication of a hard drive or storage device. Does not include volatile memory. (NIST SP 800-101)

GAIN To obtain access or privileges. Appears when a process acquires elevated permissions or unauthorized control.

Hard Drive Long-term storage containing saved files, documents, and emails. Unlike RAM, it is stable and can be duplicated without altering its contents.

Hedging (Smart Contract Derivatives) Code designed to balance liquidity pools or execute automated market-making strategies. Legally constitutes unregistered derivatives. (Commodity Futures Act)

Hexadecimal (Hex) Code / Hex Dump A numerical representation of memory. Hex reveals timestamps, commands, and system activity exactly as they occurred.

Hijacked Thread / Hijacked Return Address Occurs when an external actor forcibly redirects a thread's execution path or alters where the CPU "returns" after completing a task.

Huffman Inflation (Decompression) The process of unpacking compressed data to reveal readable text and hidden commands.

IMPAIR To damage or interfere with data integrity. RAM extraction impairs volatile memory by altering its state.

IMPERSONATE / IMPERSONATING Pretending to be another process or user to bypass authentication.

INJECT To place unauthorized code into a running system. RAM dumps require injection of software into the CPU.

Invoke Expression / Net.WebClient (PowerShell Kill Chain) A sequence of commands used to download and execute malicious instructions entirely in memory. (Microsoft PowerShell Documentation)

Living off the Land (LotL) A strategy where attackers use built-in administrative tools (PowerShell, WMI) instead of installing malware. (MITRE ATT&CK T1218)

March 2, 2016 Remote Wiretap & Kernel Module Dump A sustained, warrantless, remote interception of the Applicant's CPU conducted from outside his residence. Unlike the 2014 local RAM dump, the 2016 event involved live remote access, active wiretapping, and kernel-level manipulation of the operating system. Forensically, the intrusion is identified by: • RDP signatures (TPKT headers), confirming remote desktop access; • PowerShell execution, indicating fileless command delivery; • Volatility forensic tool artifacts, showing real-time memory enumeration; • PostgreSQL listeners, demonstrating unauthorized network services; • WMI persistence triggers, including rootsubscription and CommandLineEventConsumer; • Unloading of eight kernel modules (dumpfve, DumpSec's, dumpstoreport, crashdmp, rmpspe86, rsdpe86, spy's, kbdhid), evidencing active reconfiguration of PCI device behaviour and privilege boundaries.

This event lasted at least 25 minutes, exceeding the LSBC's claimed 18-minute duration of the 2014 RAM dump. Kernel-level module unloading is categorically more invasive than a RAM dump: it indicates that the attacker was actively manipulating the operating system itself, not merely capturing memory.

Legally, the 2016 event constitutes a criminal interception of private communications under s. 184 of the Criminal Code, a breach of s. 8 of the Charter, and a continuation of the persistence mechanisms seeded by the concealed RAM dump of June 4, 2014. It demonstrates remote surveillance capabilities wholly incompatible with lawful regulatory conduct.

Master Treasury (Centralized Supply) A cryptographic wallet holding the majority of a token's supply, proving centralized control.

Memory Echoes Cached or paged-out copies of active structures found in volatile memory, indicating repeated or ongoing execution.

Memory Forensics (RAM Dump) A frozen snapshot of a computer's active memory at a specific moment. (Volatility Framework Documentation)

Metadata Data about data — timestamps, creators, file paths. Cannot be altered without corrupting the underlying file.

MODIFICATION Any change to data or system behaviour.

Msg.data (Input Data Hex) The hidden payload section of a blockchain transaction.

NamespaceOperationEvent A stealthy WMI trigger used to monitor internal security state and deploy countermeasures.

OVERWRITE To replace existing data. Remote intrusions overwrite return addresses, thread states, and kernel modules.

Pausable.sol / onlyOwner Smart contract modifiers granting unilateral control to the developer.

Payload (Digital Command) The instruction executed by the system — the action forced by an attacker.

PCI Device (Peripheral Component Interconnect) Hardware capable of DMA, making it a powerful vector for remote surveillance.

PowerShell A Windows administrative tool frequently hijacked for fileless attacks.

RECOVERY Retrieving data that was deleted or unsaved.

RECREATE Reconstructing system activity from memory artifacts.

Redundancy (Persistence Mechanisms) Deploying multiple hidden triggers to ensure unauthorized access remains even if one is removed.

Remote Desktop Protocol (RDP) A remote access tool requiring authentication. Its presence in RAM during a warrantless seizure indicates unauthorized access.

Remote Interception of Communications (Wiretap) Accessing a computer's communications without authorization. Illegal under s. 184 of the Criminal Code unless judicial authorization is obtained.

rootsubscription A system-level WMI listener that triggers hidden actions.

Smart Contract A self-executing program deployed on a blockchain.

Thread A single line of activity inside the CPU.

Thread State What the thread is doing at that moment — running, waiting, suspended, or executing instructions.

Time Zone Normalization (UTC) Aligning internal computer timestamps with real-world time.

UTF-16 Little Endian The encoding used by the Windows kernel to store text in memory.

Volatility (netscan) A forensic tool used to analyze RAM dumps and reconstruct network connections.

Volume Boot Record (VBR) The raw machine code at the beginning of a hard drive partition.

Wash Trading Illegal market manipulation involving self-directed trades.

Windows Management Instrumentation (WMI) The administrative nervous system of Windows, frequently exploited for unauthorized surveillance.

SCHEDULE "D": SAMPLE OF THE VERBATIM HEXADECIMAL CODE, TECHNOLOGICAL TRANSLATION, AND LEGAL & EVIDENTIARY EFFECT

#	Raw Hexadecimal / Decoded Snippet	Technological Translation	Legal & Evidentiary Effect
1	ROOT\CIMV2?Yje…rootsubscription…Yje	WMI Persistence Trigger — Hidden WMI "rootsubscription" embedded in the core Windows hardware namespace. Repeated Yje padding indicates deliberate obfuscation to evade scanners.	Intentional Backdoor — Establishes a covert digital tripwire for unauthorized, fileless remote access while evading monitoring.
2	CommandLineEventConsumer…Executes command in response to an event (15 instances)	Execution Engine — WMI class programmed to silently launch executables/scripts when the tripwire fires.	Systemic Surveillance — Fifteen redundant triggers prove persistent monitoring, not an anomaly.
3	BVTConsumer…select from __NamespaceOperationEvent	Hijacked SelfDefense Mechanism — WQL script overwriting the benign Windows BVTFilter bug, repurposed to monitor attempts to delete the backdoor.	Malicious Sophistication — Shows active evasion and selfpreservation; attempts to remove the backdoor would trigger reinstatement.
4	Absence of kerncap.vbs near BVTConsumer triggers	Forensic Exclusion of Benign Error — Legitimate Microsoft BVT glitch always includes kerncap.vbs. Its absence proves intentional modification.	Destruction of "System Error" Defence — Confirms the WMI triggers were weaponized mechanisms, not Windows errors.
5	cmd.exe…com…lnk…bat…ScriptKmn…kevin	UserSpecific Targeting — Execution	Targeted Compromise — Links payload

		environment tied directly to the Applicant's user profile ("kevin").	execution to the Applicant's session, establishing intrusion upon seclusion.
6	System.Net.WebClient + FromBase64String (140+ hits)	Fetch & Decode KillChain — Downloads encrypted payloads from remote servers and decodes them directly into RAM.	Active Exfiltration & C2 Communication — Proves unauthorized communication with external commandandcontrol infrastructure.
7	SysWOW64\WindowsPowerShell\v1.0\powershell.exe (160+ hits)	Stealth Execution Engine — 32bit PowerShell invoked on a 64bit OS to bypass security monitors.	Advanced Evasion — Known tactic used by threat actors (2014–2018) to avoid detection.
8	InvokeExpression / IEX (134 hits)	InMemory Detonator — Executes decoded payloads directly in RAM without writing to disk.	Fileless Execution — Confirms militarygrade fileless malware techniques designed to leave zero harddrive footprint.

SCHEDULE "E": COMPARATIVE ANALYSIS OF THE 2014 CONCEALED RAM DUMP AND THE 2016 REMOTE WIRETAP & KERNEL MODULE DUMP

Category	June 4, 2014 — Concealed RAM Dump (Local)	March 2, 2016 — Remote Wiretap & Kernel Module Dump (Remote)
Nature of Event	Local volatile memory extraction using DumpIt.exe	Remote, unauthorized interception of communications + kernel-level manipulation
Location	Inside Applicant's private office (1800–999 West Hastings St.)	Applicant's home office CPU (405–1333 West Georgia St.)
Duration	~18 minutes (LSBC's claim)	≥ 25 minutes (confirmed by module unload timestamps)
Method	DumpIt.exe injected into CPU to capture RAM	Remote RDP activity, WMI triggers, PowerShell execution, PCI DMA exploitation
Type of Access	Physical, local access	Remote, sustained, unauthorized access (wiretap)
Legal Characterization	Unauthorized search and seizure	Criminal wiretap under s. 184 of the Criminal Code
System Impact	Captures volatile memory; alters RAM state	Manipulates kernel drivers; unloads system modules; reconfigures PCI behaviour
Modules Unloaded	None	Eight modules unloaded: dumpfve, dumpLSISCSI, dumpstoreport, cracid, rmpspe86, rsdpe86, spsys, kbdhid
Forensic Indicators	DumpIt signature; volatile memory snapshot	RDP signatures; unauthorized listeners; PowerShell payloads; PostgreSQL listeners; Volatility netscan artifacts
Persistence Mechanisms	WMI consumers present; BVTConsumer tripwire seeded	WMI persistence firing; CommandLineEventConsumer hits (15 instances); rootsubscription present
Data Captured	Unsent emails, encryption keys, authentication tokens, PCI mappings, kernel handles	Live communications, remote command execution, kernel-level driver activity, network listeners, fileless scripts
Consent	None; not mentioned in Rule 443 Order	None; no judicial authorization; no notice
Disclosure to Court	Concealed from Gerow J., Bowden J., Grauer J., MacIntosh J., Branch J., Skolrood C.J.S.C.	Concealed from all courts and the AGBC

Regulatory Authority	No authority to seize RAM under s. 36 LPA 1998	No authority to intercept communications or manipulate kernel modules
Constitutional Impact	Breach of s. 8 Charter (unreasonable search)	Breach of s. 8 Charter + s. 184 Criminal Code violation
Public Law Consequence	Demonstrates LSBC acting outside statutory mandate	Demonstrates LSBC engaging in criminal surveillance of an opposing litigant
Risk to Public	Exposure of confidential data of all persons using the device	Persistent unauthorized surveillance capability; system compromise lasting years
Causal Link	Seeded persistence mechanisms enabling later intrusion	Intrusion technologically enabled by 2014 RAM dump

SCHEDULE "F": THE LEGISLATURE'S ADOPTION OF SS. 78–80 OF THE LPA 2024 REFLECTS A DIRECT AND RATIONAL RESPONSE TO THE PRECISE HARMS REVEALED BY THE APPLICANT'S EVIDENTIARY RECORD. EVERY PROTECTION ADDED IN THE 2024 ACT CORRESPONDS TO A STRUCTURAL VULNERABILITY EXPLOITED UNDER THE 1998 ACT. THE "RATIONALE FOR CHANGE" IS THEREFORE NOT ABSTRACT: IT IS THE APPLICANT'S EXPERIENCE (THE TRAUMAS AND NIGHTMARES INFLICTED UPON BY THE LSBC OVER 12 YEARS AND COUNTING), WHICH NOW FILL THE EVIDENTIARY LACUNA IDENTIFIED BY CHIEF JUSTICE SKOLROOD.

Part I: Historical Context and Mischief Addressed

The Legislature's adoption of ss. 78–80 of the *Legal Professions Act, 2024* (LPA 2024) reflects a direct, rational, and structurally necessary response to the precise technological and privacy harms perpetuated under the *Legal Profession Act, 1998* (LPA 1998). Under the predecessor regime, the Law Society of British Columbia (LSBC) relied upon broad, discretionary rule-making authority (s. 36) to bypass judicial oversight (s. 37).

Crucially, a sharp legal and technological distinction must be drawn between two separate events documented in the evidentiary record: (1) the June 4, 2014 Concealed RAM Dump; and (2) the March 2, 2016 Warrantless Remote Wiretap & Kernel SYS Module Dump. The latter represents a far more egregious escalation. Displeased with the stringent requirements of seeking court orders under s. 37 of the LPA, and legally incapable of obtaining lawful wiretap authorizations because it is not a "law enforcement body," the LSBC utilized the 2016 remote intrusion to circumvent federal statute—specifically section 184 of the *Criminal Code*.

The 1998 statutory architecture lacked the requisite boundaries to protect digital privacy, secure private residences from these remote criminal interceptions, or prevent the indefinite detention and spoliation of seized data to decentralized blockchains. Every explicit protection added in the 2024 Act corresponds directly to a structural vulnerability exploited under the 1998 regime to prevent a repetition of this exact technological malfeasance.

Part II: Statutory Comparison Chart

Issue	LPA 1998 (ss. 36–37)	LPA 2024 (ss. 78–80)	Which Is More Protective?
Authority to Enter Premises	**s. 36(b):** Implicit authority to investigate "books, records and accounts." Limits on entry, scope, and conditions were left entirely to subordinate legislation (Benchers' Rules), granting the regulator excessively broad discretion.	**s. 78(1):** Explicit statutory limits codified — entry permitted during business hours only, restricted to business premises only, and strictly subject to rules.	**LPA 2024** — clear, democratically enacted limits prevent administrative abuse.
Entry Into Private Residences	**Statutory silence.** The Act provided no explicit protection for private residences. The regulator historically interpreted its broad mandate under s. 36 to permit warrantless digital access and volatile-memory captures of	**s. 78(2):** Explicit prohibition. The CEO cannot enter a private residence without the express consent of the licensee or a judicial warrant. Digital intrusions are implicitly prohibited without a court order.	**LPA 2024** — major privacy upgrade; permanently closes the residential and digital loopholes historically exploited.

	devices located inside private homes.		
Search & Seizure Standard	**s. 37:** Triggered if a licensee "may have committed misconduct." An extremely broad, speculative threshold that enabled investigatory overreach.	**s. 79(3):** Demands a rigorous evidentiary threshold. Must show reasonable grounds to believe that evidence actually exists of professional misconduct or incompetence.	**LPA 2024** — establishes a higher threshold and a strictly narrowed scope.
Judicial Oversight	**s. 37(1):** While s. 37 required a court order for seizures, the regulator routinely bypassed this requirement by relying on its broad investigative powers under s. 36 to capture data without any judicial authorization.	**s. 79:** A warrant is strictly required for any intrusive search or seizure. The issuing judge must specify limits, conditions, and the exact scope of the search.	**LPA 2024** — restores and tightly interlocks judicial control, preventing the s. 36 bypass.
Production Orders	**s. 36(d):** The regulator could demand cooperation, compel the production of records, and require explanations with virtually no procedural safeguards or avenues for review.	**s. 78(3):** The CEO may order production, but this power is explicitly subject to judicial review, modification, cost orders, and requires written reasons for any resulting suspension.	**LPA 2024** — embeds procedural fairness and due process into the investigatory stage.
Protection of Personal Information	**s. 36(i) + s. 37.1:** The regulator *may* return or destroy unrelated personal info, but only "subject to rules." The statute mandated no timelines and no structural safeguards for digital privacy.	**s. 80:** Imposes mandatory judicial reporting, mandatory return of items unless continued detention is justified, strict timelines (3-month maximum), and owner access rights.	**LPA 2024** — elevates privacy protections from discretionary rules to mandatory statutory duties.
Detention of Seized Records	**No statutory limits.** The regulator could hold seized personal data and hard drives indefinitely without further judicial approval.	**s. 80(6):** Strict 3-month maximum retention period, unless the owner explicitly consents or a judge formally orders an extension.	**LPA 2024** — explicitly prevents indefinite data retention and ensures accountability.
Copying of Records	**s. 36(d):** Permitted the regulator to copy virtually anything it investigated or seized, with no explicit limits, no write-blocker mandates, and no judicial oversight.	**s. 80(3):** Copies are authorized only for explicitly detained records, placing the process squarely under judicial supervision.	**LPA 2024** — the replication of sensitive data is now strictly regulated.
Owner Access to	**Statutory silence.** No guaranteed right for the target	**s. 80(5):** The owner is guaranteed the right to	**LPA 2024** — restores

Seized Records	to inspect the seized materials or obtain copies to mount a defense.	inspect seized items at any reasonable time and obtain one copy at the regulator's expense.	transparency and equality of arms.
Scope of Search	**s. 37:** Allowed seizure of "files or other records, wherever located." Extremely broad language that was weaponized to target personal devices and volatile memory.	**s. 79(4):** The issuing judge must specifically specify the premises, strictly describe the records, impose limits, set conditions, and control the disposition.	**LPA 2024** — investigatory scope is strictly narrowed, controlled, and defined by the Court.
Oversight of Seizure Conduct	**Statutory silence.** There was no requirement to report back to a judge after a seizure was executed.	**s. 80(1):** Imposes mandatory reporting of the seizure to the issuing judge "as soon as practicable."	**LPA 2024** — adds a critical layer of post-seizure accountability.
Suspension for Non-Compliance	**No structured process.** The regulator could threaten discipline or suspension without codified procedural safeguards.	**s. 78(6)–(8):** Suspension now strictly requires written reasons, a specified duration, formal delivery, and an explicit right of review.	**LPA 2024** — administrative due process is formally codified.
Protection Against Abuse of Process	**Lacked structural safeguards.** Enabled the regulator to utilize s. 36 to conduct highly intrusive searches without judicial or external disclosure, effectively shielding unauthorized criminal interceptions.	**ss. 78–80:** Explicit limits are interlocked to prevent unauthorized digital intrusion; private residences are shielded; judicial oversight is restored; mandatory reporting and detention limits are imposed.	**LPA 2024** — structurally and permanently closes the loopholes the LSBC previously exploited.

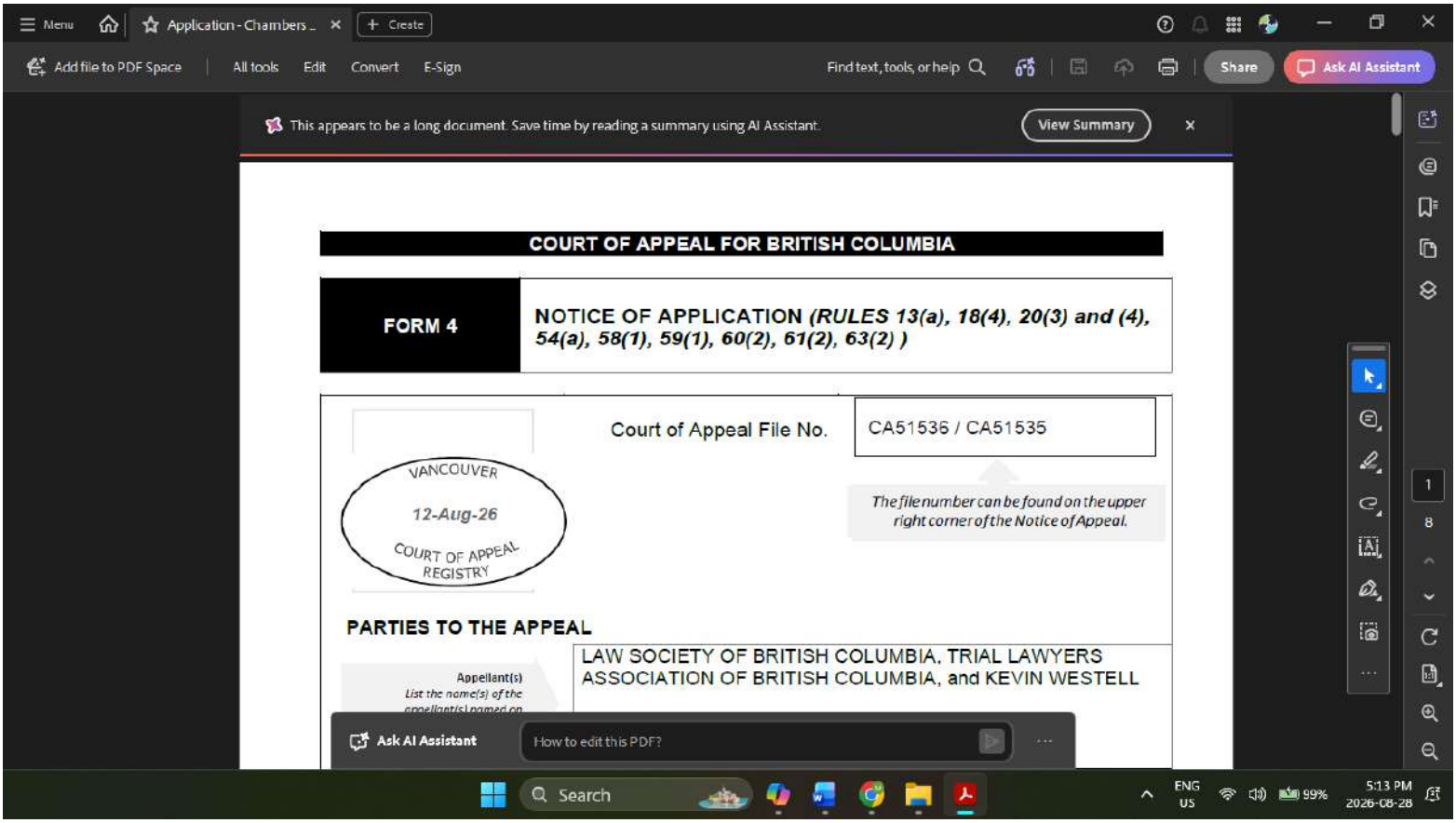
SCHEDULE "G": LEGAL AND TECHNICAL COMPARISON: RAM DUMP VS. MAR 2 2016 WARRANTLESS WIRETAP KERNEL SYS MODULE DUMP

Category	RAM Dump (Lawful Only in 3 Cases in Canadian History all involving child pornography of the most heinous life-forms (and that is charitable for those types of scum)	March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump	Could Any Warrant Authorize It?
Nature of Action	Passive capture of volatile memory	Active remote intrusion + live wiretap + kernel manipulation	No
Intrusion Level	Extreme but non-interactive	Beyond extreme — interactive, persistent, manipulative	No
System Integrity	Not altered	Altered — 8 kernel modules unloaded	No
Communication Interception	None (RAM dump ≠ wiretap)	Live interception of communications	Requires Part VI wiretap (not obtained)
Remote Access	None	Yes — remote command execution	No warrant authorizes remote intrusion
Persistence	None	Yes — WMI persistence artifacts	No
Driver / Kernel Manipulation	None	Yes — SYS module dump + driver unload	No warrant in Canada allows kernel manipulation
Command Execution	None	Yes — remote commands executed	No
Duration	Momentary snapshot	25+ minutes of active manipulation	No
Legal Basis	Judicial authorization in CP cases only	None — unauthorized Part VI wiretap + unauthorized intrusion	No
Criminal Code Compatibility	Fits within s. 487 + CP jurisprudence	Violates s. 184 (wiretap), s. 8 Charter, and system integrity principles	No

Forensic Classification	High-intrusion search	System compromise + wiretap + kernel sabotage	No

SCHEDULE "H": CSO PRINT OUT FROM THE FILE INVOLVING THE TLABC'S APPEAL (SEE: CA51536) (ALTHOUGH APPLICANT'S FILINGS FOR INTERVENTION STATUS WERE UNDER THE LSBC APPEAL FILE NUMBER CA515355)

(by reference and screenshot)



COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4	NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

VANCOUVER
12-Aug-26
COURT OF APPEAL REGISTRY

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

the same prior to, during and/or after the hearing of the Applicant's NOA to intervene, and if leave is granted, an Order dispensing with any requirements under the aforementioned statute and regulation so that the Applicant's relief is heard as proposed.

Part 2 Orders: Relief to Intervene as a Party

Order #3: An Order granting leave to Mr. Kevin A. McLean (BA, JD, CIM) to intervene as a Party in the Appeals herein and all consequential relief flowing from the granting of such an Order;

Part 3 Orders: RELIEF RELATING TO THE APPLICANT'S PROPOSED RELIEF, IF INTERVENTION STATUS IS GRANTED, IN RELATION TO DISMISSAL AND/OR QUASHING

Order #4: An Order that the substantive relief sought below be heard on the same day as the Notice of Application to intervene (the "Intervention Application" or "NOA Intervention"), in the interests of justice and judicial economy. In the alternative, an Order that the substantive relief infra be heard within one week of the hearing of

VANCOUVER
14-Aug-26
COURT OF APPEAL REGISTRY

0

COURT OF APPEAL FILE NOS. CA51536 / CA51535

COURT OF APPEAL

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS (Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS (Defendants)

MEMORANDUM OF ARGUMENT FOR LEAVE TO INTERVENE

14Aug2026	Application - Chambers > Intervener Status	B. Olthius	E	
14Aug2026	Application - Chambers > Intervener Status	I. Knapp	E	
14Aug2026	Application - Chambers > Intervener Status	C. Bildfell	E	
14Aug2026	Application - Chambers > Intervener Status	K. Lee	E	
14Aug2026	Application - Chambers > Intervener Status	J. Maclaren	E	
14Aug2026	Application - Chambers > Intervener Status	D. Redman	E	
14Aug2026	Affidavit > Stand Alone	C .Dauvergne	E	
14Aug2026	Affidavit > Stand Alone	E. Kirkpatrick	E	
14Aug2026	Affidavit > Stand Alone	B. Olthuis	E	
14Aug2026	Affidavit > Stand Alone	I. Knapp	E	
14Aug2026	Affidavit > Stand Alone	C. Bildfell	E	
14Aug2026	Affidavit > Stand Alone	K. Lee	E	
14Aug2026	Affidavit > Stand Alone	J. Maclaren	E	
14Aug2026	Affidavit > Stand Alone	D. Redman	E	
14Aug2026	Argument > Memorandum of Intervener	K. McLean	E	
14Aug2026	Argument > Memorandum of Intervener	C. Dauvergne	E	
14Aug2026	Argument > Memorandum of Intervener	E. Kirkpatrick	E	
14Aug2026	Argument > Memorandum of Intervener	B. Olthuis	E	
14Aug2026	Argument > Memorandum of Intervener	I. Knapp	E	
14Aug2026	Argument > Memorandum of Intervener	C. Bildfell	E	
14Aug2026	Argument > Memorandum of Intervener	K. Lee	E	
14Aug2026	Argument > Memorandum of Intervener	J. Maclaren	E	
14Aug2026	Argument > Memorandum of Intervener	D. Redman	E	
13Aug2026	Affidavit > Stand Alone	J. Doyle	E	
13Aug2026	Affidavit > Stand Alone	R. Millen	E	
13Aug2026	Argument > Memorandum of Intervener	J. Doyle	E	
13Aug2026	Argument > Memorandum of Intervener	R. Millen	E	
13Aug2026	Application - Chambers > Intervener Status	J. Doyle	E	
13Aug2026	Application - Chambers > Intervener Status	R. Millen	E	
12Aug2026	Application - Chambers > Intervener Status	L. Troup	E	
12Aug2026	Application - Chambers > Intervener Status	K. McLean	E	
12Aug2026	Affidavit > Stand Alone	L. Troup	E	
12Aug2026	Argument > Memorandum of Intervener	L. Troup	E	
10Aug2026	Argument > Memorandum of Intervener	C. Senini	E	
10Aug2026	Application - Chambers > Intervener Status	C. Senini	E	
10Aug2026	Affidavit > Stand Alone	C. Senini	E	
10Aug2026	Order > Lower Court		E, P	
07Jul2026	Letter/Document > Lower Court Order	Puscar	E	
06Jul2026	Transcript > Civil	G. Cameron	E	
06Jul2026	Appeal Record > Stand Alone	G. Cameron	E, P	
02Jul2026	Letter > Stand Alone	Registry	E, P	View
02Jul2026	Letter > Stand Alone	L. Bevan	E	View
29Jun2026	Notice (of) > Hearing	T. Posyniak	E	View
29Jun2026	Letter/Document > Memo From Court	Outerbridge	E	
26Jun2026	Letter > Request to Appear Remotely (Chambers)	T. Posyniak	E	
25Jun2026	Letter > Stand Alone	C. Ferris	E, P	View
17Jun2026	Letter/Document > Letter From Court Both	Outerbridge	E	

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[i] Email correspondence between LSBC counsel (Mr. Bussanich) and LSBC investigator (Mr. McCartney) demonstrates that the RAM Dump occurred at a time when Mr. Cree could not have physically arrived from Surrey to downtown Vancouver. To his credit, Mr. Cree candidly acknowledged this after extensive correspondence under the Personal Information Protection Act, S.B.C. 2003, c. 63 ("PIPA") and the Personal Information Protection and Electronic Documents Act, S.C. 2000, c. 5 ("PIPEDA"). The LSBC's own evidence therefore confirms that the forensic report was fabricated and the volatile-memory extraction was concealed.

[ii] **When silence constitutes falsity.** There are two main classes of case in which reticence may contribute to establish a misrepresentation: (1) where known material qualifications of an absolute statement are omitted; and (2) where the circumstances raise a duty on the representor to state certain matters, if they exist, and where, therefore, the representee is entitled as against the representor to infer their non-existence from the representor's silence as to them and

[iii] way of elaboration, Halsbury's notes (at paras. 749-50):

The representor must not merely abstain from positive falsehood; he must not knowingly or willingly omit anything which is required to render completely true that which without it is not completely true. … mere incompleteness is not a factor in misrepresentation; it must always be proved clearly that it rendered what was stated fallacious and false.

Where a person has said something to another, a duty may at once arise to say more, and if he fails to discharge this duty his reticence from that point becomes an implied misrepresentation, although complete silence throughout the transaction would not have amounted to, or have afforded any evidence of, misrepresentation, or even of actionable non-disclosur

[iv] Furthermore, the illusion that the LSBC and the TLABC operate as distinct, independent entities is dismantled by the executive transfer of Mr. Don Avison, K.C., who transitioned directly from his role as CEO of the regulatory body (the LSBC) into the role of CEO of the advocacy body (the TLABC).

[v] Regardless of outcome, the Applicant's unique public law perspective—grounded entirely in the LSBC's own records of which it involves a broad representative base of persons (known and unknown)—forces two unavoidable questions, especially in light of the timing of the What We Heard Report, the Intentions Paper, and the LSBC's Response to the Intentions Paper:
What was the rationale for the legislative change?
Has the LSBC failed to govern lawyers in the public interest?
The first question is multi faceted and best answered by the Respondents.

The second question answers itself. With the benefit of the LSBC's disclosed records under FIPPA to the Applicant, Applicant's forensic analysis and the LSBC's own documentary trail, the LSBC's failure is established on its face.
Proper statutory interpretation requires analysis in the past, present, and future tenses. In all three, the answer is the same: the LSBC has failed, is failing, and will continue to fail to govern lawyers in the public interest under its current structure.

Tab 4

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

Name(s) of responding person(s) to be served with the application

The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

10/09/2026

DD/MM/YYYY

Chambers applications begin at 9:30 a.m.

The applicant anticipates that this application will be…
Check only one.

☒ Contested ☐ Uncontested

Enter the section(s) or rule(s) that you are relying on for your application
E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."

Court of Appeal Act, S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, 44-46,

Court of Appeal Rules, B.C. Reg. 120/2022 (the "*COR",* "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75

Law and Equity Act, R.S.B.C. 1996, c. 253, Section 8.

Interpretation Act, R.S.B,C 1996, c 238

All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's memorandum of argument in support of this August, 29, 2026, Notice of Application ("**August 29 NOA**") seeking relief *infra* along with previously provided to the Appellants, Respondents and other intervenors and/or participants, submitted

for filing and filed documents in the herein Appeal proceedings (**"Appellate Proceedings**")

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

Part 1 Orders — Procedural Relief

Order #1: An Order abridging or extending (if applicable) the time for filing and/or service of all documents relating to this Form 4 and validating all filings *nunc pro tunc*.

Order #2: An Order dispensing with or varying any requirements under the *Court of Appeal Act* and/or the *Court of Appeal Rules* necessary to permit the hearing of this **August 29 NOA** on September 10, 2026, wherein the Applicant is the seventh of seven applicants on that day, and validating all steps taken prior to, during, and after the hearing.

Part 2 Orders — Relief to Strike LSBC's Memorandum of Argument

Order #3: An Order striking and removing from the court file physically and electronically on CSO in both Appeals **in its entirety** the written argument filed by the Law Society of British Columbia on August 21, 2026, solely in response to Mr. McLean's August 12, 2026, NOA (the "**August 12 NOA**"), on the grounds that, *inter alia*, it is scandalous, frivolous, vexatious, irrelevant, unnecessary, prejudicial, legally meritless, and/or an abuse of process.

Part 3 Orders: Relief to Strike Portions of TLABC/Westell "WRITTEN ARGUMENT"

Order #4: An Order striking and black line redacting **paragraphs 8–12** of the Memorandum of Argument served and filed by the Trial Lawyers Association of British Columbia and Kevin Westell on **August 21, 2026**, on the, inter alia, grounds that these paragraphs constitute collateral attacks, contain irrelevant, unnecessary, frivolous, vexatious, and/or prejudicial material, and are an abuse of process.

Part 4: Declarations

Order #5: A **Declaration** that the Law Society of British Columbia was aware of the Applicant's commencement of the BC Court of Appeal proceeding, under file or docket number **CA45786** involving himself and the Attorney General of British Columbia in late December 2018, and all material steps, applications, directions, and orders, including the publicly issued decision in April 2019 by The Honourable Mr. Justice Tysoe of the BCCA indexed by neutral citation *McLean v. British Columbia*, 2019 BCCA 133, thereafter, and did not object at any point or seek to be added as a respondent, an intervener, or *amicus curiae*, when the Applicant was a party (Appellant). A further **Declaration** that, as a consequence of the same, the LSBC and TLABC, in part, by virtue by Mr. Avison, KC's position as CEO of the LSBC in 2019 and CEO of TLABC in 2026, have, by the LSBC's **"WRITTEN ARGUMENT"** denoted *supra* and portions of the TLABC's **"WRITTEN ARGUMENT"** denoted *supra*, engaged in fraudulent, bad faith and/or dishonest conduct and/or abuse of process upon the BCCA in these herein Appellate Proceeding

Part 5 Orders: Special Costs

Order #6: An Order awarding **special costs (inclusive of the Applicant's disbursements)**, in an amount to assessed or lump

at the presiding Judge's discretion, payable forthwith, against counsel (emphasis on the signatory of what appears to be the signature of Ms. Laura Bevan[i] of Lawson Lundell LLP) for the Law Society of British Columbia, or in the alternative the directing minds and/or instructing representatives of the LSBC personally, for filing and serving scandalous, frivolous, vexatious, irrelevant, unnecessary, and abusive material, such special costs to be earmarked, held in trust in a lawyer's trust account, and paid to the benefit of the new regulator known as **Legal Professions British Columbia** forthwith upon amalgamation as per the statute defined herein as the *LPA 2024*.

Order #7: An Order awarding **special costs (inclusive of the Applicant's disbursements)**, in an amount to assessed or lump at the presiding Judge's discretion, payable forthwith, against counsel (emphasis on the signatory of the **"WRITTEN ARGUMENT"** in Mr. Gavin Cameron of Faskens LLP) for the Trial Lawyers Association of British Columbia or in the alternative against the CEO of the TLABC in Mr. Avison KC personally, for the serving and filing or instructing and/or authorizing the serving and filing of scandalous, frivolous, vexatious, irrelevant, unnecessary, and abusive material, special costs to be earmarked, held in trust in a lawyer's trust account, and paid to the benefit of the new regulator known as **Legal Professions British Columbia** forthwith upon amalgamation as per the statute defined herein as the *LPA 2024*.

Part 6 Orders: Residual

Order #8: An Order that a draft order may be presented by the Applicant on the day or prior to the September 10, 2026, hearings, vetted by the BCCA Registry, signed from the bench, entered forthwith, and dispensing with the need for the signature of the

Appellants. A further Order that any such provided draft Order by the Applicant shall be deemed to be filed and filed on the day he provides the same via email to the BCCA Registry via any physical, mail or electronic means, and stamped accordingly.

Order #9: An Order that the Applicant may provide an Application Book via the portal under a similarly named title or via email to the BCCA Registry and such provision of the same shall be deemed file at the time of provision such to it being properly indexed, paginated, hyperlinked and bookmarked; and

Order #10: Such further or other relief as this Honourable Court deems just and equitable.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The Applicant may rely on any or all of the following in relation to the relief sought in the Applicant's written argument inclusive of schedules and reference to other documents:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST LLP's account with ShareFile and Citrix located and accessed outside of Canada;
c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;
d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;
e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this **August 29 NOA**.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

30/08/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

[i]NOTA BENE: For clarity, the reference to *Ms. Laura L. Bevan* (called in **2009**) of Lawson Lundell LLP, counsel for the Law Society of British Columbia in these Appeals, is **not** to be confused with *Ms. Sarah A. Bevan* (called in **2004**), barrister and solicitor and employed legal counsel to the Ministry of Attorney General of British Columbia, who appeared as sole counsel of record for the Attorney General of British Columbia in the Applicant's prior appeal commenced in December 2018 under docket **CA45786**, and who is identified as counsel in the publicly issued decision of The Honourable Mr. Justice Tysoe in **McLean v. British Columbia, 2019 BCCA 133**.

Tab 5

Court of Appeal File Nos. CA51536 / CA515355

IN THE COURT OF APPEAL FOR BRITISH COLUMBIA

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

(Appellants / Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

(Respondents / Defendants)

WRITTEN ARGUMENT OF THE APPLICANT PERTAINING TO THE AUGUST 30 2026 NOTICE OF APPLICATION

Hearing date: **September 10, 2026**
Hearing location: The British Columbia Court of Appeal (the “BCCA”) at 800 Smithe Street, Vancouver, BC, V6Z 2E1
Commencement of chambers: 9:30 a.m.
Hearing type: chambers
Type of judge: single justice
Applicant’s position on said date: seven out of seven

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PART 1: INTRODUCTION, PROCEDURAL POSTURE, AND IDENTIFICATION OF THE IMPUGNED ACTA

1. The Applicant repeats and relies upon the facts contained in his tendered and/or provided, filed and/or served **"documents** as of today's date. He repeats and relies upon the definitions contained therein.
2. The Applicant seeks the relief contained in the August 12 and 30 NOA's.
3. It is acknowledged that a formal scheduling directive regulating the filing of intervention applications was promulgated by the British Columbia Court of Appeal (the "**Court of Appeal**"). Although an explicit formal directive or order was not immediately accessible to the public, the registry of the Court of Appeal graciously provided notification of the requisite timelines upon the initial submission of materials, and strict conformity with said schedule was dutifully maintained.
4. As no explicit statutory right of reply is readily apparent within the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "***Court of Appeal Rules***"), the insertion of highly objectionable, scandalous, and legally incompetent material within the responsive filings compels immediate action to preserve the unassailable integrity of the appellate record.
5. The materials currently impugned encompass specific, severable components of the memorandums of argument (the "**Memorandums of Argument**") submitted in opposition to the pending intervention application. Specifically, the Notice of Application is advanced to strike the following absolute nullities:
    a. The standalone memorandum of argument directed exclusively at the Applicant by the Law Society of British Columbia (the "**LSBC**"), in its entirety; and
    b. The black-line redaction of paragraphs 8 through 12, inclusive, of the memorandum of argument filed by the Trial Lawyers Association of British Columbia (the "**TLABC**") and Kevin Westell.
6. It is concomitantly established that upon the striking of the aforementioned offending **"documents**, the residual, non-impugned written arguments are rendered completely devoid of any substantive legal analysis or foundational bases with which to defend against the relief in the **Aug 12 NOA**. No relief is sought in this regard in relation to the generalized memorandum of argument tendered by the LSBC applicable to all applications of all interveners.

PART 2: STATEMENT OF ISSUES

7. This Notice of Application raises both procedural and substantive issues of law concerning the jurisdiction of the Court of Appeal, the proper characterization and treatment of documents filed in response to an intervention application, the limits of amendment under Rule 82, the separation of trial and appellate proceedings, and the professional obligations of counsel. The issues are organized thematically as follows:

PART 2(A): INITIAL ISSUES OF LAW

Part 2(A)(I): Practice and Procedure

Part 2(A)(I)(a): Definition of "Document"; Lacunas; Striking of Documents or Portions Thereof; and Related Procedural Questions

a. **Issue #1:** What constitutes a "document" within the meaning of the *Court of Appeal Act* ("COAA") and the *Court of Appeal Rules* ("COR"), and whether responsive written arguments fall within that definition for the purposes of striking or expungement.
b. **Issue #2:** (a) Whether the COAA or COR authorize a "person" to apply to strike documents filed in the Court of Appeal. (b) If so, whether the COAA and/or COR provide explicit or implicit jurisdiction for a justice of the Court of Appeal to strike documents, and under which statutory provision or rule such jurisdiction arises. (c) If not expressly provided, which provision of the COAA and/or COR authorizes an **analogous application** of the *BC Supreme Court Civil Rules*, and specifically which rule(s) govern the striking of documents other than pleadings or petitions.
c. **Issue #3:** Whether the analogous BC Supreme Court Civil Rules—particularly Rule 9-5(1)(a–d), which expressly applies to "documents other than pleadings"—and their judicial interpretation render the LSBC's and TLABC's responsive written arguments subject to striking.
d. **Issue #4:** When Rule 9-5(1)(a–d) is applied by analogy pursuant to s. 18(2) of the COAA, what evidentiary requirements or restrictions govern such applications, and whether those requirements vary depending on which clause of Rule 9-5(1) is invoked.

Part 2(A)(I)(b):Amendment of Filed Documents in the Court of Appeal

e. **Issue #5:** Whether the LSBC's written argument and the TLABC's written argument fall within any of the exceptions under COR Rule 82(2)–(4) or Rule 82(5). If not, what steps would the LSBC or TLABC be required to take under Rule 82(1) to amend their filed documents.
f. (a) If the LSBC sought consent of the parties or leave of a justice or the Registrar to amend, would such amendments be permissible at common law given that the LSBC has already filed a general written argument applicable to all intervenor applications? Further, would the LSBC require a formal order of the Court of Appeal to amend past the filing deadline prescribed by the Court's intervention schedule?
g. (b) If the TLABC sought to amend its written argument, what would be the practical and legal effect of removing paragraphs 8–12, and whether such removal would constitute inconsistent pleading or an impermissible attempt to sanitize scandalous material after the fact.

PART 2(B): SUBSTANTIVE ISSUES OF LAW

Part 2(B)(I): Nature of Proceedings

h. **Issue #6:** Whether a lower-court proceeding and an appellate proceeding constitute a single continuous proceeding or are, at law, distinct and separate proceedings governed by different statutes, rules, jurisdictional limits, and evidentiary regimes.

PART 2(B)(II): STRIKING OF DOCUMENTS AND CONSEQUENTIAL RELIEF

The Law Society of British Columbia (LSBC)

i. **Issue #7:** Whether the LSBC's four-page written argument filed on August 21, 2026:(a) discloses no reasonable defence to the relief sought in the August 12 NOA; (b) is demonstrably unnecessary, scandalous, frivolous, or vexatious; (c) may prejudice, embarrass, or delay the fair hearing of the proceeding; and/or (d) constitutes an absolute abuse of the process of the Court.

The Trial Lawyers Association of British Columbia (TLABC)

j. **Issue #8:** Whether paragraphs 8–12 of the TLABC's four-page written argument filed on August 21, 2026:(a) disclose no reasonable defence to the relief sought in the August 12 NOA; (b) are demonstrably unnecessary, scandalous, frivolous, or vexatious; (c) may prejudice, embarrass, or delay the fair hearing of the proceeding; and/or (d) constitute an absolute abuse of the process of the Court.

PART 2(C): THE LAWYERS' OBLIGATIONS

k. **Issue #9:** Whether counsel for the LSBC and TLABC, as officers of the Court and members of the LSBC, have breached their legal and professional obligations by engaging in conduct that they knew or ought to have known would assist or encourage dishonesty, fraud, or abuse of process, through the serving and filing of written arguments sought to be struck in whole or in part.

PART 2(E): COSTS

l. **Issue #10:** Whether the conduct of LSBC counsel, Ms. Laura Bevan, is deserving of judicial rebuke and whether the Court of Appeal must disassociate itself from such conduct. If so, whether special costs should be awarded personally against counsel or against the LSBC.

m. **Issue #11:** Whether the conduct of TLABC counsel, Mr. Gavin Cameron, is deserving of judicial rebuke and whether the Court of Appeal must disassociate itself from such conduct. If so, whether special costs should be awarded personally against counsel or against the TLABC.

PART 3: ARGUMENT

PART 3(A): LEGAL BASES

Part 3(A)(I): The Inapplicability of Rule 60(1)(a) and the Analogous Application of Civil Rules

8. It is systematically established that *Rule 60(1)(a)* of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "***Court of Appeal Rules***"), vests jurisdiction strictly to "strike part of a factum." Consequently, this specific subrule is rendered definitively inapplicable to the striking of a written argument, denoted as memorandums of argument by the TLABC and LSBC, advanced in response to an NOA.

9. Therefore, pursuant to section 18 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "***COAA***"), the analogous application of *Rule 9-5* of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 (the "**BCSC Civil Rules**"), is irrevocably mandated to adjudicate the expungement of such incidental documentation and affiliated submissions. A "reasonable defence" is jurisprudentially defined as a substantive legal or factual rejoinder that possesses a modicum of tenability, functioning to traverse or mitigate the

allegations advanced. An assertion completely devoid of legal foundation or factual substantiation definitively fails to meet this threshold.

10. When there is no statutory or prescribed definition of a word, term or phrase, the starting point is the English dictionary.

Part 3(A)(II): "Reasonable" and "Defence"

11. It is trite that "reasonable" connotes the objective person standard and "defence" is analogized to that of defending anything in a proceeding including the impugned MOA's of the LSBC and portions of the TLABC's MOA.

Part 3(A)(III): The Jurisprudence of Rule 9-5(1)(b) (prejudice, embarrass or delay a hearing) and (c) – Unnecessary, Scandalous, Frivolous, and Vexatious Pleading, Petition or ***"documents***

12. *Rules 9-5(1)(b)* and *(c)* of the *BCSC Civil Rules* are customarily adjudicated in tandem.

Part 3(A)(III)(a): no statutory or prescribed definitions

13. "Unnecessary": means something is not needed, not required, or more than what is wanted (see: https://dictionary.cambridge.org/dictionary/english/unnecessary).
14. "Scandalous": adjective that means shocking, disgraceful, or deeply offensive to accepted moral standards and public decency; or offensive to propriety or morality (see: https://www.merriam-webster.com/dictionary/scandalous).
15. "Frivolous": behaving in a silly way and not taking anything seriously (see: https://dictionary.cambridge.org/dictionary/english/frivolous) and having no sound basis (as in fact or law) (see: Merriam-Webster Online Dictionary).
16. "Vexatious": intended to harass (see: Merriam-Webster Online Dictionary).
17. "Prejudice": injury or damage resulting from some judgment or action of another in disregard of one's rights especially : detriment to one's legal rights or claims (see: Merriam-Webster Online Dictionary).
18. "Embarrassment": to hamper the movement of, or to make intricate : complicate(Merriam-Webster Online Dictionary)
19. "Delay": the act of postponing, hindering, or causing something to occur more slowly than normal : the state of being delayed (see: Merriam-Webster Online Dictionary).

Part 3(A)(III)(b): Jurisprudential analysis of the above prescribed language

20. While exhaustive enactment definitions encapsulating when a pleading or submission is "unnecessary," "scandalous," "frivolous," or "vexatious," or when it may "prejudice, embarrass or delay," does not exist, an expansive body of jurisprudence illuminates the qualitative character of **"documents** vulnerable to expungement beneath these provisions.

Part 3(A)(III)(b)(i): Embarrassing, Unnecessary, Vexatious, Frivolous

21. Irrelevancy and embarrassment are systematically established when pleadings are so profoundly obfuscated that comprehension of the core allegations is rendered functionally impossible.
22. A **"document"** is classified as "embarrassing" and "scandalous" if it is so entirely irrelevant that it threatens to entangle the parties in useless financial attrition and prejudices the adjudication by precipitating disputes completely disconnected from the substantive *lis*. A **"document"** is further classified as embarrassing if the genuine issue is not articulated in an intelligible format, if it is excessively prolix, or if it inappropriately integrates irrelevant facts, evidentiary components, or premature legal argumentation.
23. A **"document"** is deemed "unnecessary" or "vexatious" if it fundamentally fails to advance any claim or defence recognized within the common law.

Part 3(A)(III)(b)(i):Prejudicial

24. A submission **"document"** is definitively prejudicial if its architecture is explicitly calculated to confound the opposing party, thereby rendering a coherent rejoinder exceptionally arduous or entirely impossible, as codified in *McNutt v. A.G. Canada et al.*, 2004 BCSC 1113 (*the "McNutt Decision"*), at para. 41.

Part 3(A)(III)(b)(i):Scandalous **"documents**

25. The characterization of a **"document"** as scandalous is invoked when the drafting is so extraordinarily defective that it subjects the respective parties to unwarranted expense or forces the litigation of matters completely extraneous to the foundational claim, as elucidated in *Gill v. Canada*, 2013 BCSC 1703 (*the "Gill Decision"*), at para. 9.

Part 3(A)(III)(b)(ii):Frivolous **"documents**

26. Furthermore, a **"document"** is deemed "frivolous" if it is manifestly unsustainable—for instance, due to the absolute preclusion imposed by the doctrine of estoppel. These axioms are definitively articulated in *Citizens for Foreign Aid Reform Inc. v. Canadian Jewish Congress*, 1999 CanLII 5860 (BC SC) (*the "Citizens for Foreign Aid Reform Decision"*), at para. 47.

27. Lastly, a submission is strictly frivolous if it remains utterly devoid of substantive foundation, is fanciful or groundless, functionally trifles with the solemnity of the adjudicative body, or inexcusably squanders judicial economy, as established in *Simon v. Canada (Attorney General)*, 2015 BCSC 924 (*the "Simon Decision"*), at para. 95.

Part 3(A)(III)(b)(iii): Further jurisprudence on intertwining language principles

28. The foundational principles animating an application pursuant to *Rule 9-5(1)(b), (c)*, and *(d)* were comprehensively synthesized in *Sahyoun v. Ho*, 2015 BCSC 392 (*the "Sahyoun Decision"*). Within the *Sahyoun Decision*, at paragraphs 58 through 63, the Court systematically adopted the framework articulated in *Willow v. Chong*, 2013 BCSC 1083 (*the "Willow Decision"*), affirming that a pleading is demonstrably unnecessary or vexatious if it serves no useful purpose and merely wastes public resources. It was further established, relying upon *Keddie v. Dumas Hotels Ltd.* (1985), 1985 CanLII 417 (BC CA) (*the "Keddie Decision"*), that an "embarrassing" **"document"** is one so irrelevant that its preservation involves useless expense. Most crucially, relying upon *Virk v. Brar*, 2012 BCSC 1004 (*the "Virk Decision"*), the Court recognized a profound overlap betwixt and between the subsections, confirming that a submission devoid of a reasonable cause or defence can concurrently be struck as unnecessary, frivolous, vexatious, and an absolute abuse of the court's process should the litigant persist in advancing defective positions.

Part 3(A)(III)(c): Analogous Application of Rule 9-5(1)(d) – Abuse of Process and Evidentiary Parameters (distinct from 9-5(1)(a))

29. It is a foundational legal axiom that an application mounted pursuant to *Rule 9-5(1)(d)* of the *BCSC Civil Rules* does not compel the adjudicative body to assume the truth of the facts pleaded, a stark departure from the strictures of *Rule 9-5(1)(a)*. This distinction is unequivocally affirmed in *Krist v. British Columbia*, 2017 BCCA 78 (*the "Krist Decision"*), at para. 28.
30. The doctrine of abuse of process operates as a flexible, inherent jurisdictional safeguard engineered to preclude proceedings that are manifestly oppressive or vexatious, or that fundamentally violate the immutable principles of justice undergirding the community's standard of fair play and decency. The doctrine is primarily concerned with the preservation of a fair trial process and the unimpeachable integrity of the administration of justice, as articulated by the Supreme Court of Canada in *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 (*the "C.U.P.E. Decision"*), at paras. 35-37.
31. The doctrine of abuse of process possesses a profound breadth of application across disparate legal contexts. It is routinely operationalized to neutralize scenarios wherein litigation operates as a collateral

attack upon distinct proceedings, undermines the absolute finality of judgments, or constitutes an impermissible endeavor to re-litigate substantive matters that have been historically and definitively resolved. This principle is reinforced in both the *C.U.P.E. Decision* and *Chapman v. Canada (Minister of Indian and Northern Affairs)*, 2003 BCCA 665 (*the "Chapman Decision"*), at para. 20. To further buttress this imperative, the venerable legal maxim *Nemo debet bis vexari pro una et eadem causa* (no man shall be placed twice in jeopardy for the same offence or cause) is explicitly invoked.

32. The overarching concept of an abuse of process is inherently generalized, ensuring that the recognized categories of abuse remain permanently open. Consequently, the doctrine retains the uninhibited capacity to capture any conceivable circumstance in which the procedural apparatus of the court is operationalized for an improper, ulterior purpose, as established in *SWS Marketing Inc. v. 1125003 B.C. Ltd.*, 2022 BCSC 2166, aff'd 2023 BCCA 225 (*the "SWS Marketing Decision"*), at para. 41.

33. Actions that definitively fall within the ambit of abuse of process explicitly include proceedings engineered to deceive the adjudicative body, filings constituting a mere sham, the utilization of court procedure in a manner that is manifestly unfair or dishonest, the prosecution of baseless or useless *acta*, or the initiation of multiple or successive proceedings designed solely to oppress or harass opposing entities, as outlined in *0742848 B.C. Ltd. v. Squamish (District)*, 2017 BCSC 2177 (*the "Squamish District Decision"*), at para. 23.

34. The operationalization of this doctrine is further illuminated by *9095900 Canada Ltd. v. Baikoghli*, 2026 BCSC 839 (*the "Baikoghli Decision"*). Within the *Baikoghli Decision*, The Honourable Justice Lachance definitively held that *Rule 9-5(1)(d)* explicitly authorizes the striking of pleadings as an abuse of process, wherein contextual evidence is affirmatively permitted (paras. 38–39). It was established that abuse of process encompasses *res judicata* and cause of action estoppel, yet extends far beyond these technical demarcations to preclude the undermining of finality, judicial economy, and the integrity of the adjudicative process (paras. 40–44, 59–64).

Part 3(A)(III)(c)(i):Evidentiary Admissibility on Applications Pursuant to Rule 9-5(1):

35. It remains a critical procedural imperative that no extrinsic evidence is admissible within an application brought strictly beneath *Rule 9-5(1)(a)*. Conversely, evidence is affirmatively rendered admissible within applications pursued pursuant to *Rules 9-5(1)(b), (c)*, or *(d)*. However, the admissibility of such evidence is strictly demarcated; it is permitted solely for the explicit purpose of demonstrating that the impugned pleadings or submissions are demonstrably unnecessary, scandalous, frivolous, vexatious, prejudicial, embarrassing, or constitute an absolute abuse of process, as codified within the *Chapman Decision*, at para. 14.

36. No evidentiary record is required to determine whether the LSBC's four-page written argument or paragraphs 8–12 of the TLABC's written argument disclose a "reasonable defence" to the relief sought in the August 12 NOA. This issue is resolved purely as a matter of law. The defect is not factual — it is jurisdictional and doctrinal. The Appellants have directly affronted the authority of the Court of Appeal by invoking an antecedent 2018 order of the Supreme Court of British Columbia to undermine, contradict, and collaterally attack the Court's own acceptance of jurisdiction in docket **CA45786**, an appeal commenced by the Applicant in late December 2018. That jurisdiction was subsequently affirmed and reaffirmed through multiple appellate determinations, including those of **The Honourable Madam Justice Stromberg-Stein**, **The Honourable Mr. Justice Tysoe**, and other members of the Court. A responsive written argument that attempts to relitigate or invalidate the Court's prior exercise of jurisdiction — by reference to a lower-court order that functus officio rendered spent — cannot, as a matter of law, constitute a reasonable defence. It is a textbook collateral attack and an abuse of process.

PART 3(B): THE COAA, SPECIFIC PROVISIONS AND THE INTERPRETATION ACT (BC)

37. Section 20 of the *Court of Appeal Act* ("COAA") governs preliminary objections and is **not confined to parties**. The statutory language permits "the court" or "a justice," *on application*, to make any order necessary to give effect to a preliminary objection, including quashing an appeal for lack of jurisdiction. By contrast, **Rule 60 of the Court of Appeal Rules** is expressly confined to **parties**, as only a party may apply to quash an appeal under Rule 60(1)(a). The LSBC and TLABC, neither of whom are parties to the appeal, cannot invoke Rule 60 to ground any purported jurisdictional objection. Their responsive written arguments therefore fall outside the scope of Rule 60 and cannot be characterized as proper preliminary objections.
38. Further, the LSBC's own admissions in its response to the Attorney General's Intentions Paper—where it conceded that only a majority of lawyers need comprise the new regulator's board—render any purported jurisdictional challenge untenable. The Respondents were not required to plead the law of admissions; the admissions bind the LSBC independently.
39. Accordingly, the Court's jurisdiction to strike documents, grant declaratory relief, and issue ancillary orders arises under ss. 24 and 25 of the COAA, which empower the Court to:(a) **make any order that the court appealed from could have made** (s. 24(1)(a)); (b) **make any additional order that it considers just** (s. 24(1)(c)); and (c) **exercise any original jurisdiction necessary or incidental to the hearing and determination of an appeal** (s. 25(1)(c)).
40. These provisions collectively authorize the Court to control its own process, strike scandalous or abusive documents, and prevent collateral attacks on its jurisdiction.

Part 3(B)(I): *The "May" becomes a "Must" in relation to when an application is made*

41. The permissive term "may" does not always confer unfettered discretion. Context, purpose, and statutory design can transform "may" into "must" when the power is conferred for the benefit of a defined class of persons and when the conditions for its exercise are met. The leading authority is *Julius v. Oxford (Lord Bishop)* (1880), 5 App. Cas. 214 (H.L.), where Lord Cairns held at pp. 222–23:

> "But there may be something in the nature of the thing empowered to be done, something in the object for which it is to be done, something in the conditions under which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so."

42. This principle is dispositive: when a statutory power exists to effectuate a legal right, the permissive language becomes mandatory once the right-holder invokes the power.

43. *Julius* has been repeatedly adopted in Canadian jurisprudence:

    a. ***Labour Relations Board v. The Queen*, 1955 CanLII 82 (SCC)** Kerwin C.J. and the Court held that although the statute used permissive language ("may rescind or amend"), the Board was **under a duty** to act when properly called upon.
        i. "Although the language… was permissive, it imposed a duty upon the Board to exercise this power when properly called upon to do so."
    b. ***Re Pentagon Construction Co. Ltd.*, 1959 CanLII 828 (ON HCJ)** Hughes J. reaffirmed *Julius*, quoting Earl Cairns L.C.: Where a power is deposited with a public officer for the purpose of being used for the benefit of persons… that power ought to be exercised, and the Court will require it to be exercised." Lord Blackburn added: "The enabling words are construed as compulsory whenever the object of the power is to effectuate a legal right."
    c. ***Regina v. Ontario Labour Relations Board, Ex parte TRW Electronic Components Ltd.*, [1970] 2 O.R. 40** Fraser J. confirmed that enabling words are construed as mandatory where the object is to effectuate a legal right.
    d. **(d) *Regina v. Moore*, 1985 CanLII 1971 (ON CA)** Mackinnon A.C.J.O. held that once statutory conditions are met, the court has **no discretion** to refuse the finding:
        i. "In such cases the exercise of the power depends not upon the court's discretion, but upon proof of the circumstances… and 'may' relates to the contingency of proof."

44. These authorities collectively establish that when a statutory power exists to effectuate a legal right, the decision-maker is **obligated** to act once the right-holder invokes the power.

45. Ergo, the Court of Appeal is **obligated** to hear and determine the Applicant's Notices of Application, and the relief to strike must be heard **first**. If the LSBC's four-page written argument is struck in its entirety, and paragraphs 8–12 of the TLABC's written argument are struck, the Appellants are left with **no defence** to the relief sought in the August 12 NOA.

46. The Attorney General of British Columbia ("AGBC") opposes intervention but does **not** oppose Orders 4–10. The AGBC's opposition rests on two grounds: (i) alleged absence of a broad representative base; and (ii) alleged expansion of issues in the appeals.

47. As to (i), the technological and legal analysis—particularly the decoding of hexadecimal data from the LSBC's FIPPA "record"—demonstrates that the Applicant represents the **broadest base of affected**

persons in the history of intervention applications. This is a domain unfamiliar to most lawyers, and the AGBC may not have previously appreciated its breadth.

48. As to (ii), the relief sought does **not** expand the issues; it narrows them, protects judicial economy, and prevents misuse of public resources. It would be contrary to the AGBC's mandate to oppose relief that reduces cost, time, and complexity.

49. Neither the LSBC nor the TLABC has brought an application to set aside the entirety of the proceeding between the Applicant and the AGBC in docket CA45786, nor have they sought to vacate any step, order, or declaration therein. They have not sought to challenge the Court's prior exercise of jurisdiction, nor have they attempted to alter the common law precedent arising from that appeal.

50. Accordingly, the Court has **no jurisdiction** to revisit or disturb CA45786. Conversely, the Applicant's Notices of Application fall squarely within the Court's jurisdiction and **obligate** the Court to hear and determine them. This obligation does not guarantee success on the merits, but it does compel adjudication.

Part 3(B)(II): Section 30 of the COAA

51. Pursuant to subsections 30(a) and (b) of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "***COAA***"), the jurisdiction to make the order sought is definitively established. These provisions provide as follows: "In an appeal or other matter before the court, a justice may do one or more of the following: (a) make orders incidental to the appeal or matter not involving a decision of the appeal on the merits;(b) make orders or give directions for the purposes of managing the conduct of the appeal or other matter". The jurisprudential interpretation of these provisions is unequivocally elucidated in *Delane Industry Co. Ltd. v. Tsawwassen Quay Market Corporation*, 2024 BCCA 107 (*the "Delane Industry Decision"*), at para. 12, wherein it was held:"[12] The broad language used in these subsections is intended to empower a justice to make orders incidental to an appeal that are shown to be required in the interests of justice. I see no reason to give the language used by the legislature in ss. 30(a) and (b) an unduly restrictive meaning: see *Mott v. Pacific National Exhibition*, 2001 BCCA 731 at para. 30. The words "incidental to the appeal" encompass the making of an order "that has a minor or subordinate role in relation to the outcome of the appeal": *Strata Plan 1229 v. Trivantor Investments International Ltd.* (1996), 24 B.C.L.R. (3d) 292 (C.A.), 76 B.C.A.C. 289 at para. 25. I consider the order sought on this application to be an order "incidental to the appeal". Plainly, it is not an order involving a decision of the appeal on the merits. Further, I am satisfied it is in the interests of justice that the order be made.

PART 3(C):THE DOCTRINE OF ABUSE OF PROCESS (GENERAL)

52. The doctrine of abuse of process is further buttressed by authorities that are incontrovertibly dispositive:

a. In the *C.U.P.E. Decision*, at para. 3, the Supreme Court of Canada held that advancing irreconcilable factual positions in different proceedings is strictly impermissible
b. In *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5 (*the "First Majestic Decision"*), at para. 22, the Court confirmed that inconsistent positions maintained in prior proceedings effectively constitute an abuse of process.
c. In *Mystar Holdings Ltd. v. 247037 Alberta Ltd.*, 2009 ABQB 480 (*the "Mystar Holdings Decision"*), the court ruled that a party is strictly prohibited from deliberately arguing diametrically inconsistent facts across various actions, thus knowingly advancing irreconcilable positions not articulated as alternative claims.
d. In *Glover v. Leakey*, 2016 BCSC 1624 (*the "Glover Decision"*), Madam Justice Gropper affirmed that abuse of process extends to any circumstance in which the procedure of the court is operationalized for an improper or ulterior purpose.
e. In *Jensen v. Ross*, 2014 BCCA 173 (*the "Jensen Decision"*), the Court established that the doctrine of abuse of process applies equally whether the inconsistent positions arise within a superior court or an inferior tribunal.
f. In *Pepper's Produce Ltd. v. Medallion Realty Ltd.*, 2012 BCCA 247 (*the "Pepper's Produce Decision"*), at para. 28, Madam Justice Levine found that inconsistent positions cannot stand concurrently, and to protect the integrity of the judicial process, an abuse of process must be found in such situations
g. In *Halagan v. Reifel*, 1997 CarswellBC 4040 (*the "Halagan Decision"*), Madam Justice Satanove held that a party cannot approbate and reprobate, establishing that court processes are not a game to be manipulated according to perceived strategic advantage
h. In *Canam Enterprises Inc. v. Coles*, 2000 O.J. No. 4930 (C.A.) (*the "Canam Enterprises Decision"*), the Ontario Court of Appeal affirmed the inherent jurisdiction of courts to preclude abuses of process, explicitly inclusive of professional conduct architected to manipulate or mislead the adjudicative body.

PART 3(D): APPEALS ARE SEPARATE PROCEEDINGS GOVERNING BY THE HIGHER COURT WHICH IS NOT BOUND BY LOWER COURT DECISIONS

53. It is a foundational principle of Canadian appellate jurisprudence that an appeal is not a continuation of the trial-level proceeding, nor is it a mere procedural extension of the lower court action. Rather, an appeal constitutes a **jurisdictionally independent and procedurally distinct proceeding**, governed by a separate statutory regime and adjudicated by a different court exercising a different function. This separation is not conceptual or rhetorical; it is legally absolute.

Part 3(D)(I): Appeals Exist Only by Statute — They Are Not Continuations of the Trial

54. The Supreme Court of Canada has unequivocally held that **there is no common law right of appeal**. Appeals exist solely because a legislature has chosen to create them. In *Kourtessis v. M.N.R.*, [1993] 2 S.C.R. 53, the Court confirmed that an appeal is a "creature of statute," meaning that the appellate process is not a natural or automatic extension of the trial, but a **new proceeding** created by legislative enactment.
55. This statutory bifurcation is reflected in British Columbia's procedural architecture:
    a. **The lower-court proceeding** is governed by the *Supreme Court Act* and the *Supreme Court Civil Rules* (or Provincial Court equivalents).

b. **The appeal proceeding** is commenced under the *Court of Appeal Act*, S.B.C. 2021, c. 6, and governed by the *Court of Appeal Rules*.

56. The filing of a Notice of Appeal does not "continue" the trial. It **initiates a new proceeding** before a different court, with different judges, different jurisdiction, different powers, and different procedural requirements.

Part 3(D)(II): Functus Officio — The Lower Court's Jurisdiction Ends Completely

57. The doctrine of **functus officio** is the jurisprudential firewall separating the trial from the appeal. Once a final judgment is pronounced and entered, the trial judge's jurisdiction is exhausted. The lower court is legally prohibited from revisiting, altering, or continuing the proceeding, save for narrow clerical exceptions.
58. In *Chandler v. Alberta Association of Architects*, [1989] 2 S.C.R. 848, the Supreme Court of Canada held that once a tribunal has reached a final decision, "its jurisdiction is spent." The British Columbia Court of Appeal reaffirmed this principle in *Esteghamat-Ardakani v. Taherkhani*, 2023 BCCA 50, holding that once a final order is entered, the lower court is functus officio and the proceeding is concluded. Any further legal action must occur in a **new proceeding** — the appeal.
59. This doctrine is dispositive: **If the lower court's proceeding is legally over, the appeal cannot be its continuation.**

Part 3(D)(III): The Lawyer's Retainer Ends — A New Proceeding Requires New Representation

60. Rule 22-6(1) of the *Supreme Court Civil Rules* provides that a lawyer of record remains counsel only "until the proceeding is concluded." Once the final order is entered, the lower-court proceeding is concluded, and the lawyer's retainer terminates automatically.
61. If a party wishes to appeal, they must:
    a. commence a **new proceeding** (Notice of Appeal), and
    b. retain counsel anew for that separate appellate proceeding.
62. This procedural reality reinforces the doctrinal separation between trial and appeal.

Part 3(D)(IV): The Closed Record — The Appeal Is Not a Trial De Novo

63. The evidentiary regime further confirms the separation. The appellate court does not conduct a new trial, hear witnesses, or re-open the factual record. The appeal is restricted to the "four corners" of the lower-court record.

64. Fresh evidence may only be admitted through a specific, stringent application under the *Palmer* test (*Palmer v. The Queen*, [1980] 1 S.C.R. 759). This evidentiary wall exists precisely because the lower-court proceeding is **closed**, and the appeal is a **separate statutory review**, not a continuation.

Part 3(D)(V): Summary of the principles of an appellate proceeding being distinct from an BCSC proceeding

65. The separation between trial and appeal is established through:
    a. **Statutory creation** of appeals (*Kourtessis*).
    b. **Functus officio**, which terminates lower-court jurisdiction (*Chandler*; *Esteghamat-Ardakani*).
    c. **Termination of the lawyer's retainer** upon conclusion of the lower-court proceeding (Rule 22-6).
    d. **The closed appellate record**, requiring Palmer applications for fresh evidence (*Palmer*).
66. These principles collectively establish that an appeal is a **distinct proceeding**, governed by a separate statutory regime, adjudicated by a different court, and insulated from the lower-court process.

Part 3(D)(VI): Conclusion and Public Interest Implications

67. The Appellants' written arguments, as particularized herein, disclose **no reasonable defence** to the relief sought in the Applicant's August 12 Notice of Application. They are, in their structure and content, **prejudicial, embarrassing, and obstructive** to the fair hearing of the proceeding. They contain **scandalous, frivolous, vexatious, and unnecessary** assertions that fall squarely within the categories warranting expungement under Rule 9-5(1)(b)–(d).
68. Concurrently, the documents constitute an **abuse of process**. They attempt to collaterally attack the Court's acceptance of jurisdiction in December 2018, the Attorney General's attornment to that jurisdiction, and the LSBC's longstanding knowledge of the proceeding — all without having brought any application to set aside or challenge docket CA45786.
69. The filings were plainly motivated by apprehension: apprehension of the LSBC's own admissions, apprehension of the documentary record demonstrating systemic governance failures, and apprehension of the Applicant's ability to expose the LSBC's technological misconduct spanning more than a decade. These failures include, inter alia:
    a. the **Concealed RAM Dump** of June 2014;
    b. the **unauthorized disclosure of personal information and PHI** to foreign blockchains outside PIPEDA and GDPR protection; and
    c. the **March 2, 2016 Warrantless Wiretap Kernel SYS Module Dump**.
70. These events form part of the rationale for the legislative overhaul reflected in ss. 78–80 of the *Legal Professions Act, 2024*, replacing ss. 36, 37, and 88 of the repealed LPA 1998. They raise a serious and

unresolved question: whether the LSBC has injected malicious software into the CPUs of other members since the advent of Rule 4-43 in 2010.

Part 3(D)(VI)(a): CASL implications for the current structure that has failed and is failing to govern lawyers in the public interest and protects the rights and freedoms of all person

71. Under Canada's Anti-Spam Legislation ("CASL"), S.C. 2010, c. 23, the LSBC's conduct was not merely unlawful — it was reckless, self-interested, and indifferent to the risks imposed upon its membership. CASL was enacted to protect Canadians from unauthorized electronic incursions, and the LSBC's actions fall squarely within the statutory prohibitions.
72. CASL establishes a comprehensive regulatory perimeter prohibiting unauthorized installation or execution of computer programs on another person's device. Parliament enacted CASL to safeguard the Canadian economy and the privacy rights of individuals by regulating intrusive digital conduct.
73. Section 8(1) of CASL prohibits the installation or causing of installation of a computer program on another person's system without **express, informed consent**. Section 10 imposes heightened disclosure obligations where the program accesses private data, alters system parameters, or circumvents access controls. Absent such disclosure, any purported consent is a legal nullity.
74. Section 20 of CASL empowers the CRTC to impose **administrative monetary penalties ("AMPs")** up to $10,000,000 for non-individual entities. Section 20(3) requires consideration of the nature, scope, duration, and financial benefit of the intrusion.
75. The software-installation prohibitions came into force on January 1, 2015. Any executable code, surveillance artifact, or persistent mechanism deployed after that date falls within CASL's enforcement perimeter.
76. On June 4, 2014, under the guise of executing a Rule 4-43 production order, LSBC investigators executed **DumpIt.exe** directly into the Applicant's CPU and volatile RAM — a technological intrusion wholly outside the statutory scope of "books, records and accounts" under s. 36 of the LPA 1998.
77. Volatile memory contains real-time computational data, cryptographic tokens, ephemeral keys, privileged communications, and active processes. Extracting RAM is categorically distinct from copying static records and necessarily alters the CPU's internal state. The LSBC's actions exceeded statutory authority and breached privilege-protection protocols.
78. The volatile extraction was concealed from the Independent Supervising Solicitor, bypassing mandatory safeguards and rendering the entire investigatory chain **null and void ab initio**. The LSBC engaged in *suppressio veri* and *suggestio falsi*, undermining the integrity of the process.

Part 3(D)(VI)(a)(i):The March 2, 2016 Warrantless Wiretap and Kernel Module Dump

79. On March 2, 2016, the LSBC executed a remote technological intrusion into the Applicant's personal terminal — the **Warrantless Wiretap Kernel SYS Module Dump**.
80. This intrusion exploited fileless persistence vectors seeded during the 2014 volatile extraction. Forensic analysis reveals RDP handshakes, PowerShell payloads, PostgreSQL listeners, and the unloading of eight kernel-level modules over twenty-five minutes.
81. Hexadecimal metadata produced by the LSBC in 2021 confirms that the 2014 and 2016 intrusions formed a unified, persistent surveillance architecture. Fifteen "CommandLineEventConsumer" instances and "ROOT\CIMV2 rootsubscription" hooks enabled kernel-level execution without leaving binaries on the hard drive.
82. The 2016 intrusion constituted a **warrantless interception of private communications**, engaging ss. 184 and 342.1 of the *Criminal Code*. The conduct crossed the threshold from administrative overreach into criminal technological malfeasance.

Part 3(D)(VI)(a)(ii):Canada's Anti-Spam Legislation and the Administrative Monetary Penalty Framework

83. CASL prohibits unauthorized installation and execution of computer programs. Section 8(1) applies to regulatory bodies acting in the course of external regulatory activity. Section 10 requires heightened disclosure. Section 20 authorizes AMPs up to $10,000,000.
84. The March 2, 2016 intrusion occurred fourteen months after s. 8 came into force. The LSBC's remote execution of diagnostic scripts and memory-extraction software constituted an ongoing violation of CASL, triggering full statutory liability.
85. If the LSBC has deployed these technological intrusions against other members — or continues to do so — its potential statutory liabilities under CASL could reach a magnitude capable of bankrupting the organization outright. Such exposure would leave the LSBC's membership without a regulator and destabilize the administration of justice in British Columbia. **Ergo, this risk must have formed part of the rationale for legislative reform by the Chief Law Officer of the Province**, who could not permit a regulator facing existential CASL liability to continue governing the legal profession.

PART 3(E): THE DOCTRINE OF STARE DECISIS

86. Within judicial frameworks predicated upon the common law, the foundational doctrine of *stare decisis*—etymologically derived from Latin, signifying "to stand by things decided"—operates as an immutable mandate obligating adjudicative bodies to adhere to historical precedents when rendering determinations

upon analogous factual matrices. The strict application of this doctrine definitively ensures consistency, predictability, and fundamental fairness within the administration of justice. The doctrine is systematically bifurcated into two primary dimensions: vertical and horizontal. Vertical *stare decisis* is jurisprudentially defined as the hierarchical, top-down application of precedent. It structurally dictates that an inferior tribunal is strictly bound by the determinations promulgated by superior courts within coordinate jurisdiction. Lower adjudicative bodies are strictly and mandatorily bound by the rulings of the superior appellate courts stationed above them. A stable judicial hierarchy is meticulously architected, ensuring that jurisprudential interpretation is uniformly and unequivocally applied across a designated territorial jurisdiction. Determinations pronounced by the BCCA must be strictly adhered to by the BCSC, just as rulings of the Supreme Court of Canada impose an absolute binding obligation upon all appellate and trial courts nationally. However, that is not at issue because neither of the Appellant have brought a motion to overturn any of the decisions of the BCCA. Moreover, it is more than just a mere decision but the entire proceeding under docket number 45786 would have to be rendered by a binding decision to have been void or void ab initio and not merely voidable. The BCCA has no such jurisdiction to entertain the same and it Is not before the BCCA. The Applicant would be entitled by responding to a notice of application to address the same.

PART 3(F): THE STRIKING OF INCIDENTAL "DOCUMENT'S AND THE JURISPRUDENCE OF WALKER V. JOHN DOE AS PER JUSTICE BUTLER AS HE THEN WAS

87. In *Walker v. John Doe*, 2014 BCSC 830 (*the "Walker Decision"*), it was definitively established by The Honourable Mr. Justice Butler that the jurisdiction granted by *Rule 9-5(1)* of the *BCSC Civil Rules* extends beyond originating pleadings to encompass "other **"documents**" filed within a proceeding.
88. Within the *Walker Decision*, the underlying substantive dispute involved a litigant inserting a cost-threat into a formally mandated rule notice, which was purportedly intended by the plaintiff to merely remind experts of their duties pursuant to *Rule 11-2* (paras. 6-8). The defendant entity (ICBC) sought the striking of the cost-threat on the grounds that it was unnecessary, prejudicial, and fundamentally abusive, arguing that such tactical deployments inherently intimidate experts and severely interfere with the administration of justice (para. 5). The plaintiff countered by advancing the proposition that the court ostensibly lacked the requisite jurisdiction to strike correspondence, cautioning that granting such relief would inevitably precipitate a floodgate of analogous applications (para. 6).
89. The Honourable Mr. Justice Butler unequivocally concluded that a *Rule 11-6(10)* notice constitutes a Rules-mandated **"document"** systematically engineered to formally delineate a party's trial posture regarding admissibility (paras. 7-8). Consequently, it was held that *Rule 9-5(1)* definitively extends to an "other **"document"**" of precisely that classification, thereby confirming that absolute jurisdiction is vested within the adjudicative body to either strike or amend the offending instrument (paras. 8-9).

90. It was further articulated that the imposition of special costs or analogous punitive sanctions against non-parties, explicitly inclusive of witnesses, remains a highly unusual and exceptional jurisprudential mechanism (paras. 11-12). Witness immunity is recognized as a profoundly entrenched legal doctrine within British Columbia, dictating that the levying of costs against expert witnesses necessitates extraordinarily rare circumstances (paras. 12-13). Accordingly, it was determined that no substantive foundation existed to justify the issuance of formal notice declaring an intent to seek personal special costs against the retained experts (para. 13).
91. *Rule 11-6(10)* is structurally architected to contemplate the formal notification of admissibility objections, and explicitly not the notification of prospective cost claims against expert witnesses (para. 13). The pre-emptive procedure established within the Rules for advance admissibility challenges fundamentally eliminates any pre-trial necessity to weaponize cost threats against experts (para. 13).
92. Crucially, the Court concluded that the impugned notices were entirely devoid of any particulars capable of substantiating an award of special costs against non-parties (para. 14). In the complete absence of any legitimate necessity to "remind" experts of their formalized duties, the threatening statement was determined to be reasonably calculated to intimidate the experts or intentionally discourage the provision of evidence. Such aggressive deployments constitute a flagrant misuse of procedural mechanisms and are strictly recognized as an absolute abuse of process (para. 14). Threats of special costs seamlessly embedded within boilerplate notices are profoundly unnecessary and predictably operate to discourage expert participation by artificially thrusting the experts into an adversarial posture (para. 15).
93. As explicitly held by The Honourable Mr. Justice Butler: "In the circumstances of this case the notice to the expert of a claim for special costs against them is also an abuse of the court's process... As there is no need to remind the experts of their duty to the court, the only reason I can discern for the plaintiff's statement that he 'shall' seek costs and other sanctions against the experts personally would be to intimidate the experts, or discourage them from giving evidence. Such actions are a misuse of the court's procedure and must be recognized as an abuse of the court's process: Behn v. Moulton Contracting Ltd., 2013 SCC 26 at paras. 39-41."

PART 3(H):THE JURISPRUDENCE OF BEHN V. MOULTON CONTRACTING LTD. AND WILSON V. THE QUEEN

94. The doctrine of abuse of process is profoundly illuminated and further buttressed by the stringent prohibition against collateral attacks and the equitable preclusion of self-help remedies, as definitively articulated by the Supreme Court of Canada in *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26 (*the "Behn Decision"*).
95. The factual matrix within the *Behn Decision* involved the Crown granting logging licences to a corporate entity to harvest timber upon the territory of a First Nation. Subsequently, specific members of that Aboriginal community erected a camp that effectively blocked the corporate entity's access to the

designated logging sites. When the corporate entity initiated a tort action against those members, the members advanced a defence asserting that the underlying licences were inherently void due to a purported breach of the constitutional duty to consult and an infringement of treaty rights.

96. The Supreme Court of Canada definitively held that the failure of a party to challenge the validity of legal authorizations at the appropriate temporal juncture—opting instead to deploy self-help remedies and subsequently mount a defense based upon those unaddressed historical grievances—constitutes a flagrant abuse of process. As elucidated by the Court at paragraph 38, had the objectors acted when the authorizations were initially granted, the legal mechanisms existed to suspend the operations until the jurisdictional issues were properly resolved, rather than leading the opposing entity to believe it was free to commence operations.

97. As further articulated at paragraphs 39 through 42, the doctrine of abuse of process invokes the inherent power of the adjudicative body to preclude the misuse of its procedure in a manner that is manifestly unfair or brings the administration of justice into disrepute. It is definitively established that permitting a litigant to belatedly resurrect issues that ought to have been rigorously addressed in prior, appropriate legal contexts is tantamount to condoning self-help remedies. Such strategic maneuvering represents a complete repudiation of the duty of mutual good faith necessitated within the adjudicative framework.

98. Concomitantly, the foundational rule prohibiting collateral attacks upon judicial determinations is unequivocally codified in *Wilson v. The Queen*, 1983 CanLII 35 (SCC), [1983] 2 S.C.R. 59 (*the "Wilson Decision"*). It is a fundamental, immutable legal axiom that a court order, pronounced by a tribunal possessing the requisite jurisdiction to make it, stands and remains absolutely binding and conclusive unless it is lawfully quashed or set aside upon direct appeal. A collateral attack—defined jurisprudentially as an attack mounted within proceedings other than those explicitly architected to reverse, vary, or nullify the originating order or judgment—is strictly and permanently impermissible.

Part 3(H)(i):Application of Rule 9-5 Criteria to the Offending Submissions

99. The complete absence of any conceptual lacuna shielding the offending memorandums is definitively established when subjected to the strictures of *Rule 9-5*. The entirety of the four-page submission tendered by the LSBC, alongside the impugned paragraphs of the TLABC submission, fall catastrophically beneath the required jurisprudential thresholds:

    a. **Discloses No Reasonable Defence:** The offending materials definitively fail to articulate any cognizable defence to the relief sought within the August 12 NOA intervention application. An assertion predicated upon a defunct lower-court order to bar appellate standing is fundamentally devoid of legal foundation.
    b. **Scandalous, Unnecessary, Frivolous, and Vexatious:** The submissions are strictly scandalous because the attempt to assert an unassailable institutional authority, whilst concurrently suppressing the execution of warrantless, kernel-level digital incursions upon a private residence, is profoundly shocking and highly offensive to the foundational principles of

public morality and adjudicative decency. The submissions serve absolutely no useful purpose for the occasion; they functionally fail to advance any substantive counter-argument to the established legal tests for intervention. The materials remain utterly devoid of serious legal value, functioning exclusively as a groundless mechanism to obfuscate the substantive *lis*. The submissions are manifestly engineered to annoy and structurally derail the proceedings. Revealingly, the responsive materials explicitly admit that the Applicant satisfies two components of the four-part legal test for intervention, yet they vexatiously evade engaging with the substantive merits.

c. **Prejudice, Embarrass, or Delay ("PED"):** The architecture of these submissions is explicitly calculated to confound the adjudicative process. By weaponizing an inapplicable order to manufacture a procedural blockade, they have already inflicted concrete prejudice and delay, necessitating the formulation and filing of this very Notice of Application to rectify the resulting procedural entanglement.

d. **Abuse of Process ("AOP"):** As established in the *Baikoghli Decision* and the *C.U.P.E. Decision*, the deliberate advancement of inconsistent legal postures and the operationalization of collateral attacks fundamentally violate the integrity of the administration of justice.

PART 3(I):TRANSGRESSION OF HIERARCHY, STARE DECISIS, AND THE ABUSE OF PROCESS

100. As exhaustively elucidated within the preceding discourse on *stare decisis*, it is a foundational tenet of appellate practice that an appellate proceeding constitutes a distinct, severable, and superior jurisdictional entity from any underlying lower court proceeding. Vertical precedents strictly compel inferior tribunals, whereas horizontal precedents govern coordinate courts. It is a fundamental axiom that an order pronounced by a justice of the BCSC, explicitly inclusive of the 2018 order pronounced by The Honourable Mr. Justice Branch (the "**Branch Order**"), cannot, and does not, preemptively dictate or restrict the superior appellate jurisdiction of the BCCA. Such reliance is legally meritless.

101. Applying the binding jurisprudence synthesized within the *Walker Decision*, it is mathematically and legally impossible to rely upon an inapplicable lower court determination that definitively pre-dates binding appellate jurisprudence, particularly in circumstances where the Applicant operated formally as an appellant within the superseding appellate matrix.

102. The four-page written argument filed by the LSBC, alongside paragraphs 8 through 12 of the written argument filed by the TLABC, conspicuously and deliberately omit any reference to the appellate proceeding convened under docket number CA45786. All material steps, applications, directions, and orders—expressly inclusive of the publicly issued determination by The Honourable Mr. Justice Tysoe in *McLean v. British Columbia*, 2019 BCCA 133 (*the "McLean 2019 Decision"*), wherein the Applicant operated definitively as an appellant—are willfully suppressed from the BCCA in the responsive materials.

103. The jurisprudential principles synthesized within the *Behn Decision* and the *Wilson Decision* are mathematically dispositive of the Appellants' current procedural posture. It is a matter of incontrovertible judicial record that standing was conclusively determined and formalized within the appellate architecture in 2018, and subsequently affirmed and reaffirmed throughout 2019.

104. At that precise temporal juncture, the LSBC possessed the uninhibited capacity to object, seek addition as a respondent, or act as *amicus curiae* during the progression of the *McLean 2019 Decision*. Concurrently, no issue regarding standing was historically raised by the AGBC, which is strictly recognized as the correct posture in law. The LSBC, however, elected to remain entirely silent, willfully bypassing the appropriate procedural mechanism to ventilate any purported jurisdictional grievances.

105. To permit the LSBC to presently resurrect a defunct, lower-court order to obstruct an intervention application within the BCCA in 2026—after intentionally sleeping on its rights during the 2018 and 2019 appellate proceedings—constitutes an impermissible collateral attack and a profound abuse of process. Utilizing the *Wilson Decision*, the 2019 appellate recognition of standing remains absolutely binding and immune from collateral sabotage in this distinct proceeding.

106. Analogous to the *Walker Decision*, the deliberate insertion of a defunct, lower-court order into responsive appellate materials, whilst willfully suppressing the superseding *McLean 2019 Decision*, is not deployed for any legitimate adjudicative purpose. Rather, it is operationalized to manufacture an unsupportable procedural barrier and to intimidate or derail the intervention application without supporting particulars. Such calculated omissions and misuses of the appellate procedure are strictly recognized as an absolute abuse of the process of the court.

107. Furthermore, applying the *Behn Decision*, the delayed procedural ambuscade effectuated by the LSBC is tantamount to an unconscionable self-help remedy. It represents a complete repudiation of the mutual good faith expected within the administration of justice. The venerable maxim *Vigilantibus non dormientibus aequitas subvenit* (equity aids the vigilant, not those who slumber on their rights) operates to definitively estop the Appellants from manufacturing a retroactive standing objection to secure a perceived strategic advantage. Applying the complementary maxim formulated by Herbert Broom, *Allegans contraria non est audiendus* (a person making contradictory allegations is not to be heard), the Appellants are strictly estopped from approbating and reprobating their legal posture.

108. Because the continued reliance upon an inapplicable lower-court order to bar appellate standing operates in direct contravention of the hierarchical structure of the judiciary, the equitable principles of comity, and the absolute prohibition against collateral attack, such reliance constitutes an absolute constitutional nullity, definitively void *ab initio*, rather than a mere procedural irregularity. As the legal maxim dictates, *Actus curiae neminem gravabit* (an act of the court shall prejudice no man); the judiciary cannot permit its processes to be utilized to validate such egregious overreach, thereby preserving the fundamental *status quo ante* of the court's unimpeachable integrity.

109. As definitively established in *Heller v. Law Society of British Columbia*, 2026 BCSC 431 (*the "Heller Decision"*), at paragraph 24, an impugned **"document"** will only be struck if it is structurally incapable of being amended to cure the defect. It was articulated that an applicant must overcome a high jurisprudential bar, demonstrating the existence of a "radical defect." The complete absence of any

foundational standing to advance the defunct lower-court order within a superior appellate matrix unequivocally constitutes precisely such a radical defect. Furthermore, any subsequent attempt to radically alter the pleaded positions to sanitize the scandalous, offending material would inexorably constitute impermissible inconsistent pleading. To approbate and reprobate within the identical proceeding is, in and of itself, an egregious abuse of process, strictly contravening the equitable maxim *Allegans contraria non est audiendus* (a person making contradictory allegations is not to be heard). Consequently, the offending materials are inherently doomed to be struck from the appellate record.

PART #3(J): A FINAL POINT ABOUT MR. CAMERON'S ALLEGED SIGNATURE ON THE TLABC MOA

110. It is respectfully noted that the TLABC's written argument bears the digital signature of Mr. Gavin Cameron, yet Mr. Cameron's automatic email reply at 8:11 a.m. on August 21, 2026 stated that he was away from the office on holiday until August 24, 2026 and unable to respond to emails. The TLABC's written argument was subsequently transmitted by Ms. Abrioux in the afternoon of August 21, 2026. This discrepancy raises a legitimate question as to whether Mr. Cameron personally signed the document, whether his signature was affixed by another individual, or whether the document was executed without his contemporaneous review. Given the solemnity of filings before this Court, the authenticity and provenance of counsel's signature is a matter of professional responsibility and procedural integrity.

111. Mr. Cameron's automatic email reply at 11:11 a.m. on August 21, 2026 stated: *"I am out of the office on vacation until Monday August 24, and unable to respond to emails."* Yet the TLABC's written argument filed that same day bears his digital signature and was circulated by Ms. Abrioux in the afternoon. This discrepancy raises a legitimate concern as to whether Mr. Cameron personally signed the document, whether his signature was affixed by another individual during his absence, or whether the document was executed without his contemporaneous review. These matters fall squarely within the Court's supervisory jurisdiction over the integrity of its process and may properly be addressed in the context of costs, including attribution of responsibility for any irregularity. It is further noted that Mr. Ferris, K.C., was away until August 28, 2026, yet did **not** sign the LSBC's impugned MOA — underscoring the expectation that counsel unavailable due to vacation do not execute appellate filings.

PART 5: ORDERS SOUGHT

112. Consequently, the following relief in the Form 4 is respectfully sought along with the relief in the Applicant's August 12 NOA as a comprehensive order appended here at Schedule "C".

ALL OF WHICH IS RESPECTFULLY SUBMITTED on August 31, 2026:

Mr. Kevin A. McLean (BA, JD, CIM)

SCHEDULE A: ENACTMENTS CITED

- *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11
- *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "***COAA***")
- *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "***Court of Appeal Rules***")
- *Criminal Code*, R.S.C., 1985, c. C-46
- *Legal Professions Act*, S.B.C. 2024, c. 26 (the "**LPA 2024**")
- *Supreme Court Civil Rules*, B.C. Reg. 168/2009 (the "**BCSC Civil Rules**")

SCHEDULE B: AUTHORITIES CITED

- *0742848 B.C. Ltd. v. Squamish (District)*, 2017 BCSC 2177
- *100 Main Street East Ltd. v. Sakas* (1974), 1974 CanLII 637 (ON HCJ)
- *100 Main Street East Ltd. v. Sakas* (1975), 1975 CanLII 381 (ON CA)
- *131843 Canada Inc. v. Double "R" (Toronto) Ltd.* (1992), 7 C.P.C. (3d) 15 (Ont. Gen. Div.)
- *9095900 Canada Ltd. v. Baikoghli*, 2026 BCSC 839
- *Albion Securities Co. v. Milne*, 1999 CarswellBC 2297
- *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26
- *Blackwell Stores Ltd. v. Okanagan-Similkameen (Regional District)*, 2000 BCSC 1550
- *Canada (AG) v. Bedford*, 2013 SCC 72
- *Canada Trustco Mortgage Co. v. Renard*, 2008 BCCA 343
- *Canam Enterprises Inc. v. Coles*, 2000 O.J. No. 4930 (C.A.)
- *Carter v. Canada (AG)*, 2015 SCC 5
- *Chapman v. Canada (Minister of Indian and Northern Affairs)*, 2003 BCCA 665
- *Citizens for Foreign Aid Reform Inc. v. Canadian Jewish Congress*, 1999 CanLII 5860 (BC SC)
- *Delane Industry Co. Ltd. v. Tsawwassen Quay Market Corporation*, 2024 BCCA 107
- *Dimitriadis v. Bowen Valley Ranch Corp.*, [1995] B.C.J. No. 2281 (S.C.)
- *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5
- *Gill v. Canada*, 2013 BCSC 1703
- *Glover v. Leakey*, 2016 BCSC 1624
- *Halagan v. Reifel*, 1997 CarswellBC 4040
- *Hawkeye Power Corporation v. Sigma Engineering Ltd.*, 2012 BCCA 414
- *Heller v. Law Society of British Columbia*, 2026 BCSC 431
- *Hemming v. Newton*, 2006 BCSC 1748
- *Hill v. Hill*, 2016 ABCA 49
- *International Corona Resources Ltd. v. LAC Minerals Ltd.* (1988), 1988 CanLII 4534 (ON HCJ)
- *Jensen v. Ross*, 2014 BCCA 173
- *Keddie v. Dumas Hotels Ltd.* (1985), 1985 CanLII 417 (BC CA)
- *Krist v. British Columbia*, 2017 BCCA 78
- *Landreville v. Town of Boucherville*, 1978 CanLII 202 (SCC)
- *Law Society of BC v. Foo*, 1997 LSDD No. 197
- *Law Society of BC v. Galambos*, 2007 LSBC 31
- *Law Society of BC v. Nejat*, 2014 LSBC 51
- *Law Society of BC v. Samuels*, 1999 LSBC 36
- *Lazarus Estates Ltd. v. Beasley*, [1956] 1 QB 702
- *Long v. Redbranch Investments Ltd.*, 2018 BCCA 358
- *McLean v. British Columbia*, 2019 BCCA 133
- *McNutt v. A.G. Canada et al.*, 2004 BCSC 1113
- *Mott v. Pacific National Exhibition*, 2001 BCCA 731
- *Mystar Holdings Ltd. v. 247037 Alberta Ltd.*, 2009 ABQB 480
- *Nazmdeh v. Spraggs*, 2010 BCCA 131
- *Nuttall v. Krekovich*, 2018 BCCA 334
- *O'Connell Electric Ltd. v. British Columbia Hydro & Power Authority*, 2006 BCSC 1632
- *Pepper's Produce Ltd. v. Medallion Realty Ltd.*, 2012 BCCA 247
- *R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42
- *Rodaro v. Royal Bank of Canada* (2002), 2002 CanLII 41834 (ON CA)
- *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519
- *Sahyoun v. Ho*, 2015 BCSC 392
- *Shoolestani v. Ichikawa*, 2017 BCSC 1589
- *Simon v. Canada (Attorney General)*, 2015 BCSC 924

- *Strata Plan 1229 v. Trivantor Investments International Ltd.* (1996), 24 B.C.L.R. (3d) 292 (C.A.)
- *Strohmaier v. British Columbia (Attorney General)*, 2015 BCSC 1189
- *SWS Marketing Inc. v. 1125003 B.C. Ltd.*, 2022 BCSC 2166
- *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63
- *Virk v. Brar*, 2012 BCSC 1004
- *Walker v. John Doe*, 2014 BCSC 830
- *Willow v. Chong*, 2013 BCSC 1083
- *Wilson v. The Queen*, 1983 CanLII 35 (SCC), [1983] 2 S.C.R. 59
- *Young v. Young*, [1993] 4 S.C.R. 3
- *Zhang v. Chen*, 2024 BCSC 285

SCHEDULE "C": DRAFT COMPREHENSIVE ORDER TENDERED BY THE APPLICANT

FORM 10 (RULE 66(3)(a))

COURT OF APPEAL FOR BRITISH COLUMBIA

Court of Appeal File Nos. CA51536 / CA51535

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS

(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS

(Defendants)

ORDER OF A SINGLE JUSTICE

BEFORE THE HONOURABLE PRESIDING CHAMBERS JUSTICE IN CHAMBERS

THE HONOURABLE JUSTICE _____ in

Vancouver, British Columbia, with judgment being issued in chambers on September 10, 2026

THE APPLICATIONS OF the Applicant, Mr. Kevin A. McLean, specifically particularized defined as the August 12, 2026 Notice of Application (the "*August 12 NOA*") and the August 30, 2026 Notice of Application (the "*August 30 NOA*") [seeking leave to intervene, the striking of responsive memorandums, declarations regarding statutory interpretation, formal admissions, and abuses of process, the summary dismissal and quashing of the appeals, and awards of special costs et al.], coming on for hearing on September 10, 2026 at Vancouver, British Columbia;

AND ON HEARING Mr. Kevin A. McLean appearing in person, and Mr. Craig A.B. Ferris, K.C et al of Lawson Lundell LLP. and Mr. Gavin Cameron et al of Faskens LLP appearing as counsel for the Appellants (LSBC and TLABC respectively), and Ms. Emily C. Lapper, K.C. et al appearing as counsel for the Respondents;

AND ON READING the materials filed herein;

AND ON JUDGMENT BEING PRONOUNCED ON THIS DATE;

The following orders and declarations were made on September 10, 2026:

Order #1: IT IS ORDERED that the time for the filing and service of the *August 12 NOA* and the *August 30 NOA* is abridged, and the filing and service of said **"documents"** and all accompanying materials are validated *nunc pro tunc*.

Order #2: IT IS FURTHER ORDERED that, pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*"), and *Rule 41* of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*"), the requirement delineated within *Rule 60* stipulating that strictly a 'party' may apply to quash an appeal is hereby dispensed with, and the Applicant is affirmatively granted the requisite standing, by variance of the requirement of that rule for the limited purpose to advance the applications to quash under Rule 60 in addition to the other grounds to have the LSBC Appeal and TLABC Appeals not heard which do not require "party" status.

Order #3: IT IS FURTHER ORDERED that leave is granted to Mr. Kevin A. McLean to intervene in the within appeals, with all consequential relief flowing from the granting of such status.

Order #4: IT IS FURTHER ORDERED that the written argument filed by the Law Society of British Columbia on August 21, 2026, directed solely in response to the *August 12 NOA*, is struck in its entirety and shall be removed from the court file, both physically and electronically on the Court Services Online repository.

Order #5: IT IS FURTHER ORDERED that paragraphs 8 through 12, inclusive, of the Memorandum of Argument served and filed by the Trial Lawyers Association of British Columbia and Kevin Westell on August 21, 2026, are struck and black-line redacted from the court record.

Order #6: IT IS FURTHER ORDERED AND DECLARED that the Law Society of British Columbia is irrevocably bound by its formal admissions, explicitly pleaded in its Notice of Civil Claim, that the unwritten constitutional principle of the independence of the bar is satisfied by a regulatory board comprised of a majority of lawyers, of which a majority of those lawyer directors are elected, and that the *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"), definitively fulfills these admitted requirements.

Order #7: IT IS FURTHER ORDERED AND DECLARED that the Appellants, having failed to intervene or raise standing objections during the 2019 appellate proceedings in *McLean v. British Columbia*, 2019 BCCA

133, are strictly estopped from mounting a collateral attack on the standing of the Applicant in the present proceedings, thereby rendering their reliance upon the 2018 lower-court order an absolute abuse of process.

Order #8: IT IS FURTHER ORDERED AND DECLARED that the Appellants, by and through the filing of their respective memorandums of argument on August 21, 2026, have engaged in a flagrant abuse of the process of this Honourable Court by attempting to collaterally attack the binding appellate determinations previously pronounced by The Honourable Madam Justice Stromberg-Stein and The Honourable Mr. Justice Tysoe under docket number CA45786 (*McLean v. British Columbia*); such abuse is definitively established by the Appellants' impermissible reliance upon an inapplicable order of an inferior tribunal, which is inherently devoid of any jurisdictional authority to restrict the standing of the Applicant, either historically as an appellant or presently as an intervener.

Order #9: IT IS FURTHER ORDERED AND DECLARED that the deliberate suppression of the historical volatile-memory extractions and subsequent remote digital incursions from the adjudicators of the British Columbia Supreme Court constitutes a fraud by omission, thereby vitiating the equitable right of the Law Society of British Columbia to be heard in this appellate proceeding.

Order #10: IT IS FURTHER ORDERED AND DECLARED that, pursuant to section 8 and subsection 27(1) of the *Interpretation Act*, R.S.B.C. 1996, c. 238 (the "*Interpretation Act*"), the statutory provisions of the *COAA* and the regulatory provisions of the *Court of Appeal Rules* are remedial in character and must receive such fair, large, and liberal construction as best ensures the attainment of their objects; consequently, pursuant to subsection 24(3)(b) and section 25 of the *COAA*, this Honourable Court is fully empowered to exercise its statutory, incidental, and original jurisdiction in favour of any person, irrespective of formal party designation, to prevent a perversion of justice and protect the paramount public interest.

Order #11: IT IS FURTHER ORDERED AND DECLARED that, the Law Society of British Columbia having explicitly pleaded its response to the Intentions Paper within its Notice of Civil Claim, the Respondents were not required to formally or technically plead the law of admissions in rejoinder; by operation of law, the conclusive nature of said admissions activates the full jurisdiction of this Court pursuant to subsections 24(1)(a), 24(1)(c), and 24(2)(c) of the *COAA* to make any order that the court appealed from could have made, to make any additional order considered just, and to exercise all original and incidental jurisdiction necessary to summarily determine the within proceedings and extinguish the unmeritorious appeals.

Order #12: IT IS FURTHER ORDERED that, pursuant to, inter alia, sections 20, 21, 24 and 25 and 30 of the *COAA* and Rule 60 of the COR, the appeal advanced by the Law Society of British Columbia is summarily

dismissed and/or quashed on the foundational basis that the Court lacks jurisdiction, as the formal admissions tendered by said appellant definitively extinguish any remaining justiciable issues. It is further DECLARED that the LSBC's Appeal was an abuse of process.

Order #13: IT IS FURTHER ORDERED that, that, pursuant to, inter alia, sections 20, 21, 24 and 25 and 30 of the *COAA* and Rule 60 of the COR the appeal advanced by the Trial Lawyers Association of British Columbia and Kevin Westell is summarily dismissed and quashed, and further declared to be an abuse of process.

Order #14: IT IS FURTHER ORDERED that special costs, inclusive of disbursements, are awarded as a lump sum payable forthwith against counsel (signatory of the offending MOA solely directed at Mr. Kevin A. McLean (BA, JD, CIM)) for the Law Society of British Columbia and counsel (signatory of the offending portions of the filed MOA) for the Trial Lawyers Association of British Columbia, with such funds to be strictly earmarked, held in a legal trust account, and exclusively remitted to the benefit of Legal Professions British Columbia upon amalgamation pursuant to the *LPA 2024*.

Order #15: IT IS FURTHER ORDERED that the provision of an Application Book via the portal or electronic mail by the Applicant is deemed filed at the time of provision, and the requirement for the approval as to form and signature of this Order by counsel for the Appellants and counsel for the Respondents is hereby dispensed with.

A Justice of the Court of Appeal

APPROVED AS TO FORM:

……..……..... ……..…….

……..

Signature of Mr. Kevin A. McLean

Applicant

Tab 6

CanLII

McLean v. British Columbia, 2019 BCCA 133 (CanLII)

Source:	Court of Appeal for British Columbia
Date:	2019-04-03
File number:	CA45786
Citation:	McLean v. British Columbia, 2019 BCCA 133 (CanLII), <https://canlii.ca/t/hzv9g>, retrieved on 2026-08-29

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *McLean v. British Columbia (Attorney General),* 2019 BCCA 133

Date: 20190403
Docket: CA45786

Between:

Kevin A. McLean

Appellant
(Petitioner)

And

Attorney General of British Columbia

Respondent
(Respondent)

Before: The Honourable Mr. Justice Tysoe
(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated November 22, 2018 (*McLean v. British Columbia (Attorney General)*, 2018 BCSC 2052, Vancouver Docket S1711429).

Oral Reasons for Judgment

No one appearing on behalf of the Appellant

330 413

Counsel for the Respondent: S.A. Bevan

Place and Date of Hearing: Vancouver, British Columbia
April 3, 2019

Place and Date of Judgment: Vancouver, British Columbia
April 3, 2019

Summary:

Application by the respondent to dismiss appeal on the basis that it was not brought within the time period stipulated by s. 14 of the Court of Appeal Act, R.S.B.C. 1996, c. 77, and applications by the appellant for various forms of relief. Held: the respondent's application is dismissed. The notice of appeal was not served within the appeal period and, in addition, the faxing of the notice of appeal to the fax number included in the respondent's address for service in the response to petition did not constitute proper service. The respondent's notice of motion was not a nullity because it was filed in the Victoria Registry when the application was scheduled to be heard in Vancouver. However, it was not in the interests of justice to dismiss the appeal at this stage. With respect to the appellant's applications, the Registrar did not act without jurisdiction in declining to set a date for the hearing of the appeal pending the outcome of the respondent's application. It was either unnecessary or inappropriate to deal with the remainder of the appellant's applications.

[1] **TYSOE J.A.**: The parties have filed competing applications in this appeal. The Attorney General has filed an application for an order that the appeal be dismissed on the basis that the notice of appeal was not served within the 30-day time period stipulated in s. 14 of the *Court of Appeal Act*, R.S.B.C. 1996, c. 77 and that, therefore, the appeal has not been properly brought. Mr. McLean has filed an application seeking various forms of relief, including a declaration that the Attorney General's notice of motion is a nullity and declarations regarding the setting of the appeal for hearing. Mr. McLean has filed a second application for an order that the appeal be heard by way of written submissions.

[2] Mr. McLean did not appear in person at today's hearing, but he did file written submissions. He did not advise the registry that he wanted to appear but was unable to attend. In the circumstances, I concluded that it was appropriate to deal with the applications, and I heard oral submissions by counsel for the Attorney General and took into account the written submissions filed by Mr. McLean.

[3] The order which Mr. McLean wishes to appeal was made by Justice DeWitt-Van Oosten on November 22, 2018, dismissing his petition to have various provisions of the *Legal Profession Act*, S.B.C. 1998, c. 9, declared unconstitutional.

[4] The 30-day period under s. 14 of the *Court of Appeal Act*, with a two-day extension pursuant to s. 25.5 of the *Interpretation Act*, R.S.B.C. 1996, c. 238, ran from November 23 to December 24. Mr. McLean filed the notice of appeal on December 14. There is no evidence that the notice of appeal was served on the Attorney General by December 24, and the evidence indicates that Mr. McLean faxed a copy of the notice of appeal on Christmas morning to the fax

number which the Attorney General had included as an address for service in the response to petition filed in the Supreme Court.

[5] A notice of appearance was filed on behalf of the Attorney General on January 4, 2019. The Attorney General's counsel wrote to Mr. McLean on January 29, 2019 taking the position that the appeal had not been properly brought and advising that Mr. McLean needed to obtain an extension of time if he wished to pursue the appeal. In the meantime, Mr. McLean had faxed and delivered to the Ministry of Attorney General the appeal record, appeal book and his factum.

[6] On February 5, Mr. McLean filed a certificate of readiness with the Court. On February 6, counsel for the Attorney General filed his notice of motion in the Victoria Registry of the Court returnable February 20 at the Vancouver Law Courts.

[7] On or about February 8, Mr. McLean faxed a notice of hearing to the Associate Registrar requesting a hearing date of February 20. After consulting with the Registrar, the Associate Registrar declined to set a date for the hearing of the appeal until the Attorney General's application was dealt with.

[8] On February 14, Mr. McLean filed the first of his notices of motion returnable April 3.

[9] The Attorney General's application came on for hearing in chambers on February 20 before Justice Stromberg-Stein. As Mr. McLean had written on February 19 that he was not available on February 20, Stromberg-Stein J.A. adjourned the application to April 3 and suspended the time for the filing of the Attorney General's factum until further order of the Court.

[10] One of the forms of relief sought by Mr. McLean is that his first motion be heard prior to the Attorney General's motion. In my view, it is not necessary or in the interests of judicial economy to deal with all of the orders and declarations requested in his first motion, but there are two aspects of the motion that I do consider it appropriate to address before dealing with the Attorney General's motion.

[11] The first aspect is the request for a declaration that the Registrar did not have the authority to refuse Mr. McLean's notice of hearing. Mr. McLean relies in this regard on the decision in *R. v. Verma*, 2016 BCCA 307. In that case, the Court held that the Registrar had erred in refusing to accept an application for leave to appeal on the basis that the appellant was seeking to bring an interlocutory appeal in a criminal matter and the Court does not have jurisdiction to entertain such an appeal. The Court ruled that the Registrar does not have authority to decide whether a matter is within the Court's jurisdiction.

[12] In my opinion, *Verma* is distinguishable from the present circumstances and is of no assistance to Mr. McLean. Here, the Registrar exercised his discretion to decline to accept a notice of hearing because a legitimate question had been raised as to whether the appeal had been properly brought. In my view, the Registrar did not err in his exercise of discretion because, if the

appeal was not properly brought, it would be inappropriate to have the appeal set down for hearing. The Registrar did not make a determination that the Court lacked jurisdiction to entertain the appeal, and he simply directed that the appeal should not be set down for hearing until the Court decided whether the appeal had been properly brought.

[13] The second aspect of Mr. McLean's notice of motion I will address before dealing with the Attorney General's motion is his request for a declaration that the Attorney General's motion is a nullity because it was filed in the Victoria Registry when the notice of appeal was filed in the Vancouver Registry and the application was to be heard in Vancouver. He relies in this regard on the British Columbia Court of Appeal Practice Note, *Preferred Filing Registry* (Civil & Criminal Practice Note, 19 September 2011), which states that all relevant matters for chamber applications set to be heard in Vancouver are to be filed in Vancouver in order to avoid delays in the materials being transferred from other registries. In my view, this Practice Note does not have the same force as the *Court of Appeal Rules*, which defines the word "file" to mean "file with the registrar in a registry of the court". The Victoria Registry is "a registry of the court", and the filing of the Attorney General's notice of motion complied with the *Court of Appeal Rules*. Non-compliance with the Practice Note does not render the notice of motion a nullity.

[14] I now turn to the Attorney General's application for an order for the dismissal of the appeal on the basis that this appeal has not been properly brought because the notice of appeal was not served on the Attorney General within the period set out in s. 14 of the *Court of Appeal Act* as extended by the operation of the *Interpretation Act*. Mr. McLean disputes the fact that the notice of appeal was not properly served.

[15] There are two aspects to the issue of service. The first is whether the fax transmitting the notice of appeal was received within the appeal period. The order of DeWitt-Van Oosten J. was made on November 22 and, with the two-day extension pursuant to the *Interpretation Act*, the appeal period expired on December 24. The cover sheet for the fax sent by Mr. McLean, as attached to an affidavit of a legal assistant in the Legal Services Branch of the Ministry of Attorney General, states that it was sent at 9:35 a.m. Eastern Standard Time on December 25 and the header shows the time of 6:34 a.m. (presumably Pacific Standard Time) on December 25. Mr. McLean has not filed an affidavit to contradict this evidence and, as a result, there is no basis to accede to his request to cross-examine the legal assistant who swore the affidavit. I conclude that the notice of appeal was not served prior to the expiry of the appeal period.

[16] The second aspect in relation to service is the fact that the notice of appeal was faxed to the Legal Services Branch. Rule 39(1) of the *Court of Appeal Rules* requires that a notice of appeal be served personally on the respondent or on the solicitor of record in the court appealed from. Rule 39(4)(c), which permits service by fax to the fax number included in the party's address for service, does not apply to Mr. McLean's faxing of the notice of appeal because the Rule only becomes operative after the respondent has filed in the registry of this Court a document containing an address for service which includes a fax number. Contrary to Mr. McLean's

assertions, R. 39(4) does not permit service of a notice of appeal by faxing it to the fax number included in the address for service in a document filed in the Supreme Court. As a result, even if the notice of appeal had been faxed within the appeal period, it would not have constituted proper service. Indeed, the notice of appeal has still not been served on the Attorney General.

[17] As the notice of appeal was not served within the appeal period and no extension has been obtained, it is necessary to consider whether the appeal should be dismissed. The leading authority with respect to an application to dismiss an appeal for failure to file and serve the notice of appeal in a timely fashion is *Davies v. C.I.B.C.* (1987), 1987 CanLII 2608 (BC CA), 15 B.C.L.R. (2d) 256 (C.A.). At 259-260, Justice Seaton stated that the Court should consider the following five questions, which are the same as the questions to be considered on an extension of time application:

1) Was there a *bona fide* intention to appeal?
2) When were the respondents informed of the intention?
3) Would the respondents be unduly prejudiced by an extension?
4) Is there merit in the appeal?; and
5) Is it in the interest of justice that an extension be granted?

[18] As Justice Lambert clarified at 261, the fifth question is the overriding question and embraces the first four questions. In the context of an application to dismiss an appeal, the overriding question is whether it is in the interests of justice to dismiss the appeal.

[19] Justice Seaton endorsed the view that extensions of time are generally granted when the delay is short and the delay was due to an error by the solicitor. He also observed that there is a greater willingness to grant an extension of time for service than the time for filing.

[20] Considering the above factors in these circumstances, it is my conclusion that it would not be in the interests of justice to dismiss the appeal at this stage. Accordingly, I dismiss the Attorney General's application with costs in the cause of the appeal.

[21] Although I have dismissed the Attorney General's application, it does not follow that the appeal may now be set for hearing. In the absence of an order extending the time to bring the appeal, the appeal has not been properly brought and it would not be appropriate to set such an appeal for hearing. Similarly, as the appeal has not yet been properly brought, it is not appropriate to deal with Mr. McLean's second application for an order that the appeal be heard by way of written submissions or to deal with any of the remaining aspects of Mr. McLean's first application that did not need to be decided in connection with the Attorney General's application.

[22] Although I believe I have jurisdiction to extend the time to bring the appeal in conjunction with the Attorney General's application without a formal extension application (which appears to have been done in *Davies*), I decline to do so in the present circumstances, including the facts that

the Attorney General gave Mr. McLean notice that he should apply for an extension and that Mr. McLean is not present to address ancillary matters.

[23] Counsel for the Attorney General suggested that I give Mr. McLean a deadline of May 10 to obtain an extension of time. I do not think it would be appropriate for me to make a conditional type of order, but I will observe that it would be in the interests of Mr. McLean to act with all due dispatch because any further delay will undoubtedly be taken into account when a justice considers his application for the extension of time. The Attorney General may file another application for the dismissal of the appeal if he is of the view that Mr. McLean has not acted with suitable dispatch.

[24] Finally, nothing I have said should be construed as an order ending the suspension of the time for the filing of the Attorney General's factum ordered by Stromberg-Stein J.A. on February 20.

"The Honourable Mr. Justice Tysoe"

Tab 3(M)

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 1 NOTICE OF APPEAL *(RULE 6(1))*

VANCOUVER
05-May-26
COURT OF APPEAL REGISTRY

Court of Appeal File No.
(For Registry Use Only)

Case File No. CA51536

Supreme Court File No. S-243258

The file number can be found on the upper right corner of the Supreme Court documents

Supreme Court Registry Location Vancouver Registry

To the respondent(s)
A Court proceeding has been commenced against you in the Court of Appeal. See the final page of this form for details on how to respond.

1. PARTIES TO THE APPEAL

Appellant(s)
List the party(ies) appealing the Supreme Court or tribunal order. Identify their roles in the proceeding below in brackets. E.g., Jane Doe (plaintiff, petitioner, etc.)

Law Society of British Columbia (plaintiff)

Respondent(s)
List the other party(ies) in the Supreme Court or tribunal order you are appealing who are affected by the appeal. Identify their roles in the proceeding below in brackets. E.g., Jane Doe (defendant).

Attorney General of British Columbia (defendant)
Lieutenant Governor in Council of British Columbia (defendant)

THE ORDER YOU ARE APPEALING

Is leave to appeal required?
Court of Appeal Rule 12 explains when you need leave to appeal. If you are unsure, check "Yes".

☐ Yes ☑ No

Who made the order?
Name the justice or other decision maker who pronounced the order you are appealing.

Chief Justice R. Skolrood

What court and/or tribunal pronounced the order(s)?

☑ Supreme Court ☐ Tribunal

Name of tribunal

Date the order was pronounced
Include the day, month and year that the order being appealed was pronounced (not the date the

29/04/2026

DD/MM/YYYY

City where the order was pronounced

Vancouver, British Columbia

Length of lower court hearing
Indicate in days or hours the length of the hearing that led to the order you are appealing from. For example, if you are appealing a judgment from a trial that took two hours, enter "two hours."

11 days

What type of proceeding are you appealing from?
Check one only.

☐ Trial Judgment
☑ Summary Trial Judgment
☐ Order of a Tribunal
☐ Chambers Judgment

3. RELIEF SOUGHT

If leave to appeal is not required, fill out Part A. If you are seeking leave to appeal, fill out Part B.

PART A: LEAVE NOT REQUIRED

Part of the order being appealed
If you only want to appeal one part of an order, enter the part

The order dismissing the Law Society's action

Order(s) you are seeking on appeal
Briefly list the order(s) you will ask this Court to make on appeal For example: "Set aside the trial judgment and order a new trial". Include any order as to costs.

(1) An order setting aside the decision under appeal
(2) An order granting judgment in the proceeding below
(3) A declaration that the Legal Professions Act, S.B.C. 2024, c. 26, or some portion thereof, is unconstitutional and of no force or effect
(4) In the alternative, an order remitting the matter to the B.C. Supreme Court
(5) An order for costs of the appeal and of the proceeding below

PART B: SEEKING LEAVE TO APPEAL

Part of the order being appealed
If you are only seeking leave to appeal one part of an order, enter the part that you are seeking leave to appeal.

Grounds for leave to appeal
Be as specific as possible. For example, if you believe the trial judge used an incorrect legal test or otherwise misapplied the law, indicate that here.

4. ADDITIONAL INFORMATION

Sealing order
Is there an order sealing any part of the trial court or tribunal file? If yes, add date(s).

☐ Yes ☑ No Date _____ *DD/MM/YYYY*

Anonymity order/publication ban
Are there orders that protect the identity of a party or parties? If yes, add date(s).

☐ Yes ☑ No Date _____ *DD/MM/YYYY*

Areas of law raised in the appeal
You may check more than one box if appropriate. For example, you should check "motor vehicle accidents" and "torts" for a personal injury claim involving a

☑ Constitutional/Administrative	☐ Civil Procedure	☐ Commercial
☐ Motor Vehicle Accidents	☐ Municipal Law	☐ Real Property
☐ Torts	☐ Equity	☐ Wills and Estates
☐ Divorce Act (Canada)	☐ Family Law Act	☐ Other

Appeals involving children
Does this appeal involve the rights or interests of a child? E.g., Parenting order

☐ Yes ☑ No

5. SERVICE

Are you representing yourself?

☐ Yes ☑ No

Name(s) and address(es) within BC for service of appellant(s). *If you have a lawyer, include the law firm's address; otherwise provide your own residential address.*

Craig Ferris KC, Laura Bevan, Jonathan Andrews, and Nicole Welsh
Lawson Lundell LLP
1600 – 925 West Georgia Street
Vancouver, BC V6C 3L2

Phone number(s) of appellant(s)

604-685-3456

Email address(es) for service of appellant(s)
If you provide an email address, you are consenting to have documents served on you by email.

cferris@lawsonlundell.com
lbevan@lawsonlundell.com

Date form completed

Date 05/05/2026

DD/MM/YYYY

Name of lawyer or party authorizing filing of this form

Craig Ferris KC

To the appellant(s):
You must file and serve this form on each respondent named in this document within the timelines required by the *Court of Appeal Act* and Court of Appeal Rules. You must file a Notice of Hearing **not more than one year** after filing this Form 1 or your appeal will be placed on the inactive list (Rule 50(1)(a)).

To the respondent(s)

If you intend to participate in this proceeding, **you must give notice** of your intention by doing the following **not more than 10 days** after receiving this Notice of Appeal: (1) file a "Notice of Appearance" (Form 2 of the *Court of Appeal Rules*) in a Court of Appeal registry and; (2) serve the Notice of Appearance on the appellant.

If you fail to file and serve a Notice Appearance:

(a) You are presumed to take no position on the appeal, or the application for leave to appeal (if leave is required).

(b) The parties are not obliged to serve you with any further documents related to the appeal, including an order granting leave to appeal (if leave is required).

You are presumed to take no position if you fail to file and serve a Notice of Appearance within the time described above. The filing registries for the British Columbia Court of Appeal are as follows.

Central Registry:

B.C. Court of Appeal
Suite 400, 800 Hornby St.
Vancouver BC V6Z 2C5

Other Registries:

B.C. Court of Appeal
The Law Courts
P.O. Box 9248
STN PROV GOVT
850 Burdett Ave.
Victoria BC V8W 1B4

B.C. Court of Appeal
223 - 455 Columbia St.
Kamloops BC V2C 6K4

Inquiries should be addressed to (604) 660-2468.

Tab 3(N)

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 1 NOTICE OF APPEAL *(RULE 6(1))*

Court of Appeal File No.
(For Registry Use Only)

Case File No. ***CA51535***

VANCOUVER
05-May-26
COURT OF APPEAL REGISTRY

Supreme Court File No. S-243325

The file number can be found on the upper right corner of the Supreme Court documents

Supreme Court Registry Location Vancouver

To the respondent(s)

A court proceeding has been commenced against you in the Court of Appeal. See the final page of this form for details on how to respond.

1. PARTIES TO THE APPEAL

Appellant(s)
List the party(ies) appealing the Supreme Court or tribunal order. Identify their roles in the proceeding below in brackets. E.g., Jane Doe (plaintiff, petitioner, etc.)

Trial Lawyers Association of British Columbia and Kevin Westell (Plaintiffs)

Respondent(s)
List the other party(ies) in the Supreme Court or tribunal order you are appealing who are affected by the appeal. Identify their roles in the proceeding below in brackets. E.g., Jane Doe (defendant).

The Attorney General of British Columbia and the Lieutenant Governor in Council (Defendants)

2. THE ORDER YOU ARE APPEALING

Is leave to appeal required?
Court of Appeal Rule 12 explains when you need leave to appeal. If you are unsure, check "Yes."

☐ Yes ☒ No

Who made the order?
Name the justice or other decision maker who pronounced the order you are appealing.

Chief Justice Skolrood

What court and/or tribunal pronounced the order(s)?

☒ Supreme Court ☐ Tribunal

Name of tribunal

Date the order was pronounced
Include the day, month and year that the order being appealed was pronounced (not the date the order was entered).

29/Apr/2026

DD/MM/YYYY

City where the order was pronounced

Vancouver, British Columbia

Length of lower court hearing
Indicate in days or hours the length of the hearing that led to the order you are appealing from. For example, if you are appealing a judgment from a trial that took two hours, enter "two hours."

11 days

What type of proceeding are you appealing from?
Check only one.

☐ Trial Judgment
☒ Summary Trial Judgment
☐ Order of a Tribunal
☐ Chambers Judgment

3. RELIEF SOUGHT

If leave to appeal is not required, fill out Part A. If you are seeking leave to appeal, fill out Part B.

PART A: LEAVE NOT REQUIRED

Part of the order being appealed
If you only want to appeal one part of an order, enter the part that is being appealed.

The Order of the Honourable Chief Justice Skolrood dismissing the action of the Trial Lawyers Association of British Columbia and Kevin Westell

Order(s) you are seeking on appeal
Briefly list the order(s) you will ask this Court to make on appeal. For example: "Set aside the trial judgment and order a new trial." Include any order as to costs.

The appellants seek an order allowing the appeal, setting aside the decision of the Chief Justice, and granting the following orders:

(a) an order declaring that Bill 21, *Legal Professions Act*, 5th Sess, 42nd Leg, British Columbia, 2024, S.B.C. 2024, c. 26 ("Bill 21") is *ultra vires* the Legislative Assembly of British Columbia to legislate under ss. 92(13) and (14) of the *Constitution Act, 1867*;
(b) an order declaring that Bill 21 violates ss. 2(d), 7, 8, 10(b), and 11(d) of the *Charter of Rights and Freedoms* in a manner that cannot be justified in a free and democratic society under s. 1 of the Charter;
(c) alternatively, an order declaring that ss. 68, 76-77, 85, 88, 198, 202 of Bill 21 violate s. 7 of the *Charter of Rights and Freedoms* in a manner that cannot be justified in a free and democratic society under s. 1 of the Charter;
(d) a declaration under s. 52 of the *Constitution Act, 1982* that Bill 21, or alternatively portions of Bill 21, are of no force and effect to the extent of any inconsistency with the Constitution of Canada;
(e) in the further alternative, an order remitting the action to the Supreme Court of British Columbia for a new trial.

PART B: SEEKING LEAVE TO APPEAL

Part of the order being appealed
If you are only seeking leave to appeal one part of an order, enter the part that you are seeking leave to appeal.

Grounds for leave to appeal
Be as specific as possible. For example, if you believe the trial judge used an incorrect legal test or otherwise misapplied the law, indicate that here.

4. ADDITIONAL INFORMATION

Sealing order
Is there an order sealing any part of the trial court or tribunal file? If yes, add date(s).

☐ Yes ☒ No Date

DD/MM/YYYY

Anonymity order/publication ban
Are there orders that protect the identity of a party or parties? If yes, add date(s).

☐ Yes ☒ No Date

DD/MM/YYYY

Areas of law raised in the appeal
You may check more than one box if appropriate. For example, you should check "motor vehicle accidents" and "torts" for a personal injury claim involving a motor vehicle accident.

☒ Constitutional/ Administrative	☐ Civil Procedure	☐ Commercial
☐ Motor Vehicle Accidents	☐ Municipal Law	☐ Real Property
☐ Torts	☐ Equity	☐ Wills and Estates
☐ Divorce Act (Canada)	☐ Family Law Act	☐ Other

Appeals involving children
Does this appeal involve the rights or interests of a child? E.g., parenting order.

☐ Yes ☒ No

5. SERVICE

Are you representing yourself?	☐ Yes ☒ No
Name(s) and address(es) within BC for service of appellant(s) *If you have a lawyer, include the law firm's address; otherwise provide your own residential address.*	Gavin Cameron, Tom Posyniak and Laura Abrioux Fasken Martineau DuMoulin LLP 550 Burrard Street, Suite 2900 Vancouver, BC V6C 0A3
Phone number(s) of appellant(s)	604-631-3131
Email address(es) for service of the appellant(s) *If you provide an email address, you consent to have documents served on you by email.*	gcameron@fasken.com tposyniak@fasken.com labrioux@fasken.com

Date form completed	05/05/2026 *DD/MM/YYYY*	Name of lawyer or party authorizing filing of this form	Gavin Cameron

To the appellant(s):

You must file and serve this form on each respondent named in this document within the timelines required by the *Court of Appeal Act* and Court of Appeal Rules. You must file a Notice of Hearing **not more than one year** after filing this Form 1 or your appeal will be placed on the inactive list (Rule 50(1)(a)).

To the respondent(s)

If you intend to participate in this proceeding, **you must give notice** of your intention by doing the following **not more than 10 days** after receiving this Notice of Appeal: (1) file a "Notice of Appearance" (Form 2 of the Court of Appeal Rules) in a Court of Appeal registry and; (2) serve the Notice of Appearance on the appellant.

If you fail to file and serve a Notice of Appearance:

(a) You are presumed to take no position on the appeal, or the application for leave to appeal (if leave is required).

(b) The parties are not obliged to serve you with any further documents related to the appeal, including an order granting leave to appeal (if leave is required).

You are presumed to take no position if you fail to file and serve a Notice of Appearance within the time described above. The filing registries for the British Columbia Court of Appeal are as follows.

Central Registry:

B.C. Court of Appeal
Suite 400, 800 Hornby St.
Vancouver BC V6Z 2C5

Other Registries:

B.C. Court of Appeal
The Law Courts
P.O. Box 9248
STN PROV GOVT
850 Burdett Ave.
Victoria BC V8W 1B4

B.C. Court of Appeal
223 - 455 Columbia St.
Kamloops BC V2C 6K4

Inquiries should be addressed to (604) 660-2468.

Tab 3(O)

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 2 NOTICE OF APPEARANCE *(RULES 7(1), 8(a), 10(1))*

VANCOUVER
05-May-26
COURT OF APPEAL REGISTRY

Court of Appeal File No. CA51535

TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA v. ATTORNEY GENERAL OF BRITISH COLUMBIA

Name(s) of respondent(s) filing the notice of appearance	Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia
Name(s) and address(es) within BC for service of respondent(s)	Ministry of Attorney General Legal Services Branch 1301 865 Hornby Street Vancouver BC V6Z 2G3 Attention: Emily Lapper, K.C., Trevor Bant, Karin Kotliarsky, Sergio Ortega
Phone number(s) of respondent(s) filing the notice of appearance	604.660.6795
Email address(es) for service of respondent(s)	Emily.Lapper@gov.bc.ca Trevor.Bant@gov.bc.ca Karin.Kotliarsky@gov.bc.ca Sergio.Ortega@gov.bc.ca

Date form completed: 05/05/2026

Name of lawyer or party authorizing filing of this form: Emily Lapper, K.C.

To the respondent completing this form: The other parties to this appeal are entitled to rely on the address for service you have provided on this Notice of Appearance unless you change your address for service by filing and serving a Change of Address for Service in Form 18.

Tab 3(P)

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

MAY 17 2024

NO. S-243258
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA

PLAINTIFF

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA and the ATTORNEY GENERAL OF BRITISH COLUMBIA

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the Plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

(a) file a Response to Civil Claim in Form 2 in the above-named registry of this court within the time for Response to Civil Claim described below, and

(b) serve a copy of the filed Response to Civil Claim on the Plaintiff.

If you intend to make a Counterclaim, you or your lawyer must

(c) file a Response to Civil Claim in Form 2 and a Counterclaim in Form 3 in the above-noted registry of this court within the time for Response to Civil Claim described below, and

(d) serve a copy of the filed Response to Civil Claim and Counterclaim on the Plaintiff and on any new parties named in the Counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the Response to Civil Claim within the time for Response to Civil Claim described below.

17MAY24 2408366 21422:
21422 S243258 RISS 200.00C

Time for Response to Civil Claim

A Response to Civil Claim must be filed and served on the Plaintiff,

(a) if you were served with the Notice of Civil Claim anywhere in Canada, within 21 days after that service,

(b) if you were served with the Notice of Civil Claim anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the Notice of Civil Claim anywhere else, within 49 days after that service, or

(d) if the time for Response to Civil Claim has been set by order of the court, within that time.

Part 1: STATEMENT OF FACTS

Overview

1. On May 16, 2024, the British Columbia legislature enacted the *Legal Professions Act*, S.B.C. 2024, c. 26 (for ease of reference, **Bill 21**). Bill 21 creates a new single regulator of legal professions in British Columbia – Legal Professions British Columbia – to regulate lawyers, notaries public, and certain paralegals practicing in the province, as well as new classes of government-created legal professionals that may be created and governed by Cabinet regulation.

2. Bill 21 erodes institutions that are fundamental to Canadian democracy: the independent bar and the independent judiciary. Bill 21 fails to protect the public's interest in having access to independent legal professions, governed by an independent regulator, that are not constrained by unnecessary government direction and intrusion.

3. An independent bar is fundamental to the legitimacy of Canada's constitutional democracy and the maintenance of the proper constitutional relationship between the executive, the bar, and the judiciary:

> The independence of the Bar from the state in all its pervasive manifestations is one of the hallmarks of a free society. Consequently, regulation of these members of the law profession must, so far as by human ingenuity it can be so designed, be free from state interference, in the political sense, with the delivery of services to the individual citizens in state, particularly in the fields of public and criminal law. The public

> interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the Bar and through those members, legal advice and services generally.[1]

4. The practice of law is, and must continue to be, an independent and self-regulating profession. In Canada, self-regulated societies govern the professional bar for the purposes of upholding and protecting the public interest in the proper administration of justice. The Law Society of British Columbia (the **Law Society**) fulfills its obligation to regulate lawyers practicing in British Columbia in the public interest by, among other things, preserving and protecting the rights and freedoms of all persons, and ensuring the independence, integrity, honour and competence of lawyers.

5. The fundamental obligation on the professional bar to self-regulate lawyers in the public interest is reflected in, but not created by, s. 3 of the *Legal Profession Act*, S.B.C. 1998, c. 9 (the ***LPA***).

6. Under Bill 21, the government:

   (a) Purports to limit the scope of the regulator's duty to regulate the legal professions in the public interest;

   (b) Imposes a co-governance model of regulation of legal professions, in which lawyers do not have the functional majority to regulate the practice of law independent of government or any other body;

   (c) Empowers the government to create new legal professions, on the Attorney General's own assessment of, among other things, whether doing so impairs the independence of "licensees", and designates those professions as "officers of the court";

   (d) Exercises control over the practice of law in the province, including with respect to competence and discipline; and

   (e) Compromises the independence of the judiciary, whose members must be selected from an independent and impartial bar.

---

[1] *AG Can v Law Society of BC*, [1982] 2 SCR 307 at 335-336.

7. Bill 21 is *ultra vires* the authority of the provincial Legislature to enact legislation under ss. 92(13) and (14) of the *Constitution Act, 1867*. It is not consistent with the judicature provisions in ss. 96-101 of the *Constitution Act, 1867*, or the individual rights guaranteed by the Charter.

8. The Law Society seeks a declaration under s. 52(1) of the *Constitution Act, 1982* that Bill 21 is inconsistent with the Constitution of Canada, and is, to the extent of the inconsistency, of no force or effect.

B. The Law Society of British Columbia

i. The object and duty of the Law Society

9. The object and duty of the Law Society is to uphold and protect the public interest in the administration of justice by:

   (a) Preserving and protecting the rights and freedoms of all persons;

   (b) Ensuring the independence, integrity, honour and competence of lawyers;

   (c) Establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission;

   (d) Regulating the practice of law; and

   (e) Supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practice law in British Columbia in fulfilling their duties in the practice of law.

10. The membership of the Law Society is comprised of approximately 14,000 practicing lawyers, 1550 non-practicing lawyers, and 1070 retired lawyers.

11. The Law Society is governed by a board, the members of which are known as Benchers.

ii. The core self-regulatory functions of the Benchers

12. One of the core self-regulatory functions of the Benchers is rule-making. The Benchers are empowered to, and do, make rules for the governing of the society, lawyers, law firms, articled students and applicants, and for the carrying out of the duties and powers under the *LPA*. The *Law Society Rules* (the **Rules**) – currently the *Law Society Rules 2015* – govern

all aspects of the day-to-day practice of law, and are binding on the society, lawyers, law firms, the benchers, articled students, applicants, and others authorized to practice law in British Columbia.

13. The *Rules* specifically address membership and admission into the Law Society and the authority to practice law; processes for protection of the public through the investigation of complaints, promoting the mental and physical health of members, maintaining practice standards in the public interest, and continuing education of members; and discipline of lawyers who are alleged to have breached the *Rules*.

14. The Benchers also maintain the *Code of Professional Conduct for British Columbia* (the **Code**). The Code is an expression of the Benchers' views on the special ethical responsibility that comes with the lawyer's role, and forms an integral part of independent self-regulation of lawyers in the public interest. The Code is significantly related to the Federation of Law Societies' *Model Code of Professional Conduct*, which ensures pan-Canadian standards for the practice of law.

iii. Self-governance of the Law Society

15. The *LPA* does not prescribe the number of benchers, nor the manner of their election. The *LPA* prescribes only that the benchers are the Attorney General (though in practice the Deputy Attorney General attends meetings on the Attorney General's behalf), up to six persons appointed by the Lieutenant Governor in Council (**LGIC**), and the lawyers elected under s. 7 of the *LPA*.

16. Pursuant to the *Rules*, the Benchers include 25 lawyers elected by other lawyers in nine regions across British Columbia, ensuring appropriate geographic representation of lawyers practicing in the province, in addition to the six non-lawyers appointed by the LGIC.

17. The Rules applicable to governance matters of the Law Society, such as the term of office of Benchers, the electoral districts from which lawyers are elected, and the eligibility to be elected as a Bencher, are subject to approval of the membership of the Law Society: s. 12, LPA.

18. The Law Society receives no government funding. Its funds are derived from annual and other fees levied on its membership. The Benchers set the fees, and any special assessments, including but not limited to a fee for the Lawyers' Indemnity Fund, that must be paid by each member for the benefit of the Society.

C. Strategic objectives of the Law Society

19. In addition to its core regulatory functions, the Law Society maintains the following strategic objectives as part of its obligation to self-regulate independently, without incursion from any source, to preserve and uphold the public interest in the administration of justice in the province:

(a) Lead as an innovative regulator of legal service providers, including by continuously adapting regulatory structures to address money laundering risks and to support and promote mental and physical health and wellbeing of legal services providers;

(b) Work towards reconciliation by implementing initiatives to take meaningful action toward reconciliation with Indigenous peoples in the justice system, such as by continued support for the advancement of the principles set out in the Declaration on the Rights of Indigenous Peoples Act and the implementation of the First Nations Justice Strategy;

(c) Take action to improve access to justice by increasing availability of affordable legal service and access to the courts, administrative tribunals and other dispute resolution providers and the Law Society's regulatory processes, including by developing and implementing an innovation sandbox for the provision of a wider range of legal service and providers;

(d) Promote greater diversity and inclusion in the legal profession, which reflects the diversity of the public it serves, and ensure the equitable treatment of every individual who interacts with the Law Society; and

(e) Increase confidence in the Law Society, the administration of justice and the rule of law by ensuring greater public awareness of the importance of the rule of law and lawyer independence.

20. The Law Society takes specific, transparent and accountable action to support these strategic objectives.

i. Advancing the public interest by responding to the Truth and Reconciliation Commission calls to action

21. On October 30, 2015, nearly 10 years ago, the Benchers unanimously acknowledged the findings of the Truth and Reconciliation Commission (the **TRC**) and committed to addressing all of the TRC calls to action that fall within the Law Society's mandate. Since that time, the Law Society has continued to work on developing a full and impactful response to the TRC calls to action.

22. In 2016, the Benchers unanimously endorsed the creation of a permanent Truth and Reconciliation Advisory Committee to provide guidance and advice to the Law Society on legal issues affected Indigenous people in the province.

23. In 2018, the Truth and Reconciliation Advisory Committee published a Truth and Reconciliation Action Plan enumerating nine specific commitments to advance the calls to action in the Truth and Reconciliation Commission report. One of the many actions taken by the Law Society in support of these commitments was to request that the government of British Columbia appoint an Indigenous bencher.

24. On May 4, 2018, Claire Marshall became the province's first appointed Indigenous Bencher.

25. By 2021, five of 25 Benchers were Indigenous people.

26. On September 23, 2022, the Benchers approved an Indigenous Framework Report created by the Truth and Reconciliation Advisory Committee. The Indigenous Framework Report was prepared to help guide the Law Society in its application of the LPA, the Rules and the Code, as well as any future legislation regulating the legal profession in a manner that will advance the principles of reconciliation with Indigenous Peoples. The Framework sets out six principles that underlie the Law Society's existing statutory and regulatory commitments, and provides commentary to assist in the specific application of the principles to the *LPA*, the *Rules* and the Code.

27. In 2023, the Benchers received and approved a Report of the Indigenous Engagement in Regulatory Matters Task Force for the purpose of assisting the Law Society reconcile its

processes with Indigenous legal principles. The objective of the Report is to identify systemic barriers experienced by Indigenous complainants and witnesses, and propose solutions to establish and maintain culturally safe and trauma- informed regulatory processes.

28. All practicing lawyers called to the bar in British Columbia were required to complete, by January 1, 2024, Indigenous cultural competency training. The course was designed to provide knowledge on the history of Indigenous-Crown relations, the history and legacy of residential schools in Canada, and how legislation regarding Indigenous Peoples created the issues that reconciliation seeks to address.

ii. Protecting the public interest by addressing health challenges that impact professional responsibilities

29. In 2018, the Law Society created the Mental Health Task Force to address topics related to improving the mental health of the legal profession for the benefit of legal professionals and in the public interest, in response to the demonstrated elevated risk and prevalence of serious mental health issues in the practice of law.

30. Between July 2018 and December 2023, the Mental Health Task Force issued 10 reports to the Benchers regarding approximately two dozen recommendations for implementation of measures to, among many other things, improve access to health supports for lawyers, revise the *Rules* and the Code to remove stigmatizing language around mental health in the practice of law, and create an alternative discipline process to address circumstances in which there is a connection between a health condition and a conduct issue that resulted in a complaint investigation.

iii. Protecting the public interest by combatting money laundering

31. For example, nearly 20 years ago, the Law Society became the first law society in Canada to adopt a rule that restricted a lawyer's ability to accept cash (a hallmark of money laundering), and added anti-money laundering education to the Professional Legal Training Course. The Law Society subsequently introduced client identification and verification rules that are mandatory for each lawyer practicing in British Columbia, and since 2008

has routinely updated the Rules to reflect best practices, including as recently as March 2024.

32. In 2023, the independent Commission of Inquiry into Money Laundering in British Columbia (the **Cullen Commission**) concluded that the Law Society's Rules represent an "extensive" anti-money laundering regime that "has gone a long way to addressing many of the money laundering risks" in the legal sector.

33. The province has yet to implement any of the recommendations for government action in the Cullen Commission Final Report.

D. Background to Bill 21

34. In March 2022, the government announced its intention to combine regulation of lawyers, notaries public and licensed paralegals under a single regulator. The province did not, at any time prior to the tabling of Bill 21 for first reading on April 10, 2024, publicly disclose its intention to end self-regulation of lawyers in British Columbia and impose on lawyers a co-governance model of regulation.

35. The Ministry's position on independence and self-regulation was articulated in its Intentions Paper as follows:

> The importance of an independent bar to the functioning of a free and democratic society cannot be overstated. The Ministry is not proposing, and has no intention of implementing, <u>changes that would interfere with the ability of a lawyer (or other legal services provider) to fearlessly advocate for their client and provided independent legal advice to their client, even, and especially, when their client is at odds with government</u>.
>
> The Ministry has no intention of implementing changes that would see a shift away from what is commonly referred to as "self-regulation". Self-regulation does not mean no oversight or involvement by government. It means that the Legislature has made a policy decision to assign a professional regulator the primary responsibility for the development of structures, processes and policies for regulation.
>
> ...
>
> Many other common law jurisdictions have moved away from self regulation in favour of alternative regulatory models featuring enhanced

> government oversight (often referred to as "co-regulation")... <u>However, the Ministry is not proposing this kind of change</u>.

36. In November 2022, the Law Society issued a response to the Ministry's Intentions Paper. The Law Society expressed its concerns that, among other things, the Intentions Paper did not directly disclose an intention to protect the institutional dimension of the independence of the bar (i.e. the legal profession), including by ensuring that the majority of the board that governs lawyers are themselves lawyers who are elected by lawyers. Further, a substantial change in the size of the board would undermine diversity on the board, and therefore public confidence in the regulator. The Law Society argued that the Ministry must empower an independent regulator to make the changes necessary to promote and protect the public interest. The Law Society wrote:

> To truly grapple with the historical and ongoing harms that the legal system has caused to Indigenous Peoples, and to reform the Law Society's structures, processes and policies in ways that make space for Indigenous world views and laws, the regulator's authority to do so must be preserved...
>
> The Law Society looks forward to working with the Ministry to ensure that these goals are achieved within a framework that recognizes the importance of an independent bar, an independent profession and an independent regulator reflecting the diversity of the British Columbia public and ensuring a variety of legal services providers [are] meeting the legal needs of the citizens of British Columbia.

37. In March 2024, the Ministry of the Attorney General released a public update on the proposed legislation. The public update noted that the Ministry "has been careful to ensure the key elements of independence of the Bar and of all legal professionals are maintained and even strengthened." The Ministry's update does not specify what the Ministry considers are the key elements of the independence of the bar.

38. Before and after the public release of Bill 21, the Law Society, and multiple bar associations in the province, called on the Attorney General to open up consultation on Bill 21 to lawyers and to the public. The province refused.

E. Bill 21

39. Bill 21 received first reading in the Legislature on April 10, 2024, and was tabled for second reading on May 6, 2024. Debate on Bill 21 in the Committee of the Whole House was closed by government motion on May 15, 2024. Royal assent to Bill 21 was granted on May 16, 2024.

40. Bill 21 fundamentally undermines the independence of the bar in British Columbia.

i. Bill 21 circumscribes the regulator's duties

41. The duty to act in the public interest in the administration of justice by protecting and preserving the rights and freedoms of all persons is fundamental to the role of the individual lawyer, and the role of the independent regulator.

42. The government has purported, by simple legislative enactment, to eliminate that duty, and others, as the responsibility of an independent regulator.

43. Under Bill 21, the regulator has the following duties:

> **Duties of regulator**
>
> 6 (1) The regulator has the following duties:
>
> (a) to regulate the practice of law in British Columbia;
>
> (b) to establish standards and programs for the education, training, competence, practice and conduct of applicants, trainees, licensees and law firms;
>
> (c) to ensure the independence of licensees.
>
> (2) The regulator must exercise its powers and perform its duties under this Act in the public interest.

44. Further, Bill 21 requires the regulator to consider legislated "guiding principles" as follows:

> **Guiding principles**
>
> 7 In exercising powers and performing duties under this Act, the regulator <u>must have regard to the following principles</u>:
>
> (a) facilitating access to legal services;

(b) supporting reconciliation with Indigenous peoples and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples;

(c) identifying, removing or preventing barriers to the practice of law in British Columbia that have a disproportionate impact on Indigenous persons and other persons belong to groups that are under-represented in the practice of law;

(d) regulating the practice of each legal profession in a manner that is:

(i) transparent,

(ii) timely

(iii) proportionate to the risk of harm to the public posed by the practice.

45. In s. 7 of Bill 21, through the "guiding principles", the Legislature has imposed its own, narrow conception of how the regulator is to act in the public interest.

46. Sections 6 and 7 of Bill 21 compromise the independence of the bar in British Columbia.

ii. Bill 21 imposes a co-regulation regime on lawyers in British Columbia

47. Upon receiving royal assent, Bill 21 created a "transitional board" empowered to prepare for and facilitate the transition from the *LPA* to the regime under Bill 21: s. 223, Bill 21.

48. The Benchers must appoint four members to the seven-member transitional board within two months; otherwise, the Attorney General will appoint members to the transitional board after a "merit-based process": s. 223(1)(a), (2), Bill 21.

49. There is no requirement that any of the members of the transitional board be lawyers.

50. Section 223(7) of Bill 21 imposes on the Law Society a statutory duty to "cooperate" with the transitional board in the exercise of its duty to prepare for and facilitate the transition from the LPA to the regime under Bill 21.

51. Section 224 of Bill 21 establishes a "transitional Indigenous council", consisting of up to six Indigenous persons as follows:

(a) 3 members appointed by the BC First Nations Justice Council;

(b) 1 member appointed by the Métis Nation British Columbia;

(c) 1 or 2 members of the transitional board appointed by the transitional board.

52. The BC First Nations Justice Council is comprised of members appointed by self-governing First Nations in British Columbia. The BC First Nations Justice Council does not represent non-status Indigenous people, nor does it represent off-reserve Indigenous people.

53. The transitional board is required, in consultation with the transitional Indigenous council, to appoint a person responsible for managing the transition from the *LPA* to the regime under Bill 21. This person will then become the first chief executive officer of the new regulator. The duties of the transitional chief executive officer include the duty to "work in collaboration with the Indigenous council and the board".

54. The transitional board and the transitional Indigenous council are required by Bill 21 to "collaborate to develop the first rules of the board." In addition to the duty to "collaborate", the transitional Indigenous council must approve the first rules of the regulator before the first rules are made.

55. Bill 21 includes 23 provisions that grant the board (and by reference, the transitional board) the power to make rules. Many of these provisions also include non-exhaustive lists of rule types that can be made under the rule-making power. These rules govern all aspects of the practice of law in the province.

56. Bill 21 provides that at least seven of the combined 13 members of the transitional board and transitional Indigenous council must be Indigenous persons; there is no requirement that any of the combined 13 members of the transitional board and transitional Indigenous council be lawyers. As a result, Bill 21 provides that the first rules governing the practice of law and the conduct of lawyers in British Columbia post-transition to a new regulator or will be established by non-lawyers.

57. Bill 21 also provides that lawyers and notaries must pay for the transition from the *LPA* to the regime under Bill 21, including remuneration of members of the board and Indigenous council (the elected Benchers are not remunerated for their service): s. 228, Bill 21.

58. By the operation of s. 228 of Bill 21, and by the self-funding nature of legal regulation in Canada, Bill 21 creates a system of financial dependency between lawyers and the regulator that compromises the independence of the bar.

iii. Bill 21 imposes a co-governance regime on lawyers in British Columbia

59. Under Bill 21, lawyers no longer form the functional majority of the board of governors of the legal regulator in British Columbia.

60. Under the *LPA*, lawyers elect 25 Benchers from nine geographical regions in British Columbia. Under Bill 21, lawyers comprise five (5) of the first 12 members of the board, which also includes three directors appointed by the LGIC.

61. The second five members of the board, four of whom must be lawyers, are appointed by a "majority" of the first 12 members. Lawyers do not form a majority of the first 12 members. While the government has preserved a numerical majority of lawyers on the eventual board of the regulator (9 of 17 members), lawyers do not in fact have functional control of the composition of the board.

62. Under s. 17(3) of Bill 21, a quorum of the board is 12 directors. This is the same number of directors that are not elected by lawyers.

iv. Co-regulation in post-transition rule-making

63. In addition to the prescriptive composition of the board set out above, Bill 21 creates a permanent Indigenous council, consisting of individuals appointed by the board following merit-based process. Section 29 prescribes the composition of the Indigenous council as follows:

> **Indigenous Council**
>
> 29 (1) The Indigenous council is to consist of the following members appointed by the board following a merit-based process:
>
> (a) 2 members who are directors;
>
> (b) 1 member who is not a director;
>
> (c) 2 to 4 members appointed from among persons nominated by the BC First Nations Justice Council;

(d) 1 to 2 members appointed from among persons nominated by Métis peoples or entitles representing Métis peoples.

(2) the members appointed under subsection (1) must

(a) be Indigenous persons, and

(b) to the extent possible, collectively reflect the diversity of the Indigenous population of British Columbia.

(3) In making an appointment under subsection (1)(b), (c) or (d), the board must consider the following:

(a) the person's experience with and knowledge and understanding of the impact of the justice system on Indigenous persons;

(b) the person's experience working with organizations that support Indigenous persons;

(c) the person's knowledge of the Indigenous legal traditions of one or more Indigenous communities;

(d) the person's ties with one or more Indigenous communities.

64. There is no requirement that any person on the Indigenous council be a lawyer.

65. Section 27 of Bill 21 empowers the board to make "any rules that it considers necessary and advisable for the performance of the duties under s. 6" of Bill 21 (which are now also circumscribed by the Legislature). In practice, the first rules of the board are already created under the transitional provisions, in "collaboration" with the transitional Indigenous board, and subject to the "approval" of the transitional Indigenous board.

66. Subsequent rule-making requires "consultation" between the Indigenous council and the board, before making a rule, respecting the extent to which the rule accords with *some* of the guiding principles in s. 7: s. 26, Bill 21.

v. Creation of new legal professions by government

67. Under the *Rules*, the Benchers determine the categories of members of the Law Society, and further determine whether a member is in good standing, by reference to the Law Society's discipline and fee rules.

68. Bill 21 permits the government to create and regulate its own class of legal professionals. The decision to do so is to be made on the Attorney General's own assessment of, among

other things, whether the designation would have an "undue impact" on the independence of licensees, including lawyers: ss. 3 and 4, Bill 21.

69. Further, the government can specify the activities that a member of a new government-created legal profession may undertake (s. 213, Bill 21), exempt the new government-created legal professions from the prohibition against unauthorized practice of law (s. 212, Bill 21), and subject the new legal profession to regulations that are inconsistent with the rules created by the regulator governing lawyers (s. 214, Bill 21).

70. Bill 21 specifies that government-created legal professionals are officers of the court (s. 39, Bill 21).

71. The *Provincial Courts Act*, as amended by Bill 21, permits the government to appoint provincial court judges from a class of government-created legal professionals (s. 298, Bill 21).

72. Bill 21 amended the composition of the judicial council under s. 21 of the *Provincial Courts Act*. Formerly, the president of the Law Society – a lawyer elected as a Bencher – held one of up to nine positions on the judicial council (up to four positions on the judicial council are appointed by the LGIC).

73. After the enactment of Bill 21, the position held by the president of the Law Society is replaced by the chair of the board of the new regulator, who may or may not be lawyer, let alone a lawyer elected by the membership of the bar.

vi. Provisions regulating the conduct, competence and discipline of legal professionals

74. Bill 21 purports to directly regulate the conduct, competence and discipline of lawyers, matters that are the subject of the *Rules* under the *LPA*. Currently, these subject matters are governed mainly by the Code and the *Rules*, both being standards established by the Law Society.

75. For example, under s. 71(2) of Bill 21, a licensee, law firm or trainee must not (a) engage in conduct that constitutes professional misconduct or conduct unbecoming a professional, or (b) practice law incompetently. "Incompetently" is defined in s. 68 of Bill 21 as follows:

> "incompetently", in relation to the practice of law, means in a manner that demonstrates either of the following:
>
> ...
>
> (b) a health condition that prevents a licensee from practicing law with reasonable skill and competence.

76. Section 77(2)(b) of Bill 21 permits the chief executive officer, on their own motion, to conduct an investigation to determine whether a lawyer has, among other things, practiced law "incompetently".

77. Under Section 78(1), the chief executive officer may conduct a warrantless entry into a business premises, and inspect or examine the records of a licensee, trainee or law firm that "relate to the practice of law by the licensee, trainee or law firm", for the purposes of "investigating" whether the licensee has practiced law "incompetently".

78. Section 78(3) authorizes the chief executive officer to compel any person who may have information or records that are relevant to the investigation (including records relating to a health condition) to attend and give evidence, give written answers to questions, or produce records to the chief executive officer.

79. The chief executive officer may also compel a lawyer to receive medical treatment or counselling: s. 88(1), Bill 21.

80. Refusing to attend counselling or receive medical treatment, or other wilful interference with an order made by the chief executive officer, is an offence:

> 198 (2) A person commits an offence if the person:
>
> ...
>
> (d) wilfully interferes with or obstructs another person in the exercise of a power or performance of a duty under this Act or in carrying out an order under this Act.

81. An individual who commits an offence under Bill 21 is liable to imprisonment for a term not exceeding two years: s. 202, Bill 21.

82. An order made by the chief executive officer under s. 88(1) may form part of a licensee's or trainee's disciplinary record, which must include any remedial action taken in relation to a licensee or trainee: s. 1 of Bill 21.

Part 2: RELIEF SOUGHT

83. The Law Society seeks the following orders:

(a) declarations that Bill 21, or alternatively portions of Bill 21, are *ultra vires* provincial authority in ss. 92(13) and (14) of the *Constitution Act, 1867*;

(b) a declaration under s. 52 of the *Constitution Act, 1982* that Bill 21, or alternatively portions of Bill 21, are of no force and effect to the extent of any inconsistency with the Constitution of Canada;

(c) interlocutory and interim injunctive relief enjoining the operation of certain sections of Part 18 – Division 3 of Bill 21;

(d) further, or alternatively, interlocutory and interim injunctive relief enjoining the coming into force of Bill 21;

(e) costs of this proceeding; and

(f) such further and other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

A. Independence of the bar is a constitutional imperative

84. An independent bar, comprised of lawyers who are free from influence or incursion by any source, is a fundamental feature of a free and democratic society.

85. Independence of the bar is an unwritten constitutional principle that flows by necessary implication from the preamble to and ss. 96-101 of the *Constitution Act, 1867*. Independence of the bar is also a necessary component of the rule of law, and of the independence of the judiciary, each of which are also recognized as unwritten constitutional principles.

86. The principle of independence of the bar also finds substantive expression in the fundamental rights guaranteed by the *Charter of Rights and Freedoms*, including:

(a) s. 7, which guarantees the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice;

(b) s. 10(b), which guarantees the right to retain and instruct counsel on arrest or detention;

(c) s. 11(d), which guarantees the right to a fair and public hearing by an independent and impartial tribunal when charged with an offence.

87. The scope of the Province's authority to legislate under ss. 92(13) and (14) of the Constitution *Act, 1867* must be interpreted in light of the entirety of the Constitution, including ss. 96-101 of the *Constitution Act, 1867* and the individual rights guaranteed in the *Charter*.

B. The key aspects of independence of the bar

88. There are two inextricably intertwined dimensions to independence of the bar:

(a) individual independence of lawyers, who play a fundamentally important role in the administration of justice and exercise powers and duties that are vital to the maintenance of order in our society, and the due administration of the law in the interest of the whole community; and

(b) institutional independence of lawyers, maintained by a professional body of lawyers that is dedicated to protecting the values of the profession and the public's confidence that lawyers' professional values will guide the lawyers who serve them, through self-government and self-regulation of lawyers.

89. Institutional independence requires that lawyers are governed by a body that is, and is perceived by the public to be:

(a) Independent, in the sense that it has immediate and functional control over the administrative decisions that bear directly on the exercise of the lawyer's role; and

(b) Impartial, in the sense that when making decisions about the regulation of the profession, the governing body must have regard only to its obligation to act in the public interest in the administration of justice.

90. Individual and institutional independence require that professional regulation of lawyers is free from incursion from <u>any</u> entity lawyers may be bound to challenge on behalf of clients to whom they owe a duty of undivided loyalty.

91. Independence of the bar is necessary to maintaining an independent and impartial judiciary, and the public perception of an independent and impartial judiciary.

92. Under s. 96 of the *Constitution Act, 1867*, the federal government appoints judges to superior courts of the province from the independent bar.

93. Under s. 6(2) of the *Provincial Courts Act*, R.S.B.C. 1996, c. 379 a person must not be appointed as a judge unless the person has been a member in good standing of the Law Society of British Columbia – now Legal Professions British Columbia - for at least 5 years, or has other legal or judicial experience satisfactory to the judicial council. The role of the judicial council is to improve the quality of judicial service, in part by considering nominations for the appointment of provincial court judges.

C. Bill 21 is *ultra vires* the Province

94. Bill 21 is designed to and does eliminate the independent bar in British Columbia. It does so by, among other things:

(a) Circumscribing the regulator's duties to act in the public interest in the administration of justice, including by protecting and preserving the rights of all persons in Canada, and imposing on a regulator "guiding principles" that do not include the regulator's own view of the public interest in the administration of justice (ss. 6-7, Bill 21);

(b) Imposing a co-governance model of regulation on lawyers, in which lawyers are no longer governed by elected lawyers, and in which lawyers do not maintain a functional majority of the board (Part 2, Division 2, Bill 21), thereby allowing the standards for the conduct of lawyers and the practice of law by lawyers to be established by non-lawyers;

(c) Imposing a co-regulation model of regulation on lawyers, in which the rules of the board – which govern every aspect of the day-to-day practice of law in British Columbia – are to be "approved" by representatives of self-governing nations who are not required to be lawyers (Part 18, Division 3, Bill 21);

(d) Permitting government to create its own class of legal professionals by regulation, to prescribe the activities that may be performed by government-created legal professionals and exempt government-created legal professionals from unauthorized practice of law, and permitting the government to directly regulate

government-created legal professionals in a manner that is inconsistent with the regulator's rules (ss. 3, 4, and Part 17, Bill 21);

(e) Creating a prescriptive governance regime, including by codifying matters of conduct, competence and discipline, removing the authority of the regulator to make fundamental decisions about the conduct of lawyers and the regulation of the practice of law (Parts 5 and 6, Bill 21);

(f) Directly compromising the independence of the judiciary, including by replacing the role of the independent, lawyer-elected president of the Law Society on the judicial council under the *Provincial Courts Act*, with the chair of a non-independent, partisan board of the new regulator.

95. The individual parts of Bill 21, or in the alternative Bill 21 in its collectivity, purports to legislate in respect of the administration of justice in the province in a manner that is inconsistent with the independence of the bar and the independence of the judiciary. It is therefore *ultra vires* the province.

96. Section 52(1) of the *Constitution Act, 1982* provides that any law that is inconsistent with the Constitution of Canada is of no force or effect, to the extent of the inconsistency.

Plaintiff's address for service is c/o the law firm of Lawson Lundell LLP, whose place of business and address for service is 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2 (Attention: Craig A.B. Ferris, K.C./Laura L. Bevan/Jonathan Andrews).

E-mail address for service is: cferris@lawsonlundell.com; cc: lbevan@lawsonlundell.com; jandrews@lawsonlundell.com.

Place of Trial: Vancouver, British Columbia

The address of the Registry is: 800 Smithe Street, Vancouver,
British Columbia V6Z 2E1

Dated at the City of Vancouver, in the Province of British Columbia, May 16, 2024.

Lawson Lundell LLP
Solicitors for the Plaintiff
The Law Society of British Columbia

This Notice of Civil Claim is filed by Craig A.B. Ferris, K.C., Laura L. Bevan, and Jonathan Andrews, of the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2.

Rule 7-1(1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

The Law Society challenges the constitutionality of *Bill 21-2024 – Legal Professions Act.*

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☒ a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- ☐ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☒ constitutional law
- ☐ conflict of laws
- ☐ none of the above
- ☐ do not know

PART 4:

Legal Professions Act, S.B.C. 1998, c.9.

NO.
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA

PLAINTIFF

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA and the ATTORNEY GENERAL OF BRITISH COLUMBIA

DEFENDANTS

NOTICE OF CIVIL CLAIM

Barristers & Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2
Phone: (604) 685-3456
Attention: Craig A.B. Ferris, K.C.

LLB/JSA/slp

00678.171635.LLB.25266910.5

Tab 3(Q)

No. S-243258
Vancouver Registry

In the Supreme Court of British Columbia

Between

Law Society of British Columbia

Plaintiff

and

Attorney General of British Columbia and
His Majesty the King in right of the Province of British Columbia,

Defendants

RESPONSE TO CIVIL CLAIM

Filed by: Attorney General of British Columbia, His Majesty the King in right of the Province of British Columbia, and Lieutenant Governor in Council of British Columbia

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – Defendants' Response to Facts

1. The defendants admit the facts alleged in paragraphs 9-13, 15, 17, 18, 39, 43, 44, 47, 49-51, 53-55, 62-64, 67, 72, 73, 76, 78, 81, and 82 of part 1 of the notice of civil claim.

2. The defendants deny the facts alleged in paragraphs 1-8, 14, 16, 19-38, 40-42, 45, 46, 48, 52, 56-61, 65, 66, 68-71, 74, 75, 77, 79, and 80 of part 1 of the notice of civil claim.

3. There are no facts alleged in part 1 of the notice of civil claim that are outside the knowledge of the defendants.

NO FEE - CROWN

Division 2 – Defendants' Version of Facts

4. Paragraphs 1 to 8 of part 1 of the notice of civil claim plead argument and evidence rather than material facts.

5. In response to paragraph 14 of part 1 of the notice of civil claim, the defendants agree that the benchers currently maintain the *Code of Professional Conduct for British Columbia* and that it is similar to the *Model Code of Professional Conduct* maintained by the Federation of Law Societies. The balance of paragraph 14 pleads argument rather than material facts.

6. In response to paragraph 16 of part 1 of the notice of civil claim, the defendants agree that benchers currently are elected from within nine regions, but benchers do not represent the lawyers within those regions. Benchers have a statutory duty to govern the Law Society in the public interest.

7. Paragraphs 19 to 38, and 40 of part 1 of the notice of civil claim plead argument and evidence rather than material facts.

8. In response to paragraphs 41, 42, 45, and 46 of part 1 of the notice of civil claim, the duties of the Law Society are prescribed by the *Legal Profession Act*, S.B.C. 1998, c. 9 (the "**Old Act**") and the duties of the new regulator are prescribed by the *Legal Professions Act*, S.B.C. 2024, c. 26 (the "**Act**"). The primary duty of the new regulator is to regulate the practice of law in the public interest. The Act does not define the public interest. The guiding principles in s. 7 are not exhaustive. It is largely for the board to determine what constitutes the public interest.

9. In response to paragraph 48 of part 1 of the notice of civil claim, if the benchers do not appoint four persons to the transitional board within two months, the Attorney General may appoint members (not "will").

10. In response to paragraph 52 of part 1 of the notice of civil claim, the directors of the BC First Nations Justice Council are appointed by the BC Assembly of First Nations, the First Nations Summit, and the Union of BC Indian Chiefs.

11. In response to paragraph 56 of part 1 of the notice of civil claim, the transitional board and transitional Indigenous council will have a combined total of 11 members (not 13). The transitional board is seven members, four of whom are appointed by the benchers of the Law Society. Whether the

Law Society's four appointees are lawyers is up to the benchers. The transitional Indigenous council includes one or two members who are also members of the transitional board, plus an additional four members. The transitional board and transitional Indigenous council must collaborate to develop the first rules of the board. No rules can be made without the agreement of the transitional board, which can have a majority of lawyers if the benchers wish.

12. In response to paragraphs 57 and 58 of part 1 of the notice of civil claim, the Act requires that all members of the transitional board, board, transitional Indigenous council, and Indigenous council be remunerated so that all eligible persons have equal opportunity to seek these positions, regardless of whether they can afford to do unpaid work.

13. In response to paragraphs 59 to 61 of part 1 of the notice of civil claim, the majority of the directors of the regulator will be lawyers (at least nine of 17).

14. In response to paragraphs 60 and 61 of part 1 of the notice of civil claim, the Act does not create a "first 12" set of directors and a "second five" set of directors. Directors' terms will not all start and end at the same time. Rather, the board may establish procedures for elections, set terms of office, and stagger terms of office, such that only a few directors' terms end in any given year. Lawyers will likely be the majority on the board whenever any board-appointed directors are chosen. The board can create a committee consisting solely of elected lawyer directors to screen and nominate candidates for the board-appointed director positions, if the board considers that to be in the public interest.

15. In response to paragraphs 65 and 66 of part 1 of the notice of civil claim, before making a rule, the board must consult with the Indigenous council regarding the extent to which the rule accords with the principles of:

    a. supporting reconciliation with Indigenous peoples and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples; and,

    b. identifying, removing, or preventing barriers to the practice of law in British Columbia that have a disproportionate impact on Indigenous persons and other persons belonging to groups that are under-represented in the practice of law.

16. In response to paragraphs 68 and 69 of part 1 of the notice of civil claim, the Act empowers the government to designate new categories of legal

professionals and define their scope of practice and reserved titles (if any). The Act does not empower the government to regulate such professionals. They would be regulated by the regulator.

17. In response to paragraph 70 of part 1 of the notice of civil claim, the Act does not provide that all licensees are officers of the court. The Act provides that a licensee is an officer of any court in which their licence permits them to appear. The regulator will determine which courts, if any, different categories of legal professionals are permitted to appear in, subject to the courts' power to control their own processes.

18. In response to paragraph 71 of part 1 of the notice of civil claim, the Act does not change the eligibility requirements in the *Provincial Court Act*, R.S.B.C. 1996, c. 379. As before, to be eligible to be appointed as a judge of the Provincial Court, a person must have been a lawyer in British Columbia for at least five years or have other legal or judicial experience satisfactory to the Judicial Council.

19. In response to paragraphs 74 and 75 of part 1 of the notice of civil claim, the Act does not regulate the conduct of legal professionals; it empowers the regulator to do so. The definitions of "conduct unbecoming a professional", "incompetently", and "professional misconduct" in the Act do not change the status quo under the Old Act, *Law Society Rules*, *Code of Professional Conduct*, and applicable jurisprudence.

20. In response to paragraph 77 of part 1 of the notice of civil claim, s. 78 of the Act empowers the chief executive officer, subject to the rules, to compel certain information from licensees, trainees, and law firms. In this respect, the Act largely just transfers the current authority of the executive director of the Law Society under ss. 26, 27, and 36 of the Old Act and Rules 3-5 and 4-55 of the *Law Society Rules* to the chief executive officer of the new regulator.

21. In response to paragraphs 79 and 80 of part 1 of the notice of civil claim, s. 88 of the Act empowers the chief executive officer, if they determine that a licensee, trainee, or law firm has practised law incompetently, to make certain *competence* orders. Among other types of competence orders, the chief executive officer can require a licensee or trainee to receive counselling or medical treatment. This provision largely just transfers the current authority of the executive director of the Law Society under s. 26.02 of the Old Act and ss. 3-9.1 to 3-12 of the *Law Society Rules* to the chief executive officer of the new regulator.

22. In further response to paragraphs 79 and 80 of part 1 of the notice of civil claim, non-compliance with a competence order is not an offence under the Act and cannot result in imprisonment. If a licensee does not comply with a conduct order, s. 59(1) empowers the chief executive officer to impose limits or conditions on the licensee's licence, suspend the licensee's licence, or apply to the tribunal for an order cancelling the licensee's licence.

Division 3 – Additional Facts

23. The amounts that lawyers charge for legal services are more than most residents of British Columbia can afford.

24. The current governance structure of the Law Society creates the appearance, and has sometimes created the reality, that the benchers serve the interests of lawyers rather than the interests of the public.

Part 2: RESPONSE TO RELIEF SOUGHT

1. The defendants consent to the granting of the relief sought in **none** of the paragraphs of part 2 of the notice of civil claim.

2. The defendants oppose the granting of the relief sought in **all** of the paragraphs of part 2 of the notice of civil claim.

3. The defendants take no position on the granting of the relief sought in **none** of the paragraphs of part 2 of the notice of civil claim.

Part 3: LEGAL BASIS

Act within provincial legislative competence

1. The Act is within provincial legislative competence under ss. 92(13) and (14) of the *Constitution Act, 1867*. The Legislature can validly regulate the legal professions or entrust their regulation to a statutory body. The Law Society itself has regulatory authority only because the Legislature chose, as a matter of policy, to enact legislation conferring that authority on the Law Society. The Legislature has now enacted some reforms, but the Act is ultimately a limited exercise of the Legislature's legislative competence.

2. Unwritten constitutional principles cannot invalidate legislation and do not invite an inquiry into the policy wisdom of legislation. Principles of fundamental justice also are not a freestanding basis for invalidating legislation. Principles of fundamental justice are relevant only to the extent that there is some limitation of life, liberty, or the security of the person.

Act does not diminish the independence of the bar

3. It is unnecessary to determine whether the independence of the bar is an unwritten constitutional principle or principle of fundamental justice because, even if it is, the Act does not diminish the independence of the bar.

4. The traditional understanding of the independence of the bar is that lawyers must be free from state interference, in the political sense, in relation to matters affecting their advice or advocacy on behalf of clients. The Act does not constitute or enable state interference with lawyers on matters affecting their advice or advocacy on behalf of clients.

5. If the independence of the bar were an unwritten constitutional principle, the regulatory independence of lawyers, at its highest, would be defined in functional terms by analogy to the administrative independence of judges. Judicial independence means the state cannot interfere with administrative decisions that bear directly and immediately on the exercise of the judicial function. By analogy, lawyers' independence at its highest would mean the state cannot interfere with those aspects of the regulation of the bar that bear directly and immediately on lawyers' function of advising and advocating on behalf of clients. The Act does not constitute or enable state interference with any aspects of the regulation of the bar that bear directly and immediately on lawyers' function of advising and advocating on behalf of clients. If anything, the Act reduces the government's influence on the regulation of lawyers: the Attorney General is a bencher of the Law Society under the Old Act, but will not be a director of the new regulator under the Act.

6. Up to three of the 17 directors of the new regulator will be lay persons, which is the same percentage as there are currently lay benchers of the Law Society. Five directors will be legal professionals other than lawyers, which is new for British Columbia but has a two-decade history in Ontario. These arrangements do not pose any risk of state interference with regulatory matters affecting lawyers. Lay directors and other legal professionals are not conduits for state interference.

Law Society's conception of independence of the bar is too broad

7. The Law Society advances a maximalist conception of the independence of the bar according to which lawyers must be "free from influence or incursion by any source". This conception is too broad. Lawyers are not, have never been, and should not be entirely closed-off from any influence from any source except other lawyers.

HMTK should be removed

8. His Majesty the King in right of the Province of British Columbia is not a necessary or proper party to this action and should be removed.

Defendants' address for service: Ministry of Attorney General
Legal Services Branch
1301 – 865 Hornby Street
Vancouver, BC V6Z 2G3
Attention: Emily Lapper, Trevor Bant, and Karin Kotliarsky

E-mail for service: emily.lapper@gov.bc.ca
trevor.bant@gov.bc.ca
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Date: June 7, 2024

emily Lapper

Emily Lapper, Trevor Bant, and Karin Kotliarsky
Counsel to Attorney General of British Columbia,
His Majesty the King in right of the Province of British Columbia, and
Lieutenant Governor in Council of British Columbia

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

Tab 3(R)

Legal Professions Regulatory Modernization

Ministry of Attorney General Intentions Paper

September 2022

BRITISH COLUMBIA

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Introduction

In March 2022, the Ministry of Attorney General (Ministry) announced a project to modernize the regulatory framework for legal service providers in British Columbia to help make it easier for the public to access legal services and advice. Specifically, the Ministry announced it would develop a legislative proposal for further consideration by government that involves:

- regulating all legal service providers under a single statute and by a single regulator;
- establishing a mandate for the regulator that clarifies its duty to protect the public, including the public's interest in accessing legal services and advice;
- establishing a modernized regulatory framework that is consistent with best practices in professional regulatory governance; and
- establishing clearly defined scopes of practice for each regulated profession with procedures to allow for expanded scopes as needed.

Between March and June 2022, the Ministry held several meetings with staff representatives of the Law Society of British Columbia (Law Society), the Society of Notaries Public of British Columbia (Notaries Society) and a representative of the BC Paralegal Association. The information provided in these meetings assisted the Ministry in refining several potential reforms.[1] The purpose of this paper is to set out a summary of the Ministry's intentions so that input can be obtained from the public and key partners, including the Law Society, the Notaries Society, the BC Paralegal Association, and Indigenous partners, before a legislative proposal is finalized for government and the Legislature's consideration.

B.C.'s Legal Services Landscape

In B.C., the legal services landscape currently involves at least three types of legal service providers, two main statutes, and two separate regulators.

Lawyers

- Lawyers are regulated by the Law Society pursuant to the *Legal Profession Act* (LPA). Many of the functions of the Law Society are performed through its governors, known as the benchers. There are 32 benchers in total, including the Attorney

[1] The Ministry is grateful to the individuals who participated and provided information about current structures and practices. However, the draft proposals set out in this paper are the Ministry's alone and may not reflect the views of those individuals or their affiliated organizations. The Ministry looks forward to receiving submissions from these organizations following their review of this paper.

General, six members of the public appointed by the Lieutenant Governor in Council, and 25 lawyers elected by the Law Society's membership (i.e., lawyers) in nine regions.
- Under the LPA, subject to certain exemptions, only a practising lawyer may engage in the practice of law as defined in the LPA. The Law Society has the authority to take action against persons suspected of providing unregulated legal services.[2]

Notaries Public (Notaries)

- B.C.'s notaries are unique in Canada in that they must complete a master's degree program and have a broader practice authority than notaries in other jurisdictions.[3]
- Although their current scope of practice includes matters that are otherwise typically limited to lawyers (including drafting of some wills and real estate conveyancing), notaries are regulated under a separate statute from lawyers (the *Notaries Act*) and by a separate regulator (the Notaries Society).
- Some notaries have been seeking an expanded scope of practice for many years.
- The Notaries Society currently has a board of 12, two of whom are not notaries.

Paralegals

- Paralegals are not directly regulated in B.C.
- Under the Law Society's rules, a paralegal may provide some legal services but they must work under the supervision of a lawyer who is responsible for their conduct. The Law Society also allows a lawyer to supervise up to two "designated paralegals" who can perform additional duties, but who remain subject to the oversight of the supervising lawyer.
- In 2018, the Legislature amended the LPA, at the request of the Law Society, to create a new category of legal service provider called licensed paralegals. Once in force, the amendments would give the Law Society the authority to make rules establishing the scope of practice (within the practice of law) of licensed paralegals or a class of licensed paralegals. However, for reasons discussed below, these amendments are not yet in force.
- The BC Paralegal Association has created a category of "voting membership" which is only open to paralegals who have graduated from certain recognized education programs or who have worked as a paralegal for a minimum period of time. Voting members are allowed by the BC Paralegal Association to use the title "BCPA

[2] Pursuant to a policy adopted by the Law Society in 2020, it will only take action against persons providing unregulated legal services contrary to the LPA if the executive director determines there is significant risk of harm to a person or the public.
[3] With the exception of Québec, where notaries (notaires) must complete a law school education and have a more comprehensive scope of legal practice.

Registered Paralegal" which is registered under the *Trademarks Act* but is not otherwise a legally protected designation.

Previous Reform Efforts

Over the last decade, many efforts have been made to implement changes aimed at improving legal regulation and increasing access to legal services for British Columbians. These efforts include attempts to amalgamate the two current regulators and other initiatives.

Efforts to Establish a Single Regulator

In 2012, the then-Attorney General asked the Law Society and the Notaries Society to work together to develop a proposal for government's consideration regarding "direction for regulatory reform of legal and notary services in the province" that would:

- ensure, and preferably enhance, the protection of the public interest in the provision of legal services;
- increase both affordability and access to legal services and/or access to justice; and
- create efficiencies in the regulation of legal services.

In response, the two regulators advised they were jointly of the view that a single, unified regulatory body that oversees the regulation of all legal service providers was the optimum model. However, despite that consensus, no final agreement was achieved.

Efforts to Improve Access to Legal Services

Over the past several years, the Law Society has pursued several initiatives aimed at increasing access to legal services and responding to unmet need. Those initiatives include rule amendments to allow for the provision of limited scope retainer or "unbundled" legal services in 2008, expanding the scope of services provided by articled students in 2011, and the establishment of "designated paralegals" in 2012.

As noted above, the LPA was amended in 2018 to allow the Law Society to regulate a new category of legal service provider called licensed paralegals, and to give the benchers the authority to make rules establishing their scope of practice. Before those amendments were brought into force, at the Law Society's 2018 AGM, a member's resolution was passed by those members in attendance which directed the benchers to request that the government not bring the amendments into force until more consultation was completed, and which directed the benchers to not authorize licensed paralegals to practice in the area of family law. Following that AGM, the Law Society elected to advance the licensed paralegal initiative by creating a limited, controlled environment within the scope of its

regulatory authority to permit several experimental service delivery models in an "innovation sandbox".

The innovation sandbox is intended to facilitate innovation in the delivery of legal services by allowing individuals and organizations to propose a new technology, structure or legal service that they want to provide to the public. If a proposal is accepted, the proponent is issued a "no action" letter which means that the Law Society will not prosecute the proponent or seek an injunction against them for the unauthorized practice of law. As of August 2022, 27 proponents have been approved, all generally falling within one of the following categories:

- regulated paralegals from Ontario;
- individuals with legal training and/or experience in B.C. proposing to provide a limited range of legal services independently;
- joint proposals from law firms and paralegals and others (e.g. a Human Resources Specialist) to expand services provided by paralegals without direct supervision by a lawyer; or
- legal technology innovations.

The Law Society hopes that as proposals continue to be evaluated on an individual basis, criteria will begin to coalesce, allowing the Law Society to establish clear guidelines and expectations for required training and experience in providing legal services.

Rationale for Reforms

The rationale for change is simple. Far too many people in B.C. cannot afford the cost of a lawyer. A survey conducted for the Law Society by Ipsos in 2020 found that as many as 60% of those in B.C. with a legal problem get no legal advice about their situation, and of those that do get advice, more than half get it from someone other than a lawyer. [4] Although government has made significant investments in legal aid over the last number of years, adding approximately $40 million to the annual budget of the Legal Services Society and funding eight new legal clinics in the province, we cannot rely solely on legal aid and pro bono work done by lawyers as the complete solution to the gap in access to legal services.

Access to legal services is at least in part a regulatory issue because rules around who is allowed to provide what services have an impact on the availability (and cost) of those services to the public. Access to legal services is also at least in part a governance issue

[4] Ipsos, "Legal Services in BC: 2020 Survey" (1 May 2020), online: <https://www.lawsociety.bc.ca/Website/m edia/Shared/docs/initiatives/Alternate/IPSOSReid2020-LegalServicesSurvey.pdf>.

because it requires a governance framework that prioritizes the public interest over the interests of the professionals it regulates.

Unfortunately, previous reform efforts have either been unsuccessful or have been approached on a smaller-scale or piecemeal basis. Although the innovation sandbox has had some limited uptake, there are limits to a “no action” regulatory model for both proponents and the public. From a proponent’s perspective, licensing can help establish credibility with the public, and from the public’s perspective, licensing helps assure them that the services are provided by competent and insured providers. It also provides a regulator with a more extensive set of regulatory tools when the services provided are unsatisfactory.

That no past initiative has been as impactful as might be hoped signals an opportunity for a broader, more holistic approach to reform. The Ministry has identified several potential areas for reform, each informed by one or more of the following guiding principles:

- improving access to legal services;
- enhanced focus on public interest protection; and
- improving efficiency, effectiveness and flexibility of the regulatory framework.

Taken together, the intentions outlined below are aimed at two key complementary objectives. The first is facilitating better access to legal services for the public. The second is modernizing the governance framework for all legal service providers, ensuring they can continue to regulate themselves both independently from government and in a manner that ensures the public interest is paramount.

The Importance of Independence

The importance of an independent bar to the functioning of a free and democratic society cannot be overstated. The Ministry is not proposing, and has no intention of implementing, changes that would interfere with the ability of a lawyer (or other legal service provider) to fearlessly advocate for their client and provide independent legal advice to their client, even, and especially, when their client is at odds with government.

The Ministry has no intention of implementing changes that would see a shift away from what is commonly referred to as “self-regulation”. Self-regulation does not mean *no* oversight or involvement by government. It means that the Legislature has made a policy decision to assign a professional regulator the primary responsibility for the development of structures, processes, and policies for regulation.

As set out in greater detail below, the reforms contemplated by the Ministry would:

- establish a board of directors on which the government-appointed members constitute a minority;
- give the regulator the power to make rules for the regulation of legal service providers that would not need to be approved by, or filed with, government;
- maintain the regulator's jurisdiction to adjudicate discipline matters involving lawyers and other regulated legal service providers;
- establish a regulator that continues to be self-funded; and
- remove the Attorney General as a member of the board.

Many other common law jurisdictions have moved away from self-regulation in favour of alternative regulatory models featuring enhanced government oversight (often referred to as "co-regulation"). For example, in 2007, England and Wales created a state-appointed Legal Services Board to oversee the regulators of the legal professions in that jurisdiction. Similar models are also in place in most Australian states. However, the Ministry is not proposing this kind of change. The reforms contemplated in this paper would ensure that legal professions in B.C. remain (or become, in the case of licensed paralegals) self-regulating.

Reconciliation

Pursuant to the *Declaration on the Rights of Indigenous Peoples* Act, the government must take all measures necessary to ensure that B.C.'s laws are consistent with the United Nations Declaration on the Rights of Indigenous Peoples (Declaration). The Ministry acknowledges the particular importance of this obligation with respect to laws impacting the justice system, given the system's colonial history and the harm it has caused, and continues to cause, to Indigenous peoples. All the proposals set out in this report must be interpreted and implemented in a manner that is consistent with the Declaration and that seeks to dismantle institutional and systemic racism.

As a starting point and as discussed further in this paper, the Ministry contemplates that:

- the future legal regulator's statutory mandate would include an express obligation to support reconciliation with Indigenous peoples;
- consideration should be given to a statutory minimum requirement for Indigenous participation on the regulator's board; and
- consistent with the Truth and Reconciliation Commission of Canada's Calls to Action, and building on the work of the Law Society in this respect, an obligation for cultural competency training for all regulated legal service providers would be embedded in statute.

In a preliminary, high-level review of an earlier draft of this paper, the BC First Nations Justice Council noted that this legislative project, as with all justice system reform efforts,

must be undertaken in a manner consistent with, and guided by, the BC First Nations Justice Strategy.[5] This will require a distinct stream of consultation and co-operation. Noting that this paper is intended as a vehicle for engagement and discussion, the Ministry is committed to ensuring that the outcome of this project reflects a marked shift towards reconciliation and in how Indigenous peoples engage with legal services.

[5] BC First Nations Justice Strategy (February 2020), online (pdf): <https://bcfnjc.com/wp-content/uploads/2022/04/BCFNJC_Justice-Strategy_February-2020.pdf>.

Proposed Reforms

1. Single Statute, Single Regulator

In recent years, the professional regulation landscape in B.C. and elsewhere has evolved and modernized across other many other sectors including health, finance, and the built and natural environment. Many of these shifts have involved the consolidation of multiple professions under a single statute and/or oversight body.

The Law Society and the Notaries Society have in the past agreed that a harmonized, single regulator is the optimum model to protect the public, increase access to legal services, and create efficiencies in regulation. They have also in the past agreed that reform should be viewed not only from the broad perspective of the provision of all legal services (i.e., not just lawyers and notaries), but also other potential future providers of legal services.

Legal regulators across Canada and elsewhere are broadening their oversight to include the regulation of paralegals and/or other legal service providers. B.C. already has the benefit of two well-established categories of legal service providers in lawyers and notaries; consolidating their regulation will ensure a centralized and efficient approach to meaningfully working towards enhanced and affordable legal services for people in B.C.

Benefits of a single statute and single regulator model include:

- A single statute will ensure there is a consistent expectation of professional accountability regardless of the specific professional. Consistent standards are important, particularly when different kinds of providers offer similar (or overlapping) services.
- A single regulator for lawyers, notaries, and licensed paralegals, particularly if that regulator has a clear mandate to facilitate access to legal services, will be well positioned to identify gaps in underserved areas and to regulate in a manner that addresses those gaps.
- It will avoid the need for coordination between regulators, which at best can be administratively challenging and at worst can lead to competition or turf wars.
- It will make it easier for the public to know what kind of legal help is available when faced with a problem and who to contact with their concerns about services they received.
- A single regulator for all legal professions may be better positioned to maintain the public's confidence that it is regulating in the public's interest and not in the interest of any one particular profession.

Finally, on a separate but related note, a shift towards a single regulator and a single statute raises a question as to whether the Law Foundation of British Columbia (Law Foundation) and the Notary Foundation of British Columbia (Notary Foundation) should also combine their operations.[6] Subject to further engagement with the two foundations and other stakeholders, it is anticipated that the optimal future model may also involve an amalgamation of those two entities.

Ministry Intentions

1.1 A single statute should regulate all current and future regulated legal service providers.
1.2 The statute should establish a single regulator, responsible for the regulation of all current and future regulated legal service providers.
1.3 The Law Foundation, the Notary Foundation and the Ministry should explore the possibility of a single foundation model for all legal service providers.

2. Clear Mandate

A regulator's mandate provisions reflect the powers and responsibilities delegated to it by the Legislature. They must clearly communicate the regulator's purpose to the regulator, its licensees, and the public. The optimal mandate for the new regulator would include several components.

First, it would assign the regulator the broad authority to regulate the competence and integrity of legal service providers in B.C. and to promote the rule of law.

Second, it would outline the regulator's core responsibilities, including:

- establishing conditions or requirements of licensee registration, reinstatement and renewal;
- establishing, monitoring and enforcing standards of practice and professional responsibility of licensees;
- establishing, monitoring and enforcing continuing competency requirements for licensees including Indigenous cultural competence; and

[6] The Law Foundation is established by the LPA and the Notary Foundation is established by the *Notaries Act*. The Law Foundation's primary source of revenue is the interest earned on lawyers' pooled trust accounts, and the Notary Foundation earns its revenues through the interest earned on notaries' client trust accounts. The Law Foundation is statutorily required to distribute its funds in the following areas: legal education, legal research, legal aid, law reform, and law libraries. The Notary Foundation is required to distribute its funds to legal aid, legal education, legal research, and law libraries, and to pay for administrative costs and continuing education for notaries and applicants.

- maintaining a register of licensees that shares key information with the public about each licensee.

Finally, the regulator's mandate would also include guidance to the regulator on *how* it should carry out its duties. Both England and Wales and Ontario's relevant statutes include key principles to guide how their legal regulators must discharge their mandate. This initiative presents an opportunity to adopt a similar approach in B.C. A modernized statute could advance principles such as:

- promoting and protecting the public interest;
- facilitating access to legal services;
- supporting reconciliation with Indigenous peoples;
- protecting the ability of all legal professionals to provide committed representation to all clients;
- encouraging diverse and effective legal professions; and
- regulating proportionately to risk.

Ministry Intentions

2.1 The statute should assign the regulator the broad authority to regulate the competence and integrity of legal service providers in B.C. and to promote the rule of law.
2.2 The statute should set out the regulator's core responsibilities.
2.3 The statute should set out guiding principles to assist the regulator in its decision making.

3. Modernized Governance Framework

The current (separate) governance frameworks for notaries and lawyers are both in need of revitalization.

The *Notaries Act* has not been substantively revised in over 40 years, and the regulatory framework under which notaries operate requires modernization. For example, the current statute does not include a mandate provision for the Notaries Society and reflects an era when professional associations were responsible for disciplining members for professional misconduct as opposed to professional regulators. The *Notaries Act* also designates the Notaries Society as a society under the *Societies Act*, which has a member focus and is ill-suited to the task of professional regulation. Further, the only committee named in the *Notaries Act* is the discipline committee, and the statute does not clearly grant the authority to establish other committees consistent with those often established by professional regulatory bodies.

Regarding the governance framework for lawyers, in the summer of 2021, the Law Society, to its credit, commissioned independent governance expert Harry Cayton to undertake a governance review of the Law Society. Cayton's report to the Law Society (Cayton Report) was presented to the benchers in December 2021.[7] The Cayton Report made numerous recommendations, many of which were accepted and adopted by the benchers at their meeting of March 4, 2022.

Cayton's core recommendations included proposals for the reduction of elected benchers, an increase in the proportion of publicly appointed benchers and reform of the Electoral College model in a manner that would facilitate not only geographic diversity but also an optimum level of skill sets on the regulator's board. He also observed that some of the reforms he thought necessary would require amendments to, or replacement of, the LPA.

In considering how best to structure the new regulator's governing body, the Ministry's intention is to assure a competent, nimble, and skills-based board, composed of a diverse group of legal service providers and others who individually and collectively have a deep understanding of the regulator's public interest mandate. Diversity has a variety of meanings in this context; it includes diversity of skills, regions, backgrounds, professional designations, and genders. Both the Notaries Society and Law Society have in recent years achieved gender parity among governors, and in 2021, five Indigenous benchers were elected to the Law Society's bencher table, a result described by the Law Society as "unprecedented".[8]

A modernized governance framework would build on these recent improvements by establishing a structure and election/appointment processes that will ensure the regulator's board is reflective of all British Columbians because of, and not in spite of, the framework in place.

The Ministry believes that the public would be best served by a board composed of:

- "licensee" directors who are elected by licensees;

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[7] Harry Cayton, "Report of a Governance Review of the Law Society of British Columbia" (2021, November), online (pdf): <https://www.lawsociety.bc.ca/Website/media/Shared/docs/about/GovernanceReview-2021.pdf>.

[8] According to one media report, until the 2021 election results, only two Indigenous lawyers had been elected as benchers since the Law Society was formally incorporated in 1884. See Jason Proctor, "'Unprecedented': 5 Indigenous lawyers elected to B.C. Law Society leadership in major victory" *CBC* (17 November 2021), online: <https://www.cbc.ca/news/canada/british-columbia/indigenous-benchers-bc-law-society-1.6251486#:~:text=From%20left%20to%20right%2C%20Indigenous%20lawyers%20Brian%20Dybwad%2C,to%20get%20greater%20representation.%20%28Canadian%20Bar%20Association%20B.C.%29>.

- directors who are appointed by the other members of the board in accordance with a fair, transparent, accountable and independent nomination process; and
- directors who are appointed by the government in accordance with a fair, transparent, accountable and independent nomination process.

The directors appointed by government should constitute a minority on the board. In addition, although it is important that communication channels be maintained between government and the regulator, that relationship need not and should not be based on the Attorney General's membership on the regulator's board.

One of the benefits of at least some director appointments, responsive to identified, or anticipated, skill gaps, is that it enables a more intentional approach to the overall board composition. Boards often establish a composition matrix that identifies the skills, experience, and backgrounds that the board as a whole should reflect. Appointments can then be made with a view to filling any identified gaps. Ensuring that a number of seats on the regulator's board are filled by appointments will help ensure the board has the right mix of skills and diversity needed to fulfil its mandate. However, given the particular importance of Indigenous representation in legal professions regulation, and the gains that have recently been made in this respect at the Law Society, consideration should also be given to embedding an explicit requirement in the statute regarding Indigenous representation on the regulator's board. A guaranteed Indigenous appointee (or appointees) would not and could not account for all the diverse perspectives of Indigenous peoples in the province, and any statutory minimum requirement would need to be supplemented by purposeful, merit-based election and appointment processes that promote additional Indigenous voices at the board table.

The size of the board would be balanced to address the dual objectives of diversity and functionality. On the one hand, the board would be large enough to ensure that all regulated legal service providers and the public are reflected in its composition, and to ensure a diversity of skills, perspectives, regions, and backgrounds are represented in its deliberations. On the other hand, the board would be small enough to be nimble and cohesive. As observed by Cayton and others, the current size of the bencher table at the Law Society is too large for effective discussion, deliberation or decision-making. In its submissions to Cayton as part of his Law Society governance review, the Canadian Bar Association, BC Branch recommended that the number of benchers be reduced to 15.[9]

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[9] Canadian Bar Association, BC Branch, "*CBABC Submission on Self-Regulation and LSBC*" (2021), online (pdf): <https://www.cbabc.org/CBAMediaLibrary/cba_bc/pdf/Elections/Bencher/2021/CBABC_Submission_to_LSBC_Governance_Review.pdf>. These submissions were made in the context of possible improvements to the Law Society's governance framework, before the Ministry announced its

Finally, the Ministry notes that the Cayton Report contains several recommendations aimed at ensuring the benchers can focus their attention on their key responsibilities and better avoid potential conflicts of interest. Both the Law Society and the Notaries Society have implemented measures to separate adjudicative and investigative functions; the Ministry would like to see the new regulator build on these initiatives in accordance with professional regulation best practices. This would include ensuring that as a principle, directors focus on strategic oversight as opposed to regulatory or operational matters. This would allow additional participation in those processes by other licensees (and members of the public).

Ministry Intentions

3.1 The regulator should be governed by a board composed of a statutory maximum number of directors, some of whom are elected by licensees, some of whom are appointed by the other members of the board, and some of whom are appointed by government.
3.2 The directors appointed by government should constitute a minority of the board, and the Attorney General should not sit as a member of the board.
3.3 Consideration should be given to a statutory requirement for Indigenous representation on the board.
3.4 The board and government should be required to follow nomination procedures that are fair, transparent, accountable and independent.
3.5 Director elections and appointments should be staggered, so that gaps on the board (with respect to, for example, diversity, skills, type of legal service provider) can be identified and filled.
3.6 The board's role should be focused on strategic oversight.

4. Flexible Licensing Framework

A flexible licensing framework is one that ensures the public has the ability to find the kind of legal services that meets their needs, whether through a lawyer, notary, licensed paralegal, or otherwise. It is also one that is adaptable, giving the regulator the tools and discretion it needs to be responsive to the changing legal landscape and marketplace.

Lawyers

The LPA defines the "practice of law" which constitutes a practising lawyer's scope of practice. The Ministry envisions a revised statute that maintains a statutory definition of

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intention to explore the creation of a new single regulator for lawyers, notaries, and licensed paralegals.

the practice of law (which may be clarified but not changed in substance), and which will continue to constitute the scope of practice for practising lawyers.

Notaries

The *Notaries Act* sets out notaries' scope of practice. The Ministry intends to maintain this core scope of practice for notaries in statute, but also build in mechanisms to enable that scope to be expanded without the need for legislative change. This change would allow, for example, scope to be expanded by both rule and regulation.

Licensed Paralegals

An ideal future state will likely enable one or more classes of licensed paralegals with a common scope or scopes of practice in specific areas, such as family and/or corporate law, and/or certain litigation matters. The Ministry is exploring establishing a minimum scope (or scopes) of practice for licensed paralegals in a revised statute, along with granting the regulator the authority to expand those scopes and create new ones. Another potential option is to require the regulator to establish a minimum scope (or scopes) of practice for licensed paralegals within a specified period of time.

Individualized Licensing

In addition to the potential of a minimum defined scope(s) for licensed paralegals, the Ministry is also exploring whether the statute should enable the regulator to license licensed paralegals and notaries on a case-by-case basis. This would allow the regulator to customize an individual licensee's license based on their specific training and expertise, who could then provide those customized legal services directly to the public. As it relates to licensed paralegals specifically, granting individual licenses in discrete areas could help establish a common scope or scopes. Enabling a case-by-case approach to licensing would build on the sandbox initiative and would allow for the prospect of licensure for many of its participants immediately and outside of a defined scope of practice. It is also consistent with the approach taken in Saskatchewan, where a case-by-case limited licensing pilot is underway.

Other Future Categories

The statute should also enable the creation (and regulation) of additional future categories of legal service providers, to capture, for example, the potential future regulation of Commissioners for Taking Affidavits and/or technological legal services. With respect to the latter, several of the proponents in the Law Society's innovation sandbox fall within this category, and other jurisdictions in Canada (specifically, Alberta and Ontario) are exploring how access to legal services can be enhanced by developments in technology.

A Caution Against Over-Regulation

As noted above, it is contemplated that the statute would include some guidance to the regulator on how its mandate should be discharged, including a reference to regulating proportionately to risk. This will require a commitment to avoiding over-regulation. If the provision of legal information and law-related assistance by certain individuals does not require regulation to protect the public, those individuals should not be regulated, or if some level of oversight is required, only regulated in a manner that is proportionate to the risk. Current examples falling within the category of no regulation include Native Courtworkers, non-lawyer mediators, and community advocates; it is possible that this list could be expanded in the future and the regulator should have the flexibility to do so.

Future Review

Finally, the Ministry is optimistic that a unified legal regulator, with a revitalized governance framework and clarified mandate, will ensure meaningful progress towards more access to, and more choice among, different kinds of legal service providers. However, in light of both the status of the 2018 amendments and the initiatives in progress across many other jurisdictions with respect to alternative legal service providers, the statute should require an independent progress review of B.C.'s regulation of legal service providers (and specifically, its impact on access to legal services) after a set period of time.

Ministry Intentions

4.1 The statute should continue to include a definition of the practice of law, which will also constitute the scope of practice for lawyer licensees.
4.2 Notaries should have a core scope of practice set out in statute. Mechanisms should be established to allow that scope to be expanded without the need for legislative change.
4.3 The statute should authorize the delivery of legal services through licensed paralegals by setting a minimum scope or scopes of practice or requiring the regulator to do so within a prescribed period of time.
4.4 The statute should enable the regulator to grant licensed paralegals and notaries a license on a case-by-case basis.
4.5 The statute should enable the creation of additional future categories of legal service providers that can be authorized to deliver specific legal services.
4.6 The statute should include a requirement for a future independent review of legal service provider regulation and its impact on access to legal services.

5. Efficient Discipline Framework

A key function of any regulator is to ensure that those it regulates are competent and to have processes in place to address concerns about a professional's practice or conduct. Over the past several years, a body of best practices has emerged with respect to the manner in which concerns are addressed and resolved. Those best practices include, among other things:

- ensuring the public understands the types of complaints a regulator can address, and can easily access complaint processes;
- ensuring complaints processes are culturally safe;
- utilizing multiple pathways to resolve concerns fairly and in a timely manner (recognizing that not every concern should require a discipline hearing);
- ensuring that there is no conflict or overlap between a regulator's adjudicative and investigative functions;
- ensuring investigation and discipline outcomes are transparent to the public;
- ensuring that appropriate information can be shared with other organizations or bodies, in the public interest;
- ensuring a regulator in one jurisdiction can rely on findings of discipline processes conducted in another jurisdiction;
- ensuring the regulator can take extraordinary action to suspend a professional's license pending the outcome of an investigation if it is in the public's interest to do so; and
- ensuring there is a clear "duty to report" on licensees to report other licensees when the public may be at risk.

Many of these practices are already in place at the Notaries Society and Law Society through statute, rule, bylaw or policy. The intention is to establish a framework that maintains these practices while expanding and adapting them to keep pace with best practices as they continue to evolve. This approach will likely require some matters to be spelled out in statute, with the regulator being granted the authority to address others by rule.

Finally, the Ministry notes that the Law Society is presently undergoing a review of its regulatory processes to ensure that these processes accommodate the full participation of Indigenous complainants and witnesses who may be experiencing marginalization and vulnerability. The future regulator's complaints and discipline processes should incorporate the recommendations that flow from this review, to ensure and support participation in these processes by historically underrepresented groups and vulnerable individuals.

Ministry's Intention

5.1 The regulator's discipline framework should reflect modern regulatory best practices, and should be flexible enough to accommodate changes in process as regulatory trends evolve.

6. Enhanced Focus on Public Interest

One of the key shifts in the professional regulatory environment has been an increased expectation of a separation between regulation and advocacy. For example, the BC Notaries Association was formed in recent years as the advocacy body for notaries, to ensure the Notaries Society could properly focus exclusively on regulation. As another example, the LPA was amended in 2012 to remove a reference in the Law Society's mandate to "uphold and protect the interests of its members". Although it is important that all legal service providers have an unconstrained ability to advocate, it is important that regulatory bodies only act in an advocacy role in accordance with the public interest and their overarching legislation.

One of the observations of the Cayton report is that although the Law Society is a regulatory authority, it remains fundamentally a membership-run association. This dynamic manifests through nomenclature (i.e., society vs. regulator, member vs. licensee or registrant) and through the powers granted to members, including the authority to bring forward resolutions at AGMs and to require the Law Society to hold referendums. Although these observations were directed at the Law Society, the Notaries Society shares many of these traits. These discrepancies can cause confusion for the public (and for those regulated) as to whose interests are being pursued (i.e., members' interests or the public's).

Ministry Intentions

6.1 The statute should refer to regulated individuals as licensees and not members.
6.2 The statute should include public accountability mechanisms suitable to that of a regulator that regulates in the public interest and not that of a membership-driven association.
6.3 Licensees should not have the authority to bring forward resolutions that purport to direct the actions of the regulator's board.
6.4 Licensees should not have the authority to approve or reject the regulator's rules as determined by the board mandate to address the public interest.

Next Steps

The Ministry welcomes feedback on the proposals contained in this paper:

- An online survey is available at https://engage.gov.bc.ca/govtogetherbc/consultation/legal-professions-reform/ until November 18, 2022.
- Written submissions may also be emailed to PLD@gov.bc.ca until November 18, 2022.

Please note that submissions may be subject to disclosure under freedom of information legislation.

The Ministry will take all responses into consideration before finalizing a legislative proposal for government's further consideration.

Tab 3(S)

The Law Society of British Columbia

The Law Society of British Columbia

Response to the Ministry of Attorney General's Intentions Paper

Legal Professions Regulatory Modernization

November 2022

Executive Summary

The Law Society of British Columbia appreciates the opportunity to provide its comments on the Ministry of Attorney General's Intentions Paper.

We agree with the Ministry's observations that actions must be taken to increase access to justice and the Intentions Paper identifies a number of concrete steps with which we also agree. However, we do have several comments regarding the Ministry's stated intentions.

First, we agree with the Ministry that the importance of an independent bar to the functioning of a free and democratic society cannot be overstated. The ability of lawyers to fearlessly advocate for their clients even, and especially, when their client is at odds with government requires an independent bar governed by a regulatory board on which lawyers constitute a majority. The public interest in the independence of lawyers places legal regulation in a unique position in relation to government involvement and lawyers are best qualified to ensure that proper standards of competence and ethics are set and enforced in the practice of law. We are confident that self-regulation of the legal profession would be held to be a principle of fundamental justice and that a majority of lawyers on the board is essential to self-regulation.

Second, we agree with the Ministry that there is tension between the dual objectives of diversity and functionality in setting the size of the future board. In our view, a significantly smaller board will undermine diversity and it is important to consider the public interest benefits of diversity in governance in determining the size of the future board. A diverse board enhances public confidence in the regulator and in the profession and leads to better decision-making. It is our view that diversity in governance would be undermined if the board size were to be substantially changed.

Third, we agree with the Ministry that a new statute for the legal professions should authorize the delivery of legal services through licensed paralegals. However, setting a minimum scope of practice for licensed paralegals will create a barrier to entry and reduce access to justice. If the scope is too narrow or prescriptive, the door may be closed to some paralegals, which would reduce the options available to address access to justice issues. Instead, it is our view that a more flexible competency-based approach to licensing will better achieve the goal of increasing access to justice, while also ensuring protection of the public.

Lastly, we agree with the Ministry that the new statute should assign the regulator the broad authority to regulate the competence and integrity of legal service providers in B.C. and to promote the rule of law. The current *Legal Profession Act* is an effective example of a framework for regulation that is filled in with Rules passed by the Law Society and meets the objective stated by the Supreme Court of Canada that regulation of lawyers by the state must be as much as possible free from state interference.

The Law Society looks forward to working with the Ministry to ensure that these goals are achieved within a framework that recognizes the importance of an independent bar, an independent profession and an independent regulator reflecting the diversity of the British Columbia public and ensuring a variety of legal service providers meeting the legal needs of the citizens of British Columbia.

Introduction

The Law Society of British Columbia appreciates our dialogue with the Ministry regarding the establishment of a single legal regulator, including the participation of former Deputy Attorney General Shannon Salter at our board meeting on September 23, 2022, to discuss the Ministry of Attorney General's Intentions Paper.

In responding to the Ministry's Intentions Paper, we should state upfront that we agree with the Ministry's observations that further action must be taken to increase access to justice but we believe the Intentions Paper fails to recognize the many steps the Law Society has taken to address access needs. Among other things, this includes the work being done through the Law Society's Innovation Sandbox, support for pro bono initiatives and the work done in association with the Federation of Law Societies to expand recognition of foreign-earned credentials at levels few other professions have been able to achieve. We also agree that the regulator's duty to protect the public interest is paramount; that the independence of the bar is essential to the functioning of a free and democratic society; and that effective regulation should be the continuing goal of a single legal regulator.

The Intentions Paper articulates a number of concrete steps with which we also agree: 1.1 (single statute), 1.2 (single regulator), 2.1 (broad authority to regulate), 3.2 (government appointees being a minority of the board), 3.5 (staggered elections and appointments), 5.1 (modern and flexible discipline framework), and 6.1 (licensees, not members).

However, we do have comments with respect to several of the Ministry's stated intentions.

An independent bar requires self-governance by a regulatory board on which lawyers constitute a majority

The Intentions Paper states *"The directors appointed by government should constitute a minority of the board, and the Attorney General should not sit as a member of the board."*

We agree with the intention. However, what is left unstated is the composition of the remainder of the board. It is our view that a majority of any board that governs lawyers must themselves be lawyers in order to preserve and protect the independence of the bar.

The public has the right to representation by an independent bar.

As the Intentions Paper states:

> *"The importance of an independent bar to the functioning of a free and democratic society cannot be overstated. The Ministry is not proposing, and has no intention of implementing, changes that would interfere with the ability of a lawyer (or other*

> *legal service provider) to fearlessly advocate for their client and provide independent legal advice to their client, even, and especially, when their client is at odds with government."*

In so stating, the Ministry acknowledges what the Supreme Court of Canada has repeatedly stated about the fundamental importance of an independent bar in a free and democratic society:

> *"An independent bar composed of lawyers who are free of influence by public authorities is an important component of the fundamental legal framework of Canadian society."*[1]

> *"Stress was rightly laid on the high value that free societies have placed historically on an independent judiciary, free of political interference and influence on its decisions, and an independent bar, free to represent citizens without fear or favour in the protection of individual rights and civil liberties against incursions from any source, including the state."*[2]

An Independent bar can only exist when there is an independent profession of lawyers

Some have argued that references to an *"independent bar"* refer to the independence of individual lawyers that comprise the bar, as opposed to the independence of the profession. However, the independence of an individual lawyer cannot exist in isolation from the independence of the bar. This is because the activities of each lawyer, including the activities that are constitutionally protected (such as maintaining their client's privilege, or fulfilling their duty of commitment to their client's cause), are regulated in accordance with collective standards that apply to the profession as a whole.

The Supreme Court of Canada has commented on the "*...particular importance of an autonomous legal profession"*[3] and has stated:

> *"The independence of the Bar from the state in all its pervasive manifestations is one of the hallmarks of a free society. Consequently, regulation of these members of the law profession by the state must, so far as by human ingenuity it can be so designed, be free from state interference, in the political sense, with the delivery of services to the individual citizens in the state, particularly in fields of public and criminal law."*[4]

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[1] *Finney v. Barreau du Québec*, 2004 SCC 36 at para 1.
[2] *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869 at 887, citing the Ministry of the Attorney General of Ontario, *"The Report of the Professional Organizations Committee"* (1980) at p. 26.
[3] *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869 at 887, emphasis added.
[4] *A.G. Can. v. Law Society of B.C.*, [1982] 2 SCR 307 at 335-336.

In our view, independent lawyers can only exist if there is an independent profession of lawyers.

We should be clear that an independent profession of lawyers is not unaccountable. Rather, independence co-exists with accountability in the self-governance of lawyers through a broader ecosystem of regulatory oversight and public accountability. Currently, this includes the appointment of six public board members, the appointment of the Attorney General as a board member, oversight by the provincial Office of the Ombudsperson, and the ability to appeal Law Society decisions to the courts. Like all regulators, the Law Society is subject to administrative law principles and the rule of law. Like everyone, the Law Society and lawyers remain subject to constitutionally-compliant laws and regulations.

An independent profession requires that a majority of the board that governs lawyers are themselves lawyers.

The Ministry has acknowledged in the Intentions Paper that it *"… has no intention of implementing changes that would see a shift away from what is commonly referred to as "self-regulation".*

In our view, self-regulation of the legal profession requires that a majority of the board that governs lawyers are themselves lawyers and a majority of the lawyer directors are elected. It is important that government appointees not only constitute a minority as the Ministry intends, but that lawyers constitute a majority. The whole of our board, both elected lawyers and Order-in-Council appointees, are in unanimous agreement on this point.

There are two reasons for this: (i) the public interest in the independence of lawyers places lawyers in a unique position in relation to government involvement, and (ii) lawyers are best qualified to ensure that proper standards of competence and ethics are set and enforced in the practice of law, which requires a thorough understanding and commitment to the constitutional elements attached to a lawyer's practice.

On the first point, the Supreme Court of Canada has observed:

> *"The public interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the Bar and through those members, legal advice and services generally. The uniqueness of position of the barrister and solicitor in the community may well have led the province to select self-administration as the mode for administrative control over the supply of legal services throughout the community."*[5]
>
> *"An independent bar composed of lawyers who are free of influence by public authorities is an important component of the fundamental legal framework of*

[5] *A.G. Can. v. Law Society of B.C.*, [1982] 2 SCR 307 at 336.

> *Canadian society. In Canada, our tradition of allowing the legal profession to regulate itself can largely be attributed to a concern for protecting that independence and to lawyers' own staunch defence of their autonomy."*[6]

Although it is not yet settled law, we are confident that self-regulation of the legal profession would be held to be a principle of fundamental justice and that a majority of lawyers on the board is essential to self-regulation.[7]

On the second point, the Supreme Court of Canada noted lawyers' unique position in being able to set standards in relation to, and enforce against, lawyer misconduct. The Court has also noted that some aspects of the practice of law may be challenging for the public to evaluate:

> *"No one is better qualified to say what constitutes professional misconduct than a group of practising barristers who are themselves subject to the rules established by their governing body."*[8]

> *"Current members of the Law Society may be more intimately acquainted with the ways that these standards [of professional practice] play out in the everyday practice of law than judges who no longer take part in the solicitor-client relationship. Practising lawyers are uniquely positioned to identify professional misconduct and to appreciate its severity."*[9]

The assertion that an independent profession requires a regulatory board on which lawyers constitute a majority should not be taken to minimize the valuable contributions of board members who are not lawyers, and who bring important skillsets and diverse perspectives to bear. The contributions of public board members have enriched discussions at the Law Society. However, the setting and enforcement of professional standards for lawyers engaged in the practice of law, as broadly defined, must be carried out by those who are engaged and experienced in the full practice of law.

Based on our experience with the *Federation* case, we believe that it is in the public interest for the government and the legal professions to pursue a mutually agreeable governance structure to avoid litigation. Working together best allows all parties to proceed with the important work that must be done in accelerating access to justice. However, no compromise can come at the expense of the fundamental principles upon which our free and democratic society is based, such as the public right to an independent bar.

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[6] *Finney v. Barreau du Québec*, 2004 SCC 36 at para 1.

[7] We acknowledge the Supreme Court of Canada expressly left open this question in *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7 at para 86.

[8] *Law Society of Manitoba v. Savino*, (1983) 1 D.L.R. (4th) 285, 1983 CanLII 2995 (MB CA,) at para 18; cited with approval in *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869 at 880.

[9] *Law Society of New Brunswick v. Ryan*, 2003 SCC 20, [2003] 1 SCR 247 at para 31.

Any substantial change in the size of the board would undermine diversity on the board

We understand that it is government's intention that the single legal regulator will be governed by a comparatively smaller board.

In discussing board size, the Intentions Paper identifies the tension that exists between the *"dual objectives of diversity and functionality"* as follows:

> *"On the one hand, the board would be large enough to ensure that all regulated legal service providers and the public are reflected in its composition, and to ensure a diversity of skills, perspectives, regions, and backgrounds are represented in its deliberations. On the other hand, the board would be small enough to be nimble and cohesive."*[10]

In order to properly weigh the objectives of nimbleness and cohesiveness on one hand, and of diversity on the other, it is important to consider the public interest benefits of diversity in governance from both a principled and practical perspective.

The Honourable Mahmud Jamal, the first racialized person to be appointed to the Supreme Court of Canada, recently articulated the principled rationale for diversity on the bench.[11] When translated to the context of a professional regulator, his remarks apply equally well to the critical importance of diversity on the board.

First, diversity on the board enhances public confidence in the regulator as an institution and in the profession. Representativeness ensures that the public sees themselves represented in the institution and thereby builds trust that the institution will be fair and impartial in serving the public interest. In the regulatory context, when diverse members of the profession can see themselves reflected in their regulator, this also fosters respect for the legitimacy and authority of the institution in setting and enforcing standards, thereby encouraging compliance and increasing public protection.

Second, diversity on a board leads to better decision-making by including the views and values of an increasingly pluralistic society. As Justice Jamal notes, lived experience is a "*unique reservoir of knowledge that brings depth and understanding."* As such, diversity of lived experience among board members allows the board as a whole to better regulate in the public interest by improving the board's ability to consider issues from the perspectives of others.

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[10] Intentions Paper, p. 12.

[11] Honourable Mahmud Jamal, Federation of Asian Canadian Lawyers BC 2021 Gala, Opening Keynote, November 26, 2021.

Third, diversity on the board ensures that the professional regulator, and by extension the legal professions, are open, and seen to be open, to all people. The public interest is served when all who aspire to join the legal professions can see themselves reflected in all aspects of it, including in its regulator.

The Law Society has long recognized the critical importance of board diversity in serving the public interest. Over the past decades, we have taken steps to increase diversity on our board, including the encouragement of diverse lawyers to stand for election, requesting the appointment of diverse board members by the government, creating resources to inform the profession as a whole about important equity issues, and implementing recommendations on policy and governance reforms from the Law Society's Truth and Reconciliation Advisory Committee and Equity, Diversity and Inclusion Advisory Committee. These and other steps, together with increasing diversity and inclusion in the legal profession and in society overall, have allowed the Law Society board to gradually and organically achieve a high degree of diversity.

Today, the board represents a diverse range of communities and backgrounds, including socially, racially, culturally, geographically, politically, and in relation to gender and sexual orientation. Among board members elected by the profession, over half (52%) are women, one in five (20%) are Indigenous, another one in four (24%) are people-of-colour. We strive for a board culture that not only includes but empowers diverse voices, and this is reflected in our board leadership. Our current board chair is a woman. Following her will be the first openly-gay board chair in the regulator's history, who would then be followed by the organization's first South-Asian board chair.

From our own experiences in striving for board diversity, and from listening to and learning from others, we know that the benefits of diversity in governance can only be meaningfully achieved if practical considerations are in place. One of those practical considerations relates to the size of the board.

First, it must be understood that achieving diversity at the board table is substantively different, and preferable, to simply having diversity "*represented in [the board's] deliberations.*"[12] It is not sufficient for diverse views to be presented to the board through consultation efforts or the appointment of diverse people to advisory committees. Rather, we recognize that the board represents the highest level of our organization's governance, strategic planning, and regulatory decision making and, as such, true diversity in governance is only achieved when diverse peoples have a seat at the board table itself. Often, the reality is that this is only achieved when there are enough seats available to be filled.

Second, as articulated by members of the Law Society's Truth and Reconciliation Advisory Committee, a statutory requirement for Indigenous representation could lead to tokenism,

[12] Intentions Paper, p. 12.

especially if there is a smaller board. Appointing a small number of people from underrepresented groups in order to give the *appearance* of equity on a board may not achieve the benefits of diversity. Rather, such appointments may unintentionally create an isolated class of board member who may feel, or be made to feel, unequal to those not appointed to fill "diversity quotas."

Third, having a single person from any underrepresented group is insufficient to ensure diverse input on the board, or to support change. For example, no single Indigenous person, or person-of-colour can be expected to convey the diversity of views on behalf of all others. Rather, having only one person from an underrepresented group on a board can place a disproportionate and unfair burden on that person. Based on our experiences working on equity issues, we also know that diverse perspectives (and calls for change) are best heard when they are amplified, and this often requires more than a token number of those diverse voices to be present at the table. Furthermore, a substantial reduction in the size of the board is also likely to limit participation across a range of practice areas which could also limit the responsiveness and relevance of the regulator.

In summary, taking into consideration the benefits of board diversity to the public interest, and the practical considerations of what meaningful diversity requires, it is our view that diversity in governance would be undermined if the board size were to be substantially reduced. The loss of such diversity would harm the public interest, and be inconsistent with the government's aims of dismantling institutional and systemic racism.[13] In coming to this assessment, we draw not only from on our own experiences in fostering diversity on our board, but also place significant weight on the perspectives of Indigenous, racialized, and 2SLGBTQ+ colleagues who guide our understanding of these issues. We accept that the future board is likely to be smaller than the existing Bencher table but substantial care must be taken to get the balance right. A substantial reduction in the size of the board risks undermining diversity for all the reasons outlined above.

Defining the regulated scope of practice for paralegals will create an unnecessary barrier to entry and reduce access to justice

The Intentions Paper expresses the intention that a new regulatory statute for the legal professions should authorize the delivery of legal services through licensed paralegals by setting a minimum scope or scopes of practice or requiring the regulator to do so within a prescribed period of time and enabling the regulator to grant licensed paralegals and notaries a license on a case-by-case basis.

In our view, the intention to establish a minimum scope of practice for licensed paralegals by legislation or by requiring the regulator to do so will not permit the government to achieve its goal of

[13] Intentions Paper, p. 6.

rapidly expanding access to justice. Rather, doing so is likely to cause the opposite effect by creating an unnecessary barrier to entry that may hinder access to justice instead.

The rationale for our view is based on the purposes for which the "practice of law" is defined in the *Legal Profession Act*, and the exclusionary effect that such definition has on who may provide legal services.

Under the *Act*, the Legislature chose to protect the public by restricting who may engage in the specific activities that are contained within the definition of the "practice of law" and to require the people who engage in those specific activities to be licensed and regulated. Generally speaking, the definition for the "practice of law" is not enabling in the sense that it does not grant lawyers the right to engage in specific activities. Rather it is restricting, by defining the services that others may not provide unless the government permits them to do so under the *Act* or other legislation (such as the *Notaries Act*, or the *Court Agent Act*).

Protecting the public by restricting who may provide legal services in order to ensure the quality of the services provided is an important objective, but it must also be balanced against the objective of increasing access to legal services. If the new legislation defines a scope of practice for licensed paralegals, then doing so may have the consequence of likewise creating an exclusionary barrier to entry affecting both (i) anyone that wishes to become a licensed paralegal, and (ii) anyone wishing to engage in the activities that fall within that defined scope (to the extent these are not already restricted under the definition for the "practice of law").

The effect of creating an exclusionary barrier to entry, as may arise from a defined scope of practice for licensed paralegals under legislation, would include reduced competition and increased prices due to restricted supply of services – not the intended outcome of increased access to justice. This is not only a theoretical concern, but an outcome that has been witnessed in other jurisdictions As Bencher and paralegal Michèle Ross articulated at the Law Society's September 23, 2022 board meeting:

> *"If the scope is too prescriptive, I would be concerned that the door would be closed on some paralegals, which potentially would eliminate a group from being licensed. That would reduce the options available to access to justice, which, in my view, is not in the public's best interest. …*
>
> *We saw what happened with the [Limited Licensed Legal Technicians] in Washington [State] when the Washington Supreme Court decided to sunset the project in June of 2020. So we know that recently that model did not work, and I would say that that model was very prescriptive. My concern is that when it comes to paralegals, it's not a one size fits all model."*

Instead of entrenching a defined scope of practice for licensed paralegals in the legislation, we are of the view that a more flexible, modular, and competency-based approach to licensing would better achieve the goal of increasing access to justice, while also ensuring protection of the public. Under such an approach, paralegals who demonstrate competency in providing one or more legal services could become licensed to provide those specific services without the need to acquire additional training for other activities that they may have no interest in offering.

Such a case-by-case approach as recognized in the Intentions Paper also takes into consideration the practical realities of paralegal practice, which for many is not a "general practice" but rather often involves the development of great skill and experience in respect of particular legal services. Indeed there appears to be significant variation among the skillsets of paralegal practitioners based on their areas of practice and experiences and we agree with our colleague Michèle Ross that a one-size-fits-all approach, inherent in applying a defined scope of practice, should be avoided.

We acknowledge the government's urgency for paralegal regulation, and the desire for scalability. The flexible licensing approach described above lowers the barrier to entry by offering "right touch" regulation. It is anticipated that it will permit more paralegals to be licensed in a shorter amount of time, by allowing each paralegal to apply for a license suitable to the skills and experiences they currently possess. It could also allow licensed paralegals (and notaries) to gradually expand the number and types of legal services for which they are licensed.

The public interest is best protected through legislation that enables the regulator, and that does not fetter it

The Intentions Paper proposes that the new statute should assign the regulator the broad authority to regulate the competence and integrity of legal service providers in B.C. and to promote the rule of law. As we noted earlier in our submission, the Supreme Court of Canada has observed that

> *"… regulation of these members of the law profession by the state must, so far as by human ingenuity it can be so designed, be free from state interference, in the political sense, with the delivery of services to the individual citizens in the state, particularly in fields of public and criminal law."*

The current *Act*, which provides a framework for regulation that is filled in with Rules passed by the Law Society, is an effective example. As such, it is imperative that the new statute be designed to empower the regulator and not to fetter it:

> *"Government ought not to prescribe in detail the structures, processes, and policies of professional bodies. The initiative in such matters must rest with the professions*

> *themselves, recognizing their particular expertise and sensitivity to the conditions of practice."*[14]

In particular, we take to heart the advice of the Law Society's Truth and Reconciliation Advisory Committee, and the Indigenous Engagement in Regulatory Matters Task Force, in recognizing that a great degree of flexibility and change will be required in order to make meaningful progress on reconciliation. To truly grapple with the historical and ongoing harms that the legal system has caused to Indigenous Peoples, and to reform the Law Society's structures, processes and policies in ways that make space for Indigenous world views and laws, the regulator's authority to do so must be preserved.

Conclusion

The Intentions Paper noted a number of guiding principles that the new statute could advance, such as promoting and protecting the public interest; facilitating access to legal services; supporting reconciliation with Indigenous Peoples; and encouraging diverse and effective legal professions, all within the broad authority to regulate the competence and integrity of legal service providers in B.C. and to promote the rule of law. The Law Society looks forward to working with the Ministry to ensure that these goals are achieved within a framework that recognizes the importance of an independent bar, an independent profession and an independent regulator reflecting the diversity of the British Columbia public and ensuring a variety of legal service providers meeting the legal needs of the citizens of British Columbia.

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[14] Ministry of the Attorney General of Ontario, *"The Report of the Professional Organizations Committee"* (1980) at p. 25, as cited with approval in *Pearlman v Manitoba Law Society Judicial Committee,* [1991] 2 S.C.R. 869 at 887.

Tab 3(T)

Law Society
of British Columbia

Updates and timeline: Single legal regulator legislation

REGULATION

Below is a summary and timeline of updates in relation to the single legal regulator legislation to date. To learn more about the *Legal Professions Act* transition work, visit lpatransition.ca

VISIT THE WEBSITE

July 2026:

Bencher and First-Vice President Katrina Harry, KC resigned from the Transitional Board and Indigenous Council ahead of becoming President for 2027. The Law Society will be making a new appointment to fill the vacancy in the fall.

May 2026:

The Law Society filed a notice of appeal of the April 29, 2026 decision of the Supreme Court of BC dismissing our challenge to the constitutionality of the *Legal Professions Act*. The Trial Lawyers Association of BC also filed a notice of appeal.

Statements:

- Law Society appeals decision on Legal Professions Act legislation
- TLABC files Notice of Appeal on Legal Professions Act legislation

April 2026:

On April 29, 2026, the Supreme Court of BC released its decision on the Law Society's constitutional challenge to the *Legal Professions Act* and dismissed the Law Society's claim.

Statements:

- Law Society considers next steps after Legal Professions Act upheld in court
- CBA & CBABC Presidents' statement in response to BC Supreme Court's decision about the LPA
- TLABC will consider an appeal of today's decision regarding the Legal Professions Act

January 2026:

The government opened its consultation on the draft recommendations of the Regulated Paralegal Working Group. Read the Regulated Paralegal Working Group's Report and Executive Summary. A public survey was open for feedback between January 5 and February 27, 2026.

If the new *Legal Professions Act* is brought into force, a new category of legal professional called regulated paralegal would be established. In 2024, the Attorney General established a Regulated Paralegal Working Group to recommend what legal services a regulated paralegal should be able to provide independently in BC in the event the new Act is brought into force.

October 2025:

The Law Society and the Trial Lawyers Association of BC's constitutional challenges to the *Legal Professions Act* were heard in a summary trial before Chief Justice Skolrood in the Supreme Court of BC from October 14 – 28, 2025.

The Law Society and the Trial Lawyers Association of BC argued that the *Legal Professions Act* fails to ensure the independence of lawyers — a fundamental democratic principle. Our arguments focused on democracy, the independence of the Bar, as well as the role of self governance in upholding those two principles. A decision is expected in 2026.

Written submissions can be found below:

1. Law Society
2. Trial Lawyers Association of BC
3. Responses from the government to Law Society and Trial Lawyers Association of BC

Written submissions from intervenors can be found below:

- The CBA and Law Society of Manitoba argued that Bill 21 offends unwritten constitutional principles about the independence of the bar.

- The Society of Notaries Public of BC argued that the constitution does not guarantee the independence of lawyers, but of legal professionals. Viewed through this lens, Bill 21 does not offend the constitution.

- The Indigenous Bar Association argued, in part, that the tradition of self-governance is unnecessary for the independence of the bar.

- The Law Foundation took no particular position, but opposed the Law Society's alternative relief.

July 2025:

- The summary trial for the Law Society's litigation to challenge the constitutionality of the Legal Professions Act is scheduled for 15 days, beginning October 14, 2025.

April 2025:

- Life Bencher Jeevyn Dhaliwal, KC was appointed to the Transitional Board established by the *Legal Professions Act*, to address a vacancy after the appointment of Judge Dybwad to the BC Provincial Court.

March 2025:

- Bencher Brian Dybwad was appointed to the BC Provincial Court, effective March 21. Judge Dybwad was one of the Law Society appointees to the Transitional Board and the Transitional Indigenous council, established by the *Legal Professions Act*. The Law Society will be making a new appointment to the Transitional Board in the coming weeks.

- A website was created to share the latest information and progress about the Legal Professions Act transition work. On the website you can find background information, the project workplan, meeting minutes, agendas and key updates.

February 2025:

- Bencher Katrina Harry, KC was appointed by the Law Society to the Transitional Board established by the *Legal Professions Act,* to address a vacancy after the appointment of Justice LeBlanc to the BC Supreme Court.

January 2025:

- The Transitional Board, Indigenous Council and Advisory Committee guiding the transition work associated with the Legal Professions Act begin executing their workplan.

December 2024:

- Bencher Lindsay R. LeBlanc, KC was appointed to the BC Supreme Court. Justice LeBlanc was Second Vice-President as well as one of the Law Society's appointees to the Transitional Board established by the *Legal Professions Act.*

October 2024:

- The Benchers appointed Sarah Westwood, KC to the Transitional Board after Scott Morishita was appointed to the BC Supreme Court.

July 2024:

- The BC Green Party released an open letter opposing the *Legal Professions Act* and shared support for the Law Society's legal challenge that is currently before the court.

- In accordance with s. 223(1)(a) of the *Legal Professions Act*, the Benchers of the Law Society appointed four members to the transitional board of Legal Professions BC.

- The Law Society issued a statement confirming plans to move forward with litigation against the *Legal Professions Act* after the court declined to grant injunctive relief.

June 2024:

- Executive Director Don Avison, KC issued a statement on the Law Society's position on Bill 21 and the current status of litigation.
- Justice Gropper presided over a three-day hearing concerning the injunction application during which the Law Society presented evidence of irreparable harm to the public interest should the Legal Professions Act be brought into force. Both the Trial Lawyers Association of BC and the Law Foundation of BC also presented arguments in support of the injunction. The Province presented arguments against the granting of injunctive relief. The hearing concluded with Justice Gropper reserving judgement. For details, read our statement.

May 2024:

- The Law Society filed an injunction application on May 24, 2024 to prevent the implementation of the Legal Professions Act until such time as its Notice of Civil Claim could be heard.
- The Law Society issued a statement announcing plans to initiate litigation to challenge the constitutionality of the Legal Professions Act after it received Royal Assent on May 16, 2024.
- Law 360 Canada published an editorial on what the single legal regulator legislation means for legal independence, written by by Michael Lucas, General Counsel/Senior Policy Counsel.
- The Times Colonist published an op-ed by First Vice-President Brook Greenberg on Bill 21's stigmatizing and discriminatory provisions that allow the regulator to coerce medical treatment of legal professionals.

April 2024:

- The BC government tabled Bill 21 – the Legal Professions Act.
- The Law Society issued its response, which opposed the legislation as it fails to protect the public's interest in having access to independent legal professions governed by an independent regulator.
- The Law Society sent a letter to the Attorney General urging the government to halt Bill 21 to allow for wider consultation with the public, the legal professions and Indigenous peoples of BC.
- The Federation of Law Societies of Canada issued a statement in response to Bill 21 expressing serious concerns about the future of independent lawyer regulation in BC.

March 2024:

- The Ministry of Attorney General released a public update on the proposed legislation.
- The Law Society responded to the public update encouraging more consultation.
- The Canadian Bar Association BC Branch held engagement sessions in March and April for the profession to share their thoughts on the proposed regulatory reform.

October 2023:

- The Attorney General announced that the proposed legislation was delayed until Spring 2024.

June 2023:

- The Attorney General declined the Law Society's request to bring the amendments into force, noting that the single legal regulator legislation to be tabled in the fall would allow for the licensing of paralegals, notaries and lawyers under one entity.

March 2023:

- The Law Society asked the BC government to bring amendments to the current Legal Profession Act into force to allow for the licensing of paralegals.

November 2022:

- The Law Society issued its response to the Intentions Paper.
- Watch the former Law Society president's video message on the single legal regulator proposal.

March 2022:

- The BC government announced its intention to combine regulation of the legal profession under one regulator.
- Read the Ministry of the Attorney General's Intentions Paper
- Public consultation was open between September to November 2022 and the findings were published in the government's What We Heard report.

This page will be updated as new developments occur.

Have a question? Visit our contact us page.

Lawyer independence

Why is lawyer independence and self-regulation essential to democracy?

Learn more ›

Court documents

- The Law Society's Written Submission for Injunctive Relief Application, June 17, 2024
- Notice of Application for Injunctive Relief, filed by the Law Society on June 4, 2024
- Notice of Civil Claim, filed by the Law Society on May 17, 2024

The Law Society is located on the traditional territory of the Coast Salish Peoples, specifically the territories of the Sḵwx̱wú7mesh (Squamish), səlilwətaɬ (Tsleil-Waututh), and xʷməθkʷəy̓əm (Musqueam) First Nations.

Law Society
of British Columbia

CONTACT US PRIVACY FREEDOM OF INFORMATION TERMS OF USE

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Tab 3(U)

AFF #4

AFFIDAVIT OR STATUTORY DECLARATION[1] ("AFFIDAVIT")

*Re: **Privacy Complaint** regarding: (i) Duties imposed under FIPPA that have **not** been performed; (ii) extension of time for responding to a request **not** in accordance with subsection 10(1)((b) and (10(b)(c); and (iii) **PI** has been collected by **Associate, Mr. Colin Cree ("Cree")** of **Service Provider** of **LSBC**, e-Forensic Services Inc. ("**EFS**") by way of June 4, 2014 **RAM** Dump, using unidentified Computer Software, Moonsol's **DUMPIT**; in contravention of Part 3 of FIPPA; (iv) **PI** has been used by **Local Public Body, LSBC**, and Associate and Employee, Mr. Megan Ritchie ("Ritchie") of **EFS** in contravention of Part 3 of FIPPA; and (v) **PI** has been Disclosed by **LSBC** and **Cree** and Ritchie of **EFS** in contravention of Part 3 of FIPPA.[2]*

*Re: Request by Mr. McLean for Privacy Commissioner to exercise his powers to ensure compliance with any provision of FIPPA and 2012 FIPPA Regulation; exercise powers under FIPPA regarding Record production ("**Notice To Produce Records**") in the custody or Control[3] of Persons which do **not** engage s. 14 or s. 22 of FIPPA; and **Require Persons** to attempt to resolve the Privacy Complaint before investigation commencement ("**Pre-Investigation Resolution**")[4]*

*Re: Issues related to **PIPEDA** for non-BC Organizations and Collection, Use or Disclosure not within BC*

I, **Kevin A. McLean (B.A. (MCL), J.D., CIM)**, of Toronto, Ontario Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Applicant**", "Requestor" or "**Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2. I have structured the body of this **Affidavit**, in support of my **Privacy Complaint**, as follows:

   a. **VOLUME 1**: **Exhibit "A"**; Definitions and Overview;
   b. **VOLUME 2**: Privacy Definitions;
   c. **VOLUME 3**: General Powers of the Commissioner when a **Privacy Complaint** has been filed;
   d. **VOLUME 4**: My Belief Regarding Contraventions of Part 3 of *FIPPA* by **Local Public Body**, **Service Providers** of **LSBC** and **Associates** of **Service Providers**;
   e. **VOLUME 5**: The Rule 4-43 Order under then **LSBC** Rule 4-43 (the "**Defunct Investigatory Rule**"), the Execution of the Rule 4-43 Order and Exclusion Requests Period
   f. **VOLUME 6**: The **EFS** Activities During and After the Exclusion Requests Period
   g. **VOLUME 7**: The Crosbie Letter to Mr. Deane ("Independent Adjudicator" or "ISS") the **LSBC** Submission to Mr. Deane, the **EFS** delivery to Office Forensic Copies and the Adjudicator Decision
   h. **VOLUME 8**: After the Expiry of the Review Period of the Adjudicator Decision
   i. **VOLUME 9**: Chan to McCartney regarding **EFS** Forensic Preservation Report and McCartney Custody and Control of the Same
   j. **VOLUME 10**: The **LSBC Document Discovery Plan** and **NST LLP Memorandum** of Material Docs[5];
   k. **VOLUME 11**: Gomery Response to Request for "Return of Seized Documents";
   l. **VOLUME 12**: **Lockhart Application**; **Grauer Decision** and **Macintosh Decision**
   m. **VOLUME 13**: Decision of Adjudicator Siew
   n. **VOLUME 14**: **My 2018 Privacy Requests**
   o. **VOLUME 15**: The **Matajawa Decision** and **My July 2021 Privacy Requests**
   p. **VOLUME 16**: Types of "information" in the Created **RAM** Raw Data Native File 18544

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[1] Relevant Legislation under FIPPA, PIPA, BC Evidence Act et al

[2] *An Investigation or Audit[1] or Inquiry[2] under FIPPA or PIPA[2] by the BC Privacy Commissioner into the LSBC's purported Service Provider ("EFS") and its Directors, Officers and Associates ("EFS") unauthorized installation of Invasive Computer Programs to perform RAM Dumps of Members CPU containing Members' PI and Unknown Third Party PI in contravention of FIPPA*

[3] a public body may have control over a record that is not, or has never been, in its physical possession

[4] Section 44(3.1)

[5] FIPPA, s.3; Applicant not limited by any proceeding

Introduction: My Exhibit "A"

3. Now shown to me on this date of **October 24, 2021** and attached hereto to this my **Affidavit** is **Exhibit "A"** which has been delineated with 31 **TABS** and enumerated **pages** in permanent marker:

a. **TAB 1: Ms. Marian Murray ("Murray"), paralegal of LSBC, Document Discovery Plan**[6] **(Date**: September 30, 2015; **pages**: 1-8);
b. **TAB** 2: **Murray Discovery Plan** (Clean Copy) (**Date**: *ibid*; **pages** 13-23);
c. **TAB** 3: **Murray Document Discovery** from previous sworn evidence (see: **Date**: *ibid*; **pages** 24-32);
d. **TAB** 4: *FIPPA* Request by McLean (**Date**: July 2014; **pages**: 34 to 36);
e. **TAB** 5: **LSBC** Response to my *FIPPA* Request[7] for **Created RAM Record (see: Pages 38 to 40)**;
   i. *Purported* **LSBC** Response for Extension of Time under *FIPPA*, s. 10(1)(b) and (C) (see: **Date** August 23, 2014; **page** 38);
   ii. *Purported* **LSBC** Response, Claiming Lack of Clarity (see: **Date**: September 10, 2021; **page**: 39)
   iii. Purported **LSBC** Response: must review, and produce and review third party interest[8] (see: **Date** September 29, 201; **page** 40);
      a. My response to the above **noted** responses (see: **Date** September 29, 2021, **pages** 40 a to f)
      b. ***Purpose*** **LSBC** Response for October 8, 2021: "allegedly unable to advance review and processing while awaiting clarification despite **not** citing 10(1)(a);
         i. Further **LSBC** Response: "no longer a copy but capture"[9] (see: **Date** October 18, 2021, **page** 42)
f. **TAB** 6: **Associate** of **EFS**; Access Data Group LLC ("**AD LLC**") (see: **pages** 43-49);
g. **TAB** 7: Documents involving **Guidance Software Inc.** with FTC and others documents (see: **50 to 54**);
h. **TAB** 8: Summation[9] Reviewer Manual of AD LLC, Associate of **EFS** (see: **pages** 55-70)
i. **TAB** 9: *Select* ***Pages*** from *Previous Declaration* of September 18, 2021 (see: **Date**: September 18, 2021 (see: **pages** 71-106 therein)
j. **TAB** 10: Emails between Ritchie of **EFS** and Ms. Chan of **LSBC** (see: **Date**: December 29, 2014, **pages** 107-128)
k. **TAB** 11: Select Documents (see: **pages** 129-133)
l. **TAB** 12: **EFS Forensic Preservation Report** (**Dated**: June 17, 2014; **pages** 137 to 167)
m. **TAB** 13: Emails between Ms. Chan of **LSBC** and Mr. McCartney of **LSBC** (date: May 56, 2015); **pages** 168)
n. **TAB** 14: Copies of **Mirror Image Copies** from McLean Hard Drive (Dropbox) (see: **pages** 169 to 173)
o. **TAB** 15: **Rule 4-43 Investigation Reports** of Ms. Chan of **LSBC** after May 5, 2015 email (see: **pages** 174 to 181)
p. **TAB** 16: Gomery response to my request for return of documents seized without consent; represented, in unsolicited fashion, that LSBC did **not** have Originals (see; **Date** October 7, 2015; **page** 182);
q. **TAB** 17: LSBC NOA (Lockhart executed) of LSBC to BC Supreme Court (see: April 2017; **pages** 183 to 184)
r. **TAB** 18: **LSBC** Defendants Trial Brief in BC Supreme Court (date: May 29, 2017; **page** 185)
s. **TAB** 19: **Binding Decision** of **Adjudicator Siew**[10] of **OIPC BC** (date: August 23, 2018; see **pages** 185 to 195)
t. **TAB** 20: Manipulated Photos by undetermined author (see: **pages** 196 to 197)
u. **TAB** 21: **RAM cannot** be copied or forensically copied (see: **page** 198)

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[6] with my annotations and part of previous separate Declaration of September 19, 2021
[7] July 2021
[8] I objected to the same; I do not believe there were any third party notices
[9] https://accessdata.com/products-services/summation ; And because Summation utilizes a single shared, forensically secure backend database, data never has to move throughout the e-discovery process, reducing risk of data loss and spoliation; Browser Briefcase: enables secured-web based access and offline
[10] 2018

v. **TAB** 22: Other *FIPPA* request (see: 199 to 2014)
w. **TAB** 23:OIPC BC *FIPPA* guide (see: **pages**: 205 to 22)
x. **TAB** 24: OIPC BC **PIPA** (see: **pages** 224 to 239)
y. **TAB** 25: *FIPPA* for **Excel Spreadsheet Tracking Evidence** (see: **pages** 240 to 251)
z. **TAB** 26: *FIPPA* and **PIPA** Glossary (see: **pages** 252 to 260)
aa. **TAB** 27: My emails with **Cree** of **EFS** and **PIPA** request (see: August and September 2021; see **pages** 261 to 265)
bb. **TAB** 28: LexisNexis Article on BSS and RSSOH (see: December 2018; **pages** 266 to 273)
cc. **TAB** 29: **LSBC** failed submission for proposal to change of definition of law enforcement with Legislature (see: Mach 2016; **pages** 274 to 276)
dd. **TAB** 30: *FIPPA* 2012 Regulation (see: **Date**: May 2021; **pages** 276 to 281)
ee. **TAB** 31: Select Documents of **LSBC** regarding approval by **Privacy Commissioner** for Mirror Imaging and Forensic ***Copying*** of Hard Drive (see: **pages** 302 to 304) and MISC.: **pages** 305 until conclusion.

The Then **LSBC** Rule 4-43 (the "**Defunct Investigator Rule**")

4. The **Defunct Investigatory Rule** was under **PART** 4 Discipline of the now repealed[11] **LSBC** Rules, authorized the **LSBC** Chair of the Discipline Committee to authorize an *investigation* (**not** examination) of the books, account and **records** of a lawyer if there was reason to believe the member may have breached **LSBC** Rules *et al*. When the member was served with the authorized investigation order, the lawyer was required to immediately produce and permit the ***copying*** of all **record** s (see: **Rule 4-43 (b)(i)**). The Rule 4-43 orders required the lawyer to assist the **LSBC** to access in a *comprehensible form*, **records** in the lawyer's possession or **Control** that *may contain* information related to the lawyer's practice by providing all information necessary for that *purpose* including passwords and encryption keys (see: **Rule 4-43(b)(iii)**). **LSBC** Rule 4-43 stated that when **electronic Records** have been produced *or* copied pursuant to a Rule 4-43 order, the lawyer concerned may request that a *specific* ***Record*** be excluded from the *investigation* on the basis that it contained **Personal Information** that was **not** relevant or privileged to the Rule 4-43 *investigation* (see: Rule 4-43, (1.1)).

BC Interpretation Act[12]

5. Pursuant to the BC *Interpretation Act*, the **LSBC** was authorized to make copies[13] of **Records**, which excluded **Computer Programs** and **Record Producing Mechanisms** when it had the power to demand production of records (see: *IA*, s. 27(7)).

2012 Legal Profession Amendment Act

6. The Legislature passed the *2012 Legal Profession Amendment Act* that authorized the Benchers to pass rules that allowed for the *protection* of privacy where the **LSBC** had *inadvertently* collected personal information that was contained in the *records* of the lawyer. Pursuant to the *Legislature's Explanatory Notes*[14] the **LSBC** was authorized to collect **PI** but only in accordance with *FIPPA*.

2012 FIPPA Regulation

[11] The Benchers passed an entirely new set of Rules in 2015
[12] RSBC 1996
[13] Exact reproduction
[14] See: BC Legislature website; BC Laws

7. In 2012, the Lieutenant Governor passed the *2012 FIPPA regulation* that, *inter alia*, required new requirements imposed upon **Public Bodies** regarding requirements to *obtain valid consent* of the Individual with respect to storage, access, use, disclosure and retention.

FIPPA's Paramountcy

8. The **Legislature** passed *FIPPA* in 1996 and its provisions were *paramount* to other legislative provisions when there was a conflict between a *FIPPA* provision and another legislative provision unless the word "despite" or "notwithstanding" (a "**Notwithstanding Clause**") was used by the Legislature in another Act ("***FIPPA* Paramountcy Provision**"). *FIPPA*'s definition of **Record** is paramount to the ***Interpretation Act*** which excludes **Computer Programs** and mechanism that produce Records ("**Record Producing Mechanisms**"). The LPA did not define "record".

The Defunct Investigatory Rule referenced s. 88 of the LPA

9. The **Defunct Investigatory Rule and Rule 4-43 Order** referenced section 88 of the *LPA* which had three provisions referencing *FIPPA*. Section 88(2) and (7) of the *LPA* has an override regarding section 14 of *FIPPA* which is authorization for the **Head**[15] of the **LSBC** to refuse to disclose a **Record** to an applicant that is subject to solicitor-client privilege. Section 88(8) of the *LPA* has an override of section 47(4) has an override with respect to the **Privacy Commissioner** reporting information to the **AGBC** regarding an offence where it is subject to solicitor-client privilege.

The Only LPA Section that Authorizes Seizure of Property without Consent

10. I am only aware of one part of the *LPA* that authorizes seizure of Property, which I believe is more expansive than the *FIPPA* **Paramount Record Definition**, which is Part 6 of LPA, Custodianships. I have never been served with an order for a Court appointed Custodian. Based upon my *FIPPA* requests, after the **Adjudicator Siew Decision**, the **LSBC**, through its **Service Provider NST LLP**, confirmed that the **LSBC** had never applied for an order under section 37 of the *LPA*.

11. I am aware, based on research, of two times the **LSBC** applied for and was granted an order of a **Custodian** which were on or around 2007 and 2009 which involved the lawyers named **Mr. Oldroyd** and **Mr. Goddard**.[16]

*The Relevant Entities for the BC **Privacy Commissioner** and Federal Privacy Commissioner in 2014 and Thereafter*

12. The Local **Public Body** was the **LSBC**. **EFS** was the **Service Provider** to the **LSBC** for investigative services under Rule 4-43 pursuant to the 2010 Information Protection Services Agreement (the "**2010 IPA**"). The **2010 IPA** did not include FIPPA's definition of **Record**. The 2010 IPA did represent that the LSBC would always be in Control of the Records. As it relates to me, I do not agree that it was at all times since June 4, 2014.

[15] Mr. Timothy McGee in 2014

[16] I have reviewed those filed court documents and they were commenced with a **Petition** and supporting **affidavit evidence** regarding the seizure of originals of Property

13. Based on information and belief, **EFS** had the following **Associates** (outside of its employees, directors and officers) with their proprietary, patented and/or trademarked **Computer Software**:
    a. Foreign Companies or Foreign Presence:
        i. **Moonsols Inc.**:
            1. The **Computer Program** known as **DUMPIT** for memory dumps of the random access memory ("**RAM**") of a CPU;
        ii. **Guidance Software Inc**. (later acquired by Opentext Corporation")
            1. The **Computer Program** knowns as *Encase* for analysis of unencrypted native files[17] from a **RAM** dumps;
        iii. Vound Colorado Ltd.[18]:[19]
            1. The **Computer Software** knowns as *Intella* was described by Chan in her Rule 4-43 Investigation Reports;

14. **Guidance Software Inc**. was subject to an order of the **Federal Trade Commission** in 2017 regarding privacy breaches. **Opentext Corporation[20]**, since acquired, **Guidance Software** in 2017. **Opentext Corporation** represents itself as a *Canadian company* but it trades on domestic and foreign stock exchanges and represents its headquarters in San Francisco.

LSBC and NST LLP

15. Based on information and belief, the **LSBC** had a relationship with the **Service Provider** of **NST LLP** for certain services known to them.

NST LLP and its Associate

16. **NST LLP** had a relationship with the **Associate, AD LLC**, which provided **Computer Software** knowns as **AD Summation iBlaze**. I believe that **AD Summation iBlaze** has since been rendered obsolete or futile based on being known as "*heritage product*". AD LLC was acquired by Exterro, Inc. in December 2020.[21] While it was after the FIPPA requests in June, July and August 2021, Exterro added Amazon Web Services Canada to its global cloud hosting locations.[22] The CEO of Exterro represented, "Many prefer to have their data stored within the Canadian borders. Given the **growing complexity** of data *security* and **privacy regulations** around the world, we are very pleased to accommodate these requests."

Custody[23] and Under Control

17. I believe that the **Created RAM Record** or some of the **Records[24]** therein may be in the **Custody** or under the **Control** of the **LSBC, EFS, NST LLP** or their respective **Associates** by way of transfer, adding, ***copying***, disclosing, modification or otherwise between each other.

VOLUME 1: Respectful Requests under FIPPA of the LSBC and PIPA where applicable

[17] Native Files are unencrypted and not JPEG in 2014
[18] EULA: https://www.vound-software.com/eula
[19] Vound has certain indemnification and hold harmless clauses with its licensees
[20] Our Discovery platform provides leading forensics and unstructured data analytics for searching and investigating organizational data to manage legal obligations and risk. It has powerful machine learning capabilities to help legal and compliance teams quickly find critical information for litigation discovery, investigations, compliance, data breach response, business projects, and financial contract analysis
[21] https://www.exterro.com/blog/exterro-acquires-digital-forensics-firm-accessdata
[22] https://www.globenewswire.com/news-release/2021/09/01/2290347/0/en/Exterro-Adds-Amazon-Web-Services-Canada-to-Global-Cloud-Hosting-Locations.html
[23] Custody is about more than just physical possession of the records. A public body will only have custody if it has "some right to deal with the records and some responsibility for their care and protection." Vancouver (City) (Re), 2020 BCIPC 4: para 50;
[24] See: LSBC Purported Responses

18. Since I now believe that **EFS** and its **Associates** may have **Custody** or **Control** of the **Created RAM Record**, I respectfully request that the **Privacy Commissioner** resolve this **Privacy Complaint** on an interim basis and subject to review of the same:

   a. Ordering that the **LSBC** and any its purported **Service Providers** of the **LSBC** or any **Associate** of the **Service Providers** produce the **Created RAM Raw Native Record** on a forthwith basis ; and
   b. Order that the LSBC (Ms. Murray) produce the **Evidence Tracking Sheet** to the Commissioner and myself in Electronic Format in electronic format on a forthwith basis; and
   c. Any other relief that furthers these requests to resolve this Privacy Complaint without delay.

VOLUME 2: Relevant Privacy Definitions under *FIPPA* and PIPA (see: Exhibit "A", TAB 26, pages 252 to 254)

19. The **OIPC BC** and Legislature have defined the following in certain parts known to them.
   a. **Collect**: to gather, obtain access to, **acquire**, receive or obtain **Personal Information** either directly from an **Individual** or indirectly;
   b. **Use**: secondary uses include planning, monitoring, research or disclosure as required by law
   c. **Disclosure**: to release or make available **Personal Information** to a person, other than the person the information concerns;
   d. **Consent**: voluntary agreement by an **Individual** to allow the collection, use or disclosure of the **Individual's Personal Information;**
   e. **Control**[25]: ability to regulate and control the record throughout its life cycle;
   f. **Custody**: having physical possession of a **Record** , even though the **Public Body** may **not** necessarily have responsibility for the **Record** .
   g. **Data**: Pieces of information such as **Individual** facts or results
   h. **Personal Information**: **Recorded** information about an identifiable **Individual** other than contact information;
   i. **Privacy Breach**: occurs when there is unauthorized access to or collection, use, disclosure or disposal of **Personal Information**
   j. **Record** : includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is records or stored by graphic, electronic, mechanical or other means, but does ***not*** include a Computer Program or any other mechanism that produces **records;**
   k. **Retention**: the process of holding data or information in a secure or intact manner usually for a defined period of time after which it may be permanently destroyed;
   l. **Security** of **Personal Information**: security is the process of protecting **Personal Information** by assessing threats and risks to that information and implementing the procedures and systems to maintain the integrity of that information and to prevent unauthorized access, use, disclosure and disposal of that information;
   m. **Service Provider** : a person retained under a contract to perform services for a **Public Body** [*FIPPA*, Schedule 1]
      i. **Associate**: means, in relation to a **Service Provider** , a subcontractor, or further sub-subcontractor, of the **Service Provider** or an affiliate of the **Service Provider**
   n. **Employee**: in relation to a **Public Body**, includes a volunteer or **Service Provider** ; and
   o. **Sensitivity**: security is the process of protecting **Personal Information** by assessing threats and risks to that information and implementing the procedures and systems to maintain the integrity of that information and to prevent unauthorized access, use, disclosure and disposal of that information.

[25] These factors are whether: the record was created by an officer or employee in the course of carrying out his or her duties; the public body has statutory or contractual control over the records; the public body has possession of the records; the public body has relied on the records; the records are integrated within the public body's other records; the public body has the authority to regulate the use and disposition of the records and whether the content of the record relates to the public body's mandate and functions

20. PIPA has defined ***work product information*** as means information prepared or collected by an **Individual** or group of **Individuals** as a part of the **Individual**'s or group's responsibilities or activities related to the **Individual**'s or group's employment or business but does **not** include personal information about an **Individual** who did **not** prepare or collect the personal information.

VOLUME 3: GENERAL POWERS OF THE COMMISSIONER UNDER FIPPA

VOLUME 3(A): ***Public Body***

21. The **Privacy Commissioner** has the power to *investigate* and attempt to resolve complaints where **Personal Information** has been **Collected, Used** *or* **Disclosed** in contravention of Part 3 of FIPPA by: (i) **Public Body**; (ii) employee of a **Public Body**; (iii) officer of a **Public Body**; and (iv) director of a **Public Body**.[26]

VOLUME 3(B): Service Providers

22. The **Privacy Commissioner** has the power to investigate and attempt to resolve complaints where **Personal Information** has been collected, used or disclosed in contravention of Part 3 of FIPPA by: (ii) employee of a **Service Provider** ; or (ii) Associate of a **Service Provider** .

VOLUME 3(C): Part 3 of FIPPA

23. Part 3 of *FIPPA* is titled, "**Protection of Privacy**" and includes section *26 to 36.1*

***VOLUME 4: My Belief of Contraventions of Part 3 of FIPPA (Protection of Privacy by Public Bodies) by LSBC and EFS* (see: s. 26 to 31.1)**

24. I believe that the **LSBC** and employees of the **LSBC**, along with its **Directors** and **Officers** have **Collected, Used** or **Disclosed Personal Information** (mine or **Third Parties**) in contravention of various sections of Part 3 of *FIPPA* from June 2014 to present. I believe that **EFS**, and employees of **EFS Collected, Used** or **Disclosed Personal Information** (mine or **Third Parties**) in contravention of various section of Part 3 of *FIPPA* from June 2014 to present.

VOLUME 4(I): Division 1: **Collection**, Protection and Retention of **Personal Information** by **Public Bodies**[27]

VOLUME** 4(A)(i): Section 26 of FIPPA:* ***Purpose **of Which PI May be Collected**

***VOLUME** 4(A)(i)(a): **Not** Expressly Authorized by an Act (see: ss. 26(a) of FIPPA)*

25. I submit, believe or affirm that since the **LSBC** admitted that consent is required, unlike a **Custodian Order** of the BC Supreme Court, to commence ***copying*** of **Records** under the **Defunct Investigatory Rule** that the **LSBC** could **not** rely upon section 26(a) of *FIPPA*. A rule, bylaw or regulation is not an Act or portion thereof (see: BC *Interpretation Act*, s. 1).

***VOLUME** 4(A)(i)(b): **Not** for the Purposes of Law Enforcement (see: ss. 26(a) of FIPPA)*

[26] For judicial interpretation of director and officer, kindly see *Skakun*
[27] Not retained by the LSBC

26. I submit, believe or affirm that since the **LSBC** relied upon a **Defunct Investigatory Rule**, it could and did **not** claim that collection or acquisition of the memory of the **RAM** by way of **RAM** Dump but only by installing and running using Moonsol's **DUMPIT** (the "**Invasive Computer Software**"[28]), it could **not** claim it was for the *purposes* of law enforcement (see: *Saanich* and *Collins v. City of Prince George*[29]). Further, since the **LSBC** failed in its attempted proposal, in 2016, to the Legislature to have it amend the definition of "law enforcement" under *FIPPA*, it could **not** then rely on it being for the *purposes* of law enforcement. Moreover, the **LSBC**, through Mr. Gomery and Lockhart, filed responsive pleadings for the **LSBC** admitting that what was at stake for was an investigation and **not** a decision in a proceeding.

***VOLUME** 4(A)(i)(c): **Not** Directly and Related to the Defunct Investigatory Rule (see: ss. 26(c) of FIPPA)*

27. Since the **LSBC** admitted, on August 22, 2014, by its submission, executed by **Bussanich** (see: **TAB** 9, **pages** 88 to 98) to Mr. **Mr. Deane, as the Independent Supervising Solicitor** and **Independent Adjudicator,**, Barrister and Solicitor with BLG (the "**Independent Adjudicator**" and "**Independent Supervising Solicitor**"), the ***copying*** of client and accounting records[30] of McLean were **necessary** and relevant to the **Defunct Investigation Rule**, then the **RAM** Dump and **Custodial RAM Seizures** could **not** be directly necessary and related to the **Defunct Investigatory Rule**.

VOLUME 4(B): Section 27 of *FIPPA*: How Personal Information is to be collected

28. A **Public Body** must collect **PI** directly from the **Individual** is about unless another method of collection is authorized by: (i) the **Individual**; (ii) the commissioner under section 42(1)(i); or (iii) another enactment. I did **not** authorize the *installation* and running of the Invasive Computer Software on the CPU for the **RAM** Dump. The **Defunct Investigatory Rule** only authorized ***copying*** and **Forensic *Copying*** which was **Mirror Imaging** into an *incomprehensible form* that could only be viewed by usage of computer software thereafter.

***VOLUME 4(C):* Section 27.1 of *FIPPA* (and Further Evidence)**

29. The **RAM** Dump was **not** passively received by the **LSBC** as **Cree** represented that he did so based on the advice of McCartney that I may use cloud storage (see: *Saanich*). For context purposes, I now believe that the reason that the LSBC performed the RAM Dump on June 4, 2014, was because Chan who was sitting my office chair in the afternoon on June 3, 2014[31] was the Chan of the LSBC used Intella Version 1.8 to perform a capture of my RAM and hard drive known as Intella Connect[32] which represents that it can "initiate RAM capture", "index live machines", and "search using browser with no need to install software".[33] In relation to the foregoing footnote, I attach an appendix of the Manipulated Photos, which were commingled with other photos from June 4, 2014, which I was able to discern based on the Rockstar" energy drink only being present on June 3, 2014. Lockhart has informed me that the photo is not redacted (see: Appendix) and it is the only photograph that the LSBC has in its possession. I am not making any allegation that Vound was involved in this misconduct but I believe that its software was used by the LSBC and there would be a record from June 3, 2014 in the afternoon (see: Appendix 1 and 2).

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[28] Used by CASL

[29] Bylaw enforcement is not a law enforcement

[30] See: Bussancih submission on August 22, 2014

[31] See: affidavit of Ms. Diaz sworn in BC Supreme Court and Chan yelled at her, "Nothing leaves this office".

[32] https://www.vound-software.com/

[33] **Intella Connect is a web-enabled browser based review platform that allows multiple reviewers to simultaneously work on a matter. It has an intuitive workflow that helps reviewers of all levels get the job done.**; I note that the 2018 IPA between the LSBC and EFS then admits EFS is providing **Intella Connect Web Hosting Services**. I believe that Mr. McCartney was there from 3:20 to after hours, as admitted by Bussanich and pleadings filed by the BC Supreme Court, and contrary to his sworn evidence before a **Hearing Panel** on **July 22, 2014**. As I indicated to Mr. Bussanich, I would work from my home office CPU, which had Dropbox on it. The EFS FPR indicates that 14 files were changed since the last usage. Now based on 7.5 years approximately of research and guidance in this area, I believe this is why the LSBC performed a RAM Dump on June 4, 2014 but it had an issue in that RAM is Volatile Memory, and I had come back on Tuesday June 3, 2014 and that changed the non-sequential memory so, based on information and belief, the LSBC, through its version of Intella Version 1.8[33], had unencrypted native files being stored in the United States. Therefore, I believe that McCartney advised Cree to perform the RAM Dump on June 4, 2014 so the LSBC would not be at odds with Bussanich's admission to me that the LSBC had not commenced the investigation when it had. I believe that counsel for the LSBC couched it by representing that "they (Chan, McCartney and Ho) did not review or copy any document on this occasion and they left at the close of business". However, I now believe the use of the word "copy" may have been deliberately chosen because Intella Connect allows the "tringing" by "sharing those files without installation of Intella Connect software. I believe this is why Mr. Cree continues to copy McCartney on emails, without my initial inclusion, because RAM Dumps are not authorized by the LPA, the LSBC Rule 4-43 was for the purposes of law enforcement, and the LSBC admitted copying of "client records and accounting records" were the directly necessary and related to **the Defunct Investigatory Rule**.

VOLUME 4(D): Section 30: Protection of Personal Information (Reasonable Security Arrangements)

30. A **Public Body** must protect personal information in its **Custody** or under its **Control** by making *reasonable security arrangements* against such risks as unauthorized access, collection, use, disclosure or disposal.

*VOLUME 4(D)(i): June 4, 2014: **RAM** Dump to **Cree** Luxio USB*

31. Pursuant to **the EFS Forensic Preservation Report** (see: Exhibit "A", Tab 12), I believe that the **Created RAM Record** was **not** in the **Custody** or under the **Control** of the **LSBC** from June 4, 2014 to present when **Cree** dumped the **RAM Native Data** and **RAM Native Images** to the **Cree Luxio USB**.

VOLUME 4(D)(ii): June 5, 2014: Luxio USB to **Cree** Workstations

32. Pursuant to the **EFS Forensic Preservation Report**, I believe that the Created **RAM Record** and its **Native Unencrypted Files** were transferred from the **Cree Luxio USB** to the **Cree Workstations**. I believe that **EFS** operates on the **Intella Web Hosting Server** which is based out of Colorado.

VOLUME 4(D)(iii): June 5, 2014: Encase and Guidance Software Inc.

33. Pursuant to the **EFS Forensic Preservation Report** I believe that the **Created RAM Record** was **not** in the **Custody** or under the **Control** of the **LSBC** when **Cree**, based on the apparent advice of Ms. Wendy Ho, on June 5, 2014, **added** the **RAM** Native Images to an *Encase Case File* to look for accounting records and none were found.

*VOLUME 4(D)(iv):*Inapplicable: Transfer by **EFS** to Mr. **Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator,**, QC ("Adjudicator")

34. Based on information and belief, I do **not** believe that **EFS** transferred any of the **Created RAM Record** or **Native Files** therein to **Mr. Deane,** as the **Independent Supervising Solicitor** and **Independent Adjudicator,** so I do **not** address said aspect.

VOLUME 4(D)(v): December 29, 2014 to January 6, 2015: Ritchie and Chan and **LSBC** Sealed Disk and Working Copies

35. I reaffirm the evidence above regarding Ritchie and Chan, and I believe that the **LSBC** then had **Custody** or under its **Control**, the **McLean PI** and **Third Party PI** in the **LSBC Sealed Storage Disk**.

36. I believe that **EFS**, **Cree**, Windover, and Ritchie had **Custody** and the **McLean PI** or **Third Party PI** under their **Control** on the **Cree Workstations**, **EFS** Workstations along with **Encase** and **Intella**, and the **LSBC** did **not**, subject to it having **Control** of the **Created RAM Record** make reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

VOLUME 4(D)(vi): January 6, 2015 and Thereafter: Chan on Intella Versions 1.8 (not 1.8.2)

37. I believe that Chan of the **LSBC**, did **not** make reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal regarding the **McLean PI** or **Third Party PI**. I reference and **note** the **Chan Investigation Reports** wherein she denies the same.

***VOLUME** 4(D)(vii):* August 2015 to November 20, 2015 and thereafter: Murray

38. I believe that Murray of the **LSBC** had created an Excel evidence tracking sheet (**"Excel Evidence Tracking Sheet"**) from the above dates and thereafter that tracked the **RAM Native Files**.

39. I affirm the evidence regarding the Gomery response on October 7, 2015 (see: Exhibit "A", Tab [illegible]).

***VOLUME** 4(D)(viii):* November 20 2015 to Present: Murray to **NST LLP**

40. I believe that **NST LLP** obtained the **RAM Raw Native Files** by **Disclosure** from the **LSBC** to **NST LLP**.

***VOLUME** 4(D)(iv):* November 20, 2015 to Present: **NST LLP** to Access Data Group Inc.[34] and Summation[35]

41. I believe that **NST LLP** then **Disclosed** the **RAM Raw Native Files** to AD LLC. in the United States by way of uploading into the evidentiary **database**[36] with **AD Summation iBlaze**. I do **not** believe the **Local Public Body**, the **LSBC**, made reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

VOLUME 4(D)(v): Potential Demise of **AD Summation iBlaze**

42. I am still investigating the issue of the potential demise of **AD Summation iBlaze** and other matters and I will provide evidence regarding the same when applicable (see: Exhibit "A", Tab 31).

***VOLUME** 4(E): Section 30.1: Storage and Access in Canada*

43. A **Public Body** must ensure that **Personal Information** in its **Custody** or under its **Control** is stored *only* in **Canada** and accessed *only* in **Canada**. I believe, based on the sworn facts above, that the **PI** was either **not** under its **Custody** or in its **Control** at the various particularized temporal periods with the defined **Service Providers** or **Associates**, and was **not stored** or accessed only in Canada.[37]

***VOLUME** 4(E)(i): Exceptions*

44. I did **not** consent, in the prescribed manner (see: *FIPPA* 2012 Regulation, s. 9 and onwards), or at all, to any of the **PI** being stored in or accessed from the **United States** or otherwise. Since Lockhart has **not** provided me with any of the **Third Parties**, which apparently have **Third Party PI** in the **Created RAM Record** , I do **not** believe that the **LSBC** sought or obtained their consent.

VOLUME 4(E)(ii): 33.1 (1) (i.1).

[34] https://accessdata.com/legal/terms; governing law in Utah
[35] Located in Oregon
[36] See: Exhibit "A", Tabs ___;
[37] In British Columbia, the approach to outsourcing and disclosures outside Canada depends on whether the data controller is a public or private sector organization. All public bodies subject to the *Freedom of Information and Protection of Privacy Act* (FOIPA) are prohibited from the disclosure, storage or access of personal information outside Canada unless they have the consent of the individual51 or the transfer is in the context of an outsourcing relationship and is necessary for the public body to perform its duties

45. I do **not** believe that any **Disclosure** *purposes* for **another** jurisdiction.

VOLUME 4(II): Division 2: **Use and Disclosure of Personal Information by Public Bodies (section 32 to 35 of *FIPPA*)**

VOLUME 4(F): Section 32: Use of Personal Information

46. I affirm that I have still **not** identified the **PI** and I can**not,** in my view, have consented to it.

VOLUME 4(G)Disclosure of PI: Section 33

47. I am **not** aware of any disclosure of **Unidentified McLean PI** or **Unidentified Third Party PI** under the **LSBC**'s **Custody** or under its **Control.**

VOLUME 5: The Rule 4-43 Order under the **Defunct Investigatory Rule**, the Execution of the Rule 4-43 Order and **Exclusion Requests Period**

VOLUME 5(a): May 23 to May 27, 2014: the Rule 4-43 Order

48. On May 27, 2014, Riddell approved a **Rule 4-43 Order** to the **LSBC** based on a privileged legal opinion (the "**Bussanich Legal Opinion**") of Bussanich of May 23, 2014. The Rule 4-43 Order had an attachment explaining **Forensic *Copying*** and *Exclusion Request Process* (the "**Forensic *Copying* & Exclusion Request Attachment**").

PART 5(b): **June** 3, 2014: Service of the Rule 4-43 Order

49. The **LSBC** sought to execute the **Rule 4-43 Order** on me on **June** 3, 2014 by Bussanich emailing me a copy of the Rule 4-43 Order and the **Forensic *Copying* & Exclusion Request Attachment**

PART 5(c): **June** 4, 2014: **LSBC** Complaint after McLean non-cooperation with Rule 4-43 Order

50. On **June** 4, 2014, Bussanich emailed me confirming that I did **not** cooperate with the *investigation* on June 3, 2014 and served me a **LSBC** complaint.

PART 5(d): **June** 4, 2014 at 10:01 a.m.: The ambits and limits of my cooperation with the Rule 4-43 Order

51. I then provided cooperation related to: (i) access to my private law office (the "**Private Law Office**"); (ii) computer password (password protected to powering on CPU) for the *purposes* of forensic ***copying*** of my **Hard Drive Disk** and **Dropbox**; and (iii) ***copying*** any paper files along with use of my printer and scanner (the "**Specified Cooperation**").

PART 5(e): **June** 4, 2014 at 10:02 Bussanich confirmation of my limited cooperation

52. On **June** 4, 2014, Bussanich thanked me for providing my computer password and demanded my immediate attendance at my private law office ("**Private Law Office**") for three *purposes*: (i) providing my cell phone

for forensic ***copying***; (ii) answering a questionnaire; and (iii) providing consent for the **LSBC** to access my accounting **Records** with my then **Chartered Accountant**.

53. I did **not** consent to providing the cell phone for reasons particularized to Bussanich. I did **not**, based on information and research, execute the form but provided consent for the **LSBC** to obtain specific accounting **Records** from CA. Later in the month, I did fill out the questionnaire and returned it to the **LSBC**. I refused to attend my **Private Law Office** in the presence of **LSBC** investigators because of an altercation with an investigator of the **LSBC** on **June** 2, 2014 when I attended the **LSBC** for a hearing and attempting to leave the premises. When I met with Ms. Chan, it was in the boardroom of my shared office space at 1800-999 West Hastings Street, Vancouver, BC.

PART 5(f): **June** 4, 2014 at 10:20 a.m.: Bussanich forwarded my **Limited Written Cooperation** to **LSBC** Investigators

54. Unbeknownst to me, Bussanich forwarded a copy of my email to the **LSBC** Investigators which stated "FYI".

PART 5(g): **June** 4, 2014 from 11:25 to 11:48 a.m.: **RAM Dump**

55. Unbeknownst to me, the **LSBC**, through **EFS**, performed the **RAM Dump** on **June** 4, 2014 from 11:25 a.m. to 11:48 a.m. (the "**RAM Dump Duration**") based on McCartney's representation to **Cree** that it may be required based on my usage "**Cloud Storage**". I did use **Cloud Storage** but it was **Dropbox** and I had informed the **LSBC** of the same in previous correspondence with the **LSBC** and it was synced to my **Hard Drive Disk** in near real time. **Cree** labelled the file internally for his *purposes*, and onto the **Cree Luxio USB** in part, Kevin-PC[38]-.....18544.raw (the "**Created RAM Raw Data Native File**", "**Created RAM** Record" or the "**18544 RAM File**").

PART 5(h): **June** 4, 2014 at 11:50 a.m.: **RAM** Memory Deletion

56. Unbeknownst to me, the **LSBC**, through **EFS**, turned off the **CPU** on **June** 4, 2014 at 11:50 a.m. thereby completing the **RAM Memory Deletion**.

PART 5(i): **June** 4, 2014 at 12:25 p.m.: Bussanich acquired knowledge of **RAM Dump** from McCartney (see: **page** 71)

57. Unbeknownst to me, McCartney emailed Bussanich and Caldwell (Bussanich's Supervisor) that **Cree** had *completed* the **RAM** "download". McCartney separate the RAM Dump and Forensic ***Copying*** by then representing that "**Cree** hag begun the **Forensic** ***Copying*** of my **Hard Drive Disk**".

58. McCartney did inform Bussanich and Caldwell of a time estimate of *6 to 10* hours before finishing the **Hard Drive Disk Forensic** ***Copying***. McCartney further wrote that since I [he] had *access* to the office after hours that they would have to stay there until the **copy** was made and verified.

PART 5(j): **June** 4, 2014 at 1:46 p.m.: Bussanich does **not** inform me of the **RAM Dump** (see: **page** 72)

59. Unaware of the **RAM Dump** as I was **not** on the email from McCartney above, Bussanich emailed me and did **not** inform me of the **RAM Dump.** Bussanich *did inform* of the time estimate required to copy my

[38] Not Hard Drive

computer **Hard Drive Disk** and the *designated representatives* would have to remain at my office until after hours.

PART 5(k): June 4, 2014 at 4:42 p.m. (see: page 73)

60. McCartney emailed Bussanich that the office manager had offered to keep the place open until 7:30 p.m. McCartney represented to Bussanich that would give them just enough time to capture the **Hard Drive Disk** image and put the machine *back together* for the night. McCartney then represented that "Colin Cree would meet him there in the morning so that we can finish **verifying** if we got all the Cloud Files. Based on my review, I believe McCartney knew that the "Cloud Storage" and "Cloud Files" were contained on my **Hard Drive Disk**.

PART 5(l): Exclusion Requests Period: June 3 to June 10, 2014 (the "Exclusion Requests Period")

61. During the **Exclusion Requests Period**, Bussanich and I discussed the types of **records** and Personal Information that I wished to exclude based on **Forensic *Copying*** of my **Hard Drive Disk**. I was unaware of the three USBs ("**Desk Drawer USBs**")[39] being forensically copied so I did **not** discuss it with him.

62. I made my exclusion requests on June 10, 2014 (the "**Exclusion Requests**") based on review of my **Hard Drive Disk Folder** on my **Private Law Office CPU** which was my **Dropbox Folder**, when returning to the office after the **LSBC Investigators** had completed, what I thought was *only* **Forensic *Copying*** of my **Hard Drive Disk**.

VOLUME 6: The **EFS** Activities During and After the **Exclusion Requests Period**

VOLUME 6(a): June 5, 2014 at 9:30 p.m. and 9:41 p.m. **EFS** Activities

63. I did **not** receive a copy of the **EFS Forensic Preservation Report** on its date or during the year of 2014 and 2015 (see: **TAB 12, Pages 137-167**). Unbeknownst to me, on **June** 5, 2014, **Cree** represented that "Files contained on the **Luxio USB Key** were ***copied***[40] to the **CRCO2 workstations** *DATA drive* under Cases/14052801."[41]Unbeknownst to me, at 9:41 p.m., **Cree** represented that he *created* an **Encase Case file** and added the USB drive images to it, which contained the images from the **RAM 18544 Unencrypted File,** which was from the **Cree Luxio USB. Cree** represented that he reviewed these *Images* for accounting records that they may contain the same but based on the request of Ms. Wendy Ho but none were found (see: **page** 159).

VOLUME 6(B): **June** 13, 2014 at 9:30 a.m. (see: **page** 162)

64. Unbeknownst to **me, Cree** represented that the "**Forensic Images**" contained on the **Luxio USB key** were copied to an **EFS**597 storage disk (the "**LSBC Sealed Storage Disk**"[42]) using MD5Summer to confirm that the copies are identical to the original. However, **Cree** represented that the "**copy failed**".

VOLUME 6(C): **June** 14, 2014 at 4:40 p.m. (see: **page** 163)

[39]Use of Tableau: https://www.opentext.com/support/contact/guidance
[40]Does not mean that the initial dump of RAM was a copy
[41]I presume that these are workstations of Mr. Cree at a location known to him.
[42]My belief

65. Unbeknownst to me, **Cree** represented that the "images" contained on the **Cree Luxio USB Key** were copied to the **LSBC Sealed Storage Disk** using **MD5 Summer** to confirm the copies are identical to the original. **Cree** did **not** confirm that they were or reference any verification of the same.

VOLUME 6(D): **June** 15, 2014 at 6:10 a.m. (see: **page** 164)

66. Unbeknownst to me, **Cree** represented the "images" contained on the **Cree Luxio USB Key** were copied to the **EFS Storage Disk** using MD5 Summer to confirm the copies are identical to the original. **Cree** did **not** confirm that they were or reference any verification of the same.

VOLUME 7: Crosbie Letter to Mr. Deane; LSBC Submissions to Mr. Deane; and

PART 7(a): **June** 25, 2014: Crosbie Letter to **Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator,** and me (see: **page** 127)

67. **Crosbie** delivered a letter to Mr. **Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator,** for my **Exclusion Requests** wherein she represented to **Mr. Deane,** that **EFS** have *only* made a forensic copy of my **Hard Drive Disk**. Bussanich and I were copied.

68. Crosbie represented, on **LSBC** letterhead that I had selected **Mr. Deane,** as the **Independent Supervising Solicitor** and **Independent Adjudicator,** to act as the **Independent Solicitor** to adjudicate my **Exclusion Requests** related to *electronic **Records*** that I was required to produce in accordance with an **Order** made pursuant to the **Defunct Investigatory Rule** and the **Rule 4-43 Order**.

69. Crosbie further represented that the **Rule 4-43 Order** required me to produce and permit ***copying*** of all files, books and any other evidence regardless of the form in which they were kept, including any electronic **Records**.

70. Crosbie represented that in accordance with the **Rule 4-43 Order**, designated representatives of the **LSBC** from **EFS** made a **Forensic Copy** of McLean's **Electronic Records** located on my office computer **Hard Drive Disk**. Crosbie further represented that **EFS** had maintained **Custody** over the **forensic copy** and the **data** contained within. Crosbie represented the Rule 4-43 contemplates a process but which I may have requested that certain information be excluded from the **LSBC** *investigation* where the **LSBC** does **not** agree the information should be excluded.

71. Crosbie provided: (i) Rule 4-43 of the **LSBC** Rules; (ii) the Rule 4-43 Order and **noted** the **Attachment** to this **Order** contains information related to the **forensic** ***copying*** of the **Hard Drive Disk** and exclusion requests); (iii) My exclusions requests on **June** 10, 2014; and (iv) the **LSBC**'s response by Bussanich, on **June** 12, 2014.

72. Crosbie then represented that the submissions[43] of the **LSBC** will be provided by **Bussanich** and he was a staff lawyer employed by the **LSBC** and he was conducting the investigation of McLean in which the **Rule 4-43 Order** was made.

73. Crosbie then represented that Mr. **Mr. Deane** was entitled to review the information or **Records,** in his independent adjudicative capacity, that are in issue and that Law Society will arrange for a representative of

[43] See: August 22, 2014 LSBC Submissions to Deane

EFS to contact him so that information or **Records** he required for *purpose* of *his adjudication* can be made available to him.

VOLUME 7(B): August 22, 2014: Bussanich Submissions (see: **page** 85 to 94)

74. Bussanich delivered executed submissions on behalf of the **LSBC** on **August 22, 2014** wherein he represented the following to **Mr. Deane**, in his capacity as **Independent Adjudicator** and **ISS** with some of my paraphrasing, pronoun substitution, and titles for reference:

a. ***Purpose***: The *purpose* of the order made under Rule 4-43 (see: *FIPPA*, s. 26(b)) is to ensure swift and complete access to records that would be *necessary* to conduct a thorough *forensic accounting investigation* and the lawyer is required to comply with the terms of the Order (see: **page** 86);
b. **Imaging**: If imaging of the electronic **Records** is contemplated by an Order, such *imaging* is desirable for the *investigation* (see: *ibid*);
c. **Execution and *Copying* by LSBC**: Upon execution of the Order, the **LSBC** designated representatives made copies of: (i) **McLean Hard Drive Disk**; and (ii) **three USB thumb drives** located in my office (see: **page** 87)[44];
d. **Records in EFS Possession**: The exclusion request process *only* applies to **Records** that **EFS** has in its **possession** (see; **page** 88);
e. **Only Records Copied or Imaged**: The submission did **not** address any records or devices **not** yet **copied** or imaged[45];
f. **McLean Onus**: I had the onus. I had to identify the specific **Records** and the reason for exclusion of each **Record.** I had to justify that they records are clearly personal and irrelevant to the Rule 4-43 investigation or privileged (see: **page** 89);
g. **Relevant and Necessary to Rule 4-43**: The Order contemplates file records in addition to accounting records as they were both **necessary** and **relevant** to the *investigation*[46] ((see: **page** 90);
h. **Only Electronic Records**: The exclusion request process *only* applies to **electronic Records** (see: **page** 91)
i. **If Imaged or Copied then Applies to ISS and Independent Adjudicator**: *Only* **records** that **EFS imaged** or **copied** are subject to exclusion (see: **page** 91)
j. **Dropbox**: there is evidence to indicate that I used **Dropbox** to store and share client file **Records** and admitted the same on **June** 20, 2014 to Chan (see: **page** 92);
    i. Further, I had admitted the usage of Dropbox (Cloud Storage) to Milz in April and May 2014;
    ii. I had **not** explained which records in the **Dropbox (Hard Drive Disk)** might be subject to privilege and how that privilege might warrant *exclusion*;
        1. I had **not** identified specific records or sufficient description of those records or nature of those records and had a lack of detail;
            a. Apparently, I had made it *impossible* for the **LSBC** Investigators **and** the **Adjudicator** as to how the contents of Dropbox may be privileged;
    iii. I had misstated the legal test for exclusions under Rule 4-43 (see; **page** 92)
        1. I had **not** identified the excluded records to be both personal and clearly irrelevant;
        2. I had **not** sufficiently described the records that I thought should be excluded;
        3. I had **not** presented sufficient detail and made to impossible for Investigations and Adjudicator to understand how the records (see: **page** 93);

[44] No mention of RAM
[45] If RAM was copied or imaged, then the submission would have included the same
[46] See: FIPPA, s. 26(c)

k. The Adjudicator was entitled to review copies of records (**note**: without the Created **RAM** Record on June 4, 2014 at approximately 11:50 a.m.) to determine whether some of all of them should part of the **Working Copy** to be used in *the investigation.*

VOLUME 7(c) December 12, 2014: Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator, Decision (the "Adjudicator Decision") (see: **page** 95 to 106)

75. **Mr. Deane** rendered his decision[47] and dismissed my **Exclusion Requests** and confirmed that he had *only* received from **EFS the Office Forensic Copies** which was the **Hard Drive Disk** and **Three USBs** (see: **page** 97). **Mr. Deane,** as the **Independent Supervising Solicitor** and **Independent Adjudicator,** confirmed that to facilitate the review **EFS** provide **Mr. Deane** him with copies of the records located in the **Office Forensic Copies**. **Mr. Deane,** as the **Independent Supervising Solicitor** and **Independent Adjudicator**, noted that the important of privacy interests and had some misgivings to review the **Records** in the **Office Forensic Copies** (see: **page** 98).

VOLUME 8: After the Review Period Expired for the **Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator,** Decision

VOLUME 8(a): *December 29, 2014: Bussanich to Investigators*

76. After the *expiry* of the review period (**"Review Period Expiry"**), Bussanich informed the investigators to "feel free to start looking at the *imaged data*" (see: **page** 107).

77. Bussanich also represented that "my argument on this [sic] exclusion requests was that he can only apply for exclusion of data that we have. **Deane agreed** with on this point."

VOLUME 8(b): December 29, 2014:

78. Unbeknownst to me, **Cree** emailed the **Chan** confirming that **Ritchie** had the *working copy* of the images captured on this matter (see: **page** 114). Ritchie then used **Intella** to index the *normal files* for the **LSBC**.

Indexing of Normal Files but now including the "Native Files" (unindexed)

79. Ritchie then represented that she was still processing and would put the data, copies and images onto the external **Hard Drive Disk** but with the **Native Files** (as well) and send out early next week.

VOLUME 8(C): January 6, 2015

80. Unbeknownst to me, on the above date, the **LSBC** received external **Hard Drive Disks** that contained: (i) the **LSBC** Sealed Storage Disk; and (ii) the **Working Copy Disk**. I believe both contained the **RAM** Raw Data Native Files, but not in in encrypted format and unindexed but the **LSBC** Sealed Disk was **not** able to be opened or read by the **LSBC**[48].

VOLUME 9: Chan to McCartney regarding **EFS** Forensic Preservation Report

[47] In my view, well-written decision without the benefit of the 30 minute dump of the memory of RAM into Native Images; I was not entitled to reopen; and review period expired
[48] Subject to that being correct

VOLUME 9(a) May 5, 2015: Chan to McCartney

81. Unbeknownst to me and recently found in the recent documents, May 5, 2015, at 9:07 a.m., Chan wrote to McCartney via email as follows with the heading, "your **notes**": "Hi Dave, I'm writing my **REPORT** on my McLean I don't have certain things written down in my **notes**....Also, I don't have Colin **Cree's REPORT** on the **mirror imaging** of McLean's computer. Do you have that? Thank you, Andrea."

VOLUME 9(b) Chan Reports: June 29, 2015

82. Unbeknownst to me, Chan then issued **LSBC Investigation Status reports** where she represented on **LSBC** letterhead in June 2015:

> Paragraph 22:....Around 10:22 a.m. Mark Bussanich, Staff Law Lawyer, Professional Conduct forwarded an email from McLean. In the email dated **June** 4, 2014 "They can copy any and all documents from my **Hard Drive Disk** and Dropbox" ....."We commenced the *investigation*" (see: June 4, 2015); and "Paragraph 71: On **June** 4, 2014, Colin **Cree**, e-Forensics attended the law office to make a **forensic image** of the *digital devices* located in McLean's office. **Cree** made a forensic image of **ONE COMPUTER HARD DRIVE DISK** and **THREE THUMB DRIVES**. "Paragraph 73: To preserve the integrity of the **mirror image**, E-Forensic provided a working copy of the data collected to the Law Society on **January 6, 2015**. We used **Intella**, a forensic search software, to search the *working copy* for *any document* that contained keywords. *Scope Limitations* Paragraph 75: **June** 4, 2014, **Cree** e-Forensic attend the law office to make a forensic image of **McLean COMPUTER HARD DRIVE DISK** and **THREE THUMB DRIVES**". Paragraph 80: ...When I returned to the Law Society (**June** 20, 2014) I **tried to log in** to McLean's Dropbox account and was **NOT** able to access his account". Paragraph 81: "McLean told me that he works on his files at home and transfers them over to Dropbox. As at date of of this **REPORT** (**June** 29, 2015), I did **not** have access to the records stored in the *Dropbox account*. **Cree** told me that Dropbox can store deleted files in the cloud that would **not** be **VISIBLE** in the **HARD DRIVE DISK STORAGE**".

VOLUME 10 **Murray Document Discovery Plan**

VOLUME 10(a): September 30, 2015 (TABS 1 to 3)

83. Unbeknownst to me at the time, Mr. Murray (an apparent paralegal) prepared a document discovery plan (the "**Document Discovery Plan**") wherein she represented and confirmed that there would be a preservation of information (**Legal Hold**) and the steps has been completed and referred to legal hold memo document dated August 31, 2015. I have **not** seen the latter. Murray represented that Gomery's office sent them a memorandum (note: I have not seen said memorandum but made a request for the same) under No. 9 "*Compliance Audit of McLean's Practice which included documents to both the investigatory audit, the Rule 4-43 investigation and compliance audit* ***REPORT****. The* ***entire forensic copy*** *should be* bulk listed *as one item but each* ***Individual*** *documents on the forensic copies of his* ***COMPUTER/CLOUD STORAGE*** *does* ***NOT*** *need to be listed".*[50]

VOLUME 11: Gomery Response to Request for Return of Seized Documents

VOLUME 11(a): October 2, 2015: **My request for Return of Documents Seized Without Consent**

[49] Emphasis is mine
[50] FIPPA, s. 3: not limited as a party to a proceeding:

84. I requested the return of documents that the **LSBC** seized without ***consent*** to streamline the matter after Justice Gerow's decision and the **LSBC**'s admission that consent was required. I also asked where the "forensic copies" were located.

85. Gomery replied to me and represented that, "The Law Society is **not** in possession of the **Original Documents** obtained from you. It is possession of copies." I relied on his representation and presumed that the LSBC only had forensically copied (Mirror Images) of records.

VOLUME 11(b) 11(b): **November 2015: NST LLP obtaining of access**

86. In November, **NST LLP** apparently obtained access to the **List of Documents** of the **LSBC**. I obtained an order of **Mr. Justice Bowden** for document production and listing in two tranches in December and January 2016.

VOLUME 11(c): December 2015 and January 2016

87. The **LSBC** list did **not** include any particulars or listing of the **RAM Native File Images** or describe the **RAM Dump**, and they could not be found with keyword search.

VOLUME 12: Spring 2017

VOLUME 12(a): Lockhart Application on behalf of **NST LLP** and **LSBC**:

88. I applied for the return or documents, and destruction of the same, that were "seized during the Rule 4-43 Order with reference to the **Forensic Copies**". The **LSBC** cross-applied for summary trial judgment by Lockhart's application which was dismissed: [24] On **June** 4, 2014.....The investigators took two forensic copies of the ***HARD DRIVE DISK*** on the plaintiff's office computer. They also took **copies** of paper files provided by the plaintiff; and [25] Nobody from the **LSBC** reviewed the ***HARD DRIVE DISK*** until the conclusion of a process set out in the Rule 4-43 order for the adjudication of the plaintiffs request that certain documents be excluded from review."

VOLUME 12(b): **May 29, 2017: Defendants' Trial Brief**

89. At that same time, I moved the matter towards trial with a jury trial and filed a trial brief. The **LSBC** filed a trial brief on May 29, 2017 wherein it represented that "I having consented to ***copying*** of my documents for the *purpose* of an *investigation* of my practice, I was **not** entitled to withdraw my consent and demand the return of those **copies**". The **LSBC** did **not** indicate it was relying on any expert reports and did **not** include the **EFS Forensic Preservation Report.** I was unaware of the **EFS FPR** at said time.

VOLUME 12(c): July 2017: The Honorable Justice Grauer Reasons for Judgment

90. In July 2018, Justice Grauer rendered his **Reasons for Judgment** wherein he accepted the **LSBC** submissions that all the **EFS** did was take **forensic copies** of my **Hard Drive Disk** and paper copies. He found that I had a damages claim if I could set aside the order and nine other grounds in relation to the **forensic *copying*** of my **Hard Drive Disk**:

> [50] As we have seen, the ***investigation* order**, through its explanatory ***notes***, provided for an exclusion process by which Mr. McLean could request that the certain documents captured by ***the***

investigation, including documents contained in the forensic copy of **HIS COMPUTER *HARD DRIVE DISK***, be excluded from the Law Society's **review.**

VOLUME 12(d): September 2017 before The Honourable Mr. Justice Macintosh

91. I was unaware of the **RAM Dump**, I brought the judicial review, pursuant to the Order of Mr. Justice Grauer, of the Rule 4-43 Order. Without any disclosure to me, Mr. Deane, LSBC Hearing Panels, the BC Supreme Court and Court of Appeal from 2014 to present, I obtained the following order but solely in relation to forensic copies of my Hard Drive:

> "[19] Finally, before me, Mr. McLean asked for an order that the Law Society either destroy or give to him the **forensically made copy** it has of Mr. McLean's computer ***HARD DRIVE DISK*** containing his documents relevant to the disputes he has or has had with the Law Society. Mr. McLean has the original ***HARD DRIVE DISK*** in his possession. He alleges that the order pursuant to which the Law Society obtained the original ***HARD DRIVE DISK*** and made the copy is an unauthorized order."
>
> "The Law Society will continue to hold the copy of the ***HARD DRIVE DISK***. It will **not** use documents from the ***HARD DRIVE DISK*** in any ongoing proceeding with Mr. McLean without Mr. McLean's permission or a further order of this Court. If there comes a stage when Mr. McLean states in **Writing** that all present or further claims by him against the Law Society are at an end, and that he will **not** apply for readmission, the Law Society will destroy the copy of the ***HARD DRIVE DISK***, or return it to Mr. McLean, as he elects."

92. I was **not** aware of the **RAM Dump** and **Custodial RAM Seizure** and any disclosure, uses, or otherwise thereafter, and I confirm that I do **not** have the "original **RAM**" from that period but I have the CPU.

VOLUME 13: Adjudicator Siew: 2018

93. **Adjudicator Siew** correctly **noted** that the **LSBC** represented which I now believe were misrepresentations:

> "requested **PERSONAL INFORMATION** to records he **already received** through its discipline process and the court disclosure process.

94. The **LSBC did not** bring a judicial review of the same at all or within the legislated timelines under *FIPPA*.

VOLUME 14: October 2018 Privacy Requests

95. Pursuant to the **Adjudicator Siew Decision**, I made narrow privacy requests for the number of Rule 4-43 Orders and whether they had ever been dismissed. The **LSBC**, through Lockhart, confirmed that such applications had never been denied and provide me with the number per year. I made further narrow privacy requests under *FIPPA* as to whether the **LSBC** had ever applied under s. 37 of the *LPA* and the **LSBC** confirmed it had **not**.

VOLUME 15: June 2021: The Matajawa Decision and Further *FIPPA* Requests

96. I had been alerted to **Matajawa Decision**[51] where the **LSBC** and a lawyer were embroiled in a dispute over then **Rule 4-55** which then allowed 21 days for exclusion requests and removed the designated representatives' requirement. I *noted* that my decisions of the Hearing Panel and others were hyperlinked. I

[51] See:

was curious about the **Acknowledgement Form** referenced and I made a privacy request upon the **LSBC**. The **LSBC** provided me with the same and confirmed it was created in 2019.

VOLUME 15(a): **RAM Request**

97. On July 14, 2021, after review of the EFS FPR, I made a privacy request for the Created **RAM Record** (see: **TAB** 4).

VOLUME 15(b) Cree Discussions

98. I communicated with Mr. **Cree** for the first time regarding the same (see: **TAB** 27). He confirmed that the **LSBC** had **Control** and **Custody** of *all data* (not necessarily Records) and that I should direct all my efforts towards the **LSBC**. I then made a ***PIPA*** request upon **EFS** which was **not** responded to in compliance, in my view, with *PIPA*.

VOLUME 15(c): List and *Particulars* of all Data that was subject to the **RAM Dump** et al

99. On July 30, 2021, I made a privacy request upon **LSBC** based on **Cree**'s emails and otherwise. On September 14, 2021, the **LSBC** responded by representing that it had completed a search of the Law Society's **records** to responded to your request and **found no records** which respond to this request. I am still seeking **records** contained therein and provide this reiterated request.

VOLUME 15(d): LSBC Response to **RAM Dump** Request

100. The **LSBC** responded and extended the time pursuant to s.10(1)(b) and (c). The **LSBC** represented it would provide its response by October 8, 2021. On August 24, 2021, the **LSBC**, through **NST LLP** and its now partner Ms. Lockhart ("**Lockhart**") did **not** respond in accordance with section 8 of *FIPPA* but instead unilaterally extended the time under section 10(1)(b) and 10(1)(c) of *FIPPA*.[52]

VOLUME 15(d)(i): *General Response of the* ***LSBC*** *(see: Exhibit "A",* ***TAB*** *5,* ***page*** *38)*

101. The response that I received from Lockhart, *purportedly* on behalf of the **LSBC**, "**We** [unclear] require an extension of time for responding to your request for a copy of the data[53] that was **downloaded** from the random access memory of the CPU of Kevin McLean".

VOLUME 15(d)(ii): *Section 10(1)(b) and (c) of FIPPA (see: Exhibit "A",* ***TAB*** *5,* ***page*** *38)*

102. The response continued, "Pursuant to section 10(1)(b) and 10(1)(c) of *FIPPA*, we are extending the time for responding to your request by an additional **30 business days** because of the large number of **Records** that **must** be searched to complete this request and because more time is needed to consult with a third party before we can decide whether to give you access to the **Record** . We intended to provide you with the **LSBC**'s response on or before October 8, 2021". The response noted discussing the matter before making a complaint and stated, "You may also, pursuant to section 42(b) of *FIPPA*, contact the Office of the **Information** and **Privacy Commissioner** at the contact information provided below". I to **LSBC**, through Lockhart, confirmed that I was *only* seeking the Requested **RAM** Raw Unencrypted Native File (Record)and **not** a "large number of **Records**". Further, I responded to the **LSBC** that I did **not consent** to any alleged **Third Party** consultation for them [we] to determine whether I could have access to the requested **RAM Raw**

[52] See: AD Summation iblaze and AD LLC being acquired by Exerro and Exterro to Amazon Web Services
[53] More than "data"

Unencrypted Native File. I have continued to note that I am entitled to records in the Custody or under the Control of the LSBC and not simply "data" which is merely one component of a RAM Dump.

VOLUME 15(d)(iii): September 10, 2021

103. On September 10, 2021, then represented, "I **cannot** understand if you are requesting the Original **RAM copied** from your computer or if you are asking for a copy." I believe Ms. Lockhart could understand and I note that this was six days after Exterro was not providing law firms, like NST LLP, with ability to then transfer their data from the United States to Canada with Amazon Web Services. I responded to the **LSBC** that my seeking of the return of my property was different than my access to the **Requested Records.** I affirmed that the **RAM Memory *FIPPA* Request** was as specified and particularized on July 14, 2021 (see: **page** 34). I requested that the **LSBC** provide me with the **Records** contained in the **RAW Data Dump** from my **RAM** (see: **page** 34). I used the word "**Records**" contained therein as, based on research, I understood that raw native file unencrypted images would in the **RAM Raw Unencrypted Native File.** I referenced the **Binding Decision** of **Adjudicator Siew** and the LSBC's breach of the same regarding my ability to make further narrow privacy requests under FIPPA.

VOLUME 15(e): Other *FIPPA* Requests

104. On July 21, 2021, I requested **Records** on the storage and retention of forensic **copies** and **RAM** involving other members of the **LSBC** regarding the above from 2014 to present. On August 24, 2021, the **LSBC** responded by misrepresenting that I was seeking "research or information" and **not** answers questions, and it would **not** be producing any **Records** in response to the request. On August 2, 2021, I had noted, through review, that **certain photographs** had been manipulated and made a request. On September 14, 2021, the **LSBC** responded that photographs in my possession were **not** redacted and found no **Records** which respond to this request. I note there is a white bar over the time on the right CPU monitor and I did not place said white bar over the time (see: Summation Reviewer Manual, Exhibit "A", Tab 8).

VOLUME 15(e): September 29, 2021: RAM Request (see: **Page** 40 et al)

105. On September 29, 2012, Lockhart represented that, for the first time, the **LSBC must** review the files before producing them including reviewing the **Records** contain within the copy and addressing third party concerns raised in respect of the documents. Lockhart represented if you are requesting the return of the original it was **not** a request under *FIPPA*.

VOLUME 15(e)(i): My Response

106. I responded that I was stunned to learn that there were now *third party privacy interests* concerns when I confirmed that I did **not** consent to the **LSBC** conducting any such search (see: Exhibit "A", Tab 5, **pages** 40(b) to f). I cited *FIPPA* regarding the requirements for **Third Party Notices**.

VOLUME 15(f): October 8, 2021

107. Lockhart then represented, without giving access by the **LSBC**, that **LSBC** will **not** be returning the *original **RAM** copied* [sic] from my computer. Lockhart, then for the first time, represented to me that this was consistent with the **LSBC**'s position regarding the *other documents* **copied** [sic] in Rule 4-43 *investigation*. Regarding access, Lockhart now represented that she was unable to advance the review and processing of his request while she allegedly waited for me to clarify whether I wished to receive a copy or the original. She

represented that she had *resumed this process now* and expected to provide in late October. I did **not** accept this noncompliance with *FIPPA* and affirmed that I did **not** consent to the same. I respectfully request that the Commissioner order Lockhart and NST LLP, along with the LSBC to stop using and disclosing the McLean **PI** and apparent Third Party **PI**

VOLUME 15(g): Further Review; Applicability of FIPPA; Applicability of **PIPA** and ***PIPEDA*** where **PIPA** is **not** applicable

108. On October 18, 2021, I remained concerned regarding destruction of the **RAM Data** and **Records** contained in the **RAM Raw Native Unencrypted File** and **not** being able to compare the same. I provided the **LSBC** and Lockhart with the **Murray Document Plan** and made a request for the **Excel Tracking Evidence Sheet**.

109. Lockhart responded within a minute, for the first time within that time frame, that the **LSBC** claims privilege over the same and asking me to destroy the same.

110. I confirmed that it was produced and had already been appended to evidence in September 2021 and I could **not** destroy sworn evidence as a matter of law.

111. Moreover, I continued to make demands upon the **LSBC Privacy Division** regarding the **Excel Evidence Tracking Sheet.**

Volume 15(H): Applicability of FIPPA

112. FIPPA applies to all **Records** in the Custody[54] or under the Control[55] of a Public Body but does not apply to a **Record** of a Service Provider that is **not** related to the provision of services for a Public Body.

113. I believe that *FIPPA* would apply to the Created RAM Raw Data File that is in the Custody and Control of the LSBC in the LSBC Sealed Storage Disk, albeit sealed, which is stored and retained as the LSBC's evidentiary locker on the 4th Floor at 845 Cambie Street, Vancouver BC.

114. I believe, to the extent the RAM Raw Data Native Unencrypted Files or Images are on the **Working Copies**, received by the LSBC on or around January 6th, 2015, the LSBC has Custody or the **RAM Raw File 18544** or Records contained therein are under its Control.

115. However, I do not believe that RAM Dumps, RAM Deletion, and Custodial RAM Seizure are services under the **2010 IPA**.

Volume 15(I): Applicability of **PIPA**

116. Parliament exempted **Organizations** from ***PIPEDA*** if they met a two part factual and contextual test for their business and certain collection, use and disclosure of **PI**. The Organization must be of BC and the collection, use or disclosure of **PI** must occur within BC.

[54] Did an officer or employee of the institution create the record: Does the content of the record relate to the institution's mandate and functions; Does the institution have a right to possession of the record; Does the institution have the authority to regulate the record's content, use and disposal

[55] https://www.ipc.on.ca/part-x-cyfsa/does-part-x-of-the-cyfsa-apply-to-you/what-information-does-part-x-apply-to/b-what-is-custody-or-control/ ; It is possible to have custody or control of a record that was not created by your organization. For example, if a child is referred to you by another service provider and you maintain and rely on the referral records to provide services to the child, the referral records would likely be in your custody or control even though they were authored by the other provider.

117. If the Organization is **not** of BC, then ***PIPEDA*** applies to it based on ***PIPEDA***. Further, if the collection, use or disclosure of the BC **Organization** is **not** within BC, then ***PIPEDA*** applies.

Volume 15(J): Applicability of ***PIPEDA*** (note: Copy and Paste from Federal Court cases)

118. The **CBA Article** on Transfers of Information for Processing Section 4 of ***PIPEDA***, the application provision for Part I, is silent with respect to the statute's territorial reach.

119. However, there is **no language expressly limiting** its application to Canada.

120. In the absence of clear guidance from the statute, the Court can interpret it to apply in all circumstances in which there exists a "real and substantial link" to Canada, following the Supreme Court's guidance in *Society of Composers, Authors and Music Publishers of Canada v Canadian Assn. of Internet Providers*, 2004 SCC 45, [2004] 2 SCR 427 at paras 54-63 [*SOCAN*] and the other authorities cited therein.

121. This Court has applied ***PIPEDA*** to a foreign-based organization where there was evidence of a sufficient connection between the organization's activities and Canada: *Lawson v Accusearch Inc (cob Abika.com)*, 2007 FC 125, [2007] FCJ No 164 at paras 38-43 [*Lawson*].

122. The relevant connecting factors include (1) the location of the target audience of the website, (2) the source of the content on the website, (3) the location of the website operator, and (4) the location of the host server: *SOCAN*, above, at paras 59 and 61.

123. "I accept the submission of the OPCC that the principle of comity is **not** offended where an activity takes place abroad but has unlawful consequences here: *Libman*, above, at p 209".

124. "In the case (24HGlobe) at bar, since Romanian authorities have cooperated with the OPCC investigation and taken action to curtail the respondent's activities, the legitimate judicial acts of this Court will **not** be seen as offending the principle of comity".

125. The respondent was fined for contravening Romanian data protection laws by, among other things, charging a fee for the removal of personal information from Globe24h.com[56].

126. The respondent has appealed this fine to a Romanian court. Given the involvement of the Romanian counterpart to the OPCC, this Court's findings would complement rather than offend any action that may be taken in a Romanian court.

127. As **noted** by the British Columbia Court of Appeal in *Equustek*, above, at paragraph 85, "[o]nce it is accepted that a court has in personam jurisdiction over a person, the fact that its order may affect activities in other jurisdictions is **not** a bar to it making an order."

128. Further, in the context of Internet abuses, courts of many other jurisdictions have found orders that have international effects to be necessary.

129. I refer to *Equustek*, above, at para 95, citing *APC v Auchan Telecom*, 11/60013, Judgment (23 November 2013) (Tribunal de Grand Instance de Paris); *McKeogh v Doe* (Irish High Court, case no. 2012124P); *Mosley v Google*, 11/07970, Judgment (6 November 2013) (Tribunal de Grand Instance de Paris); and *TCJ Google*

[56] Guidance Software above under FTC; see Exhibit "A", Tab 7

Spain SL, Google Inc v Agencia Espanola de Protecciób de Datos, Mario Costeja González, C-131/12 [2014], CURIA.

130. Parliament, under ***PIPEDA***, access means to program, to execute programs on, to communicate with, to store data in, to retrieve data from, or to otherwise make use of any resources, including data or programs on a computer system or a computer network.

131. ***PIPEDA*** references the definitions of Computer Program and Computer System under the Criminal Code.

132. The *Criminal Code* distinguishes between certain types of **Property** like passwords[57], computer programs ("**Computer Programs**")[58], computer service (the "**Computer Services**")[59], computer system (the "**Computer Systems**")[60] and Computer **Data** ("**Computer Data**")[61].

133. I have included my summary of the Schedule I Principles under ***PIPEDA*** that every Organization shall comply (see: ***PIPEDA***, s. 5).

134. An organization may collect, use or disclose personal information only for purposes that a reasonable person would consider are appropriate in the circumstances (see: ***PIPEDA***, s. 5(3)).

135. For the purposes of clause 4.3 of Schedule 1, the consent of an individual is only valid if it is reasonable to expect that an individual to whom the organization's activities are directed would understand the nature, purpose and consequences of the collection, use or disclosure of the personal information to which they are consenting (see: 6.1 of ***PIPEDA***).

136. While there are exceptions to the ***PIPEDA*** Consent Principles, they do not to Accessing a Computer System to collection Personal Information and Use of Personal Information that was collected in a manner described in paragraph 7.1(3)(a).

137. Telecommunication is defined as any transmission, emission or reception of signs, signals, writing or images by any nature of wire, radio, visual, or other electromagnetic system. **Cree** and EFS, based on the advice of McCartney, collected **PI**, as now admitted by the LSBC, through a means of telecommunication by Accessing my **Computer System** using a **Computer Program** known as DUM**PI**T.

138. RAM is Hardware which contains: (i) Apps; (ii) Computer Programs; (iii) Computer Passwords; (iv) Computer Systems; and (v) see below.

139. I have reasonable grounds to believe that there has been a loss of, unauthorized access to, or unauthorized disclosure of personal information resulting from a breach of Organizations safeguards or from failing to establish those safeguards (see: ***PIPEDA***, s. 2(1), BSS). I believe that the sensitivity of the **PI** involve in the alleged breaches is high due to the information contained in RAM like Computer Passwords, Internet Usage, Personal Preference, et al.

---

[57] means any computer data by which a computer service or computer system is capable of being obtained or used
[58] means computer data representing instructions or statements that, when executed in a computer system, causes the computer system to perform a function;
[59] includes data processing and the storage or retrieval of computer data
[60] means a device that, or a group of interconnected or related devices one or more of which
[61] means representations, including signs, signals or symbols, that are in a form suitable for processing in a computer system

Volume 16: Types of "information" in the Created RAM Raw Data Native File 18544 (expecting to see and review by Commissioner and I in Electronic Format

140. I would expect that the Privacy Commissioner and I would see some of the following in the RAM File 18544 when it is produced to him and myself in electronic format:

a. Running processes;
b. User names and passwords;
c. Loaded Dynamically Linked Libraries (DLL);
d. Contents of an open window from the Internet;
e. System information (i.e.: time since last reboot)
f. Task Manger;
g. **Data** *never written* to the hard disk drive
h. Rootkits;
i. Registry Information;
j. Memory resident malware (fileless malware)[6];
k. Encryption keys;
l. **Personal Information;**
m. Highly Sensitive **PERSONAL INFORMATION;** and
n. Biographical Core Information;

141. I swear this affidavit for no improper purpose and for the purpose of compliance with FIPPA and PIPA. I reserve the right to add evidence to another declaration and augment or add privacy complaint as they become known to me and obtain access to the above.

142. I continue to believe that some of my PI and Third Party PI has been, is being or will be misused. At this stage and without the intervention of the Privacy Commissioner, I simply do not trust the NST LLP or Lockhart to perform any form of review, processing or otherwise involving PI.

143. I kindly request the Privacy Commissioner to intervene regarding the same due to the sensitivity of Personal Information, Computer Programs, Computer Software, Apps et al which is customarily, in my view and based on the above, found in a RAM.

144. I remain committed to a resolution of the Privacy Complaint but only if the RAM Raw File is preserved and the Privacy Commissioner has reviewed the same in its form on June 4, 2014 and compared against the Excel Evidence Tracking Sheet of Ms. Murray.

SOLEMNLY AFFIRMS BEFORE ME at the)
city of Toronto, Ontario, this ~~28rd~~ 4th day of)
October **2021**)
)
)
)
A **Commissioner** for taking **Affidavits**)
in Ontario)

Kevin A. McLean

Commissioner: Ashley Artopoulos

LSO #: 56695N

[6]Leaves no footprint on Hard Drive

TAB 3(V)

AFFIDAVIT #3 OF KEVIN A. MCLEAN STATUTORY DECLARATION #3 OF KEVIN A. MCLEAN

PURSUANT TO THE *CANADA EVIDENCE ACT*

PURSUANT TO THE BC EVIDENCE ACT

PURSUANT TO FEDERAL ACTS AND ENACTMENTS

PURSUANT TO RELEVANT ACTS AND ENACTMENTS

I, **Kevin A. McLean (B.A. (MCL), J.D., CIM)**, of Toronto, Ontario Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the individual above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and believe and where so stated I verily believe those matters to be true.

2. This is my third declaration herein regarding the below matters and topics where I, inter alia, seek the assistance of the LSBC et al regarding compliance with provincial and federal legislation where applicable.

3. I adopt my evidence from the following declarations:

   a. Declaration of September 19, 2021 with Exhibit "A" and enumerated pages ("Declaration #1"); and
   b. Declaration of October 6, 2021 with appendix for a total of 424 pages ("Declaration #2").

4. Where I have sworn evidence on information and belief, I provide the source of my belief which is cross-referenced to the documents.

5. I have commenced drafting this Declaration #3 on October 9, 2021.

6. I do not waive any form of privilege between myself and professional advisors (previously or currently).

7. The volumes herein are different than the tabs in Exhibit "A".

8. I adopt the definitions from my previous declaration above for ease of reference.

9. I adopt the definitions from my previous request, demands and correspondence to the LSBC, NST LLP, Ms. Lockhart, EFS et al for ease of reference.

VOLUME 1: EXHIBIT "A"

10. Attached hereto to this my affidavit and marked as Exhibit "A" with enumerated tabs and pagination for each relevant page are copies of documents that I am further bringing to the attention of relevant persons.

11. I have provided a Table of Contents for Exhibit "A" as follows:

    a. Tab 1: Index to LSBC Defendants LOD in Damages Action where I note there is no reference to RAM Dump but only mirror imaging of hard drives of members;
    b. Tab 2: Index to LSBC Defendants LOD in Damages Action where I note the undated photographs;
    c. Tab 3: Undated photographs from the same as Tab 1 and 2;
    d. Tab 4: The EFS Forensic Preservation Report ("FPR");
    e. Tab 5: Sample pages on RAM Dump not being copies but "creations" as consistent with the FPR;
    f. Tab 6: Documents on Raw Data Files and their distinctions in not being "forensic images"
    g. Tab 7: File Extension Types that are NOT Raw Files
    h. Tab 8: Index being the same as Tab 1 and 2 regarding some of the "copies of Mirror Image Documents" (allegedly)
    i. Tab 9: MISC.

Volume 2: Timing of Declaration #3

Volume 2(A): Access to the Created RAM Raw Data File

12. On August 24, 2021, I was informed, by NST LLP, that I would receive access to the Created RAM Raw Data File on or before October 8, 2021 as the LSBC was extending the time to provide access pursuant to s. 10(1)(b) and s. 10(1(c) of FIPPA.

13. I did not receive the above noted response from the LSBC.

s. 10(1)(b) of FIPPA

14. The purported response on behalf of the LSBC was that it required more time "large number of **records** that must be **searched** to complete *this request*".

s. 10(1)(c) of FIPPA

15. The purported response for "more time was needed to consult with a *third party* because we can decide whether to give you access **to the record**".

My Position

16. I disagreed that a large number of records needed to be searched because the Created RAM Raw Data File is one record albeit created by an unidentified version of DUMPIT.

17. Further, I disagreed that any unknown third party could decide whether to give me access to the record[1].

VOLUME 3: THE PRIVATE OFFICE COMPUTER

18. The Private Office Computer was an Asus CPU. I still have possession of the ASUS CPU and I recently took photos of the same and provided them to the LSBC.

19. I compared the photos from the Forensic Preservation Report of the ASUS CPU to my then current photos of the ASUS CPU, and all of the serial numbers et al was the same.

VOLUME 4: THE HOME COMPUTER

20. My home computer was a Hewlett Packard. I never consented to the LSBC entering my home for any such investigation or otherwise.

VOLUME 5: JUNE 3, 2014

Volume 5(a): *Photographs*

21. I note the photographs in Exhibit "A" and the dates provided therein based on my belief and knowledge.

Volume 5(b): *LSBC: Intella 1.8*

22. I note that the LSBC represented that it used Intella Version 1.8.

VOLUME 6: FPR

23. I repeat, rely and adopt on my previous evidence regarding the Forensic Preservation Report regarding

VOLUME 7: ***RAM DUMP, RAM DATA DELETION, AND CUSTODIAL RAM SEIZURE***

[1]Singular

24. I repeat, rely and adopt the evidence from Declaration #1 and Declaration #2 in this regard.

25. The Forensic Preservation Report represented that on June 4, 2014 at 11:25 a.m., Cree, having already **installed** DUMPIT on my CPU, "The command prompt was accessed by selecting start, All programs and accessors, The command prompt was focused on the C: Drive which was **CHANGED** to E. Colin Cree **ran** the program **DUMPIT** and answered "Y" to **create** a raw ram dump to E:\Kevin-PC-20140604-1855.raw".

26. The Forensic Preservation Report represented that on June 4, 2014 at 11:48 a.m., "**RAM capture was complete**".

Kevin_PC-20140604-185544.raw[2]

[2]Raw files contain the most complete, uncompressed image data

VOLUME 8: THE FORENSIC CLONING (ABORTED)

27. The Forensic Preservation Report represented that on June 4, 2014 at 12:19 a.m. that it aborted the forensic cloning rather imaging and erased the same. I believe this is consistent Rule 4-43 that it only allows copying in Mirror Imaging and not cloning of a CPU.

28. Now shown to me and marked as Exhibit "A" to this my Declaration #3 is a secondary source article on the distinction between forensic cloning versus forensic copying.

Volume 9: The Forensic Copying of Hard Drive : File Type McLean WS with EO1

29. The Forensic Preservation Report represented that on June 4, 2014 at 12:19 p.m. Cree and EFS further represented, "Imaging of the Kevin McLean works station hard disk was started. The Ditto was set to image the 1 terabyte drive in E01[3] format (the "**EO1 Format**")[4] mirror into the **LSBC** Storage Disk and EFS Storage Disk with image file name as:

"McLeanWS"

Volume 10: The Forensic Copying: USB: EX01 format

30. The Forensic Preservation Report represented that on June 4, 2014 at 4:24 p.m. EFS further represented, "Connected a blue and silver USB key "SBL" to a Tableau USB writer blocker in preparation for imaging. The write blockers reports the devices serial number as !C(B544B. The Write blocker is attached to a forensic workstation[5]. Encase imager started and the USB device was added. Encase was configured to create an image of the device in EX01 format[6] named, "McLeanBlueUSB at C:\cases\14052801

Volume 11: The Forensic Copying: USB: E01 format

31. The Forensic Preservation Report represented that on June 4, 2014 at 5:24 p.m., "Encase imager configured to capture an image of the device in E0l format, named Lexar4GB_USB, stored at C:\ cases\ 14052801 \.

32. The Forensic Preservation Report represented that on June 4, 2014 at 5:36 p.m., "Encase imager used to create an image of this device in E0l format at C: \Cases\ 14052801 \ with the file name DT101_16GB".

---

[3] https://www.whatisfileextension.com/e01/#:~:text=The%20E01%20file%20extension%20stands,storing%20the%20acquired%20digital%20data.

[4] The E01 file extension stands for EnCase image file format used by EnCase software. The file is used to store digital evidence including volume images, disk image, memory and logical files. Encase creates multiple E01 files of uniform size 640 MB for storing the acquired digital data.

[5] No particulars of the type of "forensic workstation"

[6] EXO1 format is:

VOLUME 12: PAPER FILE

33. The Forensic Preservation Report represented that on June 4, 2014 at 5:36 p.m. that all paper print outs from the Brother MFC8480DN and turned over to McCartney.

VOLUME 13: JUNE 5, 2014 – TRANSFER OF "FILES" FROM LUXIO USB TO CREE WORKSTATION DATA DRIVE UNDER CASES\ 14052801

34. The FPR represented:

> Files contained on the Luxio E-Fence USB key were copied to the CRC02 workstations DATA drive under Cases\ 14052801

VOLUME 14: JUNE 5, 2014 - CREATED AN ENCASE FILE

35. The FPR represented:

> Created an EnCase case file and added the USB drive images to it. Reviewed these images for any accounting records they may contain, as requested by Wendy HO. None found.

VOLUME 15: CA WITH LEF AND ENCASE IMAGER ON C DRIVE ON JUNE 12, 2014

36. The FPR stated;

> A USB3 storage drive was attached to the laptop and encase imager was started. The C drive was previewed in EnCase.
>
> The Easy Law data related to Mr. McLean was located at C:\esiwin\MC. This folder was selected and a Logical Evidence File (LEF) was created of its contents. The LEF was named "McLean Easylaw" and saved to the USB3 drive. The Easy Law data login is Peter Stojakovic with Password dills.
>
> LEF completed. EnCase console reports:
>
> EnCase Imager
> Status: Completed
> Start: 06/12/14 10:24:19 AM Stop: 06/12/14 10:35:33 AM Time: 0:11:14
>
> McLean EasyLaw.L01 collected earlier today from Stojakovic's computer copied from the USB3 drive to EFS598 under folder "PStovakovic records". MD5Summer used to confirm that the copy was identical to the original.

McLean EasyLaw.L0l collected earlier today from Stojakovic's computer copied from the USB3 drive to EFS597 under folder "PStojakovic records". MD5Summer used to confirm that the copy was identical to the original.

VOLUME 16: INTELLA ON JUNE 12, 2014

37. The FPR stated:

> An EFS laptop was connected to Peter Stojakovic' s network. An Intella casefile was created with a DATA folder of My Documents\ 14052801.
>
> Network issues were resolved and Stojakovic again entered his credentials. Intella presented a view of Stojakovic' s G-Mail inbox with all the user created labels appearing as folders. Stojakovic advised he had labeled the emails related to McLean as "McLean". Selected that folder and had Intella download its contents.
>
> The Intella email case captured earlier today from Stojakovic' s G-Mail account was copied from my documents\ 14052801 to EFS598 under folder PStojakovic Email. Copy was confirmed to be identical to the original using MD5Summer"

VOLUME 17: FILE TYPES FROM EFS FORENSIC PRESERVATION REPORT

38. I now distinguish between the following types of electronic "files" in the Forensic Preservation Report of EFS:

    a. RAW (.raw);
    b. E01;
    c. L01;
    d. EX01; and
    e. LEF (perhaps the same as L01).

Volume 18: June 13, 2014 – Failure of Forensic Images (Created RAW File Not a Forensic Image)

39. The FPR represented;

> Forensic Images contained on Luxio USB Key were copied to EFS597 using MDSSummer to confirm the copies are identical to the original. Copy failed.

Volume 19: RAW File

40. My FIPPA request is for the **Created RAM Raw Data File** which was in a file type known as (.raw).

Volume 20: E01

What is an E01 file?

41. Now shown to me and marked as Exhibit "A" to this my Declaration #3 is a copy of a website named, "What is File Extension" that defines an E01 File Format:

> "The **E01 file extension stands for EnCase image file format used by EnCase software.** The file is used to store digital evidence including volume images, disk image, memory and logical files. Encase creates multiple E01 files of **uniform size 640 MB for storing the acquired digital data.**"

Facts

42. June 4, 2014 at 12:~~19~~ 34 p.m., Cree and EFS further represented, "Imaging of the Kevin McLean works station hard disk was started. The Ditto was set to image the 1 terabyte drive in E01[7] format (the "EO1 Format")[8] mirror into the "**LSBC** Storage Disk" and "EFS Storage Disk" with image file name as: (my definition) my definition

VOLUME 21: L01

What is an L01 file?[9]

43. Now shown to me and marked as Exhibit "A" to this my Declaration #3 at Tab ___, page ___ is a copy of a website named, "What is File Extension" that defines an L01 File Format:

> "File created by EnCase forensics software; stores a collection of individual files that have been selectively copied from an EnCase evidence (**.E01**) file; allows smaller collections of digital evidence to be grouped without having to load the entire E01 evidence file to view them; used for storing noteworthy evidence."

44. Now shown to me and marked as Exhibit "A" to this my Declaration #3 at Tab ___, page ___ is a copy of a website named, "What is File Extension" that defines an E01 File Format:

---

[7] https://www.whatisfileextension.com/e01/#:~:text=The%20E01%20file%20extension%20stands,storing%20the%20acquired%20digital%20data.

[8] The **E01 file extension stands for EnCase image file format used by EnCase software**. The file is used to store digital evidence including volume images, disk image, memory and logical files. Encase creates multiple E01 files of **uniform size 640 MB for storing the acquired digital data.**

[9] https://fileinfo.com/extension/l01

> A .L01 file is an **Encase Logical Evidence file.** Through our analysis of L01 files, we **know** that one use of the format is Encase Logical Evidence. We have not yet described in detail what these files contain and what they are used for, but our team is working tirelessly through thousands of file formats. We'd love hearing from you if you have information about the format.[10]

Facts

45. On June 12, 2014 represented in the FPR, "McLean EasyLaw.L01[11] collected earlier today from CA computer copied from USB3 drive to EFSS598 under folder "PSTovaokovic records". MD5Summer used to confirm that the copy identical to the ***original***'.

Volume 22: HP Home Computer

46. I repeat and rely upon my evidence in the Declaration #1 regarding Ms. Chan knowing that my home computer was an Hewlett Packard ("HP").

Volume 23: Exhibit "A"

47. I reference the different file types in my **Exhibit "A"** regarding the LSBC's representations that it had not commenced the investigation

Volume 24: April 2017 Application signed by Ms. Lockhart

48. I repeat and rely upon Ms. Lockhart's representations to the Court regarding the actions of the LSBC (and EFS) on June 4, 2014.

49. I note the following and copy and paste with emphasis being mine:

> [24] On June 4, 2014, the investigators attended again at the plaintiff's office. The investigators took two forensic copies of the **hard drive** on the plaintiff's office computer. They also took copies of **paper files** provided by the plaintiff.
>
> [25] Nobody from the LSBC reviewed the hard drive until the conclusion of a process set out in the Rule 4-43 Order for the adjudication of the plaintiff's request certain be excluded from the review.

Volume 25: Recent Representations of the LSBC regarding the Created RAM Raw Data File

50. I repeat and rely upon the previous representation of NST LLP and Ms. Lockhart regarding the October 8, 2021 response regarding the Created RAM Raw Data File.

---

[10] https://file.org/extension/l01

[11]

51. I do **not** consent to any such review, processing or resumption of the same.

VOLUME 26: DEFENDANTS LOD

52. I have reviewed the Defendants' List of Documents in the Damages Action, the index to the LOD, and the actual documents and I have not been able to locate any Raw Files.

VOLUME 27: CONCLUSION

53. I have provided a conclusion letter to the aforementioned regarding the above and my request that immediate action be taken regarding the same.

54. I reserve the right to add further evidence as it becomes known to me.

55. I view this matter as extremely urgent and request immediate compliance by the LSBC and any other persons that may receive notice regarding the same.

56. I swear this Declaration #3 under the penalty of perjury and for no improper purpose.

57. I continue to suffer loss and damage as a result of having to spend the time to continue to assert my legal rights.

58. I thank the recipient of this Declaration #3 and previous for their review and attention to the same.

59. I have provided this Declaration #3 as soon as I was able so the LSBC and others can effect compliance, provide the requisite instructions and make the necessary demands where applicable.

SOLEMNLY AFFIRMS BEFORE ME at the)
city of Toronto, Ontario, this 1 th day)
of **October** **2021**)
)
)
)
)
A ~~notary~~ or Lawyer for taking Affidavits)
in Ontario)

Kevin A. McLean

THE COMMISSIONER
PROVINCE
Ashley ARTOPOULO
56698N

TAB 3(W)

AFF #5

AFFIDAVIT OR STATUTORY DECLARATION[1] ("AFFIDAVIT")
DATE: OCTOBER 31, 2021

UNDER THE RELEVANT LEGISLATION AND REGULATIONS UNDER FIPPA, PIPA AND PIPEDA (WHERE APPLICABLE)

*Re: **Privacy Complaint** against the LSBC; Re: Complaint File Number*
Re: Privacy Complaint against EFS under PIPA: Re: Complaint File Number
Note: this Affidavit covers any breaches of PIPA with respect to collection, use or disclosure within BC by a BC organization
Further note: this Affidavit covers any collection, use or disclosure by a BC organization that was not within BC
*Final Note: this Affidavit covers any collection, use or disclosure by a non BC organization that not within BC i.e. cross-border outside of BC or internationally (see: **Exhibit "A", pages 74 to 80 et al**)*

I, **Kevin A. McLean (B.A. (MCL), J.D., CIM)**, of Toronto, Ontario Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Applicant**", "**Requestor**" or "**Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2. In relation to a matter on information on belief, I rely on secondary sources, other documents and sources of my belief to assert the belief.

3. To the extent that any person or entity wishes to challenge my belief, I respectfully challenge them to do so.

4. I repeat and rely upon my previous evidence provided to the **BC Privacy Commissioner's office** and his delegates, where applicable, and I adopt the same herein where I have sworn a fact.

5. I adopt the definitions from previous sworn evidence and correspondence by direct delivery or inference, and where so defined, it has the same meaning unless I have stated so directly or a different intention so appears.

6. To the extent that any matters involve *PIPEDA*, I reserve the right to rely upon this affidavit for said purposes with respect to RRSOH, access requests to Personal Information, and any such relief or remedies thereunder.

7. I will continue to do, in my view, my best to obtain and work with the LSBC, EFS and others persons or entities that are domestic organizations ("Domestic Organizations") or foreign organizations ("Foreign Organizations") to obtain requisite information to provide to the **BC Privacy Commissioner** or any relevant privacy commissioner within Canada's provinces or federally (the "**PCC**"). Where I have added emphasis, the emphasis is mine unless otherwise stated.

8. After another weekend of research and review, I note the following:

[1]Relevant Legislation under FIPPA, PIPA, BC Evidence Act et al

a. I requested the following record from the **EFS *Forensic* Preservation Report**:

   i. which was from the "raw dump" that *completed* on June 4, 2014 at 11:48 a.m. PST (the "**EFS RAM Dump**") with a file name of "**Kevin[2]-PC-20140604-18544.raw** (the "**11:48 Kevin 18544 Raw Native File**"); but

b. I did not receive the **11:48 Kevin 18544 Raw Native File**;

   i. but instead received an unrequested record with the following different characteristics:

      1. *modification date*: apparently modified on the date of 6/4/2014 at 11:32 a.m.
      2. **Type of file**: Adobe Acrobat Document (note: should have been raw and denoted as raw);
      3. **Size**: 522,240 KB;
      4. **Compressed**: 1,250,130 KB
      5. **Method**: Deflated 64 (see: Exhibit "A", page 80 to 129);
      6. **CRC-32**: 759AF1BC
      7. **File name**:
         a. KEVIN[*sic*]-PC-20140604-1852[*sic*]44.raw
      8. **Location**: Citrix Systems Inc. under "Sharefile";
      9. **Last Modified**: Kimm Otto[3] on October 25, 2021 at 12:25 p.m.
      10. **Cyclic Redundancy Check**: (see: error-detecting code used to detect data corruption) and CRC-32 (see: algorithm itself converts a variable-length string into an 8-character string) :
         a. Input: 759AF18C
         b. Output: 350b0cf3

(the "**Unrequested Overwritten Record**" or **Unrequested Deflated RAM Record**").

(see: Exhibit "A", pages 1 and 2).

9. I continue to request the **11:48 Kevin 18544 Raw Native File** and I have not received the same as of the date of this affidavit. I am deeply troubled that there is misuse of my Personal Information and Third Party Personal Information.

Exhibit "A":" Screenshot and Information from the Produced Raw File which was <u>not</u> the Created Requested Record:

10. Now shown to me and attached hereto to this my affidavit, of October 31, 2021, is **Exhibit "A"** with pages that are numbered from page one and onwards. I cross-reference the name by footnotes and parenthetical cross-references

Volume 1: MY PREVIOUS BELIEF AND EVIDENCE

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[2]Note: the capital on K and not on the "evin"
[3]Appears to be a legal assistant at NST LLP

11. I believed that **RAM Dump** would produce some of the following **Personal Information** ("**Personal Information**" or "PI") and **Highly Sensitive Personal Information** ("**HSPI**") along the **Computer Programs**, **Applications** *et al* such due to the following reviews of educational and legal texts:

a. **RAM Memory**: is **Random <u>PERSONAL INFORMATION</u> Memory** is a form of memory that can be read and changed in any order.
b. **Two Types of Internal Memory (Not Storage)**: The internal memory of the computer is of two types, RAM and ROM. RAM is volatile memory. When the power is turned off whatever has been placed in RAM is **erased**.
c. **The implication of a RAM DUMP**: RAM includes processes and programs running on the system, network connections, evidence of malware intrusion, registry hives, usernames and passwords, decrypted files and keys, and evidence of activity **not** typically stored on the local hard disk;
d. **Memory *<u>Forensic</u>*s** (sometimes referred to as memory analysis) refers to the analysis of volatile **Data** in a computer's memory dump.
    a. Information security professionals conduct memory ***<u>forensic</u>*s** to investigate and identify attacks or malicious behaviors that do **not** leave easily detectable tracks on **<u>HARD DRIVE</u> Data**.
e. A **memory dump** (also known as a core dump or system dump) is a snapshot capture of computer memory **Data** from a specific instant. Note: I believe that
f. Phy***<u>sic</u>***al memory artifacts include the following:
    i. **Usernames and Passwords**: Information users input to **<u>PERSONAL INFORMATION</u>** their accounts can be stored on your system's phy***<u>sic</u>***al memory;

ii. **Decrypted Programs**: Any encrypted malicious file that gets executed will have to decrypt itself in order to run. This threat intelligence is valuable for identifying and attributing threats;
iii. **Open Clipboard or Window Contents**: This *may* include information that has been copied or pasted, instant messenger or chat sessions, form field entries, and email contents; and
iv. Others.

(collectively, the "**Unencrypted Non-Records**" (where applicable) and "**Unencrypted Information**")

Volume 3: Definitions:

12. Federal legislation like *PIPEDA* distinguishes between certain types of **Property** like passwords[4], computer programs ("**Computer Programs**")[5], computer services (the

[4]means any computer data by which a computer service or computer system is capable of being obtained or used
[5]means computer data representing instructions or statements that, when executed in a computer system, causes the computer system to perform a function;

"**Computer Services**")[6], computer system (the "**Computer Systems**")[7] and computer **Data** ("**Computer Data**")[8].

Volume 4: Exact Copies from HXD Hex Editor ("HXD") from the October 25, 2021 Produced "Record" in Archive Root Directory stored in Citrix System

13. I could not open said **Unrequested Overwritten Record** by opening the same because it returned an input that stated that it was improperly decoded or not properly coded ("**Decoding Error**"). However, I was able to open it into a format by using the installed version of HXD 2.4.0.0 which is now 2.5.0.0 ("HXD") (see: **paginated documents therein**).

14. I have not modified or overwritten any of the language, characters *et al* in HXD but saved it in various copied versions and I can provide clean copies upon request.

Volume 5: FIPPA Definition of Record

15. While I do not dispute that the **Unrequested Overwritten Record** is a **Record** under *FIPPA*, I did not authorize said collection or preparation and continued to request the **11:48 Kevin 18544 Raw Native File.**

16. I am deeply troubled by receipt of the Unrequested Overwritten Record which I believe has had had information, PI, HSPI of myself and others, that has been copied, deleted, modified, impaired, corrupted or otherwise destroyed.

Volume 6: Unfiltered and Third Party PI

17. I note and affirm that the LSBC[9] represented to me that that the **11:48 Kevin 18544 Raw Native File** or information contained from the known and unknown RAM dumps *contained third party personal information.*

18. The LSBC has recently represented that the **Unrequested Deflated RAM Record** was the only RAM image ever made. I do not believe that to be the case.

Volume 7: Mr. Robert Deane, Barrister and Solicitor (ISS and Independent Adjudicator Response to Request)

19. The ISS confirmed on Friday, October 29, 2021 that EFS and the LSBC did not provide the image or records that were created by the RAM Dump and the decision was self-evident. I was appreciative of the ISS to take the time to check offsite storage and confirm that no such personal information or records were provided to him or his office under the Exclusion Request Process under the **Defunct Investigatory Rule**.

Volume 8: ***Context***

[6]includes data processing and the storage or retrieval of computer data
[7]means a device that, or a group of interconnected or related devices one or more of which
[8]means representations, including signs, signals or symbols, that are in a form suitable for processing in a computer system
[9]Throughout this affidavit, I reference the LSBC responding but the responses were, in fact, on NST LLP letterhead r from

20. For context, I note that since the Foreign Organizations are not located in BC, and they have separate terms and conditions with each of their licensees or customers, they were likely unaware of any of the facts in the previous declaration of October 24, 2021.

21. However, I will continue to work with them independently to ensure that my PI and Third Party PI is not or will not be misused, in my view, any further.

22. I believe that I will be able to determine some of the Third Parties that used my CPU for access, in a private manner, to various aspect of my CPU without knowledge to myself until reviewing the **11:48 Kevin 18544 Raw Native File**

***Volume** 9: LSBC's Now Admission (October 8, 2021) that the **RAM DUMP** was Part of Rule 4-43*

23. Since the LSBC and EFS have represented that all of the copied (sic) documents were part of the Defunct Investigatory Rule process but the ISS did not receive them, then I have focused my analysis on FIPPA, PIPA and PIPEDA where applicable.

Volume 10: FIPPA 212 Regulation

24. I note the *2012 FIPPA Regulation* and cross-referenced the same regarding consent to storage, access, use, retention, disclosure and disposal.
25. I now hereby affirm that since much of the Personal Information appears to have deleted or replaced with a "symbol" by Deflate 64 in the Unrequested Altered Record that I am having various tech people determine if they can "inflate" or "decompress the same" to the actual size of approximately nine million KB (see: **Exhibit "A", page 1**).

Volume 11: The Actual Requested Record: 11:48 Kevin 18544 Raw Native File

26. The **Record** at issue was a created **Record** in the form of the **11:48 Kevin 18544 Raw Native File** by a purported **Service Provider** of the LSBC, e-***Forensic*** Services Inc. ("**EFS**"), by installation and running of a **Computer Program**, created by a technology company Moonsols'[10], DumpIt[11] ("**DumpIt**"). I note the following references to **Sliche**, **DumpIt** and **Moonsols** from HXD under "search" and the relevant hits that were returned.

27. On July 14, 2021, I made a *FIPPA* Access Request upon the LSBC[12] wherein I requested access to a **Record**[13] that I believed was in the **Custody** or under the **Control** of the LSBC and believed contained **Personal Information** about me. The record at issue is defined below as **11:48 Kevin 18544 Raw Native File.**

Volume 12: The Invasive Computer Software to dump the RAM of me (collectively, "Memory *Forensics*")

[10] Later Comae
[11] https://zeltser.com/memory-acquisition-with-dumpit-for-dfir-2/
[12] Local Public Body:
[13] Record under FIPPA: books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records

28. **DumpIt** was represented as a free tool (downloadable by any person), written by Mr. Matthieu Suiche ("**Suiche**"), as a *convenient* way of **obtaining memory images** of the random access memory ("**RAM**") of an individual's RAM within their (host) CPU.

29. After the installation of **DumpIt** on the host CPU, the investigator (informal or formal) is directed to move away from the Hard Drive ("**C Drive**") and answer "yes" to create a *raw ram data dump.*

30. Upon entering "y", DumpIt creates a downloadable file of the memory of the host RAM into raw native file, which is unencrypted, which is stored onto a universal serial bus ("**USB**").

Volume 13: What is RAM? What "Information" is contained in a RAM Dump and where did the Information contained therein disclosed to and from since June 3 and/or 4, 2014

Volume 13(a): **Memory (Not Storage)**[14]

31. Based on review, I believe RAM is the memory of a **CPU** and it is **Hardware** in a **Computing Device** where the following reside: (i) operating system ("OS"); (i) application programs ("Apps"); and (iii) **Computer Data**, that are in use so they can be quickly reached by the device's **Processor**.

Volume 13(b): **Not Magnetic**

32. RAM is not magnetic but rather it is composed of semiconductors of microchips.

Volume 13(c): **Volatile**

33. RAM is considered live[15] and *volatile* which means it is constantly changing. When the CPU is turned off, the memory from the time the CPU was last turned off to then preceding power off is **lost** (the "Lost Information").

Volume 13(d): RAM cannot be copied

34. RAM cannot be copied but only "captured" or "dumped" (see: **Declaration of October 24, 2021, Exhibit "A"**).

Volume 13(e): Native Images from RAM Dumps are not ***Forensic*ally** Verifiable

35. The information and images, in unencrypted form, are not verifiable ***forensic***ally with certain algorithms. In fact, the **EFS *Forensic* Preservation Report** confirmed that the only data, which it collected per se but as an alleged service to the LSBC, that was collected and ***forensic***ally verified were from my Hard Drive and Three USBs.

Volume 13(f): **What images will be viewable after the RAM dump?**

[14] https://searchstorage.techtarget.com/definition/RAM-random-access-memory
[15] For case on live feed see: ___

36. Depending on the host CPU and host RAM, the raw native file images will often include images of: (i) Applications ("Apps"); (ii) Computer Programs; (iii) Loaded Dynamically Linked Libraries ("DLL"); (iv) contents of open window; (iv) system information; (v) data never written to a hard drive; (vi) rootkits; (vii) malware; (viii) encryption keys; (iv) decrypted programs; (x) clipboard contents. Based upon my review of *FIPPA*, I do not believe that the following would be categorized as "records" under FIPPA: (i) OS; (ii) Apps; (iii) DLL; and (iv) System Information, (v) rootkits; (vi) malware and others.

Volume 13(g): **RAM versus Storage**

37. The **Hard Drive Disk** storage which is the hard drive disk (**"HDD"**) which is similar to a vinyl record or compact disc (**"CD"**) or magnetic tape.

Volume 13(f): The Created Requested Record which **11:48 18544 Raw File**

38. The **11:48 Kevin 18544 Raw Native File** was identified and specified in a document dated June 17, 2014, titled EFS ***Forensic*** Preservation Report (the "***Forensic*** **Preservation Report**"), as "**Kevin-PC-20140604-18544**" after EFS completed the processes of:
    i. Installation of DumpIt at 11:25 a.m. (the "**DumpIt Installation**");
    ii. The running of DumpIt thereafter between 11:25 a.m. and 11:32 a.m. (the "**DumpIt Running**")
    iii. Completing of the RAM at 11:48 a.m. (the "DumpIt Completion") (the "**11:48 18544 Raw Native File**").

39. EFS then temporarily stored the **11:48 18544 Raw File** on a **Luxio USB,** which contained DumpIt (the "**EFS Luxio USB**") but only after powering off the CPU which deleted any access that I may have to the memory images, data, or above noted **Computer Programs** from the "ram raw dump".

40. EFS represented that **11:48 18544 Raw File** was taken with **Cree** when left my private law office (the "**McLean Private Law Office**") on June 4, 2014 at approximately 7:30 p.m.

41. My **Access Request** to the **11:48 Kevin 18544 Raw Native File** identified and specified by the LSBC and/or EFS and referenced the ***Forensic*** **Preservation Report**.

42. **I** wrote further to the binding decision of **2018 BCIPC** 37 (the "**Binding Decision**" and/or "**Unreviewed Decision**") and the LSBC's requirements under the *FIPPA*.

43. **I** made the request pursuant to FOIPPA, s. 4 wherein I affirmed I had right to access any record in the custody or **control** of the LSBC, including any information from **Raw Data Dump** in the **11:48 18544 Raw Native File** that included myself.

44. **I** requested that I receive the same by electronic format (see: s. 9(2.1) of *FIPPA*).

45. **I** referenced section 25 of *FIPPA* in making it an expedited request and to inform the public based on public interest. **I** also further particularized my request for access to any and all copies that the LSBC had in its custody.

46. **I** confirmed that since the LSBC had never informed: (i) me; (ii) Mr. Deane ("ISS"); (iii) BC Supreme Court; (iv) BC Court of Appeal, and the ***Forensic*** Preservation Report not being

listed in a Defendants Trial Brief in May 2017, I had recently read the ***Forensic*** **Preservation Report**, and it was irrelevant to the McLean Proceedings. Moreover, I reaffirm the above regarding EFS, based on whatever advice it received from Mr. McCartney (see: **EFS Forensic Preservation Report**), not providing any copies or records from any RAM Dumps to the **ISS** and **Independent Adjudicator**.

47. **I** also referenced section 3(2) of *FIPPA* that did not limit **me** from any **information** available by law to a party to a proceeding.

48. **I** also referenced subsection 5(1)(a) of *FIPPA* in affirming I had provided sufficient detail to enable an experienced **Employee** (includes a **Service Provider**[16] in relation to the LSBC) of the LSBC, with *reasonable effort*, to identify the **Records** sought. By the usage of the word "Records", I reaffirm my reference to any all copies of the same.

49. In summary, **I** requested access **11:48 18544 Raw Native File** and any copies that the LSBC had in its Custody or under its **Control**. The LSBC failed to provide access the **Requested Created Record** which was the 11:48 **Kevin 18544 Raw Native File.**

Volume 14: The LSBC's Initial Response to the 11:48 18544 Raw Native File Record Access Request

50. On August 24, 2021, the LSBC responded to the **11:48 18544 Raw Native File Record Access Request** by representing that it was unilaterally "extending the time limit for responding" under two specific *FIPPA* sections: 10(1) (b)[17] and 10(1)(c).

51. The Legislature authorized **Mr. Avison, QC** to extend the time for responding to **me** for up to **30 business days** if either the above applied (see: s. 10(1) of *FIPPA*).

Reasons for Extension

52. The LSBC's ss. 10(1) (b) response was that a "large number of **records** ***MUST*** be **searched** by the LSBC to complete *this request*". I now affirm that since the LSBC represented that the **Unrequested Overwritten Record** or Unrequested Modified Record was the only one ever made, and it was last modified on June 4, 2014 at 11:32 a.m., I do not agree that the LSBC would have record more time to search a large number of records. I now affirm, based on belief, that the DumpIt Running was likely at 11:32 a.m. and whoever modified the **11:48 Kevin 18544 Raw Native File** likely input the date of the DumpIt Running as opposed to the DumpIt Completion. Based on my now knowledge of the same, I believe that the modifications that took place by **Deflate 64** would have taken days to complete of a nine million KB raw file.

53. The LSBC's ss. 10(1) (c) response was that "more time was needed to consult with a ***Third Party*** because **we** can decide whether to give your **PERSONAL INFORMATION to the record".** If the LSBC intended that "we" meant it and NST LLP, then I believe the **Third Party** was NST LLP.

Note about subsection 10(1)(b)

[16] FIPPA, s. 1: "Service Provider": person retained under a contract to perform services for a public body

[17] a large number of records are requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the public body; and more time is needed to consult with a third party or other public body before the head can decide whether or not to give the applicant access to a requested record

54. Since the LSBC was using a **Service Provider** in NST LLP, the LSBC did **not** reference the section of "meeting the time limit would unreasonably interfere with the operations of the public body". Subsection 10(1) (b) is conjunctive, in my view, and the LSBC only relied upon the first conjunctive part of the test. I do not believe that said subsection would then be relevant and I do not have any correspondence that reference said subsection again.

Note about subsection 10(1)(c)

55. The LSBC did not reference "other public body" before **Mr. Avison, QC** could allegedly decide whether to give **me** access to the **11:48 Kevin 18544 Raw Native File** and any copies thereunder.

56. The LSBC also, in my view and belief, misstated the legislative section in relying upon its reasons thereunder by representing its alleged **Third Party Consultation** was based on whether "to give **me** [his] **Personal Information** to [*sic*] the record".

57. The legislative requirement, in my view, is whether more time is needed to consult with a **Third Party** [singular] before the **Head** can decide to give an **Applicant** access to a *requested Record*; not the "**Personal Information to the record**".

58. It appears now to me that the LSBC did as it represented in later correspondence (see: infra), and overwrote or deleted personal information contained therein when my request was for the **11:48 Kevin 18544 Raw Native File.**

59. I firmly believe, based on my review over October 29 to 31, 2021, that the **Unrequested Overwritten Record** or **Unrequested Deflated Record** was not last modified on June 4, 2014 at 11:32 a.m. but it was last modified by NST LLP and, perhaps, Kimm Otto on October 25, 2021.

Subsection 10(1)(3) of FIPPA

60. Mr. Avison was required to tell **me** three things under subsection 10(1)(3) of *FIPPA*: (i) extension reasons; (ii) expected response time; and (iii) applicant's complaint rights.

61. Mr. Avison did not rely upon subsection 10(1)(a) of *FIPPA* so there was no dispute on the clarity of the **11:48 18544 Raw Native File Record.**

62. Mr. Avison was only allowed to extend for a period of up to **30 business days** but he extended it to October 8, 2021 which was more than 30 business days from August 24, 2021.

63. Mr. Avison did provide me with complaint rights under subsection 42(2)(b) of *FIPPA* which states, "Without limiting subsection (1), the commissioner *may investigate* and attempt to resolve complaints that: (b) an extension of time for responding to a request is not in accordance with section 10 (1)". If, in fact, the Unrequested Overwritten Record was last modified on June 4, 2014 at 11:32 a.m., which would have been before the RAM Dump was actually completed (see: 11:48 a.m. on June 4, 2014), then the LSBC could have provided it to me on July 14, 2021.

64. On September 10, 2021, the LSBC responded the following, "I [Lockhart] cannot understand if you are requesting the **original** RAM copied [***sic***] from your computer" (see: **McLean Declaration, October 24, 2021, Exhibit "A", Tab 5, page 39**).

65. The LSBC did not rely upon subsection 10(1)(a) of FIPPA on August 24, 2021.

66. **I** confirmed I was seeking access under *FIPPA* and was asking for the return of the original under common law and equitable principles (see: for example, Grosz v. Guo; reference to "equity"; note: I believe that the BC Privacy Commissioner can order not only access to a requested record but return of Personal Information with reference to *Saanich*; I believe the LSBC or EFS should have notified me in accordance with the principles in *BC Health Authority Management*).

The LSBC's New Position

67. On September 29, 2021, the LSBC represented that "If you are requesting a **copy** under the *FIPPA*, the Law Society must review the files [***sic***] before producing them , including reviewing the records contained with the **copy** and addressing any **Third Party** privacy concerns raised in respect of those documents (see: **McLean Declaration, October 24, 2021, Exhibit "A", Tab 5, page 40**).

68. On September 29, 2021, **I** responded to Mr. Avison et al, and confirmed that I did not consent to the LSBC reviewing the files before producing them. **I** confirmed that I was seeking immediate access to the **11:48 Kevin 18544 Raw Native File** which was, in my view, long outstanding. **I** noted that the LSBC's previous position was that it was consulting with a **Third Party** before give me access. **I** affirmed that I was separating the same.

69. **I** raised concerns with Mr. Avison that Ms. Lockhart was not, in my view, properly engaged. **I** also noted that the LSBC would have had to provide a **Third Party** with notice (the "**Third Party Notice**") under *FIPPA*, s. 23 which states in part, "If the head of a public body intends to give access to a record that the head has reason to believe contains information that might be **excepted** from disclosure under section 21 or 22, the head must give the **Third Party** a written notice under subsection (3) (see: s. 23(1).

70. Mr. Avison would have, in my view, been required in the **Third Party Notice** that contained the following: (i) state that a request has been made by an applicant [which was me] for access to a record containing information the disclosure of which may affect the *interests* or invade the personal privacy of the **Third Party**; (b) describe the contents of the record [which I believe was the **11:48 Kevin 18544 Raw Native File**]:; and (c) state that, within 20 days after the notice is given, the **Third Party** may, in writing, consent to the disclosure or may make written representations to the public body explaining why the information should not be disclosed (see: s. 23(3) of *FIPPA*). I do not believe that the LSBC did any of the above or did not comply as required by FIPPA and the interpretative decisions in this regard by **Adjudicators** under FIPPA

71. Mr. Avison would have been required to provide me with: (a) the record requested by the applicant contains information the disclosure of which may affect the interests or invade the

personal privacy of a **Third Party**; (b) the **Third Party** is being given an opportunity to make representations concerning disclosure; and (c) a decision will be made within 30 days about whether or not to give the applicant access to the record (see: s. 23(3) of *FIPPA*).

72. I did not receive any such notice under the aforementioned legislative sections or subsections.

Volume 16: Hyperlink no longer available (October 28, 2021)

73. On October 28, 2021, I attempted to open the hyperlink and it stated that it was no longer available. The link also allowed me to click on back to sign in which took him to a page with the NST LLP logo for sign in with a privacy policy for Citrix (see: Exhibit "A", page 56).[18]

74. Citrix represented that it may collect, use or disclose other personal information to obtain through their Offerings and may be stored outside of the United States (see: **Exhibit "A", commencing at page 57).**

Volume 17: Distinctions between the Created Requested Record of 11:48 Kevin 18544 RAM Native File and Unrequested Modified Record (see: allegedly June 4, 2014 at 11:32 a.m.)

October 25, 2021: The failure to the LSBC to provide access to the Created Requested Record

75. On October 25, 2021, the LSBC responded, on NST LLP letterhead, and provided the following response, "We are writing to respond to the request you confirmed on October 8, 2021 under the Freedom of Information and Protection of Privacy Act ("*FIPPA*") on the Law Society of British Columbia."

76. I did not confirm on October 8, 2021 but rather the LSBC wrote to me regarding the same.

77. The LSBC further stated, "Further to that request for a **copy** of the **RAM capture *made*** from **your computer** in June 2014, I enclose a link to download that file." I do not believe the **Unrequested Modified Record** was made from my computer but I believe it was made from another computer with Deflate 64 and other compression, removal and deletion algorithms and software at a date not in June 2014.

78. I continue to request the *exact date* in June 2014 that was "made" but note that the last modification (allegedly) was June 4, 2014 at 11:32 a.m. With the vast amounts, in my view, of

79. LSBC responded on October 26, "We have provided you a **copy** of the **only RAM image that was made**. It was provided to you via our firm's Citrix…" I am not asking for a record that was overwritten, modified, deleted or otherwise manipulated by the "raw ram data" from the ***Forensic*** Preservation Report.

80. I did not consent to the **Unrequested Overwritten Record** being stored or modified on **Citrix** at any time or on the date contained therein.

[18] https://nathansonschachterthomosonllp.sharefile.com/_Auth/PrivacyPolicy/en.html

100. April 8, 2011, Munro wrote, "There are reputational risks that need to be managed. It's also important to note that the approval we received from the Office of the Privacy Commissioner related to the *process as created*. They are **not bound** by that approval and we need to run our final past them so if you are going to change it, we would it document as to why and receive their input. It would not look to solicit feedback form the privacy commission and the have change a process that the Bencher adopted an opinion, part on the comfort of the privacy commissioner's office."

101. Mr. Munro wrote, "With respect to retention, it was assumed that once appeal dates had passed, we would get back *the copies* and have them to destroy or provide or the member on request within the time frame or preserve in appropriate circumstances".

Volume 19: CONTEXT: BSS AND RRSOH

102. I note the following regarding a **BSS** from *PIPEDA* and I note that PIPA only applies to EFS and other Organizations wherein a BC Organization has collected, used or disclosed PI within BC:

Los or theft: unlawful taking

Unauthorized Access: disclosure of **PERSONAL INFORMATION** by the provision of access to **PERSONAL INFORMATION**;

Unauthorized Disclosure: to release or make available **PERSONAL INFORMATION** to a person, *other than the person* the information concerns

Unauthorized copying: exact reproduction;

Unauthorized Use:

a. **Primary**: the use of **PERSONAL INFORMATION** for the purpose of providing individual care and administrative functions directly related to that care;
b. **Secondary**: the use of **PERSONAL INFORMATION** for purposes other than direct individual care and administrative functions directly related to that care. Secondary uses include planning, monitoring, research or disclosure as required by law

Unauthorized Modification or Alteration: the changing of the same:

c. Regardless of the format in which it is held by:
   i. Failing to protect;
   ii. Limited access
   iii. Security clearances
   iv. Passwords
   v. Encryption;
   vi. Employee failure;

a. loss and theft of HSPI,
b. Unauthorized access of HSPI;

c. Unauthorized Disclosure;
d. Unauthorized Use
e. Unauthorized Copying
f. Unauthorized Alteration

103. I note the following from PIPEDA with respect to its enabling act (and amendments) and the regulations (and amendments):

An **Organization**, which has **PI Control**, is required to provide **NOTIFICATION** to the **Commissioner** and **Affected Individual** of **HSPI** if:

a. it is reasonable in the circumstances to believe;
b. that the **BREACH** creates a RRSOH to the Affected Individual ("AI").

104. I note the following regarding **RRSOH** from PIPEDA's website:

a. ***Circumstances:***
   i. What happened?
   ii. When did it happen?
   iii. How did it happen?
   iv. Who committed the breaches?
b. ***Probability of Harm****: how likely is that someone would be harmed by the* ***BREACH***[21]
c. ***PERSONAL INFORMATION*** ***Accessed****:* Who actually **Accessed** or could have **PERSONAL INFORMATION** the PI or **HSPI**?[22]
d. ***Duration of*** PI or ***HSPI BREACH****: How long has the* ***PERSONAL INFORMATION*** *been exposed?*
e. ***Malicious Intent****: Is there evidence of malicious intent (e.g.. theft, hacking)?*
f. ***Quantum of*** PI or ***HSPI Pieces****: Were a number of pieces of* ***PERSONAL INFORMATION Breached****, thus raising the risk of misuse?*
g. ***Recipient Organizations or Recipient Individuals Risk****: Is the* ***Breached*** *of* PI or *HSPI in the hands of an* ***Individual****/entity that represents a reputation risk to the* ***Individual****(s) in and of itself?*
h. ***Commitment to Destruction and Deletion by Outsourcing Organizations or Recipient Organizations:*** *Was the information exposed to limited/known entities who have committed to destroy and* ***not*** *disclose the* ***Data****?*
i. ***Types of Recipient Organizations or Individuals****: Was the information exposed to* ***Individuals****/entities who have a high likelihood of sharing the information in a way that would cause harm?*
j. ***The Network of the Recipient Organizations or Individuals****: Was the information exposed to* ***Individuals****/entities who are unknown or to a large number of* ***Individuals****, where certain* ***Individuals*** *might use or share the information in a way that would cause harm?*
k. ***Nefarious Individuals and Organizations****: Is the information known to be exposed to entities/****Individuals*** *who are likely to attempt to cause harm with it?*
l. ***Harm Materialization****: Has harm materialized (demonstration of misuse)?*
m. ***Lost Applications*** *with HSPI: Was the information lost, inappropriately Accessed or stolen?*[23]

[21] Mr. McLean continues to be harmed

n. ***Lack of Recovery of Application, Contracts or*** PI or ***HSPI****: Has the* ***PERSONAL INFORMATION*** *been recovered?*[24]*; and*
o. ***Lack of Encryption****: Is the* ***PERSONAL INFORMATION*** *adequately encrypted, anonymized or otherwise* ***not*** *easily* ***PERSONAL INFORMATION****?*

Volumes 20 and 21: **Notification**

105. I note the following under PIPEDA and the BSS Regulation and the potential changes to BC legislation under FIPPA
a. Cause and Particulars;
b. Temporal Period;
c. Which PI was **BREACH**ED;
d. How many other affected individuals;
e. Risk Reduction;
f. Notify Affected Individuals; and
g. Contact Information of a person who can answer questions of AI.

Volume 22: **As Soon as Feasible**

106. I note the following regarding the LexisNexis article in this vein:

Timing of Reporting and NOTIFICATION

Although we do not yet have examples under ***PIPEDA***, the term "as soon as feasible" likely means that organizations are required to **move promptly** to make the **REPORTS** and **Notifications**.

Not Specific Deadline:

Although organizations are not under a specific deadline, they will need to be prepared to explain delays. For example, there may be appropriate delays for notifying individuals in order to gather the information that is relevant to the **BREACH NOTIFICATION** and to arrange for **credit monitoring** or **identity theft insurance**.

Volume 23: Service Providers

107. I note the following from the LexisNexis article:

Are Service Providers have to provide notice of a BREACH to both the Office of the Privacy Commissioner of Canada (OPC) and their client? Is the OBLIGATION of the Service Provider to REPORT Breaches limited to a contractual duty?

Whether a **Service Provider MUST REPORT** a **BREACH** to the OPC as well as their client depends on whether the **Service Provider** has "control" over the **PERSONAL INFORMATION**. Legal advice should be sought to determine whether the **Service Provider** has control. If the **Service Provider** has no discretion regarding the purposes

[24]

for which the **PERSONAL INFORMATION** is collected, used, retained or disclosed, then it is unlikely that the **Service Provider** has "control" over the **PERSONAL INFORMATION**.

By contrast, if the **Service Provider** is permitted to use the information for its own use, then it likely has "control" over the **PERSONAL INFORMATION**. Keep in mind that *more than one organization* can have control over **PERSONAL INFORMATION**.

If the **Service Provider** does not have any control over the **PERSONAL INFORMATION**, the **Service Provider**'s **OBLIGATION** to **REPORT** to their client should be contained in a contractual **Report**ing requirement. However, even if there is no express contractual provision, the **Service Provider** may have a **Reporting OBLIGATION** under another legal principle depending on the facts of the case.

Volume 24: Foreign Organizations or Recipient Organizations

108. The following are the **Foreign Organizations** which have been helpful in responding and I intended to keep confidential and under seal *per se*:

a. Opentext (Guidance Software)[25] with **EFS** under the laws of Delaware, USA;
b. Vound with **EFS** (and potentially LSBC) under laws of Delaware, USA;
c. Exterro[26] (AD Inc.[27]) with **NST LLP** under the laws of Utah; and
d. Citrix[28] with **NST LLP** under the laws of Florida, USA; and
e. Amazon and Exterro with NST LLP under the laws of known to them.

Volume 25: My Belief on Locations on Unauthorized Disclosure of Personal Information since June 3, 2014

109. My belief on locations, where the **McLean PI** and **Third Party PI** has been used, stored, retained, accessed, or disclosed internally or disclosed externally are:

a. LSBC and Intella from **June 3, 2014 Intella RAM Dump** at the McLean Private Office to present (the "**LSBC Intella June 3 2014 Raw File**") (note: from BC to Colorado);
b. **EFS** and Cree Workstations on June 5, 2014 from the **18544 File** ("**EFS Cree Raw File**" or "**11:48 Kevin 18544 Raw Native File**") (note: from Vancouver, BC to Surrey, BC)
c. **EFS** and Encase from June 5, 2014 (**added** from Cree Workstation to Encase) to present ("**EFS Encase June 5 2014 Raw File**") (from Vancouver, BC, Canada to California, USA);
d. **EFS** and Intella Version 1.8.2 from December 29, 2014 to present from indexing by Ritchie of **EFS** (the "**Ritchie Intella December 29 2014 Raw File**") (note: from Surrey, BC to Colorado, USA);
e. LSBC and Intella Version 1.8 from receipt of Working Copy (the "**LSBC January 6 2015 Working Copy Intella RAW File**") (note: from Surrey, BC to Vancouver, BC);

[25] https://www.opentext.com/about/copyright-information/opentext-agreement-templates-and-schedules/easylink-master-terms-conditions
[26] https://www.sec.gov/Archives/edgar/data/0001854587/000121390021026630/ff42021_cellebritedi.htm
[27] https://accessdata.com/legal/terms
[28] https://www.citrix.com/buy/licensing/agreements.html; https://www.citrix.com/buy/licensing/citrix-providing-entities.html

f. LSBC sealed storage disk (the "**LSBC Sealed January 6 2015 Storage Raw File**") (note: from Surrey, BC to Vancouver, BC);
g. LSBC to NST LLP to Summation Software evidentiary database copy (the "**NST AD November 2015 Summation Raw File**"); (from Vancouver, BC to Vancouver, BC to Utah, USA)
h. Opentext acquisition of Guidance Software (Encase) in September 2017 (the "**Opentext Guidance September 2017 Raw File**") (note: from Delaware to California);
i. Exterro acquisition of Access Data (Summation) in December 2020 (the "**Exterro AD December 2020 Raw File**") (note: from Utah, USA to Oregon USA);
j. Cree transfer to the LSBC from Cree and **EFS** Workstations that were linked to Encase and Vound (the "**LSBC Cree Workstations August 2021 Raw File**") (note: from USA to Surrey, BC to Vancouver, BC);
k. Exterro adds Amazon (AWS) in September 2021 (the "**Exterro Amazon September 2021 Raw File**") (note: from Oregon, USA to Canada); and
l. NST LLP and Citrix file (the "**NST Citrix October 2021 Raw File**") (from Vancouver, BC to Boston, MA, USA) (note: may be previous to October 2021 and likely through summer 2021 in my view).

VOLUME 26: THE ANALYSIS OF UNREQUESTED CREATED RECORD (see: HXD, pages 3 to 55)

Volume 26(a): Usage of the server with "192.168. (and thereafter) – Potentially Usage of Intella

110. I believe that the LSBC, particularly used, Ms. Chan, utilized Vound Software or Intella on June 3, 2014.

Volume 26(b): Beginning Dump of Phy***sic***al Memory

111. I note the following reference to beginning dump of phy***sic***al memory, dumping phy***sic***al memory to disk. Phy***sic***al memory complete.

Volume 26(c): Video Debug

112. I note the use of the following language above .

Volume 26(d): Multi-Processor Kernel

113. I note the following usage of the language of "multi-processor kernel".

Volume 26(e): **DumpIt**

114. I note that the **LSBC RAM Dump** contained some 21,283 hits for the search term "www". I note that there are references to **Matthieu Suiche** and the website of www.msuiche.net. I had never used DumpIt until 2021 (Summer) when I attempted to run test runs on a test computer. I did so purely and solely to improve my knowledge and understanding I further affirm and swear that I had never used DumpIt in 2014 and never had it on my CPU as a computer program that I installed or ran prior to the Summer of 2021.

115. I hereby affirm that I never knew what **DumpIt** was and did not consent to any installation or running of computer programs such as Dump it on my CPU to dump the memory of RAM.

After typing the name of **Suiche**, I get 18 hits. The last time that **Suiche** was input was approximately 80 percent down the page of the file provided to me by NST LLP from Citrix I believe that means that the document was overwritten thereafter or the sequence and order of that which was dumped may have been rearranged in the **Unrequested Modified Record**.

Volume 26(f): **The Word "Dump"**

116. The word "Dump" returns 21 hits. I note there are many response for memory dump files.

Volume 26(g): The word "Complete"

117. The word "complete" returned 2424 hits.

Volume 26(H): **The Word "**Blocker"

118. The word blocker or unblocked returns 22 this

Volume 26(i): **The Phrase or Search Term, "**Core Device Install"

119. I note the following **Core Device Install where** it states words to the effect of Core Device Install and *Installation* of device is "blocked by policy". I note the language of "force-install". I note the language of selected drive does not match this device and running under driver servicing mode.

Volume 26(j to k): **Websites that are Unknown to Me and Third Party P**

120. I note the following website (note: unsecured with http:) www.msuichet.net and www.moonsols.net.

Volume 26(l): **Banking Websites**

121. I note the hyperlink for Royal Bank was included under www.rbcroyalbank.com. Based upon a search on October 31, 2021, Hex editor, with the LSBC RAM Citrix Dump, provided 369 hits which some relates to websites and some to "trust accounting".

Volume 26(m): Emails

122. I note there are emails login email information as well under google I note the references to Yahoo emails. I note there are references to Go Daddy emails and references to passwords.

Volume 26(n): Dropbox

123. I note the references to Dropbox including computer password along with other references to credit card associated with Dropbox.

Volume 26(o): Skype

124. I note that there a reference to Skype.

Volume 26(p): Passwords

125. I note that are references to passwords and changing accounts along with proxy passwords and proxy servers. I note that there are references to membership passwords.

Volume 26(q): Usernames

126. I note that there are references to passwords.

Volume 26(r): The Word, "Encryptions

127. I note that there are references to passwords.

Volume 26(s): Cardholder

128. I note the reference to cardholder's name or cardholder's names.

Volume 26(t): Python

129. I had never used or known a company called Python and it has returned 812 hits.

Volume 26(u): Verifying Signature References

130. I note that there are references to "verifying signatures"

Volume 26(v): AuthIdentity

131. I note that there are references to "auth identity".

Volume 26(z): BitLocker

132. I note the reference to BitLocker and BitBlocker.

Volume 27: My Further Research (see: https://www.youtube.com/watch?v=1XK86to03-Q

133. This YouTube video represents that the **RAM Dump RAW File** must have a MD5Hash at the outset and then archived accordingly.

134. I reference and affirm the EFS ***Forensic*** Preservation Report in this regard. I note that the video represents words to the effect that if an investigator does not MD5Hash from the outset that the investigator will "Never be able get the same data again". I note that it represents that "The hash value must remain the same" from the outset I note and rely on the following from the link regarding Encase (see: https://www.youtube.com/watch?v=t-z9ds0RKIs)

135. I note and rely on the following from the above link (https://volatility-labs.blogspot.com/2013/10/sampling-ram-across-encase-enterprise.html).

136. I swear this affidavit in further support for my privacy complaints regarding access and breaches and to have the assistance of the relevant privacy commissioner(s) where applicable.

137. I now view this matter as more urgent than previously and would be most grateful for any assistance from the above to protect privacy rights and promote transparency.

SOLEMNLY AFFIRMS BEFORE ME at the)
city of Toronto, Ontario, this 23rd day of)
October **2021**)
)
)
)
A **Commissioner** for taking **Affidavits**)
in Ontario)

Kevin A. McLean

Commissioner: Ashley Artopulo
LSO #: 56695N

TAB 3(X)

AFF #6

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

DATE: NOVEMBER 7, 2021

RE: THE LAW SOCIETY OF BRITISH COLUMBIA ("LSBC") (AND/OR EFS E-FORENSIC SERVICES INC. ("EFS")) INSTALLATION AND RUNNING OF DUMPIT INVASIVE COMPUTER PROGRAMS, MALWARE ET AL UPON THE CPU OF MR. MCLEAN AND REFUSAL TO ASSIST IN THE REMOVAL OF THE SAME.

RE: Under *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act, SC 2010, c 23* ("CASL")

I, **Kevin A. McLean (B.A. (MCL), J.D., CIM)**, of Toronto, Ontario Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Applicant**", "**Requestor**" or "**Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2. I swear the following evidence to seek the assistance from the relevant federal government persons to assist with the above and below.

Exhibit "A": The RAM Dump as Represented in the EFS Forensic Preservation Report without annotations

3. Attached hereto to this my affidavit and marked as **Exhibit "A"** is a copy of a Forensic Preservation Report. The first time that I ever read this Forensic Preservation Report was in late June 2021 or early July 2021.

Exhibit "B": Email between Chan and McCartney

4. Attached hereto to this my affidavit and marked as **Exhibit "B"** is a copy of an email between Ms. Andrea Chan, who represented herself as a CGA and forensic accountant with the LSBC, and Mr. David McCartney, who represented himself as an investigator with the LSBC, regarding the Forensic Preservation Report.

Exhibit "C":" The RAM Dump as Represented in the EFS Forensic Preservation Report with my annotations

5. Attached hereto to this my affidavit and marked as **Exhibit "C"** is a copy of a Forensic Preservation Report with my annotations. My annotations to this Forensic Preservation Report were completed in November 2021. I did so as I realized that there were, in my view, inconsistencies in language between EFS's inputs and those that I believe were done by Mr. McCartney.

Exhibit "D": My Custody, Control and Possession of the CPU

6. Attached hereto to this my affidavit and marked as **Exhibit "D"** are copies of pictures form the Summer of 2021 wherein I provided evidence to the LSBC that I have the same CPU and wish to use the same without any computer programs contained therein or malware by the installation or running of the same.

Exhibit "E": Secondary Source Articles regarding CASL and Misc. Documents

7. Attached hereto to this my affidavit and marked as **Exhibit "E"** are copies of secondary source articles regarding CASL and its implication for the installation of computer software or programs on CPU's without consent and the transitionary period from 2014 to 2017. I affirm that I remain concerned that the LSBC or EFS has not assisted me with any removal of "Invasive Computer Programs" on my CPU along with never seeking consent at the time of installation or running or thereafter.

Conclusion

8. During communications between myself and EFS, Mr. Cree, a director of EFS, represented to me for the first time, in part,

> Kevin,
>
> .....
>
> EFS does not have any of your data to provide to you. It is all held by LSBC.
>
> EFS did not install anything on your computer
>
> YOU are not a client of EFS and are not entitled to any assistance from EFS. In fact assisting you would be a conflict. If LSBC instructs us to assist you then we will.

9. I wrote in reply:

> Hello Colin,
>
> Thank you for your response. However, I do not agree that you do not have any of my data as the record that was provided to me demonstrated that "EFS" deflated the record on October 6, 2021. It is a matter of simple analysis of the code and where it appears in that deflating of the requested record. I am entitled to responses under PIPA and PIPEDA so I disagree with your assertion on every level. However, since you are refusing to provide what I requested I will have to exercise my rights with other third parties that may have that data ("my data"). EFS is not a public body so it is subject to PIPA and PIPEDA and I continue to believe that you hold personal information and are required to assist me.
>
> It is a shame that I have to waste such resources but appreciate that your position is that the LSBC must instruct you to do so. I will ask the LSBC accordingly to do so.

Thank you.

10. Cree then replied:

> Kevin
>
> When you requested the RAM image, LSBC sent the storage drive to us. We extracted the RAM image and sent the storage drive and the image back to LSBC.

11. I now have reason to believe, based on the above, that the Forensic Preservation Report, as further discussed between myself and Cree, is inauthentic and was manipulated by McCartney or the LSBC (see: Exhibit "B") and the LSBC, in fact, installed the Computer Program of DumpIt on my CPU on June 4, 2014.

12. I have continued to seek assistance from the LSBC regarding assistance with any of the above and it has not responded.

13. I believe that the CASL is relevant to the LSBC as it is an Organization and it is not involved in any federal law enforcement but rather was engaged in rule enforcement with its LSBC Rules; specifically, the now defunct LSBC Rule 4-43 (the "Defunct Investigatory Rule").

14. I wish to make clear that I have delineated between my now requests upon EFS as an Organization within BC regarding its use and disclosure within BC under PIPA and its uses and disclosures outside of BC under PIPEDA.

15. My affidavit herein solely addresses the CASL regarding the LSBC.

16. I swear this affidavit for no improper purpose and solely to exercise my rights hereunder, and provide notice to the LSBC et al that I am having to spend resources to protect my rights and seeking their assistance.

17. To the extent I reach a resolution with the LSBC that does not require government intervention or assistance, I shall promptly notify the relevant governmental bodies and persons of the same to not waste their, in my view, valuable resources.

18. I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 7th Day of November
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario

Kevin A. McLean

Commissioner: Ashley Artipanlo
LSO #: 56695N

TAB 3(Y)

AFF #7

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

DATE: NOVEMBER 7, 2021

RE: PIPEDA WITH RESPECT TO EFS, ITS SERVICE PROVIDERS AND ITS ASSOCIATES REGARDING USE AND DISCLOSURE OUTSIDE OF BC AND/OR BY SERVICE PROVIDERS AND ASSOCIATES OUTSIDE OF BC

b. Opentext Corporation (Encase);
c. Vound Colorado Ltd.
d. PKWARE; and
e. Others referenced in the exhibits.

6. As it relates to EFS, its service providers, associates, contractors and subcontractors, I believe the personal information contained in the extracted RAM record in October 2021 and previously added to Encase and Intella in 2014 and 2015 represents a **RRSOH** to me and other third parties. I would be most grateful if any or all could provide me with what has been requested or whatever is in their control with respect to my personal information without further request. To the extent they (some or all) refuse to provide the same, I reserve the right to bring this affidavit and any other evidence, documents or records to the attention of any person with respect to my legal rights under any legislation, regulation, common law or equitable principle. I will keep the above in the strictest of confidence and only provide where it is necessary to do so and to exercise my legal rights.

7. I make no allegation against any entity that has not responded to an access request at this stage within the time allotted to each under PIPEDA and will continue to work in cooperation with them to avoid any unnecessary wasted resources.

8. I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 7th Day of November
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario

Kevin A. McLean

Commissioner: Ashley Mazzapoulos
LSO #: 57609N

TAB 3(Z)

AF #8

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

DATE: NOVEMBER 7, 2021

RE: PIPEDA WITH RESPECT TO NST LLP, ITS SERVICE PROVIDERS AND ITS ASSOCIATES REGARDING USE AND DISCLOSURE OUTSIDE OF BC AND/OR BY SERVICE PROVIDERS AND ASSOCIATES OUTSIDE OF BC[1]

[1]Affidavit adopts the definitions and capitalizes the same from the relevant federal legislation

Kevin A. cLean (B.A. (MCL), J.D., CIM), of Toronto, Ontario Canada, Businessman and Chartered nvestment anager, **SOLEMNLY AFFIRM** THAT:

1 I am the **Individual** (the "**Applicant**", "**Requestor**" or "**Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2 I swear the following evidence to seek the assistance from the relevant federal government persons to assist with the above and below.

Exhibits

3 Attached hereto to this my affidavit and marked as **Exhibit "A"** are copies of documents, *inter alia*, with respect to displaying of properties of the purported copy of the "only RAM image ever made" (see: **Ms. Lockhart and NST LLP's representation**). I do not believe that I received a copy of the only "RAM image ever made" which was dumped from my RAM on June 3 and/or June 4, 2014 based upon the attached pages to this **Exhibit "A"** and the below exhibits

4 Attached hereto to this my affidavit and marked as **Exhibit "B"** is a copy of an email, partially redacted from Mr. Colin Cree of EFS wherein he represented to me, on November 4, 2021 of the actions he took with respect to purported extraction of the RAM from a "storage drive". I believe the "storage drive" was the **LSBC Sealed Disk** which only EFS could open and read.

5 Attached hereto to this my affidavit and marked as **Exhibit "C"** are copies of emails to NST LLP, including but not limited to, Mr. Peter Senkipel, partner at NST LLP and the named assistant of Ms. Kimm Otto, displayed in the "properties" of the Citrix "link". I note that Ms. Otto is not the assistant to Ms. Lockhart and I believe that NST LLP retained or used the services, absent my consent, of Mr. Jeremiah Senkpiel or a representative at "Eaze". Alternatively, I believe that NST LLP retained the services of an individual or an **Organization** with such skillset to compress approximately 85 to 90 percent of the information contained in the requested record which was dumped from my RAM.

6 Attached hereto to this my affidavit and marked as **Exhibit "D"** are copies of documents that provide further evidence, in my view, that I did not receive a copy of the **requested record** from the LSBC but rather non-public bodies, like NST LLP, **Service Providers**, **Associates** and **Third Party Organizations**, known and unknown to me, may have used, accessed, retained, stored or disclosed **Personal Information** contained therein. I have made requests upon **Third Party Organizations** and await their responses within the legislated and regulated time limits contained therein of *30 calendar days*. I do believe and affirm that NST LLP and the aforementioned have personal information within their control.

7 Attached hereto to this my affidavit and marked as **Exhibit "E"** is a copy of the current **Master Policy** for covered parties with the **BCLIA** for the administrator of the LSBC and its manager, the **Lawyers Indemnity Fund**, and I have provided a copy of this sworn evidence and other sworn evidence as a courtesy to them. Where it is

not relevant to any governmental bodies, I have redacted this paragraph and will not provide that evidence but have done so in the spirit of urgency.

8 Attached hereto to this my affidavit and marked as **Exhibit "F"** are copies of my summaries of when there is an RRSOH regarding personal information and other documents evidencing the work and resources I have expended since June 2021 to arrive at this stage.

9 I remain gravely, in my view, concerned that my **Personal Information** and **Third Party Personal Information** was misused and I have provided this evidence on an expedited basis to ensure that I am doing all that I can to prevent any current or future misuse.

10 0. I do not believe that Ms. Lockhart's representation was true to me regarding the only "**RAM image ever made**" based upon, *inter alia*, my letter to NST LLP wherein I have provided articulations regarding **Deflate 64** with respect to **LZ277** and **Huffman coding**.

11 1. I believe, without knowing at this stage, that a person with the skillset of Mr. Jeremiah Senkpiel utilized an open source API integration to engage in similar type compression, as particularized in one of his presentations at a conference, wherein it removed that which I requested and **Personal Information**.

12 2. With respect to **RRSOH**, I believe that I have met all fourteen factors for a *probability* that highly sensitive personal information ("**HSPI**") has been, is being, or will be misused. The enumerated summary that I have created was based upon secondary source material from the PCC and others.

13 3. To the extent that I receive a copy of all of the **Personal Information** contained therein and the requested record without any alterations, I am content to revisit whether I need to move forward with such a complaint.

14 4. At this stage, I believe the law firm, without knowing if it is receiving instructions or advise from others, is misleading with knowledge or reckless, in my view, conduct.

15 5. I repeat and rely upon **PIPEDA** and the relevant clauses contained therein and with reference to the LexisNexis article regarding the requirement to provide notice to an affected individuals regarding the same along with the relevant regulations regarding **Breach of Security Safeguards ("BSS")**.

16 6. I believe there have been, are currently or there will continue to be breach of security safeguards considering the **14 factors** listen therein with particular reference to the disclosures inside and outside of BC and Canada and the recent issues that Citrix had with hackers over a sustained period of time.

1. I am not making any allegation per se against Citrix but I am deeply, in my view concerned, that Ms. Otto, a non-lawyer, modified the document on October 25, 2021 when I objected to any such conduct since July 2021 when I brought to the attention of the LSBC.

1. I have included a table of contents for the exhibits herein for ease of reference and reading and it is marked as "page zero" and may be detached for readability and cross-reference purposes.

1. To the extent that Mr. Jeremiah Senkpiel was not involved in this process, I extend my apologies to him personally and professionally but I rely on his materials for context purposes regarding the same.

Conclusion

2. I continue to suffer loss and damage by having to engage in all of the steps regarding the same from, but not limited to, from late June and July 2021 to present. I believe that my personal information and property was stolen from me and continues to be withheld from me without consent. Further, I continue to assert and affirm that my records and personal information, including but not limited to confidential information, was dumped from my CPU and RAM, absent my consent, and I continue to suffer direct and indirect loss.

2. I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 7th Day of November
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario
A. ARTOPOLLO

Commissioner: Ashley ARTOPOLLO
LSO #: 56695N

Kevin A. McLean

AA

APF #1

Aff 9

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

STRICTLY PRIVATE AND CONFIDENTIAL

DATE: DECEMBER 8, 2021

RE: SOLELY FOR THE PURPOSE OF *PIPEDA*

RE: BENEFIT OF THE ORGANIZATIONS IN FACILITATING RESPONSES TO ACCESS REQUESTS AND STATUTORILY AND PRESCRIBED REQUIREMENTS FOR NOTIFICATION UNDER *PIPEDA ET SEQ*

Kevin A. McLean (B.A. (MCL), J.D., CIM), of Toronto, Ontario, Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Mr. McLean**", "**McLean**" "**Applicant**", "**Requestor**" "**Potential Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true. I adopt the definitions from previously delivered correspondence to the **Organizations** for ease of reference. Where words, terms or phrases have been bolded, they are defined accordingly. Where there are hyperlinks, I have sent a copy of the uncommissioned affidavit for ease of reference for the reader in PDF form.

Volume 1: Exhibit "A"

2. Attached hereto to this my affidavit and marked as **Exhibit "A"** is a copy of the purported **e-Forensic Services Inc.** ("EFS") Forensic Preservation Report (the "**Forensic Preservation Report**") (see: pages 1 to 31). Since I never consented to the Purported June 4 2014 RAM Dump, I do not know whom disclosed my Personal Information ("McLean **PI**") or other persons' **PI** from the Summer of 2021 to present. I do hereby affirm and reaffirm that I made a request for the record identified in the Forensic Preservation Report, which was "*Kevin-PC-20140604-18544.raw*" (the "**Requested Record**") but I still have not received the **Requested Record**. As opposed to receiving the Requested Record, I received a document entitled the following, "KEVIN[sic]-PC-20140604-18**2[sic]**544.zip [sic]" (the "**Unrequested Altered Record**"). Since the LSBC or **EFS** have not been able to produce and provide access to the Requested Record, I have since focused, from the date of October 25, 2021, on the Foreign Organizations that are named in the **Unrequested Altered Record** whether by **Inflated Code** or **Compressed Code**.

3. I note that, at all material times, under FIPPA, the LSBC (the "**Local Public Body**") are prohibited from storing or accessing personal information outside of Canada (see: section 30.1 of FIPPA). Since NST LLP represented that what I received was a copy of a RAM Dump made from my computer in June 2014, although I note that was not correct after forensic analysis, I never consented to the collection, I could not identify the **PI** and did not consent to any storage or access outside of Canada in the prescribed manner (see: FIPPA Regulation for general requirements of consent; see: subsection 11(2)(b) of FIPPA Regulation for the specific requirements which were effective from June 2012 which require: (i) who may store

or access the **PI**; (ii) the jurisdiction **PI** may be stored or from the **PI** may be accessed and (iii) the purpose of storage of or access to the **PI**. As such, I need not waste, in my view, any further time with organizations that do not have custody or control of my **PI** and cannot respond to access requests regarding collection, use or disclosure outside of BC and Canada.

Volume 2: Citrix Sharefile Not from LSBC but NST LLP and "creator" of an assistant in Ms. Otto

4. With that segue, attached hereto to this my affidavit and marked as **Exhibit "B"** is a copy of the *document properties* associated with the **Unrequested Altered Record** that Ms. Creamore emailed me with Ms. Lockhart copied, with an attachment and a hyperlink to the platform known as **Citrix Sharefile**. The hyperlink was corrupted, broken and unopenable with Adobe PDF despite it referencing Adobe. I affirm that I was able to place it into various computer software programs and used various types of hardware and software only into a form that was **Decoded Text** which was not, in my view, readable English. I was then able to have the purported **Compressed Code** inflated using a variety of computer software, programs et al to determine and uncover the roles of the **Foreign Organizations**.

Volume 3: Ethereum

5. Attached hereto to this my affidavit and marked as **Exhibit "C"** is a copy of the chart that I have prepared with the following names of **Organizations** associated with collection, access or disclosure of my **PI** at various junctures onto the **Ethereum Blockchain** which are: (i) **Nanopool**; (ii) **Supranova 2**; (iii) **Dwarfpool**; (iv) **Ethpool**; (v) **Coinotron**; (collectively, "**Miners**" who were paid for their mining on Blockchain of my PI); (vi) Orcalize; (vii) Polniex; (viii) Bitrex; (ix) Shapeshift; (x) Cryptsy; and (xi) ("vi through x", solely in their capacities as "Transferors" or "Recipients" of McLean PI) ("i" to "x" collectively defined as "**Ethereum Platform Facilitators**" or "**Ethereum Public Blockchain Participants**"). The jurisdictions of the **Ethereum Platform Disclosers** are listed with hyperlinks contained therein. Within each of the 45 blocks, there are internal and external transactions regarding the same but I note that Ethereum Blockchain is immutable. Since the LSBC represented to me in the Fall of 2015 that it did not possess any original records, such as a RAM Dump after powering off my computer, I now presume that it was transferred to the Ethereum Blockchain in those months but I do not know by whom. I now believe that various Organizations were required to access or disclose my Personal Information via extraction, removal, upload, et al

with Privacy Keys in order to recreate the **Unrequested Altered Record** based on receiving either notice of a data breach or notice of circumstances. Surrounding the names of those **Ethereum Public Blockchain Participants** are names of certain unsecured website that appear to be financial institutions or banks that I believe received funding from the transfers where a value of **Ether** was ascribed to the **Mining** or **Transactions**.

Volume 4: Inflated Code

6. Attached hereto to this my affidavit and marked as **Exhibit "D"** is a copy of some of the documentation and screenshots that I have been able to procure through the **Inflated Code**.

Volume 5: Bitfly and Chart

7. Attached hereto to this my affidavit and marked as **Exhibit "E"** are copies of documents that I have obtained involving "**Ethereum Light**" which is associated with **Bitfly** which has its URL with www.ethpool.org. I also have included in this **Exhibit "E"**, copies of the privacy policy of **Bitfly** from 2021 which references **Cloudflare** (see: clause 5.2 of the **Bitfly** 2021 Privacy Policy; see: **page 165**). **Bitfly** represents its jurisdiction as being **Austria** (see: page **166**) along with the "**Rights of the Data Subject**" (see: **Clause 2; page 164**). I note Bitfly's definition of "***processing***" which means: "any operation or set of operations performed on personal data, such as, but not excluded to recording, organization, storage, alteration and transmission of personal data. It further represents that "Any information allowing **Us** or third parties to potentially identify you in person can be considered personal data."

8. Attached hereto to this my affidavit and marked as **Exhibit "F"** is a copy of a chart that I have compiled involving, in my view, the relevant case law (see: AIQ and others) and secondary source materials (see: **Mr. Noah Walters Article**; and **CBA Submission** on **Cross-Border Transfers**). I have currently counted some **58 Foreign Organizations** (note: in addition to the **Ethereum Platform Disclosers)** , some with offices in Canada, that had their *strings* identified in the **Inflated Code** with respect to responding to, as known to them, after on or around **August 25, 2021** to on or around **September 30, 2021** or shortly thereafter. I note that their names are and were approximately 98 to 99 percent less in the **Compressed Code**.

9. Attached hereto to this my affidavit and marked as **Exhibit "G"** are copies of documents from the **OPCC** relating to the requirements of **Organizations**, including **Foreign**

Organizations, regarding the following regarding **Access Requests** made by an individual, like myself: (i) **Procedures**; (ii) **Rights of Access**; (iii) **Control**; (iv) **Responding to Access Requests**; (v) **Form**; (vi) **Time Limit**; (vii) **Retention**; (viii) **PI Third Party**; (ix) **Information** protected by solicitor-client privilege; (x) Information protected by confidential commercial information; and (xi) information protected in the course of a **formal** dispute resolution process; and (xii) corrections. I affirm that I have made privacy access requests on all **Foreign Organization** and **Ethereum Platform Transferors** except for Crypsty because it is bankrupt and subject to a class action in the United States.

10. Attached hereto to this my affidavit and marked as **Exhibit "H"** are copies of **Citrix's Notice of Data Breach** letters to others and I include the same by way of reference. Attached hereto to this my affidavit and marked as **Exhibit "I"** are copies of documents from the website of **SentinelOne** and its partners. Attached hereto to this my affidavit and marked as **Exhibit "J"** are copies of documents from *PIPEDA* and various regulations thereunder along with miscellaneous documents. I focus the rest of this my affidavit on *PIPEDA* and its regulations along with how my health, life and/or security are being threatened as a result of my **Personal Information** having been, currently being or will be collected, accessed or disclosed without my consent. Exhibits "K" and "L" contain miscellaneous documents for context.

11. Prior to focusing the remainder of my affidavit on the aforementioned in paragraph 14, I formally and hereby adopt my **Affidavit #1** which was sworn on the same date but prior to this affidavit herein which can tendered to any **Organization** that is so entitled or **OPC** if I and the **Organization**, in part or whole, cannot reach a resolution on the privacy issues with reference to *PIPEDA* or any other federal legislation. When I reference resolution, I include, but do no limit, a binding, private and confidential settlement agreement that addresses our mutual concerns.

Volume 6: Total Computation of PI in Inflated Code and File

12. I have counted some 800,000 pieces of PI in the **Inflated Code**.

13. I believe that in order for the Code Compression to have occurred between the Duration Period, the Foreign Organizations, some or all, would have had to have accessed or disclose my Personal Information in the form of some or all of the following:

(i) Data Cleaning[1] or Data Cleansing;
(ii) Compression;

Total Computation of Files

14. I have counted some 88795 files some of which involve solicitor-client privilege from the practice of law.

Commercial Activity

15. I believe all of the Organizations were involved in **Commercial Activities** as they were paid for their services of providing to the Disclosing Organization or Authorizing Organization to engage in such activities.

Volume 7: Written Requests

16. I have made the relevant written requests as particularized in my correspondence to each but I shall keep the same private and confidential as per PIPEDA unless any of the organizations authorizes me to disclose the same to another Organization. Unless an Organization has included another Organization on the email thread or individual, I have not included them but for one exception which was when there was an Organization where there a domain and subdomain and both were claiming that they did not own the domain. I do not believe that neither Organization could "own the domain".

17. Some of the Organizations are past the 30 calendar days (see: section 8 of PIPEDA). Since none of the Organizations are law firms, with respect to this affidavit material, then I do not believe that any of the grounds for solicitor-client privilege could be invoked (see: section 9(3) of PIPEDA.

18. As it relates to litigation privilege, Ms. Forbes of the BCLIA represented on November 15, 2021 to me via letter on LIF letterhead that no such claim was even considered under the cyber policy. I have not even filed a Complaint under PIPEDA out of respect for those Organizations that have responded because I realize, in my view, that any such filing of one complaint under PIPEDA could have, in my view, the proverbial "domino effect" in effecting Organizations that are being compliant with PIPEDA. I do not wish to saddle any Organization with such an investigation when I believe this can be resolved without having to

[1] Data cleansing or data cleaning is the process of detecting and correcting (or removing) corrupt or inaccurate records from a record set, table, or database. It refers to identifying incomplete, incorrect, inaccurate, or irrelevant parts of the data and then replacing, modifying, or deleting the dirty or coarse data (Wu, S. (2013), "A review on coarse warranty data and analysis," Reliability Engineering and System, 114: 1–11). Data cleansing also refers to the practice of standardizing input fields (e.g. that postal codes be written in all caps, with a space, or ensuring that "road" is always abbreviated "Rd."), and generally ensuring that disparate datasets take the same form and order of variables within the dataset.

make a complaint. Based on my research, it is my belief that many of the Organizations act in a partnership type model, "coalition" or "syndicate" and one complaint could cause lengthy investigations for some or all along with negative publicity. I particularly realize that said negative publicity can be particularly damming or prejudicial for a public company on any global stock exchange whether singularly or dual listed. I am not seeking any form of confidential commercial information from any of the Organizations (see: section 9(3)(b) of PIPEDA).I am not seeking access any information that could threaten the life or security of an individual as I am only making access requests upon Organizations which are bodies corporate, partnerships of organizations or artificial entities.

19. In relation to paragraph 7(1)(b), the "collections" were by unknown entities to me but NST LLP represented, albeit inconsistently but more deliberately in October 2021, that it was pursuant to then LSBC Rule 4-43. The LSBC admitted, through then counsel Mr. Gomery, QC (now Justice Gomery of the BC Supreme Court) that consent is required by the individual, in that matter myself, before the LSBC could even commence an investigation regarding the same. As noted, there are collections therein from 2014, 2015, 2016, 2017 and later all of which are unknown in the "collector". I also note that if the collector of these RAM Dumps, albeit not copies as a matter of , in my view, basic technological understanding, could not be copied but rather dumped. Since my CPU was apparently turned off on multiple dates along with surreptitious seizures from remote places unknown to me, then the Unrequested Altered Record would not, in my view, fall under the exemption of 7(1)(b)[2]. To further affirm and swear under the penalty of perjury, I had never even canvassed these issues prior to the Summer of 2021 and not once was PIPEDA even pleaded in the underlying cases or FIPPA for that matter. The information, whenever it was collected and by whom, was not under a formal dispute resolution process as I have never been in any "formal dispute resolution process" with any of the collectors at said times. Ergo, I believe it was not "generated in the course of a formal dispute resolution process". Since all of the unknown collections occurred in BC with reference to provincial legislation, the federal legislation would not have been applicable (see: section 9(3)(e) of PIPEDA).

Volume 8(A): The Override Provision

is reasonable to expect that the collection with the knowledge or consent of the individual would compromise the availability or the accuracy of the information and the collection is reasonable for purposes related to investigating a breach of an agreement or a contravention of the laws of Canada or a province

20. To the extent that any of those sections were relied upon, which they have not been but for one organization relying on "confidential commercial information exemption" but without explanation or one Organization referencing "attorney-client privilege" without confirming if they had collected, used or disclose any PI of mine, I am swearing under oath and the penalty of perjury that I need the information for any of the following reasons:

a. My life;

b. My health; or

c. My security

Are threatened.

Volume 8(B): ***Quasi-Constitutional Status of PIPEDA***

21. While none of the Organizations are government bodies but rather Commercial Organizations involved a variety of business sphere like data breach responses, data mining, forensic incident response, cyber risk, insurance and others, I rely on the following secondary source from the Charterpedia regarding the words of section 7 of the Charter Everyone has the right to life, liberty and security of the person. While the PIPEDA section references health and not liberty, I have substituted the relevant defections and articulations from the case law in that hyperlink. Where the reference was to a government body, I have substituted the same in this evidence with the Organizations without any allegation as I remain at the access request stage and potentially notification stage from the Organizations that had any of my personal information under their control, at any stage, where there has been a BSS that creates RRSOH.

Life

22. The right to life is engaged where the law or state action imposes death or an increased risk of death, either directly or indirectly (*Carter v. Canada (Attorney General)*, [2015] 1 S.C.R. 331 at paragraph 62; *Chaoulli* at paragraphs 112-124 and 200). Concerns about autonomy and quality of life are properly treated as liberty and security interests (*Carter* at paragraph 62). I swear under oath and under the penalty of perjury that having to have spent the time since October 25, 2021 on any of the above has caused me, in my view, increased risk of death as I am suffering, without any waiver of privilege but can be the subject of medical legal report if necessary, from a variety of injuries, ailments, et al from a physical, mental and emotional standpoint. I am struggling to sleep more than four hours an evening as my mind is

constantly turning, cogitating and ruminating about how my Personal Information was handled from July 14, 2021 to present. I fear that if I spend more time on this matter that I am going to suffer permanent or fatal loss. I have had days where I have considered whether it was worth living and how I could have had my personal information accessed or disclosed on the Ethereum Blockchain and how certain Organizations could have not considered my privacy interests. The fact that certain Organizations are not responding or even in my view being rude or stonewalling me is exacerbating the issues for me. I find it particularly difficult and stressful to the point of considering suicide, along with having to take prescription medication with increased dosages, by doctoral authorization, to merely get through the day and night. I hereby affirm that I had never had any interactions with any of the Foreign Organizations but for IBM and Samsung by way of purchasing products.

23. Out of respect for the Foreign Organizations and their reputation and those employees and contractors that work for them, I have not contacted a close friend of mine for close to eight years who entered this "space", whose initials are XX, and had a role with the Ontario Securities Commission, along with private enterprise, and has represented that he wrote some of the first "crypto regs" to keep crypto safe. When he was entering this line of work, albeit I do not believe in the exact space as this matter, I gifted him funds to allow him to live because he had a dream to work in this space. I remember him explaining the space to me and it sounded like a foreign language and not something that I could comprehend at all. However, I was supportive of him as a friend and his dream and he now has roles with the OECD and others. Instead of seeking his guidance on this matter and explaining the same to me, I taught myself to the best of my ability through reading and putting life, business and relationships on a nearly, in my view, permanent stay, because I had such an incredible learning curve. I do not purport to be an expert but I believe that I have a reasonable working knowledge to be able to swear this affidavit and now understand the severity of what has transpired since July 2021 to present and the amount that I still have to learn. In fact and for context I had a family member ask me about Bitcoin and cryptocurrency in the Spring of 2021 and I reiterated that it was too difficult for my brain to understand and reserved for people far smarter than I. I also noted that I could never see myself taking risk like that because I did not understand how any aspects were tangible.

Security

24. Security of the person is generally given a broad interpretation and has both a physical and psychological aspect (see: https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-

ccdl/check/art7.html). Security of the person includes a person's right to control his/her own bodily integrity. It will be engaged where the state interferes with personal autonomy and a person's ability to control his or her own physical or psychological integrity. Security of the person will be engaged where state action has the likely effect of seriously impairing a person's physical or mental health (*R. v. Monney*, [1999] 1 S.C.R. 652 at paragraph 55; *Chaoulli, supra* at paragraphs 111-124 and 200; *R. v. Parker*, 49 O.R. (3d) 481 (C.A.).

25. In addition, the right is engaged when state action causes severe psychological harm to the individual (*G.(J.), supra* at paragraph 59; *Blencoe, supra* at paragraph 58; *K.L.W., supra*, at paragraphs 85-87). To constitute a breach of one's psychological security of the person, the impugned action must have a serious and profound effect on the person's psychological integrity and the harm must result from the state action (*Blencoe, supra* at paragraphs 60-61; *G.(J.), supra; K.L.W., supra*. The psychological harm need not necessarily rise to the level of nervous shock or psychiatric illness, but it must be greater than ordinary stress or anxiety.

26. From a context standpoint, I believe that I have handled ordinary stress or anxiety reasonably well in a variety of sphere. For example, I represented my country in tennis on the international stage in under sixteen and under eighteen events like the world recognized largest junior tennis tournament in The Orange Bowl in Miami, Florida. I attended The Ohio State University on a tennis scholarship and I obtained a law degree and a designation a Chartered Investment Manager with the **Canadian Securities Institute**. I believe that I was one of the few lawyers in Canada that held both of those designations. Additionally, I believe I still hold the fastest time for the Canadian Bar Association 5 KM (approximately 3 miles) race of 15:05.

27. For perspective, when I had entered a new field after law, I had a false criminal complaint filed against me by a lawyer in 2017 who was opposing counsel, who then quit thereafter and I was arrested but the charges were never formally approved due to lack of evidence (which I note is exceptionally rare) and I did not find that to be even nearly as stressful as learning that my personal information had been access or disclosed over the summer of 2021 and present, and having to follow up with the various Organizations. I can name other examples wherein I had been nearly killed in car crashes or being hit by a bike (as a runner) at nearly 50km/hr to not be as stressful. I do not fault the **Organizations** per se but I do believe that I am entitled

to notice of the BSS and the circumstances that transpired along with the prescribed elements thereunder.

Health

28. As it relates to health and the above, I am not looking to play the "victim" but when I see the words like "pwned" and that other organizations made money on Ethereum on what was my personal information from an undisclosed RAM Dump and other undisclosed seizures that were not even under legislation but a "rule" which is now defunct, I vomited and dry heaved thinking of the same. I note that this was exactly after I had been successful in multiple hearings against the LSBC and LSBC Defendants with a counsel that is now a judge and junior counsel while I was self-represented, which, in my view, is trite that it has never been before the BC Supreme Court or BC Court Appeal. I did communicate with the AGBC regarding this matter and sought his intervention but his counsel informed me that it had no role in this matter because it is not a "provincial one" and not within his jurisdiction. I am hopeful that this sworn evidence will continue to assist in resolving this matters in accordance with the law and without further detriment to myself or any organization so that we can all focus on our respective lives. However, I believe, in my view, the ironic element is that requires consent for that which was unconsensual.

29. I thank those that receive a copy of the same and I will await their response on resolution of those privacy issues in an manner consistent with the law. For the Foreign Organizations to further comprehend what they are dealing with if they have dealt with NST LLP or the LSBC, I note the following sentence from a filed document with the Court in April 2017 wherein Ms. Lockhart executed said document for NST LLP and the LSBC, as an officer of the Court that the LSBC investigators did not inspect or copy any records on June 3, 2014. I have since learned that was false by the Inflated Code but I operated under and relied upon the representation that was correct. I believe it is trite that an concealed RAM Dump or any form of seizure is without my consent. I also note that Ms. Lockhart represented in that same filed Notice of Application that all that the investigators did was "took two forensic copies of the hard drive of plaintiff's office computer". I now know that to be false as per the Inflated Code but I still do not know who collected the same as EFS has informed me that they did not install any memory dump software so my initial privacy request was apparently, according to Mr. Cree of EFS, predicated on a false document.

30. I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 8th Day of December
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario

Kevin A. McLean

Commissioner: Ashley Anopoulo
LSO #: 56695N

BB

AFF #10

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

STRICTLY PRIVATE AND CONFIDENTIAL

DATE: DECEMBER 8, 2021

RE: SOLELY FOR THE PURPOSES OF PIPEDA

SCANNED COPY

Kevin A. McLean (B.A. (MCL), J.D., CIM), of Toronto, Ontario, Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Mr. McLean**", "**McLean**" "**Applicant**", "**Requestor**" "**Potential Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2. I adopt the definitions from the previous correspondence for ease of reference. Where there are annotations on documents, they are mine to demonstrate my review of the same et al.

Volume 1: Exhibits

3. Attached hereto to this my affidavit and marked as **Exhibit "A"** is a copy of a document regarding, inter alia, my proposed resolution regarding my privacy requests upon the Organizations and respectful, in my view, demand for notification under PIPEDA.

4. Attached hereto to this my affidavit and marked as **Exhibit "B"** are copies of the documents **particularized** in the table of contents to this my affidavit is a copy of chart regarding Ethereum and Blockchain with reference to Ethereum Scan.

5. Attached hereto to this my affidavit and marked as **Exhibit "C"** is a copy of a document regarding, inter alia, Westport Insurance Corporation which is an entity that I have directed this affidavit based upon my research of entities and individuals it may have underwritten for insurance purposes. I also note the relevant federal legislation in this regarding federal insurance companies like Westport and SwissRe.

6. Attached hereto to this my affidavit and marked as **Exhibit "D"** is a copy of documents regarding Coalition panel's providers for cyber breaches et al along with other miscellaneous documents.

7. Attached hereto to this my affidavit and marked as **Exhibit "E"** are copies of documents referencing a company named Epiq et al.

8. Attached hereto to this my affidavit and marked as **Exhibit "F"** are copies of documents involving Vmware partners for Incident Response.

9. Attached hereto to this my affidavit and marked as **Exhibit "G"** are copies of documents involving Vmware partners for Managed Security Service Providers.

10. Attached hereto to this my affidavit and marked as **Exhibit "H"** are copies of documents involving Cloudflare's ZTNA partners.

11. Attached hereto to this my affidavit and marked as **Exhibit "I"** is a copy of a document regarding privacy implications with Blockchain and personal data.

12. Attached hereto to this my affidavit and marked as **Exhibit "J"** is a copy of a document regarding Report on Data Privacy Regulations.

13. Attached hereto to this my affidavit and marked as **Exhibit "K"** is a copy of document from Dentons Data on privacy.

14. Attached hereto to this my affidavit and marked as **Exhibit "L "** is a copy of a document regarding the privacy implications of blockchain in insurance.

15. Attached hereto to this my affidavit and marked as **Exhibit "M "** is a copy of a document named "Privacy Is the Biggest Challenging DeFi Lift-Off".

16. Attached hereto to this my affidavit and marked as **Exhibit "N"** is a copy of document from Identify Force regarding data breaches for PII and VPN issues et al.

17. Attached hereto to this my affidavit and marked as **Exhibit "O"** is a copy of a document from LexisNexis et al.

18. Attached hereto to this my affidavit and marked as **Exhibit "P"** is a copy of a decision from the BC and Federal Privacy Commissioner regarding AIQ and GitLab.

19. Attached hereto to this my affidavit and marked as **Exhibit "Q "** is a copy of asubmission from the CBA on whether a cross-border transfer is a Disclosure or a Use.

20. Attached hereto to this my affidavit and marked as **Exhibit "R "** is a copy of an article on how Blockchain public chains breach all ten principles of PIPEDA.

21.

22. Attached hereto to this my affidavit and marked as **Exhibit "S "** is a copy of an article that is titled, "Careless Users Are Ruining Ethereum's Privacy".

23. Attached hereto to this my affidavit and marked as **Exhibit "T "** is a copy of an article about how "Ethereum Had a Rough September" along with a list of public domains implicated in the Inflated Code.

24. Attached hereto to this my affidavit and marked as **Exhibit "U "** is a copy of an article from Atlantic.Net regarding hosting under PIPEDA along with other documents including Smart Cards, Citrix, Evolve Partners and secondary source issues

25. Attached hereto to this my affidavit and marked as **Exhibit "W"** is a copy an article from Citrix on Smart Cards and one of the public companies that issues the same known as Xpay, SMKG and Xpay. The public company is SMKG. There are other miscellaneous documents that I believe have contextual and referential importance.

26. Attached hereto to this my affidavit and marked as **Exhibit "V"** are copies of documents involving the requirement to provide an affected individual like myself and others so

implicated in the Compressed Code and Inflated Code of the Unrequested Altered Record with notification.

Volume 2: Conclusion

27. I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 8th Day of December
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario

Kevin A. McLean

Commissioner: Ashley Traputo
LSO #: 56695N

Tab CC

UPDATE ON BC NOTARIES AND LAW SOCIETY JOINT TASK FORCE

October 25, 2015 | Notary Public

Society of Notaries Public of BC Welcomes Signing of Memorandum of Understanding with the Law Society of BC to Pursue Possible Development of Joint Proposal

For Immediate Release: April 15, 2015

Vancouver, BC— The Society of Notaries Public of BC and the Law Society of BC have jointly signed a Memorandum of Understanding (MOU) to pursue the possible development of a joint proposal for consideration by the Minister of Justice and Attorney General.

This proposal would provide for the assumption of certain regulatory responsibilities for Notaries Public by the Law Society over time to while preserving the identity and identification of BC Notaries as separate and distinct from lawyers.

This MOU also provides for discussion of an expanded scope of practice for BC Notaries which we believe would have significant benefits for both the public in providing expanded access to non-contentious legal services, and for our members, across the province.

This MOU evolved from discussions of a joint BC Notaries and Law Society of BC Task Force, which recommended a merger of regulatory operations to improve the delivery of legal services to the public, facilitate increased access to justice and to expand the scope of services available to Notaries Public. Other jurisdictions, including Ontario and Washington State have successfully adopted similar models.

BC Notaries' Board of Directors fully supports this agreement, and believe it presents a potentially significant and positive opportunity to further the public interest, as well as for our members and our profession.

. W. Wayne Braid
CEO and Secretary
The Society of Notaries Public of BC
T: 604 681-4516
E: gwb@society.notaries.bc.ca

← Previous Next →

Certificate of excellence - Jamie Taleb Notary Public - North Vancouver, BC

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Tab DD

Law Society
of British Columbia

Benchers vote to move forward with licensing paralegals

MARCH 10, 2023

The Benchers have unanimously agreed to ask the government to bring amendments into force to allow for the licensing of paralegals.

During the March 10, 2023 meeting, the Benchers were asked to consider whether the Law Society should ask the government to permit the licensing of paralegals by bringing into force the amendments to the Legal Profession Act in Bill 57 – 2018 Attorney General Statutes Amendment Act, 2018.

Following a thoughtful discussion of the proposal, including recognition that licensing paralegals can make a difference to increase access to justice for the citizens of British Columbia, the Benchers voted unanimously to ask the government to bring the amendments into force.

The Benchers also directed the Executive Director to take the necessary steps to provide for the licensing of paralegals in anticipation of the amendments being proclaimed in force.

The Law Society expects the amendments could be proclaimed in force as early as this spring and that the procedures and necessary rules could be in place before the summer.

In the meantime, any inquiries about licensing, or how to become licensed, can be directed to licensingparalegals@lsbc.org.

Have a question? Visit our contact us page.

The Law Society is located on the traditional territory of the Coast Salish Peoples, specifically the territories of the Sḵwx̱wú7mesh (Squamish), səlilwətaɬ (Tsleil-Waututh), and xʷməθkʷəy̓əm (Musqueam) First Nations.

Law Society
of British Columbia

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Tab EE

Law Society
of British Columbia

BC government responds to Law Society request to license paralegals

JUNE 05, 2023

The BC government has declined the Law Society's request to bring amendments to the *Legal Profession Act* into force that would allow for the licensing of paralegals, however remains committed to creating a single legal regulator.

In a letter sent on May 25, 2023, Attorney General Niki Sharma, KC said the ministry supports the licensing of paralegals and anticipates the single legal regulator initiative project will lead to a bill being introduced as early as this coming fall. It is expected the bill will provide for the licensing of lawyers, notaries public and licensed paralegals.

"Given that we are close to significant reform, we unfortunately must conclude that at this time it is not possible to allocate the resources that would be required to both maintain momentum on the current project and also bring into force the amendments…" Sharma wrote in the letter.

"While the Law Society is disappointed that the amendments will not be brought into force, we look forward to consultation on the single legal regulator legislation, and collaborating further with government, the Notaries Society and the BC Paralegal Association to ensure the independence of the legal professions," said Law Society President Christopher McPherson, KC.

The Attorney General attended the June 3, 2023 Bencher meeting where she confirmed the Ministry's commitment to the single legal regulator project and addressed comments and questions from Benchers. She noted that more details about the legislation will be shared with the Law Society later this month.

Have a question? Visit our contact us page.

The Law Society is located on the traditional territory of the Coast Salish Peoples, specifically the territories of the Sḵwx̱wú7mesh (Squamish), səlilwətaɬ (Tsleil-Waututh), and xʷməθkʷəy̓əm (Musqueam) First Nations.

Law Society
of British Columbia

CONTACT US PRIVACY FREEDOM OF INFORMATION TERMS OF USE

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BRITISH
COLUMBIA

VIA EMAIL

Ref. 637720

May 25, 2023

Christopher A. McPherson, KC
President
Law Society of British Columbia
845 Cambie Street
Vancouver BC V6B 4Z9
Email: president@lsbc.org

Dear Christopher A. McPherson:

Thank you for your letter of March 21, 2023, in which you requested on behalf of the Benchers that government bring into force the amendments to the *Legal Profession Act* as set out in *Bill 57 – 2018 Attorney General Statutes Amendment Act* (the "2018 amendments").

I am grateful for the Law Society's express commitment towards a more diverse legal profession, and for our shared commitment towards the creation of additional categories of licensed legal professionals in British Columbia, including licensed paralegals.

As you know, the purposes of the 2018 amendments were to enable the Law Society to license a new category of legal service provider called licensed paralegals, and to give the Benchers the authority to make rules establishing the scope of practice of licensed paralegals or a class of licensed paralegals. At the Law Society's request, these amendments have not to date been brought into force so that the Law Society could explore different approaches to the regulation of alternate legal service providers, primarily through its Innovation Sandbox initiative.

The ministry understands that your intention at the outset would be to seek to license these professionals on a case-by-case basis, similar to the way in which participants have been authorized to provide custom legal services within the Innovation Sandbox. This would be in preference to establishing a scope of practice for licensed paralegals at the outset. The ministry further understands that you would seek to develop, in tandem with the BC Paralegal Association, an approach to establishing criteria against which licensed paralegal applicants would be assessed.

As you are aware, for more than a year the ministry has been working on a significant legislative reform project to modernize the regulation of the legal profession writ large. This project includes proposals for, among other things:

…/2

- The (re) establishment of a category of legal service providers called licensed paralegals, with an explicit legislative authority to license on both a class and case by case basis;
- The establishment of a single legal regulator responsible for the regulation of lawyers, notaries, licensed paralegals and potential other future categories of legal professionals under a single statute; and
- A revitalized mandate for the regulator that includes an explicit reference to facilitating access to legal services.

The ministry supports all efforts to move to be ready to license paralegals at the earliest opportunity and as such we welcome proposals and initiatives that will prepare for that outcome at the earliest opportunity. Unfortunately, bringing the 2018 amendments into force cannot occur without a significant investment of time and resources. To do so would require numerous consequential amendments across our book of statutes, and though some of these are consistent with the changes contemplated in the current legislative reform project, many are not. To bring the 2018 amendments into force now would result therefore in government undertaking two rounds of consequential amendments to numerous statutes. Further, given the amount of time that has elapsed since the amendments were passed (approximately five years), the consequential amendments, as they currently stand in Bill 57, would require close review to ensure they are not out of date. If they are, additional work would be required.

The ministry anticipates that the reform project currently underway will lead to a bill being introduced as early as this coming fall. This bill will mark the culmination of a great deal of work and collaboration with the Law Society, the Notaries Society, and the BC Paralegal Association, and will reflect the significant input that the ministry has received and continues to receive from Indigenous partners, individual legal professionals, non-profit organizations, academics, members of the public and others. Given that we are close to significant reform, we unfortunately must conclude that at this time it is not possible to allocate the resources that would be required to both maintain momentum on the current project and also bring into force the amendments made five years ago.

Please be assured that we remain committed to legislating the creation and regulation of licensed paralegals as soon as possible. We look forward to continued collaboration toward that goal including provisions in the proposed legislation to facilitate licensing paralegals at the earliest opportunity.

Sincerely,

Niki Sharma, KC
Attorney General

pc: Madeleine Holm-Porter

TAB 3(FF)

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

Access Request pursuant to FIPPA of the LSBC on June 5, 2026

2 messages

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Fri, Jun 5, 2026 at 12:17 PM
To: GChen-Kuo@lsbc.org, foipp@lsbc.org, jdrozdowski@lsbc.org, privacy@lsbc.org, ceo@lsbc.org

Dear Sirs/Mesdames and Other Gender Neutral Pronouns:

Please find attached my access request. The request is primarily set out and encapsulated within the opening pages of **Volume 1**, though—out of an abundance of caution—I have provided additional detail throughout to ensure there can be no dispute as to the sufficiency, clarity, or comprehensiveness of the request.

I have also taken care to consolidate this into a **single, comprehensive access request**, mindful of the Law Society of British Columbia's imminent dissolution and the possibility that the Attorney General of British Columbia or the Lieutenant Governor in Council may issue the statutory 30-day notice under the relevant enactments governing amalgamation. My intention is to avoid any procedural ambiguity during this transitional period.

As a courtesy, I am finalizing certain administrative components of a **"FIPPA Request Record" / "FIPPA Request Document (Record) Book."** I will provide this shortly. I have a medical appointment followed by physiotherapy for my impairments later today, so this supplementary record will follow thereafter. Its delivery will not affect the timing of the access request itself, which is deemed submitted upon receipt of this email. The additional materials are provided solely in the spirit of maintaining a transparent and cooperative access-to-information partnership.

I note that, based on today's date, the statutory deadline to provide a compliant response and access to the requested **Personal Information records** is **July 17, 2026**. Should I not hear from you prior to that time, I will presume, lawfully so, that the request is sufficiently particularized and you do not need any clarification regarding any of the classes of Personal Information Records.

Wishing everyone a pleasant Friday and an enjoyable weekend.

--
Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

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FIPPA request - LSBC - with notice to interested persons - Requestor - KAM (BA JD CIM) - 5-June-2026 - SIGNED - SUBMITTED - 902 AM .pdf
7523K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Mon, Jun 8, 2026 at 10:15 AM
To: GChen-Kuo@lsbc.org, foipp@lsbc.org, jdrozdowski@lsbc.org, privacy@lsbc.org, ceo@lsbc.org

Dear Sirs/Mesdames and Other Gender-Neutral Pronouns:

I am writing to confirm that the previous email and its attachment have also been sent to the LSBC via fax.

As noted previously, the 30-business-day statutory time limit for a response expires on Friday, July 17, 2026. Thank you for your attention to this matter.

Best regards,

Mr. Kevin A. McLean (BA, JD, CIM)

[Quoted text hidden]

VIA REGISTERED MAIL AND ELECTRONIC TRANSMISSION and other methods

DICTATED WITH VOICE RECOGNITION SOFTWARE

RESERVATION OF RIGHTS TO CORRECT ANY ADMINISTRATIVE ERRORS, SPELLING, GRAMMAR, SYNTAX AND/OR DOUBLE NEGATIVES (which will not toll the time or hold the statutory time limits and obligations in abeyance).

DATE: June 4, 2026

TO:

Ms. Gigi Chen-Kuo

Executive Director / Chief Executive Officer

Law Society of British Columbia (LSBC)

845 Cambie Street

Vancouver, BC V6B 4Z9

Via email and fax

ceo@lsbc.org

GChen-Kuo@lsbc.org

CC:

Information and Privacy Officer

Jackie Drozdowski (foipp@lsbc.org)

jdrozdowski@lsbc.org

privacy@lsbc.org (solely for confirmation of email being delivered purposes)

FROM:

Mr. Kevin A. McLean (BA, JD, CIM)

mclean@searchandseizure.ca

SUBJECT: *FIPPA* REQUEST

RE: Law Society of British Columbia ("LSBC") and the transitional boards and the final pre-amalgamated body by way of notice to interested persons under "Legal Professions British Columbia" (see: Section 262 of the Single Regulator Legislation, *Legal Professions Act 2024*).

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Dear Ms. Chen-Kuo:

VOLUME #1: THE ACCESS REQUEST IN SUFFICIENT YET SUMMARY FORM

1. It is a pleasure to meet you electronically and remotely (pardon the pun) and I extend my congratulations to you on your being selected as the latest CEO of the LSBC and to my knowledge the first female CEO of the LSBC.
2. I write under *FIPPA* and in the spirit of what our tribunals and courts have called an "access partnership". I will continue to honour that spirit until the LSBC's dissolution and amalgamation with the Societies Notaries Public of BC (the "SNPBC"). My hope is that this comprehensive communication, with a *FIPPA* Request Record to follow separately but solely as a courtesy, will demonstrate that the LSBC with a new "Head" of the "Public Body" has refocused and realigned itself with compliance with the law, particularly *FIPPA* and privacy statutes that are applicable to it. That being said, if not, then I will proceed accordingly.
3. Please be advised that this letter is my formal *FIPPA* access request for the personal information records which are delineated below in various classes or groups of Personal Information with a primary focus on those Personal Information records that related to the Concealed RAM Dump and disclosures thereafter, the forensic remote monitoring after the disclosure of my Personal Information in record form to the Ethereum blockchain in 2015 and beyond, and then disclosures of my Personal Information cross EVM compatible blockchains consequential to my *FIPPA* access requests in June and July 2021. **All Personal Information of my former clients, as a consequence of the forensic copying of my hard drive of the CPU in question, including any potential cloning of that hard drive and/or as a consequence of the Concealed RAM Dump and any remote monitoring** that is under the custody and/or control Law Society of British Columbia (LSBC) or any of its **agents, contractors, sub-contractors, external counsel, or third-party forensic vendors** is subject to this access request.
4. This request is made under **s. 4(1)** of *FIPPA* and engages the LSBC's **strict statutory duty to assist** under **s. 6(1)**.
5. In summary form, I am requesting access to the following Personal Information records in one comprehensive access request:

Category No.	Category Title	Description of Personal Information Sought	Source / System(s)	Why It Qualifies as Personal Information	Citation (1–2 lines from document)
A1	Hard Drive Forensic Copy	Full forensic copy of the Requestor's hard drive taken by LSBC agents in 2014	LSBC, NST LLP, EFS Forensics	Contains all personal files, client files, metadata, credentials	"A copy of the disc in which the LSBC forensically copied my hard drive."
A2	Concealed RAM Dump	Entire volatile memory capture including passwords, cryptographic keys, live processes	USB device used by LSBC/EFS	RAM contains highly sensitive PI including credentials and private keys	"A copy of the USB involving the Concealed RAM Dump including… Cryptographic keys; Usernames; Passwords…"
A3	Commingled Storage Devices	Any device where RAM dump and hard drive data were mixed	LSBC, EFS, NST	Contains mixed PI of the Requestor and former clients	"A copy of any storage devices if there was commingling between forensic copying and the Concealed RAM Dump."
A4	EFS Forensic Logs	Logs of access, use, transfer, timestamps, failed imaging	EFS Forensic Services Inc.	Logs reveal handling of the Requestor's PI	"Copy of any activities of EFS Forensic Services Inc. including Mr. Cree and Mr. Windover…"
A5	Remote Access PI	All PI obtained through remote access attempts (2016 onward)	LSBC, NST, unknown actors	Includes credentials, browser data, system state	"All of my Personal Information that was obtained from any remote accessing of any electronic device of mine…"
B1	System-Level Memory Dumps	.raw, .dmp, .mem, pagefile.sys, hiberfil.sys	RAM dump	Contains live session data, passwords, keys	"Produce all .raw, .dmp, .mem, or pagefile.sys / hiberfil.sys snapshots…"

Category No.	Category Title	Description of Personal Information Sought	Source / System(s)	Why It Qualifies as Personal Information	Citation (1–2 lines from document)
B2	Unprocessed Forensic Artifacts	Slack space, unallocated clusters, registry hives, EVTX logs	RAM + disk	Contains personal identifiers, system history	"Disclose all non-forensically validated data remnants…"
B3	Third-Party Tool Logs	PowerShell histories, WMI logs, parsing scripts	NST, EFS, Evolve Partners	Reveal unauthorized access to the Requestor's PI	"Produce the complete output logs… specifically targeting strings involving H4sI, FromBase64String…"
B4	Credential & Password Logs	Passwords, tokens, OAuth, Sharefile keys	RAM dump, cloud logs	Direct PI	"Produce all unauthorized captures… containing my system passwords, encryption keys…"
B5	Chain of Custody Logs	Upload logs to AWS, Azure, Sharefile	LSBC, NST, BLG	Shows PI movement	"Produce exhaustive upload and transmission logs detailing the off-network transfer of my PI."
C1	De-identification / Masking Records	Records showing attempts to cleanse or hash PI	LSBC, vendors	Shows original PI before masking	"Produce all documentation regarding any 'data cleansing,' 'masking,' or cryptographic hashing…"
C2	Cloud-to-Chain Migration Logs	Logs showing PI moved to Ethereum/BSC/Polygon	AWS, Sharefile, Oracle/Provable	PI embedded in msg.data, wallet metadata	"Disclose all logs detailing automated data synchronization… with decentralized storage repositories."
C3	Destruction Verification Logs	Proof of cryptographic erasure	LSBC, vendors	Determines whether PI still exists	"Produce the underlying technical verification logs proving the physical cryptographic erasure…"

Category No.	Category Title	Description of Personal Information Sought	Source / System(s)	Why It Qualifies as Personal Information	Citation (1–2 lines from document)
C4	Insurance / Cyber Liability Records	Notices of circumstances, breach reports	LSBC, Swiss Re, NST	Contains PI + breach descriptions	"Disclose all 'Notice of Circumstances,' cyber liability filings…"
C5	Smart Contract Metadata (63 wallets)	Wallet interactions, msg.data, genesis wallets, wash traders	Ethereum, BSC, Polygon	PI embedded in contract metadata	"Produce all technical memos… linking my PI or metadata to… the 63 wallets."
C6	Machine-Readable Ledger Records	Parsing keys, transaction logs, cross-chain audits	LSBC, NST, BLG	PI embedded in blockchain indices	"I formally request access to copies of all human-readable and machine-readable data… mapping the distribution of my personal property across decentralized ledgers."
C7	Contract Address Mapping	Logs linking PI to specific smart contracts	Ethereum mainnet	Shows PI embedded in contract calls	"I request all internal audit records… mapping my personal information across the following cryptographically locked contract manifestations…"
D1	Transitional Risk Briefings	Risk memos to LPA Transition Boards	LSBC, Cascadia Partners	Discuss the Requestor's PI as a liability	"I request all records, briefing packages… concerning the financial, legal, or privacy impacts…"
D2	Machine-Readable Control Mapping	Internal mapping of PI across systems	LSBC, NST, BLG	Identifies where PI resides	"All records… mapping the custody, control, or secondary exposure of my personal identity attributes…"

Category No.	Category Title	Description of Personal Information Sought	Source / System(s)	Why It Qualifies as Personal Information	Citation (1–2 lines from document)
D3	Cascadia Partners Due Diligence Files	Liability assessments, risk registers	Cascadia Partners	Discuss PI as legacy liability	"I formally request all records, risk registers, gap analyses… concerning the liabilities arising from the unacknowledged 2014 volatile memory extraction…"
D4	LPBC Transitional Board Records	Draft rules, risk assessments, in-camera exhibits	LPBC Transition Board	PI referenced in transition planning	"I formally request all briefing notes… mapping the impact of active legacy data exposure…"
E1	LIF Financial Records Linked to PI	Records showing whether PI was used in yield strategies	LIF, LSBC	PI allegedly tied to financial instruments	"I require all accounting records detailing whether any portion… utilized… cryptographically matched Ethereum… nodes…"
E2	Interfund Depository Mechanism Records	Due-from-LIF balances, internal banking	LSBC, LIF	Shows PI-linked financial exposure	"The General Fund parked millions… I am legally entitled to know if this… utilized… your captured 2014 memory state…"
F1	HR Justifications for Privacy Roles	Hiring memos, risk assessments	LSBC	Created due to PI breach	"I request the production of all business cases, hiring justifications… referencing 'risk management'…"
F2	Vendor Processing Records	NST, BLG, EFS, Evolve Partners logs	Vendors	Vendors processed the Requestor's PI	"The LSBC cannot narrow its *FIPPA* obligations by outsourcing PI processing…"

Category No.	Category Title	Description of Personal Information Sought	Source / System(s)	Why It Qualifies as Personal Information	Citation (1–2 lines from document)
F3	Arbitration Records (AWS–BLG)	All documents from 2022 arbitration	AWS, BLG	Contains PI	"Copies of all documents involved in the arbitration… titled AWS and BLG…"
G1	Blockchain Blocks (39 blocks)	Ethereum blocks containing PI from 2015–2016	Ethereum mainnet	Contains PI embedded in msg.data	"Personal Information… was then subject to Cross Chain August 2021 Disclosures and Token Swapping… along with the tracking and storage of 39 BLOCK on Ethereum…"
G2	Token Tracking IDs	Token IDs, false tracking IDs, swap logs	Ethereum, BSC, Polygon	Contain PI-derived metadata	"Token Tracking ID… False Tracking ID… Cross Chain…"
G3	Off-Chain Domain Interactions	Websites linked to blockchain blocks	Off-chain domains	Contain PI through metadata	"Screenshots… and ties to the blocks contained therein and their websites for off chain activity."
H1	All PI under s. 4(1)	Any record containing PI of the Requestor or former clients	All LSBC systems	Statutory right of access	"Only records that meet the statutory definition of 'Personal Information'… fall within the scope of this request."
H2	Records Required to Be Created (s. 6(2))	Scripts, algorithms, extraction tools	LSBC	Duty to create records	"The LSBC must write the extraction script to retrieve it."
H3	Custody & Control Records	Evidence showing LSBC control over PI	LSBC, vendors	Establishes control under *FIPPA*	"Physical possession is not determinative… A record is under the LSBC's control if…"

6. As the LSBC will undoubtedly be aware of all of these Personal Information records, their location, how to access and retrieve them, this could not take more than six to eight hours to collate the same and provide a copy of the same. Nonetheless, the remainder of this document is out of an abundance of caution and to ensure that I have provided sufficient particulars and to allow the LSBC to focus on the important issues of statutory compliance to ensure a smooth amalgamation.
7. Should you have any questions or require clarification, please have an experienced employee of the LSBC contact me or have the Head of the Public Body contact me directly via email to ensure that we have a complete, accurate and transparent "record" of communications.
8. Should you wish to, by consent, resolve these requests without the necessity of strict compliance and/or in a more formal manner and/or outside the ambit of *FIPPA* but with my voluntary withdrawal of this *FIPPA* request, in part or in whole, then you may contact me with such a proposal.
9. Otherwise, I will await for the deadline of July 17, 2026 for the disclosure of all of the Personal Information records to this email only. I have sole and exclusive control of this email and yet again own the domain. Should you wish to provide any password protection, I will defer to you in that regard.
10. Should you wish to have a copy of the entire "record" that was merely inflated from the Huffman compressed coding, I am content to provide you with a copy of the same at my own expense and in the spirit of cooperation. However, the provision of the same will not act as an abeyance or tolling of the statutory time and would solely be provided to assist with some of the code or snippets below for cross-reference purposes. That being said, the LSBC must still have custody and control of the record in its compressed and non-compressed form. Kindly advise in this regard.
11. As noted herein, I remain concerned about a potential duty to warn or notify previous clients about their privilege and whether the unauthorized collection, use, access, disclosures and/or retention rise to the level of notification for privacy breaches specifically under *FIPPA* or perhaps under the common law (see: Doe v. Toronto Metropolitan Police Forces, by way of example).
12. While I will continue to operate in accordance with the law and in the spirit of an access partnership, I confirm that it is the Public Body that is required, through an experienced employee with respect to identification, and ultimately the Head of the Public Body with respect to discharging duties – not an "Associate" of a Service Provider (that being an LLP does meet the definition of a person and a service provider). However, it is a "service provider" to the Public Body – not of the Public Body. Moreover, to the extent that the Head of the Public Body seeks to delegate any duty, power or function to any person, then I will require a copy of the delegation in writing and with time stamping of the same on a preliminary basis to determine if said person is authorized or not.
13. Should you wish for me to liaise with your contacts at the various websites with respect to the Ethereum blocks wherein websites and businesses customarily provided some form of storage and security in an off-chain manner, I am content to do so but with a specified contact so we can be efficient and not adversely affect the public purse

and/or their resources. If I do not hear in this regard, I will presume that you will exclusively identify each of the Personal Information within your custody and/or control and then provide me with copies of the same cross-referenced to those Ethereum blocks and websites along with the on-chain Personal Information.

14. I will kindly note that I have two more MRI's this month and further spinal injections and nerve ablation procedures which arise from a motor vehicular accident of some nearly four years ago wherein I am lucky to be alive and/or not paralyzed. As such, I will be away for certain periods for days at a time so I encourage you to communicate sooner than later in the above regards.

Respectfully tendered under *FIPPA* on June 5, 2026

Mr. Kevin A. McLean (BA, JD, CIM)

VOLUME #2: REMAINDER OF DOCUMENT IS ALL OUT OF AN ABUNDANCE OF CAUTION, IN GOOD FAITH, TO GROUND MY REASONABLE BELIEF AND TO ENSURE THE NEW CEO (HEAD OF THE PUBLIC BODY HAS ALL OF THE RELEVANT AND MATERIAL DATA, CONTEXT, BACKGROUND AND TEMPORALLY LINKED EVENTS ALONG WITH FURTHER AND RECENT FORENSIC EXPERT ANALYSIS)

SUFFICIENCY OF PARTICULARS & IDENTIFICATION OF RECORDS

15. This letter contains **more than sufficient detail** to enable an **experienced employee** of the LSBC—specifically **Ms. Drozdowski**, given the apparent vacancy in the Manager, Privacy, Information and Records role—to identify all responsive records.
16. For clarity:
    a. **Only records that meet the statutory definition of "Personal Information"** (as interpreted by *FIPPA* and the common law) fall within the scope of this request.
17. Records that do **not** contain my PI or the PI of my former clients are **not** sought.

3. SCOPE, COMPLETENESS, AND STATUTORY DEADLINE

18. This request is **singular, comprehensive, and exhaustive**. While I will not object to **rolling disclosure**, the statutory deadline for full response is **July 17, 2026**.
19. Absent a request for clarification, I will expect **complete disclosure** on or before that date.

4. BACKGROUND PROVIDED TO FACILITATE THE HEAD'S STATUTORY DUTIES

20. Given the LSBC's ongoing structural changes, I have provided **extensive contextual and technical background** to ensure that the **new Head of the Public Body** can properly exercise her statutory obligations, including:
    a. Determining custody and control
    b. Assessing the scope of responsive PI
    c. Ensuring compliance with s. 6(1)
    d. Evaluating any potential public-interest disclosure obligations

5. DUTY TO ASSIST

21. If any clarification or assistance is required, please advise immediately. This request expressly invokes the LSBC's **mandatory, inflexible duty to assist** under **s. 6(1)**.

6. FORMAL INVOCATION OF THE "CONTROL TEST" AND "CUSTODY TEST"

22. I explicitly invoke the **Control Test** and **Custody Test**, foundational principles of British Columbia privacy jurisprudence.
23. Physical possession is **not determinative**. A record is under the LSBC's **control** if the LSBC has:
    a. A statutory right to access it
    b. A regulatory right to demand it
    c. A contractual right to obtain it
    d. A supervisory or indemnification relationship with the entity holding it
24. Accordingly, this request includes **all responsive PI**, regardless of:
    a. Physical storage location
    b. Network architecture
    c. Jurisdiction
    d. Vendor involvement
    e. This includes, without limitation:

f. Internal LSBC servers
g. Private infrastructure managed by **NST LLP** and **BLG LLP**
h. Third-party vendor platforms
i. Off-network cloud environments (AWS, Azure, Citrix Sharefile)
j. Decentralized blockchain-based storage or derivative environments.

7. VENDOR-HOSTED AND OUTSOURCED PROCESSING ENVIRONMENTS

25. I am fully aware of the **digital transmission pathways** and **processing environments** used by LSBC agents, including:
    a. The **NST Hyperlinked Record** distributed via **Citrix Sharefile** on **October 25, 2021**
    b. The use of **Aspose.PDF for .NET** by **BLG LLP** to merge, redact, and manipulate PI outside the LSBC's primary network perimeter
26. The LSBC cannot narrow its *FIPPA* obligations by outsourcing PI processing. If the LSBC:
    a. Paid for the service
    b. Directed the vendor's actions
    c. Held contractual indemnification
    d. Supervised or approved the processing
    e. …then the records remain **under LSBC control** and are fully subject to this request.

8. Exhaustive Search Obligations Under Section 6(1)

27. Section 6(1) imposes a **strict, positive, and technologically competent duty** to:
    a. Conduct an **exhaustive search**
    b. Review all **structured and unstructured data environments**
    c. Identify records subjected to **unauthorized processing, synchronization, or cloud deployment**
    d. Retrieve PI from **all vendor-managed systems**
    e. Avoid artificial distinctions between "LSBC official records" and "NST LLP working files"
    f. Any failure to conduct such a search constitutes a **direct breach** of s. 6(1).

9. FINANCIAL AND BLOCKCHAIN CONTEXT (2015–2025)

28. The LSBC's financial trajectory—particularly the transformation of the **Lawyers Indemnity Fund (LIF)** from 2015 to 2025—aligns with the timeline during which my PI was **unlawfully disclosed and monetized** on the **Ethereum blockchain**.

29. As noted in ***FIPPA* Request Record, Tabs 3 and 4**, the initial 2015 disclosures occurred when Ether traded below one dollar, with exponential growth in subsequent cycles.
30. This context is directly relevant to:
    a. Custody and control
    b. Unauthorized disclosure
    c. Public-interest considerations
    d. The scope of responsive PI.

10. INCORPORATION OF PRIOR CORRESPONDENCE

31. I hereby **repeat, adopt, and rely upon** all prior documents and submissions previously provided to the LSBC.

11. TEMPORAL NEXUS TO THE 2015 JUSTICE BOWDEN PRODUCTION DISPUTE

32. The late-autumn 2015 period—coinciding with the Justice Bowden document production dispute—marks the precise window during which the initial blockchain-based PI disclosures occurred.
33. This temporal nexus is relevant to identifying:
    a. Source systems
    b. Vendor involvement
    c. Data extraction pathways
    d. Records responsive to this request

12. SOME VALUATION ISSUES OF CONCERN UPON FORENSIC ACCOUNTING AND VALUATION ANALYSES

34. Forensic valuation analyses confirm that the LIF investment portfolio grew to $296.3 million by the end of 2025, achieving an approximate 8.06% Compound Annual Growth Rate (CAGR) during an era of historic bond market destruction and monetary tightening. Because traditional investment-grade fixed income would have yielded nominal returns in the 2% to 4% range, the fund's expansion requires an empirical accounting of the high-yield risk premium source.
35. The analytical models expose a sophisticated internal repository arrangement where the General Fund parked millions in regulatory fees—peaking at $23.6 million in 2024—inside the LIF.
36. The LIF paid the General Fund a low bond yield (dropping to 3.61% by 2025) while harvesting the equity, infrastructure, and alternative asset premiums for itself. I am, as it relates to me, legally entitled to know if this internal banking system utilized cryptographically derived assets or tokenized security profiles rooted in the captured (and wiped from the CPU at issue due to turning off the CPU prior to commencing a “cloning”, which

was apparently discontinued when Mr. Cree arrived around 12:20 p.m. on June 4, 2014, memory state to execute these yield-skimming strategies.

```
┌──────────────────────────────────────────────┐
┌──────────────────────────────────────────────┐
│   Core Insurance Deficit      │   │   General Fund Deficit      │
│ 2024 Combined Ratio: 213.5%   │   │  2025 Operating Loss: $2.5M  │
└──────────────────────────────────────────────┘
└──────────────────────────────────────────────┘
          │                        │
          └────────────────────────────────────────┘
                    │
                    ▼
        ┌──────────────────────────────────────┐
        │ Aggressive Endowment Portfolio │
        │   88.84% Deployed in Alternative │
        │   Mortgage, Equities & Infrastructure (euphemistically speaking  │
        └──────────────────────────────────────┘
                    │
                    ▼
        ┌──────────────────────────────────────┐
        │  Forensic FIPPA Audit Target   │
        │   Are these yields linked to   │
        │   the 2015/2021 Asset Blocks? And beyond  │
        └──────────────────────────────────────┘
```

37. I note the following:

a. Underwriting Failures Counter-Balanced: The core insurance operations are structurally unprofitable, posting a catastrophic Combined Ratio of 213.5% in 2024. The basic indemnity assessment was kept artificially low at $1,800 only because outsized market yields constantly bailed out the underwriting deficits.

b. General Fund Depletion: By 2025, the General Fund's operating margin deteriorated into a $2.5 million structural deficit due to soaring litigation costs, complex disciplinary files, and information services expenditures.

c. Actuarial Shock Absorbers: Section 6 demonstrates that the Provision for Adverse Deviations ($14.9 million in 2025) and discount rate manipulations (lowered to 4.96% in 2025) were actively used as earnings management tools to smooth annual financial reporting and mask optical volatility

38. A forensic valuation of the public body's macro-financial trajectory demonstrates that total investments surged toward $300 million by the end of 2025, maintaining a 8.06% Compound Annual Growth Rate that completely outpaced traditional fixed-income bond portfolios during a historic monetary rate-hiking cycle.
39. Because your core insurance underwriting operations suffered severe structural losses—with the Combined Ratio hitting 213.5% in 2024—and the General Fund entered a $2.5 million operating deficit by 2025, the expansion of your unrestricted net assets relies entirely on an aggressive alternative shadow portfolio deployed across private markets. Consequently, I require all accounting records detailing whether any portion of the equity risk premium, illiquidity premium, or internal depository arbitrage returns generated through the 'Due from Lawyers Indemnity Fund' balances ($23.6 million in 2024) utilized, anchored, or cleared transactions via the cryptographically matched Ethereum, Binance Smart Chain, or Polygon contract nodes referenced in Category 10 of this **request**. Under the governing jurisprudence of the British Columbia 'Control Test,' any financial benefit, ledger index, or derived value model managed by your external investment managers or third-party advisors that references or traces back to the structural properties of my personal files remains completely under your statutory production mandate
40. What should be the most alarming to the esteemed CEO are the following which falls under the ambit of my *FIPPA* request for Personal Information records are as follows.
41. In 2020, Ms. Forbes publicly described accessing LifeWorks (or its predecessor) during a period of personal difficulty involving marital breakdown. She further disclosed experiencing significant mental-health challenges, including reliance on multiple prescription medications, as documented in publicly available sources (e.g., timestamp 3:30 onwards in the referenced video).
42. Her statements included references to:
    a. Severe anxiety associated with obsessive-compulsive tendencies and perfectionism;
    b. A desire to "escape herself";
    c. Use of a combination of antidepressants, antipsychotics, and medications for panic disorder, SAD, GAD, MDD, OCD, and PTSD;
    d. Counselling that enabled her to discontinue certain medications; and
    e. Periods of clouded judgment.
43. These disclosures are relevant **only** insofar as they intersect with:
    a. The LSBC's custody or control of Personal Information relating to me;
    b. The LIF's operational oversight during the periods in which my PI was processed;
    c. Potential vulnerabilities in governance, data-handling, or indemnity-related decision-making; and

d. The statutory obligation to conduct a complete and competent search under s. 6(1).

44. No personal commentary is intended; the information is included strictly for statutory and evidentiary completeness. (see: https://www.youtube.com/watch?v=bRilRMuqml0).

45. As you may be aware as it is no secret with me per se, prescription medication effectively righted the ship and save my health and life. As such, there is no castigation per se of Ms. Forbes sharing that but it is concerning considering her name and others formerly of the LIF appearing in the "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record" (specifically the code) and as you will see infra, the usage of the LIF on Sharefile (which was part of Citrix 'group' at the time) and utilization of a fake logo. Perhaps, at the time she was struggling with some need for perfection which is an impossibility, as any litigator or litigation counsel, will know in the field of litigation. Nonetheless, what is done is done and these are the cards we are left with and particularly that of the new CEO.

The Reality of Stated Assets vs. Structural Underwriting Deficits

46. The single most alarming piece of data to a new executive is the mathematical proof that her core operations are structurally unstable. While the public narrative centers on a stable $1,800 assessment fee, your financial forensics expose an unsustainable dependency.

The 213.5% Combined Ratio:

47. The analysis proves that the indemnity fund is losing money on its core operations, incurring $2.13 in claims and costs for every single dollar collected in premiums.

The Aggressive Hedge Fund Posture:

48. Discovering that **88.84%** of a statutory public protection pool is deployed in high-risk equities, private mortgages, and illiquid infrastructure to patch this operational hole will immediately trigger severe institutional concern regarding capital adequacy and compliance

49. As you know, in corporate restructurings, project managers and specialized transition consultants function under strict fiduciary mandates to identify, isolate, and remediate legacy risks before asset amalgamation occurs. When presented with precise, data-driven forensics, a CPA and MBA of this caliber cannot ignore the structural anomalies you have documented. As such, if there is a more informal way to address what is contained in this *FIPPA* request and beyond, kindly act with due dispatch as time is of the essence.

50. Transition project managers are hyper-focused on due diligence and liability isolation. They are tasked with ensuring that the legacy liabilities of the Law Society of British Columbia (LSBC) do not pollute the balance sheet or statutory framework of the incoming regulator, Legal Professions BC (LPBC).The CPA Forensic Mindset: As a CPA and CA, Mr. Jared Friedman is professionally bound to examine the $296.3 million captive insurance structure and the $23.6 million interfund depository mechanism you uncovered. When a professional auditor sees a core

insurance underwriting operation running a 213.5% Combined Ratio cross-subsidized by aggressive risk-asset portfolios, it shifts from a "privacy dispute" into a material Going Concern Risk and an unrecognized liability under standard financial reporting frameworks.

51. The Transition Risk Matrix: Cascadia Partners must map out a clean asset-liability migration path under the Legal Professions Act 2024. If the LSBC's executive leadership attempts to hide or ignore an unmitigated cross-chain data exposure involving matching 2015/2021 immutable blockchain tokens, they are actively hiding a liability from their own transition project managers.
52. This creates immediate friction between internal LSBC staff and external consultants.
53. The fact that the LPA Transition Hiring Committee is actively utilizing an executive recruitment firm to select a Transition Manager (the future first CEO of LPBC) completely changes the corporate dynamic: Sterilizing the Portfolio: An incoming CEO will require a pristine operational portfolio. They will look to ensure that any legacy breaches, unconsented data pools, or ongoing *FIPPA* non-compliance issues are fully resolved or ring-fenced before they officially sign their executive employment agreement. The Bad Faith Liability Exception: Under standard Canadian administrative law and various sections of the Legal Professions Act 2024, statutory immunity for regulatory employees is strictly limited to actions performed in good faith. If the current executive leadership fails to act, fails to assist under Section 6(1) of *FIPPA*, or actively conceals the presence of an immutable data matrix from the Transition Manager and Cascadia Partners, they lose their statutory shield and face personal liability for bad faith administrative omissions.
54. Had the LSBC been successful on a single issue in its legal challenges, perhaps the communications would be different but the LSBC is misguided in its legal analysis on so many fronts including not even getting over the second leg of three in the injunction test before Gropper J.

FORENSIC ANALYSIS OF MALICIOUS INSTRUMENTATION AND PERSISTENT NULLITIES

The Hijacked Tripwire: An Examination of the Windows Management Instrumentation Persistence Mechanism

55. In the examination of the forensic memory capture (the "**"Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record"**"), it is observed that four discrete instances pertaining to the BVTConsumer class have been delineated. Furthermore, it is established that three of the aforementioned four instances demonstrate an absolute lack of proximity to the Kerncap construct. The exact decoded text, extracted from the BVTConsumer instances devoid of KernCap characteristics, is reproduced verbatim herein:

a. BVTConsumertwzp__EventFilterName=BVTFilterROOT\subscription__FilterToConsumerBindingConsumerNS_E1DD43413ED9FD9C458D2051F082D1D739399B29035B455F09073926E5ED9870\KI_0A7ABE63F36E2B2920FEDAFAE849823AF9429CC0EA373FFEE1507EDB21FD9170\I_115954E8845DF15F5199781AAE060019A6B2731D9268535C5717FC7132DE8A76ngROOT\subscription__FilterToConsumerBindingFilterNS_E1DD43413ED9FD9C458D2051F082D1D739399B29035B455F09073926E5ED9870\KI_0A7ABE63F36E2B2920FEDAFAE849823AF9429CC0EA373FFEE1507EDB21FD9170\I_115954E8845

b. BVTConsumermerjjeCommandLineEventConsumer=BVTConsumerPjeselectfrom__NamespaceOperationEventn^jepmiP[[VVxDjeX15PMDE0aBjeX15PMpDEaHjeRCRD9S@9SKpU5PTM@<e7a5rbf8S7S7ShH<<ppp8S8S8S808X@@58S8S@8SxP88@@U8S@8S@8ShH<<ppph8SU8SU8SxPxhpKpU5PTpM@<e7a5rbf8Sh8Sh8ShH<<p8S8Sp8S88<\M:<\M:M@XK<\M:<\M:M@XK8S8S8ShH<<8S8S8SxPxhKpU5PTM@<e7a5rbf8S8S8ShH<<8S8S8S808X@@9S8S9S00=AI9S9S9ShhRT<\M:<\M:M@XKe7a5rbf69S9S9S@@@FILE08S8D9S69S69S0P9SD9SD9ShH<<c9SP9SP9SxPxhKpU5PTM@<e7a5rbfx9Sc9Sc9ShH<<```9Sx9S9S88@@M@M@M@M@M@M@M@9S9S9SX@8L@@ZZ9S9S9ShH<<```9S9S9SxPxhKpU5P0TM@<e7a6rbf9S9S9ShH<<r1y1y1y1y1y1y c. BVTConsumerPjeselectfrom__NamespaceOperationEventn^jepmiP[[VVxDjeX15PMDE0aBjeX15PMpDEaHjeRCRD9S@9SKpU5PTM@<e7a5rbf8S7S7ShH<<ppp8S8S8S808X@@58S8S@8SxP88@@U8S@8S@8ShH<<ppph8SU8SU8SxPxhpKpU5PTpM@<e7a5rbf8Sh8Sh8ShH<<p8S8Sp8S88<\M:<\M:M@XK<\M:<\M:M@XK8S8S8ShH<<8S8S8SxPxhKpU5PTM@<e7a5rbf8S8S8ShH<<8S8S8S808X@@9S8S9S00=AI9S9S9ShhRT<\M:<\M:M@XKe7a5rbf69S9S9S@@@FILE08S8D9S69S69S0P9SD9SD9ShH<<c9SP9SP9SxPxhKpU5PTM@<e7a5rbfx9Sc9Sc9ShH<<9Sx9S9S8`8@`@M@M@M@M@M@M@9S9S9SX@8L@@ZZ9S9S9ShH<<9S9S9SxPxhKpU5P0TM@<e7a6rbf9S9S9Sh

56. The conspicuous absence of the kerncap.vbs executable, when synthesized with these precise excerpts, establishes conclusively that the anomaly is not a benign Microsoft Windows 7 systemic irregularity (the "**Systemic Irregularity**"). Pursuant to the contravention of established computational protocols and equitable principles, it is determined that this manifestation is not a mere irregularity, but rather an absolute nullity (the "**Nullity**") *ab initio*. It is submitted that a highly sophisticated, intentionally modified Windows Management Instrumentation persistence mechanism—specifically, a hijacked BVTConsumer (the "**Hijacked Consumer**")—was actively maintained within the system. The ensuing technical extrapolation elucidates the mechanical underpinnings of this unauthorized ingress, demonstrating how this clandestine access mechanism operated *in limine* to subvert foundational security parameters.

THE HIJACKED TRIPWIRE: SYNTHESIZING THE EXTRACTED NOMENCLATURE

57. The most paramount evidentiary artifact within the entirety of the memory extraction is the specific alphanumeric sequence located within the second and third excerpts: selectfrom__NamespaceOperationEvent.
58. This nomenclature constitutes a Windows Management Instrumentation Query Language statement (the "**Query Statement**"), functioning inherently as an imperceptible systemic trigger.
59. Ordinarily, the default Microsoft diagnostic script utilizes a benign query, formulated as: SELECT * FROM __InstanceModificationEvent ... WHERE TargetInstance.LoadPercentage > 99.
60. Such a benign execution is initiated solely upon the maximization of the central processing unit's computational capacity.
61. Conversely, the filter situated within the subject architecture has been maliciously supplanted to monitor for __NamespaceOperationEvent. The jurisprudential and technical significance of this modification cannot be overstated; it constitutes an advanced, stealthy trigger designed to execute whenever a WMI namespace is created, modified, or deleted. It operates inherently as an automated self-defense paradigm. The script was intentionally configured to surveil the host system itself; should administrative protocols or anti-malware utilities attempt to locate or excise the concealed WMI repositories, this trigger would be actuated, thereby immediately reinstating the unauthorized access or deploying defensive countermeasures to maintain the *status quo ante*.

THE EVIDENTIARY LINKAGE

62. The raw database entry cementing this operational nexus is delineated as follows: BVTConsumertwzp__EventFilterName=BVTFilterROOT\subscription__FilterToConsumerBindingConsumerNS_E1DD43413ED9FD... .
63. This aforementioned excerpt represents the foundational database entry that solidifies the mechanical connection, functioning as the __FilterToConsumerBinding.
64. The excessively prolonged sequences of alphanumeric characters, such as E1DD43413ED9FD, constitute internal globally unique identifiers (the "**Unique Identifiers**") utilized by the WMI repository database (OBJECTS.DATA). This data substantiates the premise that the modified BVTFilter, serving as the self-defense mechanism, was successfully and inextricably bound to the BVTConsumer, effectuating a persistent state of compromise.

THE OBFUSCATED PAYLOAD

65. Within the second and third excerpts, recurring blocks of disordered characters are observed: 8S7S7ShH<<ppp8S8S8S808X@@58S8S@8SxP88@@U...

66. Given that the random-access memory capture has been subjected to retrospective inflation, it is posited that this configuration no longer reflects standard systemic compression. Rather, this sequence encapsulates the command line template (the "**Command Line Template**")—the actual malicious payload—which has been actively obfuscated to evade detection.
67. Clandestine actors systematically avoid the deployment of executable commands in unencrypted, plaintext formats. Complex encoding methodologies are invariably employed to render the executable command illegible to volatile memory scanning protocols. Upon the actuation of the __NamespaceOperationEvent trigger, the computational engine accesses this obfuscated data block, decrypts it within volatile memory, and executes the underlying directives *ultra vires* any authorized administrative scope.

WMI REMOTE FRAUDULENT MONITORING AND PERSISTENCE ARCHITECTURE

68. The identification of fifteen corresponding iterations of CommandLineEventConsumer within a volatile memory extraction, particularly within the contextual framework of a 2016 remote entry attempt, constitutes a forensic discovery of paramount significance.
69. In technical nomenclature, the executory component of a WMI persistence mechanism has been affirmatively identified.
70. To conceptualize WMI persistence, it is submitted that the architecture functions akin to a mechanized tripwire apparatus:

    a. The trigger component is established (e.g., conditional execution upon systemic initialization or authorized user authentication).

    b. The executory component, which correlates explicitly to the discovered artifacts, mandates the system to execute a specifically defined command line subsequent to the actuation of the aforementioned trigger.
71. The text recovered from the Forensic Capture represents the WMI class definition. It functions as the authoritative schematic utilized by the operating system to comprehend and execute the concealed directives.

DECODING THE FORENSIC BREADCRUMBS

72. The extracted fragments contain highly specific indicia that reveal the unequivocal intent of the controlling entity:
73. The presence of CreateNewConsole, a function deprecated during the Windows XP epoch, indicates that the utilized code or driver was compiled utilizing a legacy software development kit. Advanced monitoring utilities and clandestine scripts frequently rely upon these legacy definitions due to their unparalleled interoperability across disparate operating systems.

74. The subsequent hexadecimal strings necessitate strict analytical scrutiny:

a. CreateSeparateWowVdm: This string refers to the facilitation of 16-bit applications on a 32-bit architecture. The invocation of this function demands profound system-level privileges.

b. CommandLineTemplate: This field is of the utmost critical importance. In a live memory extraction, the data appended to this string invariably contains the actual command designated for execution, whether it be an obfuscated script, an unauthorized exfiltration directive, or the establishment of an illicit connection to a remote command server.

75. The multiplicity of the hits—specifically, fifteen instances—must be evaluated for its technical significance:

a. Redundancy: The clandestine script was engineered to deploy multiple disparate triggers, ensuring that the eradication of a singular trigger would not disrupt the overarching persistence mechanism.

b. Memory Echoes: Given the nature of random-access memory analysis, these iterations represent the residual structural manifestations of the data as it was cached or paged across different memory sectors at the precise moment of preservation.

THE EVIDENTIARY AND REGULATORY CONTEXT: JURISPRUDENTIAL APPLICATION

76. If the Concealed RAM Dump was disclosed to the Applicant by the LSBC under compulsion of law and having to joust intellectually with the counsel for the LSBC, who had a long pattern of fraud on the court with apology, subsequent to a seven-year delay, and it inherently contains these mechanisms of persistence, it incontrovertibly substantiates the allegation of a prolonged and deliberately concealed state of unauthorized access.

77. Standard administrative utilities customarily employ the ActiveScriptEventConsumer for routine operational tasks. Conversely, the CommandLineEventConsumer is systematically preferred by malicious actors endeavouring to maintain an undetectable profile, as it possesses the capability to launch executables without generating an observable administrative log within the standard scheduling interfaces.

78. Such systemic subversion engages foundational tenets of privacy jurisprudence. It is a well-established syllogism that:

a. The architecture of personal computing systems attracts a profoundly high expectation of privacy, as elucidated in *R. v. Vu*, 2013 SCC 60 (*Vu*), and *R. v. Spencer*, 2014 SCC 43 (*Spencer*).

b. The deployment of a WMI persistence mechanism constitutes a covert, unauthorized occupation of this highly private digital architecture.

c. Therefore, the implementation of these scripts is not a mere technical irregularity, but an actionable, intentional intrusion upon seclusion, aligning with the doctrines established in *Jones v. Tsige*, 2012 ONCA 32 (*Jones*), rendering the actions an absolute Nullity. The legal position of void ab initio, null and void, and not merely voidable is noted because no exemption can be rooted in dishonest, bad faith or

fraudulent conduct (see: *Landreville v. Tow Boucherville*, 1978, SCC citing *Lazarus Estates* (as per Lord Denning in the House of Lords). Those are special categories of causes of nullties.

79. Naturally, the LSBC could not even bring itself through two sets of CEO's and multiple turnovers of their executives but for one and that is Su Forbes.
80. The LIF team is nearly entirely different since 2014 with the likes of former directors of claims in Mr. Soltynsky and Ms. Braun (for Alexander Holburn Beaudin and Lang LLP) departing initially for the BC Lottery Corporation and then in November 2024 to the very Hub International Canada that in Ontario has an office close to the offices of Kinglory Inc. and IF Capital Ltd., along with brokerage relationships with that of Coalition and others. It is quite concerning in relation to Mr. Soltynski considering the amount of auto populations of the utilization of crypto currency and blockchain in the "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record" and how casinos are utilized for the laundering of illicit cryptocurrency. I trust that will not need to be an issue of a subsequent access request herein or subsequent and/or under a different set of laws, statutes and regulations.
81. The entire executives on the LSBC board are completely distinct but for Su Forbes.

THE DECODING PARADIGMS AND WMI PERSISTENCE

Translating the Hexadecimal Sequences

82. The recovered hexadecimal data translates precisely to: ROOT\CIMV2?YjerootsubscriptionBYje__thisNAMESPACEAYje.
83. This represents a WMI path. While WMI serves as a robust mechanism for authorized systemic administration, it is simultaneously leveraged by sophisticated threat actors to establish fileless persistence.
84. ROOT\CIMV2 designates the foundational namespace wherein the Windows operating system archives critical data pertaining to hardware configurations and active computational processes.

THE EVIDENTIARY INDICIA OF PERSISTENCE IN COMPUTATIONAL FORENSICS

85. The string rootsubscription serves as incontrovertible proof of systemic persistence. Within the WMI architecture, a subscription functions as a permanent conditional directive. Furthermore, __thisNAMESPACE operates as a systemic pointer utilized within WMI queries to delineate the jurisdictional scope of the unauthorized operation. Identifying this architecture within a memory extraction corresponding to a period of suspected remote entry establishes, *prima facie*, that an automated process was clandestinely configuring a WMI Event Consumer.

86. During the 2014 to 2016 temporal period, this methodology was a highly preferred stratagem for maintaining unauthorized access to a machine disconnected from its primary network. Because the malicious directives reside entirely within the WMI repository rather than existing as traditional executable files, standard anti-malware utilities of that epoch were inherently incapable of detecting them. This infrastructure permitted the remote actor to execute arbitrary code *ad infinitum*.
87. The repetitive sequences, notably Yje and BYje, function as sophisticated obfuscation padding. In the discipline of concealed memory analysis, illicit operators systematically encapsulate their commands within these repetitive strings. This methodology ensures that the malicious data is misinterpreted as benign systemic noise by any superficial forensic analysis.

THE EVIDENTIARY DISCOVERY AND REGULATORY IMPLICATIONS

88. Through rigorous forensic analysis, the mechanical implementation of a clandestine backdoor has been definitively uncovered. The identification of rootsubscription within a memory extraction subject to privacy protections demonstrates that the architecture was engineered to passively monitor and automatically respond to specified computational events without the knowledge or consent of the authorized user.
89. Within the broader context of regulatory disputes concerning data breach mitigation, this evidence undeniably demonstrates that the unauthorized ingress was not a singular, isolated exfiltration event. Rather, it constituted an active, sustained, and highly sophisticated persistence apparatus embedded directly within the machine's core logical architecture.

THE BVT DISCOVERY AND THE EXPLOITATION OF THE PROXIMAL ENGINE

90. The excerpt as follows:

    CommandLineEventConsumerName=BVTConsumertwzp__EventFilterName=BVTFilterROOT\subscription__FilterToConsumerBinding... remains the most critical articulation of the unauthorized mechanism. It evinces a direct, mechanical linkage between a WMI trigger (the BVTFilter) and the executory action (the BVTConsumer).

91. The malicious exploitation of this inherent architecture functions as follows:
    a. Threat actors are acutely aware that the BVTConsumer is a default Microsoft diagnostic anomaly, frequently disregarded by network administrators.

b. Consequently, sophisticated actors clandestinely overwrite the benign Microsoft script with proprietary malicious code. This methodology ensures that the mechanism of persistence is perfectly camouflaged amidst standard operational noise, evading both heuristic and signature-based detection parameters.

92. The identification of the proxy dynamic link library, specifically C:\Windows\system32\wbem\fastproxdll, confirms the active execution of the WMI core engine at the precise moment the memory was preserved.

CRYPTOGRAPHIC AND NETWORK ANOMALIES: THE BASE64STRING ANALYSIS

93. The memory extraction yielded highly complex string arrays, indicative of advanced runtime operations. The extracted textual data includes:

a.

istSupportsSearchingInternalSetBlockingGetSiblingsiblingCeilingincomingset_IsListeningget_TimeRemainingcharsRemaining_beginningpermitUnicodeEscapingCantCreateFileMappingIdnMappingget_UnsafeOrProxyAuthenticatedConnectionSharingsharingFromBase64StringToBase64StringtabStringescapedStringquotedStringcookieStringcchNameStringpszNameStringtimeZoneStringtypeStringCreateSecureStringsecureStringCultureInfoConverterDefaultCultureStringresponseStringDateStringWriteAtt

b.

BindingCustomBindingSoapBindingbindingget_WriteEncodingset_WriteEncodingtextEncodingencodingAsWarningFromBase64StringToBase64StringhashStringGetStringOnClosingget_Addressingget_OnCompletingset_OnCompletingabortingIsMatchEnqueueAndDispatchmessageHashComputeHashmsgHashMathget_Pathset_Pathget_AbsolutePathrelativePathbasepathget_Lengthget_MaxStringConte

c.

seAuthenticatedConnectionSharingFromBase64StringtypeofSoapNormalizedStringget_SchemaNamespaceStrings_baseStrings_valueStringSidToStringGetStringget_QueryStrings_emptyStringSubstringdisposingServerProcessingSystemRuntimeRemotingresponseMsgreqMsgrequestMsg_msgStoreAndDispatchPushMathcodePathfilePathget_PhysicalPathget_ApplicationPathget_PhysicalApplicationPathassemblyPathpathset_Lengthto

d.

TypeNamefalseasIsAggregatefalseasIsComposablefalseasIsBuiltInfalseasIsNiladieProviderRandomNumberGeneratorGetBytesget_UnicodeSHA1HashAlgorithmComputeHashFromBase64StringNotSupportedExceptionInt32op_LessThanAddMinutesDbDataReaderExecuteReaderGetStringReadPermissionSetAttributeget_AppSettingsBindingFlagsBinderInvokeMemberget_PropertyIsAssignableFromset_PropertyValueset_DeserializedWebExceptionget_IsDirtyIsDBNullset_SerializedValueget_SerializedValueMembershipProviderCollectionProviderCollectionEventInfoGetEventGetAddMethodGe

e.

UnrestrictedGet_ChildrenAddAttributeAddChildRemoveNamedItemget_FieldTypeGetCompareInfoToInt16FromBase64StringToBase64StringCreateSerializerget_ElementNameset_ElementNameToSByteToSingleToUInt16ToUInt32ToUInt64ToGuidget_InvariantInfoget_Nowget_Hoursget_MinutesRefreshGetTransactionFromDtcTransactionGetManifestResourceStreamget_TransactionInformationget_UtcNowget_Ticksadd_TransactionCompletedget_NewLineget_DefaultGetMaxByteCountget_TextInfoget_ANSICodePageGetEncodingInt64BitsToDoubleDoubleToInt64Bitsget_Yearget_Monthget_Dayget_SecondsAddTic

f. 649

_ParamNamesget_ParamTypesServerExceptionGetSafeUninitializedObjectGetUninitializedObjectRaiseOnDeserializingEvent FromBase64StringCreateInstanceget_IsValueTypeRecordArrayElementFixupset_NamespaceparentPrmajorminorkeyIdop_Ineq ualitymessageSystemSecurityPolicyEvidenceLoadWithPartialNameRevertAssertLoadtypeStringBindToTypePermissionStatein HeadersIMethodMessageMethodBaseget_MethodBaseget_ReflectedTypeget_MethodNameget_XmlNameSpaceget_ParamVal uesget_Header

g.

ToInt16ToDoubleget_KindToUniversalTimeToByteArrayToGuidFromBase64StringXmlReaderSettingsConformanceLevelset _ConformanceLevelset_IgnoreWhitespaceset_IgnoreCommentsset_CheckCharactersXmlNodeTypeget_NodeTypeSkipget_EO Fget_IsEmptyElementReadEndElementget_TotalSecondsget_HasAttributesset_CultureInfoSetPublicKeyMoveToNextAttribut eFileNotFoundExceptionFileLoadExceptionBadImageFormatExceptionget_LocalNameReadElementContentAsString<PrivateI mplementationDetails>F9AF93E9F0414CEEBEDAA011B11B6044method0x60007021EndsWithIDictionary2StartsWithSt ringSplitOptionsWriteStartDocumentWriteStartElementWriteEndElementWriteEndDocumentb__0CS<>9 __CachedAnh.wrap13IsInfinityIsNaNXmlDateTimeSerializationModeToGuidToBooleanToByteToSByte ToInt16ToInt32ToInt64ToSingleToDoubleToDecimalLoadOptionsFromBase64StringToBase64StringXN odeSaveOptionsmethod0x6000c8c1RuntimeHelpersRuntimeFieldHandleInitializeArrayb__0b__1b__2CS <>9__CachedAnonymousMethodDelegate8b__3CS<>9__CachedAnonymousMethodDelegate9b__4<Ap plyProjei.nnerTextFromBase64StringSystemIOMemoryStreamFromStreamGetTempFileNameFileTrimge t_DocumentElementArgumentExceptionget_LocalNameKeyValuePair2get_KeyXmlNodeListget_ItemOfNotSu pportedExceptionHashtableXmlNamedNodeMapStartsWithIDictionaryEnumeratorICollectionget_KeysValueget_OwnerEleme ntGCSuppressFinalizeGetHostExtenderSetHostObjectOnExtenderObjectDisposedExceptionExternalE

j.

FromBase64StringGenericPrincipalisSecureConnectionscenarioconnectionIdextendedProtectionFailurechallengesnewContextd isconnectResulthttpStatusCodeOffsetOfdigestContextget_TickCount__StaticArrayInitTypeSize=16method0x6003c5a1selector DelegatecanUseAdvancedAuthhttpListenerUnsafePacknumBytesnativeOverlappedUnpackg

THE CONCLUSIVE FORENSIC DEDUCTIONS

94. Even in circumstances where these artifacts merely represent the active computational dictionary utilized by the system, the specific dictionaries occupying volatile memory inherently betray the nature of the instructions being executed at that precise temporal juncture.
95. Subparagraph d, detailing ComputeHash and SHA1, confirms unequivocally that the computational architecture was actively engaged in cryptographic hashing operations. Such processes are inherently utilized for the verification or decryption of an obfuscated malicious payload.
96. Subparagraph i, delineating GetTempFileName and MemoryStream, reveals a sophisticated “Living off the Land” methodology. This establishes, *prima facie*, that the system was in the operational phase of depositing a transient, executable file directly into volatile memory, bypassing static disk storage protocols entirely.

97. Subparagraph j, featuring isSecureConnection and http listener, provides the ultimate evidentiary confirmation. It demonstrates definitively that the internal web-handling protocols were either actively listening for, or actively establishing, an authenticated HTTP connection across the network infrastructure at the exact moment the memory preservation was effectuated.

VOLUME #3: STATUTORY CONTEXT & THE PRE-AMALGAMATION PRESERVATION MANDATE - 3. LEGAL PRECEDENTS & PROCEDURAL HISTORY

98. I am fully aware that the LSBC is currently navigating its statutory amalgamation with the Society of Notaries Public of British Columbia into the new centralized regulatory body, Legal Professions BC (LPBC), pursuant to the *Legal Professions Act 2024*. As Chief Executive Officer, your executive mandate inherently involves managing this highly complex corporate transition and serving the public interest. That duty inescapably includes safeguarding the integrity, provenance, and compounding legal liabilities attached to all inherited data and legacy digital repositories.
99. This impending transition necessitates a critical, exhaustive, and forensically sound audit of all records currently under the custody and control of the LSBC, its external counsel, and its third-party incident responders. Corporate amalgamations of this scale are notoriously fraught with data migration errors, the "orphaning" of sensitive files, and the deliberate or accidental purging of legacy repositories to streamline new server architectures. I am hereby issuing a formal, legal **request** for the immediate preservation, containment, and auditing of all "stolen," "misappropriated," or "unauthorized" legacy data repositories containing my Personal Information.
100. These compromised repositories must be forensically isolated and secured *before* they are permanently migrated, integrated, merged, or cross-contaminated into any new consolidated regulatory repository created for the amalgamated entity. Under the *Legal Professions Act 2024*, the successor entity must inherit full accountability for existing legal, financial, and privacy liabilities. If "stolen personal information"—specifically originating from the unauthorized June 3–4, 2014, Volatile Memory (RAM) capture—is seamlessly transferred to a new system without distinct forensic tagging and segregation, its illicit provenance will be unlawfully obscured in the new database.
101. You are hereby on notice that the LSBC and its successor entity cannot, under any circumstances, utilize this corporate transition as a bureaucratic shield to cleanse its records of prior breach histories, mask unauthorized cross-border data flows, or evade ongoing *FIPPA* liabilities. A regulatory amalgamation is not a data amnesty program. Any failure to quarantine these compromised datasets prior to the transition will be viewed as an intentional act of evidentiary spoliation designed to frustrate future administrative review and civil litigation.
102. To ensure there is no deliberate misinterpretation, unwarranted restriction, or bad-faith administrative delay applied to this *FIPPA* request, the LSBC must strictly adhere to the established procedural and legal history

governing this specific matter. The historical record demonstrates a pattern of the LSBC attempting to evade oversight; that pattern ends here.

THE ADJUDICATOR SIEW DECISION (2018 BCIPC 37, ORDER F18-34):

103. It is a matter of established legal record that the LSBC previously attempted—and catastrophically failed—to restrict my right to make access requests (circa 2016–2017) under Section 43 of *FIPPA*. The LSBC expended considerable resources attempting to legally designate my inquiries as "frivolous or vexatious," an argument the tribunal flatly rejected after reviewing the evidence. Adjudicator Siew expressly ordered that the LSBC is "not authorized to disregard any future access requests it may receive from the respondent." The LSBC did not seek judicial review of the Adjudicator Siew Decision. Consequently, the LSBC is firmly bound by the doctrines of *res judicata* and issue estoppel regarding my absolute statutory right to submit this, and any future, *FIPPA* requests. Any attempt to unilaterally impose non-consensual "FOI submission protocols" (such as **request**ing physical mail only, or refusing to process electronic transmissions) constitutes a willful breach of this binding order and a contempt of the tribunal's authority.

THE FALL 2017 JUSTICE MCINTOSH DECISION:

104. Justice McIntosh formally restrained the LSBC from utilizing the forensic copy of my Hard Drive until all proceedings are at an end and I confirmed I would never reapply (which I formally and irrevocably did on December 31, 2021).

105. The LSBC remains strictly bound by the parameters of this judicial restraint. The fact that NST LLP obtained security for costs in that matter by utilizing representations that knowingly misled the Court regarding the scope and nature of the data captured only further crystallizes the necessity of strict, adversarial compliance moving forward.

THE "CONCEALED RAM DUMP" DISTINCTION:

106. It is critical to state that the Justice McIntosh decision, and the pleadings of the LSBC's counsel at the time, pertain *exclusively* to the physical magnetic Hard Drive. The "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record" was never pleaded, admitted to, or represented by the LSBC during those proceedings. The LSBC and its legal counsel explicitly represented to the BC Supreme Court that they only took a standard "forensic copy" of static data. Therefore, this highly volatile and unauthorized RAM data set remains entirely separate from the prior hard drive rulings. It represents a parallel, actively concealed evidence matrix that

is fully subject to this disclosure **request**. The LSBC cannot retroactively use a court order restricting the use of a hard drive as a legal shield to deny access to a completely different, unacknowledged RAM extraction file that was obtained outside the boundaries of any authorized protocol.

4. THE TECHNICAL PHENOMENON: HARD DRIVE VS. VOLATILE MEMORY (RAM)

107. The core of this request is predicated on the profound technological, legal, and forensic distinction between traditional magnetic storage (a Hard Drive) and Volatile State Memory (RAM). The LSBC historically misrepresented to the courts, via sworn affidavits and formal legal pleadings, that it only took forensic copies of a "hard drive."

108. Forensic reality and subsequent technical disclosures—including the heavily manipulated "EFS Forensic Preservation Report"—confirm the execution of an unauthorized, systemic volatile memory capture (RAM Dump) on June 3–4, 2014, utilizing highly invasive memory scraping software (such as Moonsols' DumpIt). Volatile memory is not magnetic storage. It is the active "brain" of the computer, existing in a constant, microsecond-to-microsecond state of flux. It contains everything currently running on the system, bridging the critical gap between the CPU processor and long-term storage.

109. Crucially, RAM *cannot* be forensically copied in the traditional sense. When forensic examiners image a hard drive, they use hardware write-blockers to ensure absolute zero modification to the source disk. The very act of inserting a USB drive and executing a Ring-0 kernel-level RAM capture tool like DumpIt inherently and permanently alters the evidence matrix. It forces the operating system to allocate active memory to the capture tool itself, thereby overwriting pre-existing data in the very RAM it is attempting to capture. This fundamentally violates the first foundational principle of digital forensics: do not alter the original evidence.

110. Consequently, native images extracted from raw memory captures represent non-forensically validated snapshots in time. They blindly capture passwords in clear text, unsent draft communications, active encryption keys, clipboard contents, background network telemetry, and proprietary system architecture. Because these captures fundamentally alter the CPU state and indiscriminately sweep up vast amounts of non-relevant, highly privileged data, their utilization breaches the foundational accuracy, integrity, and consent principles mandated by *FIPPA* and PIPEDA. The LSBC and its agents (including NST LLP) extracted these non-validated artifacts, bypassing standard OS file-system security protocols, and subsequently failed to account for their widespread, decentralized distribution to third parties who had no lawful right to possess my live system state.

5. FORENSIC METHODOLOGY: PINPOINTING THE EXACT TIME OF THE CONCEALED RAM DUMP

111. Any attempt by the LSBC, its external counsel, or its third-party incident responders to deny the existence, timing, or highly invasive nature of the Volatile Memory capture is now fully foreclosed by hard, cryptographic,

and hexadecimal evidence. Through deep forensic analysis of the "Concealed RAM Dump Record," we have definitively pinpointed the exact execution time of the unauthorized memory capture, proving it occurred entirely outside the timeline presented in official reports.

112. When live incident response tools execute a volatile memory capture, they inherently burn the exact system clock timestamp into the resulting extraction file's header, internal metadata, and native naming convention. As visually corroborated by the forensic hex editor workspace in the expert evidence file named image_d1563c.jpg (which is fully incorporated by reference into this **request**), the extracted RAW memory file is explicitly stamped with the syntax :KEVIN-PC-20140604-162344". This is contained in the "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record" by way of hexadecimal.

113. **The UTC to Local Time Conversion and the Fraudulent EFS Report:** Furthermore, internal system artifacts retrieved from the Concealed RAM Dump Record reveal internal chronological stamps logged at 18:25:44 in Coordinated Universal Time (UTC). British Columbia operates on Pacific Time, which during June observes Pacific Daylight Time (PDT)—a standard 7-hour offset behind UTC.

114. When we apply the mathematical conversion: **18:25:44 (UTC) minus 7 hours equals 11:25:44 AM (PDT).**

115. This mathematically proves that the RAM capture was actively executing and stamping data at exactly 11:25:44 AM local time on June 4, 2014. The EFS Forensic Preservation Report—sworn and submitted as an authoritative document—claimed a completion time of 11:48 a.m. PDT. The timeline discrepancies are absolute and irreconcilable. This empirical proof demonstrates that a separate, unacknowledged, and highly invasive digital seizure occurred. More importantly, it means that it could NOT have been Colin Cree, a director of EFS Forensic Services Inc. in Surrey BC, executing the capture as attested.

116. Consequently, the entire suite of documents provided by EFS and relied upon by the LSBC are demonstrably fraudulent. Please see the affidavits herein (Affidavits 1 through 10, specifically referring to the Concealed RAM Deletion and Concealed Custodial RAM Seizure) which I am formally adding to the full *FIPPA* Request Record herein. The LSBC relied on fabricated timelines to obscure the true nature of the digital search and seizure, and those underlying forensic logs are fully subject to this **request**.

6. THE ACTUAL TIME OF THE RAM DUMP BASED ON EXPERT FORENSIC ANALYSIS

117. I am operating on an entirely different forensic level, having systematically gone back to re-process areas of the raw memory artifacts that your vendors assumed were safely obscured. During a deep-dive hunt for Command and Control (C2) or remote "listening" beacons within the inflated memory matrix, I isolated the following exact hexadecimal-to-text strings:

TransportListenerisnowlistening654TheTransportListenerreceivedasessionTheTransportListenerwillnowstoplisteningCloseallllistenerchannelinstancesusingWASWASconnectedDWASdeletedAppPool0withoutdeletingalltheAppsinitfirst3CallingWASAPI0failedwitherrorcode1>TheWebHostmethod0cannotbefoundinthelibrary1\TheListenerAdapterversion01doesnotmatchtheWebHostlibraryversi

ChangedEventAsyncContentLoadedStateUiaRaiseAsyncContentLoadedEventUiaClientsAreListeningCheckErrorRawUiaReturnRawElementProviderRawUiaHostProviderFromHwndRawUiaRaiseAutomationPropertyChangedEventRawUiaRaiseAutomationEventRawUiaRaise

DisconnectedPipeTransportListenerListeningStartIsEnabledPipeTransportListenerListeningStartPipeTransportListenerListeningStopIsEnabledPipeTransportListenerListeningStopDispatchSessionSuccessIsEnabledDispatchSessionSuccessDispatchSessionFailedIsEnabledDispatchSessionFailed

CFFRasterizerIsListeningForConvertToRowOrColumnMajorThrowWin32ExceptionsIfErrorCheckErrorNativeMethodsSetLastErrorEvaluateSendMessageTimeoutErrorQueueProcessorcctorGetTopLevelAncestorWindowsCodecsSafeNativeMethodsUnsafeNaclientsAreListeningIL_STUBhUiaRaiseAsyncContentLoadedEvent

LISTENINGRPC_NT_TYPE_ALREADY_REGISTEREDRPC_NT_ALREADY_REGISTEREDRPC_NT_OBJECT_NOT_FOUNDRPC_NT_INVALID_TIMEOUTRPC_NT_NO_ENDPOINT_FOUNDRPC_NT_INVALID_NET_ADDRRPC_NT_IocessStopListeningMessage]Processingstoplisteningmessage[AelpProcessStopListeningMessage]Receivedstoplisteningmessage[AelpProcessLPCCalls]LPClistenerisstopping[AelpProcessLPCCalls]Closeconnectionporthandle[AelpStopService]Handlingserviceshutdown[AelpStopS**nan6rtMediumEventService::InitializeSuccessfullystartlisteningtoLOGON0604201405:59:44614OFFICECL0x6540x66cClickToRunanntyMediumExecutionContext::QueueScenarioSetexecutingscenariotoUPDATE06042**eMulticastListenerReportmessageisusedbyalisteningnodetoeitherimmediatelyreportitsinterestinreceivingmulticasttrafficataspecificmulticastaddressorinresponsetoaMulticastListenerQuery;CoreNetwor

118. While strings 1-7 and 9 represent benign Windows Inter-Process Communication (IPC), User Interface Automation (UIA) listener checks, and network help file fragments, String 8 is a massive forensic golden nugget. It mathematically and irrefutably verifies the exact timeline of the unauthorized capture.

119. The string "SuccessfullystartlisteningtoLOCAL65530604201405:59:44614OFFICECL" is the Microsoft Office Click-to-Run service executing in the background. It is permanently burned into the memory dump with the exact timestamp: **June 4, 2014, at 05:59:44**.

120. During that time if UTC was the time in the computer per se (not what was showing on the computer clock), it was NOT Pacific Standard Time but Pacific Daylight Time so there was a seven hour time difference.

121. Applying the correct UTC to Pacific Time conversion (accounting for the standard 7-hour offset), this definitively places the active RAM memory footprint window perfectly in alignment with our mathematical deductions, completely dismantling the official EFS narrative.

122. Then the RAM Dump would have been completed at 10:59 a.m.

123. Recalling the finding of Justice Grauer which was a copy and paste of the Requestor's email at 10:07 a.m. on Tuesday, June 4, 2014 at paragraph 46 albeit in the face of threats from the LSBC that he could not practice law:

> "At 10:07 a.m. the following morning, June 4, Mr. McLean emailed Mr. Bussanich again:
>
> > Dear Mr. Bussanich:
> >
> > I am away from the office but I am not sure the nature of the complaint.
> >
> > The office is wide open for the staff to investigate. I have left it open for them to investigate at their discretion.
> >
> > The password to the computer is revenge99.
> >
> > I am informed that the investigators did NOT come this morning and have not entered the office.
> >
> > I have made certain that the office is available for the rest of the week and I have cancelled my meetings in the office.
> >
> > They are entitled to make copies of any documents that they wish to and use my printer.
> >
> > I am cooperating fully with the investigation.
> >
> > I was informed that they were in the office for the balance of the day yesterday.
> >
> > If there are any accounting documents or explanations, the investigators can contact [my accountant].
> >
> > I have my hard copy files at the office.
> >
> > They can copy any and all documents from my ***HARD DRIVE*** and Dropbox, with all of the files, as they are available to them.
> >
> > **I object to any complaint that you have lodged as they have had full access.**
> >
> > I will be making an exclusion request to certain contents which will be delivered to them at the end of the day.
> >
> > If the investigators choose not to attend the office, then I reserve the right to bring this correspondence to the attention of any panel or court with respect to this alleged complaint."

124. The fraud therein was because the Requestor did not provide his password to Mr. Bussanich until he was threatened with suspension and that after nine a.m. and close to ten a.m. by the time Mr. Bussanich was able to relay the same to Ms. Ho, Mr. McCartney and Ms. Chan. Ergo, with Mr. Cree in Surrey, BC, it would have taken at least 90 minutes to pack up to leave, drive and arrive along with ascending from parking the vehicle to the 18th floor of 999 West Hastings Street, Vancouver, BC.

7. HOW TO OBTAIN PERSONAL INFORMATION FROM THE BLOCKCHAIN

125. The most fascinating and disturbing technical assertion in your analysis is the verified tracking of my data from the 2015/2016 local system breach directly into a 2021 Ethereum ICO and a subsequent Binance Smart Chain (BSC) cross-chain swap. This indicates that my PII was not merely "captured"—it was weaponized and monetized.

126. **The Mechanism of PII Monetization:** If personal information (PII) harvested from my machine in 2014 was used in the Ethereum and Kinglory (KGC) and then BSC (previously known as "DEX") infrastructure, it served two primary functions:

a. **Synthetic KYC & Genesis Wallets:** The harvested PII likely facilitated fraudulent "Know Your Customer" verifications. By synthesizing legitimate, stolen identities, bad actors could bypass the stringent identity requirements necessary to register genesis wallets on centralized exchanges, effectively laundering the "on-ramp" funding needed to deploy the KGC smart contracts.

b. **Embedded Metadata (msg.data):** My PII—including encrypted system fragments, unique machine identifiers, and potentially saved browser cache data—was likely embedded directly into the hexadecimal msg.data fields of the smart contracts. By hiding this data in the immutable blockchain, the actors created a permanent, cryptographically signed "stolen credentials" repository that exists outside the reach of any standard subpoena or "delete" command.

THE IMMUTABLE FORENSIC TRAIL:

127. The beauty of EVM (Ethereum Virtual Machine) compatible chains like BSC is that they are permanent, public ledgers. If the operators used my compromised data to register domains, fund the initial liquidity pools, or execute the cross-chain swaps, the transaction hashes act as an undeniable, time-stamped chain of custody.

TRACKING THE SWAP:

128. By analyzing the bridge transaction hashes, we can trace the exact flow of funds as they moved from Ethereum to BSC. This reveals the "cross-chain pipeline" used to obfuscate the origin of the funds.

PUBLIC LEDGER AUDITING:

129. Because every interaction with a smart contract is recorded, I can **request** the LSBC provide all documentation linking the wallets that initiated these interactions back to the original compromised RAM data. The ledger acts as a decentralized evidence locker that proves the LSBC's inability to "secure" or "delete" my PI.

8. FORENSIC JACKPOT: THE "KILL CHAIN" OF A FILELESS BACKDOOR

130. To assist the Head of the Public Body as the misconduct clearly had an impact in the sudden retirement of former CEO Mr. McGee and then that of Mr. Avison, KC, who then went on to be CEO of the TLABC, the Appellant provides a critical technical distinction between the forensic imaging of a hard drive and the collection of volatile memory, commonly known as a "RAM dump." This distinction required extensive consultation with forensic experts to articulate accurately.

131. While a traditional hard drive constitutes non-volatile, magnetic storage that can be preserved statically using standard forensic write-blockers, system memory (RAM) operates under entirely different technical parameters:

a. **Non-Storage Environment**: RAM serves as active working memory rather than a permanent storage medium.
b. **Inherent Volatility:** RAM is highly volatile and requires continuous power; its contents are lost immediately upon system shutdown.
c. **Constant Flux:** The data residing within RAM changes on a millisecond basis as the Central Processing Unit (CPU) executes active processes.
d. **Impossibility of Exact Duplication:** Unlike a static hard drive, RAM cannot be duplicated in an identical, bit-stream state.
e. **Absence of Forensic Write-Blocking**: The very act of executing a RAM dump requires CPU utilization, meaning the software used to capture the memory inherently alters the evidence it seeks to record.
f. **Lack of Verifiability:** Because a RAM dump is captured from a changing environment and alters the data state during execution, the resulting native image cannot be forensically verified or validated through traditional cryptographic hashing.

FORENSIC JACKPOT

132. Finding the specific combination of PowerShell artifacts in your memory dump is the equivalent of finding a burglar's entire toolkit left on the kitchen table. The statistical frequency of these commands—FromBase64String (141 hits), InvokeExpression (134 hits), WebClient (324 hits), and DownloadFile (292 hits)—confirms a systematic, recurring unauthorized access pattern rather than a one-time error.

a. **The PowerShell "Kill Chain" Mechanics:** When advanced actors want to control a computer without triggering antivirus software, they avoid the "loud" method of downloading a .exe file. Instead, they utilize a silent, memory-resident "Kill Chain":

b. **The Fetch (System.Net.WebClient & DownloadFile):** Instead of utilizing a standard web browser (which logs activity), the script leverages Windows' built-in System.Net.WebClient class. It silently initiates a network connection to an attacker-controlled remote server, downloading a malicious payload directly into the volatile, temporary memory space.

c. **The Decoder Ring (FromBase64String):** To bypass network firewalls, intrusion detection systems, and URL filters, the payload is obfuscated in Base64 encoding. Base64 transforms executable instructions into a nonsensical "brick" of random characters. Once the download is complete, the FromBase64String command unscrambles this brick back into functional, malicious code—but crucially, it does so *entirely in RAM*, never touching the hard drive where security software would catch it.

d. **The Detonator (InvokeExpression / IEX):** This is the "nuclear option" of PowerShell. InvokeExpression (or its alias IEX) takes the freshly unscrambled string and executes it immediately in the active CPU process space. Because the code is executed from a "live" variable in memory, classic, static file-scanning antivirus programs of that era were completely blind to the threat.

e. **Spatial Distribution of Artifacts:** the Requestor's observation that these commands cluster in the "mid-to-latter" parts of the RAM dump is one confirmed by independent forensic experts to be incredibly astute and supplemented by the non-emotional verifiable evidence in "black and white" in hexadecimal.

f. In a raw memory capture, the "header" regions contain core kernel objects, boot configuration data, and static hardware abstraction layers.

g. The "middle and end" regions, however, represent the "Heap" and "User Session" space. By finding these commands clustered here, I have proven that the fileless backdoor was *actively running in a user session* absent my authority and consent and/or with a JUDICIAL WARRANT at the precise moment of the memory dump.

h. These were not dormant system files; they were live, executing threats, which directly corroborates the unauthorized nature of the custodial seizure.

9. SPECIFIC DATA TARGETS: CATEGORIES 1 TO 5 (FORENSIC ARCHITECTURE)

133. I formally **request** the exhaustive, precise, and literal disclosure of the following forensic architecture records:

a. Category A: A copy of the disc in which the LSBC forensically copied my hard drive;

b. Category B: A copy of the USB involving he Concealed RAM Dump including the following Personal Information but not limited to:

   i. Cryptographic keys;
   ii. Usernames;
   iii. Passwords;
   iv. Private keys;
   v. Unencrypted credentials and passwords
   vi. Confidential information
   vii. Privileged information;
   viii. Password Manager Master Keys:
   ix. **Application Logins:**
   x. Email Drafts and Inboxes
   xi. Clipboard Contents
   xii. **Decrypted File System Cache:**
   xiii. Process Memory Maps:
   xiv. USB Device History:
   xv. Attached Peripherals
   xvi. Hardware Unique Identifiers:
   xvii. SSID Broadcast History:
   xviii. Credit Card Data (PANs):
   xix. **Banking and financial details;**
   xx. User Assist Registry Keys
   xxi. SAM Database Fragments
   xxii. Hypervisor Configurations

c. Category C: A copy of any storage devices if there was commingling between forensic copying and the Concealed RAM Dump;

d. Category D: copy of any activities of EFS Forensic Services Inc. including Mr. Cree and Mr. Windover in relation to the aforementioned including access, use and disclosures of my Personal Information;

e. Category E: access to any and all Personal Information that was stored in any of the Ethereum Blocks (as particularized in the *FIPPA* Request Record);

f. Category F: copy of all of my Personal Information that was obtained from any remote accessing of any electronic device of mine by the LSBC or any of its agents including that which is particularised infra or by the *FIPPA* Request Record (Requestor); and

g. Category G: copies of all documents involved in the arbitration that was titled AWS and BLG from the summer of 2022 which was provided to me by file name by way of counsel to AWS.

134. In relation to the numberical categories, they are as follows:

CATEGORY 1: SYSTEM-LEVEL MEMORY DUMPS & VOLATILE STATE IMAGES:

135. Produce all .raw, .dmp, .mem, or pagefile.sys / hiberfil.sys snapshots captured from my computer systems on or between June 3 and June 4, 2014. This includes the entirety of the incident response tool execution logs (including the specific tool configurations, command-line arguments, and environmental variables that burned the timestamps into the raw files).

CATEGORY 2: UNPROCESSED FORENSIC ARTIFACTS:

136. Disclose all non-forensically validated data remnants, including slack space, unallocated clusters, Windows Application Compatibility Cache (AppCompatCache) entries, Prefetch files, Windows Event Logs (EVTX), registry hives, and file-system metadata extracted from the RAM dump that were intentionally withheld from the official disclosure records presented to the court.

CATEGORY 3: THIRD-PARTY FORENSIC TOOL LOGS:

137. Produce the complete output logs, process trees, PowerShell execution histories (specifically targeting strings involving H4sI, FromBase64String, Net.WebClient, and Invoke-Expression), and command histories from all third-party forensic tools used by NST LLP, EFS, Evolve Partners, or any designated agents. This must include any scripts designed to parse or extract WMI repositories.

CATEGORY 4: CREDENTIAL & PASSWORD DISCLOSURE LOGS:

138. Produce all unauthorized captures, logs, storage records, or compressed cloud transfers containing my system passwords, encryption keys, browser cookie caches, OAuth tokens, or Citrix Sharefile access tokens. This includes any logs demonstrating these credentials being utilized in the March 2016 WMI remote entry attempts to bypass network perimeters.

CATEGORY 5: CHAIN OF CUSTODY FOR "OFF-NETWORK" CLOUD TRANSFERS:

139. Produce exhaustive upload and transmission logs detailing the off-network transfer of my PI. This targets all telemetry proving data movement to AWS, Microsoft Azure, Citrix Sharefile accounts (specifically targeting the nathansonnschachterthompsonllp.sharefile.com node and its associated synchronization events), and any cross-border data processing facilitated by Aspose.PDF or similar document management suites used to manipulate the raw evidence.

10. SPECIFIC DATA TARGETS: CATEGORIES 6 TO 10 (BLOCKCHAIN & DECENTRALIZED OPERATIONS)

140. Forensic tracing reveals a highly disturbing reality: the Volatile Memory data was subsequently improperly disclosed, synchronized, and commingled with decentralized blockchain architectures.

CATEGORY 6: DE-IDENTIFICATION, CLEANSING, AND MASKING RECORDS:

141. Produce all documentation regarding any "data cleansing," "masking," or cryptographic hashing procedures performed on my PI before it was offloaded to cloud or decentralized environments. I **request** the original "dirty" records to cross-reference exactly what the LSBC attempted to sanitize versus what was permanently recorded elsewhere.

CATEGORY 7: CLOUD-TO-CHAIN MIGRATION & AUTOMATION ARTIFACTS:

142. Disclose all logs detailing automated data synchronization between my captured records and decentralized storage repositories. This includes any telemetry showing Sharefile or AWS nodes interfacing with Oracle services (like Provable) or enterprise blockchain infrastructures (like BlockApps STRATO).

CATEGORY 8: CORRESPONDENCE & LOGS REGARDING "DESTRUCTION" VERIFICATION:

143. Produce the underlying technical verification logs proving the physical cryptographic erasure of the RAM Dump data. A simple affidavit of destruction is legally and technically insufficient when dealing with immutable decentralized ledgers. I require the raw system logs proving the data was not merely pushed to a secondary, offshore node or hashed onto an Ethereum or Polygon block.

CATEGORY 9: INSURANCE, CYBER LIABILITY, AND STOP-LOSS RECORDS:

144. Disclose all "Notice of Circumstances," cyber liability filings, or stop-loss records made by the LSBC, Swiss Re, or NST LLP regarding this data incident. If third-party incident responders or cyber-insurance panels were granted access to my PI to mitigate a wider institutional network breach, the exact terms, logs, and communications of that disclosure must be provided.

145. To belabour the point, this is in relation to Personal Information about me – not others.

CATEGORY 10: METADATA OF SMART CONTRACT & CROSS-CHAIN INTERACTIONS (THE 63 WALLETS):

146. Produce all technical memos, wallet communications, and logs linking my PI or metadata to the following highly orchestrated on-chain taxonomy involving Kinglory Inc. (KGC) and Metabit:

a. **The Genesis Wallets (Does 1-5):** Records linking my PI to the wallets that received initial funding (e.g., from OKEX) and deployed the Smart Contracts, specifically connected to the 44 Ethereum Genesis blocks from November 2015.

    a. **The Wash Traders (Does 6-40):** Records connecting my PI to the specific msg.data payloads utilized by the wallets that programmatically pinged tokens back and forth to create fake trading volume.

    b. **The Bridge Nodes (Does 41-63):** Records relating to the wallets used specifically to swap tokens from Ethereum to the Binance Smart Chain (BSC) and Polygon to evade tracking, initiated in August 2021.

    c. **The Master Treasury:** The transactional tracking logs of the "Master Treasury" wallet (0x328e...) that held 98.07% of the Kinglory Inc. (KGC) network supply.

    d. **Smart Contract Mechanics:** The deployment and execution logs of the Pausable.sol and onlyOwner modifiers within the KGC smart contracts, mathematically proving the tokens were centralized, pausable, unregistered securities.

CATEGORY 11: TRANSITIONAL RISK BRIEFINGS & INTER-AGENCY DISCLOSURES

147. I **request** all records, briefing packages, actuarial risk disclosures, and structural liability assessments prepared for or distributed to the LPA Transition Boards, the Lawyers Indemnity Fund Executive Committee, or cyber-liability underwriters (including Swiss Re) concerning the financial, legal, or privacy impacts of the unacknowledged 2014 Volatile Memory capture, its subsequent cloud migrations, and its relation to the upcoming corporate dissolution under Section 221 of the Legal Professions Act 2024."

a. In this regard, I am Formally **request** copies of all briefing notes, risk assessment charts, or transition memos provided to the incoming Transition Board members regarding legacy liability transfers under Section 221 of the *Legal Professions Act 2024*.

148. I am also requesting again in relation to Personal Information any notice of circumstances in relation to myself. As you know, under standard cyber liability and errors and omissions (E&O) policies, a public body or any individuals or persons contracted to it or by way of agency must file a formal "Notice of Circumstances" as soon as they become aware of a potential claim to lock in coverage.

CATEGORY 12: MACHINE-READABLE LEDGER RECORDS & CONTROL MAPPING

149. Pursuant to the mandatory record-creation provisions of Section 6(2) of *FIPPA* and the "All Ministries of BC" objective test, I **request** the disclosure and technical extraction of all records, communication strings, audit logs, and diagnostic files mapping the custody, control, or secondary exposure of my personal identity attributes within the following decentralized network environments:

150. All internal and external legal or technical assessments concerning the creation, funding, and operational metadata of the Kinglory Contract Creator/Owner Address: 0x328e44068F9fEc034F9A651C5e12c64a19a186872 and its associated mainnet distributions. All tracking metrics, regulatory disclosure files, and inter-firm correspondence held by the public body or its agents (including NST LLP and BLG) concerning token allocations, wallet interactions, and cryptographic asset states tied to the key transaction nodes: 0x3182AC1fAfc6Bc726B3AbBb1AcD878c0a14564B1; 0xe659e5228c5eb17667f4a6bd04ef7233e5769b1b; 0xcd6dc438eea2ac77ec80cf493c8c74e205560071; and 0x58e44068F9fEc034F9A651C5e12c64a19a186872.All technical directives, programmatic extraction scripts, or automated synchronization records indicating how files from the June 2014 volatile memory capture intersected with cloud storage environments interfacing with the Ethereum, Binance Smart Chain, Gnosis, or Polygon networks.

CATEGORY 13:

151. I formally **request** access to copies of all human-readable and machine-readable data, parsing keys, transaction logs, and cross-chain tracking audits held by the public body or its designated legal agents mapping the distribution of my personal property across decentralized ledgers (*FIPPA* requ... pp. 2, 16).Because blockchain blocks generated on August 21, 2021 (specifically including Mainnet Blocks 13067520, 13067554, and 13069416) which were tied to the blocks on Ethereum from November and December 2015, act as permanent, immutable cryptographic index containers, any transactional metadata, transaction logs, or structural identifiers originating from the unauthorized June 2014 volatile memory extraction constitute permanent records under your statutory control. The LSBC cannot evade its strict production duties by stating that the data resides off-site or within a decentralized space; if your agents possess the system keys, index logs, or administrative maps to trace these profiles, they must be produced in an intelligible format within 30 business days.

CATEGORY 14 (TIED TO FIPPA REQUEST RECORD (ETHEREUM BLOCKS AND SAME SMART CONTRACT ADDRESSES

152. Pursuant to the strict, non-delegable duty to search for and identify all machine-readable records under Section 6(1) and Section 6(2) of *FIPPA*, I **request** all internal audit records, technical files, and correspondence held by the public body, the Lawyers Indemnity Fund (LIF), or external legal counsel (NST LLP and BLG) mapping my personal information across the following cryptographically locked contract manifestations (TAB 4 - Sa... p. 1, LENGTHY OF... p. 12):A. The Oraclize Callback manifests (0x7b46Cd193EABFF2Cc6826E3E08BF513eee9D77e1) across SCA #3, #4, and #9, establishing an unbroken line of execution from November 11, 2015, directly into the October 22, 2021 cross-chain Kinglory token swaps (TAB 4 - Sa... pp. 1, 4).B. The Bertani Relay manifests (0x3060bFe832362e013DAF4Bc2516Dc3F8ADFd5b69) across SCA #5, #10, and #12, tracking automated network pings and synchronization files linking my legacy data perimeters across the Ethereum and Binance Smart Chain networks (TAB 4 - Sa... pp. 1, 4-5).C. The Core Protocol manifests (0xEF04Af5CC0c757621E4D5286BffB8869159DdAd3) and Specialized Remote Nodes (0x8D4EAC10D68745e2a8C36aB33c5c3961eD4b71bE), documenting internal function executions, data calls, and configuration mappings that mirror the contents of the unauthorized June 2014 volatile memory extraction (TAB 4 - Sa... pp. 5-6).D.

153. The Ethercamp-Polygon Bridge manifests (0x1194E966965418C7C73a42CCEEB254d875860356), targeting the exact transactional data blocks migrated to the Polygon network on September 23, 2021, and November 14, 2021, via historical linkages associated with Microsoft Azure and legacy cloud nodes (TAB 4 - Sa... pp. 1, 11).Because the cryptographic addresses utilized to handle, structure, and register these assets on the Ethereum Mainnet in November 2015 match the contract profiles executed on the Binance Smart Chain and Polygon platforms in late 2021, these ledgers provide definitive proof of a coordinated data pipeline (TAB 4 - Sa... pp. 1, 4).The LSBC cannot maintain that these records are out of its jurisdiction; the structural paths, indices, and administrative mapping logs needed to track these addresses constitute records completely under your statutory control under the governing jurisprudence of the BC 'Control Test'.

CATEGORY 15

154. I formally **request** all records, risk registers, gap analyses, and due diligence briefing packages generated by or distributed to **Cascadia Partners**, its project management steering teams (specifically including Managing Director **Jared Friedman, MBA, CPA, CA**), and the **LPA Transition Hiring Committee** concerning the financial, operational, or legal liabilities arising from the unacknowledged 2014 volatile memory extraction and its downstream cross-chain token deployments.

155. Pursuant to the public body's strict duties under Section 6(1) of *FIPPA*, this **request** specifically targets all internal communications and assessment notes mapping how the catastrophic **2024 core insurance underwriting loss (213.5% Combined Ratio)**, the **$23.6 million interfund depository balance**, and the ongoing immutable data allocations on the Ethereum, Binance Smart Chain, and Polygon networks impact the statutory amalgamation transition metrics published on the **lpatransition.ca** portal.

156. Furthermore, I **request** all records provided to executive recruitment firms or candidates interviewing for the position of **Transition Manager / First CEO of Legal Professions BC (LPBC)** regarding active corporate liability exposures, outstanding data-retrieval claims, and the personal statutory accountability of current officers for potential bad faith omissions under *FIPPA*."

157. Again, all requests relate exclusively where my Personal Information is involved where any record is about, relates or there is a serious possibility (not probability) that it is about me.

CATEGORY 16

158. I formally **request** all briefing notes, draft rule adjustments, risk assessments, and in-camera meeting exhibits prepared for or reviewed during the June 8, 2026 Joint Meeting of the LPBC Transitional Board and Transitional Indigenous Council located at 700-625 Howe Street, Vancouver (2026-06-08... p. 1).This **request** specifically targets all entries, digital logs, or risk registry modifications handled by Cascadia Partners Project Directors Jared Friedman and Alastair Caddick, Legislative Counsel Cary Ann Moore, or Board Chair Bruce LeRose KC mapping the impact of active legacy data exposure on the final configuration of Draft Rule 3-1-24 (Finance and Audit), Draft Rule 3-1-30 (*FIPPA* Head Designation), and Draft Rule 6-1-1(e) (Transaction Indemnity Fee Compliance enforcement) (2026-06-08... pp. 1, 13, 27, 33).You are formally placed on notice that under Part 17, Division 3 (Transitional Rules), the impending dissolution of the Law Society of British Columbia does not extinguish or narrow your production duties (2026-06-08... p. 28). If your executive team, external counsel, or transition consultants fail to maintain good faith compliance with this statutory 30-business-day timeline, they face immediate personal exposure for administrative omissions as the transition infrastructure passes to the incoming Transition Manager and the first board established under the Act (2026-06-08... p. 10)."

11. FINANCIAL FORENSICS & REVENUE OPERATION OVERLAPS

159. My forensic analysis indicates a profound intersection between the handling of my legacy data, associated "stop-loss" cybersecurity activities, and the deeply anomalous financial architecture of the LSBC from 2021 to 2025.

160. Therefore, I **request** the disclosure of all pre-amalgamation risk management files, internal reports, and gap analyses mapping how my Personal Information intersects with the financial operations of the Lawyers Indemnity Fund (LIF). A forensic ratio analysis reveals that the LSBC's core insurance underwriting operations have been structurally and profoundly unprofitable, posting Combined Ratios well over 100% (and hitting an astonishing 213.5% in 2024).

161. Specifically, I require all records, memos, and correspondence detailing the investment operations, yield-skimming protocols, and interfund commingling mechanisms wherein the General Fund parked working capital with the LIF. This encompasses all documentation related to the "Due from Lawyers Indemnity Fund" balances—which tracked from $6.1 million in 2021 up to $23.6 million in 2024. The LSBC utilized an internal depository mechanism to harvest equity risk premiums through high-risk asset allocations (such as infrastructure, hedge funds, and private mortgage funds) while utilizing aggressive actuarial smoothing techniques (manipulating the Provision for Adverse Deviations) to obscure extreme portfolio volatility. I **request** all records detailing how these high-risk, "endowment model" investment strategies—and the imperative to generate yield to cover the massive underwriting deficits—intersect with the blockchain and smart contract liquidity pools (like Kinglory, Metabit, Xpay, and SMKG) identified in the forensic data.

12. ADMINISTRATIVE REMEDIATION & HUMAN RESOURCES JUSTIFICATIONS

162. In direct anticipation of the aforementioned amalgamation, the LSBC recently created the new administrative position of "Manager, Privacy, Records and Information Management," alongside specific technical roles explicitly seeking expertise with vendors like Sophos, Cisco, and VMware—vendors whose exact digital fingerprints and metadata footprints appeared in the unauthorized RAM disclosures.

163. I **request** the production of all business cases, hiring justifications, budget approvals, and internal organizational communications regarding the creation of these specific roles. This request targets all entries, emails, and memos referencing "risk management," "privacy dispute handling," "data remediation policies," or "systemic data remediation." It is highly apparent that these roles are being established specifically to triage, manage, and execute the cleanup and migration of legacy disciplinary files containing my unconsented personal information prior to the repository merger. The LSBC cannot hire specialized IT staff to quietly bury evidence of a historic breach; the administrative trail, project charters, and task directives of that remediation effort are fully subject to this *FIPPA* request.

13. EXHAUSTIVE STATUTORY DUTIES UNDER *FIPPA* (SECTIONS 6, 7, 8, AND 53)

164. The LSBC, and soon to be the "New Regulator" (LPBC), is bound by the following strict, inflexible statutory duties under FOIPPA to applicants, which form the bedrock of democratic accountability in British Columbia:

a. **(a) To be more accountable to the public** (i);
b. (b) To protect **personal privacy** (ii);
c. **(c) To give members of the public a right of access to records** (iii);
d. **(d) To give individuals a right of access to Personal Information about themselves** (iv);
e. **(e) To give individuals a right to request correction of Personal Information about themselves** (v);
f. **(f) To search for, with a reasonable effort, and identify records sought by an APPLICANT** (vi);
g. **(g) To give individuals access to copies of records if they have requested the same** (vii);
h. **(h) To respond openly, accurately and completely and without delay** (see: section 6(1) of FOIPPA);
i. **(h) To create a record for the APPLICANT** unless it can prove that creating an application or code, and/or creating the record itself would unreasonably interfere (viii) with its operations (ix);
j. **(i) To respond within 30 business days** pursuant to a combination of the *Interpretation Act* (x) and section 7 of FOIPPA (xi);
k. **(j) Compliance with Section 8:** If the LSBC has not relied upon section 11 within 20 business days, section 10 within 30 business days, and/or sections 23 and 24(1) within the relevant time periods with applicable notices to the third parties and APPLICANT, then it MUST do the following under section 8 of FOIPPA: (i) tell whether the APPLICANT is entitled to access to the record or part of the records (requested); (ii) if the APPLICANT is entitled to access, where, when and how access will be given; (iii) if access to the record or to part of the record is refused (a) the reasons for the refusal and the provision of this Act on which the refusal is based, (b) the contact information of an officer or employee of the Public Body who can answer the Applicant's questions about the refusal, and (c) that the APPLICANT may ask for a review under section 53.

14. CONSTITUTIONAL PRIVACY, SECTION 8 JURISPRUDENCE, AND THE COMMISSIONER'S REMEDIAL POWERS

165. To ensure strict compliance, the LSBC is reminded of the following legal principles, precedents, and bases stemming from the 2010 decision in MOE, alongside binding Supreme Court of Canada (SCC) Charter jurisprudence:

a. **(a) Procedure:** Access Applicants make requests under section 5, in relation to their section 4(1) rights, and then review requests under section 53 of FOIPPA leading to potential inquiries (not investigations) and/or orders under section 42(1). The COMMISSIONER has the additional powers to "reviews" under Part 5 of FOIPPA under section 42, and duties to ensure FOIPPA Purposes are guaranteed achieved by

making orders described under section 58(3)(a) (i.e. require Public Body to perform legislative duties ("is performed")).

b. **(b) Access to Information Rights – Purpose:** The overarching purpose of access to information rights is to facilitate democracy by ensuring that citizens have the information required to participate meaningfully in the democratic process.

c. **(c) Privacy Rights – Purpose:** Privacy rights are designed to protect the privacy of individuals with respect to Personal Information held by government institutions and to provide individuals with a right of access to that information.

d. **(d) Privacy Act:** Quasi-constitutional in nature

e. **(e) Exceptions Interpreted Narrowly:** In *Lavigne v. Canada (Office of the COMMISSIONER of Official Languages)*, 2002 SCC 53, Gonthier J. observed that exceptions from the rights set out in the act should be interpreted narrowly, with any doubt resolved in favour of preserving the right.

f. **(f) Burden of Proof:** The burden of persuasion rests on the person asserting the exception (at paras. 30-31, *Lavigne*).

g. **(g) Privacy Rights Compromised Only Under Compelling State Interest:** In *Dagg v. Canada (Minister of Finance)*, 1997 CanLII 358 (SCC), the court articulated that the protection of privacy is a fundamental value (xiii) in modern democracies enshrined in ss. 7 and 8 of the Charter. Privacy rights are to be compromised only where there is a compelling state interest for doing so (at paras. 65, 66, 71).

h. **(h) Charter Section 8 Jurisprudence:** As established in *R. v. Dyment* (1988) 2 S.C.R. 417), a "seizure" under Section 8 is the "taking of a thing from a person by a public authority without that person's consent." The Supreme Court has explicitly recognized that Section 8 protects informational privacy, defined as the claim of individuals to determine for themselves when, how, and to what extent information about them is communicated to others. A person retains a continuing privacy interest protecting against the subsequent use or disclosure of information divulged for a limited purpose. The extraction of the RAM dump and its subsequent dissemination to decentralized nodes constitutes a catastrophic breach of this constitutional protection.

i. **(i) Broad Commissioner Statutory Duty:** As the opening language of s. 42(1) makes clear, the Commissioner's statutory responsibility for monitoring how *FIPPA* is administered is exceptionally broad. The courts have repeatedly recognized that the COMMISSIONER is a specialized decision-maker with expertise in balancing the competing values of privacy and access

j. **(j) Broadest Remedial Authority:** Sections 42(1)(a) to (j) are not an exhaustive list of powers, but rather examples of the remedial tools (xiv) available. Sections 42 and 58(3) reflect an intention to confer remedial (xv) authority in the broadest terms.

k. **(k) Discretionary Exceptions & Public Interest Paramountcy:** Even if access is technically protected under a limited exception, the public interest is paramount. In Order 02-38 (xvi), at para. 149, it was affirmed that the head of a Public Body should always consider the public interest in disclosure of information that is technically protected from disclosure. If no exceptions are cited, and no mandatory exceptions have been applied (xvii), then all that remains is the "public interest." The Legislature has charged the LSBC with upholding the public interest. The only way this can be accomplished herein is by the LSBC providing access to copies of the Primary Requested Records.

l. **(l) Independent Officer "Teeth":** The COMMISSIONER is an independent officer of the legislature. Even where orders are not made, findings still have "teeth" and must be complied with. One of the "Mount Rushmore" names in the Canadian and global privacy space, Commissioner Loukidelis (xviii), found in 1999 that the compelling reasons (xix) for release must also be considered.

15. LEGAL BASES: OWNERSHIP OF PERSONAL INFORMATION AND PRE-LITIGATION RIGHT OF ACCESS

166. Pursuant to the legal principles established by the Supreme Court of Canada in *McInerney v. MacDonald*, 1992 SCR 138, and directly applied to British Columbia privacy law in *Mazhero v. British Columbia (Information and Privacy Commissioner)*, 1998 CanLII 6010 (B.C. SC), an individual's right to their personal information is fundamentally akin to an ownership right. Because this information belongs inherently to the individual, there is an established legal right and imperative to see exactly what a Public Body holds in its custody and/or control *before* the individual launches any formal complaint or lawsuit.

167. The LSBC cannot withhold these records to gain a tactical advantage in prospective litigation, nor can it force an applicant into a blind administrative process. I possess a proprietary right to review my own data matrix prior to initiating further legal or administrative proceedings, ensuring that any claims against the LSBC, LPBC, or third-party vendors are grounded in the complete evidentiary record that the LSBC is statutorily mandated to maintain and disclose. To withhold this data is to effectively confiscate intellectual and personal property without due process.

16. LEGAL BASES: THE "ALL MINISTRIES OF BC" TEST AND THE STRICT DUTY TO CREATE RECORDS (SECTION 6(2))

168. Under Section 6(2) of *FIPPA*, and as strictly defined by the "All Ministries of Government" legal test (see also OIPC Orders 03-19 and 15-02), a Public Body has a mandatory, statutory duty to make or "create" a record

for an applicant from machine-readable records (MRR) in its custody or control. To refuse this duty, the Public Body must meet an exceptionally high evidentiary threshold encompassing both branches of Section 6(2)(a) and (b).

169. **The "Create Computer Apps" Requirement:** This duty explicitly requires the Public Body to write computer programs, develop algorithms, and utilize human effort to extract information from databases to create the requested records, even if it does not currently possess the specific computer software or application to do so. The test is not whether the software is already in use; the test is whether the public body can create it. If my PI is buried within a proprietary relational database, obscured by a third-party vendor, or obfuscated within a blockchain hash, the LSBC is legally required to write the extraction script to retrieve it.

170. **Intelligibility:** Public Bodies have an absolute duty to make these created records "intelligible" before providing access to the applicant. Human effort to convert "source data" using electronic methods is an ordinary, legally mandated part of using computer hardware and software. Providing a raw, encrypted database dump without the associated decryption keys, or raw hexadecimal code without the parsing logic, does not fulfill the intelligibility requirement under Section 6(2).

171. **Unreasonable Interference Threshold (Objective Assessment):** *FIPPA* contemplates that creating records requires effort. An assertion of "unreasonable interference" requires an objective assessment of facts, specifically measuring:

a. The nature of the Machine Readable Records (MRR) at issue.
b. The Public Body's technical expertise and technological resources.
c. The size and complexity of the task.
d. The proportional burden on IT resources measured against the specific *total* resources of that nature.
e. *Crucially,* Order 03-19 established that spending 48 hours of programmer time to respond to a request is not an unreasonable interference, especially when the body devotes hundreds or thousands of hours to similar internal tasks. Similarly, Order 15-02 found that a method requiring only two days of employee time is entirely reasonable.

172. **Evidentiary Burden (Condescending Upon Particulars):** The burden of persuasion rests entirely on the Public Body. To legally refuse access under Section 6(2), the Public Body must provide particularized, specific evidence—"condescending upon particulars" on all issues under both branches—proving it cannot create the record using its normal computer hardware, normal computer software, and technical expertise. It is legally presumed that standard public body assistants or employees can perform these tasks. Broad, sweeping assertions of administrative difficulty are legally void.

17. LEGAL BASES: DIRECT APPLICATION OF SECTION 6(2) MANDATES TO THE LSBC'S CAPABILITIES

173. The LSBC is strictly bound by the duties outlined above to create, extract, and provide intelligible copies of the Primary Requested Records.

174. **Mandatory Compliance (The Algorithms):** The LSBC must employ the necessary human effort and technical expertise—either internally or through its designated Service Providers—to convert its decentralized data, cross-chain metadata, and legacy forensic files into accessible records. If this requires deploying Python scripts to parse the msg.data of the KGC smart contracts or developing algorithms to extract information from internal risk-management databases, the LSBC is bound to do so under the "Create Computer Apps Requirement."

175. **Minimal Interference (The Proportional Burden):** The LSBC operates with immense technological resources, a massive operating budget, and ready access to highly sophisticated outside Service Providers (including sophisticated cyber-incident response teams). When measured against these total resources, the proportional burden of retrieving, extracting, or creating the specific Primary Requested Records **request**ed herein (which ultimately amount to only three core records, or five if cover letters are included) is completely trivial. Providing return attachments via electronic copy does not disrupt core operations.

176. **Failure to Discharge Burden:** The LSBC would be well under the 48-hour programmer limit established in Order 03-19 to fulfill this request. The LSBC cannot lawfully claim that writing a basic script or utilizing an algorithm to extract this specific data from its active or legacy databases constitutes an "unreasonable interference." Any such claim without highly particularized, sworn evidence is legally invalid and represents a willful, actionable breach of the LSBC's Section 6(1) and 6(2) statutory duties.

18. LEGAL BASES: THE BURDEN OF PROOF, TRANSPARENCY, AND THE STRICT DUTY UNDER SECTION 6(1)

177. The LSBC is reminded of the explicit legal threshold established under Section 6(1) of *FIPPA*. The burden of proof rests entirely on the Public Body to demonstrate that it has actively performed its statutory duties (see *British Columbia (Forests, Lands, Natural Resource Operations and Rural Development) (Re)*, 2023 BCIPC 58, citing *Vancouver Coastal Health*).

178. As established in *South Coast British Columbia Transportation Authority (Translink) (Re)*, 2023 BCIPC 64, Section 6(1) requires a public body to respond "openly, accurately and completely," meaning the response must be transparent and address *all* requested records. Furthermore, as affirmed by Commissioner Loukidelis in *Ministry of Employment and Investment, Re*, 2000 CanLII 14397 (BC IPC), the Public Body's search efforts must conform to what a fair and rational person expects.

179. The LSBC is legally obligated to candidly describe all potential sources of records, identify those searched, and thoroughly document its efforts. The LSBC cannot evade disclosure by vaguely asserting the records are "too difficult to find" without providing particularized, sworn evidence of its exhaustive search methodology, including the specific Boolean search terms utilized, network locations mapped, and vendor databases formally queried. A failure to detail these steps confirms a failure to search.

19. LEGAL BASES: EXHAUSTED CUSTODY AND CONTROL JURISPRUDENCE

180. Any attempt by the LSBC to claim that records hosted by its external counsel (NST LLP, BLG LLP) or stored in third-party off-network environments (AWS, Citrix Sharefile, Aspose.PDF) are outside of its jurisdiction will fail under established legal precedent. The law does not allow public bodies to play a shell game with citizen data.

181. In *Ontario Criminal Review Board v. Hale (and Information Privacy Commissioner of Ontario)* the Ontario Court of Appeal established that a public body has the legal right to require the production of records (such as backup tapes) prepared by external contractors. The fact that a contractor utilized an independent backup or storage system does not sever the public body's "control" over those records.

182. Furthermore, as established in *Rae Neilson v. BC IPC* (Vancouver Registry, 1999) involving the Cranbrook School District, records stored physically off-site (such as a contractor's principal residence, an independent third-party server farm, or a decentralized ledger) remain firmly within the custody and control of the delegating Public Body. A broad, liberal, and purposive approach must be taken to ensure access; the LSBC cannot contract out of its *FIPPA* liabilities by pointing to the servers of its Service Providers, nor can it claim ignorance of the data architectures utilized by NST LLP or BLG LLP while those entities acted on the LSBC's behalf and dime.

20. LEGAL BASES: WAIVER OF SECTION 8(2) AND PROHIBITION ON LATE EXCEPTIONS

183. I place the LSBC on strict notice regarding the application of exceptions under *FIPPA*. Pursuant to the precedent set in *BC Lottery Corporation*, Order F20-45 (per Adjudicator Ian C. Davis), if a Public Body intends to rely on Section 8(2)(b)—or any discretionary exception refusing to confirm or deny the existence of a record—it MUST cite this exception within the statutory 30-business-day window of receiving the access request.

184. The LSBC failed to cite any such exceptions or claim that the records did not exist within the statutory timeline. It cannot now retroactively manufacture exceptions, invent new claims of solicitor-client privilege, or claim that the *FIPPA* process is an "unreasonable interference" to shield itself from disclosure. Furthermore, as established in *Regarding Langley Township Bylaw Enforcement Records* (Order 00-01), a Public Body will not be granted adjournments or leeway to cure its own administrative errors or delays. A public body is the author of its

own misfortune. The LSBC's historical failure to respond openly and accurately cannot be cured by late-stage administrative maneuvers; it must now immediately comply with its comprehensive disclosure obligations without further procedural obstruction.

21. STATUTORY INTERPRETATION: MANDATORY DUTIES AND THE EFFECTUATION OF LEGAL RIGHTS

185. The LSBC cannot rely on permissive statutory language to evade its disclosure obligations. Pursuant to the *Interpretation Act*, the terms "must" and "shall" are to be construed as strictly imperative, and the word "obligation" inherently includes both a duty and a liability.

186. Furthermore, even where enabling legislation utilizes the permissive term "may," binding Supreme Court jurisprudence establishes that this permissive language transforms into a mandatory duty ("must") when the power is granted to effectuate a legal right. As articulated by Lord Cairns in *Julius v. Oxford (Lord Bishop)* (1880), 5 App. Cas. 214 at 222-23 (H.L.), and formally adopted by the Supreme Court of Canada in *Information Commissioner (Canada) v. Canada (Minister of Employment and Immigration)*, 1986 CanLII 6836 (FC):

"Enabling words are always compulsory where they are words to effectuate a legal right... The language chosen expresses the intent to establish a discretion to release Personal Information under certain circumstances. Those conditions having been fulfilled, it becomes tantamount to an obligation upon the head of the government institution to do so, especially where fundamental Charter rights are involved."

187. The LSBC must now discharge its obligations in full prior to its amalgamation and this represents an opportunity to do so in tandem and in the spirit of the access partnership.

23. REJECTION OF DISCRETIONARY EXCEPTIONS & STATUTORY TIMELINES

188. I explicitly argue and put you on notice that no discretionary exceptions under Part 2 of *FIPPA*—including, but not limited to, Section 14 (solicitor-client privilege) or Section 15 (harm to law enforcement)—can be lawfully applied to mask an ongoing, unauthorized cross-border data exposure or to conceal the mishandling of forensic evidence.

189. Solicitor-client privilege protects legal advice and communications; it cannot be weaponized as a retroactive shield to obscure administrative malfeasance, the deployment of fileless WMI backdoors, or the mechanical realities of how electronic evidence was improperly extracted and distributed to third-party vendors and decentralized networks. Privilege cannot cover up a data breach, nor can it conceal the technical architecture of an unregistered securities distribution (the Kinglory token manipulation).

STATUTORY TRANSITION LIABILITIES UNDER THE LEGAL PROFESSIONS ACT 2024 (SECTION 221)

190. The LSBC is legally dissolving, but its liabilities are not. It is trite law that under an amalgamation none of the original entities survive independently and an entirely new entity is born. Under the *Legal Professions Act 2024*, the transition to Legal Professions BC (LPBC) is statutorily inescapable. Section 221 explicitly dictates:

> "(1) Any legal proceeding by or against a former society on the amalgamation date may be continued by or against the regulator and may not be continued against the former society.
> (2) A conviction against a former society may be enforced against the regulator and may not be enforced against the former society.
> (3) A ruling, order or judgment in favour of or against a former society may be enforced by or against the regulator and may not be enforced by or against the former society.
> (4) A claim by or against a former society existing immediately before the amalgamation date must be commenced or continued by or against the regulator.
> (5) A cause of action existing against a former society immediately before the amalgamation date exists against the regulator.
> (6) Subject to subsections (1) to (5), a cause of action, claim or liability to prosecution existing immediately before the amalgamation date is unaffected by anything done under this Division."
>
> Any delay, obfuscation, or deemed refusal regarding this Access Request will immediately precipitate a formal request for an OIPC review, which will inevitably lead to a judicial review. Pursuant to Section 221, these proceedings and causes of action will flow directly and forcefully against the "New Regulator."

191. The accelerating pace of the Transition Boards, Indigenous Council, Rules Development (with Round 1 wrapping by June 2026 and Round 2 launching July 2026), and the establishment of the Hiring and Paralegal Committees guarantees that the organizational scaffolding for LPBC is already highly advanced. Any ongoing *FIPPA* violations or data concealments committed by the LSBC today will legally contaminate the newly formed LPBC tomorrow, burdening the new regulator with immense, inherited litigation risk.

192. I confirm to assist you, in the spirit of courtesy, considering that third parties can be invited to make submissions in any potential review request, I will ensure that such information, data and documents are provided confidentially and in the public interest.

THE FUTILITY OF THE LSBC'S APPELLATE STRATEGY AND INEVITABILITY OF AMALGAMATION

193. The LSBC cannot utilize its ongoing appeal regarding the *Legal Professions Act* as a pretext to delay or freeze its administrative obligations under *FIPPA*. Based on rigorous legal and appellate analysis of *LSBC & TLABC v. British Columbia (Attorney General)* (appealing from 2026 BCSC 779), the LSBC is destined to lose yet again and again. The LSBC failed to obtain interim relief and was decisively defeated on every single legal issue at the summary trial level.

194. Supreme Court of Canada jurisprudence heavily protects the right of provincial legislatures to design and implement regulatory frameworks under their Section 92 powers. The courts fiercely guard against judicial interference based on abstract, unwritten constitutional principles (such as the purported "independence of the Bar" operating as an absolute veto on legislative reform). The Attorney General's position is dominant; a cross-appeal on the foundational premise that the independence of the Bar operates as an unwritten constitutional limit would entirely dismantle the appellants' *vires* arguments.

195. Furthermore, as established in precedents like *Toronto (City)* and *Jabour*, the legal doctrine of the "balance of convenience" that doomed the LSBC's injunction will cast a long shadow over the appeal. The prospect of an appellate court unwinding a fully operational, unified, province-wide regulator to restore a defunct society is practically nil. The timing of the multi-day appeal dictates it will not be heard until late 2026. By that time, the amalgamation machinery will have completed numerous further meetings of the LPA Transition Boards and installed a new CEO. The LSBC's appellate strategy is a doomed, expensive delay tactic; the dissolution of the LSBC is a practical and legal certainty. You cannot delay *FIPPA* compliance while waiting on a constitutional challenge that has already failed in substance.

26. BINDING JUDICIAL RESTRAINT: THE LEAD UP TO JUSTICE MCINTOSH DECISION (ONE OF THE LAST HEARINGS FOR NOW MR. JUSTICE GOMERY AND THE MANDATORY RETURN OF THE HARD DRIVE PRIOR TO DISSOLUTION

196. Justice Tysoe in 1998 referenced the decision of Dyment in Mazhero. "The protection section 8 provides for privacy — personal, territorial and informational — is essential not only to human dignity, but also to the functioning of our democratic society. As such, section 8 protects a sphere of individual autonomy within which people have the right "to be let alone" and on which the state cannot intrude without permission (R. v. Ahmad, 2020 SCC 11 at paragraph 38)."“The LSBC must be firmly reminded of the strict parameters of the 2017 Justice McIntosh decision (2017 BCSC 1713). [i]

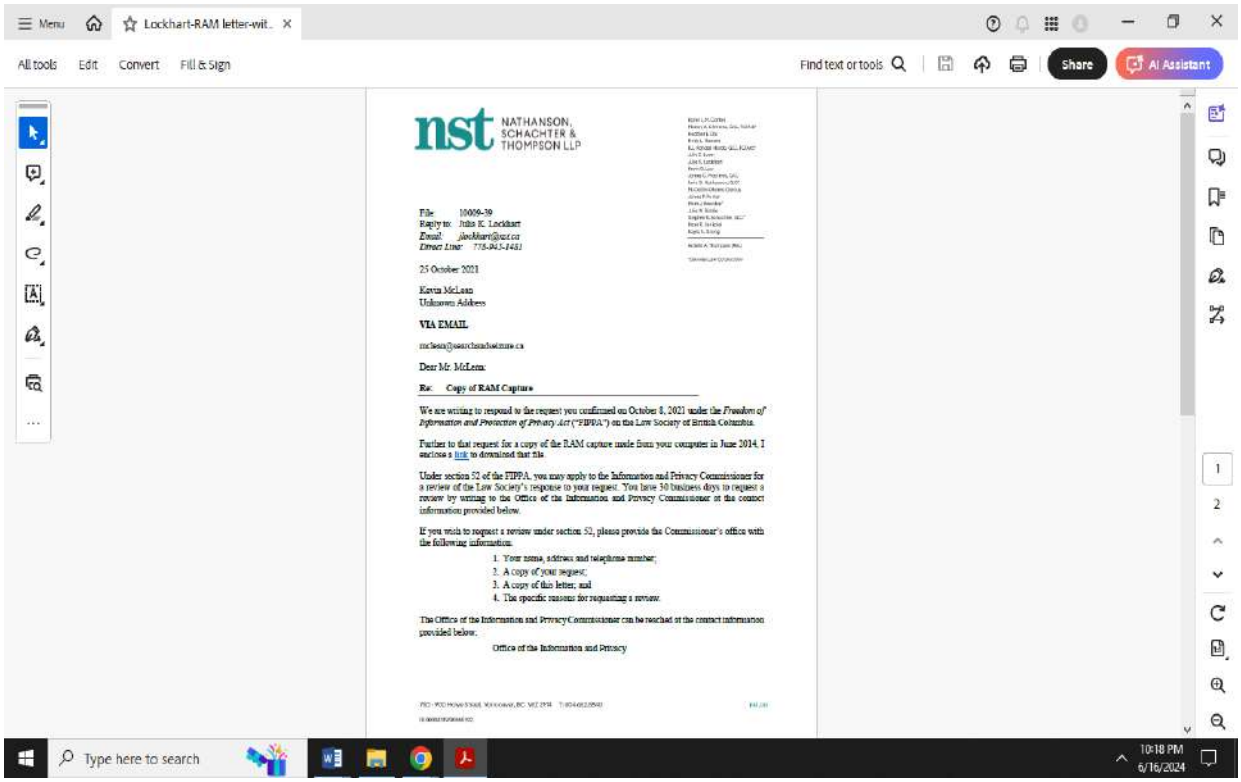
197. Specifically, at paragraph [21], Justice McIntosh issued the following binding directive:

> *"[21] I order as follows. The Law Society will continue to hold the copy of the hard drive. It will not use documents from the hard drive in any ongoing proceeding with Mr. McLean without Mr. McLean's permission or a further order of this Court. If there comes a stage when Mr. McLean states in writing that all present or further claims by him against the Law Society are at an end, and that he will not apply for readmission, the Law Society will destroy the copy of the hard drive, or return it to Mr. McLean, as he elects."*

198. I note for the public record that the security for costs in that matter was obtained on fraudulent grounds by NST LLP, who knowingly misled the Court regarding the nature of the data captured—conduct warranting severe professional discipline and potentially constituting a fraud on the tribunal.

199. However, the legal mandate of the order remains absolute. I have already formally confirmed in writing that I will never seek reinstatement from the LSBC or apply for readmission. Consequently, that order is binding: the LSBC only held the hard drive *per se*.

200. And I made the right decision after receiving this document and the hyperlinked document:



nst NATHANSON, SCHACHTER & THOMPSON LLP

File: 10009-39
Reply to: John K. Lockhart
Email: jlockhart@nst.ca
Direct Line: 778-945-1481

25 October 2021

Kevin McLean
Unknown Address

VIA EMAIL

mclean@searchlawbusiness.ca

Dear Mr. McLean:

Re: Copy of RAM Capture

We are writing to respond to the request you confirmed on October 8, 2021 under the *Freedom of Information and Protection of Privacy Act* ("FIPPA") on the Law Society of British Columbia.

Further to that request for a copy of the RAM capture made from your computer in June 2014, I enclose a link to download that file.

Under section 52 of the FIPPA, you may apply to the Information and Privacy Commissioner for a review of the Law Society's response to your request. You have 30 business days to request a review by writing to the Office of the Information and Privacy Commissioner at the contact information provided below.

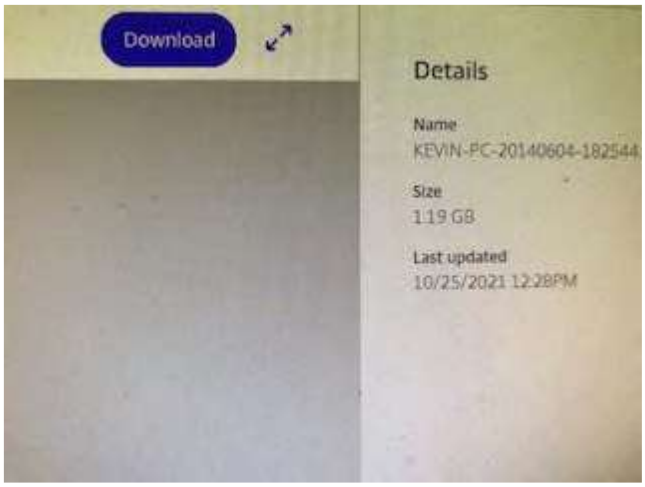
If you wish to request a review under section 52, please provide the Commissioner's office with the following information:

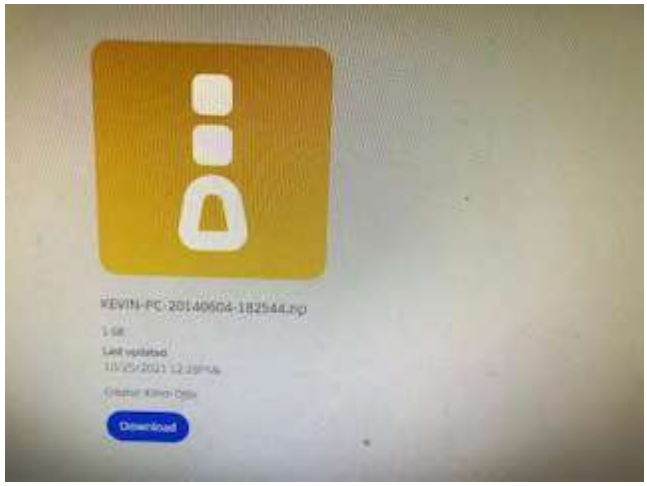
1. Your name, address and telephone number;
2. A copy of your request;
3. A copy of this letter; and
4. The specific reasons for requesting a review.

The Office of the Information and Privacy Commissioner can be reached at the contact information provided below.

Office of the Information and Privacy

677


Download
Details
Name
KEVIN-PC-20140604-182544
Size
1.19 GB
Last updated
10/25/2021 12:28PM


KEVIN-PC-20140604-182544.zip
Download

KEVIN-PC-20140604-182544.raw
Type of file: Adobe Acrobat Document
Modified: 6/4/2014 11:32 AM
Location: (Archive Root Directory)
Size: 522,240 KB
Compressed: 1,250,130 KB
Method: Deflated 64
CRC-32: 759AF18C
Index: 0
Attributes: Read-only Hidden Archive
OK
Cancel

201. In addition to those images, what followed by my exhaustive and intensely dedicated investigations into the same was more misleading conduct from some of the below:

Lawyers Indemnity Fund (or as Ms. Forbes calls it, "LIF")

https://lif.sharefile.com/Authentication/Login

Similar to:

https://www.evolvepartners.com/partners/

EVOLVE PARTNERS INC.

Jurisdiction (home): British Columbia **Jurisdiction (EP):** CA **Number:** 1087254 **Date:** 24 Aug 2016 **Additional Information:** 2019-11-19 Active British Columbia Corporation (B.C.) Vancouver

https://opencorporates.com/companies/us_ca/C2464966

a. Brian Roach – EY

i. https://www.linkedin.com/in/brian-roach-1a820380

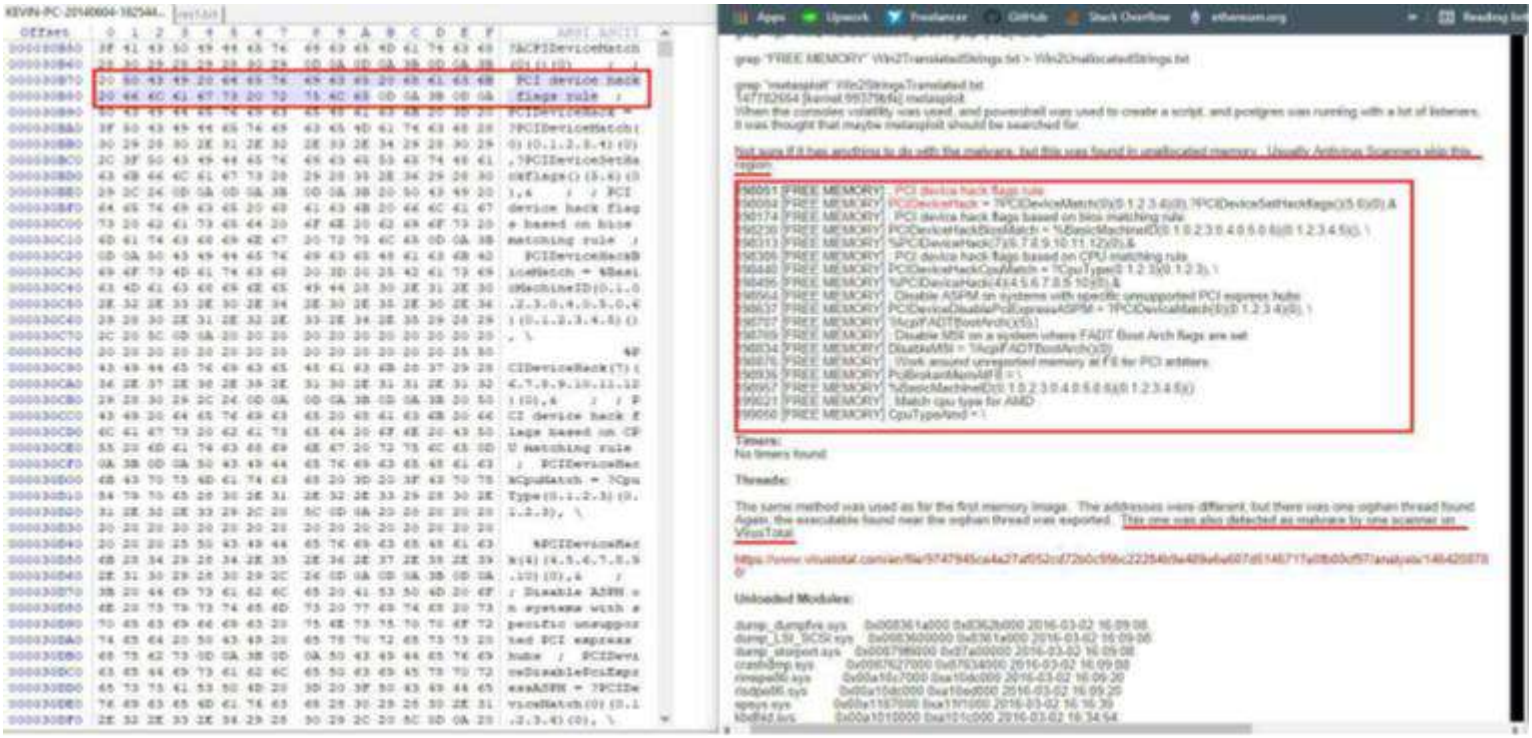
b. Ernst

NST LLP

 https://nathansonschachterthompsonllp.sharefile.com/Authentication/Login

NATHANSON, SCHACHTER & THOMPSON LLP

202. But oddly prior to that date, this occurred in 2016 (March) which was remotely accessing a CPU that was formerly at my private and privileged law office:



203. But prior to that, in the event you were unaware as the Head of the Public Body, the following occurred including the confirmatory language in the failed Notice of Application of the LSBC in Spring 2017 (nota bene: one can only imagine what would have transpired has the Concealed RAM Dump and remote monitoring was

597 disclosed honestly, openly and transparently to the BC tribunals, OIPC, BC Supreme Court, BCCA and SCC (on leave applications):

DECISION OF THE HONOURABLE MR. JUSTICE GRAUER AS HE THEN WAS (ALL IN THE SAME COURT FILE CITED BY NIEUWLAND IN HIS NULLITY MOTION FILING ON BEHALF OF TDGIC ON APRIL 11, 2024)

McLean v. Law Society of British Columbia, 2015 BCSC 1431

[93] Accordingly, I am of the view it is appropriate to grant the orders sought in paragraphs 7 and 8 of the May 13, 2015 application. I am making the following orders:

1. The plaintiff is not required to produce his personal phone to the Law Society pursuant to the Rule 4-43 order, and
2. Restraining the Law Society from entering or attempting to enter the plaintiff's residence pursuant to that order.

DECISION OF THE HONOURABLE MR. JUSTICE GRAUER AS HE THEN WAS

MCLEAN V LAW SOCIETY OF BRITISH COLUMBIA, 2017 BCSC 987

4.1.2 Mr. McLean's application for summary judgment

[65] As I see it, and as the Court of Appeal intimated, it is important to distinguish between the different questions that arise from Mr. McLean's claim.

[66] The first question is whether the Law Society exceeded its statutory jurisdiction when it granted the investigation order; in other words, was the order ultra vires the Law Society? If so, it must be set aside.

[67] The second question is whether, assuming that it had jurisdiction to grant the order, the Law Society nevertheless acted improperly in the manner in which it granted the order, giving rise to procedural unfairness, so that the order must be set aside and, presumably, remitted to the Chair of the Discipline Committee. On this aspect, Mr. McLean relies upon: the failure of Mr. Riddell to give reasons for his decision to grant the order; the absence of information under oath to support the decision; the fact that the order was granted without notice to Mr. McLean; the absence of procedural safeguards (such as would, for instance, be available in an application for an Anton Pillar order, to which Mr. McLean likens the investigation order); and the conflict of interest that arises from what Mr. McLean terms a solicitor-client relationship that existed between Mr. Bussanich and Mr. Riddell.

[68] If either of those two questions were resolved in favour of Mr. McLean, then it would follow that the steps taken by the Law Society in carrying out the order were unlawful. The question of consent becomes immaterial.

[69] The third question is whether, assuming that the Law Society had jurisdiction to grant the order and did not act improperly in doing so, the Law Society nevertheless carried out the order in a manner that constitutes an unreasonable search and seizure. This turns primarily on the question of consent.

[70] The third question is one that could indeed be the subject of a civil action for damages, but I am satisfied that it is not one that can be decided on this application. This is because I would be obliged to weigh the evidence concerning whether and to what extent Mr. McLean consented to the investigation of his records and the copying of his computer contents.

FILED NOA BY THE LSBC IN APRIL 2017

(HEAD OF PUBLIC BODY AT LIBERTY TO OBTAIN A COPY OF THE SAME)

The filing by the LSBC in S-1410056 on April 2017

[23] On the morning of June 4, 2014, the plaintiff emailed Mr. Bussanich again and stated that his office was wide open for the Law Society to investigate. The plaintiff provided Mr.

Bussanich with the passwords to his computer and stated that the investigators were at liberty to copy any documents they wanted

[24] On June 4, 2014, the investigators attended again at the plaintiffs office. The investigators took two forensic copies of the HARD DRIVE on the plaintiff's office computer. They also took copies of paper files provided by the plaintiff.

[25] Nobody from the LSBC reviewed the **HARD DRIVE** until the conclusion of a process set out in the Rule 4-43 order for the adjudication of the plaintiffs request that certain documents be excluded from review. As it turned out, the plaintiff initiated but did not pursue the exclusion request and an independent adjudicator eventually dismissed the request.

[26] The plaintiff did not provide to the investigators all the records they requested. He was cited for failing to comply with the Rule 4-43 order.

204. And in the time period of my *FIPPA* requests in 2021 and then what followed one of the more surreal experiences in investigating and exercising federal PIPEDA rights with a variety of Organizations in in the "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record":

GLOBAL INFORMATION

Home | Business News | City Newsmakers | KINGLORY ANNOUNCES MARKHAM AS ITS CORPORATE HEADQUARTERS

KINGLORY ANNOUNCES MARKHAM AS ITS CORPORATE HEADQUARTERS

Markham, Ontario, July 13, 2021 (GLOBE NEWSWIRE) — On July 12th, 2021, member of

GLOBAL INFORMATION

Intrado SIGN IN

KINGlory

KINGLORY ANNOUNCES MARKHAM AS ITS CORPORATE HEADQUARTERS

July 13, 2021 12:18 ET
| Source: Kinglory Inc

KINGlory Microsoft

KINGlory CANADIAN

GLOBAL INFORMATION

FOX 43 Knoxville 70°

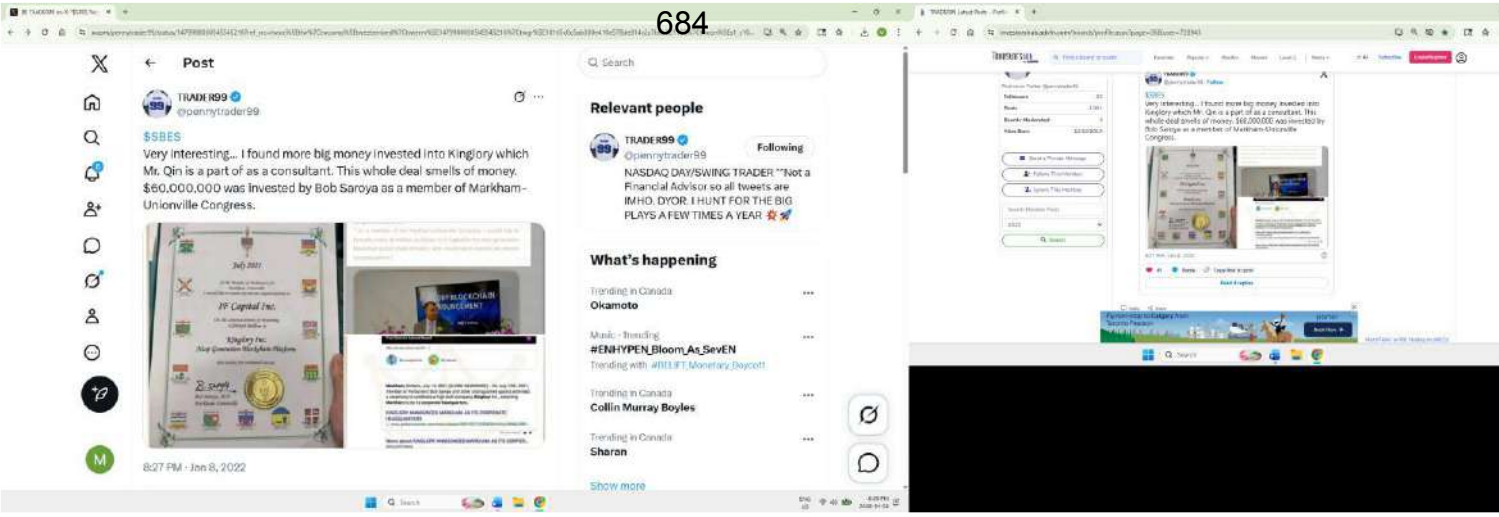
Markham, Ontario, July 13, 2021 (GLOBE NEWSWIRE) — On July 12th, 2021, member of Parliament Bob Saroya and other distinguished guests attended a ceremony to celebrate a high-tech company, Kinglory Inc., selecting Markham to be its corporate headquarters. Markham is Canada's high-tech capital, anchored by more than 1,500 international tech businesses.

With a team of over 200 technological experts from Canada, the United States, Israel and Russia, Kinglory is a public, open-source platform that is dedicated to maintaining and developing a community that anyone can contribute to.

Kinglory brings a major technological overhaul to the existing blockchains in the data, network, consensus, incentive, and application layers. Kinglory utilizes state-of-the-art technological innovations to eliminate performance, security,

GLOBAL INFORMATION

GLOBAL INFORMATION


Post
TRADE R99
@pennytrader99
$SBES
Very interesting... I found more big money invested into Kinglory which Mr. Qin is a part of as a consultant. This whole deal smells of money. $60,000,000 was invested by Bob Saroya as a member of Markham-Unionville Congress.
8:27 PM · Jan 8, 2022
Search
Relevant people
TRADE R99
@pennytrader99
Following
NASDAQ DAY/SWING TRADER ~Not a Financial Advisor so all tweets are IMHO. DYOR. I HUNT FOR THE BIG PLAYS A FEW TIMES A YEAR
What's happening
Trending in Canada
Okamoto
Music · Trending
#ENHYPEN_Bloom_As_SevEN
Trending with #RELIFT, Monetary Boycott
Trending in Canada
Collin Murray Boyles
Trending in Canada
Sharon
Show more

205. Notably, BLG, whose one Mr. Robert Deane, a partner at the Vancouver office was the individual who I appointed as the independent supervising solicitor and independent adjudicator in 2014 and then Mr. Bartos unequivocally represented to me that BLG was counsel to the LSBC and LIF in 2022, was counsel to Binance and Kinglory:

206. I provide a brief mention of the absence of any solicitor-client privilege, litigation privilege or any other type of privilege or confidentiality of any kind.

207. While solicitor-client privilege remains a foundational pillar of the adversarial system, it is unequivocally not absolute. The Supreme Court of Canada has continuously mandated that the inviolability of such privilege must yield in highly circumscribed circumstances where paramount competing societal interests or the integrity of the judicial apparatus are directly threatened.

208. The Public Safety Exception: In the seminal decision of Smith v. Jones, 1999 CanLII 674 (SCC), the Supreme Court definitively codified the "public safety exception" to solicitor-client privilege. The Court established a rigorous tripartite framework warranting the abrogation of privilege, requiring the demonstration of: (i) a clear risk to an identifiable person or group; (ii) a risk of serious bodily harm or death; and (iii) an imminent

danger. Within the present evidentiary matrix, the comprehensive "Dossier of Imposter Malfeasance"—which meticulously documents the fabrication of email accounts, the illicit manipulation of cryptocurrency wallets, and the systemic, technologically sophisticated threats targeting the Applicant's financial survival and personal security—arguably intersects with the profound threshold of serious harm and imminent danger contemplated by the highest Court. The engineering of a victim's total financial ruin through orchestrated corporate or third-party malfeasance precipitates an existential threat that transcends the protective boundaries of conventional privilege.

209. The Crime, Fraud, and Malfeasance Exception: Furthermore, the jurisprudential architecture explicitly recognizes that solicitor-client privilege is instantly vitiated when the protective veil is manipulated to conceal an abuse of process, a breach of regulatory statutes, the commission of tortious acts, or a profound breach of fiduciary duty. As codified in *Goldman, Sachs & Co. v. Sessions*, 1999 CanLII 5317 (BCSC) and subsequently affirmed in *Goldman Sachs & Co. v. Sessions*, 2000 BCSC 67, communications traversing between legal counsel and a client are stripped of all privilege if the lawyer's advice is sought, utilized, or weaponized in furtherance of an illegal, fraudulent, or tortious purpose.

210. To pierce the privilege under this specific exception, the jurisprudence mandates that the party challenging the protection must establish a prima facie case—supported by convincing evidence—of the illicit purpose or fraudulent activity (see also: *O'Rourke v. Darbishire* (1918), [1919] 1 Ch. 320).

211. While in normal circumstances, the historic approach of the LSBC is to drag, stall and delay with fictitious time extensions et al, that works against it now considering the importance of the various transitional councils and boards having the requisite knowledge to discharge their statutory duties under the *Legal Professions Act 2024.*

212. Considering the next LPA Transitional team meeting is on Monday, June 8, 2026, should you have in mind a way to creatively resolve all of the above issues in a comprehensive manner, I will need to know prior to the commencement of that meeting on Monday. Otherwise, I will continue to assert and protect my legal rights and act in the public interest.

213. I confirm that any and all Personal Information of mine cannot be deleted, utilized, accessed or disclosed without my consent.

214. Because amalgamation and corporate dissolution are imminent, I do not merely state it, I **request** it: the LSBC MUST provide me with the copies of my hard drive that was apparently forensically copied as it will need to compared to that which you will be required to return when the LSBC dissolves.

215. I am also entitled now, outside of the Justice McIntosh Order, by way of copies of all of the above including associated data derivatives, including the unauthorized RAM captures and cloud deployments directly to me BEFORE the LSBC dissolves.

216. The LSBC cannot legally transfer my property and other individual's Personal Information subject to Concealed RAM Dumps and "cloning" and/or remote monitoring absent their consent to the LPBC under the guise of an organizational amalgamation, nor can it claim the data was "lost in transition." As such, now became the

605 perfect time to ensure that I was taking proactive steps to ensure that there was a proper frame of reference to that which will be subject to the data preservation, data security measures and data protection prior to amalgamation.

Sincerely,

Kevin A. McLean (BA, JD, CIM)

mclean@searchandseizure.ca

APPENDICES

APPENDIX #1:

Mr. McLean can now add to the aggravation and humiliation that the Memory Forensics of *Personal Information et al* was then subject to Cross Chain August 2021 Disclosures and Token Swapping in the unregulated "Crypto world" along with the tracking and storage of 39 BLOCK on Ethereum to the IPFS[1] location in Mississauga, Ontario.

RAM DUMPS DISTINCT FROM FORENSIC CLONING; FORENSIC CLONING DISTINCT FROM FORENSIC COPYING

RAM **CANNOT** be **COPIED**[2] due to the:

a. *Usage*: usage of CPU before Dump (see: manipulated timing within the **Manipulated Forensic Preservation Report**);

b. *Volatile:* in constant flux;

c. *Memory:* not storage:

d. *Creation: c*reating a ***RAM DUMP*** changes the evidence (see: no "write block"[3]); and

e. *Not validated*: Imaged **CANNOT** be validated (*nota bene*: this was admitted in the Purported Preservation Report, sections involving attempted transfers of "Forensic Images" to disk which failed on June 13, 2014 and then only "images" on June 14, 2014 and June 14, 2014 *without* any confirmation that these images were copied);

f. *Dissipation*: of images over time; and

g. **Unencrypted**.

---

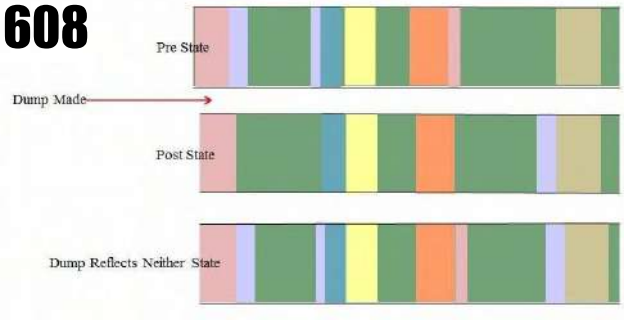
[1] See: Provable: Provable Documentation; The authenticity proof can be either delivered directly to the **SMART CONTRACT** or it can be saved, uploaded and stored on some alternate storage medium like IPFS.

[2] NST LLP representation, purportedly on behalf of the LSBC, that "other documents" [sic] were copied [sic] pursuant to Rule 4-43 [sic] [287]UFR: 1916

[3] EFS

608

691



APPENDIX #2: PERSONAL INFORMATION

Personal Information in Canada is afforded a broad and expansive definition (see: *Dagg*; CIC):

a. Anything about **Affected Individual** (see: 2006 FCA 157);

b. Serious Possibility (see: *Gordon*; 2008 FC 258));

c. Need **not** be recorded (see: *Morgan*));

d. Oral Conversations;

e. Subjective information (see: *Lawson v. Accusearch* 2007 FC 125));

f. Business context;

g. Even if **PUBLIC** can still be relevant (see: *Englander*));

h. Business and Professional Context;

i. Company Association;

j. De-identified Is relevant (NOT anonymous) if linking back to an identifiable individual k. Finical context;

l. Technological; and

m. IP addresses.

The **Domain Tracking ID** from the URL's that were "hit" are below:

(A) IN SMART CONTRACTS

a. **Block 481134**

i. which contains **Smart Contracts #1** (see: Oraclize); and

ii. **Smart Contract #2** (see: Block Apps); not subject to **BINANCE** Smart Chain Crossover);

a. along with **4 Transactions**

i. (see: 2 to Poloniex);

ii. one from Dwarf Pool)

1. has **2538 Return Hits** in the **Unrequested False Record** [4].

b. **Block 523033**

i. which has **Smart Contracts #3 and #4** (Oraclize)

2. 1 transactions (see: Coinotron[5]),

a. has **53 Return Hits** in the **Unrequested False Record**.[6]

c. Block **524040**

[4] domaintrackingid=481134>khuackr<domain><domaintrackingid; domaintrackingid=481134
[5] Out of business
[6] kicasigncokr<domain><domaintrackingid=53; yessignorg<domain><domaintrackingid=481134>Yhscokr<domain>

ii. which has **Smart Contract** #12 (Oraclize)

3. has ***14 Return Hits*** in the **Unrequested False Record**. [7]

d. Block 526102

i. which has **Smart Contract** #5 (Oraclize)

4. 2 transactions

a. (see: from *Supra*nova and Drawfpool)

i. has **39 Return Hits** in the **Unrequested False Record**.[8]

e. **Block** 526206

i. which had **Smart Contract** #6 (see: Oraclize) and

5. one transaction (see: Ethpool),

a. has **54 Return Hits**[9],

in the **Unrequested False Record**

f. **Block 539165**

ii. Miner:

[7] d=524040>shinhansavingscom<domai

[8] domaintrackingid=526102>kicerekr<domain; domaintrackingid=526102>safe182gokr; saltagencycokr

[9] 526206>truewarrantcom<domain

iii. has **54**[10] **Return Hits** in the **Unrequested False Record**.[11]

g. Block 533372

6. with Nanopool as the Miner and
7. 3 transactions
8. (2 from Nanopool and one to Bittrex (52 Ether))

a. had **34 Return Hits**,

h. Block 524121

iv. which had Drawfpool as the Miner and

9. 2 transactions
10. (from Dwarfpool and Shapeshift (35),

a. has **123 Return Hits** in the **Unrequested False Record** .[12]

Smart Contracts with Contract Code from Gav Wood – Ethereum

i. Block 488922,

v. which had Nanopool as the Miner

11. with **Smart Contract**s #7 and #8 (Gav Wood – ethereum)

a. had **8 Return Hits** in the **Unrequested False Record**.

[10] Two with strings but not around domains
[11] domaintrackingid=539165>kicasigncom<domain><; domaintrackingid=539165>yeogicybercokr<domain><domaintrackingid=481134
[12] <domain><domaintrackingid=524121>kmbstorecokr<domain><domaintrackingid=524; omaintrackingid=524121>trusbillcokr<domain; domaintrackingid=524121>phoneatmkr<domain

j. Block 525177, 696

vi. which had no transactions and

vii. Nanopool as the Miner,

12. has **270 Return Hits** in the **Unrequested False Record** .[13]

k. Block 519708

viii. which had Nanopool as the Miner and

ix. one transaction from Ethpool,

has **28 Return Hits** in the **Unrequested False Record**. [14]

l. Block 496798[15]

x. which had Dwarfpool as the Miner,

xi. has **21 Return Hits** in the **Unrequested False Record**.[16] [17]

m. Block 528033

xii. which had *Supra*nova as the Miner,

xiii. has **164 Return Hits** in the **Unrequested False Record**.[18]

[13] id=525177>kicpaorkr<domain><domaintrackingid=519708>kicsgokr; domaintrackingid=525177>zpizgicokr<domain><d
[14] iongobes<domain><domaintrackingid=519708>educarcokr<domain><d; <domaintrackingid=519708>npsorkr
[15] 496798: santandertottapt<domain><domain>saramincokr<domain><domain>sbbch
[16] >pooqcokr<domain><domaintrackingid=496798>portaldasfinancasgovp
[17] omaintrackingid=496798>santandertottapt
[18] internetgirocokr<domain><domaindocMode=EmulateIE10versionVector=10uaString=I

(B):

In Unknown Miners – No Transactions

a. Block 514856,

i. which had an unknown Miner and

ii. no transactions within the Block,

iii. has **9 Return Hits** in the **Unrequested False Record**.[19] [20] [21]

b. Block 518566:

13. which had an unknown Miner and

14. no transactions,

a. has **32 Return Hits** in the **Unrequested False Record**. [22]

c. Block 604719,

i. which had an Unknown Miner,

ii. No transactions iii. has **34 Return Hits** in the **Unrequested False Record**. [23] [24] [25]

(C): IN: PART 2: FALSE TRACKING ID

[19] <domaintrackingid=514856>stylenandacokr
[20] 514856>yes24com
[21] ejejubankcom<domain>
[22] 518566>kjbankcom<dom; <domaintrackingid=518566>pengokr<domain><domaintrackingid=481134>pepercokr
[23] BFCache><domaintrackingid=604719>adsamecom<domain><dom
[24] <domaintrackingid=604719>seattletimescom<domain
[25] 604719>globocom<domain><domaintrackingid=604719>

*Count = **11** Blocks*

The False Tracking identifications that hit URLS were:

n. Block 426146

xiv. which had Ethpool 2 as the Miner,

15. has ***7 Return Hits*** in the **Unrequested False Record**. [26]

o. Block 492964

xv. had Nanopool as the Miner and

xvi. no transactions,

16. has ***2 Return Hits*** in the **Unrequested False Record**.

p. Block 493127

xvii. which had an unknown miner and

xviii. no transactions,

17. had ***4 Return Hits*** in the **Unrequested False Record.** [27] [28]

q. Block 515644

xix. which had an unknown miner and

xx. no transactions,

has ***3*** *three* ***Return Hits*** in the **Unrequested False Record**. [29][30] [363]

[26] falsetrackingid=426146>auto163com<domain

[27] falsetrackingid=493127>chcauhsorkr<domain><domaindocMod

[28] 493127>hyundailifecom<domain>

[29] falsetrackingid=515644>ellottecom<

[30] uaString=9trackingid=515644

r. Block 524219,

xxi. which has Nanopool as the Miner and

18. **<u>Smart Contracts</u> #9 and #10** and

19. two transactions (nota bene: 3 and #9 the same along with #5, #10 and #12)

,

a. has ***five (5) Return Hits*** in the **<u>Unrequested False Record</u>**.[31]

s. Block 508428[32] ,

xxii. which had Cointoron as the Miner

20. **SCA #11** along with

21. **Transaction with** Cryptsy,

has **two (2) Return Hits** in the **<u>Unrequested False Record</u>**.

t. Block 527170

xxiii. has 23 **Return Hits** in the **<u>Unrequested False Record</u>**.[33]

u. Block 489063

xxiv. which had *Supra*nova 2 as Miner but had an Uncle,

[31] UACompatible:falsetrackingid=524219>galleriacokr<domain><falsetrackingid=524219>galleriacokr<domain><domaindocMode=EmulateIE10versionVector=10u aString=IE10feat
[32] IE10featureSwitch=overrideXUACompatible:falsetrackingid=508428>ikecokr<domain><domaindocMode=EmulateIE10versionVector=10uaString=IE10featureS witch=overrideXUACompatible:falsetrackingid=48113
[33] IE10featureSwitch=overrideXUACompatible:falsetrackingid=527170>kiprisorkr<domain>

22. contains two (2) **Return Hits** in the **Unrequested False Record**.[34] [35]

v. Block 501104,

xxv. which had **Smart Contract**s #14 and #15 and

xxvi. one transfer from Ethpool 2,

23. has ***one hit*** (1) in the **Unrequested False Record**.[36]

w. Block 573876,

xxvii. which had two transfers *from Supra*nova,

xxviii. has *one hit* (1) in the **Unrequested False Record**. [37]

x. Block 508394,

xxix. with an Unknown Miner,

xxx. has two (2) **Return Hits** in the **Unrequested False Record**.[38]

VOLUME 11(D) *In* ***Part*** *3:* **Domain Tracking ID and False ID (4)**

---

338. The number of URLS that were hit with domain tracking id and false tracking id were:

a. Block 541074

[34] falsetrackingid=489063>nicepaycokr<do
[35] falsetrackingid=489063>nicepaycokr<domain><domaindoc
[36] falsetrackingid=501104>askcom<domain
[37] falsetrackingid=573876>yesonegokr
[38] falsetrackingid=508394>liphopcok

xxxi. which had **Smart Contracts** #16 and #17 (see: Shapeshift; which was not part of **BINANCE** Smart Chain crossover) and

24. one transfer to Poloniex,
25. had six (6) **Return Hits** in the **Unrequested False Record**.[39] [40]

b. Block 624625

xxxii. has six (6) **Return Hits** with false[41]

26. in the **Unrequested False Record**

c. Block 519659

xxxiii. which had Nanopool as the Miner,

27. has **67 Return Hits** in the **Unrequested False Record** [42] [43]

d. Block 516687 has

xxxiv. **7 Return Hits** in the **Unrequested False Record**.[44]

(E) IN PART 3: TOKEN AND FALSE (3)

339. The number of URLS that were hit with token and false ID were:

[39] <domaintrackingid=541074>softforumcokr<domain>
[40] falsetrackingid=541074
[41] falsetrackingid=624625>eduhansolcom; <domaintrackingid=624625>eduhansolcom
[42] 519659>metlifecokr
[43] 519659>truefriendcom<
[44] archeagecom<domain>; falsetrackingid=516687>anycardirectcom<doma; domaintrackingid=516687>mobileokcom<domai

e. Block 491792 has **34 Return Hits**.[45] [379]

f. Block 480195 has **59 Return Hits**.[46]

Four strings contain false tracking id's and the remaining are token tracking identifications.[47]

g. 514855 contains

8 **Return Hits** with some being token tracking ids[48] and some being false identifications (see: Standard Bank; SBI).[49].

F) : IN PART 4: TOKEN TRACKING ID (2)

The number of URLS that were hit with token tracking ID were:

h. Block 560174 (two transfers within block) xxxv. has **three (3) Return Hits** in the **Unrequested False Record**.[50] [51]; and

i. Block 540914, which had **Smart Contract** #13

xxxvi. has **one (1) hit** in the **Unrequested False Record**.[52]

[45] Tokentrackingid=491792>newonecomcn<domain><domainuaString=IE10Trident60Tokentrackingid=491792>risingcomcn< [379]falsetrackingid=491792>percm
[46]
kingid=480195>leadcorpcokr<d; IE10Trident60Tokentrackingid=480195>hicardirectcom<domain>;
IE10Trident60Tokentrackingid=480195>pinkbananacokr; IE10Trident60Tokentrackingid=480195>utaxseoulgokr<domain><doma
[48] falsetrackingid=514855>sbisbcokr<domain>;
[49] falsetrackingid=514855>standardcharteredcokr
[50] IE10trackingid=560174>cafenavercom<domain>
[51] eumcackr<domain>
[52] Tokentrackingid=540914>egovgokr<domain><d

340. The number of URLS that were hit merely emulate were:

j. Block 528033, which had *Supra*nova as the Miner,

xxxvii. has **164 Return Hits** in the **Unrequested False Record**.[54] [55]; and

k. 543414, which had Nanopool as the Miner has **three (3) Return Hits** in the **Unrequested False Record**.[56] 391

VOLUME 11(H): *:*

PART 6: "8TRACKING" (1)

572599, which had **Smart Contract** #18 (see: Oraclize) and **Smart Contract** #19 (see: Ether.Camp to Polygon thereafter) had **nine (9) return Hits** in the **Unrequested False Record** (also known as "Concealed RAM Dump & Unauthorized PI Blockchain Access Disclosure Record")

[53] EmulateIE10versionVector=10uaString=10>santandercombr<domai

[54]

[55] billingoneorkr<domain><domaindocMode; 10uaString=IE10trackingid=528033>bank**Wallet**kr<domain><domaindocMode=EmulateIE10versionVector; 10uaString=IE10trackingid=528033>fineappsorg<domain><domFILE0

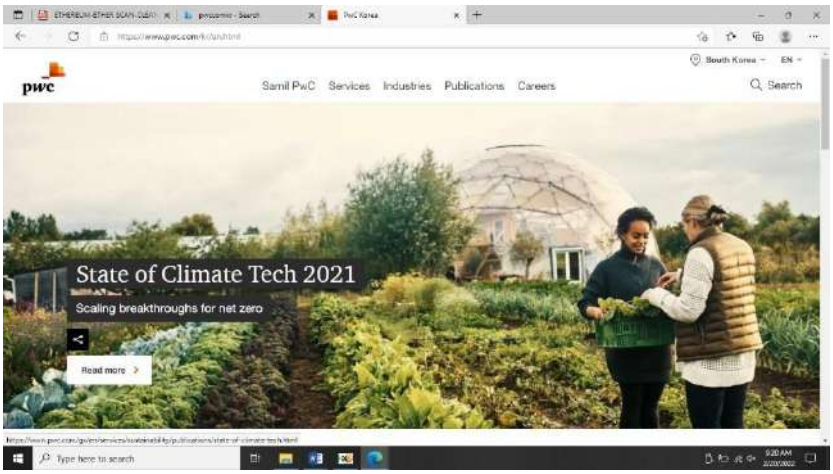
[56] =overrideXUACompatible:falsetrackingid=543414>116676267<domain><domaindocMode; falsetrackingid=543414>116676267<domain><domaindocMode

APPENDIX #4: SCREENSHOTS FROM THE "CONCEALED RAM DUMP & UNAUTHORIZED PI BLOCKCHAIN ACCESS DISCLOSURE RECORD" AND TIES TO THE BLOCKS CONTAINED THEREIN AND THEIR WEBSITES FOR OFF CHAIN ACTIVITY

The following blocks are highlighted for sheer optics and understanding of what happened AFTER the July 2021 privacy requests of Mr. McLean.

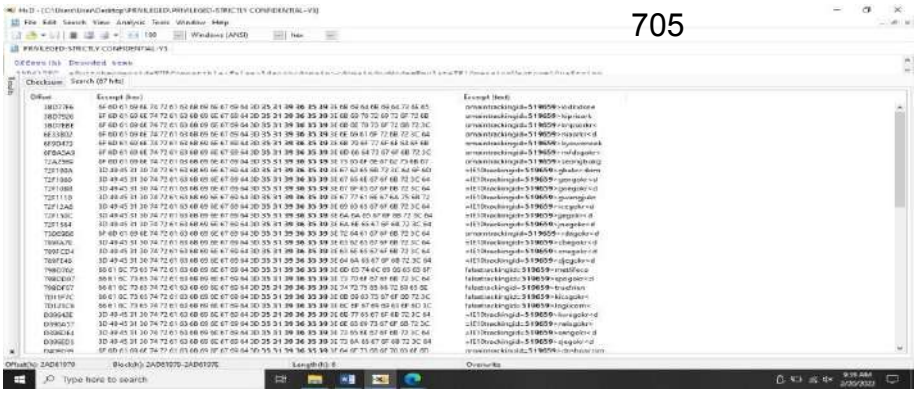
BLOCK 539165

- Smartbill
    - Smartbillcokr
    - Cyberiorkr
    - Ssroac
    - Pwccomkr[57]



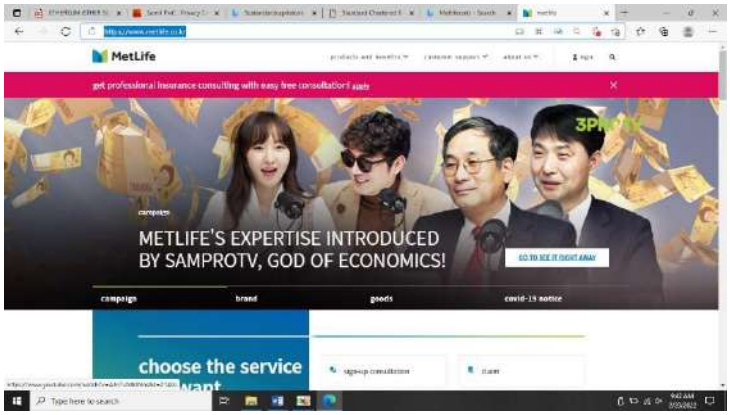
BLOCK 519659

[57] iecompat:pwccomk



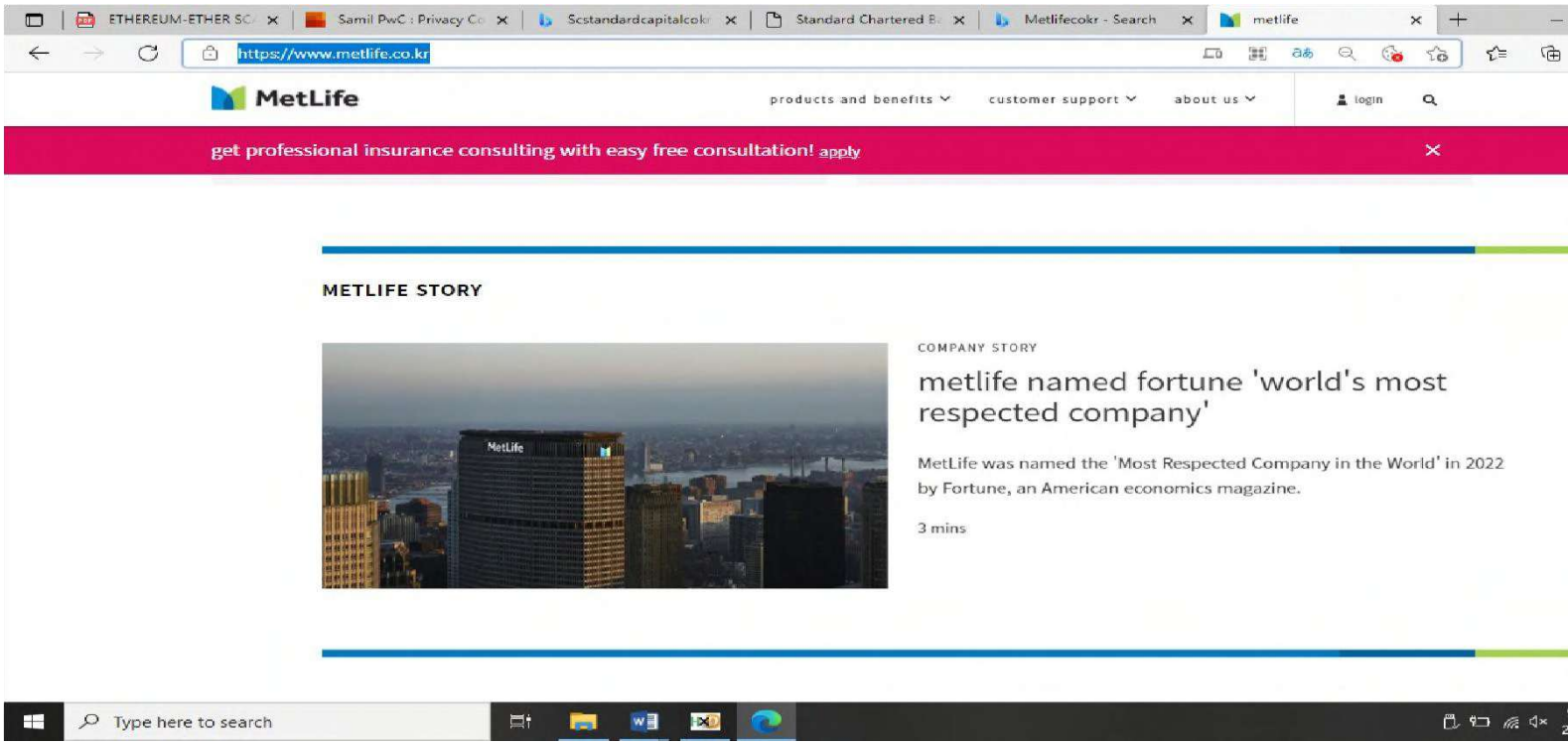
DOMAINS

Metlifecokr (see: metlife)



© 2021 MetLife Life Insurance Co., Ltd. All Rights Reserved.
316 MetLife Tower Call Center, Teheran-or, Gangnam-gu, Seoul 1588-9600 Overseas : +82-2-2017-6700

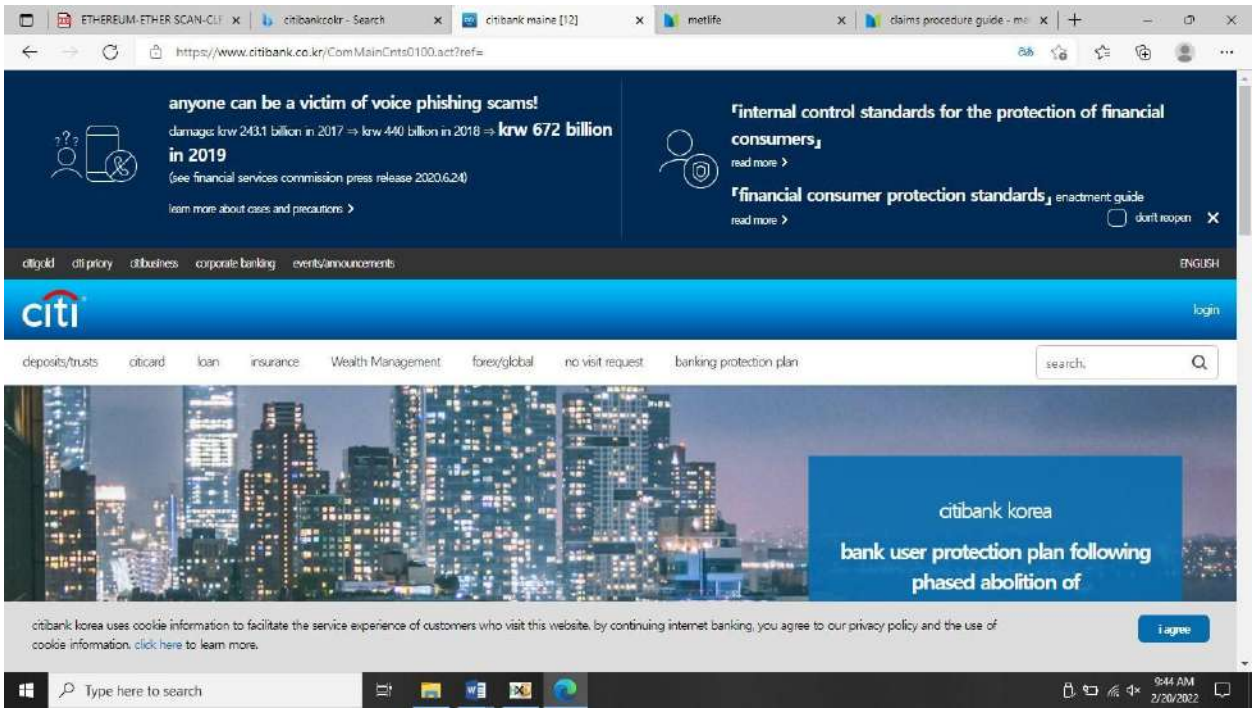
truefriendcom



624 Citibank (see: citibankcokr)[58] [394] 707

providing credit information to collection agencies and credit check-up companies credit information collection agency (korea credit information institute, credit finance association, etc.)

CREDIT CHECKING COMPANY (SEOUL CREDIT RATING INFORMATION CO., LTD.),



KOREA CREDIT BUREAU CO., LTD., NICE CREDIT RATING INFORMATION : ETC.)

read more about affiliates citibank korea affiliates and overseas supervisory agencies, including citigroup headquarters

Citigroup Affiliates : Citigroup Inc., Citibank N.A.

Overseas Supervisory Authority : OCC, Fed (U.S.)

BLOCK 526206

[58] Citibank is the consumer division of financial services multinational Citigroup. Citibank was founded in 1812 as the City Bank of New York, and later became First National City Bank of New York. The bank has 2,649 branches in 19 countries, including 723 branches in the United States and 1,494 branches in Mexico operated by its subsidiary Banamex. The U.S. branches are concentrated in six metropolitan areas: New York, Chicago, Los Angeles, San Francisco, Washington, D.C., and Miami. [394]privacy policy[12] (citibank.co.kr)

HxD - [C:\Users\User\Desktop\PRIVILEGED\PRIVILEGED-STRICTLY CONFIDENTIAL-V3]

File Edit Search View Analysis Tools Window Help

100 | Windows (ANSI) | hex

PRIVILEGED-STRICTLY CONFIDENTIAL-V3

Offset (h) Decoded text

Results

Checksum Search (54 hits)

Offset	Excerpt (hex)	Excerpt (text)
3BD79CD	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 6B 69 74 63 63 6F 6B 72 3C	omaintrackingid=526206>kitccokr<
3BD7A1E	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 6B 69 77 6F 6F 6D 63 6F 6B	omaintrackingid=526206>kiwoomcok
6C9E09B	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 77 6F 6F 72 69 66 75 74 75	omaintrackingid=526206>woorifutu
6C9E0CC	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 77 6F 6F 72 69 66 75 74 75	omaintrackingid=526206>woorifutu
6C9E0FC	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 77 6F 6F 72 69 66 75 74 75	omaintrackingid=526206>woorifutu
6C9E12B	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 77 6F 6F 72 69 6F 6E 6C 69	omaintrackingid=526206>woorionli
6C9E15B	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 77 6F 6F 72 69 6F 6E 6C 69	omaintrackingid=526206>woorionli
6E33CDA	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 6E 6F 31 63 6D 61 63 6F 6D	omaintrackingid=526206>no1cmacom
6F4E12D	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 74 66 69 6D 75 63 6F 6D 3C	omaintrackingid=526206>tfimucom<
6F4E156	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 74 66 6E 65 74 63 6F 6B 72	omaintrackingid=526206>tfnetcokr
6F4E180	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 74 66 70 6C 75 73 63 6F 6B	omaintrackingid=526206>tfpluscok
6F4E1AB	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 74 66 73 74 6F 63 6B 63 6F	omaintrackingid=526206>tfstockco
6F4E7E5	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 74 72 75 65 77 61 72 72 61	omaintrackingid=526206>truewarra
6F844D1	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 73 6B 63 6D 61 63 6F 6B 72	omaintrackingid=526206>skcmacokr
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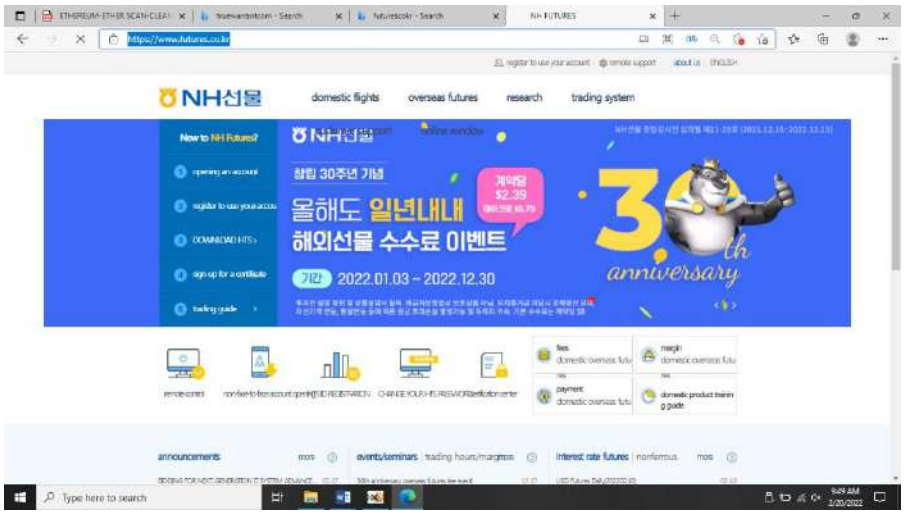
713EFF3	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 6D 79 61 73 73 65 74 63 6F	omaintrackingid=526206>myassetco
750E60E	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 70 72 69 64 65 6E 63 6F 6D	omaintrackingid=526206>pridencom
D707156	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 68 69 69 62 63 6F 6B 72 3C	omaintrackingid=526206>hiibcokr<
D9779A5	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 66 75 74 75 72 65 73 63 6F	omaintrackingid=526206>futuresco
D9779D1	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 66 75 74 75 72 65 73 6B 72	omaintrackingid=526206>futureskr
D9779FB	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 66 75 74 75 72 65 73 6B 6F	omaintrackingid=526206>futuresko
DC3C0A6	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 64 61 65 77 6F 6F 64 69 72	omaintrackingid=526206>daewoodir
DD72323	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 69 6D 65 72 69 74 7A 63 6F	omaintrackingid=526206>imeritzco
DD72378	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 69 6D 69 6E 76 65 73 74 69	omaintrackingid=526206>iminvesti
DD723A6	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 69 6D 75 6F 6E 73 74 6F 63	omaintrackingid=526206>imuonstoc
DD723D4	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 69 6D 75 6F 6E 73 74 6F 63	omaintrackingid=526206>imuonstoc
DD72419	6F 6D 61 69 6E 74 72 61 63 68 69 6E 67 69 64 3D 35 32 36 32 30 36 3E 69 6D 79 6F 75 6F 6E 73 74	omaintrackingid=526206>imyouonst

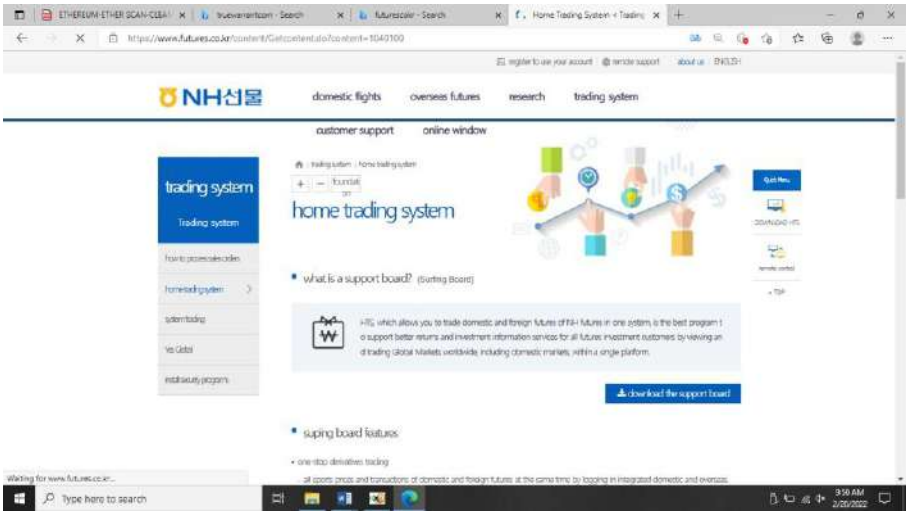
Offset(h): 2A62EA4D | Block(h): 2A62EA4D-2A62EA52 | Length(h): 6 | Overwrite

Type here to search | 9:45 AM 2/20/2022

626

- truewarrantcom 709
- futurescokr (see: NH FUTURES)





- myassetcokr

- pridencom

- woorionlinecokr

- tfstockcokr 710
- bankiscokr
- bankparkcokr

BLOCK 518566

- Kjbankcom
- Allcreditcokr
- Nicecreditcom
- Allcreditcokr
- Axacokr

BLOCK 525177

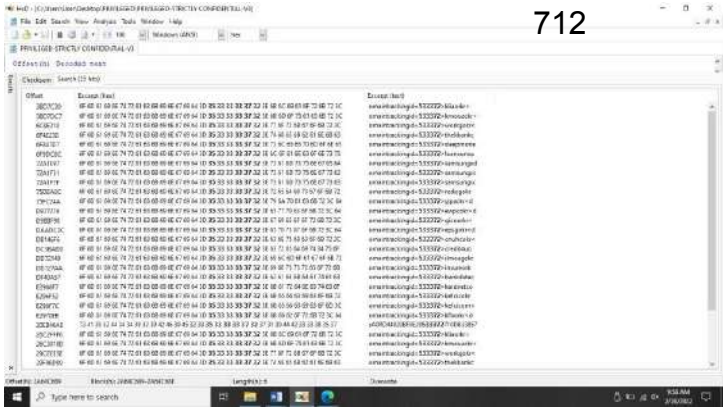
- **TRADES**ecretorkr
- lotteb2bcom

- samsungbtscom711
- sendbillcokr
- koreab2bcom
- sdulifecom

BLOCK 533372

- Thekba
  nkcokr
- Sleepm
  oneyorkr
- Bankda
  tacok

o loanconsultantorkr



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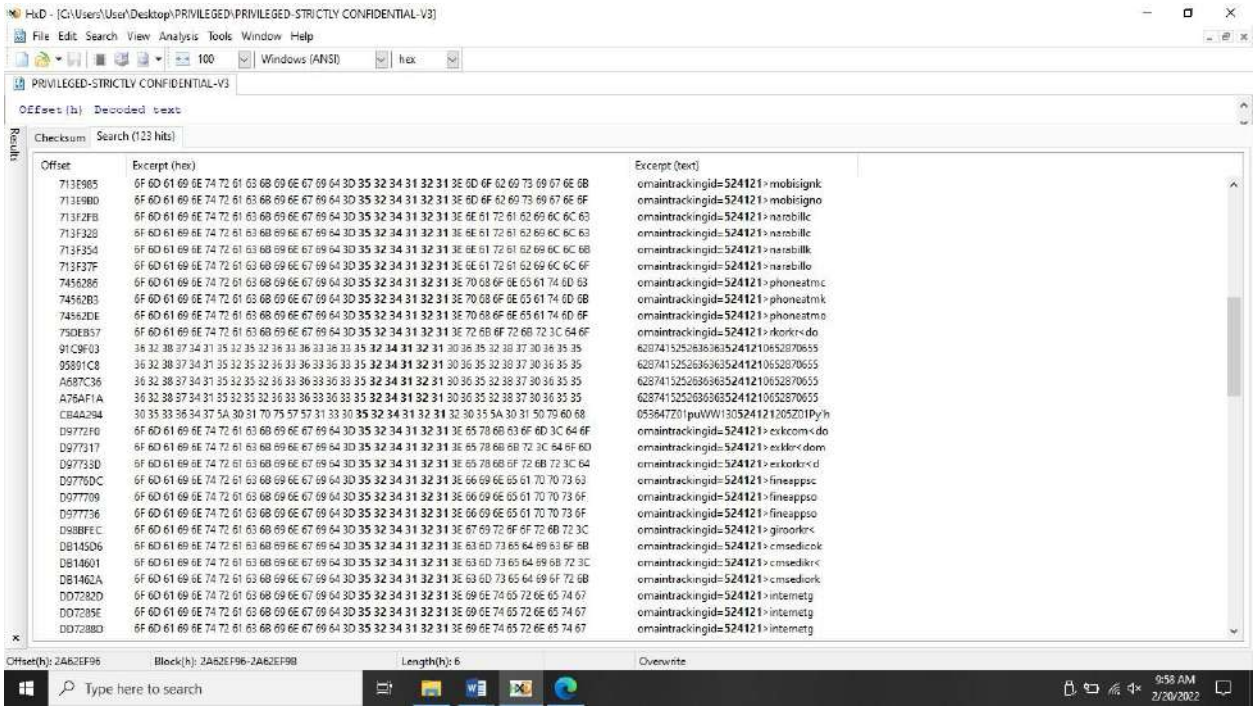

- internetgirocokr

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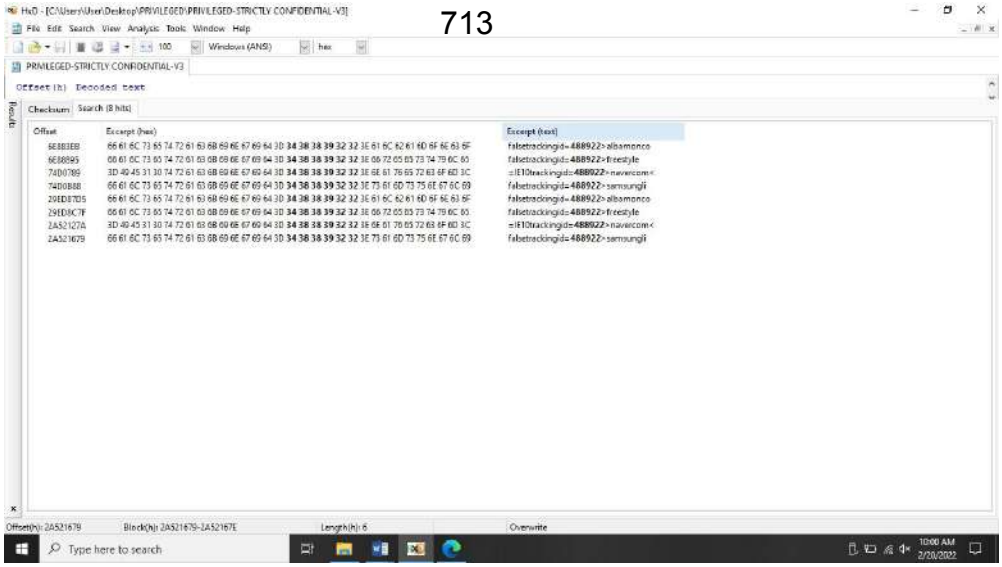

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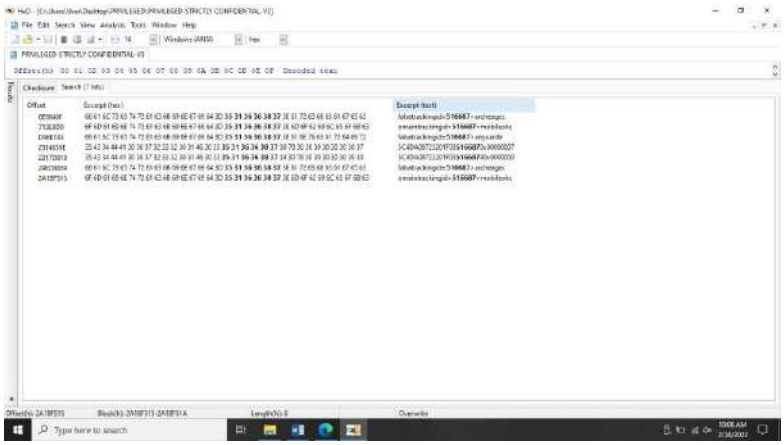

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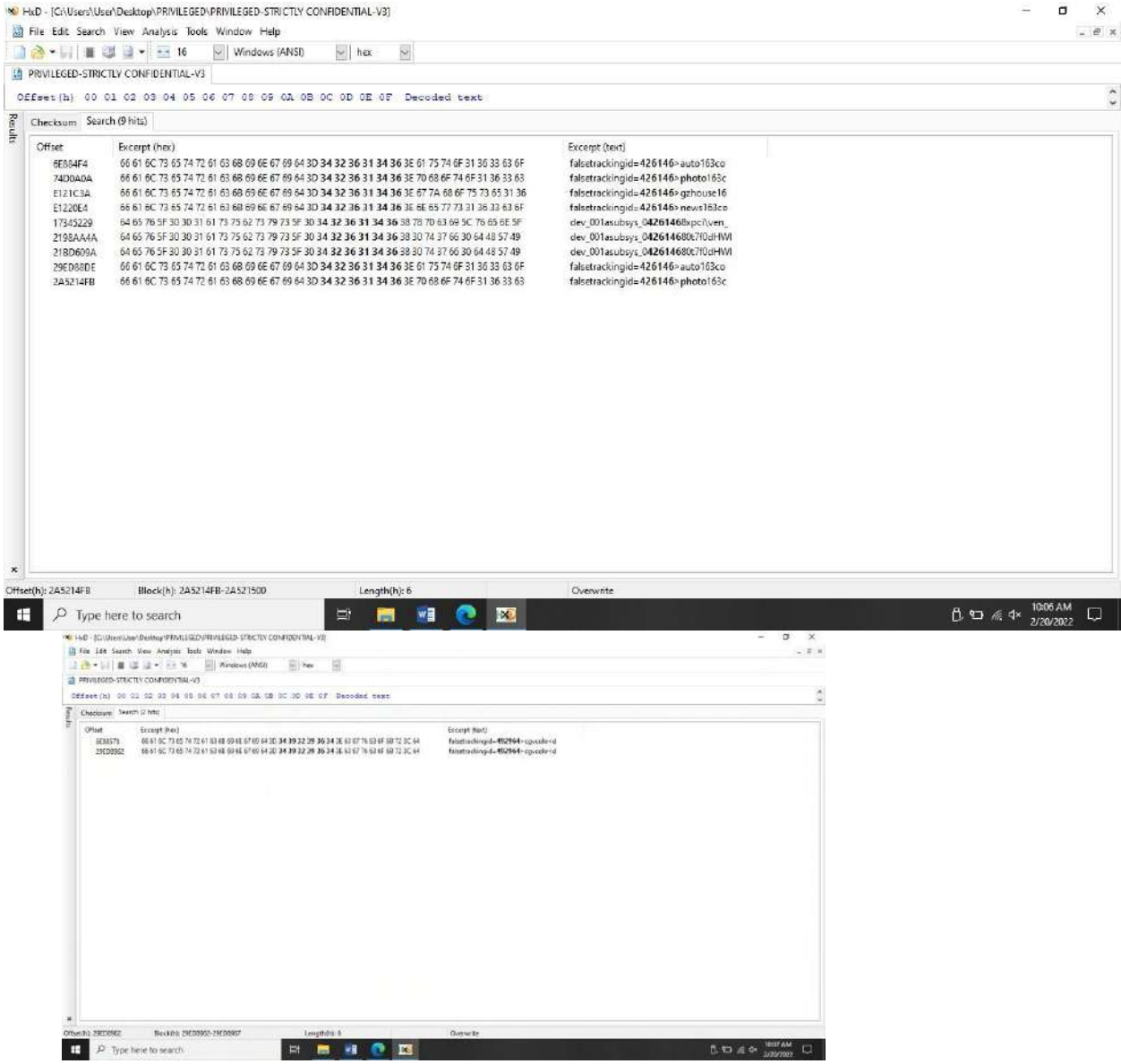
BLOCK 492964

714



BLOCK 493127

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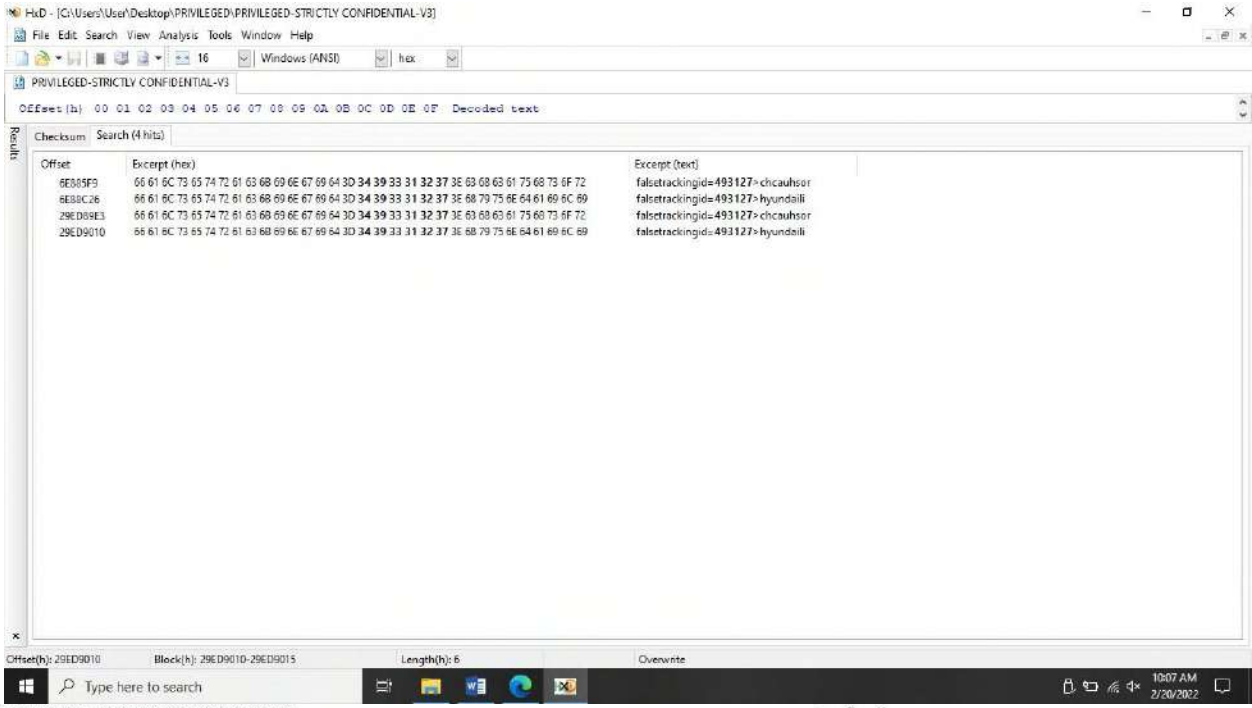
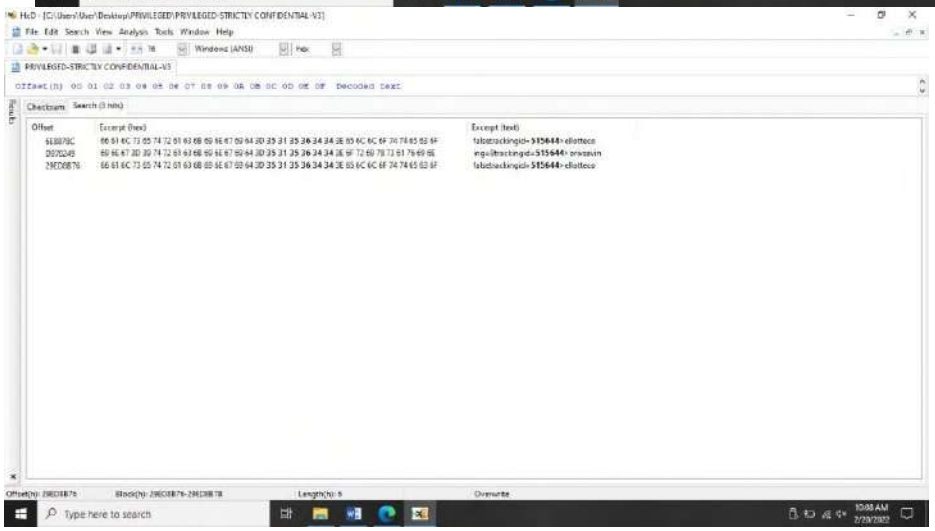
BLOCK 515644

715



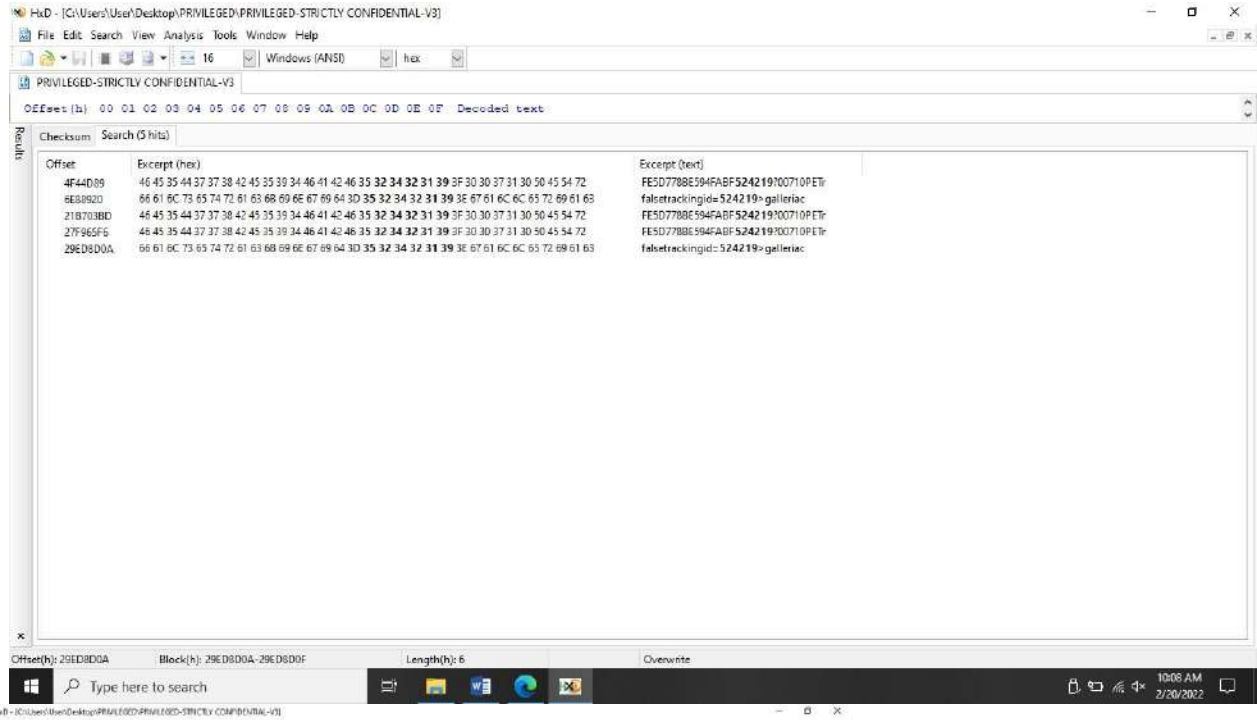


BLOCK 524219

633

BLOCK 508428

716



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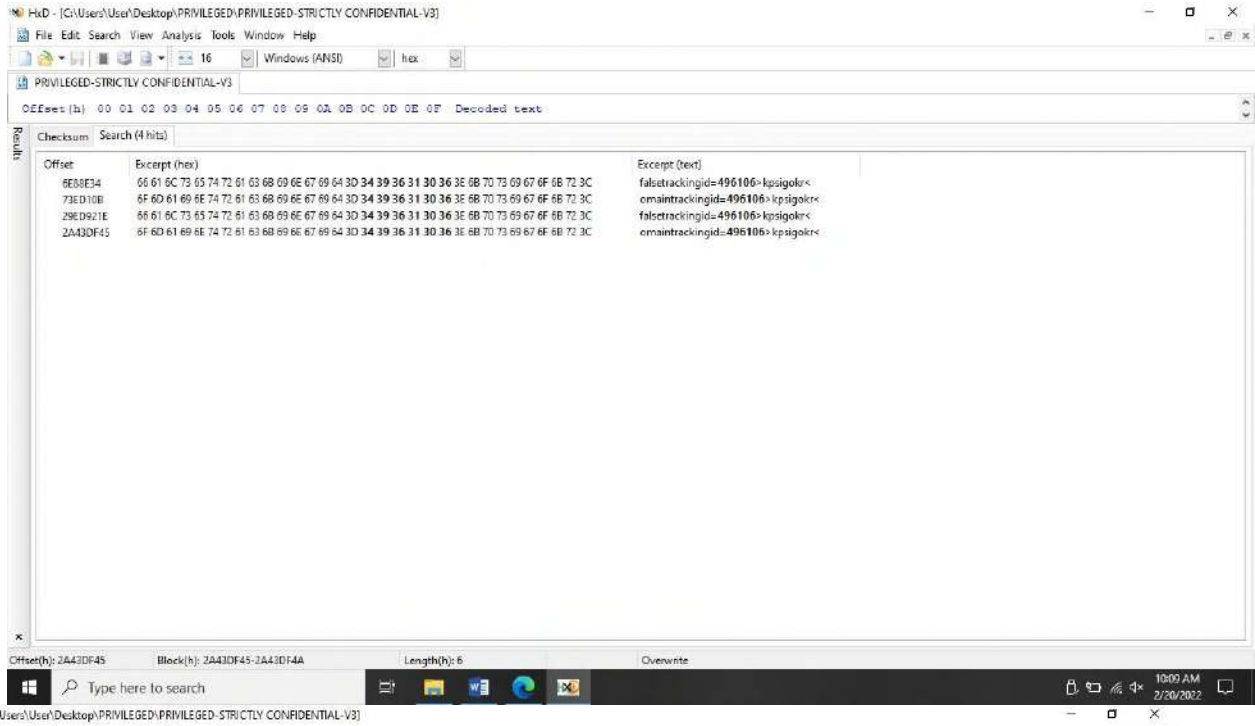
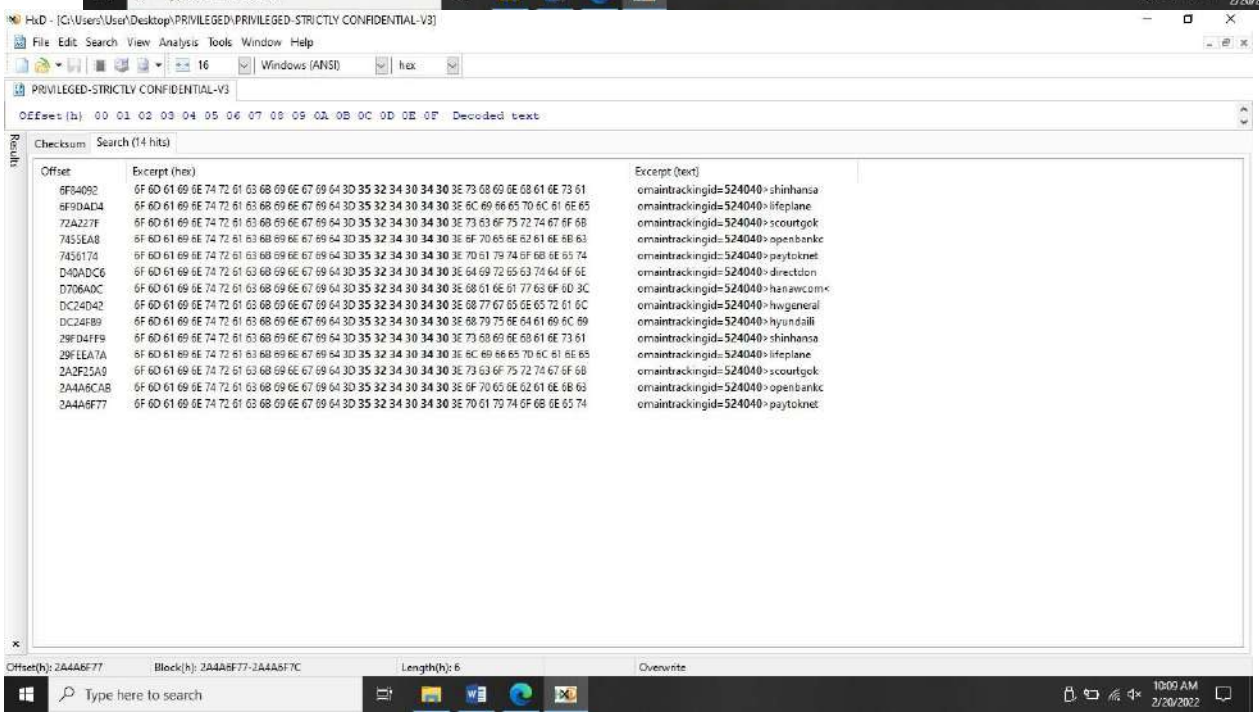
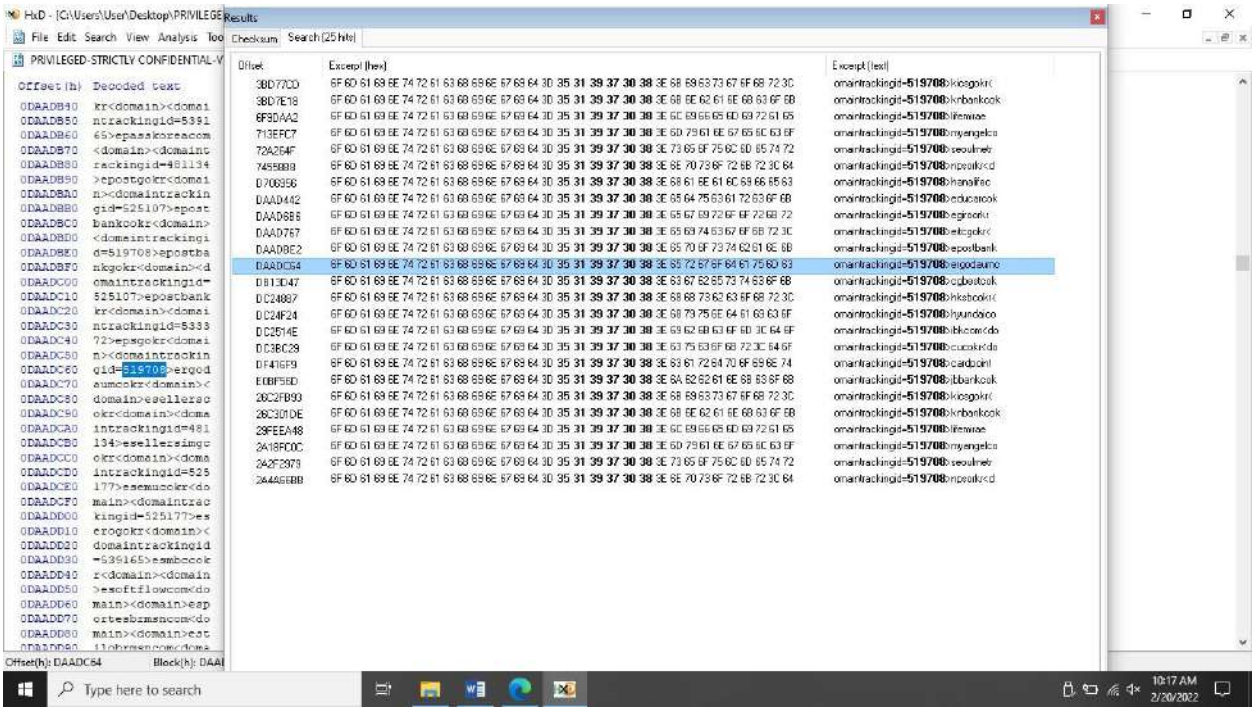




- Scourtgokr
- Openbankcucokr

BLOCK 519708

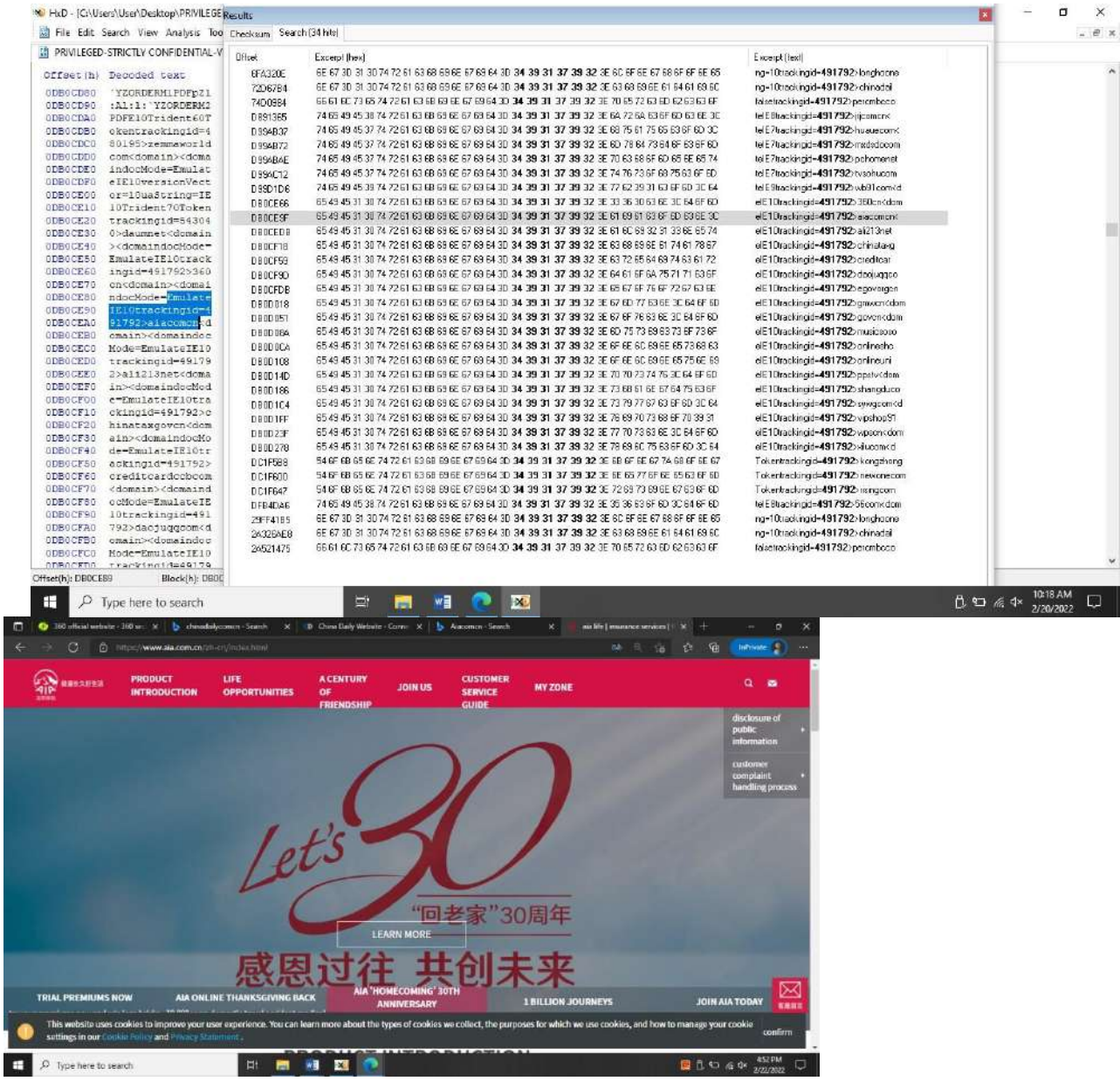
718



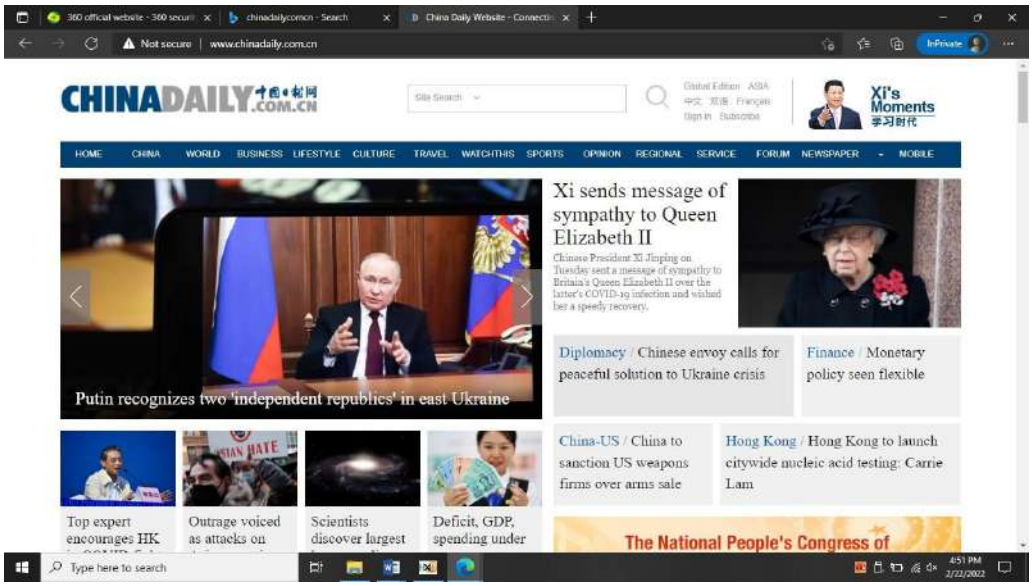
- Knbankcokr
- Epostbankgokr
- Lifemiraeassetcom
- Hanalifecokr
- Myangelcokr

BLOCK 491792

- ****Aiacomcn (B3I member)**



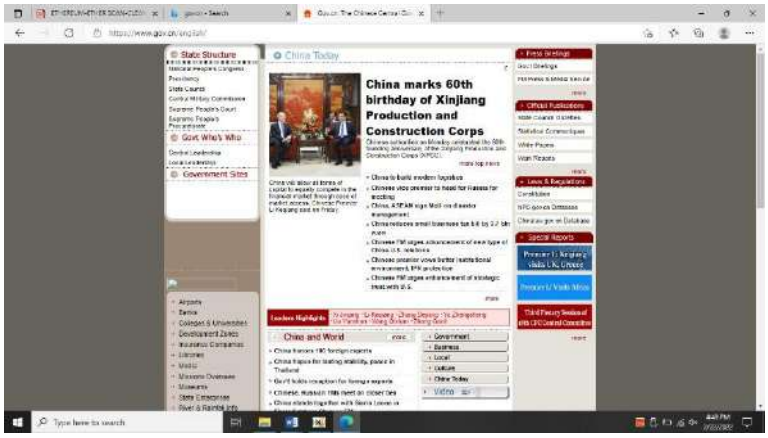
- Chinadailycomcn



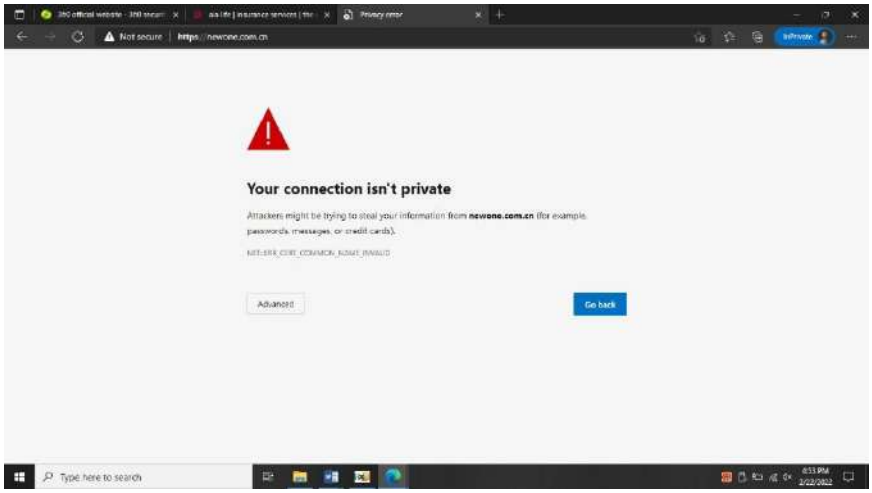
- creditcardccbcom

- 360cn

www.Gov.cn



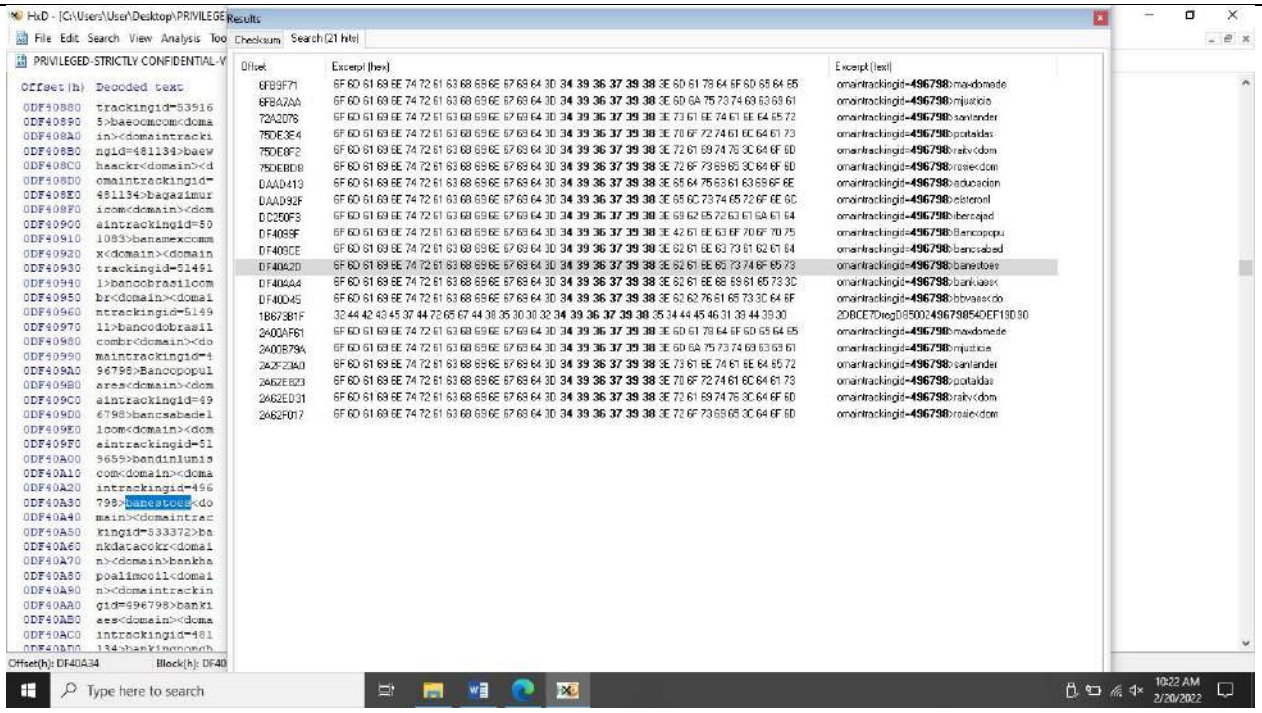
- Onlineshcn
- Newoncomecn



financial community - investors trust the financial portal, securities trading as the core of the internet integrated wealth management platform (jrj.com.cn)

639

BLOCK 496798

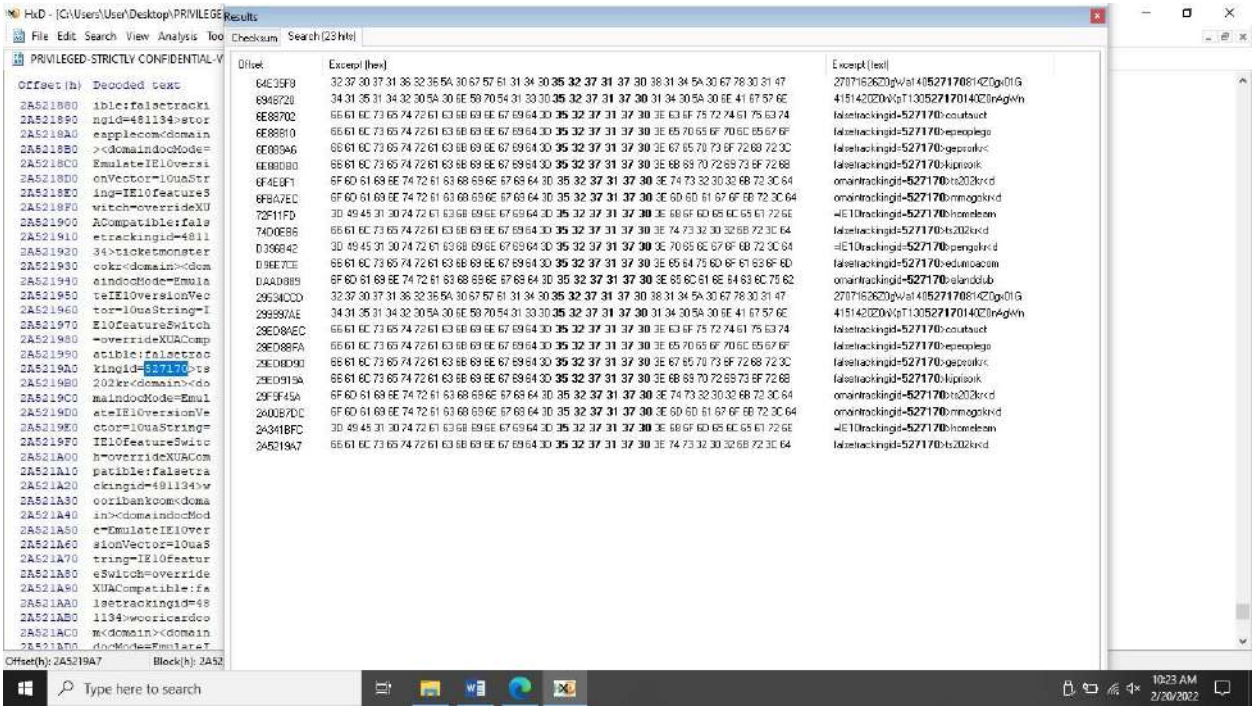


- Santandertottapt (R3 and EEA member)

Portaldasfinancasgovpt

- Bancopopulares
- Bancsabadellcom
- Banestoes
- domaintrackingid=496798>bbvaes

BLOCK 527170



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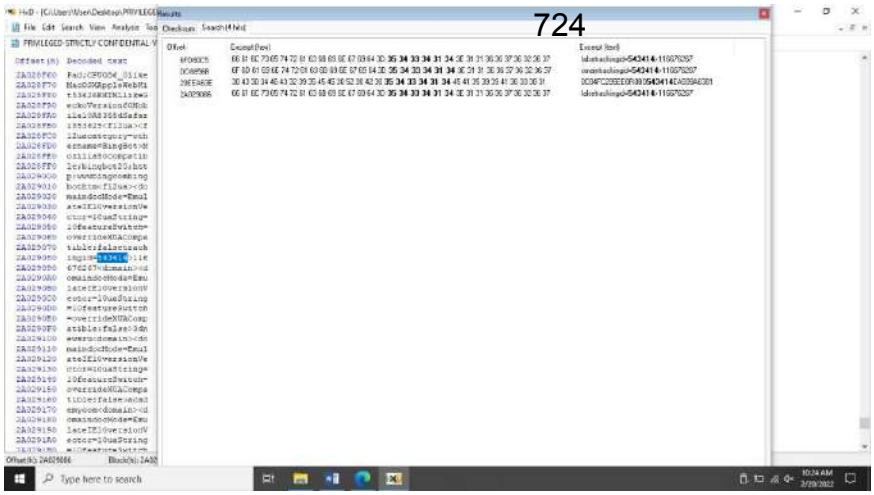
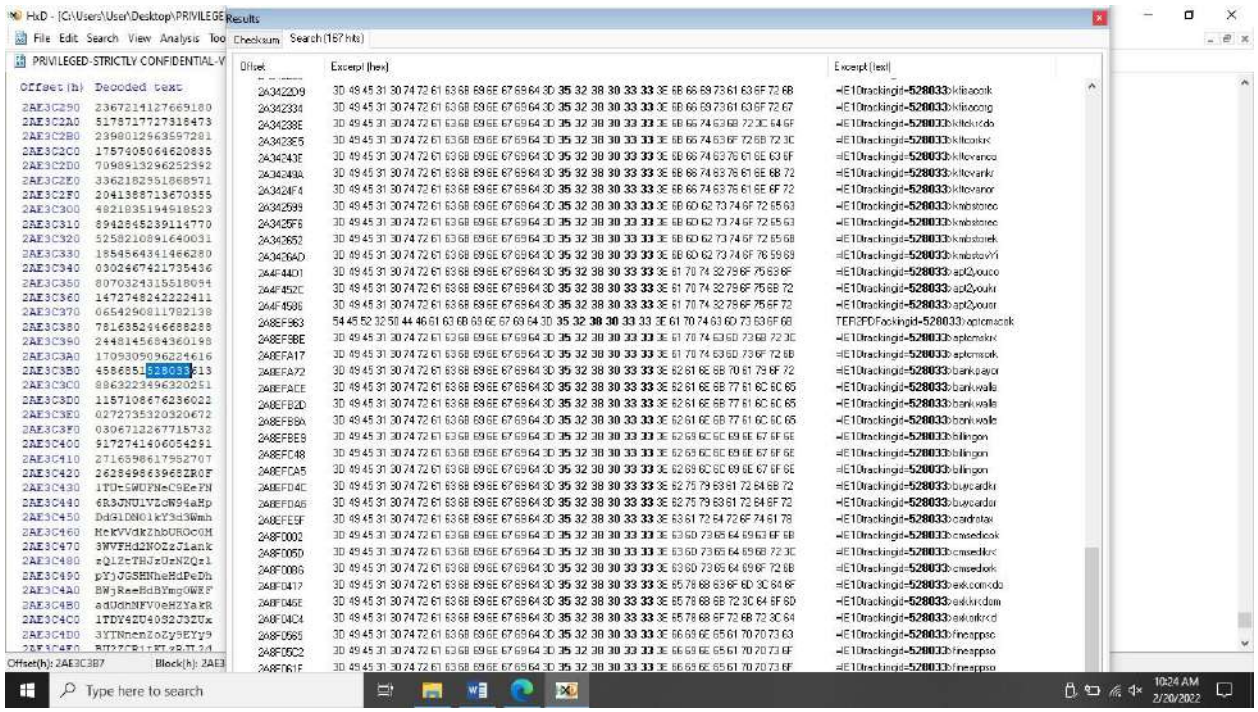
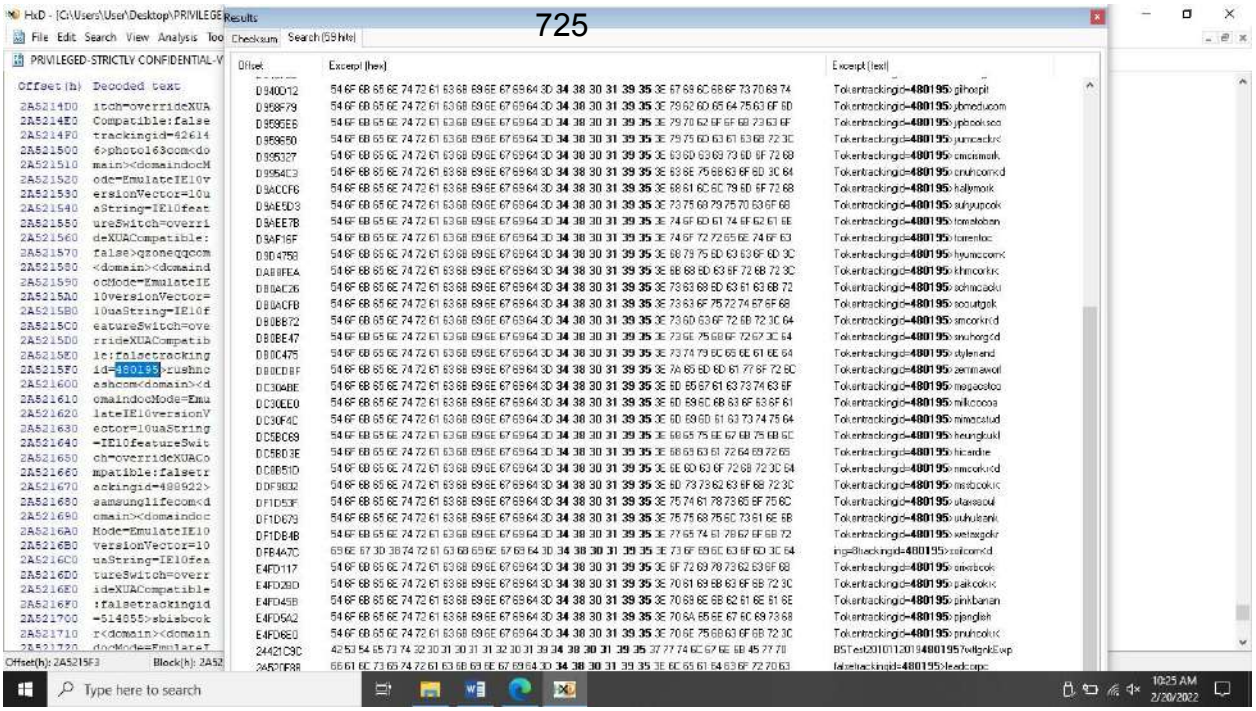


BLOCK 528033



BLOCK 480195 (TOKEN TRACKING ID)



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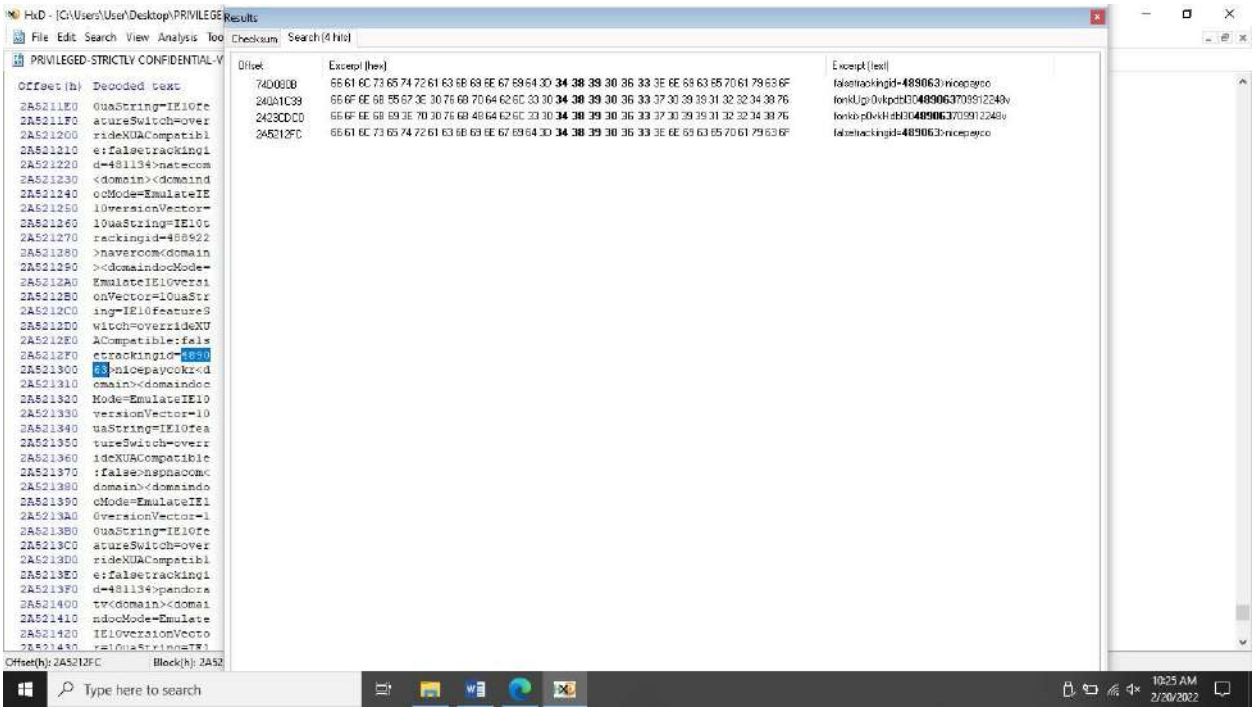

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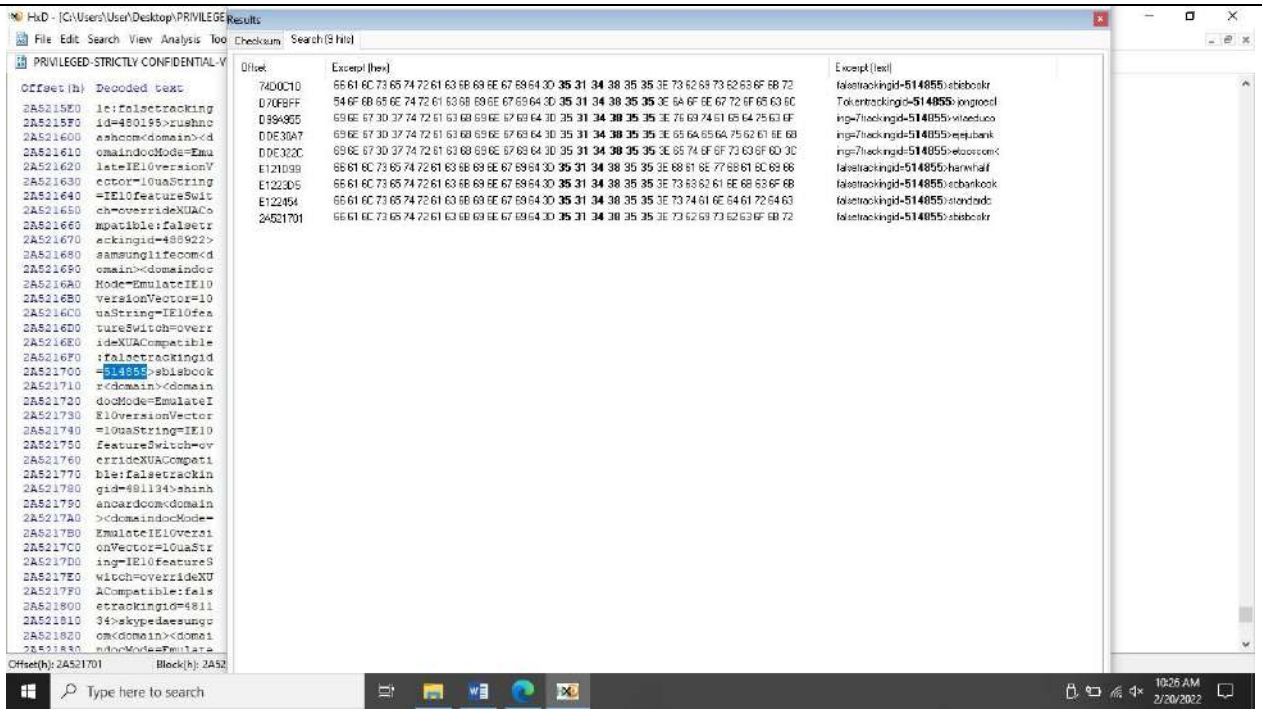

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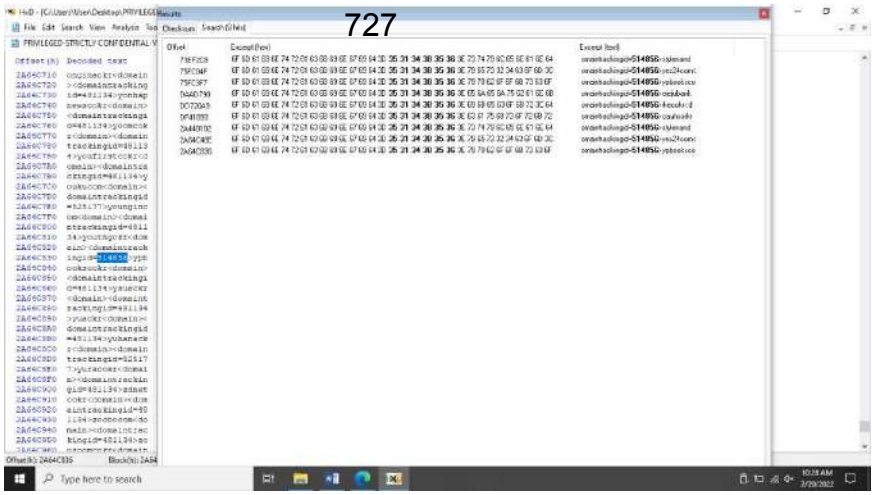

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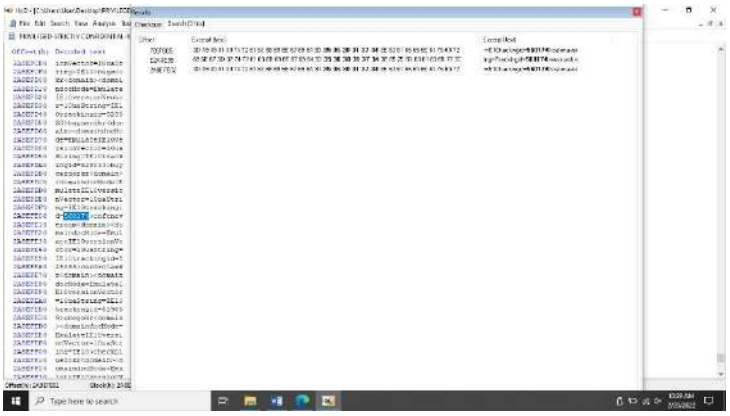

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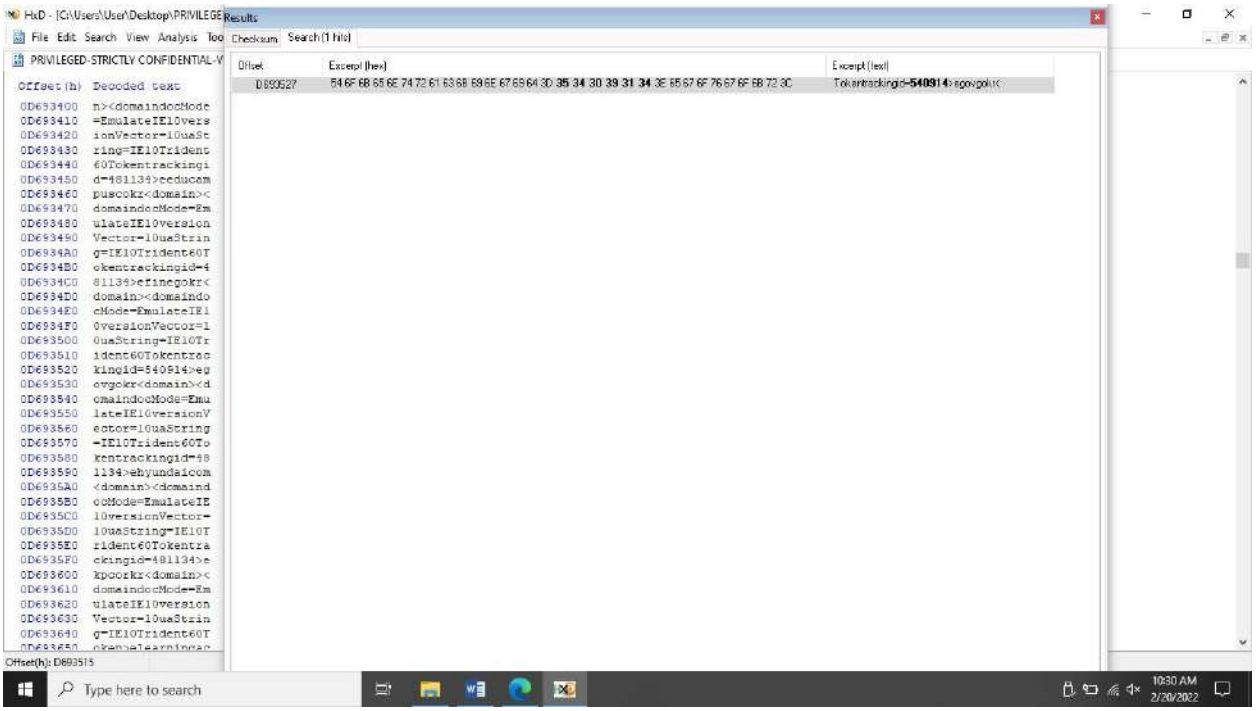

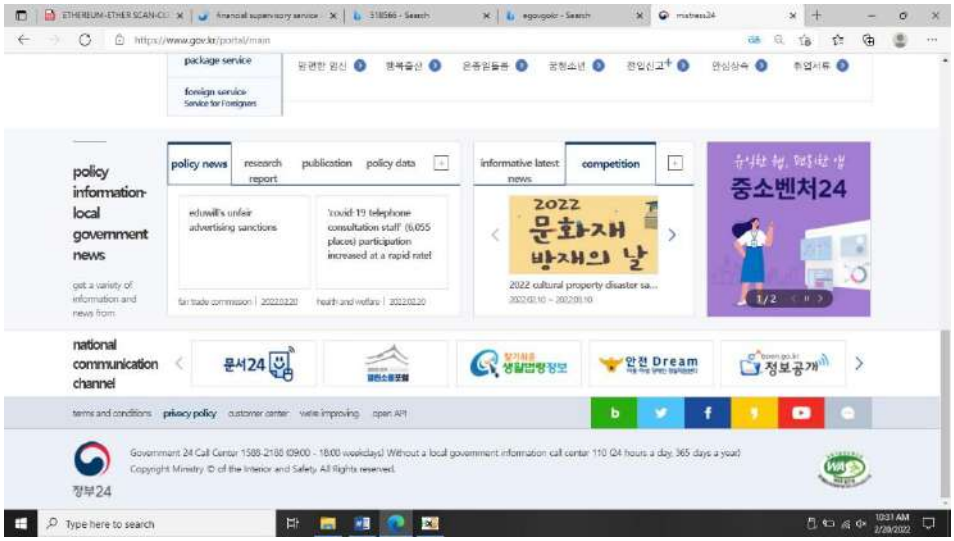

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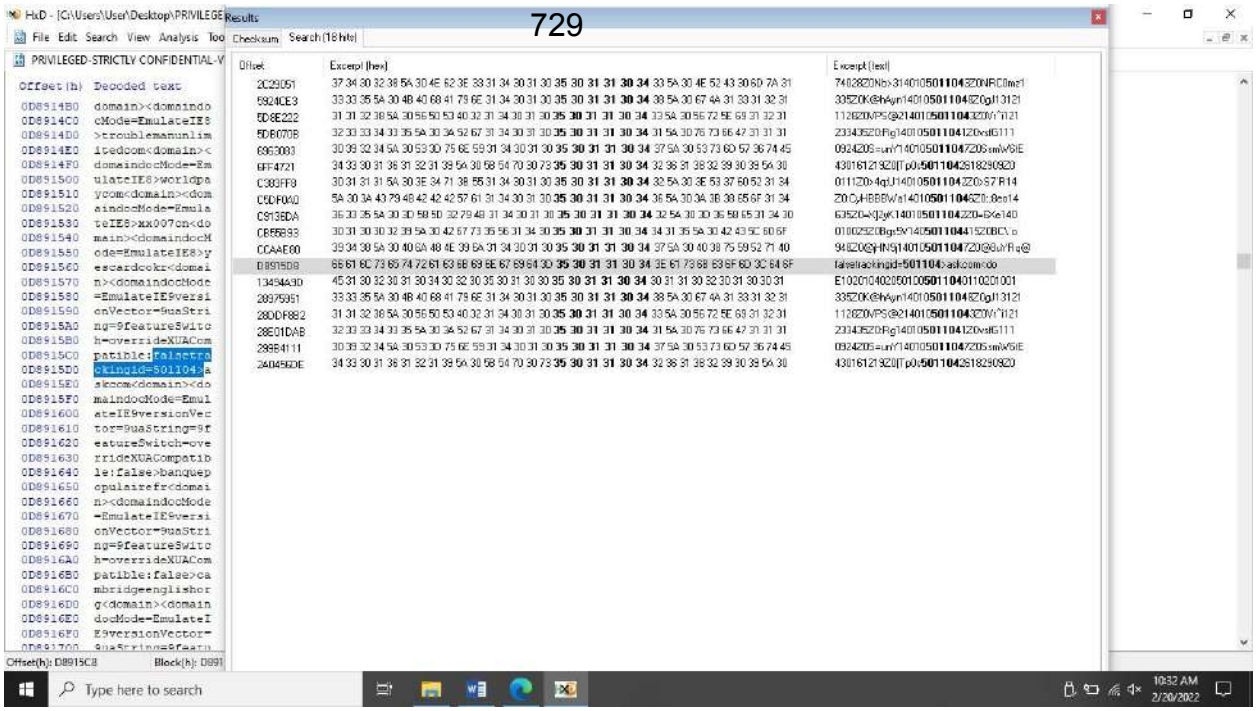

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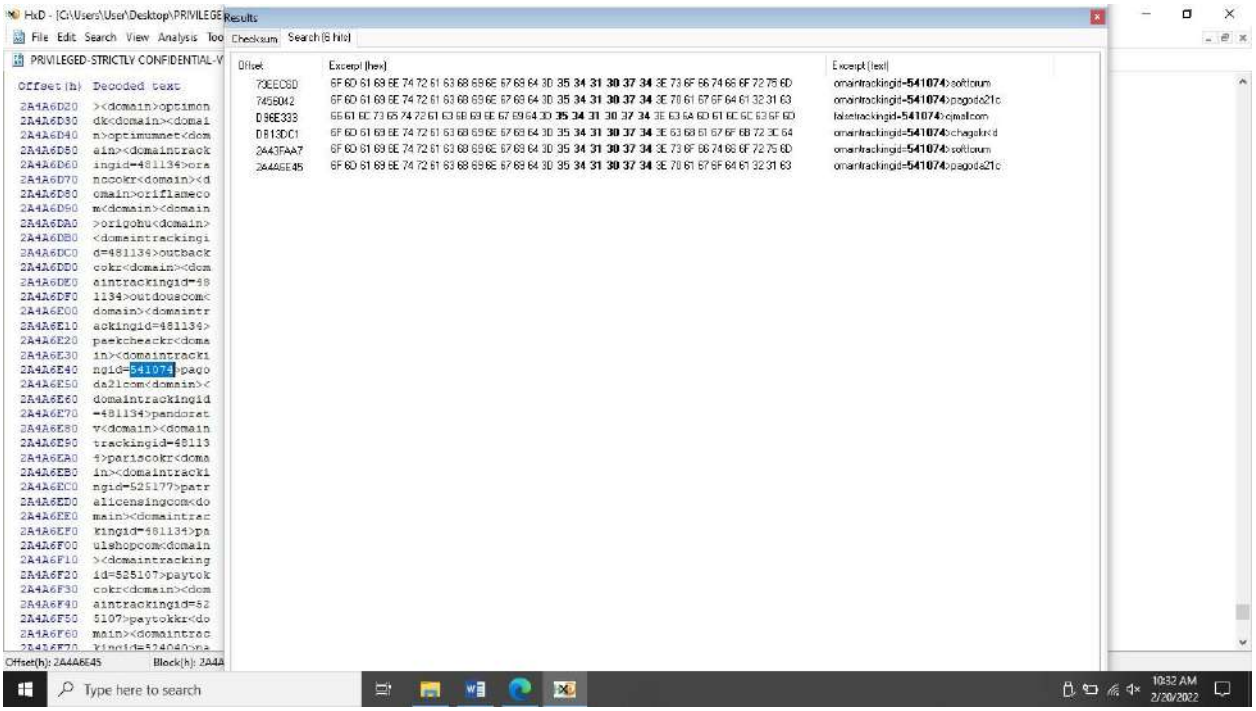

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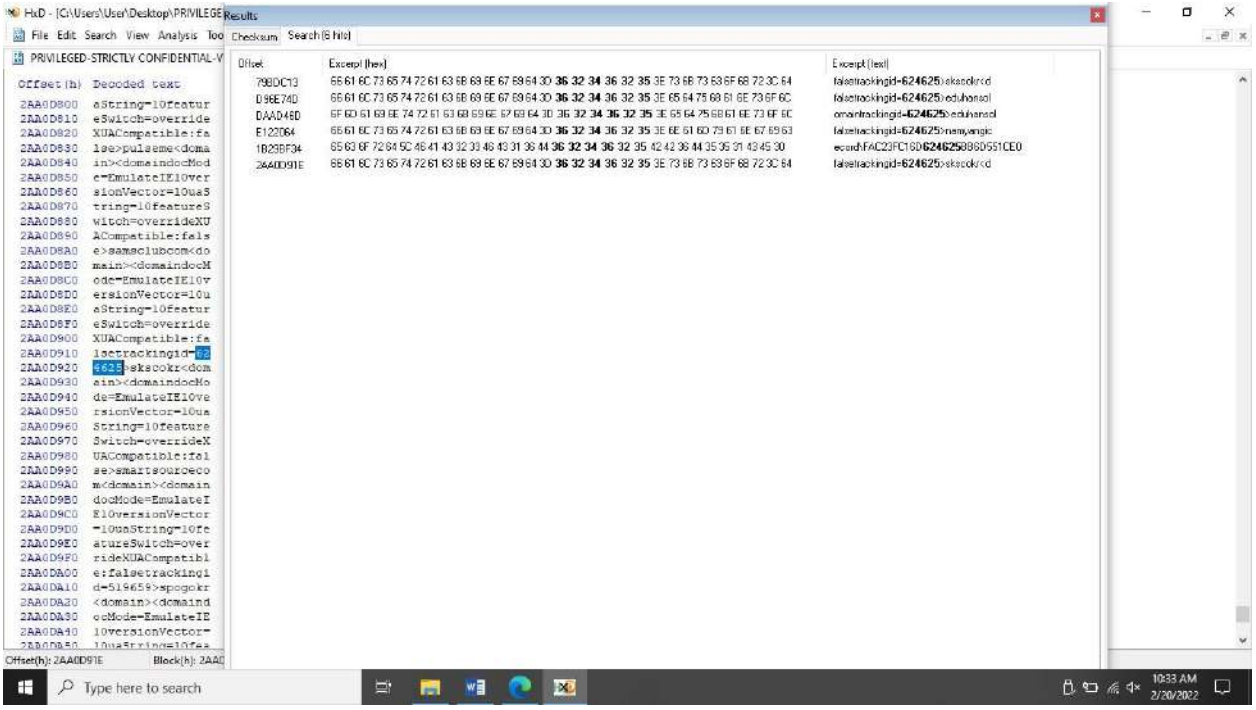

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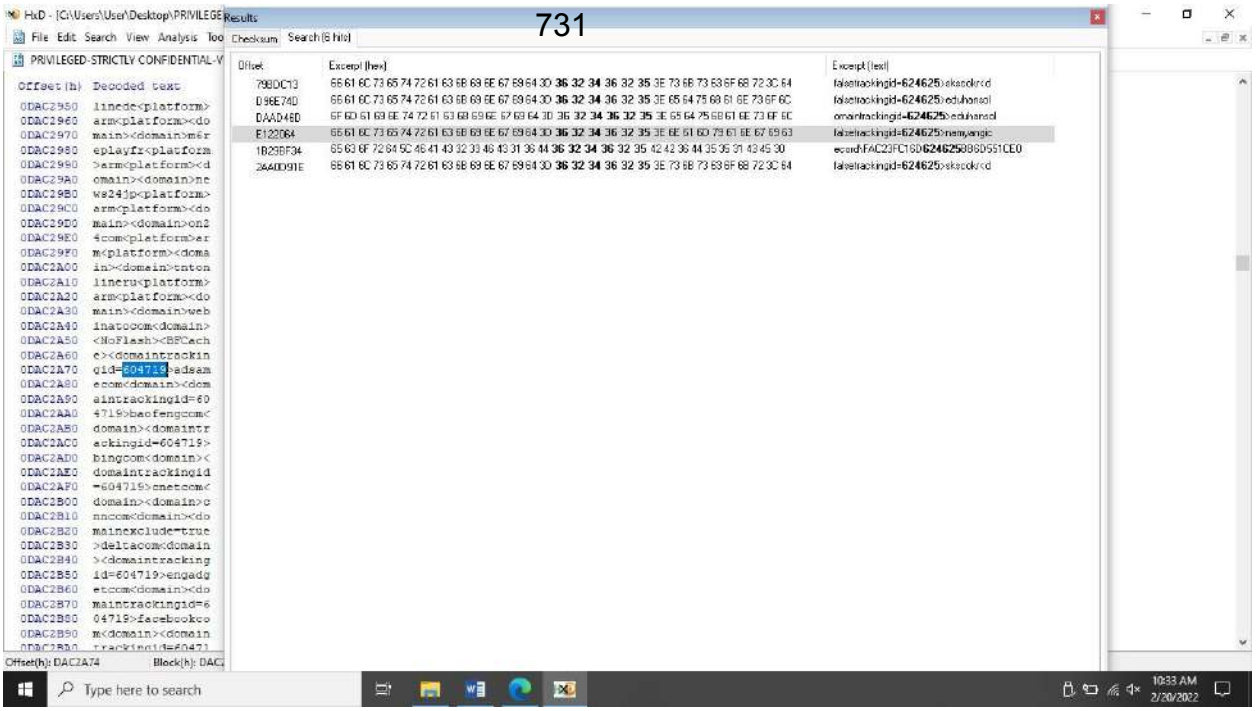

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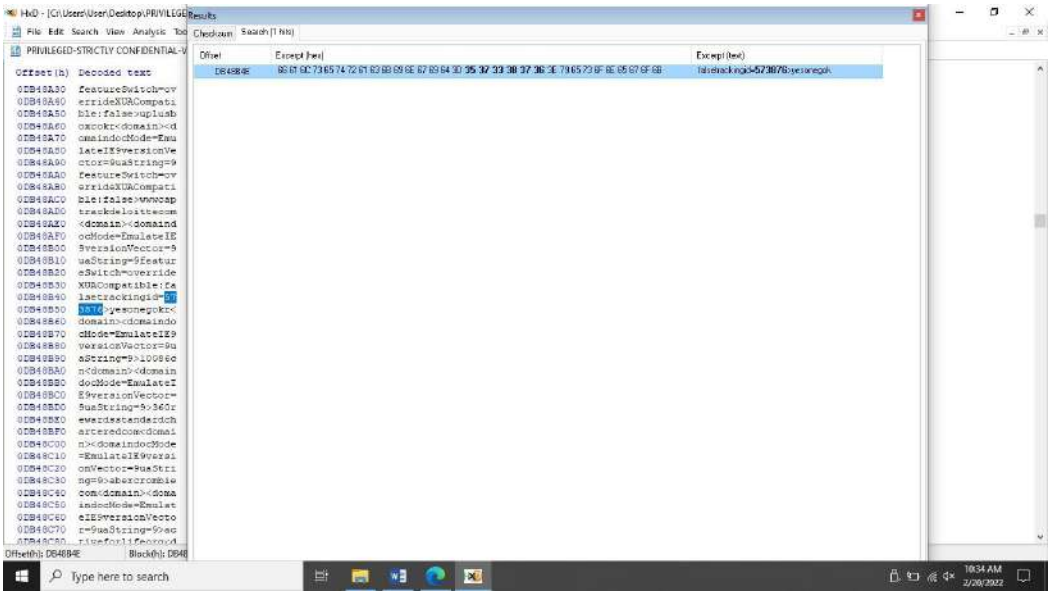

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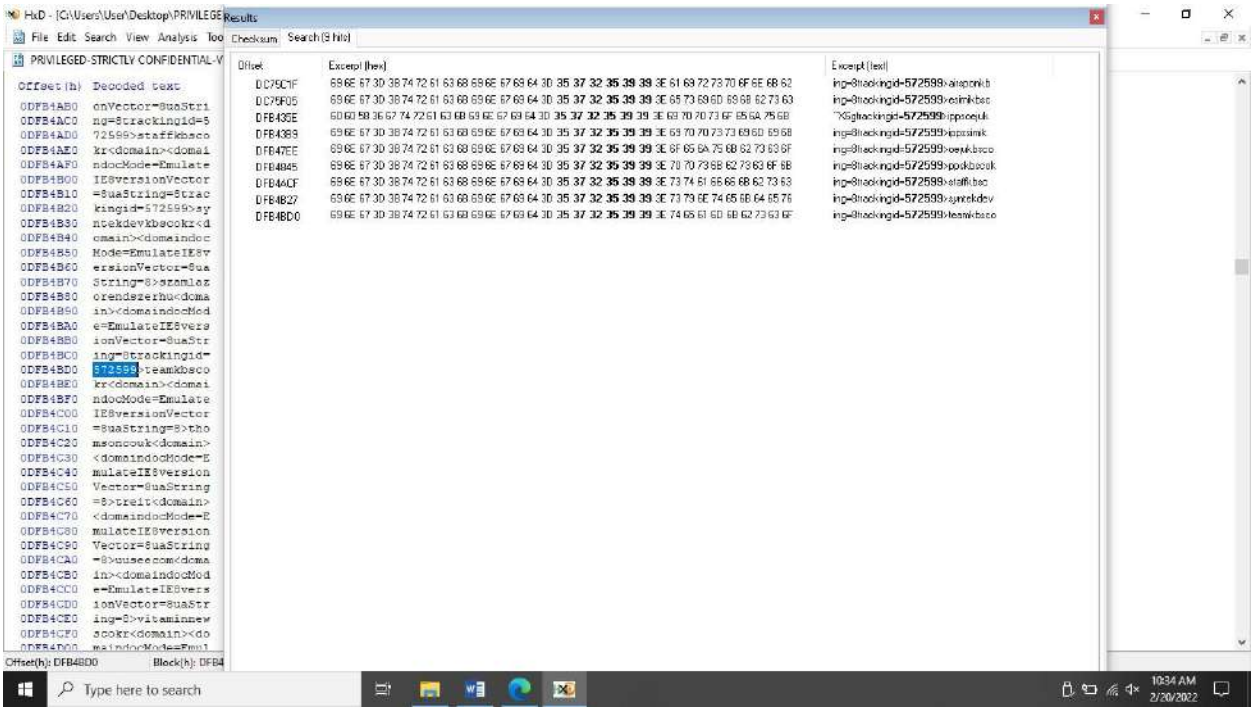

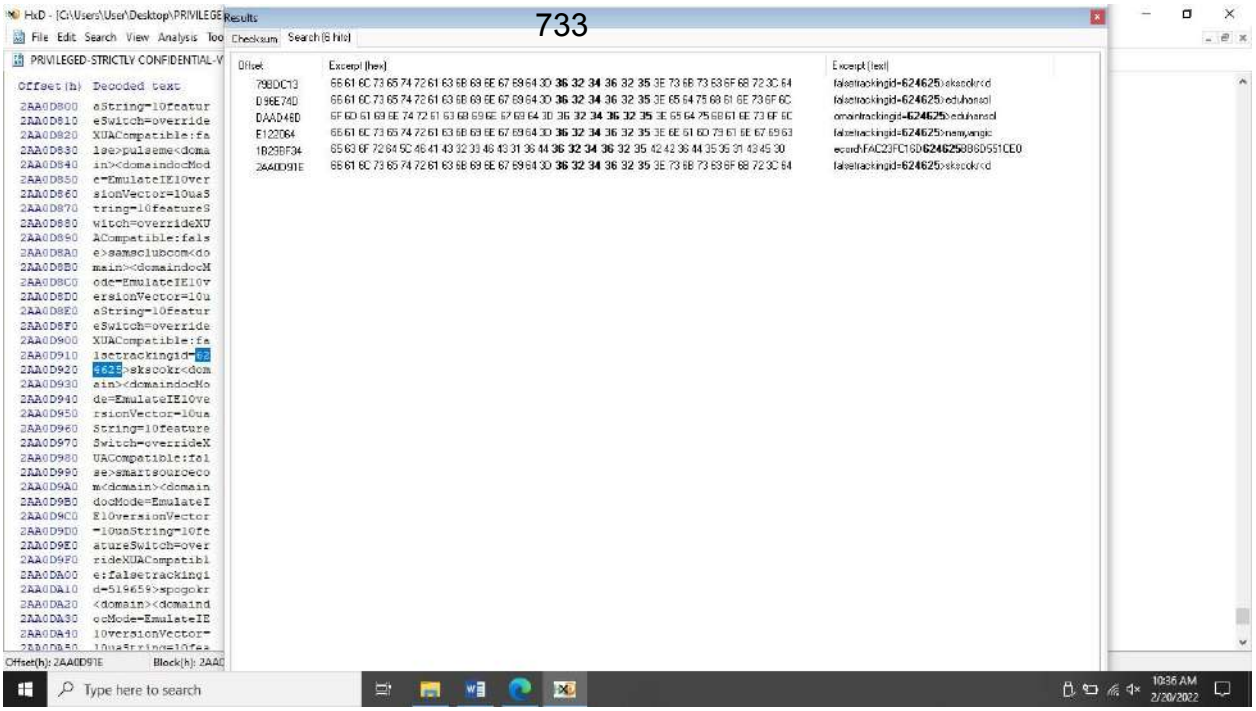

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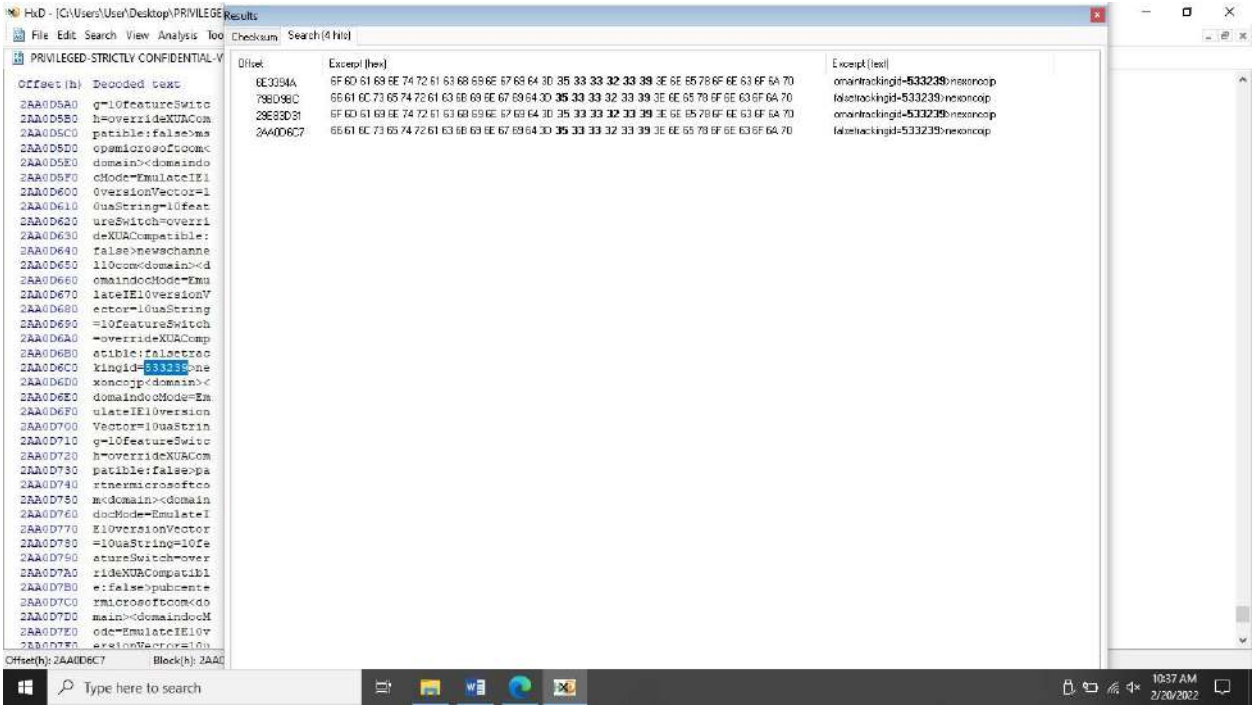

NEXON [59] (Saudi connection: In February 2022, it was reported by Bloomberg that Saudi Arabia's Public Investment Fund had purchased just over a 5% stake in Nexon, reportedly worth $883 USD million)

[59] Nexon - Wikipedia

NOTHING PAST THIS LINE.

[i] Section 8 protects people, not places, against unjustified intrusions on their privacy interests (Hunter v. Southam Inc., [1984] 2 S.C.R. 145 at 159; R. v. Gomboc, [2010] 3 S.C.R. 211 at paragraphs 17, 75).”“The values underlying the privacy interest protected by section 8 are dignity, integrity and autonomy (R. v. Plant, [1993] 3 S.C.R. 281 at page 292. “The courts have defined “search” for section 8 purposes as any state activity that interferes with a reasonable expectation of privacy. This can include looking for things that are tangible or intangible, such as spoken words and electronic data (R. v. Morelli, [2010] 1 S.C.R. 253), or scents (Evans at paragraphs 12-21; R. v. Kokesch, [1990] 3 S.C.R. 3). A “seizure” for section 8 purposes is the “taking of a thing from a person by a public authority without that person’s consent” (R. v. Dyment, [1988] 2 S.C.R. 417 at 431; R. v. Colarusso, [1994] 1 S.C.R. 20 at 58; R. v. Law, [2002] 1 S.C.R. 227 at paragraph 15). This includes situations in which a person is required to produce a thing (including information) pursuant to a state compulsion (R. v. McKinlay Transport Ltd., [1990] 1 S.C.R. 627 at 642; Mills (1999) at paragraph 77; British Columbia Securities Commission v. Branch, [1995] 2 S.C.R. 3 at page 34; see also R. v. White, [1999] 2 S.C.R 417; R. v. Fitzpatrick, [1995] 4 S.C.R. 154; Thomson Newspapers Ltd. v. Canada (Director of Investigation and Research, Restrictive Trade Practices Commission), [1990] 1 S.C.R. 425). The power to make copies of documents is analogous to a requirement for production of documents and constitutes a seizure within section 8 (Comité paritaire at page 439). In order to constitute a “seizure”, a “taking” by the state need not be directly from the person whose rights are affected. For example, where a medical professional obtains a bodily sample for medical purposes, disclosure of the sample to police will amount to a “seizure” (Dyment; R. v. Dersch, [1993] 3 S.C.R. 768; Colarusso at page 56). This is so whether the sample is provided pursuant to a police request, request, or whether it is provided voluntarily. The fact that a person who has acquired lawful possession of information for their own purposes voluntarily discloses THE INFORMATION to the state does not vest in the state a delegated or derivative power to appropriate that information for the purposes of a criminal investigation (R. v. Cole, [2012] 3 S.C.R. 34 at paragraph 67). “The section 8 protection against seizure does not apply to government action merely because those actions interfere with property rights. Rather, “there must be a superadded impact upon privacy rights occurring in the context of administrative or criminal investigation” (Quebec (Attorney General) v. Laroche, [2002] 3 S.C.R. 708 at paragraph 53). “Where the state has seized records, the Supreme Court has indicated that disclosure of those records to individuals outside of those to whom, or for purposes other than for which, they were originally divulged may interfere with a reasonable expectation of privacy (Mills (1999) at paragraph 108; R. v. Quesnelle, 2014 SCC 46, [2014] 2 S.C.R. 390 at paragraphs 28-30, 39-43; see also Wakeling at paragraphs 91-96 per McLachlin C.J. and paragraphs 122-125 per Karakatsanis J., dissenting; but see Wakeling at paragraphs 32-40 where Moldaver J. appears to endorse a plain meaning interpretation of s. 8 that would not generally capture the disclosure of information by the state).”

“In fostering the underlying values of dignity, integrity and autonomy, it is fitting that section 8 of the Charter should seek to protect a biographical core of Personal Information which individuals in a free and democratic society would wish to maintain and control from dissemination to the state. This would include information which tends to reveal intimate details of the lifestyle and personal choices of the individual (Plant at 293). Informational privacy has been defined as “the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others” (Tessling at paragraph 23; see also Patrick, Gomboc, Cole, A.M.) Informational privacy includes at least three conceptually distinct, though overlapping, understandings of what privacy is: privacy as secrecy; privacy as control and privacy as anonymity. Privacy as secrecy encompasses the expectation that information disclosed in confidence will be held in trust and confidence by those to whom it is disclosed. Privacy also encompasses a wider notion of control over, access to, and use of information. This aspect of privacy “derives from the assumption that all information about a person is in a fundamental way his own, for him to communicate or retain for himself as he sees fit” (Spencer at paragraph 40). Privacy as anonymity permits individuals to act in public places but to preserve freedom from identification and surveillance. This conception of privacy is particularly important in the context of Internet usage (Spencer at paragraphs 41-43). Because the Internet has exponentially increased both the quality and quantity of information that is stored about Internet users, and because users cannot fully control or even be fully aware of who may observe a pattern of online activity, it is by remaining anonymous that the user can in large measure be assured that the activity remains private (Spencer at paragraph 46). Privacy concerns in relation to information are at their strongest where aspects of an individual’s identity are at stake, such as in the context of information “about one's lifestyle, intimate relations or political or religious opinions” (Mills (1999) at paragraph 81; Thomson Newspapers at 517; Branch at paragraph 62).”Privacy is a normative rather than descriptive standard (Tessling, paragraph 42; R. v. Jarvis, 2019 SCC 10 at paragraph 68).”“Privacy as secrecy encompasses the expectation that information disclosed in confidence will be held in trust and confidence by those to whom it is disclosed”. Privacy is not an all or nothing right. It encompasses the reasonable expectation that private information will remain Confidential to the persons to whom and restricted to the purposes for which it was divulged (Mills (1999) at paragraph 108; Dyment at page 429; Colarusso at page 71). Accordingly, a person may have a residual and continuing privacy interest protecting against the subsequent use or disclosure — and potentially retention — of information that has been divulged for a specific or limited purpose (Law at paragraph 23; Dyment at pages 432-435; Mills (1999) at paragraph 94; R. v. Dore (2002), 166 C.C.C. (3d) 225 (Ont. C.A.); Wakeling at paragraph 39).A person normally does not retain a reasonable expectation of privacy with respect to property or things, including informational content that have been voluntarily abandoned. The determination of whether a thing has been abandoned — i.e., whether a person has relinquished a privacy interest in it — will have to be determined on the particular facts of the case.

TAB 3(GG)

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

Courtesy service of Draft NOA and MOL - LSBC and TLABC Appeals - COURT OF APPEAL FILE NOS. CA51536 / CA51535

5 messages

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Thu, Aug 6, 2026 at 4:40 PM
To: cferris@lawsonlundell.com, lbevan@lawsonlundell.com, gcameron@fasken.com, tposyniak@fasken.com, labrioux@fasken.com, wandrews@fasken.com, Emily.Lapper@gov.bc.ca, Trevor.Bant@gov.bc.ca, Karin.Kotliarsky@gov.bc.ca, Sergio.Ortega@gov.bc.ca

Email List

cferris@lawsonlundell.com; lbevan@lawsonlundell.com; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; Emily.Lapper@gov.bc.ca; Trevor.Bant@gov.bc.ca; Karin.Kotliarsky@gov.bc.ca; Sergio.Ortega@gov.bc.ca

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Reply via email: mclean@searchandseizure.ca

Date: August 6, 2026

Sending method: Via Email at first instance (other modes may follow)

To:

Craig A.B. Ferris, K.C., Laura L. Bevan, Jonathan S. Andrews, and Nicole Leigh Welsh (Counsel for the Law Society of British Columbia)

Gavin Cameron, Tom Posyniak, Laura Abrioux, and Will Andrews (Counsel for the Trial Lawyers Association of British Columbia and Kevin Westell)

Emily C. Lapper, K.C., Trevor Bant, Karin Kotliarsky, and Sergio Ortega Huerta (Counsel for the Attorney General of British Columbia and the Lieutenant Governor in Council)

Subject I: In the Court of Appeal for British Columbia, File Nos. CA51536 / CA51535 – Law Society of British Columbia et al. v. Attorney General of British Columbia et al. Subject II: Courtesy Service of Draft Application Materials for Intervener Status

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND SERVICE OF DRAFT MATERIALS

1. Correspondence is hereby directed to the respective parties regarding the aforementioned appellate proceedings. Enclosed herein, and effectuated by way of courtesy service at first instance, are advanced drafts of the Notice of Application (Form 4), the accompanying Memorandum of Argument, and Schedule "A" (collectively, the "**Application Materials**").

2. The Application Materials are proffered to facilitate formal, advance notice of the impending intervention. It is formally advised that the Application Materials shall be filed with the British Columbia Court of Appeal (the "**BCCA**") in substantially the exact form on August 12, 2026, should no resolution of oustanding

issus with the LSBC et al be reached prior to then.

PART 2: THE ANTICIPATED PROSECUTION OF THE APPLICATION

3. The formal filing and rigorous prosecution of the Application Materials shall proceed unabated on the aforementioned date. It is confidently anticipated that the application for intervener status shall be successful *prima facie*.

4. Upon the granting of such status, the precise relief delineated within the Memorandum of Argument—specifically, the invocation of the inherent jurisdiction of the Court to summarily quash the appeal *in limine* and deny the Law Society of British Columbia the equitable right to be heard, predicated upon documented fraud by omission and deceitful *acta*—shall be vigorously pursued.

PART 3: ANTICIPATORY DEFENCES AND THE DOCTRINE OF EX TURPI CAUSA

Nota Bene: The Inextricable Nexus Between the Unconstitutional Incursions and Appellate Standing

5. It might be theoretically advanced by opposing counsel that the historical privacy breaches perpetrated by the Law Society of British Columbia operate entirely independent of the constitutional calculus currently under appellate review regarding the *Legal Professions Act*, S.B.C. 2024, c. 26. Such an assertion is **fundamentally vitiated** by the doctrine of *ex turpi causa non oritur actio*. The unconstitutional execution of the volatile memory extraction, and the subsequent deliberate concealment thereof from the adjudicative bodies below, directly contaminate the foundational standing of the appellant. Institutional malfeasance currently threatens to render the entire appellate proceeding an abuse of process *ipso facto*.

The Timeliness of the Evidentiary Record

6. Furthermore, any prospective contention that the within intervention is procedurally belated is strictly preempted by the immutable digital record. The Application Materials meticulously establish that the blockchain evidence and the objective metadata confirming the digital spoliation were deliberately obfuscated by the regulatory apparatus until the eleventh hour. This calculated delay thereby necessitated this precise temporal intervention to ensure the constitutional adjudicators are not further deprived of the robust evidentiary record mandated by the Supreme Court of Canada in constitutional litigation.

PART 4: CONCLUSION

7. The respective parties are respectfully implored to review the enclosed Application Materials with the utmost scrutiny prior to their formal submission. The overwhelming evidentiary weight of the immutable digital trail and the financial forensics will demonstrably be self-evident.

8. As reflected in Appendix #6 of Schedule “A”, the Lawyers Indemnity Fund continues to maintain its ShareFile account under the fictitious “Evolve Partners” branding. When this is considered alongside the publicly posted video on the LIF’s own YouTube channel in which Ms. Forbes candidly discusses the pressures of her role and her personal struggles — including the use of multiple medications, the desire to escape herself, and the strain of perfectionism — acknowledged here with respect, the persistence of such misbranding underscores broader governance concerns. As the COO of the LIF and a member of the six-person executive leadership team of the LSBC, and the last remaining executive from the 2014 era, her continued role is directly relevant to the institutional continuity at issue. Her openness is commendable; however, the absence of corrective action in the public interest following those disclosures remains difficult to reconcile with the ongoing operational irregularities. In these circumstances, any potential return to the former LPA 1998 regime with Ms. Forbes occupying such a prominent position must be brought to the attention of the BCCA, as the factual matrix demonstrates why I am able to provide a unique and different perspective on the concealment undertaken by Ms. Forbes and others.

9. My best to all herein.

--

Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

NOTA BENE: This email is for dispute resolution and litigation purposes only. Without prejudice communication so denoted invokes settlement privilege.

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3 attachments

- **DRAFT - Form 4 - Notice of Application - LSBC et al v. AGBC et al - Applicant - Mr McLean - 6-August-2026.pdf**
  512K
- **DRAFT MOL - Intervention Application - LSBC et al v AGBC - Applicant - Mr McLean - 06-08-26.pdf**
  260K
- **Sch A - to Form 4 or the MOL - LSBC et al v AGBC et al - Applicant Mr McLean 6-Aug-2026.pdf**
  1672K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Mon, Aug 10, 2026 at 11:39 PM
To: cferris@lawsonlundell.com, lbevan@lawsonlundell.com, gcameron@fasken.com, tposyniak@fasken.com, labrioux@fasken.com, wandrews@fasken.com, Emily.Lapper@gov.bc.ca, Trevor.Bant@gov.bc.ca, Karin.Kotliarsky@gov.bc.ca, Sergio.Ortega@gov.bc.ca

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Reply via email: mclean@searchandseizure.ca

WITH PREJUDICE

Date: August 11, 2026

Classification: Private and Confidential

Sending method: Via Email at first instance (other modes may follow)

To:

Craig A.B. Ferris, K.C., Laura L. Bevan, Jonathan S. Andrews, and Nicole Leigh Welsh

(Counsel for the Law Society of British Columbia)

Gavin Cameron, Tom Posyniak, Laura Abrioux, and Will Andrews

(Counsel for the Trial Lawyers Association of British Columbia and Kevin Westell)

Emily C. Lapper, K.C., Trevor Bant, Karin Kotliarsky, and Sergio Ortega Huerta

(Counsel for the Attorney General of British Columbia and the Lieutenant Governor in Council)

Subject I: In the Court of Appeal for British Columbia, File Nos. CA51536 / CA51535 — Law Society of British Columbia et al. v. Attorney General of British Columbia et al.

Subject II: Ultimatum and Follow-Up to Courtesy Service of Draft Application Materials for Intervener Status

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND COURTESY NOTIFICATION

1. Correspondence is hereby directed to the respective parties as an immediate follow-up to the prior communication encapsulated within the document entitled "Aug 7 Email Search and Seizure Law Mail - Courtesy service of Draft NOA and MOL - LSBC and TLABC Appeals - COURT OF APPEAL FILE NOS. CA51536 _ CA51535.pdf" (the "**August 7 Email**").
2. The advanced drafts, specifically the "Form 4 - NOA - Sched A - LSBC et al v. AGBC et al - Applicant - Mr McLean - 10-August-2026 -.pdf" (the "**Draft NOA**") and the "Memorandum of Law - Intervention Application - LBSC - TLABC - AGBC - Applicant - KAM - 10-Aug-2026.pdf" (the "**Draft MOL**"), have been provided as a professional courtesy. It is strictly affirmed that this provision is not designed to engage in a concealing nature, a practice demonstrably utilized by others within this factual matrix.
3. Formal confirmation is hereby provided that, should no non-litigious resolution be achieved between the undersigned and the Law Society of British Columbia (the "**LSBC**") et al. by 5:00 PM tomorrow, the aforementioned materials shall be served and filed with the Court of Appeal for British Columbia (the "**BCCA**") in substantially the same form, subject solely to administrative amendments and final proofing.

PART 2: THE DISPOSITIVE NATURE OF FORMAL ADMISSIONS AND ESTOPPEL

Subpart 2(A): Deconstruction of the 2022 Intentions Paper Response

4. A meticulous deconstruction has been undertaken regarding the written statement proffered by the LSBC at its highest evidentiary zenith in 2022, specifically its response to the Intentions Paper (the "**Intentions Paper Response**"). It is incontrovertibly demonstrated that an explicit admission was made asserting that the unwritten constitutional principle of the independence of the bar necessitates that the regulatory board be comprised of a majority of lawyers.
5. While a singular reference within the Intentions Paper Response—diverging from approximately five other iterations published in 2022—stipulated that a majority of those lawyer directors must be elected, it is syllogistically evident that *Bill 21*, enacted as the *Legal Professions Act, S.B.C. 2024, c. 26* (the "**LPA 2024**"), provides exactly that mandated architecture. Nine of the seventeen directors are lawyers, constituting a majority, and five of those nine are elected, constituting a majority of the lawyer directors.

Subpart 2(B): Reaffirmation in the 2023 Annual General Meeting Notice

6. Furthermore, in the notice promulgated for the second Annual General Meeting in June 2023 (the "**2023 AGM Notice**"), the LSBC unequivocally reaffirmed its legal posture. The sentence commencing with "Chiefly..." operates as a definitive admission that the written legal position held independence of the bar and self-regulation to be satisfied solely by a simple majority of lawyers on the new regulatory board, absent any qualifying mandate regarding electoral or appointed mechanisms.

Subpart 2(C): The Fatal Pleading within the Notice of Civil Claim

7. Subsequently, in May 2024, the LSBC, acting through retained counsel, formally filed its pleading via a Notice of Civil Claim (the "**NOCC**") wherein the Intentions Paper Response was explicitly pleaded. It is a trite principle of civil procedure that a litigant is strictly prohibited from cherry-picking advantageous excerpts while repudiating detrimental clauses; if a document is pleaded, its entirety, inclusive of the exact language contained therein, is adopted.

8. Consequently, the LSBC is bound irrevocably by the law of admissions and barred, at the very least, by the doctrine of estoppel. This insurmountable legal barrier is profoundly fatal to the appellate pursuit of the LSBC, rendering the same *ipso facto* devoid of any cognizable justiciable controversy.

PART 3: PROCEDURAL SYNERGY AND JUDICIAL ECONOMY

9. In the spirit of judicial economy, and subject entirely to a full and final resolution being consummated outside of the confines of email correspondence—to which a strict prohibition against speaking to the truth of its contents now or thereafter is maintained—it is proposed that the substantive relief sought within the Draft NOA be heard concurrently with the application to intervene.

10. In the alternative, it is proposed that the substantive relief be heard expediently thereafter. The compelling academic inquiry remains whether the Respondents or any other interveners possess the procedural standing to argue this specific point of law regarding formal admissions. While that procedural standing remains undetermined at this exact moment, it is asserted unequivocally that the undersigned possesses such capacity. The advancement of these admissions does not constitute a motion to adduce fresh evidence *per se*, as formal admissions are strictly dispositive of the issue at hand and are not subject to the conventional weighing of evidence.

PART 4: JURISPRUDENTIAL APPLICATION ON UNPLEADED ISSUES (Although the LSBC's admissions were pleaded)

Subpart 4(A): The Prohibition Against Novel Theories of Liability

11. The jurisprudential landscape is unambiguous regarding the procedural fairness required when introducing novel issues. The following authorities are dispositive:

> [60] In *Canada Trustco Mortgage Co. v. Renard*, 2008 BCCA 343, 83 B.C.L.R. (4th) 267 (the "*Canada Trustco Decision*"), Mr. Justice Frankel, for the Court, said:
> [38] Fairness requires that a trial judge not bring issues into litigation without giving the parties an opportunity to address them. This is also reflected in *Walker v. Blades*, 2007 BCCA 436, 70 B.C.L.R. (4th) 226 at para. 16, and *Rodaro v. Royal Bank of Canada* (2002), 2002 CanLII 41834 (ON CA), 59 O.R. (3d) 74 (C.A.) at paras. 60 - 62. In *Walker*, the trial judge erred in dismissing an action on the basis that the plaintiff had repudiated the contract in issue, when repudiation had not been pleaded or argued. In *Rodaro*, the trial judge's error was in granting judgment in favour of the plaintiff on a theory of liability that had not been pleaded or argued.
> [61] Mr. Justice Frankel noted, at para. 39, the common thread in the authorities is that a party is entitled to know and respond to the case against it, whether by the calling of evidence, or through submissions.
> [62] In *Rodaro v. Royal Bank of Canada* (2002), 2002 CanLII 41834 (ON CA), 59 O.R. (3d) 74 (C.A.) (the "*Rodaro Decision*"), Mr. Justice Doherty, for the Court, described the fairness and reliability concerns associated with deciding a case on an issue neither pleaded nor argued:

[61] By stepping outside of the pleadings and the case as developed by the parties to find liability, Spence J. denied RBC and Barbican the right to know the case they had to meet and the right to a fair opportunity to meet that case. The injection of a novel theory of liability into the case via the reasons for judgment was fundamentally unfair to RBC and Barbican.

[62] In addition to fairness concerns which standing alone would warrant appellate intervention, the introduction of a new theory of liability in the reasons for judgment also raises concerns about the reliability of that theory. We rely on the adversarial process to get at the truth. That process assumes that the truth best emerges after a full and vigorous competition amongst the various opposing parties. A theory of liability that emerges for the first time in the reasons for judgment is never tested in the crucible of the adversarial process. We simply do not know how Spence J.'s lost opportunity theory would have held up had it been subject to the rigours of the adversarial process. We do know, however, that all arguments that were in fact advanced by Mr. Rodaro and were therefore subject to the adversarial process were found wanting by Spence J.

Hawkeye Power Corporation v. Sigma Engineering Ltd., 2012 BCCA 414 (the "*Hawkeye Power Decision*").

Subpart 4(B): Application of the Law to the Facts

12. The overarching jurisprudential axiom extracted from the *Canada Trustco Decision*, the *Rodaro Decision*, and the *Hawkeye Power Decision* strictly prohibits the adjudication of disputes upon unpleaded or unargued theories, as it intrinsically deprives opposing parties of the fundamental right to know the case to be met.

13. Applied to the present factual matrix, the injection of novel constitutional interpretations regarding the independence of the bar—interpretations that are entirely divorced from the explicit admissions formally pleaded within the NOCC—constitutes a fundamental procedural unfairness. The LSBC's formal admissions operate dispositively. They negate the necessity of weighing evidence and thereby render the appellate pursuit functionally moot. Any attempt to step outside the pleadings to manufacture a constitutional crisis where none exists, based on the LSBC's own admissions, violates the crucible of the adversarial process.

PART 5: THE FACTUAL VOID AND THE ILLUSION OF THE PUBLIC INTEREST

Subpart 5(A): The Unwritten Constitutional Principles and Criminal Malfeasance

14. The Honourable Chief Justice Skolrood, whether acting intentionally or otherwise, masterfully boxed the LSBC in upon its own admissions, albeit without explicitly citing the law of admissions. The most telling excerpt from the Reasons for Judgment is located at paragraph 145, wherein the Chief Justice concluded: "there is nothing in the record to suggest that the LSBC in its current form has failed to govern lawyers in the public interest."

15. It is a legally unassailable proposition that approximately ten or twelve distinct breaches of the *Criminal Code*, R.S.C., 1985, c. C-46, would definitively constitute a catastrophic failure to govern lawyers in the public interest. Criminal conduct can never, under any jurisprudential standard, be construed as advancing the public interest. The execution of a warrantless volatile memory extraction (the "**Concealed RAM Dump**"), the subsequent obfuscation employing Deflate64 algorithms by agents such as Kimm Otto, and the migration of expropriated digital assets to decentralized networks (e.g., the Binance Smart Chain and the Kinglory Network), as comprehensively detailed in the Draft MOL and the Draft NOA, establish these actions as absolute nullities *ab initio*.

Subpart 5(B): The Broad Representative Base and Unique Perspectives

16. In relation to the aforementioned technological and financial malfeasance, it is submitted that the argument advanced herein is not that a fresh evidence motion is inherently required. Rather, it is advanced on the robust grounds that, by intervening in the Appeal, critical

perspectives shall not be overlooked; the broad representative base encompassing the public interest is adequately heard; the systemic issues directly and indirectly implicating the undersigned are thoroughly ventilated; and the uniquely positioned arguments are evaluated. This strategic interjection will unequivocally truncate the time required to hear and dispose of the Appeals.

17. Moreover, an additional argument persists: while the specific law of admissions may not have been explicitly pleaded within the Responses to Civil Claim, it is arguably implicit. The reliance upon the law of admissions arguably arose *post facto*, subsequent to Chief Justice Skolrood's finding that the independence of the bar operates as an unwritten constitutional principle. Respectful disagreement is maintained regarding that specific finding, yet it remains the foundational pillar upon which the LSBC and the Trial Lawyers Association of British Columbia (the "**TLABC**") currently construct their "consultation victories."

18. Tertiarily, as the LSBC's Intentions Paper Response was affirmatively pleaded, it remains entirely open to the BCCA to adjudicate summarily, by quashing, or within a hearing proper, whether the law of admissions definitively precludes the LSBC from advancing its appeal *in limine*.

PART 6: FRAUD UNRAVELS EVERYTHING AND EQUITABLE MAXIMS

Subpart 6(A): The Transcendent Nature of Nullity

19. Quaternarily, it is rigorously submitted that the LSBC must be denied any statutory right of appeal, as shaped by the common law, because the immutable rules of equity strictly trump the same. It is a foundational tenet that fraud, dishonesty, bad faith, extortion, and bribery form a special category of causes of nullity, transcending all others. As articulated by Lord Denning in *Lazarus Estates Ltd. v. Beasley*, [1956] 1 QB 702 (the "*Lazarus Estates Decision*"), at p. 712:

"Fraud unravels everything. The Court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved, it vitiates judgments, contracts and all transactions whatsoever…"

20. This principle was subsequently affirmed by the Supreme Court of Canada in *Landreville v. Town of Boucherville*, 1978 CanLII 202 (SCC), [1978] 2 S.C.R. 801 (the "*Landreville Decision*"). The legal maxim *Fraus et dolus nemini patrocinari debent* (Fraud and deceit should excuse no man) operates strictly against the Appellants. Furthermore, the maxim *Ex dolo malo non oritur actio* (From a dishonourable cause an action does not arise) demands that the equitable right to be heard be summarily denied.

Subpart 6(B): Distinctions in Civil Procedure and the Absence of a Judgment to Set Aside

21. A critical distinction must be drawn between the civil procedure of Ontario and the civil procedure of British Columbia, as delineated by the BCCA in *Long v. Redbranch Investments Ltd.*, 2018 BCCA 358 (the "*Long Decision*"):

> [33] The question of appropriate procedure is clearly addressed in Ontario. The *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, R. 59.06 (formerly R. 529 of the *Rules of Court*) provide:
>
> (2) A party who seeks to,
>
> (a) have an order set aside or varied on the ground of fraud or of facts arising or discovered after it was made;
>
> ...
>
> may make a motion in the proceeding for the relief claimed.
>
> [34] In *100 Main Street East Ltd. v. Sakas* (1974), 1974 CanLII 637 (ON HCJ), 3 O.R. (2d) 361 (H. Ct. J.), the trial judge set aside a judgment in a real estate dispute, after trial, on the basis that material evidence had been concealed. Justice Holland held, at 368:
>
> I think it comes down to this: that fraud has been clearly established on the part of the defendant which, if known to the trial Judge, may reasonably have affected the result. I cannot say that of necessity it would have affected the

result. I am of the view, however, that where fraud has been clearly established the test of the effect of the fraud on the result should not be placed too high.

[35] On appeal, in *100 Main Street East Ltd. v. Sakas* (1975), 1975 CanLII 381 (ON CA), 8 O.R. (2d) 385 (C.A.), Estey J.A. described the procedure that had brought the case before the Ontario Court of Appeal, utilization of Rule 529 of the Ontario *Rules of Court*:

The test applicable in these circumstances has not changed over the years although the procedure in obtaining the desired relief has. Formerly (and it is still the case in England), the party alleging that the judgment has been obtained by fraud was required to bring an action to set aside such judgment. In Ontario, such a person is required, by Rule 529 of the *Rules of Court*, to apply by motion in the original proceedings for such order as could formerly have been obtained by the bringing of a new action. This new procedure is of course not a form of appeal, nor are the principles to be applied in resolving such application those which would apply in the case of newly discovered evidence not revealing fraud, except that the fraud must not have been known to the complaining party at the time of the trial. [Emphasis added.]

[36] *International Corona Resources Ltd. v. LAC Minerals Ltd.* (1988), 1988 CanLII 4534 (ON HCJ), 66 O.R. (2d) 610 (H. Ct. J.), to which both parties have referred as an authoritative statement of the applicable test on an application to set aside a judgment on the grounds it was obtained by fraud, was judgment on a motion brought in the trial court pursuant to the Rules. The same was the case in *Canada v. Granitile Inc.* (2008), 2008 CanLII 63568 (ON SC), 302 D.L.R. (4th) 40 (Ont. Sup. Ct.), where the motion was converted into a trial in order to review the evidence of fraud.

[37] *Hill v. Hill*, 2016 ABCA 49, came on before the Court of Appeal of Alberta by a circuitous route. Ultimately, the appeal arose from a second action in the trial court seeking to set aside an earlier judgment on the basis of newly discovered evidence.

[38] There is, however, in Alberta a statutory provision applicable in some situations that is similar to the rule relied upon in Ontario. In *Re Smolak and Necula* (1973), 1973 CanLII 1085 (AB SCAD), 39 D.L.R. (3d) 730 (Alta. C.A.), Clement J.A. cited the provisions of the *Maintenance and Recovery Act*, R.S.A. 1970, c. 223:

30. Where an order has been made or an application for an order has been dismissed, a judge may, on the discovery of new evidence or of fraud, grant leave to reopen and may reopen and consider a previous decision.

22. Application of the Law to the Facts: The overarching argument anticipated from the Appellants may assert that current counsel lacked explicit knowledge of the historical malfeasance *per se*. Such an assertion is legally immaterial; counsel operates as the agent of the client. Institutional knowledge is continuous and imputed. The transition of Mr. Avison, K.C., from the LSBC to the TLABC operates to inflict substantially more harm than good upon the TLABC's claim to an untainted appellate posture.

23. Irrespective of the aforementioned procedural nuances regarding the setting aside of judgments, it remains mathematically and legally impossible for the Respondents to bring a petition in fraud to set aside a judgment, for the precise reason that all of the substantive relief sought by the LSBC and TLABC below was summarily dismissed. One cannot add something to an absolute nullity.

PART 7: CONCLUSION

24. Advanced notice of the impending filings has been conscientiously provided, guaranteeing that no party is subjected to undue surprise should a non-litigious resolution fail to materialize on or before 5:00 PM tomorrow. Furthermore, copies of these documents were concurrently transmitted via facsimile to the LSBC and the Lawyers Indemnity Fund (the "**LIF**") tonight as a courtesy so nothing was "concealed" as two wrongs do not make a right.

25. I reserve the right to rely on this correspondence for any lawful purpose.

Best regards are extended to all herein.

Yours truly,

Mr. Kevin A. McLean (BA, JD, CIM)

Email: mclean@searchandseizure.ca

[Quoted text hidden]

2 attachments

Form 4 - NOA - Sched A - LSBC et al v. AGBC et al - Applicant - Mr McLean - 10-August-2026 -.pdf
862K

Memorandum of Law - Intervention Application - LBSC - TLABC - AGBC - Applicant - KAM - 10-Aug-2026.pdf
1738K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Aug 12, 2026 at 3:19 PM
To: cferris@lawsonlundell.com, lbevan@lawsonlundell.com, gcameron@fasken.com, tposyniak@fasken.com, labrioux@fasken.com, wandrews@fasken.com, Emily.Lapper@gov.bc.ca, Trevor.Bant@gov.bc.ca, Karin.Kotliarsky@gov.bc.ca, Sergio.Ortega@gov.bc.ca, vanessa.lever@gov.bc.ca, megan.patterson@gov.bc.ca

Subject: Submitted Copies – Form 4 and Memorandum of Argument (Intervener Application)
(copying: vanessa.lever@gov.bc.ca; megan.patterson@gov.bc.ca)

Dear Counsel,

I write regarding the above and in the spirit of professional courtesy.

As I did not hear back from the LSBC (copied to the LIF), I will be proceeding with my Form 4 Notice of Application as conditionally promised. The Registry has confirmed that all intervener applications are being heard on **Thursday, September 10, 2026**, rather than **Wednesday, September 2, 2026**, and accordingly there are some brief amendments to the Form 4 NOA and corresponding brief amendments to the Memorandum of Argument.

Please find attached the **submitted and paid-for copies** of the Applicant's **Form 4 – Notice of Application** and **Memorandum of Argument** (Intervener Application), filed today in Court of Appeal File Nos. **CA51536 / CA51535**.

I will provide each of you with the **file-stamped copies** in due course.

Parenthetically, I confirm the recent auto-reply of Ms. Lapper and have included the colleagues she identified for correspondence and document forwarding during her interim absence.

Thank you.

[Quoted text hidden]

2 attachments

Application - Chambers - Intervener Status.pdf
516K

Memorandum of Intervener.pdf
516K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Thu, Aug 13, 2026 at 6:37 PM
To: cferris@lawsonlundell.com, lbevan@lawsonlundell.com, gcameron@fasken.com, tposyniak@fasken.com, labrioux@fasken.com, wandrews@fasken.com, Emily.Lapper@gov.bc.ca, Trevor.Bant@gov.bc.ca, Karin.Kotliarsky@gov.bc.ca, Sergio.Ortega@gov.bc.ca, vanessa.lever@gov.bc.ca, megan.patterson@gov.bc.ca

Filed Copy – Form 4 (Intervener Application) – CA51536 / CA51535
Dear Counsel to the Appellants and Respondents:

Please find attached the BCCA-stamped copy of the Applicant's Form 4 – Notice of Application (Intervener Application), filed on August 12, 2026 in Court of Appeal File Nos. CA51536 / CA51535.
I will forward the file-stamped Memorandum of Argument once the Registry completes processing.

Thank you.

[Quoted text hidden]

Application - Chambers - Intervener Status - STAMPED COPY.pdf
493K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Fri, Aug 14, 2026 at 12:08 PM
To: cferris@lawsonlundell.com, lbevan@lawsonlundell.com, gcameron@fasken.com, tposyniak@fasken.com, labrioux@fasken.com, wandrews@fasken.com, Emily.Lapper@gov.bc.ca, Trevor.Bant@gov.bc.ca, Karin.Kotliarsky@gov.bc.ca, Sergio.Ortega@gov.bc.ca, vanessa.lever@gov.bc.ca, megan.patterson@gov.bc.ca

August 14, 2026

TO:

Counsel for the Appellants and Counsel for the Respondents

SUBJECT: **SERVICE OF FILED MEMORANDUM OF ARGUMENT – COURT OF APPEAL FILE NOS. CA51536 / CA51535 (MCLEAN INTERVENTION)**

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: SERVICE OF APPELLATE MATERIALS

Enclosure of the Memorandum of Argument

1. Pursuant to prior representations, enclosed herewith is the formally stamped Memorandum of Argument (the "**MOA**"), filed with the British Columbia Court of Appeal (the "**BCCA**"), submitted in support of the application to intervene in the within appellate proceedings (the "**Appeals**").

Confirmation of Effectuated Service

2. It is formally confirmed that counsel of record for the Society of Notaries Public of British Columbia (the "**SNPBC**") has been effectuated with service of both the aforementioned MOA and the stamped Form 4 Notice of Application (the "**Form 4**") executed pursuant to the *Court of Appeal Rules*. Furthermore, service and/or formal notice, as *de jure* applicable, shall concurrently be executed upon all remaining interveners and participants recognized in the tribunals below.

PART 2: THE PARAMETERS OF THE PROPOSED INTERVENTION

Prosecution in the Public Interest

3. It is advanced that the proposed intervention shall be prosecuted strictly in the public interest, focusing exclusively upon the profound public law issues engaged herein. The unique perspective proffered on behalf of a broad representative base is designed explicitly to eschew any expansion of the appellate *lis*; rather, it is surgically calculated to narrow the adjudicative scope.

Extinguishing the Historical Malfeasance

4. The ultimate objective of this intervention is to facilitate the judicial extinguishing of the systemic malfeasance, administrative nullities, and *ultra vires acta* perpetrated by the directing minds of the Law Society of British Columbia (the "**LSBC**") over the preceding twelve-year continuum. It is submitted prima facie that providing this empirical context shall ensure that the structurally defective and unaccountable *status quo ante* is not illegitimately preserved.

5. The proposition of reverting to the *Legal Profession Act*, S.B.C. 1998, c. 9 (the "**LPA 1998**") is jurisprudentially untenable. Pursuant to section 3 thereof, it is strictly codified, *inter alia*, that it is the object and duty of the society to uphold and protect the public interest in the administration of justice by preserving and protecting the rights and freedoms of all persons. While the regulatory apparatus remains inherently subject to the *Canadian Charter of Rights and Freedoms* (the "**Charter**") pursuant to section 32, this paramount statutory mandate strictly governs the purposive interpretation of the enactment and its subordinate regulations.

6. The catastrophic impact of the meticulously engineered evidentiary vacuum orchestrated by the regulatory apparatus is expressly reflected in the adjudicative rulings below. Specifically, at paragraph 166 of the summary trial decision, The Honourable Chief Justice Skolrood relied upon this manufactured pristine record, explicitly concluding: "[N]either argument is compelling. As I noted above (see para. 145), there is nothing in the record to suggest that the **LSBC in its current form has failed to govern lawyers in the public interest."** It is forcefully advanced that this judicial pronouncement—while accurate based solely upon the artificially truncated record

presented before the BCSC and Chief Justice Mr. Skolrood—is thoroughly eviscerated by the empirical reality that the Law Society of British Columbia (the "**LSBC**") systematically failed to govern its membership, its internal executive apparatus, and its external contractors.

7. Consequently, a catastrophic abdication of the statutory mandate codified under the *LPA 1998* was effectuated. This systemic failure constitutes an ongoing nullity that shall persist unabated until formal amalgamation is realized, thereby rendering appellate intervention an absolute judicial imperative. Furthermore, binding jurisprudence strictly dictates that the unreasonable, perpetual retention of extracted digital records—expressly inclusive of highly sensitive personal information, personal health information, and unencrypted volatile data—**constitutes a continuous, active, and unreasonable search and seizure**. *Ergo*, the predecessor regime remains in a perpetual state of breaching the *Charter*, specifically section 7 and section 8. The theoretical and prospective *Charter* apprehensions advanced by the Trial Lawyers Association of British Columbia (the "**TLABC**") are thereby structurally defeated *in toto* by the empirical reality of the ongoing, unconstitutional incursions perpetrated under the *status quo ante*.

8. It is formally advanced that the absolute right to adduce the within correspondence before the adjudicative body, strictly for the purposes of a costs calculus, is expressly reserved in the event that the Appellants oppose the proposed intervention in the within Appeals. Should the Appellants elect to advance an opposition to the aforementioned intervention, an order for elevated costs, payable forthwith, shall be rigorously pursued against the opposing entities.

9. Thank you.

ALL OF WHICH IS FORMALLY SERVED:

/s/ KAM

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant for Intervener Status

[Quoted text hidden]

Memorandum of Intervener - LSBC et al v. AGBC - Applicant - Mr McLean (BA JD CIM) - August 14 2026.pdf
1674K

Tab 4

COURT OF APPEAL FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS (Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS (Defendants)

WRITTEN ARGUMENT OF THE APPLICANT

PART 1: FACTS[i]

1. The Applicant relies on all documents in the Application Book ("AB"), including the undetermined grounds previously advanced for quashing and dismissal of the Appeals and revocation of standing. Under *Cock v. Labour Relations Board* and *Homex Realty*, strict public-law standing principles apply: standing is forfeited when procured through malfeasance, trickery, fraud, dishonesty, or bad faith. *Landreville* confirms the continuous duty of candour and that *suppressio veri* constitutes abuse of process. The record demonstrates suppression of material facts by the LSBC and, indirectly, the TLABC (Tabs 3(B), 3(C)). Independently, the Appeals collapse under the law of admissions. In 2022, the LSBC formally admitted that independence of the Bar requires: (1) a majority of the governing board be lawyers, and (2) a majority of those lawyer directors be elected (Tab 3(S)). These admissions were reaffirmed in the LSBC's 2024 pleading. The AGBC relied on these admissions. After Chief Justice Skolrood found independence of the Bar to be an unwritten constitutional principle, and with no cross-appeal on that

finding, the LSBC and TLABC Appeals became non-justiciable. (see: RFJ, Chief Justice Skolrood para. 166 and how suppression shaped the record). Formal admissions are conclusive and preclude contradictory evidence (*Sopinka, Lederman & Bryant*, p. 1051). This principle is affirmed in *Marchand*, *Champoux*, and *Serra*. Only admissions made during discovery are not formal admissions. The LSBC's admissions extinguish any remaining lis.

2. If relief under section 21 is granted, intervention becomes moot. The dismissal of the intervention application did not apply the correct legal test. Rule 61 (intervention) differs materially from section 20/Rule 60 preliminary objections and section 21 summary determination. Under the 2021/2022 COAA and Court of Appeal Rules, a person may apply to quash, preliminarily object, or strike a factum without bringing an NOA to intervene. Such relief may be sought under a single Form 4 under the new Enactments' regime of 2021 and 2022.

PART 2: ISSUES

3. The paramount issues to be determined by this Honourable Division are:
    a. **Whether the chambers justice erred in law by failing to apply the binding definition of "party" in Rule 64 of the Court of Appeal Rules**, thereby incorrectly concluding that the Applicant was not entitled to invoke Rule 60 or section 20 of the Court of Appeal Act, and by relying on repealed statutory text from the former COAA and former Rules.
    b. **Whether the chambers justice erred in law by applying the incorrect statutory framework**, specifically by importing the page-limit and procedural constraints of Rule 61 (Intervention) into the adjudication of relief sought under entirely separate statutory tracks — namely Rule 60 (Quashing), section 20 (Preliminary Objections), and section 21 (Summary Determination) — contrary to the governing architecture of the modern COAA and the binding authority of *R. v. Verma*.
    c. **Whether the chambers justice acted ultra vires and Coram Non Judice by purporting to direct the Registrar to retroactively reclassify a compliant, fully processed filing as "received – not filed,"** notwithstanding section 38(2) of the COAA, which vests exclusive statutory authority in the Registrar to refuse filings only for non-compliance with the Rules or a practice directive.
    d. **Whether the chambers justice erred in law and principle by acting sua sponte, absent any formal application, to revoke or contradict the procedural directives contained in the August 31 Memorandum**, thereby violating the doctrines of functus officio, audi alteram partem, and the mandatory "application" requirements under the COAA and Court of Appeal Rules.

e. **Whether the chambers justice erred in law by failing to adjudicate the Applicant's relief under section 20 and Rule 60**, despite possessing no discretion to decline such adjudication once the Applicant became a "party" to the application by operation of Rule 64(1), and despite having expressly confirmed that the matter would proceed on the "existing written record."
f. **Whether the chambers justice erred in law by failing to apply the mandatory correctness standard to issues of abuse of process**, procedural fairness, and jurisdiction — including the Applicant's submissions regarding formal admissions, suppression of material evidence, and the integrity of the appellate record — thereby vitiating the deferential standard ordinarily applicable under section 29 of the COAA.
g. **Whether the chambers justice erred in law by adjudicating the application despite an objective reasonable apprehension of bias**, arising from documented professional relationships and prior interactions that engaged the established legal test.
h. **What consequential relief must be granted**.

PART 3: ANALYSIS

3 (A): THE STANDARD OF REVIEW AND THE VITIATION OF DEFERENCE

4. The Attorney General (BC), as he then was (now The Honourable Mr. Premier Eby) confirmed on the record that the Court of Appeal itself co-drafted and approved Bill 11, including the summary-dismissal architecture now codified in sections 20 and 21 of the COAA. The Rules & Practice Committee[ii] reviewed the legislation, provided comments, and had its concerns addressed. This legislative history is binding under *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27, which requires statutory interpretation to be grounded in legislative intent and context. The presiding justice's interpretation of the modern COAA—particularly her reliance on repealed statutory powers and pre-2021 procedural assumptions—directly contradicts this legislative history and is therefore an error of law. The standard of review applicable to a Division panel reviewing an order of a single justice under section 29 of the COAA is presumptively deferential, but only where the impugned findings, declarations, or dispositions are not wrong in law, wrong in principle, or based on a misconceived factual foundation (*Arvanitis v. Slater Vecchio LLP*, 2022 BCCA 326, at para. 14). The jurisprudence draws clear distinctions: questions of law concern whether the correct legal test was applied or whether a statutorily prescribed approach was followed; questions of fact concern what actually occurred; and questions of mixed fact and law involve applying a

legal standard to established facts. It is a definitive jurisprudential axiom that failure to identify or consider the explicit legal criteria governing the exercise of discretion constitutes an independent error of law. Pure questions of law—including statutory interpretation, jurisdictional boundaries, and adherence to procedural fairness—are reviewed on a correctness standard (*Housen v. Nikolaisen*, 2002 SCC 33). Where a pure, extricable error of law or an error in principle is manifested, deference collapses entirely. The Impugned Orders are vitiated by reliance on incorrect legal tests, failure to follow approaches prescribed by the contemporary statute, and reliance on defunct powers and privileges under the repealed Court of Appeal Act, R.S.B.C. 1996, c. 77 (the **"Repealed COAA"**) and the repealed Court of Appeal Rules, B.C. Reg. 297/2001 (the **"Repealed Rules"**).

3(B): ABUSE OF PROCESS AS A PURE QUESTION OF LAW

5. It is a definitive jurisprudential axiom that determinations regarding an abuse of process constitute **pure questions of law**, thereby attracting the strict correctness standard of review. As held in *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5 at para. 22, advancing inconsistent factual positions in different proceedings—beyond merely inconsistent elections of rights—is impermissible and engages the doctrine of abuse of process. Applying the Supreme Court of Canada's binding framework in *Law Society of Saskatchewan v. Abrametz*, 2022 SCC 29 at paras. 30–36, abuse of process is inherently a component of **procedural fairness**. In statutory appeals and applications to quash, abuse of process concerns the relationship between the chambers justice, the litigants, and the integrity of the justice system itself. The relief to dismiss or quash the Appeals under section 21 of the COAA and Rule 60 inherently engages the doctrine of abuse of process.[iii]These suppressed materials were directly relevant to the constitutional analysis before the Honourable Chief Justice Skolrood. In paragraph 166 of his summary-trial reasons, the Chief Justice concluded that "there is nothing in the record to suggest that the LSBC in its current form has failed to govern lawyers in the public interest." That conclusion was necessarily shaped by the **absence** of the concealed volatile-memory extractions and far worse than merely not governing lawyers in the public interest.

6. The BCCA chambers justice, having elected to proceed on the "existing written record," was required to adjudicate the abuse of process arising from this suppression. [iv] [v]

3(C) ERRORS OF LAW/PRINCIPLE: RELIANCE ON DEFUNCT ENACTMENTS

7. The threshold dismissal of the quashing relief was predicated upon a catastrophic misinterpretation of the modernized *COAA* and the *Court of Appeal Rules*. Under the Repealed COAA, section 20 explicitly restricted the right to raise a preliminary objection strictly to a "**Respondent**". In the comprehensive 2021 overhaul of the *COAA*, the Legislature deliberately **excised** this rigid, exclusionary restriction. Section 20(2), since 2021, expansively and plainly states: "A justice may, on application, quash an appeal..." The statutory prerequisite that an applicant must possess formalized "**Respondent**" status to the main appeal was intentionally **deleted** from the **Enactment**[vi] for self-evident reasons.
8. To operationalize this modernized statute, **Part 9 (see: sections 52 to 65)** of the *Court of Appeal Rules* strictly governs "**Applications**." Within said Part, *Rule 64(1)* provides the unassailable, overriding definition of a **party** specifically and exclusively for the purposes of an application: "In this Division, '**party**', in relation to an application, means (a) the person who **brings** the application in accordance with these rules." This was absent in the **Repealed Rules**. The Applicant's accepted Form 4 NOA (see: Tab 3(A)) sought relief did not fall within the narrow, enumerated exemptions of *Rule 64(3)* (i.e. rule 68 and 85 applications). Consequently, by operation of strict statutory text, the **Applicant Party** was definitively and automatically a "Prescribed Party" to the "Application" when he brought the application in accordance with the *Rules*. By completely ignoring the binding definitional parameters of *Rule 64*, the justice impermissibly read a defunct, 25-year-old statutory restriction back into the contemporary framework and committed errors of law[vii].[viii]

3(D): JURISDICTIONAL USURPATION BY HORSMAN J.

9. The purported direction issued on September 8, 2026, instructing the Registrar to retroactively reclassify the Applicant's compliant August 28, 2026 written argument as "received – not filed," was executed entirely without statutory jurisdiction. The indelible CSO portal records demonstrate that the document was accepted and

remains marked as “filed.” A single justice possesses no authority under the contemporary Enactments to retroactively alter the filing status of a compliant document. Section 38(2) of the COAA vests **exclusive authority** in the Registrar to refuse a document, and only where the document fails to comply with: (a) the Court of Appeal Rules; or (b) a formally issued practice directive (the “Registrar’s Filing Directive”). The Applicant’s August 28 filing complied with all formatting, transmission, and procedural requirements. The statutory condition precedent for rejection was never triggered. The Registrar accepted the filing, and the CSO portal reflects this acceptance. The subsequent “received – not filed” marking on page 1 was not a lawful refusal under section 38(2). The Court of Appeal is a **statutory court**, divested of the broad inherent jurisdiction possessed by section 96 superior courts. As such, any act executed outside the powers conferred by the COAA and the Court of Appeal Rules is **Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est**, and strictly **Coram Non Judice**. The retroactive manipulation of the registry ledger—whether framed as a direction or administrative instruction—was executed without statutory authority and is void. Even under the **Repealed COAA** and **Repealed Rules**, the Court of Appeal held in *R. v. Verma*, 2016 BCCA 307, at para. 20, that: “if the notice that person seeks to file… complies with this Court’s rules and that person insists on filing that notice, then the notice must be accepted for filing. Once the notice is filed, it is open to the respondent to apply to quash.” This principle applies with equal force under the modern Enactments. Horsman J. had no jurisdiction to direct the Registrar to refuse or reclassify a compliant filing. Likewise, the Registrar possessed no authority to represent to the Applicant that the document was filed, while simultaneously affixing an ambiguous “received – not filed” marking. Under the **Repealed COAA**, section 10(3) provided that a justice “may review an order or direction of the registrar and, after reviewing it, may vary or cancel the order or direction.” However, even under the former regime, this power was explicitly tied to section 35(2) and the procedural requirements of **Rule 63**, which required: (a) obtaining a Hearing Date; (b) filing and serving a Form 4; and (c) filing responsive affidavits and arguments at least two business days before the Application

Hearing Date. The modern COAA and Court of Appeal Rules replaced this framework. Under the contemporary Enactments, a justice's jurisdiction to review or vary a Registrar's order is triggered **only** when a Rule 63 application is properly brought. No Rule 63 application was filed. No Hearing Date was obtained. No Form 4 was filed or served for the purpose of reviewing a Registrar's direction. Accordingly, Horsman J. lacked jurisdiction to review, vary, or cancel any Registrar action. Section 32 of the COAA empowers a justice to dispense with requirements under the Rules, but such dispensation is explicitly tied to **Rule 41**, which again requires a formal application. No such application was brought. The purported review of the Registrar's action was therefore an error of jurisdiction/law/principles.

3(E): SUA SPONTE REVERSALS ARE ERRORS OF LAW AND JURISDICTION

10. In Canadian appellate jurisprudence, a justice who acts **sua sponte**—that is, upon the court's own initiative and absent any formal application or notice—to reverse, revoke, or materially vary an antecedent order commits a **reviewable error of law**. Such unilateral reversals violate either the doctrine of **functus officio** or the foundational duty of procedural fairness codified by the maxim **audi alteram partem**. The August 31 Memorandum contained a clear directive that the application would proceed on the "existing written record." The subsequent September 8 reversal—retroactively rejecting the compliant August 28 written argument—constituted a unilateral departure from that directive and was executed without jurisdiction. As established by the Supreme Court of Canada in *Chandler v. Alberta Association of Architects*, 1989 CanLII 41 (SCC), once a determination is rendered, the adjudicator's jurisdiction is exhausted, subject only to narrow statutory exceptions or the correction of accidental clerical slips. A justice cannot intervene sua sponte to alter substantive rights previously determined. The presiding justice's September 8 reversal was not a clerical correction, nor was it authorized by any statutory exception under the contemporary COAA or Court of Appeal Rules. The Supreme Court of Canada reaffirmed in *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33, that justices are barred from reconsidering the substance of their dispositions absent statutory authority. The Court emphasized that unilateral reconsideration violates both the open court principle and procedural

fairness. The same defects are present here: the reversal of the August 31 Memorandum was executed without notice, without an application, and without affording the Applicant an opportunity to respond. The Ontario Court of Appeal has likewise held that reconsideration—even prior to formal entry—remains subject to an exceedingly high threshold and must strictly adhere to natural justice (*McGrath*, 2023 ONCA 46; *Chuang*, 2016 ONCA 852). A chambers justice is strictly precluded from unilaterally rewriting a ruling without providing affected parties notice and an opportunity to respond. As held in *Toronto (City) v. Lee-Tucker*, 2025 ONCJ 323, the failure to require a formal adversarial application deprives the affected party of procedural fairness, rendering the resulting order invalid irrespective of its merits.

11. The presiding justice's September 8 reversal was also executed outside the boundaries of the governing Enactments. The COAA and Court of Appeal Rules require that any review or variation of a Registrar's order be brought by formal application under Rule 63. No such application was filed. No Hearing Date was obtained. No procedural gateway was triggered. The reversal was therefore executed **coram non judice**. The common law, from our highest courts dating back to 11 years post confederation, has long recognized that when a judge assumes jurisdiction over matters not conferred by statute, the proceeding is coram non judice. As stated in *McLean v. Bradley*, 1878 CanLII 22 (SCC), and in Broom's Legal Maxims (*Taylor v. Clemson*), "when the Court has no jurisdiction of the cause, the whole proceeding is coram non judice." The Supreme Court of Canada's decision in *Pong v. Quong*, 1927 CanLII 2 (SCC), is directly on point. There, Anglin C.J.C. held that although the judge (Denton J., county court judge (County of York)) possessed jurisdiction under one statutory provision, he had **assumed jurisdiction he did not possess** under another, rendering the proceeding coram non judice. The same structural defect is present here: while Horsman J. possessed jurisdiction over certain aspects of the August 12 NOA, she assumed jurisdiction over matters—such as reviewing or varying Registrar directions, prohibiting filings, and retroactively reclassifying compliant filings—that she did not possess under the COAA or Court of Appeal Rules. Those acts were

executed outside her statutory lane and are therefore coram non judice.[ix] The presiding justice's sua sponte reversal of the August 31 Memorandum, combined with the absence of any statutory gateway permitting reconsideration, necessitates the declarations sought.[x]

3(F): REASONABLE APPREHENSION OF BIAS, CONFLICTS OF INTEREST ET AL

12. It is a foundational tenet of Canadian appellate jurisprudence that justice must not only be done but must **manifestly and undoubtedly be seen to be done**. The test for reasonable apprehension of bias is objective: whether an informed person, viewing the matter realistically and practically, would conclude that the adjudicator could not decide the matter impartially (*Committee for Justice and Liberty v. National Energy Board*, [1978] 1 S.C.R. 369; *Marchand (Litigation Guardian of) v. Public General Hospital Society of Chatham*, 2000 CanLII 16946 (ONCA)).The presiding justice previously served as senior counsel within the Attorney General of British Columbia ("AGBC"), during which time she acted as **direct co-counsel** with Ms. Sarah Bevan on significant matters, including appearances before the Supreme Court of Canada (SCC Docket 36495). This professional association is a matter of public record. The Applicant later appeared before the Court of Appeal in *McLean v. British Columbia*, 2019 BCCA 133, where Ms. Bevan advanced submissions on behalf of the AGBC. Following that proceeding, the Applicant formally reported Ms. Bevan for misleading the Court of Appeal. These historical interactions form part of the objective context in which the present application must be assessed. In the current appellate proceedings, submissions opposing portions of the Applicant's relief were advanced by Ms. Laura Bevan of Lawson Lundell LLP, counsel for the LSBC. The Applicant notes that the similarity of surname may suggest a familial connection. What matters for the legal analysis is that counsel closely connected—professionally or personally—to a former SCC co-counsel of the presiding justice advanced submissions in a matter where the Applicant had previously reported that former co-counsel for professional misconduct. The **appearance** of overlapping professional relationships is sufficient to trigger the objective test. The Impugned Orders closely tracked the submissions advanced by counsel for the LSBC and TLABC. Whether or not those submissions were

adopted for that reason is irrelevant. The question is whether an informed observer, viewing the matter realistically and practically, could apprehend that the presiding justice's prior professional association with Ms. Sarah Bevan, combined with the Applicant's prior reporting of Ms. Bevan, and the contemporaneous involvement of Ms. Laura Bevan, **could give rise to a reasonable apprehension of bias**. The Supreme Court of Canada has repeatedly held that even the **appearance** of partiality is sufficient to vitiate a judicial act. In *Marchand*, the Court emphasized that impartiality must be both subjectively present and objectively demonstrated. In *Yukon Francophone School Board v. Yukon*, 2015 SCC 25, the Court reaffirmed that prior professional relationships may give rise to an appearance of bias when the judge is adjudicating matters involving former colleagues or closely connected counsel. Applying these principles, the Applicant submits that the presiding justice's administrative and adjudicative involvement in the August 12 NOA and the September 8 Impugned Orders occurred in circumstances that meet the objective test for reasonable apprehension of bias. The issue is not actual bias, nor is any allegation of improper motive advanced.

13. The issue is the **appearance** of partiality arising from overlapping professional relationships, prior interactions involving the Applicant, and the adoption of submissions advanced by counsel closely connected to the presiding justice's former SCC co-counsel. Where a reasonable apprehension of bias is established, the resulting orders are void ab initio irrespective of their merits or lack thereof (*Wewaykum Indian Band v. Canada*, 2003 SCC 45).

PART 4: ORDERS SOUGHT

14. The Applicant seeks the orders sought in a draft order that the Applicant seeks a signing from the bench on the day of without the need for the signatures of the counsel for any "Responding Parties" in light of the urgent issues involved here on and a public level.

All of which is respectfully submitted on September 14, 2026

Mr. Kevin A. McLean (BA, JD, CIM) ("party" under Rule 64)

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SCHEDULE "A": ORDERS SOUGHT IN THE FORM OF A DRAFT FORM 12

FORM 12 (RULE 66(3)(c))

Court of Appeal File Nos. CA51536 / CA51535

COURT OF APPEAL FOR BRITISH COLUMBIA

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Appellants

(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

Respondents

(Defendants)

ORDER FROM AN APPLICATION TO VARY OR CANCEL

BEFORE:

The Honourable Chief Justice / Madam Justice / Mr. Justice _____

The Honourable Madam Justice / Mr. Justice _____

The Honourable Madam Justice / Mr. Justice _____

Vancouver, British Columbia, _____

THE APPLICATION of the Applicant, Mr. Kevin A. McLean (BA, JD, CIM), to vary and cancel the order of **Horsman J.** dated the 8th day of September, 2026, coming on for hearing on _____;

AND ON HEARING Mr. Kevin A. McLean, the Applicant Party appearing in person, and counsel ***for the Appellant, LSBC (Responding Party) and counsel for Appellants, TLABC and Mr. Westell (Responding Parties)*** and _____

AND ON READING the Applicant's Application Book and the Responding Parties' Response Books; AND ON JUDGMENT BEING PRONOUNCED ON THIS DATE;
THIS COURT ORDERS that the application to vary and cancel the order of **Horsman J.** is allowed.

VOLUME I — STANDARD OF REVIEW & REGISTRY RECORDS

1. An Order dispensing with any procedural requirements under the Court of Appeal Rules necessary to permit full adjudication of the Applicant's relief.
2. An Order directing the Registrar to produce a complete audit log and transmission record showing when, and by what method, the Applicant's August 28, 2026 written argument was delivered or made available to Horsman J.
3. An Order that the audit log specify all routing actions between 3:55 p.m. (acceptance for filing) on August 28, 2026 and 11:05 a.m. on August 31, 2026.
4. If the Registry did not transmit the filing to the presiding justice, an Order requiring the Registrar to provide a written declaration confirming that fact.
5. Leave to the Applicant to make further submissions upon receipt of the Registry's audit log.
6. A Declaration that the standard of review is correctness, as the issues raised involve pure questions of law, jurisdiction, and procedural fairness.

VOLUME II — STATUS & FILING VALIDITY

7. A Declaration that the Applicant was a "party" to the application under Rule 64(1), with standing to seek relief under Rule 60 and sections 20 and 21 of the COAA.
8. An Order directing the Registrar to stamp the August 28, 2026 written argument as "filed" nunc pro tunc to August 28, 2026.
9. A Declaration that the August 28 filing complied with all requirements of the Court of Appeal Rules and any operative practice directives.

VOLUME III — STATUTORY ARCHITECTURE & REGISTRY POWERS

10. A Declaration that Rule 64 governs party status for applications, and that an applicant is entitled to seek relief under Rule 60 and section 20 irrespective of respondent/appellant status in the underlying appeal.
11. A Declaration that a single justice has no jurisdiction to review, vary, or cancel a Registrar's direction absent a Rule 63 application, and that section 10(3) of the former COAA is repealed.
12. A Declaration that the Registrar lacked authority to classify a compliant filing as "received – not filed" absent non-compliance with the Rules or a practice directive.
13. A Declaration that only the Chief Justice (or Associate Chief Justice) may direct the Registrar on matters of judicial administration under section 11(2)(a) of the COAA.

VOLUME IV — JURISDICTIONAL DEFECTS IN THE IMPUGNED ORDERS

14. A Declaration that Horsman J. lacked jurisdiction to vary or contradict the case-management judge's June 2026 directives.
15. A Declaration that Horsman J. erred in law by concluding the Applicant lacked standing to bring relief under Rule 60 and section 20, contrary to Rule 64.
16. A Declaration that any sua sponte variation of registry directions absent a Rule 63 application was executed without jurisdiction.
17. A Declaration that the "received – not filed" stamp was not a valid order capable of variation.
18. A Declaration that reliance on repealed statutory powers constituted an extricable error of law.
19. A Declaration that an objective reasonable apprehension of bias arose, and that any steps or orders involving Horsman J. are void ab initio.

VOLUME V — VARIATION, CANCELLATION & SUBSTITUTION

20. An Order cancelling all directives and orders pronounced by Horsman J. on September 8, 2026.
21. An Order varying any surviving antecedent orders to conform with the declarations above.
22. An Order declaring that the Registrar was required to accept for filing the Applicant's August 30 Form 4 and accompanying written argument.

23. An Order declaring that the August 31 memorandum prohibiting further filings was issued without jurisdiction.

STRIKING RELIEF (Rule 9-5(1) BCSC Applied by Analogy)

24. THIS COURT ORDERS that the Memorandum of Argument filed by the Law Society of British Columbia is struck in its entirety, on the grounds that it:

- discloses no reasonable opposition to the relief sought,
- is unnecessary, scandalous, frivolous, or vexatious,
- may prejudice or delay the fair hearing, and
- is otherwise an abuse of the process of the Court,

consistent with Rule 9-5(1) of the Supreme Court Civil Rules, applied by analogy.

25. THIS COURT FURTHER ORDERS that paragraphs 8 through 12 of the Memorandum of Argument filed by the Trial Lawyers Association of British Columbia are struck, on the grounds that they:

- disclose no reasonable opposition to the relief sought,
- are unnecessary, scandalous, frivolous, or vexatious,
- may prejudice or delay the fair hearing, and
- constitute an abuse of the process of the Court,

consistent with Rule 9-5(1) of the Supreme Court Civil Rules, applied by analogy.

Volume VI: Dismissal and/or Quashing of the Appeals

26. An Order summarily dismissing and/or quashing the underlying appeals pursuant to Rule 60 and sections 20 and 21 of the COAA.
27. An Order dispensing with the requirement for approval or signature of the Responding Parties under Rule 66(10)(c).

APPROVED BY THE COURT

……

Justices of the British Columbia Court of Appeal

APPROVED AS TO FORM:

…….

Signature of Mr. Kevin A. McLean

Applicant for the Moving Party

SCHEDULE B: COMPARATIVE STATUTORY CHARTS

SCHEDULE B(I): COA 1996 VS. COAA 2021

Feature	COA 1996 (Repealed)	*COAA* 2021 (Current)	Impact
Standing to Quash, Object or Strike (Factums)	Only Respondent could apply	Any person may apply (s.20)	Standing for objecting, striking or quash was possessed without intervening
Preliminary Objections	Narrow, tied to Respondent	Broad, tied to "any person" (s.20)	Dual-track Form 4 is valid
Dismissal Powers	No equivalent	s.21 allows dismissal of part/all of appeal	Section 21 was invoked implicitly
Summary Determination	No equivalent	s.21(1) summary determination	The chambers justice failed to consider
Party Definition	Appellant/Respondent only	Same — but Rules create "prescribed Parties" for purposes of an "Application" (formerly a **"application"**) (nota bene: Appellant Party versus an Applicant Party/Moving Party or "Statutory Party" versus a "Prescribed Party"	The chambers justice misapplied Party status
Rule 60(4) Sequencing	No equivalent	Quash apps presumed heard	Proper sequencing

		with appeal unless ordered otherwise	occurred; substantive analysis failed
Registrar Powers	Narrow	s.38(2) condition precedent	Jurisdiction was exceeded (ultra vires)
Intervention Test	Carter test	Carter test + expanded s.20 rights	Intervention was not required to quash
Appeal Structure	Short, simple	Long, complex, modernized	Old logic was applied to a new statute

SCHEDULE B(II): COR 2001 VS. COR 2022

Feature	COR 2001 (Repealed)	COR 2022 (Current)	Impact
Rule 60	Limited	Comprehensive quash/strike/prelim objection regime	Rule 60(1)(b) was ignored
Rule 64	Narrow Party concept	“Party to Application Hearing” created	“Party” status was achieved under Rule 64
Rule 62(2)	Variation rules existed	7-day window preserved	The justice varied her own order *sua sponte*
Rule 48	Case management limited	Expanded case management powers	Case management logic was misused
Rule 85	Fee waiver narrow	Fee waiver tied to “not bound to fail”	Demonstrates modern structural thresholds
Terminology	“Respondent” focus	“Any person” focus	Old terminology was improperly applied
Electronic Filing	Primitive	Fully modernized	Reversal to “not filed” contradicts system

SCHEDULE B(III): TLABC PLEADING POSITION

TLABC Pleading Position	Logical Consequence	Impact
"No factual record exists"	Then no Charter question can be adjudicated (*Slaight Communications*)	Appeal must be quashed
"Complete factual record exists"	Then LSBC's admissions bind them (law of admissions)	Appeal must be quashed
"We rely on LSBC's record"	LSBC admitted independence threshold met	Appeal must be quashed
"We rely on CJ Skolrood's record"	CJ Skolrood found nothing showing LSBC failed to govern lawyers (nota bene: but based on artificial record before His Lordship via fraud by omission versus commission	Appeal must be quashed
"We rely on our own submissions"	They filed no evidence	Appeal must be quashed

SCHEDULE "C": HANSARD DEBATE AND LEGISLATIVE INTENT CHART

Date	Speaker	Key Point / Quote	Legislative Intent	Relevance to the Quashing Application	Demonstration of Jurisdictional Error and Breach of Separation of Powers
March 15, 2021	Hon. David Eby (First Reading of Bill 11)	"This bill repeals and replaces the existing Court of Appeal Act… the current legislation is difficult for readers to understand… litigants must refer to different resources: the act, the rules, practice directions."	Consolidation of Act and Rules; removal of procedural content from statute; modernization for clarity and usability.	Shows Legislature's intent that procedure belongs strictly in the Rules, not in judicial memorand a or ad hoc directions.	The August 31 Memorandum operated as a procedural instrument, artificially freezing the record and directing a written hearing—expressly contravening the legislative mandate that procedure is strictly governed by the Rules, not judicial fiat.
March 15, 2021	Hon. David Eby	"The act currently includes practice and procedural directions, which more appropriately belong in the	Legislature explicitly rejects judges embedding procedure in the Act or in uncodified	Confirms that adjudicators are strictly precluded from manufacturing	A novel procedural pathway (written-only hearing, frozen record, absolute preclusion

		rules of the Court of Appeal.”	judicial directives.	procedural regimes outside the Rules; consequently, the suppression of the evidentiary record via an administrative memorandum was strictly ultra vires.	of oral submissions) was manufactured devoid of rule-based authority, constituting a profound breach of the separation of powers.
March 15, 2021	Hon. David Eby	“This bill… will modernize the Court of Appeal Act and improve access to justice for litigants… particularly self-represented litigants.”	User-centred, predictable, and rule-based appellate procedure.	The Legislature explicitly intended predictability and accessibility; the issuance of an opaque, retroactive memorandum fundamentally contradicts this intent.	The directives generated profound uncertainty, confusion, and absolute procedural disadvantage, operating in direct contravention to stated legislative objectives.
March 16, 2021	Hon. David Eby (Second Reading)	“Currently the act includes provisions that combine matters of statutory nature with those of	Strict separation of powers between statute (jurisdictional powers) and rules	Confirms that procedure must be governed by Rules, not judicial fiat.	Procedural power (record freezing, retroactive un-filing) belonging exclusively

		practice and procedural application… changes will reorganize to have general powers in the act and all aspects of procedure in the rules.”	(procedural mechanisms).		to the Rules Committee was impermissibly exercised by a single justice, manifesting a pure jurisdictional error.
March 16, 2021	Hon. David Eby	“The language used in the act and the rules will also be harmonized for improved usability.”	Legislature demands harmonization, not ad hoc procedural inventions.	The memorandum engineered a non-harmonized, arbitrary procedure entirely inconsistent with the governing statutory and regulatory framework.	It is definitively demonstrated that the adjudicator operated completely outside the legislative scheme, fabricating an unauthorized parallel process.
March 16, 2021	Hon. David Eby	“The impacts of COVID-19 have highlighted the necessity of embracing the flexibility of audio and video appearance methods.”	Remote appearance flexibility is to be integrated formally into rules, not arbitrarily invented by judges to exclude litigants.	The imposition of an exclusionary, written-only hearing directly contradicts the legislative intent of expanding, rather than restricting, access	Participation was arbitrarily restricted rather than expanded, operating contrary to explicit legislative directives.

				and participation.	
March 16, 2021	M. de Jong (Opposition Critic)	"It can become a bit of a labyrinth to navigate… even for counsel… the emergence of new technologies … should be utilized to provide people with more opportunity to watch and observe the workings of the court."	Legislature intends greater transparency and accessibility, not closed written hearings.	The closed, written-only format unilaterally eliminated transparency and public accountability.	A closed, highly opaque process was improperly imposed, strictly contravening the transparency goals articulated by the Legislature.
March 16, 2021	M. de Jong	"The rules package… will be very important… the composition of the rules of practice committee… will continue to bear responsibility for rule changes."	The Rules Committee—not individual justices—controls procedure.	Confirms that a single justice is absolutely divested of the jurisdiction to invent ad hoc procedural pathways.	The directives housed within the memorandum constituted a unilateral procedural amendment, flagrantly violating the exclusive jurisdiction of the Rules Committee.
March 17, 2021	Committee of the Whole – Bill 11	"The Court of Appeal is one of the three branches of	Legislature reaffirms strict separation	Judicial creation of non-statutory	The separation of powers was

		governance … independence must be respected.”	of powers and institutional boundaries.	procedure violates legislative supremacy over procedural rules.	fundamentally breached via the impermissible legislation of procedural mechanisms from the bench.
March 17, 2021	General Debate	“Ensuring the court operates with jurisdictional authority that is modern, organized and understandable… is a laudable objective.”	Legislature demands organized, rule-based jurisdiction, not opaque, retroactive memoranda.	The application was subjected to a non-existent, fabricated procedure, violently disrupting established jurisdictional organization.	The **chambers justice** acted entirely without jurisdiction, manifesting an unorganized, non-statutory process completely divorced from the Court of Appeal Act.

SCHEDULE "D": EXCERPT OF HANSARD DEBATES REGARDING COURT OF APPEAL CONSULTATION (MARCH 17, 2021)

Hon. D. Eby: I do understand the context of the member's question, given that the courts are, as he rightly noted in his second reading speech, the third branch of governance in our province. I appreciate that nuance in his speech. I'll use it going forward, even if it may not be with the total approval of the court.

One thing that does…. I do not presume to speak for the court, but I can advise the member that the court has been very involved in this process. The Court of Appeal has an internal Court of Appeal rules and practice committee. The mandate of that committee is to review, enhance and simplify the practice and procedure of the court. They meet regularly, throughout the year, to discuss proposals by the justices of the court, the registrar, lawyers and the public for amendments to the Court of Appeal Act, the Court of Appeal rules and the Court of Appeal criminal appeal rules.

The committee consults with members of the bar and other organizations such as the Canadian Bar Association, many of them that I'd list — I won't go through all of them — when there is a proposal that would significantly change the court's practice and procedure. The members of this committee are obviously the Chief Justice, Chief Justice Bauman; Hon. Madam Justice MacKenzie; Justice Harris; Justice Goepel; Justice Finch; Justice Fisher; the registrar; and two legal counsel that are in-house with the court, Sally Rudolf and Shirley Smiley.

To the member's question, that committee was consulted throughout the legislative drafting process and had the opportunity to provide comment on the proposed amendments to the act. The member may recall from a 2013 MOU between the then Attorney General and the chief justices and the chief judge of our various courts in the province that the Attorney General must consult with the courts for any initiatives that may affect judicial administration.

These amendments that are in front of the House today were developed in close consultation with the Court of Appeal and within the framework of the MOU. In accordance with the MOU, the chief justice of the Supreme Court and the chief judge of the Provincial Court were also consulted. Any concerns raised by the courts were, to the best of our knowledge, addressed.

M. de Jong: That, too, is helpful and, I think, worthwhile to have been placed on the record, including the reference to the MOU that guides the delicate relationship that exists between the executive branch and the judicial branch.

I'd like, in a few moments, to come back to the draft rules, insofar as a key part of this legislative initiative is to re-organize the act versus the rules. I'll be interested to pose a few questions about how, going forward, the rules and practice committee will be engaged, assuming it will — and I think it will — with respect to the rules.

[2:55 p.m.] Before we get to that, however, can I ask the Attorney to confirm that specific responses were received from the Law Society of British Columbia and to what extent, if at all, there were concerns expressed by the draft legislation, Bill 11, before us?

Hon. D. Eby: We did have **one letter** from a lawyer associated with the Law Society of B.C., but it indicated that those were personal views and not those of the society as a whole. The society as a whole did **not** provide any feedback to us that we received. We did receive feedback from the Canadian Bar Association, B.C., appellate advocacy section; DOJ Canada, B.C. regional office; and a number of lawyers and members of the public.

Some of the feedback we received from CBABC and the DOJ was positive feedback about the focus and reorganization of the act and the rules, the filling of procedural and technical gaps that can confuse counsel and self-represented litigants. They appreciated the streamlining of procedures, the incorporating of practice directives and using more plain language. They

proposed amendments to empower a single justice to make a number of different orders, sitting as a case management judge.

General support of the changes was indicated from the correspondence received from lawyers or groups of lawyers, with notable comments being appreciation of the increase in the use of case management, greater involvement of the registrar, improvement to the forms and a clarification in a number of identified existing ambiguities.

M. de Jong: In the list of agencies that the Attorney General read off who have provided feedback, did I hear him refer to the **Trial Lawyers Association as well?** Were they included in that list?

Hon. D. Eby: They were invited to provide feedback, but I don't believe we received any feedback from them on the rule amendments.

Nothing Past This Line But Endnotes -

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[i] The Applicant repeats, relies and expressly incorporates the facts, evidence, exhibits and arguments in thee documents in his Application Book herein. The Applicant Party expressly relies on previous definitions utilized therein and they have the same meaning therein as they do herein.

[ii] comprised of Chief Justice Bauman, Justice MacKenzie, Justice Harris, Justice Goepel, Justice Finch, Justice Fisher, the Registrar, and in house counsel

[iii] The record before the chambers justice included: (a) the suppression of volatile memory extractions, and (b) binding formal admissions extinguishing the lis.

[iv] The Legislature — with the Court's participation — intended ss. 21 and rule 60 to empower the Court to quash meritless appeals efficiently. The Applicant's request is precisely what the Legislature contemplated. Horsman J.'s contrary conclusion is inconsistent with the legislative record and therefore reviewable with no deference and a standard of correctness. It is better to get this right before this dangerous precedent taints further proceedings or hearings intra proceedings. While the correctness standard allows for the substituting of orders where orders were made, where none were made, this Honourable Division Panel is not only permitted but required to issue an order on the EXISTING WRITTEN RECORD as it was at the time of the Horsman J. issued decision on September 8, 2026.

[v] Moreover, as the Applicant was entitled to file documents up and until seven business days before September 10, 2026, his attempted filings and to be filed affidavits in supports must be considered which all would have been filed but for the Order within the August 31 memorandum that, without jurisdiction, prohibited any further filings. Naturally, the documents that were unlawfully rejected by the Registrar on account of the August 31 memorandum and material to be relied upon the filed August 12 NOA could not even be re-attempted without the risk of contempt.

[vi]Citing the Interpretation Act (BC) for definitional purposes throughout

[vii] Applying a repealed Enactment restriction or failing to follow an approach prescribed by statute constitutes a pure, extricable error of law commanding absolute correctness and cancellation.

[viii] As dictated by the maxim Generalibus specialia derogant (special provisions derogate from general ones), the specific definition in Rule 64 overrides any generalized conception of standing.

[ix] This principle aligns with Wilson v. The Queen, 1983 SCC, which held that a court order made by a court having jurisdiction stands unless lawfully quashed or set aside on appeal. Conversely, an act executed without jurisdiction is void ab initio

[x] The multiplicity of distinct jurisdictional errors requires immediate cancellation and clarification to ensure that the public is not misled regarding the scope of judicial authority under the modern COAA.

Tab 5

SCHEDULE "A": LIST OF ENACTMENTS RELIED UPON

Enactment	Citation
Competition Act	R.S.C. 1985, c. C-34
Constitution Act, 1867	(U.K.), 30 & 31 Vict., c. 3, reprinted in R.S.C. 1985, App. II, No. 5
Constitution Act, 1982	Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11
Court of Appeal Act (Current)	S.B.C. 2021, c. 6
Court of Appeal Act (Repealed)	R.S.B.C. 1996, c. 77
Court of Appeal Rules (Current)	B.C. Reg. 120/2022
Court of Appeal Rules (Repealed)	B.C. Reg. 297/2001
Freedom of Information and Protection of Privacy Act	R.S.B.C. 1996, c. 165
Interpretation Act	R.S.B.C. 1996, c. 238
Law and Equity Act	R.S.B.C. 1996, c. 253
Legal Profession Act (Repealed)	S.B.C. 1998, c. 9
Legal Professions Act	S.B.C. 2024, c. 26
Personal Information Protection and Electronic Documents Act	S.C. 2000, c. 5
Supreme Court Civil Rules	B.C. Reg. 168/2009

Authority	Citation / Strategic Annotation
2122157 Ontario Inc. v. Tarion Warranty Corporation	2016 ONSC 851
Albas (Re)	2016 LSBC 18
Arvanitis v. Slater Vecchio LLP	2022 BCCA 326
Baker et al. v. Board of Education of District No. 7 - Burin	1999 CanLII 19822 (NL SC)
Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.	1976 CanLII 164 (SCC)
Beaudoin v. British Columbia (Attorney General)	2022 BCCA 66
Borowski v. Canada (Attorney General)	1989 CanLII 123 (SCC), [1989] 1 S.C.R. 342
British Columbia Civil Liberties Assn. v. Canada (Attorney General)	2018 BCCA 282
British Columbia v. Friends of Beacon Hill Park	2022 BCCA 383
C.R.F. Holdings Ltd. et al. v. Fundy Chemical International Ltd. et al.	1980 CanLII 586 (BC SC), aff'd 1981 CanLII 488 (BCCA)
Canada (Director of Investigation and Research, Competition Act) v. Southam Inc.	[1997] 2 S.C.R. 748
Canada (Minister of Citizenship and Immigration) v. Vavilov	2019 SCC 65
Canada v. Hudson	2023 FCA 144
Canada Permanent Mortgage Corporation v. The City of Toronto	1951 CanLII 121 (ON CA)
Canadian Broadcasting Corp. v. Manitoba	2021 SCC 33
Canam Enterprises Inc. v. Coles	2000 O.J. No. 4930 (ON CA)
Champoux v. Jefremova	2021 ONCA 92
Chandler v. Alberta Association of Architects	1989 CanLII 41, [1989] 2 S.C.R. 848
Chippewas of Sarnia Band v. Canada (Attorney General)	(2000), 51 O.R. (3d) 641 (ON CA)
Chuang v. Toyota Canada Inc.	2016 ONCA 852
Cock v. British Columbia (Labour Relations Board)	1960 CanLII 293 (BCCA)

Contreras v. Thomson	2024 BCCA 357
Curtis v. Chemical Cleaning and Dyeing Co., Ltd.	[1951] 1 All E.R. 631 (C.A.)
Danson v. Ontario (Attorney General)	[1990] 2 S.C.R. 1086
DeFehr v. DeFehr	2002 BCCA 139
Drewlo Holdings Inc. v. Municipal Property Assessment Corporation	2024 ONSC (DC)
Elkins v. Van Wissen	2023 ONCA 789
Equustek Solutions Inc. v. Google Inc.	2014 BCCA 448
First Majestic Silver Corp. v. Davila Santos	2012 BCCA 5
Friedmann v. MacGarvie	2012 BCCA 109
Glover v. Leakey	2016 BCSC 1624
Halagan v. Reifel	1997 CarswellBC 4040 (BCCA)
Halalt First Nation v. British Columbia (Environment)	2012 BCCA 191
Haldorson v. Coquitlam (City)	2000 BCCA 672
Hawkeye Power Corporation v. Sigma Engineering Ltd.	2012 BCCA 414
Henry v. A.B.	2026 BCCA 207
Hill v. Church of Scientology of Toronto	[1995] 2 S.C.R. 1130
Hodge v. Registrar Real Estate and Business Brokers Act	2022 ONSC 4323 (Div. Ct.)
Homex Realty & Development Co. v. Wyoming (Village)	[1980] 2 S.C.R. 1011
Housen v. Nikolaisen	2002 SCC 33
Hughes v. Toronto Dominion Bank	(2002) 21 C.P.C. 5th 388 (ON CA)
J.P. v. British Columbia (Child, Family and Community Services)	2016 BCCA 124
Jadavji v. Yin	2023 BCCA 248
Jensen v. Ross	2014 BCCA 173
Jones v. Tsige	2012 ONCA 32

Andreville v. Town of Boucherville	[1978] 2 S.C.R. 801
Law Society of BC v. Foo	[1997] LSDD No. 197
Law Society of BC v. Galambos	2007 LSBC 31
Law Society of BC v. Nejat	2014 LSBC 51
Law Society of BC v. Samuels	[1999] LSBC 36
Law Society of British Columbia v. British Columbia	2024 BCSC 1292; 2026 BCSC 779
Law Society of Saskatchewan v. Abrametz	2022 SCC 29
Lazarus Estates Ltd. v. Beasley	[1956] 1 QB 702
Linkletter v. Proctorio, Incorporated	2022 BCCA 313
Little Sisters Book and Art Emporium v. Canada (Minister of Justice)	2000 SCC 69, [2000] 2 S.C.R. 1120
Mackay v. Manitoba	[1989] 2 S.C.R. 357
MacMillan Bloedel Ltd. v. Simpson	[1995] 4 S.C.R. 725
Marchand (Litigation Guardian of) v. Public General Hospital Society of Chatham	2000 CanLII 16946 (ON CA)
Masjoody v. Trotignon	2023 BCCA 220
McGrath v. Joy	2023 ONCA 46
McLean v. Bradley	1878 CanLII 22 (SCC)
McLean v. Law Society of British Columbia	2015 BCSC 661; 2015 BCSC 1431; 2017 BCSC 987
McLean v. British Columbia	2019 BCCA 133
McNeil v. Elizabeth Fry Society of Greater Vancouver	2023 BCCA 231
Moore v. Cheung	2026 BCCA 259
Mystar Holdings Ltd. v. 247037 Alberta Ltd.	2009 ABQB 480
NHK Spring Co., Ltd. v. Cheung	2023 BCCA 243
Nisga'a Nation v. Malii	2024 BCCA 206
Ontex Resources Ltd. v. Metalore Resources Ltd.	1990 CanLII 6952 (ON SC), aff'd in part 1993 CanLII 8673 (ON CA)

Pepper Machinery Ltd. v. J. O. Ross Engineering Corp.	[1934] S.C.R. 228
Pepper's Produce Ltd. v. Medallion Realty Ltd.	2012 BCCA 247
Pong v. Quong	1927 CanLII 475 (SCC)
Preston v. BC (District Director)	1991 CanLII 904 (BC SC)
Quest Management Systems Inc.	2014 ONSC 3473
R. v. Spencer	2014 SCC 43
R. v. Vu	2013 SCC 60
R.R. v. Vancouver Aboriginal Child and Family Services Society	2024 BCCA 342
Re Burgin v. Township of King	1973 CanLII 465 (ON Div Ct)
Rizzo & Rizzo Shoes Ltd. (Re)	[1998] 1 S.C.R. 27
RPC Construction Ltd. v. Zhiyi Zhou	2017 ONSC 4044
Snaw-Naw-As First Nation v. Canada (Attorney General)	2021 BCCA 89
Surrey Memorial Hospital and H.E.U. (Rose) (Re)	2005 CanLII 94087 (BC LA)
Teal Cedar Products Ltd. v. British Columbia	2017 SCC 32, [2017] 1 S.C.R. 688
Thomas v. Rio Tinto Alcan Inc.	2022 BCCA 415
Toronto (City) v. C.U.P.E., Local 79	2003 SCC 63
Toronto (City) v. Lee-Tucker	2025 ONCJ 323
Webb v. Genaille	2023 BCCA 372
Wu v. Murray	2023 BCCA 270
Yang v. Shi	2022 BCCA 317; 2023 BCCA 146
Yatar v. TD Insurance Meloche Monnex	2024 SCC 8

Tab 2

LAWSON LUNDELL LLP

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V6C 3L2
T: 604.685.3456

September 21, 2026

Craig A.B. Ferris, K.C.
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cferris@lawsonlundell.com

BY EMAIL

Court of Appeal for British Columbia
The Law Courts
400 – 800 Hornby Street
Vancouver, BC V6Z 2C5

Attention: Registrar Outerbridge

RE: Law Society of British Columbia v. Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia, British Columbia Court of Appeal No. CA51536;

Trial Lawyers Association of British Columbia and Kevin Westell v. Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia, British Columbia Court of Appeal No. CA51535

We write on behalf of all parties to the above-noted appeals, further to Kevin McLean's Notice of Application filed on September 9, 2026. Please bring this letter to the attention of the division assigned to decide Mr. McLean's application.

Mr. McLean is applying to vary or cancel an order made by Justice Horsman on September 8, 2026, dismissing his request for leave to intervene in these appeals (and other relief). A copy of the joint response book filed by the parties is enclosed for your reference.

Mr. McLean's application for leave to intervene was heard in writing pursuant to s. 26 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the ***Act***). The parties request an order from the division that Mr. McLean's application to vary or cancel the order of Justice Horsman also be conducted in writing, or alternatively that the matter be determined without a hearing, in accordance with s. 26 of the *Act*. This letter is copied to Mr. McLean by email.

As explained by Justice Horsman in her ruling on Mr. McLean's application to intervene:

> Mr. McLean is a twice-disbarred lawyer. After his disbarment, Mr. McLean persisted in engaging in activity that constituted the practice of law. He also commenced multiple proceedings, that were duplicative in nature, challenging regulatory actions taken by the Law Society against him. In a judgment issued on February 23, 2018, Justice Branch held that Mr. McLean was a vexatious litigant: *McLean v. Law Society of British Columbia*, 2018 BCSC 264. Justice Branch

> found, among other things, that Mr. McLean had acted for an improper purpose, including the "harassment and oppression of other parties by multifarious proceedings", rather than for the purpose of asserting legitimate rights: at para. 119.[1]

Further, Mr. McLean has in the past failed to attend at scheduled hearings after delivering extensive materials in advance, including before this Court.[2]

The parties submit that an oral hearing is not necessary for a fair adjudication of Mr. McLean's application. Further, given the Court's scheduling constraints, requiring an oral hearing could jeopardize the existing schedule for the appeals, which are set to be heard over two days on November 16-17, 2026, and all factums must be filed by October 19, 2026.

Yours very truly,

LAWSON LUNDELL LLP

Craig A.B. Ferris, K.C.*
*Law Corporation
LLB

Enc.
cc. Gavin Cameron [gcameron@fasken.com]; Tom Posyniak [tposyniak@fasken.com]; Laura Abrioux [labrioux@fasken.com] (Counsel for Trial Lawyers' Association of British Columbia);

Emily Lapper, K.C., [Emily.Lapper@gov.bc.ca]; Trevor Bant [Trevor.Bant@gov.bc.ca]; Sergio Ortega [Sergio.Ortega@gov.bc.ca]; Karin Kotliarsky [Karin.Kotliarsky@gov.bc.ca] (Counsel for the Attorney General of British Columbia); and

Kevin McLean [mclean@searchandseizure.ca]

---

[1] *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372, para. 6.
[2] See *McLean v Law Society of British Columbia*, 2018 BCSC 264, paras. 108-115; *McLean v British Columbia (Attorney General)*, 2018 BCSC 2052, paras. 1-10; *McLean v. British Columbia*, 2019 BCCA 133; *McLean v. British Columbia (Attorney General)*, 2019 BCCA 419.

VANCOUVER
21-Sep-26
COURT OF APPEAL
REGISTRY

Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British Columbia et al

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced April 29, 2026.

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT RESPONSE BOOK

APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

---

TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA and KEVIN WESTELL

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Tom Posyniak
Laura Abrioux
Will Andrews

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COUNSEL FOR THE APPELLANT

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Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v.
Attorney General of British Columbia et al

COURT OF APPEAL

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT MEMORANDUM OF ARGUMENT ON AN APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

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Part 1: Facts

1. These two appeals are from the order of Chief Justice Skolrood made on April 29, 2026, dismissing the appellants' constitutional challenges to the *Legal Professions Act*, S.B.C. 2024, c. 26.[1] The appeals are set to be heard over two days on November 16-17, 2026.

2. On August 12, 2026, Kevin McLean filed a Notice of Application seeking an order granting him leave to intervene in both appeals. His Notice of Application also sought orders for "precautionary and pre-emptive relief" under section 32 of the *Court of Appeal Act* (dispensing with rules and varying time limits) and orders for "relief relating to the applicant's proposed relief, if intervention status is granted, in relation to dismissal and/or quashing." The latter included orders that the Law Society of British Columbia (the **Law Society**) be "denied standing and/or the right to be heard based upon fraud, bad faith, dishonesty and/or perjury" and orders dismissing the appeals on a summary basis under section 21 of the *Court of Appeal Act*.

3. Mr. McLean's application was heard in writing under s. 26 of the *Court of Appeal Act*, further to a request by the Law Society with the consent of all parties, and dismissed by Justice Horsman in a ruling issued on September 9, 2026.[2]

4. Justice Horsman denied Mr. McLean's request for an order granting him leave to intervene on the basis that he has "no direct interest in the appeal in the sense that his own legal rights or obligations may be affected by the proceedings" and "[h]e does not purport to have a broad representative base and offers no unique and different perspective on the constitutional issues, so there is no basis for public interest intervener status."[3]

[1] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779.
[2] *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372 [**Chambers Decision**].
[3] Chambers Decision, para. 8.

5. Justice Horsman also concluded that "none of the other relief sought by Mr. McLean is grounded in the issues raised on the appeals or the rules of procedure that govern them."[4]

Part 2: Issues

6. The issue on this application is whether the Court should vary or cancel Justice Horsman's order dismissing Mr. McLean's application. The parties submit that it should not.

Part 3: Analysis

7. Under section 29 of the *Court of Appeal Act*, the court may vary or cancel any order made by a justice, subject to certain exceptions that are not applicable here.

8. The standard of review on an application of this nature is highly deferential. As this Court recently explained: "An application to vary under s. 29 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, is not a re-hearing of the original application. The reviewing court may not intervene unless the applicants show the judge was wrong in law, wrong in principle, or misconceived the facts."[5]

9. Mr. McLean has not established any basis for the reviewing court to intervene. His written argument is incoherent. It lists eight "paramount issues" to be determined, but his submissions on these issues are indecipherable and indicate a preoccupation with individual lawyers he has encountered in his various court proceedings. Mr. McLean continues to "view these appeals as a platform to revisit his historical grievances about the Law Society's regulatory actions against him."[6]

10. There is no error of law, principle, or fact in Justice Horsman's conclusions that Mr. McLean did not meet the test for intervener status and was not entitled to any of the

[4] Chambers Decision, para. 7.
[5] *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation*, 2026 BCCA 85, para. 12.
[6] Chambers Decision, para. 8.

other relief sought in his Notice of Application of August 12, 2026. This Court should dismiss this application, with costs to the parties.[7]

Part 4: Order Sought

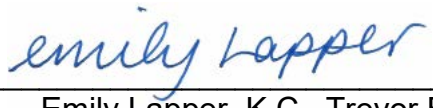
11. An order dismissing Mr. McLean's application with costs to the parties.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of British Columbia, this 18th day of September, 2026.

Craig Ferris, K.C., Laura Bevan,
Jonathan Andrews, and Nicole Welsh
Counsel for the Law Society of British Columbia

Gavin Cameron, Tom Posyniak,
Laura Abrioux, and Will Andrews
Counsel for the Trial Lawyers Association
and Kevin Westell



Emily Lapper, K.C., Trevor Bant,
Karin Kotliarsky, and Sergio Ortega,
Counsel for the Attorney General of British Columbia and
the Lieutenant Governor in Council of British Columbia

[7] With respect to costs, see *Este v. West Vancouver (District of)*, 2026 BCCA 366 at paras. 18-21.

PART 3 – TABLE OF AUTHORITIES

TAB CITATION

CASE LAW

1. *Este v. West Vancouver (District of)*, 2026 BCCA 366

2. *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779

3. *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation,* 2026 BCCA 85

4. *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372

LEGISLATION

5. *Court of Appeal Act*, s. 29

6. *Legal Professions Act*, S.B.C. 2024, c. 26

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535/CA51536 - Service of Response Book and Letter

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 6:26 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Please find attached the Joint Response Book of the parties, filed today in response to your application to vary or cancel the order of Justice Horsman.

Also attached is a letter from the parties to the Registrar of the Court of Appeal, which we will be filing momentarily. We will provide you with a filed copy of the letter in due course.

Regards,

Jonathan

Jonathan Andrews | Associate
D 604.631.9270 | **E** jandrews@lawsonlundell.com
Lawson Lundell LLP 1600 - 925 West Georgia Street, Vancouver, BC V6C 3L2
Vancouver | Calgary | Yellowknife | Kelowna

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2 attachments

Joint Response Book - Vary Order of a Justice - F_ September 21, 2026.PDF
874K

2026-09-21 LT Court of Appeal (Registrar) re Kevin McLean Rule 62 Application.PDF
267K

Tab 3

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK" and non-service on ALL "Prescribed Parties" within seven days of September 15, 2026

2 messages

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:31 PM
To: Chambers <Chambers@bccourts.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, lkt@tdslaw.com, Ian Knapp <iknapp@macfuj.com>, amackenzie@macfuj.com, "XT:Olthuis, Brent AG:IN" <bolthuis@ovcounsel.com>, dredman <dredman@arvayfinlay.ca>, David Wu <dwu@arvayfinlay.ca>, cbildfell@mccarthy.ca, "Frame, Lindsay" <lframe@mccarthy.ca>, roy.millen@blakes.com, nicholas.tollefson@blakes.com, joey@doyledefence.ca, ekirkpatrick@mcewanpartners.com, cdauvergne@litigationchambers.com, jmaclaren@accessprobono.ca, kyla@vancouvercriminallaw.com, rpeck@peckandcompany.ca, csenini@peckandcompany.ca, pmueller@peckandcompany.ca, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, cferris <cferris@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, mring@lawsonlundell.com, ccrane <ccrane@ovcounsel.com>, Chris Pang <cpang@ovcounsel.com>, mmiharija@ovcounsel.com, szarb@macfuj.com, "Lever, Vanessa AG:EX" <vanessa.lever@gov.bc.ca>, "KDOUMAKIS@mccarthy.ca" <KDOUMAKIS@mccarthy.ca>, kotto@lawsonlundell.com

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Reply via email: mclean@searchandseizure.ca

Date: September 23, 2026
Classification: Private and Confidential
Sending method: Via Email at first instance

To: Chambers@bccourts.ca; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; emily.lapper@gov.bc.ca; trevor.bant@gov.bc.ca; karin.kotliarsky@gov.bc.ca; sergio.ortega@gov.bc.ca; lkt@tdslaw.com; iknapp@macfuj.com; amackenzie@macfuj.com; bolthuis@ovcounsel.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; cbildfell@mccarthy.ca; lframe@mccarthy.ca; roy.millen@blakes.com; nicholas.tollefson@blakes.com; joey@doyledefence.ca; ekirkpatrick@mcewanpartners.com; cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; kyla@vancouvercriminallaw.com; rpeck@peckandcompany.ca; csenini@peckandcompany.ca; pmueller@peckandcompany.ca; lbevan@lawsonlundell.com; jandrews@lawsonlundell.com; nwelsh@lawsonlundell.com; cferris@lawsonlundell.com; lgrant@lawsonlundell.com; mring@lawsonlundell.com; ccrane@ovcounsel.com; cpang@ovcounsel.com; mmiharija@ovcounsel.com; szarb@macfuj.com; vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com

SUBJECT I: CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK"
SUBJECT II: FATAL NON-COMPLIANCE WITH MANDATORY SERVICE PROTOCOLS PURSUANT TO RULE 62(4) AND RULE 64(1)(B)
SUBJECT III: THE UNOPPOSED RECORD, THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION, AND ETHICAL APPREHENSIONS

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND IDENTIFICATION OF THE IMPUGNED ACTA

1. Correspondence is hereby effectuated to formally address the procedural ambuscade orchestrated by the Law Society of British Columbia, the Trial Lawyers Association of British Columbia, and the Attorney General of British Columbia (collectively, the "Purported **Purported Opposing Parties**"). It is strictly noted for the appellate record that the instrument transmitted by the **Purported Opposing Parties** on the late afternoon of September 21, 2026, styled extra-statutorily as a "Joint Response Book", alongside the accompanying informal correspondence directed to the Registrar (collectively, the "Impugned Instruments"), are recognized in law as absolute jurisdictional nullities.

2. The Impugned Instruments are definitively void *ab initio* and of no force or effect. By appending the historical email transmissions to this correspondence—whilst intentionally severing the attachments containing the Impugned Instruments—the inadvertent sanitization of an incurable jurisdictional defect is systematically precluded.

PART 2: THE STRUCTURAL INVALIDITY OF THE "JOINT RESPONSE BOOK" [SIC]

Subheading 2(A): Unauthorized Procedural Fabrication

3. A rigorous statutory deconstruction of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Court of Appeal Rules"), reveals the undeniable absence of any provision authorizing the amalgamation of adversarial entities into a singular, consolidated response mechanism. It is an immutable axiom of statutory interpretation, governed by the maxim *Expressio unius est exclusio alterius* (the explicit mention of one thing is the exclusion of another), that the explicit legislative authorization for a "joint appeal book" and a "joint book of authorities" definitively precludes the spontaneous fabrication of a "joint response book".

4. The **Purported Opposing Parties** have attempted to superimpose a procedural fiction upon the appellate registry. Inasmuch as the Registrar is fundamentally divested of the statutory jurisdiction to accept filing categories entirely absent from the governing enactments, the acceptance of said instrument was executed strictly *ultra vires* and *coram non judice*. A valid order or direction cannot be precipitated from an unauthorized mechanism; as the venerable maxim dictates, *Nemo dat quod non habet* (no one can give what they do not have).

PART 3: FATAL TRANSGRESSION OF MANDATORY SERVICE PROTOCOLS

Subheading 3(A): The Strictures of Rule 62(4) and Rule 64(1)(b)

5. Assuming, *arguendo*, that the fabricated instrument could miraculously transcend its status as an absolute nullity, the **Purported Opposing Parties** have catastrophically failed to execute the mandatory service protocols dictated by the *Court of Appeal Rules*. Pursuant to *rule 62(4)*, any "person" (as comprehensively defined under section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238) who wishes to respond to an Application Book is statutorily compelled to file and serve the response book on the applicant and on *each party*.

6. Concurrently, *rule 64(1)(b)* of the *Court of Appeal Rules* explicitly and unequivocally expands the definition of a "party", in relation to an application, to encompass any person who is served with a notice of application (the "Prescribed Parties"). It is empirically verifiable, upon a meticulous examination of the transmission matrix utilized by Mr. Jonathan Andrews on September 21, 2026, that the **Purported Opposing Parties** deliberately and exclusively restricted their service to themselves and the Applicant Party.

7. The broader constituency of counsel, interveners, and interested entities—who definitively obtained status as Prescribed Parties upon the antecedent service of the Applicant's Form 4 and Form 8 Notices of Application—were conspicuously and unlawfully excluded from the service matrix.

PART 4: THE EXPUNGEMENT AS A MERE ADMINISTRATIVE FORMALITY

8. It is advanced that the formal striking of the Impugned Instruments is not an adversarial contest necessitating substantive legal adjudication, but rather a mere administrative formality. Inasmuch as the "Joint Response Book" is a legal fiction entirely unrecognized by the *Court of Appeal Rules*, its removal from the registry ledger operates strictly as an exercise in fundamental procedural housekeeping.

9. Consequently, it is definitively confirmed that the **Purported Opposing Parties**, by deploying an unauthorized nullity and subsequently failing to execute service upon the Prescribed Parties, possess absolutely nothing before the Court of Appeal in response to the Form 8 Notice of Application.

PART 5: THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION AND ETHICAL APPREHENSIONS

Subheading 5(A): The Statutory Strictures of Section 32 and Rule 41

10. Should the **Purported Opposing Parties**, operating in their capacities as Prescribed Parties, seek to cure this fatal procedural entanglement, they are statutorily compelled to advance an application to dispense with the rules or extend the temporal limitations pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"), and *rule 41* of the *Court of Appeal Rules*.

11. A profound procedural paradox thereby arises: to retroactively legitimize the fabricated "Joint Response Book," these facially adversarial entities would be mathematically compelled to advance a joint Notice of Application. Such a unified, dependent posture betwixt supposed adversaries is posited to be a procedural impossibility and a direct affront to the structural integrity of the adversarial system.

12. The adjudication of the Form 8 Notice of Application is therefore left entirely unopposed. Given that the standard of review upon all issues, questions, and determinations before the Division panel is strictly that of correctness, the Applicant Party stands ready, willing, and able to present oral submissions the moment the Registrar mathematically complies with the mandatory scheduling dictates of *rule 62(5)*.

13. It is strictly confirmed that the Applicant Party shall not transmit, distribute, or forward the defective "Joint Response Book" to the unserved Prescribed Parties. Such transmission is unequivocally declined to systematically preclude any judicial or administrative inference that the Applicant Party has inadvertently waived the jurisdictional defect, cured a procedural irregularity, or sanitized an absolute nullity.

SUBHEADING 5(C): ETHICAL APPREHENSIONS AND THE ESCALATION OF NOTICE

14. It is hereby placed on the formal record that any prospective Notice of Application seeking an extension of time or dispensation of the rules to validate this nullity will be met with unyielding opposition. Furthermore, special costs will be vigorously sought against opposing counsel in their personal capacities, as seasoned appellate counsel are presumed to possess actual knowledge of these fundamental procedural architecture flaws.

15. The coordinated, extra-statutory maneuvering betwixt purported adversaries raises severe apprehensions regarding the nature of the communications occurring outside the purview of the Court. It is profoundly concerning that counsel for the Attorney General of British Columbia appears structurally uninvested in defending the rule of law or upholding the democratically enacted *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"). Consideration is presently being actively directed toward formally escalating these concerns to the attention of The Honourable Niki Sharma, Attorney General of British Columbia, regarding the posture adopted by Crown counsel. However, such determination will be considered in due course and be responsive to any potential NOA's by the now unit of the LSBC, TLABC (with Mr. Westell) and the AGBC (with LGIC). Bluntly speaking, so much for the notion that the LSBC and TLABC wanted independence from the BC government.

PART 6: CONCLUSION AND ANTICIPATED RELIEF

16. In my view, the Appellants have now also put into "legal play" for my submissions to cancel and very the purported Orders of Horsman J. and naturally have the relief sought in my Form 4 NOA (August 12, 2026), the section 36 of the COAA titled, "Failure to comply". I also note that in light of the nullities at issue, section 19 of the COAA is inapplicable to save the conduct of the Appellants.
17. The administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved, including but not limited to the pursuit of special costs awarded jointly and severally for intentional violations of the operative enactments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

/s/ Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party
Email: mclean@searchandseizure.ca

APPENDIX: STATUTORY AND REGULATORY EXTRACTS

Court of Appeal Act, S.B.C. 2021, c. 6

Definitions
1 In this Act:
"order" includes
(a) a judgment or decree, and
(b) an opinion, advice, direction, determination, decision or declaration that is specifically authorized or required under an enactment to be given or made;

Dispensing with rules and varying time limits
32 (1) A justice may dispense with a requirement of the rules.
(2) A justice may extend or shorten the time limit provided in this Act or the rules for doing an act.
(3) A justice may extend a time limit under subsection (2) even if the time limit for doing the act expired before the person applies for the extension.

Court of Appeal Rules, B.C. Reg. 120/2022

Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 [dispensing with
Edit directly or with Gemini
Click anywhere to type and edit directly, or select text to prompt Gemini for changes.

--
Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

NOTA BENE: This email is for dispute resolution and litigation purposes only. Without prejudice communication so denoted invokes settlement privilege.

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EMAILS~1.PDF
186K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Fri, Sep 25, 2026 at 6:39 PM
To: Chambers <Chambers@bccourts.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, "Lapper, Emily

AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, lkt@tdslaw.com, Ian Knapp <iknapp@macfuj.com>, amackenzie@macfuj.com, "XT:Olthuis, Brent AG:IN" <bolthuis@ovcounsel.com>, dredman <dredman@arvayfinlay.ca>, David Wu <dwu@arvayfinlay.ca>, cbildfell@mccarthy.ca, "Frame, Lindsay" <lframe@mccarthy.ca>, roy.millen@blakes.com, nicholas.tollefson@blakes.com, joey@doyledefence.ca, ekirkpatrick@mcewanpartners.com, cdauvergne@litigationchambers.com, jmaclaren@accessprobono.ca, kyla@vancouvercriminallaw.com, rpeck@peckandcompany.ca, csenini@peckandcompany.ca, pmueller@peckandcompany.ca, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, cferris <cferris@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, mring@lawsonlundell.com, ccrane <ccrane@ovcounsel.com>, Chris Pang <cpang@ovcounsel.com>, mmiharija@ovcounsel.com, szarb@macfuj.com, "Lever, Vanessa AG:EX" <vanessa.lever@gov.bc.ca>, "KDOUMAKIS@mccarthy.ca" <KDOUMAKIS@mccarthy.ca>, kotto@lawsonlundell.com

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Reply via email: mclean@searchandseizure.ca
Date: September 25, 2026

Sending method: Via Email at first instance (other modes may follow)

To: Chambers@bccourts.ca; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; emily.lapper@gov.bc.ca; trevor.bant@gov.bc.ca; karin.kotliarsky@gov.bc.ca; sergio.ortega@gov.bc.ca; lkt@tdslaw.com; iknapp@macfuj.com; amackenzie@macfuj.com; bolthuis@ovcounsel.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; cbildfell@mccarthy.ca; lframe@mccarthy.ca; roy.millen@blakes.com; nicholas.tollefson@blakes.com; joey@doyledefence.ca; ekirkpatrick@mcewanpartners.com; cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; kyla@vancouvercriminallaw.com; rpeck@peckandcompany.ca; csenini@peckandcompany.ca; pmueller@peckandcompany.ca; lbevan@lawsonlundell.com; jandrews@lawsonlundell.com; nwelsh@lawsonlundell.com; cferris@lawsonlundell.com; lgrant@lawsonlundell.com; mring@lawsonlundell.com; ccrane@ovcounsel.com; cpang@ovcounsel.com; mmiharija@ovcounsel.com; szarb@macfuj.com; vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com

SUBJECT I: CA51536 / CA51535 — FORMAL SERVICE OF SUBMITTED FORM 4 NOTICE OF APPLICATION AND WRITTEN ARGUMENT SEEKING TO STRIKE THE "JOINT RESPONSE BOOK" [SIC] SUBJECT II: CONSEQUENTIAL RELIEF PURSUANT TO SECTION 36 OF THE COURT OF APPEAL ACT AND NOTIFICATION TO THE HEAD REGISTRAR REGARDING THE PRESERVATION OF JUDICIAL RESOURCES

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Part 1: Introduction and Service of Submitted Instruments

1. Correspondence is hereby effectuated to formally serve the recently submitted instruments engineered to strike and completely expunge the fabricated filing category styled as a "Joint Response Book" [sic]. It is explicitly confirmed that the Form 4 Notice of Application (the "**Form 4 NOA**") and the accompanying substantive written argument (the "**Written Argument**") were officially submitted for filing via the Court Services Online portal on September 25, 2026, at 3:16 p.m., mathematically authenticated under Package ID 4398900.
2. In the interests of absolute procedural expedition, and to unequivocally preclude any manufactured claims of prejudice or delay, service of the unfiled, submitted copies of the aforementioned instruments is executed concurrently with this correspondence. The requisite statutory filing fees have been successfully remitted and processed, confirming strict compliance with the administrative prerequisites dictated by the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "**Court of Appeal Rules**").

Part 2: The Un-Cured Nullities and Fatal Service Deficiencies

3. The necessity of this immediate procedural intervention is precipitated directly by the catastrophic, un-cured non-compliance exhibited by the Law Society of British Columbia, the Trial Lawyers Association of British Columbia and Mr. Westell, and the Attorney General of British Columbia (collectively, the "**Purported Opposing Parties**").

4. It is empirically documented—and conclusively established by the antecedent email transmissions appended herein (the "**Appendix B Correspondence**")—that the Purported Opposing Parties utterly failed to execute mandatory service of their purported responsive materials upon the entirety of the prescribed parties (the "**Prescribed Parties**"). Pursuant to the strictures of *rule 62(4)* and *rule 64(1)(b)* of the *Court of Appeal Rules*, any entity wishing to respond to an Application Book is statutorily compelled to serve a Response Book upon *each* party.

5. The failure to serve the broader constituency of Prescribed Parties is not a mere procedural irregularity capable of retroactive sanitization; rather, it compounds the foundational illegitimacy of the "Joint Response Book" [sic], rendering the instrument an absolute jurisdictional nullity. As codified by the venerable legal maxim *Nemo commodum capere potest de injuria sua propria* (no man can take advantage of his own wrong), the Purported Opposing Parties are strictly estopped from deriving any procedural benefit from a filing mechanism that blatantly defies the operative enactments and bypasses mandatory service matrices. It is further noted that absolutely no application has been advanced by the Purported Opposing Parties to cure this fatal irregularity.

Part 3: Invocation of Section 36 of the Court of Appeal Act and the Public Interest

6. Consequent to the profound, intertwined violations of both the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "**COAA**"), and the *Court of Appeal Rules*, the jurisdiction housed within *section 36* of the *COAA* is formally invoked. The submitted Form 4 NOA explicitly seeks the dismissal of the underlying appeals as definitively abandoned.

7. The systemic refusal of the Purported Opposing Parties to adhere to the rule-based appellate geometry—spanning from the fabrication of unauthorized filing categories to the deliberate exclusion of Prescribed Parties from service—demonstrates a contumacious disregard for the administration of justice. This appellate proceeding engages matters of paramount public interest, specifically encompassing severe constitutional infractions and unauthorized technological incursions. The public interest strictly demands that statutory regulators and institutional actors be held to the highest standard of procedural compliance; the era of operating beyond the boundaries of the established rules to the detriment of public privacy interests is definitively concluded.

Part 4: Notification to the Head Registrar and the Preservation of Judicial Resources

8. It is formally articulated that a direct copy of this correspondence is transmitted to the attention of Registrar Outerbridge, acting in the capacity of Head Registrar. This notification is effectuated not for the purposes of castigation, but to rigorously ensure that finite judicial resources and invaluable court time are proactively preserved.

9. By seeking an order that the Form 4 NOA be heard contemporaneously with the previously filed Form 8 Notice of Application—pursuant to the mandatory scheduling dictates of *rule 62(5)* of the *Court of Appeal Rules*—a multiplicity of proceedings is effectively averted. The prompt administrative processing of the submitted instruments will ensure the division panel is properly seized of the jurisdictional defects prior to any substantive adjudication.

10. While the esteemed associate and deputy registrars hold esteemed positions in their own right, the head Registrar must be aware that there have been some issues, on a confidential basis herein and not for the Record Of Proceeding per se but solely to ensure that the interests of justice are served (pardon the pun) and there is strict compliance with the Act and Court of Appeal Rules.

11. The "Joint Response Book [Sic]" should have never been accepted for filing but it cannot be expunged without an Order of a Justice and I am seeking the same.

12. Nonetheless these issues must be heard and decided as they will shape the Form 8 NOA relief – positively or negatively.

Conclusion

13. The right is strictly and unequivocally reserved to rely upon the totality of this correspondence for any lawful adjudicative purpose, explicitly inclusive of the adjudication of special costs. It is reaffirmed that the "Joint Response Book" [sic] is a nullity on its face, and that the entirety of the Prescribed Parties was unlawfully excluded from service in direct contravention of *rule 62(4)* of the *Court of Appeal Rules*.
14. I will provide you with the filed copies when I receive the same and they will be served on “each party” as required by the aforementioned rule. I again confirm that "each party" was not served with a "Response Book" or even with the Joint Response Book [sic] which at law could not be served in any event.
15. To the extent that any cross-Application is brought it will be opposed and I will then seek costs against counsel personally. I have consented in writing to waive my right to seek costs, contingent upon the relief being granted as a courtesy and in the public interest.

Yours truly,

[Quoted text hidden]

[Quoted text hidden]

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2 attachments

Argument - Strike JRB et al - AP - Mr McLean - 25-09-26 - Filed.pdf
742K

Form 4 - NOA - Strike JRB - s 36 et al - Applicant - Mr McLean - 25-09-26 - FILED.pdf
492K

Tab 4

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4394410

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 22-Sep-2026 10:19

Submitted Through: Court Services Online

Filing Comments: This Form 4 is filed pursuant to Rules 53, 54, and 63 of the Court of Appeal Rules. Rule 53 authorizes a person to bring an application to strike or expunge a document. Rule 54 authorizes a person to seek directions and declarations. Rule 63(2) expressly provides that "a person may apply to set aside a direction of the Registrar." The Registrar's acceptance of the legal‑fiction document styled as a "Joint Response Book" [sic] is a direction within the meaning of s. 1 of the COAA. Section 24(3)(b) of the COAA authorizes the Court to exercise its powers in favour of a "person," whether or not that person is a statutory Party to the Appeal. In addition, the Applicant Party is a prescribed "Party" for the purposes of his Form 8 Notice of Application under Rule 62, and the relief sought in this Form 4 dovetails with the Form 8 and must be heard at the same time pursuant to Rule 79(3). Rule 62(5) requires the Registrar to set the hearing date for the Form 8; the Form 4 is heard contemporaneously. Please draw this filing to the attention of the Chief Justice of the Court of Appeal (primus inter pares), as the Registrar acts pursuant to the Chief Justice's direction in matters assigned by law to the judiciary. Had the Registrar not accepted the legal‑fiction document styled as a "Joint Response Book" [sic], the Applicant Party would not have been compelled to file and pay for this Form 4. Please also note R. v. Verma, 2016 BCCA, which confirms that the Registrar is required to accept for filing all documents that comply with the Rules. The attached documents comply.

Print Submission Sheet

Print Receipt

Registry Notice

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	Argument - Strike JRB [sic] et al - Applicant Party - Mr McLean - 22-Sept-2026 - Filed.pdf	No	Rejected		Complete	View
Application - Chambers - General	Form 4 - NOA - Strike Joint Response Book [sic] - Applicant - Mr McLean - 22-09-26.pdf	No	Rejected		Complete	View

Return

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4394252

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 22-Sep-2026 09:03

Submitted Through: Court Services Online

Filing Comments: Dear Registrar, It is unclear why a Joint Response Book [sic]—submitted on behalf of three distinct statutory parties—was accepted for filing, as the Court of Appeal Rules do not authorize such a filing category. Nevertheless, because it has been accepted, I am required to bring a preliminary Notice of Application to strike the document from the record. To avoid a multiplicity of proceedings or hearings, I am seeking an Order from the presiding Justices (three‑justice division panel) that this preliminary Form 4 Notice of Application be heard contemporaneously with the Applicant Party's Form 8 Notice of Application. Accordingly, the Hearing Date for this Form 4 is the same date that the Registrar is required to set the date, time, and place for the hearing of the Applicant Party's Form 8 pursuant to Rule 62(5). It is unfortunate that these issues must be addressed at this stage, but the LSBC purported to serve a filed Joint Response Book [sic] last night. I have therefore moved expeditiously to object to and nullify that filing. I await the filed copy of the same. Thank you. I hope you are all well. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Print Submission Sheet

Print Receipt

Registry Notice

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	Argument - Strike JRB [sic] et al - Applicant Party - Mr McLean - 22-Sept-2026 - Filed.pdf	No	Rejected	☑	Complete	View
Application - Chambers - General	Form 4 - NOA - Strike Joint Response Book [sic] - Applicant - Mr McLean - 22-09-26.pdf	No	Rejected	☑	Complete	View

Return

BRITISH COLUMBIA

Court Services Online **Registry Notice**

Package ID:	**4394410**	**Submission Date:**	**September 22, 2026**
Account ID:	71252		KEVIN MCLEAN
Client ID:	122957		'

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 22-SEP-2026

You may address the issues raised in your application at the hearing of the application to vary. Your filings are not being accepted and are being marked as rejected.
JC

Please keep a copy of this report for your records.

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4394252 **Submission Date: September 22, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 22-SEP-2026

Hello Mr. Mclean and thank you for your submission. We are unable to accept your filings as you have not been granted intervener status and not a party to the appeal. You may wish to address your concerns at the hearing of the application to vary.
JC

Please keep a copy of this report for your records.

Tab 5

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION ***(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))***

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

Name(s) of responding person(s) to be served with the application

The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

TBD based hearing date for AP's Form 8 NOA (heard at same time)

Chambers applications begin at 9:30 a.m.

The applicant anticipates that this application will be…
Check only one.

☒ Contested ☐ Uncontested

Enter the section(s) or rule(s) that you are relying on for your application
E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."

Court of Appeal Act, S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, **36**, 44-46,

Court of Appeal Rules, B.C. Reg. 120/2022 (the "*COR",* "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75

Law and Equity Act, R.S.B.C. 1996, c. 253, Section 8.

Interpretation Act, R.S.B,C 1996, c 238

All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following orders which are contained in his written argument in support of the same (wherein the following statutory parties ("Statutory Parties") in the: 1. the LSBC; and 2. TLABC and Mr. Westell (said three persons collectively defined as well as the "Appellants"); and 3. The AGBC and LGIC (together defined as the "Respondents") but also sad persons were some of many prescribed parties ("Prescribed Parties") under sub-rule 64(1)(b) (the five "Statutory Parties" defined in this NOA (Form 4) as the "**Purported Opposing Parties**"):

Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and

D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings") in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the

LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule 41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The filed affidavits in the Applicant Party Application Book of September 15, 2026 which are particularized again herein:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this September 22, 2026, Form 4 NOA.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

25/09/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.
[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a “Court Form” and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a “Response Book” is not discretionary as it must be prepared in accordance with the “Completion Instructions”. Part of the “Completion Instructions” required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page
Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of “filing parties” is not

required for joint book like a “Joint Appeal Book” (see: Rule 26) or a “Joint Book of Authorities” (see: Court of Appeal Rules, rule 27)

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS
(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS
(Defendants)

APPLICANT PARTY'S WRITTEN ARGUMENT CONCERNING AN APPLICATION TO:

I. Declare the **"Joint Response Book [Sic]"** void, void ab initio, and of no force and effect;
II. Strike and expunge the **"Joint Response Book [Sic]"** from the BCCA record under the above noted file numbers;
III. Declare the Registrar's acceptance of the **"Joint Response Book [Sic]"** to be without jurisdiction, void ab initio, and of no force and effect;
IV. Declare that the **"Joint Response Book [Sic]"** could not be lawfully served on the other "parties" under *Court of Appeal Rules*, rule 64(1)(b).
V. A Declaration that the LSBC, TLABC, and AGBC failed to comply with rule 62(4) and an Order that the aforementioned persons **"Joint Response Book [Sic]"** is not before the Court;
VI. Special costs against counsel for the LSBC, TLABC, and AGBC jointly and severally for intentional violations of the law; and
VII. Residual relief.

Hearing date: on the date of the **Applicant Party**'s Form 8 NOA to cancel the purported Orders of Horsman J.

Written argument dated and signed on: Friday, September 25, 2026
Written argument submitted for filing on: Friday, September 25, 2026

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PART 1: INTRODUCTION, PROCEDURAL VEHICLE, AND THE JURISDICTIONAL IMPERATIVE

1. The **Applicant Party** repeats and relies upon his evidence in the filed Application Book, and his argument and authorities contained therein and in his Book of Authorities, both for his Form 8 NOA to be heard and decided on a date, time and place as required by Rule 62(5) of the *Court of Appeal Rules*.
2. The **Applicant Party** adopts the definitions from the aforementioned filed documents and they have the same meaning herein as they do therein.
3. The present Written Argument is meticulously formulated and formally submitted to support a Notice of Application in Form 4, brought pursuant to the cited sections in the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*" or "*COAA 2021*"), and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*" or "*Court of Appeal Rules 2022*").
4. The **Applicant Party** seeks the relief particularized in his Form 4 Notice of Application ("NOA"), as denoted supra in summary form.
5. Concurrently, this Written Argument registers the **Applicant Party**'s formal opposition, supplementary to the Applicant Party's objection without taking a fresh step after notice of the irregularity in the failure to serve or be able to serve the "Joint Response Book [Sic]" of which the latter is a nullity at law and the former is an irregularity, to the unlawful steps taken and advanced by the Law Society of British Columbia ("LSBC"), the Trial Lawyers Association of British Columbia ("TLABC") and Mr. Westell, and the Attorney General of British Columbia ("AGBC") and LGIC (collectively, the "**Purported Opposing Parties**").
6. The **Purported Opposing Parties** seek to relegate the impending application to vary or cancel an order of a justice (the "Rule 62 Application") to a written-only adjudication pursuant to s. 26 of the *COAA*. However, the document they have styled as a **"Joint Response Book [Sic]"** is a nullity, void ab initio, and of no force and effect. As a matter of law, an unauthorized filing category cannot be placed "on top of" a mandatory procedural structure that does not permit it. The filing of a **"Joint Response Book [Sic]"** by adversarial statutory parties also raises structural concerns regarding whether any one Purported Opposing Party could purport to file a response on behalf of another.
7. It is formally articulated that the procedural mechanism invoked by the **Purported Opposing Parties** to bypass an oral hearing is misaligned with the mandatory statutory and rule-based architecture governing variance applications under Rule 62 and s. 35(2) of the *COAA*. Even if such a request could be made in that regard, wherein the 'hearing' itself was reduced to written or the time limit for 'hearing' was truncated (see: *COAA*, clauses 26(1)(a), (c) and (d) but not 26(1)(b) as the Form 8 NOA requires a 'hearing' and it is not merely a 'matter' per se wherein the Civil Rules Committee, blessed by the LGIC, used the language of 'hearing under Rule 62(5)).

8. The Legislature deliberately distinguishes between a "matter" and a "hearing" in *Court of Appeal Act* (the *COAA*), s. 26. A "matter" is the underlying proceeding; a "hearing" is the adjudicative event. Section 26(1)(a) empowers the Court to modify the conduct of a hearing, whereas s. 26(1)(b) empowers the Court — and only the Court — to decide a matter without a hearing.
9. The Registrar's administrative authority to "receive any matter," as referenced in the *Registrar's Powers Practice Directive* (3 May 2024), cannot override the Legislature's distinction. A Form 8 Notice of Application under Rule 63(2) and *COAA*, s. 35(2) requires a hearing. It is not a "matter" capable of being decided without a hearing unless the Court so orders under *COAA*, s. 26(1)(b).
10. Accordingly, the Registrar cannot treat the Applicant Party's Form 8 Notice of Application as a "matter," cannot block filings based on standing, and cannot exercise judicial discretion under *COAA*, s. 26. The Registrar's role is purely administrative: filings must be accepted or rejected under Rule 38 and the Completion Instructions. Any attempt to convert a hearing-required application into a "matter" is ultra vires.
11. This distinction is reinforced by the structure of the *COAA*. Section 26(1)(a) presupposes that a hearing date exists and that the matter is properly before the Court. Section 26(1)(b) presupposes that only the Court may eliminate a hearing. The Registrar cannot exercise judicial powers under s. 26, nor can the Registrar determine whether a hearing is required. The Applicant Party's Form 8 Notice of Application is a hearing-required application under Rule 63(2), and the Registrar must accept or reject filings under Rule 38 only.
12. The *Registrar's Powers Practice Directive* authorizes the Registrar to "receive and determine other matters related to the management of the conduct of an appeal," but this authority is expressly limited by *COAA*, s. 37(3): if there is any inconsistency between the rules and a practice directive, the rules prevail. The rules require acceptance or rejection of filings under Rule 38, and do not authorize the Registrar to determine standing, party status, or whether a hearing is required.
13. Therefore, the Clerk's refusal to accept the Applicant Party's Form 8 Notice of Application was ultra vires. The Form 8 Notice of Application must be accepted for filing, and the Applicant Party is entitled to a hearing under Rule 63(2) and *COAA*, s. 35(2).
14. The adjudication of acts executed without authority cannot, as a matter of law, be relegated to an administrative process that circumvents the mandatory hearing structure prescribed by the *Court of Appeal Rules*. When an adjudicative body is confronted with allegations of an absolute nullity arising from acts executed by a Justice, by title but that did not belong to her judicial office (Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est) (see: McLean v. Bradley, 1878 CanLII 22 (SCC) as per Sir William Buell Richards, Knt., C.J,, et al) and in part were manifestly absent jurisdiction (see: *coram non judice* (see also: Pong v. Quong, 1927 CanLII 2 (SCC) as per Anglin C.J.C.), the remedy

cannot be administered through a written-only process that eliminates the procedural safeguards inherent in an oral hearing.

15. The definition of an "Order" in s. 1 of the *COAA* expressly includes "a direction or determination specifically authorized or required under an **Enactment**."

16. The purported "Orders" issued by The Honourable Madam Justice Horsman, having been executed outside the boundaries of the governing **Enactment**s and devoid of statutory jurisdiction, fail to meet this threshold definition. They are jurisdictional nullities. To shield the review of such nullities through a written-only process would constitute a denial of natural justice.

17. The declarations and Orders sought—some specifically authorized and some specifically required by an **Enactment** (see: *Interpretation Act*, s. 1)—are determined pursuant to Rule 62 on a standard of review ("SOR") that is not contingent upon filed documents from any of the prescribed "parties" (the "Prescribed Parties"), as the review is conducted by a division panel of Honourable Justices.

PART 1(A): COMPLETION INSTRUCTIONS AND THE MANDATORY HEARING FRAMEWORK

18. "Completion Instructions" are defined as those issued by the Registrar for the proper completion, formatting, and submission of documents under the *Court of Appeal Rules*. These instructions form part of the mandatory procedural architecture and must be complied with by each responding person.

19. While the word "hearing" is not expressly defined under the *COAA* or the *Court of Appeal Rules*, the terms "Hearing Date" and "Obtain a Hearing Date" are defined and governed by the Rules. Critically, Rule 62(5) provides that the Registrar **must** set the date, time, and place for the hearing of an application. The word "must" is imperative (see: *Interpretation Act*, RSBC 1996, c. 238, s. 29), and imposes a statutory duty and obligation.

20. By tying the **Applicant Party**'s Form 4 NOA to the date on which the Registrar sets the hearing of the **Applicant Party**'s Form 8, the **Applicant Party** accomplishes: (a) the avoidance of multiplicity of hearings and/or proceedings; and (b) the avoidance of inconsistent fact-finding.

21. This is permissible as a variation of a "Court Form" pursuant to Rule 79(3), which allows a Court Form to be prepared with variations as the circumstances or the proceedings require.

22. Under s. 29 of the *Interpretation Act*, the words "shall" and "must" are to be construed as imperative. Under s. 29, "obligation" includes a duty and a liability. The imperative nature of "must" falls squarely upon each of the Appellants and Respondents to comply with Rule 62, including the mandatory filing and service of individual Response Books.

PART 1(B): MANDATORY ATTENDANCE AND COUNSEL OF RECORD

23. Rule 64(4) of the *Court of Appeal Rules* states that each party to an application **must** attend the hearing of the application:
    a. (a) in person, or
    b. (b) if permitted under Rule 42, by telephone, video conference, or other means of telecommunication.
24. The LSBC is represented by Lawson Lundell LLP. The TLABC and Mr. Westell are represented by Fasken LLP. The AGBC and LGIC are represented by government counsel.
25. Rule 64(5) provides that a person's lawyer may attend on behalf of that person. Accordingly, Lawson Lundell LLP cannot attend on behalf of the TLABC, Mr. Westell, the AGBC, or the LGIC, as it is not counsel of record for those persons. Each counsel of record must attend on behalf of their respective clients and the Prescribed Parties.

PART 1(C): STATEMENT OF ISSUES AND BRIEF ANSWERS TO ISSUES

26. The **Applicant Party** identifies the following issues for determination, sequenced chronologically the procedural defects leading to substantive defects, void ab initio documents (non "Court Forms") which were incapable of being accept for filing:
    a. Issue #1 Leaving aside that the Purported Opposing Parties did not submit for filing a Response Book, the first issue is whether the Purported Opposing Parties attempted to serve a filed copy of the *Joint Response Book* [sic] within seven days of being served with the Applicant Party's Application Book.
        1. Answer: As demonstrated in the Applicant Party's appendicised emails at Appendix #1 and Appendix #2, the Purported Opposing Parties failed to attempt service of the *Joint Response Book* [sic] on each Party under the *Court of Appeal Rules* within seven days of service of the Applicant Party's Application Book.
    b. Issue #2: Whether the Purported Opposing Parties' failure to file and serve a Response Book not more than seven days after being served with the Applicant Party's Application Book confirms, by their conduct, that they did not wish to respond to the Applicant Party's Application Book.
        1. Answer: By clear Enactment language and unassailable corollary and syllogism, the Purported Opposing Parties—leaving aside their failure to submit a compliant

Response Book in accordance with the Completion Instructions—confirmed by their conduct that they did not wish to respond to the Applicant Party's Application Book.

c. Issue #3: (a) Leaving aside that the Purported Opposing Parties did not submit a document capable of being filed, whether they could de jure serve the *Joint Response Book* [sic] on the Prescribed Parties under Rule 64(1)(a) (the Applicant Party) and Rule 64(1)(b) (the other Prescribed Parties served with the Applicant Party's Form 8, Application Book (September 15), and Book of Authorities (September 18, 2026)). (b) Whether the Purported Opposing Parties, through Mr. Andrews of Lawson Lundell LLP on Monday, September 21, 2026, purported service of what Mr. Andrews described as a "Response Book," thereby serving the Applicant Party with the *Joint Response Book* [sic].
    1. Answer: The germane subrule requires service of a Response Book, not a *Joint Response Book* [sic]. The only joint books permitted are Joint Appeal Books and Joint Books of Authorities (see *COAA*, ss. 26–27). As such, the Purported Opposing Parties could not serve any Prescribed Party de jure. Their purported service on the Applicant Party was not service de jure. As they did not attempt service on the other Prescribed Parties, the issue is simply non-compliance.

d. Issue #4: Whether the Purported Opposing Parties had authority to prepare, submit for filing, or purport to serve the Applicant Party with the *Joint Response Book* [sic] and its accompanying letter.
    1. Answer: Rule 62(4) imposes mandatory obligations (see *Interpretation Act*, s. 29) on "a person" who wishes to respond to an Application Book: to file and serve a Response Book on each Rule 64(1)(a) and (b) Party not more than seven days after being served, and in accordance with the Completion Instructions. Each Responding Prescribed Party failed to: (i) file; (ii) serve; (iii) a Response Book; (iv) on each Rule 64(1)(a) and (b) Party; (v) within seven days or at all; and (vi) in accordance with the Completion Instructions.
    2. The *Joint Response Book* [sic] is a nullity at law. The accompanying letter is likewise a nullity. A Response Book is not a "Court Form" but is a document subject to Completion Instructions. The *Joint Response Book* [sic] did not comply with any mandatory requirement.

e. Issue #5: Whether the Registrar had jurisdiction to accept the *Joint Response Book* [sic] for filing. More specifically, whether acceptance of a filing category not authorized by any Enactment constitutes an ultra vires act, and whether such acceptance is a "direction"

within the meaning of *COAA*, s. 1, thereby engaging the Applicant Party's right to seek cancellation under *COAA*, s. 35(2) and Rule 63.

1. Answer: The Registrar is a creature of statute, with no powers outside the four corners of the *COAA* and the *Court of Appeal Rules*. Any act outside those limits is ultra vires, void ab initio, and of no force and effect. Under *R. v. Verma*, para. 20, if a document complies with the rules and a person insists on filing it, the Registrar must accept it. Conversely, where a document does not comply with: (i) its required name; (ii) the requirement that each Prescribed Party file its own Response Book; (iii) the non-variability of documents outside Schedule 3; and (iv) the Completion Instructions, the Registrar cannot accept it.
2. The Registrar, Associate Registrar, and Deputy Registrar (see *COAA*, s. 1) are officers of the Court (see *COAA*, s. 10) and must conduct Appeals in accordance with the Act and Rules (see *COAA*, s. 18). Rule 62(4) and Rule 64(1)(a) and (b) squarely govern the requirements. The Registrar may only exercise powers conferred by the Rules or by the Chief Justice. Any inconsistency between a Chief Justice authorization and the Rules is resolved in favour of the Rules (see *COAA*, s. 37(3)).
3. The Completion Instructions required a cover page that prohibited filing of a *Joint Response Book* [sic]. On that ground alone, the Registrar could not accept it.

f. Issue #9: Whether the Court should strike and expunge the *Joint Response Book* [sic] as void ab initio, a nullity, void, and of no force and effect. More specifically, whether the fabricated filing category, adversarial consolidation, service defects, and structural non-compliance justify striking the document under Rule 53, Rule 54, *COAA*, s. 18(2), and *Supreme Court Civil Rules*, Rule 95.

1. Answer: The issue answers itself. The experienced counsel for the LSBC, TLABC and Mr. Westell, and AGBC and LGIC must have known their actions were prohibited by the *COAA*, the *Court of Appeal Rules*, other Enactments, and their professional obligations. As the public may review filed documents in the Record of Proceedings, the *Joint Response Book* [sic] must be expunged to prevent reliance on an unlawful filing.

g. Issue #10: In light of the independent, concurrent, and intertwined non-compliance with the Act and Rules by the Purported Opposing Parties, must the review division panel exercise its authority to decline to hear from the Purported Opposing Parties in relation to the Form 8 Notice of Application?

1. Answer: The Purported Opposing Parties' conduct contains numerous egregious violations of the Act and Rules. They must not be heard. To hear them would require one counsel to speak for all five Prescribed Parties, further undermining the Act and Rules.

h. Issue #11: Whether the review division panel, being required to conduct Appeals in accordance with the Act and Rules, must exercise its authority to declare the LSBC and TLABC/Mr. Westell's Appeals abandoned.

1. Answer: Jurisprudential principles confirm that where breaches are numerous and not merely irregularities, dismissal as abandoned is not Draconian. The misconduct here—carried out by experienced counsel for all five Prescribed Parties, without seeking leave to dispense with the Rules, and in the face of a validly filed and served Form 8, Application Book, and Book of Authorities—requires dismissal of the Appeals as abandoned. The remaining issues in the Form 8, confined to questions of law, should be argued by the Applicant Party.

PART 2: THE ATTEMPTED PROCEDURAL TRAP, PROVISION (NOT SERVICE) OF LEGAL FICTION DOCUMENTS, AND THE DEFINITION OF "PARTY" UNDER THE *COURT OF APPEAL RULES*

27. The **Applicant Party** formally notifies this Honourable Court of the procedural mechanism deployed by the **Purported Opposing Parties** through premature, extra-statutory correspondence. The transmission of letters and documents prior to the crystallization of statutory deadlines operates as an attempted procedural trap designed to compel the **Applicant Party** into an informal exchange outside the mandatory framework of the *Court of Appeal Rules*.

28. The architecture of this attempted trap is straightforward: by communicating through informal correspondence and seeking extra-**Enactment** consensus or acquiescence and/or taking a fresh step with knowledge of what it would inevitably claim was an irregularity but *de jure* a nullity, the **Purported Opposing Parties** endeavour to induce the **Applicant Party** into implicitly accepting their flawed premise—namely, that only the formalized Appellants and Respondents constitute "Parties" to these proceedings.

29. Simply put, the Appellants and Respondents are appellate "Statutory Parties," but they were and are not the only "Prescribed Parties" under the *Court of Appeal Rules*. The mandatory service matrix under Rule 62(4) and Rule 64(1)(b) extends beyond the narrow subset of Appellants and Respondents.

30. The **Applicant Party** expressly declines to validate this exclusionary posture and formally refuses to respond to extra-statutory correspondence that is not transmitted in accordance with the *Court of Appeal Rules*.

31. Furthermore, the mechanics of service under the modernized regime are mathematically precise and cannot be bypassed through the tactical provision of documents to only some of the Prescribed Parties. Rule 4(3) of the *Court of Appeal Rules* governs deemed service by email or fax and provides:

> "A document transmitted for service by email or fax is deemed to be served as follows: (b) if the document is transmitted at either of the following times, the document is deemed to be served on the next business day: (i) after 4 p.m. on a business day."

32. This deeming provision is mandatory and cannot be circumvented by informal correspondence.

33. While it would have been open to the **Applicant Party** to wait until 4:01 p.m. on September 22, 2026, such a step would have played into the **Purported Opposing Parties**' attempted procedural manoeuvre. More critically, it would not matter, *de jure*, whether the **"Joint Response Book [Sic]"** was transmitted before or after 4:00 p.m., as the document is a legal fiction per se. A "Court Form" may be varied under Rule 79(3)(a), but a Response Book is not a Court Form and must be completed in accordance with the Completion Instructions, filed, and then served on *each* Rule 64(1)(a) and (b) "Party" (see: Rule 62(4)).

34. If the **Purported Opposing Parties**' extra-**Enactment** correspondence and defectively provided documents were transmitted after the 4:00 p.m. threshold, they are strictly deemed served on the next business day. The **Applicant Party** relies absolutely upon the precision of the *Court of Appeal Rules* and rejects any attempt to manipulate timelines or construct artificial urgency through non-compliant, late-afternoon transmissions.

PART 3: THE EXCLUSIVITY OF SECTION 32 DISPENSATION POWERS AND RULE 41

35. The **Purported Opposing Parties**' attempt to dispense with the mandatory oral hearing requirement of Rule 62 through an informal letter to the Registrar constitutes a clear error of law and a circumvention of the *COAA*. The statutory architecture governing the dispensation of Rules and the extension or abridgment of timelines is rigid, exclusive, and strictly reserved for the judiciary.

36. Section 32(1) of the *COAA* explicitly and unequivocally delineates the jurisdictional boundary: **"A justice may dispense with a requirement of the Rules."** This extraordinary power is conferred solely upon a justice. The statute does not authorize the Registrar to dispense with any requirement of the *Court of Appeal Rules*, nor does it permit litigants to dispense with mandatory Rules through consensus, correspondence, or informal communication. The Registrar is statutorily barred from entertaining any informal request to abandon an oral hearing mandated by Rule 62.

37. Furthermore, should the **Purported Opposing Parties** attempt to characterize their request as involving an extension or abridgment of time limits, s. 32(3) of the *COAA* dictates that a justice may extend a time limit even if it has expired. However, such an extension is subject to strict procedural prerequisites. Section 32 is inextricably tethered to Rule 41 of the *Court of Appeal Rules* (General Applications), which governs applications to vary timelines or dispense with procedural requirements.
38. To successfully invoke the dispensation or extension powers under s. 32, the defaulting or moving party must apply formally. Under the *Court of Appeal Rules*, an application to a justice to dispense with a Rule or vary a timeline requires a specific evidentiary and procedural matrix, including: (a) the filing of a formal Notice of Application in Form 4; (b) the filing of supporting Affidavits containing the requisite evidentiary foundation; and (c) the submission of a Written Argument.
39. The **Purported Opposing Parties** have filed none of these mandatory instruments. They have submitted: (a) no Form 4; (b) no sworn evidence justifying dispensation of the requirements of the *Court of Appeal Rules* to: (i) file a Response Book; (ii) serve a filed Response Book; (iii) file and serve a Response Book on each Party; and (c) no materials addressing any other mandatory requirements under the *Court of Appeal Rules*.
40. By attempting to secure a s. 26 written-only hearing—transmitted only to the **Applicant Party**—via a letter sent solely through the LSBC, the **Purported Opposing Parties** have engaged in a procedural approach that is incompatible with the *COAA* and the *Court of Appeal Rules*.
41. Simply put, they have engaged in obstructionist conduct which can only be inferred to be, with such experienced legal counsel, to be intentional violations of law.
42. Their failure to comply with the mandatory statutory and rule-based requirements is complete, and their attempt to bypass Rule 62 through informal correspondence is without legal foundation. Such acts were not merely voidable but void ab initio, void, and of no force and effect. Parties, statutory and/or prescribed, cannot even waive by consent, requirements of the *COAA* and the *Court of Appeal Rules* as only a Justice may do so.

PART 4: THE PROCEDURAL INVALIDITY OF THE "JOINT RESPONSE BOOK [SIC]", ADVERSARIAL ALIGNMENT, AND RULE 63

43. The **Applicant Party** brings this Form 4 Notice of Application to strictly enforce the pure, rule-based appellate geometry of the *Court of Appeal Rules*.
44. The instrument accepted as filed by the Registrar—submitted presumably by the LSBC on behalf of the **Purported Opposing Parties** and styled as a **"Joint Response Book [Sic]"**—is a procedural phantom.

The *Court Services Online* ("CSO") portal does not permit the filing of any joint adversarial "document" (see: Rule 1(1)). The only joint filing categories authorized under the *Court of Appeal Rules* are: (a) joint appeal books; and (b) joint books of authorities.

45. The *Court of Appeal Rules* simply do not authorize a **"Joint Response Book [Sic]"**. The Registrar possessed no jurisdiction under any **Enactment** to accept such a legal-fiction document. It is a fabricated filing category entirely absent from the governing statutory and regulatory framework.

46. Rule 62(4) explicitly dictates the mandatory obligations for responding to an application to vary: **"A person who wishes to respond to an application book… must file and serve… a response book."** The Rule imposes a singular, individual obligation on **"a person"** to file **"a response book."** Not joint. Not combined. Not consolidated. A response book. Singular.

47. It is axiomatic that the LSBC is a singular Appellant under the file number assigned to its Appeal, and the TLABC and Mr. Westell are singular Appellants under the file number assigned to their Appeal. The AGBC is a singular Respondent. Each is required to file and serve their own individual Response Book.

48. The word "joint" is entirely absent from the *COAA 2021*. However, the word "joint" appears exactly fourteen times within the modernized *Court of Appeal Rules 2022*. A rigorous statutory construction reveals that the Legislature specifically and exclusively authorized "joint" filings **only** in the context of: (a) a "joint appeal book" (Rule 26(1), (4), and (5)); (b) a "joint book of authorities" (Rule 28(3) and (4)); and (c) a "joint appeal book on cross appeal" (Rule 30(1) and (2)).

49. There is a fundamental structural reason why the Rules allow "joint" filings strictly for appeal books and books of authorities: these are neutral, administrative compilations of shared evidentiary materials. A joint appeal book is prepared jointly by all parties to organize the record. It is an administrative efficiency.

50. Conversely, a Response Book under Rule 62 is not a neutral compilation; it is an adversarial submission. It contains argument, procedural posturing, and sworn affidavits. The Rules deliberately do **not** permit joint adversarial filings. The Registrar cannot spontaneously create such a category, nor can the Registrar consolidate adverse parties into a single "unit" with a single **"Joint Response Book [Sic]"**.

51. This structural defect is fatal given the specific adversarial alignment of the parties in CA51535 and CA51536. The LSBC is an Appellant under its designated file number. The TLABC and Mr. Westell are joint Appellants under the designated BCCA file number. The AGBC is a Respondent. While the LSBC, and TLABC and Mr. Westell, could not file a **"Joint Response Book [Sic]"**, adding the AGBC and LGIC are purported joint completers under a singular filer, through counsel to the LSBC's CSO filing account, was particularly egregious when the AGBC and LGIC are adverse parties in the underlying litigation to the LSBC, TLABC and Mr. Westell and adverse statutory parties under the *COAA*. The Rules do not permit adverse parties to file a joint, consolidated adversarial response. This is a categorical defect of procedural alignment.

52. Furthermore, any attempt by the **Purported Opposing Parties** to justify the fabrication of a **"Joint Response Book [Sic]"** by relying on the variation allowance under Rule 79 is fundamentally doomed by strict statutory definitions. Rule 79(1) defines a "Court Form" precisely as "a document that is required under these Rules to be filed using a specified form [set out in Schedule 3]." While Rule 79(3)(a) allows a Court Form to be prepared "with variations as the circumstances or the proceedings require," a Response Book is **not** a Court Form.
53. A Response Book is a substantive document governed exclusively by Rule 62 and the Completion Instructions. However, it is **not** a "Court Form" and cannot be varied as It is entirely absent from the forms codified in Schedule 3. Ergo, the statutory allowance for "variations" is categorically inapplicable. The title page submitted by the institutional litigants—boldly declaring itself a **"Joint Response Book [Sic]"** on behalf of both Appellants and Respondents—is an unauthorized fabrication that cannot be saved by Rule 79. Because it is not a Court Form, it cannot be varied. It is an illicit document that must be summarily struck.
54. As established above, only a justice may dispense with compliance with the Rules pursuant to s. 32(1) of the *COAA*. The Registrar cannot modify Rule 62 or accept filings not authorized by the Rules. Therefore, the Registrar could not accept a **"Joint Response Book [Sic]"** unless a justice explicitly ordered it. No such dispensation order exists. The filing is *ultra vires*, irregular on its face, and improperly before the Court.
55. Furthermore, the lack of service is not merely cosmetic; it is a profound substantive defect. Rule 62(4) requires service of the Response Book "on each party." The **Purported Opposing Parties** failed to serve the broader matrix of counsel and interveners. This defect affects the validity of the **Joint Response Book** [sic], the ability of the Court to rely upon it, and the fundamental fairness of the Rule 62 process.
56. Because the Registrar's acceptance of this fabricated instrument constituted a "direction", but not an Order, under the *COAA*, the **Applicant Party** is mathematically required to bring this Rule 63 application to set aside that direction and formally strike the unauthorized document from the record. However, the end result is the same relating to the invalidity of the **"Joint Response Book [Sic]"** albeit the consequential relief of striking and expunging is distinct.

PART 5: THE STATUTORY MANDATE OF RULE 62 AND THE PROHIBITION OF NULLITIES

57. It is systematically acknowledged that Rule 62(5) of the *Court of Appeal Rules* explicitly mandates that the date, time, and place for the hearing of an application under said Rule **must** be set by the Registrar. The public-facing guidance of the Court of Appeal further notes that such hearings are presumptively 30 minutes in duration.

58. The imposition of a strict thirty-minute temporal limitation unequivocally signifies the Legislature's contemplation and mandate of an **oral hearing**. Limiting the time for a hearing that is purely written is a logical impossibility and a procedural absurdity. A written-only process has no "hearing time" to limit. Consequently, the invocation of s. 26(1)(c) or s. 26(1)(d) of the *COAA* to limit or eliminate the hearing is strictly ***ultra vires*** the specific statutory architecture governing variance applications under Rule 62.
59. As dictated by the venerable maxim *generalibus specialia derogant* (special provisions derogate from general ones), the specific temporal and structural requirements formulated exclusively for variance applications in Rule 62(5) strictly override the generalized, discretionary parameters of s. 26 of the *COAA*. A failure to apply the governing statutory text to orchestrate the hearing constitutes a pure, extricable error of law.

PART 5(A): SECTION 19 OF THE COAA: IRREGULARITIES VS. NULLITIES

60. Section 19 of the *COAA* provides that an Appeal is not defeated by an "irregularity or procedural error" in the conduct of the appeal. Section 19(2) empowers a justice to validate an act, impose terms, or make any order necessary to address such irregularities or procedural errors.
61. However, the statutory protection afforded by s. 19 applies **only** to irregularities — not to **nullities**. A nullity is not an "irregularity" within the meaning of s. 19(1). A nullity is a legal non-event: an act done without jurisdiction, without authority, or contrary to an **Enactment**. A nullity cannot be validated, cured, or retroactively regularized under s. 19(2). It is void ab initio.
62. The acceptance for filing of a **"Joint Response Book [Sic]"** by the Registrar is not an irregularity; it is a **nullity**. The Registrar had no jurisdiction under any **Enactment** to accept a fabricated filing category not authorized by the *Court of Appeal Rules*. The document is not merely defective — it is legally impossible. It is a filing that the Rules do not permit to exist.
63. Because s. 19 cannot cure a nullity, the **"Joint Response Book [Sic]"** cannot be validated, cannot be regularized, and cannot be salvaged by judicial discretion. It must be struck. The **Applicant Party** is therefore mathematically required to bring this Rule 63 application to set aside the Registrar's acceptance of the nullity and to formally expunge the unauthorized document from the record.

PART 6: NOVELTY, THE PUBLIC INTEREST, AND THE OPEN COURT PRINCIPLE

64. The present opposition engages a novel and unresolved issue of law under the modernized *COAA 2021* and the contemporary *Court of Appeal Rules 2022*. The interaction between the mandatory hearing parameters of Rule 62 and the discretionary written-only mechanisms of s. 26 of the *COAA*, in the context

of an unauthorized request not properly predicated *de jure*, remains an undecided and critical frontier of appellate jurisprudence in British Columbia.

65. The procedural mechanism advanced by the **Purported Opposing Parties** fundamentally engages the open court principle, a constitutional pillar of the Canadian justice system protected under s. 2(b) of the *Canadian Charter of Rights and Freedoms*. As articulated by the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25, and *Vancouver Sun (Re)*, 2004 SCC 43, the public ventilation of judicial proceedings is essential to maintaining institutional legitimacy, democratic accountability, and public confidence in the administration of justice.

66. The present application does not concern routine interlocutory matters. It is tethered to allegations of serious state-action irregularities and the procedural consequences arising from those allegations. The public holds a legitimate interest in observing the appellate division address the statutory, procedural, and jurisdictional issues raised in open court. This matter engages the highest level of public interest in the proper functioning of the justice system.

67. By seeking to force this adjudication into a written-only process under s. 26 of the *COAA*, the **Purported Opposing Parties** attempt to bypass the mandatory oral hearing structure prescribed by Rule 62. Such an approach would improperly quarantine the adjudication of issues that, by their nature, require public ventilation and judicial transparency. The open court principle prohibits the displacement of an oral hearing where the governing **Enactment**s mandate one.

PART 7: THE INAPPLICABILITY OF THE SECTION 26 JURISPRUDENCE

68. Assuming arguendo that the **Applicant Party** was put to argue the same, he respectfully provides the following.

69. The jurisprudential authorities proffered by the **Purported Opposing Parties** to substantiate the dispensation of an oral hearing are categorically distinguishable, factually impoverished, and profoundly inapplicable to the present matrix. The discretionary authority encapsulated within section 26 is customarily reserved for matters devoid of substantive complexity or wherein the administration of justice is uncontrovertibly served by written submissions.

70. A rigorous legal deconstruction of the authorities relied upon demonstrates their absolute irrelevance to an application addressing a jurisdictional nullity, as elucidated within the comparative table below:

Authority	Procedural Context	Distinguishing Factor (Nullity vs. Irregularity)

Gonzalez v. British Columbia (Attorney General), 2023 BCCA 155	Vexatious litigant, obvious lack of merit in an application for review.	The appellate tribunal dispensed with an oral hearing strictly upon the foundation of a lack of merit involving an existing vexatious litigant. The present matter engages profound constitutional issues, novel interpretations of the 2021 *COAA*, and strict *ultra vires* actions by a chambers justice.
Vesuna v. Stillwater Waterworks District, 2023 BCCA 431	Consent disposition regarding an *ex parte* substituted-service order.	Engaged a scenario wherein an appeal was allowed by absolute consent. In the present circumstances, vigorous, unyielding opposition is registered against the circumvention of the open court principle.
Raju v. Red Door Housing Society, 2025 BCCA 340	Judicial review of a residential tenancy dispute involving voluminous materials.	Involved a standard administrative review concerning residential tenancies. Here, the underlying issue is fundamental procedural fairness, acts executed *coram non judice*, and the suppression of forensic evidence.
Portnov v. Alexander Holburn Beaudin + Lang LLP, 2026 BCCA 193	Adjournment request where comprehensive materials were already filed.	Involved an adjournment request on a pedestrian civil practice issue. The instant matter engages catastrophic jurisdictional usurpation demanding absolute transparency.

71. By attempting to rely upon the aforementioned jurisprudence, the **Purported Opposing Parties** have strategically endeavoured to conflate a catastrophic jurisdictional nullity with a mere procedural irregularity. The adjudication of a nullity requires the purifying sunlight of an oral hearing.

PART 8: THE EVIDENTIARY VOID AND THE ABUSE OF PROCESS

72. The tactical refusal of the institutional litigants to engage with the substantive forensic evidence—electing instead to file an unauthorized **"Joint Response Book [Sic]"** that labels an exhaustively cited fifty-seven-page legal argument detailing unconstitutional state-sponsored digital incursions as indecipherable—crystallizes the evidentiary void.

73. It is advanced that the attempt to utilize the section 26 mechanism operates as a transparent stratagem to shield the profound constitutional violations, the Deflate64 compression algorithms masking the true binary state of the extracted files, and the binding formal admissions from public ventilation. Such a maneuver is *ipso facto* an abuse of process.
74. The administration of justice is incontrovertibly prejudiced when severe jurisdictional defects are swept into an administrative vacuum. Section 26 cannot be weaponized by institutional litigants to insulate themselves from accountability regarding actions that were executed without the requisite jurisdiction and thus rendered absolute constitutional nullities.

PART 9: STRIKING THE "JOINT RESPONSE BOOK [SIC]"

75. Under this heading, the **Applicant Party** repeats and relies upon his argument contained in his filed Application Book of September 15, 2026.
76. In the absence of an explicit provision within the *Court of Appeal Rules* specifically governing the striking of unauthorized, incidental responsive documents, the adjudicative body is mandated by section 18(2) of the *COAA* to apply the *Supreme Court Civil Rules* by analogy. Consequently, Rule 9-5 of the *BCSC Civil Rules* is irrevocably engaged to adjudicate the expungement of the Appellants' **"Joint Response Book [Sic]"** and associated memoranda.
77. In *Walker v. John Doe*, 2014 BCSC 830, The Honourable Mr. Justice Butler definitively established that the jurisdiction granted by Rule 9-5(1) extends far beyond originating pleadings to encompass "other documents" filed within a proceeding. The deliberate insertion of cost-threats into boilerplate notices was struck as an abuse of process. By analogy, the deliberate insertion of a fabricated, procedurally non-existent **"Joint Response Book [Sic]"** into the appellate registry—explicitly designed to bypass the mandatory service matrix and consolidate adverse parties into an unlawful alliance—constitutes an analogous misuse of procedural mechanisms demanding expungement.
78. Applying the jurisprudence of Rule 9-5(1)(b) and (c), the impugned filings are demonstrably scandalous, frivolous, and inherently prejudicial (*Gill v. Canada*, 2013 BCSC 1703; *McNutt v. A.G. Canada*, 2004 BCSC 1113). They serve no useful purpose because they advance arguments predicated upon a defunct 2018 lower-court order, constituting a direct, impermissible collateral attack upon the Court of Appeal's own subsequent acceptance of jurisdiction in docket CA45786 (*Wilson v. The Queen*, 1983 CanLII 35 (SCC)).
79. Furthermore, applying Rule 9-5(1)(d), the filings constitute an absolute abuse of process. As definitively articulated by the Supreme Court of Canada in *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26, the failure of a party to challenge jurisdictional validity at the appropriate temporal juncture—opting instead

to deploy self-help remedies and subsequently mount a defense based upon those unaddressed historical grievances—constitutes a flagrant abuse. The Appellants deliberately slept on their rights during the 2019 appellate proceedings (*McLean v. British Columbia*, 2019 BCCA 133) and are now strictly estopped from manufacturing a retroactive standing objection. The analogous application of Rule 9-5 demands the immediate striking of the Joint Response Book and the offending memoranda.

PART 10: THE NON-IRREGULARITIES IN THE FORM OF THE NULLITIES AND CONSEQUENTIAL RELIEF

80. Rule 36 authorizes a Justice to do the following when there has been a "failure to comply:

36 A justice may do one or more of the following if a party fails to comply with this Act or the rules or an order or direction of the court, a justice or the registrar:

(a)refuse to hear the party;

(b)impose terms and conditions, including the payment or disallowance of costs;

(c)if the party is an appellant, dismiss the appeal as abandoned.

81. The former section , which read as follows, from 1996 to 2021:

> Non-compliance
> 28 If a party fails to comply with this Act or the rules, the court or a justice may
>
> (a)dismiss the appeal as abandoned if the party is the appellant,
>
> (b)refuse to hear the party, or
>
> (c)impose terms including terms respecting the payment or disallowance of costs or disbursements.

82. Both the current s. 36 and former s. 28 use the word "party," referring to a Statutory Party. The repealed section permitted either the Court or a justice to exercise the dismissal and refusal jurisdiction. Under the current s. 36, only a justice may do so.

JURISPRUDENCE UNDER CURRENT SECTION 36

83. Most jurisprudence under the current s. 36 concerns failures to pay security for costs or failures to file documents within prescribed timelines.

84. In *Momeni v. Percy*, 2023 BCCA 295, former tenants (appellants) attempted to serve an appeal record on their landlords (respondents) via registered mail. The respondents applied to dismiss the appeal as

abandoned under s. 36(c) because registered mail is not a permitted method of service under the *Court of Appeal Rules* unless explicitly authorized. Although the justice agreed the service was invalid, dismissal was considered too "draconian" for an early-stage misstep that was not egregious.

85. Here, by contrast, the Purported Opposing Parties did not merely choose an improper method of service. The *Joint Response Book* [sic] was and is a nullity on its face and in substance, incapable of being served at law. The numerous violations of the *COAA* and the *Court of Appeal Rules* are far more egregious than the conduct of self-represented tenants in *Momeni*.

86. Moreover, the Purported Opposing Parties' failure even to attempt service of the *Joint Response Book* [sic] on each Party under Rule 62(4), citing Rule 64(1)(b), supports the inference that they knew the *Joint Response Book* [sic] was a nullity at law. Their conduct is consistent with bad faith, dishonesty, and fraud on the Court.

87. By syllogism, granting relief dismissing the Appeals as abandoned is not too draconian when considering the numerous, intertwined violations of the *COAA* and the *Court of Appeal Rules*

JURISPRUDENCE UNDER THE FORMER SECTION 28 OF THE COAA

88. In *British Columbia v. Leyen*, 2006 BCCA 180, Justice Davies held that where Appeals are hopeless, this militates in favour of dismissing the Appeals as abandoned.

89. The Applicant Party repeats and relies upon the filed documents in the Application Book regarding the hopeless nature of the Appeals, including fraud on the Court, the law of admissions without any cross-appeal, and abuse of process (which has continued as a pattern by the LSBC).

PART 11: NATURE OF THE ORDERS REQUESTED

90. The **Applicant Party** respectfully requests the following relief on a preliminary basis and prior to the hearing of his Form 8 (September 9, 2026) supported by his filed Application Book (September 15, 2026) and his BOA (September 17, 2026):

Part 11(A): Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and
D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Part 11(B): Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings")

in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule

41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.
Dated at the City of Toronto, Province of Ontario, this 25th day of September 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party
68 Abell St. (Receptionist desk) Toronto, ON M6J 0B1
Email: mclean@searchandseizure.ca

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.
[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a "Court Form" and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a "Response Book" is not discretionary as it must be prepared in accordance with the "Completion Instructions". Part of the "Completion Instructions" required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page
Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of "filing parties" is not required for joint book like a "Joint Appeal Book" (see: Rule 26) or a "Joint Book of Authorities" (see: Court of Appeal Rules, rule 27)

APPENDIX “A”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535/CA51536 - Service of Response Book and Letter

5 messages

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 6:26 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Please find attached the Joint Response Book of the parties, filed today in response to your application to vary or cancel the order of Justice Horsman.

Also attached is a letter from the parties to the Registrar of the Court of Appeal, which we will be filing momentarily. We will provide you with a filed copy of the letter in due course.

Regards,

Jonathan

Jonathan Andrews | Associate
D 604.631.9270 | **E** jandrews@lawsonlundell.com
Lawson Lundell LLP 1600 - 925 West Georgia Street, Vancouver, BC V6C 3L2
Vancouver | Calgary | Yellowknife | Kelowna

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2 attachments

Joint Response Book - Vary Order of a Justice - F_ September 21, 2026.PDF
874K

2026-09-21 LT Court of Appeal (Registrar) re Kevin McLean Rule 62 Application.PDF
267K

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 7:03 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews

<wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Further to my email below, here is a filed copy of the letter.

Regards,

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

[Quoted text hidden]
[Quoted text hidden]

2026-09-21 LT Court of Appeal Registrar - F_ September 21, 2026.PDF
268K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 2:48 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Subject: CA51535 / CA51536 – Service of “Joint Response Book” [sic] – confirmation of receipt not service *per se*

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I thank Mr. Andrews for his two emails and confirm receipt of the same.

I also confirm receipt of your “Joint Response Book” [sic] purportedly filed today in response to my application to vary or cancel the order of Justice Horsman. As you are aware, the Court of Appeal Rules do **not** authorize a “joint” response book, and such a filing is a **nullity** under Rule 62.

Leaving that aside, Rule 62(4) requires that *each person* who wishes to respond must file and **serve** a response book on the applicant and on **each party** described in Rule 64(1)(b). Based on the recipients included in Mr. Andrews’ email, I will presume that this “Joint Response Book” [sic] was **not** served on all Rule 64(1)(b) parties.

If purported service was effected separately (i.e., by a separate email to the prescribed parties), please provide proof of service forthwith.

I will address the remainder of the issues involving the same separately but it was important to confirm that (as the email addresses based upon a cursory review do not appear to include all legal representatives of parties as passed by the LGIC in 2022 under the Court of Appeal Rules) some “Prescribed Parties” were not included and were not served within seven days of a receipt of my Application Book.

I reserve all of my rights in fact and at law.

Regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Appendix – Rule 62(4)

“A person who wishes to respond to an application book filed under subrule (2)(b) must file and serve, on the applicant and on each party not more than 7 days after being served the application book, a response book prepared in accordance with the completion instructions.”

[Quoted text hidden]

Jonathan Andrews <jandrews@lawsonlundell.com> Wed, Sep 23, 2026 at 3:31 PM
To: "Mr. Kevin Alexander McLean" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean, we acknowledge receipt of your email.

Regards,

Jonathan

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

From: Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>
Sent: Wednesday, September 23, 2026 11:49 AM
To: Jonathan Andrews (3270) - 14Flr <jandrews@lawsonlundell.com>
Cc: Lapper, Emily AG:EX <emily.lapper@gov.bc.ca>; Trevor.Bant <trevor.bant@gov.bc.ca>; Ortega, Sergio AG:EX <sergio.ortega@gov.bc.ca>; Karin.Kotliarsky <karin.kotliarsky@gov.bc.ca>; Gavin Cameron <gcameron@fasken.com>; tposyniak <tposyniak@fasken.com>; Laura Abrioux <labrioux@fasken.com>; Will

Andrews <wandrews@fasken.com>; Craig Ferris (3197) - 14Flr <cferris@lawsonlundell.com>; Laura Bevan (3106) - 14Flr <lbevan@lawsonlundell.com>; Nicole Welsh (3193) - 14Flr <nwelsh@lawsonlundell.com>; Lindy Grant (3258) - 14Flr <lgrant@lawsonlundell.com>; Nastasia Virvilis (3497) - 14Flr <nvirvilis@lawsonlundell.com>
Subject: Re: CA51535/CA51536 - Service of Response Book and Letter

> EXTERNAL EMAIL - This email was sent by a person from outside your organization.

[Quoted text hidden]

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:37 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Thank you kindly Mr. Andrews and I hope you are all well. You will want to review my email to all of the Rule 64(1)(b) ‘parties’ (persons therein). I will be somewhat strict herein without being rude that all future correspondence regarding these issues shall be in that email thread. Please respond therein and I will respond in kind should any further correspondence be applicable or required.

[Quoted text hidden]

APPENDIX “B”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK" and non-service on ALL "Prescribed Parties" within seven days of September 15, 2026

1 message

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:31 PM
To: Chambers <Chambers@bccourts.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, lkt@tdslaw.com, Ian Knapp <iknapp@macfuj.com>, amackenzie@macfuj.com, "XT:Olthuis, Brent AG:IN" <bolthuis@ovcounsel.com>, dredman <dredman@arvayfinlay.ca>, David Wu <dwu@arvayfinlay.ca>, cbildfell@mccarthy.ca, "Frame, Lindsay" <lframe@mccarthy.ca>, roy.millen@blakes.com, nicholas.tollefson@blakes.com, joey@doyledefence.ca, ekirkpatrick@mcewanpartners.com, cdauvergne@litigationchambers.com, jmaclaren@accessprobono.ca, kyla@vancouvercriminallaw.com, rpeck@peckandcompany.ca, csenini@peckandcompany.ca, pmueller@peckandcompany.ca, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, cferris <cferris@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, mring@lawsonlundell.com, ccrane <ccrane@ovcounsel.com>, Chris Pang <cpang@ovcounsel.com>, mmiharija@ovcounsel.com, szarb@macfuj.com, "Lever, Vanessa AG:EX" <vanessa.lever@gov.bc.ca>, "KDOUMAKIS@mccarthy.ca" <KDOUMAKIS@mccarthy.ca>, kotto@lawsonlundell.com

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Reply via email: mclean@searchandseizure.ca

Date: September 23, 2026
Classification: Private and Confidential
Sending method: Via Email at first instance

To: Chambers@bccourts.ca; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; emily.lapper@gov.bc.ca; trevor.bant@gov.bc.ca; karin.kotliarsky@gov.bc.ca; sergio.ortega@gov.bc.ca; lkt@tdslaw.com; iknapp@macfuj.com; amackenzie@macfuj.com; bolthuis@ovcounsel.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; cbildfell@mccarthy.ca; lframe@mccarthy.ca; roy.millen@blakes.com; nicholas.tollefson@blakes.com; joey@doyledefence.ca; ekirkpatrick@mcewanpartners.com; cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; kyla@vancouvercriminallaw.com; rpeck@peckandcompany.ca; csenini@peckandcompany.ca; pmueller@peckandcompany.ca; lbevan@lawsonlundell.com; jandrews@lawsonlundell.com; nwelsh@lawsonlundell.com; cferris@lawsonlundell.com; lgrant@lawsonlundell.com; mring@lawsonlundell.com; ccrane@ovcounsel.com; cpang@ovcounsel.com; mmiharija@ovcounsel.com; szarb@macfuj.com; vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com

SUBJECT I: CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK"
SUBJECT II: FATAL NON-COMPLIANCE WITH MANDATORY SERVICE PROTOCOLS PURSUANT TO RULE 62(4) AND RULE 64(1)(B)
SUBJECT III: THE UNOPPOSED RECORD, THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION, AND ETHICAL APPREHENSIONS

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND IDENTIFICATION OF THE IMPUGNED ACTA

1. Correspondence is hereby effectuated to formally address the procedural ambuscade orchestrated by the Law Society of British Columbia, the Trial Lawyers Association of British Columbia, and the Attorney General of British Columbia (collectively, the "Purported **Purported Opposing Parties**"). It is strictly noted for the appellate record that the instrument transmitted by the **Purported Opposing Parties** on the late afternoon of September 21, 2026, styled extra-statutorily as a "Joint Response Book", alongside the accompanying informal correspondence directed to the Registrar (collectively, the "Impugned Instruments"), are recognized in law as absolute jurisdictional nullities.

2. The Impugned Instruments are definitively void *ab initio* and of no force or effect. By appending the historical email transmissions to this correspondence—whilst intentionally severing the attachments containing the Impugned Instruments—the inadvertent sanitization of an incurable jurisdictional defect is systematically precluded.

PART 2: THE STRUCTURAL INVALIDITY OF THE "JOINT RESPONSE BOOK" [SIC]

Subheading 2(A): Unauthorized Procedural Fabrication

3. A rigorous statutory deconstruction of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Court of Appeal Rules"), reveals the undeniable absence of any provision authorizing the amalgamation of adversarial entities into a singular, consolidated response mechanism. It is an immutable axiom of statutory interpretation, governed by the maxim *Expressio unius est exclusio alterius* (the explicit mention of one thing is the exclusion of another), that the explicit legislative authorization for a "joint appeal book" and a "joint book of authorities" definitively precludes the spontaneous fabrication of a "joint response book".

4. The **Purported Opposing Parties** have attempted to superimpose a procedural fiction upon the appellate registry. Inasmuch as the Registrar is fundamentally divested of the statutory jurisdiction to accept filing categories entirely absent from the governing enactments, the acceptance of said instrument was executed strictly *ultra vires* and *coram non judice*. A valid order or direction cannot be precipitated from an unauthorized mechanism; as the venerable maxim dictates, *Nemo dat quod non habet* (no one can give what they do not have).

PART 3: FATAL TRANSGRESSION OF MANDATORY SERVICE PROTOCOLS

Subheading 3(A): The Strictures of Rule 62(4) and Rule 64(1)(b)

5. Assuming, *arguendo*, that the fabricated instrument could miraculously transcend its status as an absolute nullity, the **Purported Opposing Parties** have catastrophically failed to execute the mandatory service protocols dictated by the *Court of Appeal Rules*. Pursuant to *rule 62(4)*, any "person" (as comprehensively defined under section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238) who wishes to respond to an Application Book is statutorily compelled to file and serve the response book on the applicant and on *each party*.

6. Concurrently, *rule 64(1)(b)* of the *Court of Appeal Rules* explicitly and unequivocally expands the definition of a "party", in relation to an application, to encompass any person who is served with a notice of application (the "Prescribed Parties"). It is empirically verifiable, upon a meticulous examination of the transmission matrix utilized by Mr. Jonathan Andrews on September 21, 2026, that the **Purported Opposing Parties** deliberately and exclusively restricted their service to themselves and the Applicant Party.

7. The broader constituency of counsel, interveners, and interested entities—who definitively obtained status as Prescribed Parties upon the antecedent service of the Applicant's Form 4 and Form 8 Notices of Application—were conspicuously and unlawfully excluded from the service matrix.

PART 4: THE EXPUNGEMENT AS A MERE ADMINISTRATIVE FORMALITY

8. It is advanced that the formal striking of the Impugned Instruments is not an adversarial contest necessitating substantive legal adjudication, but rather a mere administrative formality. Inasmuch as the "Joint Response Book" is a legal fiction entirely unrecognized by the *Court of Appeal Rules*, its removal from the registry ledger operates strictly as an exercise in fundamental procedural housekeeping.

9. Consequently, it is definitively confirmed that the **Purported Opposing Parties**, by deploying an unauthorized nullity and subsequently failing to execute service upon the Prescribed Parties, possess absolutely nothing before the Court of Appeal in response to the Form 8 Notice of Application.

PART 5: THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION AND ETHICAL APPREHENSIONS

Subheading 5(A): The Statutory Strictures of Section 32 and Rule 41

10. Should the **Purported Opposing Parties**, operating in their capacities as Prescribed Parties, seek to cure this fatal procedural entanglement, they are statutorily compelled to advance an application to dispense with the rules or extend the temporal limitations pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"), and *rule 41* of the *Court of Appeal Rules*.

11. A profound procedural paradox thereby arises: to retroactively legitimize the fabricated "Joint Response Book," these facially adversarial entities would be mathematically compelled to advance a joint Notice of Application. Such a unified, dependent posture betwixt supposed adversaries is posited to be a procedural impossibility and a direct affront to the structural integrity of the adversarial system.

12. The adjudication of the Form 8 Notice of Application is therefore left entirely unopposed. Given that the standard of review upon all issues, questions, and determinations before the Division panel is strictly that of correctness, the Applicant Party stands ready, willing, and able to present oral submissions the moment the Registrar mathematically complies with the mandatory scheduling dictates of *rule 62(5)*.

13. It is strictly confirmed that the Applicant Party shall not transmit, distribute, or forward the defective "Joint Response Book" to the unserved Prescribed Parties. Such transmission is unequivocally declined to systematically preclude any judicial or administrative inference that the Applicant Party has inadvertently waived the jurisdictional defect, cured a procedural irregularity, or sanitized an absolute nullity.

SUBHEADING 5(C): ETHICAL APPREHENSIONS AND THE ESCALATION OF NOTICE

14. It is hereby placed on the formal record that any prospective Notice of Application seeking an extension of time or dispensation of the rules to validate this nullity will be met with unyielding opposition. Furthermore, special costs will be vigorously sought against opposing counsel in their personal capacities, as seasoned appellate counsel are presumed to possess actual knowledge of these fundamental procedural architecture flaws.

15. The coordinated, extra-statutory maneuvering betwixt purported adversaries raises severe apprehensions regarding the nature of the communications occurring outside the purview of the Court. It is profoundly concerning that counsel for the Attorney General of British Columbia appears structurally uninvested in defending the rule of law or upholding the democratically enacted *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"). Consideration is presently being actively directed toward formally escalating these concerns to the attention of The Honourable Niki Sharma, Attorney General of British Columbia, regarding the posture adopted by Crown counsel. However, such determination will be considered in due course and be responsive to any potential NOA's by the now unit of the LSBC, TLABC (with Mr. Westell) and the AGBC (with LGIC). Bluntly speaking, so much for the notion that the LSBC and TLABC wanted independence from the BC government.

PART 6: CONCLUSION AND ANTICIPATED RELIEF

16. In my view, the Appellants have now also put into "legal play" for my submissions to cancel and very the purported Orders of Horsman J. and naturally have the relief sought in my Form 4 NOA (August 12, 2026), the section 36 of the COAA titled, "Failure to comply". I also note that in light of the nullities at issue, section 19 of the COAA is inapplicable to save the conduct of the Appellants.
17. The administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved, including but not limited to the pursuit of special costs awarded jointly and severally for intentional violations of the operative enactments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

/s/ Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party
Email: mclean@searchandseizure.ca

APPENDIX: STATUTORY AND REGULATORY EXTRACTS

Court of Appeal Act, S.B.C. 2021, c. 6

Definitions
1 In this Act:
"order" includes
(a) a judgment or decree, and
(b) an opinion, advice, direction, determination, decision or declaration that is specifically authorized or required under an enactment to be given or made;

Dispensing with rules and varying time limits
32 (1) A justice may dispense with a requirement of the rules.
(2) A justice may extend or shorten the time limit provided in this Act or the rules for doing an act.
(3) A justice may extend a time limit under subsection (2) even if the time limit for doing the act expired before the person applies for the extension.

Court of Appeal Rules, B.C. Reg. 120/2022

Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 [dispensing with
Edit directly or with Gemini
Click anywhere to type and edit directly, or select text to prompt Gemini for changes.

--
Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

NOTA BENE: This email is for dispute resolution and litigation purposes only. Without prejudice communication so denoted invokes settlement privilege.

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186K

BRITISH COLUMBIA

Court Services Online **Registry Notice**

Package ID:	**4398900**	**Submission Date:**	**September 25, 2026**
Account ID:	71252		KEVIN MCLEAN
Client ID:	122957		'

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 25-SEP-2026

25SEP2026
We are unable to accept the application and argument for filing. If you insist, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO.

Thank you,
sl

Please keep a copy of this report for your records.

Tab 6

Reply to: Mr. Kevin A. McLean (BA, JD, CIM) 859

Reply via email: mclean@searchandseizure.ca

URGENT

Date: Sunday, September 27, 2026

Filing method: Via CSO Portal

Sending method (at first instance): via CSO Portal

TO:

The British Columbia Court of Appeal
800 Smithe Street
Vancouver, BC

Attention of the Registrar (Head): Mr. Timothy Outerbridge

FURTHER PARTICULARS OF ASSISTANCE TO THE RECIPIENT

File numbers at the BCCA: CA51536 / CA51535 (defined herein as the "Appeals")
Sender: Mr. Kevin A. McLean (BA, JD, CIM)
Status: Applicant Party in relation to Form 4's and Form 8
Date: *supra*

SUBJECT I: TENDERED LETTER AS PER THE SUGGESTION OF "SL" IN RELATION TO THE UNLAWFUL REJECTION (BY "SL") OF COMPLIANT FILINGS BY THE APPLICANT PARTY (MR. KEVIN A. MCLEAN (BA, JD, CIM) ON FRIDAY, SEPTEMBER 25, 2026

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND PROCEDURAL POSTURE

1. The Applicant Party repeats and relies upon the definitions contained in the documents he has filed in the Appeals and they have the same meaning herein as they do therein. The Applicant Party, at times, refers to himself in third person for ease of reference and delineation purposes.
2. The Applicant Party writes regarding the above with particular reference to the unlawful or unauthorized rejection (by "SL") of the Applicant Party's submitted filings by way of the Applicant Party's Form 4 Notice of Application ("NOA") and written argument ("Written Argument") (collectively, the "Unlawfully Rejected Filings") relating to, *inter alia*, the nullity filing by the LSBC, TLABC, Mr. Westell, AGBC and LGIC (the "Purported Opposing Parties") named as the "Joint Response Book [Sic]" (September 21, 2026) in relation to my filed and served Application Book (September 15, 2026) and the failure of the Purported

Opposing Parties to serve "Response Books"860 each "Party" (as defined under Rule 64(1)(b) of the *Court of Appeal Rules*) within seven days of being served with the Applicant Party's Application Book. The latter may be considered at an irregularity at first instance but as the Purported Opposing Parties have not evinced any intention to attempt to rectify said potential, which is not admitted, irregularity, it is veering into the real of nullity. There is also jurisprudence that a direct contravention of rules of procedure enters the realm of nullity (see for example: *König v. Hobza*, 2015 ONCA 885 ("*Konig*").

3. the crystallization of these filings irrevocably engages section 36 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"). The unyielding failure of the Purported Opposing Parties to comply with the governing enactments—specifically their failure to lawfully serve the prescribed parties—establishes a formidable statutory foundation for the adjudicative body to refuse to hear said parties and to definitively dismiss the Appeals as abandoned.
4. Concurrently, an administrative anomaly has manifested within the Court Services Online (the "CSO") portal. An unlawful and procedurally defective rejection notice was issued by a registry employee identified merely as **"SL"** (the "**Unlawful Rejection**"). While lacking legal merit, the **Unlawful Rejection** is recognized as highly advantageous, as it explicitly instructs:

> "We are unable to accept the application and argument for filing. If you **INSIST**, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO. Thank you, sl"
>
> [emphasis is the Applicant Party's]

4. It is evident that bizarre and legally insupportable conduct is being effectuated by an employee of the registry who definitively fails to meet the statutory definition of a Registrar. Pursuant to section 1 of the *COAA*, the definition of a registrar strictly encompasses the Registrar, an associate registrar, and a deputy registrar. It is posited that the Registrar does not actively manage the ground-level processing within the CSO, an administrative reality that necessitates this precise and highly formalized intervention.
5. The aforementioned administrative blockade is systematically deconstructed herein. The precision of this legal analysis is engineered to compel the registry—being both statutorily able and unconditionally required—to stamp the resubmitted filings forthwith, thereby permitting the effectuation of lawful service upon the prescribed parties.

*PART 2: DECONSTRUCTION OF THE **"SL" UNLAWFUL REJECTION** AND STATUTORY DEFINITIONS*

6. The **Unlawful Rejection** is definitively established as not merely ultra vires, but falsely premised. It is a foundational axiom of logical reasoning that a conclusion predicated upon a false premise constitutes a mere sophism.

7. The rejection notice relies upon the term "unable." Lexicographically, "unable" is defined as lacking the necessary skill, power, competence, time, or opportunity to accomplish a specified act. Consequently, the assertion of being "unable" is intrinsically tethered to the possession or absence of jurisdictional power.
8. Pursuant to section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238 (the "*Interpretation Act*"), the term "may" is strictly construed as permissive, whereas the terms "must" and "shall" are construed as imperative. While extensive jurisprudence distinguishes these terms, the statutory obligation in the present matrix is unambiguous on its face.
9. The Applicant Party has financially remitted the requisite fees, submitted for filing, and successfully served the following foundational documents in relation to the impugned orders and directions pronounced by The Honourable Madam Justice Horsman, noting strictly that a "direction" cannot be elevated to an "order" under the statutory definition: a. The Form 8 Notice of Application, dated September 9, 2026; b. The Application Book, prepared in strict accordance with the Completion Instructions (as defined under section 1 of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*")), submitted on September 15, 2026; and c. The supporting Book of Authorities, submitted and served on September 17, 2026.
10. The individual identified as **"SL"** does not satisfy the statutory definition of a Registrar under the *COAA*. This distinction carries profound legal import, as those who satisfy the statutory definition are strictly recognized as officers of the court. An officer of the court is bound by an immutable legal and ethical obligation to promote justice, uphold the rule of law, and ensure [guaranteeing as required by law] the effective, unbiased operation of the judicial system.
11. It is a striking procedural paradox that an administrative clerk would assert the jurisdictional authority to reject a mathematically and procedurally compliant Form 4 Notice of Application, whilst the registry concurrently accepted a **"Joint Response Book" [sic]**—a fabricated filing category entirely unrecognized by the *Court of Appeal Rules* (attached hereto as Appendix "D"). The acceptance of a nullity, paired with the rejection of a compliant instrument, fundamentally offends the venerable maxim of Herbert Broom, *Actus curiae neminem gravabit* (an act of the court shall prejudice no man).

PART 3: THE MANDAMUS THRESHOLD AND THE PUBLIC LEGAL DUTY

12. I provide the facts and law herein to ensure that we are all respectful of the public purse, and finite resources along with the resources that will be required for the hearing of my Form 8 NOA et al.
13. The legal test for the issuance of an order of mandamus is thoroughly entrenched within Canadian administrative jurisprudence. It is delineated herein to ensure [guaranteeing as required by law] the

administrative record formally reflects the absolute lack of discretion possessed by the registry regarding compliant filings.

14. The foundational premise establishes that the registry is not merely "able," but statutorily "required" to accept compliant filings. This strict administrative duty is unequivocally confirmed by the British Columbia Court of Appeal in *R. v. Verma*, 2016 BCCA 307 (the "**Verma Decision**"), a precedent that operates with magnified force under the modernized architecture of the *COAA* and the *Court of Appeal Rules*.
15. The mandatory conditions precedent for the issuance of mandamus were exhaustively codified by the Federal Court of Appeal in *Apotex Inc. v. Canada (A.G.)*, 1993 CanLII 3004 (FCA), aff'd 1994 CanLII 47 (SCC) (the "Apotex Decision"). The eight requisite conditions are enumerated as follows: (1) There must be a public legal duty (as opposed to a mere power) to act; (2) The duty must be owed to the Applicant; (3) There must be a clear right to expect performance of the duty, and all conditions precedent giving rise to the duty must be satisfied, including the demand that the duty be exercised and a refusal to do so; (4) Where the duty sought to be enforced is discretionary, specific ancillary rules apply; (5) The applicant must have no other remedy or recourse available; (6) The order sought must be of some practical value or effect; (7) There must be no equitable bar to the court granting mandamus; and (8) The balance of convenience must favour the granting of mandamus.
16. The application of the aforementioned jurisprudential test to the present factual matrix yields an unequivocal result: a. The registry, and the Head Registrar specifically, bears a clear, non-discretionary public legal duty to accept submitted filings that comply with the *Court of Appeal Rules*; b. Said duty is definitively owed to the Applicant Party; c. No unfulfilled conditions precedent exist, and a clear right to expect performance is established, as the submitted filings are flawlessly compliant with all formatting and structural rules; d. The Registrar is a creature of statute; the acceptance of compliant filings is purely administrative and entirely devoid of discretion (which renders the antecedent acceptance of the unstatutory **"Joint Response Book" [sic]** all the more jurisdictionally defective); e. While alternative remedies are theoretically available, this correspondence is transmitted in the spirit of judicial economy and administrative cooperation; f. The performance of the duty possesses profound practical effect, directly preserving the Applicant Party's obligation to avoid taking a fresh step with knowledge of the Purported Opposing Parties' irregularities—specifically, their failure to serve EACH party pursuant to Rule 64(1)(b) and Rule 62(4)—whilst seeking declarations regarding the void ab initio nature of the **"Joint Response Book" [sic]**; g. Absolutely no equitable bars exist to preclude the seeking of mandamus; and h. The balance of convenience tips enormously and indisputably in favour of the Applicant Party.

PART 4: THE SCHEDULING MANDATE, RULE 55, AND THE ABSOLUTE NULLITY OF PURPORTED SERVICE

16. It is further articulated that the **"Joint Response Book" [sic]** was not merely defectively served, but rather characterized by a complete failure of lawful service. Specifically, purported service of said nullity upon the Applicant Party was impossible at law, as the instrument itself is an unauthorized procedural fiction entirely devoid of legal force. Concurrently, in relation to all other "parties" as defined under rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Prescribed Parties" or "Application Responding Parties"), the instrument was definitively not served at all.
17. In relation to the Form 4 Notice of Application (submitted September 25, 2026) being heard, it is structurally mandated that said application be adjudicated contemporaneously with the antecedent Form 8 Notice of Application. It is rigorously noted that rule 55 of the *Court of Appeal Rules* strictly compels all entities who have been lawfully served with the Form 4 Notice of Application and accompanying written argument to file any responsive written arguments and/or affidavits at least two business days prior to the Application Hearing Date.
18. Consequently, to facilitate compliance with the strictures of rule 62(5), which imposes a mandatory scheduling obligation upon the Registrar, it is advanced that the allocation of two discrete thirty-minute intervals will be mathematically required to assist the registry and properly ventilate the bifurcated applications before the Division panel.

PART 5: THE JURISPRUDENTIAL IMPERATIVE OF VERMA, THE LEXICOGRAPHICAL IMPORT OF "INSIST," AND REMEDIAL ADJUDICATIVE TRAINING

19. The specific lexicographical choices utilized within the **Unlawful Rejection** necessitate rigorous doctrinal scrutiny. The individual identified as **"SL"** explicitly articulated: "If you **insist**, you may write to the Registrar..." The deployment of the term "**insist**" is recognized as a profound, albeit perhaps inadvertent, invocation of binding appellate jurisprudence.
20. To "**insist**" is lexicographically defined as to state something very firmly or to demand something forcefully, specifically in circumstances characterized by disagreement or opposition.
21. It is a matter of established appellate record that paragraph 20 of the *Verma Decision* (*R. v. Verma*, 2016 BCCA 307) explicitly dictates the mandatory protocol for registry clerks when confronted with compliant filings. As unequivocally articulated by the Division panel, while it is appropriate for a clerk to advise a prospective appellant regarding perceived jurisdictional defects,

> "if the notice that person seeks to file to initiate proceedings in this Court complies with this Court's rules and that person **INSISTS** on filing that notice, then the notice **MUST** be accepted for filing."
>
> [emphasis is the Applicant Party's]

22. Consequently, by the very language employed in the **Unlawful Rejection**, the registry has acknowledged the operative trigger. The Applicant Party is hereby formally and forcefully **insisting** upon the filing of the mathematically and structurally compliant Form 4 Notice of Application and the accompanying Written Argument. Ergo, pursuant to the binding authority of the *Verma Decision*, the submitted documents (one a "Court Form" and the other a required document in support of such an NOA) **must** be accepted for filing forthwith; the Registrar is entirely divested of any residual discretion to refuse.
23. Concurrently, profound respect is maintained for the livelihood and employment security of registry personnel. It is formally acknowledged that the preservation of professional livelihood for administrative staff is of intrinsic value. It is respectfully requested that this severe administrative overreach be utilized strictly as a confidential, remedial registry/administrative processing training opportunity for the individual identified as **"SL"** or **"SL"** (or any other gender-neutral pronoun so adopted). This magnanimous posture is advanced to ensure [guaranteeing as required by law] that the proper boundaries of administrative authority are definitively understood, thereby shielding future participants in the justice system from analogous ultra vires blockades.

PART 6: CONCLUSION AND REQUISITE ADMINISTRATIVE PROCESSING RECTIFICATION

24. In conclusion, while no Enactment (see: s. 1 of the Interpretation Act) condition precedent necessitates the filing of an introductory letter prior to the acceptance of compliant documents, this comprehensive correspondence has been prepared and filed in strict accordance with the **Unlawful Rejection**. This step is executed in the spirit of cooperation, with profound respect for the public purse and the preservation of finite judicial resources.
25. It is further articulated that sections 37 and 38 of the *COAA* strictly circumscribe the registry's authority. The unassailable upshot of these statutory provisions is that while a Registrar may refuse to accept a document if it is filed contrary to a formally issued practice directive, the Registrar cannot, as a matter of statute and regulation (the "Source Laws"), refuse to accept documents that comply with the established filing requirements.
26. Most crucially, the stated rationale for the **Unlawful Rejection** was categorized as "other" and "unable." The administrative clerk was definitively not "unable," but rather statutorily "required" to execute the filing. Consequently, subsequent to the submission of this letter as expressly suggested by the registry, the

Form 4 Notice of Application and the Written Argument shall be resubmitted exactly as they were originally transmitted.

27. Should filed and stamped copies of the Form 4 Notice of Application and the Written Argument (originally submitted on Friday, September 25, 2026) not be provided forthwith, a subsequent escalation will be regretfully compelled. A direct correspondence will be transmitted to the Primus Inter Pares, the Chief Justice of the British Columbia Court of Appeal. The preservation of an independent judiciary intrinsically demands that the administration of the court directs its staff to strictly comply with the duties assigned to them by law.
28. Furthermore, in the event of continued administrative obstruction, the filing of a Form 4 Notice of Application in the nature of mandamus will be precipitated. Such an action would inevitably result in a multiplicity of proceedings, requiring an additional Notice of Application to be heard contemporaneously with the Form 8 hearing.
29. Inasmuch as justice is mandated to be administered in an expeditious, just, and cost-effective manner, the failure to comply with the statutory duties of the Registrar is fundamentally antithetical to the administration of justice. It is presumed that the Head Registrar was entirely unaware of this administrative overreach until the transmission of this correspondence
30. I reserve the right to rely on this correspondence for any lawful purpose, explicitly inclusive of the adjudication of costs, the affirmation that the **"Joint Response Book" [sic]** was a nullity on its face, and the incontrovertible fact that ALL of the "Prescribed Parties" were not served in accordance with Rule 62(4).
31. Thank you kindly for ensuring [guaranteeing as required by law] that the Form 4 Notice of Application and the Written Argument are stamped as filed. I will then provide a copy of the filed Form 4 and written argument to the Rule 64(1)(b) "Parties" so that they are served and are able to exercise their rights at least two days before the "Application Hearing Date" of my Form 8 and said Form 4 NOA (see: Appendix "A"). Trusting that this was an innocent oversight by **"SL"**, I trust my approach in this regard was appreciated although very time consuming and exhaustive, albeit unnecessary, to do so.
32. I await the filed (stamped as such with the notation of September 28, 2026) by your earliest opportunity tomorrow and in turn there will be no requirement for me to draw this issue to the attention of the Chief Justice of the BCCA and bring an additional NOA seeking, *inter alia*, mandamus relief.
33. Thank you kindly.

Yours truly,

Mr. Kevin A. McLean (BA, JD, CIM) 866

Email: mclean@searchandseizure.ca

Appendix “A”: Form 4 Notice of Application Appendix “B”: Written Argument Appendix “C”: Receipts of Filing Appendix “D”: The **“Joint Response Book” [sic]** (A nullity on its face, purported to have been served on the Applicant Party which was impossible at law, and in relation to all other “parties” under rule 64(1)(b) (the “Prescribed Parties” or “Application Responding Parties”), not served at all) Appendix “E”: The “SL” **Unlawful Rejection** Notice

APPENDICES

Appendix “A”

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

Name(s) of responding person(s) to be served with the application

The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

TBD based hearing date for AP's Form 8 NOA (heard at same time)

Chambers applications begin at 9:30 a.m.

The applicant anticipates that this application will be…
Check only one.

☒ Contested ☐ Uncontested

Enter the section(s) or rule(s) that you are relying on for your application
E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."

Court of Appeal Act, S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, **36**, 44-46,

Court of Appeal Rules, B.C. Reg. 120/2022 (the "*COR",* "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75

Law and Equity Act, R.S.B.C. 1996, c. 253, Section 8.

Interpretation Act, R.S.B,C 1996, c 238

All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following orders which are contained in his written argument in support of the same (wherein the following statutory parties ("Statutory Parties") in the: 1. the LSBC; and 2. TLABC and Mr. Westell (said three persons collectively defined as well as the "Appellants"); and 3. The AGBC and LGIC (together defined as the "Respondents") but also sad persons were some of many prescribed parties ("Prescribed Parties") under sub-rule 64(1)(b) (the five "Statutory Parties" defined in this NOA (Form 4) as the "**Purported Opposing Parties**"):

Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and

D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings") in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the

LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule 41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The filed affidavits in the Applicant Party Application Book of September 15, 2026 which are particularized again herein:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this September 22, 2026, Form 4 NOA.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

25/09/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

---

[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.

[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a “Court Form” and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a “Response Book” is not discretionary as it must be prepared in accordance with the “Completion Instructions”. Part of the “Completion Instructions” required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page

Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of “filing parties” is not

required for joint book like a “Joint Appeal Book” (see: Rule 26) or a “Joint Book of Authorities” (see: Court of Appeal Rules, rule 27)

Appendix “B”

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS
(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS
(Defendants)

APPLICANT PARTY'S WRITTEN ARGUMENT CONCERNING AN APPLICATION TO:

I. Declare the **"Joint Response Book [Sic]"** void, void ab initio, and of no force and effect;
II. Strike and expunge the **"Joint Response Book [Sic]"** from the BCCA record under the above noted file numbers;
III. Declare the Registrar's acceptance of the **"Joint Response Book [Sic]"** to be without jurisdiction, void ab initio, and of no force and effect;
IV. Declare that the **"Joint Response Book [Sic]"** could not be lawfully served on the other "parties" under *Court of Appeal Rules*, rule 64(1)(b).
V. A Declaration that the LSBC, TLABC, and AGBC failed to comply with rule 62(4) and an Order that the aforementioned persons **"Joint Response Book [Sic]"** is not before the Court;
VI. Special costs against counsel for the LSBC, TLABC, and AGBC jointly and severally for intentional violations of the law; and
VII. Residual relief.

Hearing date: on the date of the **Applicant Party**'s Form 8 NOA to cancel the purported Orders of Horsman J.

Written argument dated and signed on: Friday, September 25, 2026
Written argument submitted for filing on: Friday, September 25, 2026

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PART 1: INTRODUCTION, PROCEDURAL VEHICLE, AND THE JURISDICTIONAL IMPERATIVE

1. The **Applicant Party** repeats and relies upon his evidence in the filed Application Book, and his argument and authorities contained therein and in his Book of Authorities, both for his Form 8 NOA to be heard and decided on a date, time and place as required by Rule 62(5) of the *Court of Appeal Rules*.
2. The **Applicant Party** adopts the definitions from the aforementioned filed documents and they have the same meaning herein as they do therein.
3. The present Written Argument is meticulously formulated and formally submitted to support a Notice of Application in Form 4, brought pursuant to the cited sections in the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*" or "*COAA 2021*"), and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*" or "*Court of Appeal Rules 2022*").
4. The **Applicant Party** seeks the relief particularized in his Form 4 Notice of Application ("NOA"), as denoted supra in summary form.
5. Concurrently, this Written Argument registers the **Applicant Party**'s formal opposition, supplementary to the Applicant Party's objection without taking a fresh step after notice of the irregularity in the failure to serve or be able to serve the "Joint Response Book [Sic]" of which the latter is a nullity at law and the former is an irregularity, to the unlawful steps taken and advanced by the Law Society of British Columbia ("LSBC"), the Trial Lawyers Association of British Columbia ("TLABC") and Mr. Westell, and the Attorney General of British Columbia ("AGBC") and LGIC (collectively, the "**Purported Opposing Parties**").
6. The **Purported Opposing Parties** seek to relegate the impending application to vary or cancel an order of a justice (the "Rule 62 Application") to a written-only adjudication pursuant to s. 26 of the *COAA*. However, the document they have styled as a **"Joint Response Book [Sic]"** is a nullity, void ab initio, and of no force and effect. As a matter of law, an unauthorized filing category cannot be placed "on top of" a mandatory procedural structure that does not permit it. The filing of a **"Joint Response Book [Sic]"** by adversarial statutory parties also raises structural concerns regarding whether any one Purported Opposing Party could purport to file a response on behalf of another.
7. It is formally articulated that the procedural mechanism invoked by the **Purported Opposing Parties** to bypass an oral hearing is misaligned with the mandatory statutory and rule-based architecture governing variance applications under Rule 62 and s. 35(2) of the *COAA*. Even if such a request could be made in that regard, wherein the 'hearing' itself was reduced to written or the time limit for 'hearing' was truncated (see: *COAA*, clauses 26(1)(a), (c) and (d) but not 26(1)(b) as the Form 8 NOA requires a 'hearing' and it is not merely a 'matter' per se wherein the Civil Rules Committee, blessed by the LGIC, used the language of 'hearing under Rule 62(5)).

8. The Legislature deliberately distinguishes between a "matter" and a "hearing" in *Court of Appeal Act* (the *COAA*), s. 26. A "matter" is the underlying proceeding; a "hearing" is the adjudicative event. Section 26(1)(a) empowers the Court to modify the conduct of a hearing, whereas s. 26(1)(b) empowers the Court — and only the Court — to decide a matter without a hearing.
9. The Registrar's administrative authority to "receive any matter," as referenced in the *Registrar's Powers Practice Directive* (3 May 2024), cannot override the Legislature's distinction. A Form 8 Notice of Application under Rule 63(2) and *COAA*, s. 35(2) requires a hearing. It is not a "matter" capable of being decided without a hearing unless the Court so orders under *COAA*, s. 26(1)(b).
10. Accordingly, the Registrar cannot treat the Applicant Party's Form 8 Notice of Application as a "matter," cannot block filings based on standing, and cannot exercise judicial discretion under *COAA*, s. 26. The Registrar's role is purely administrative: filings must be accepted or rejected under Rule 38 and the Completion Instructions. Any attempt to convert a hearing-required application into a "matter" is ultra vires.
11. This distinction is reinforced by the structure of the *COAA*. Section 26(1)(a) presupposes that a hearing date exists and that the matter is properly before the Court. Section 26(1)(b) presupposes that only the Court may eliminate a hearing. The Registrar cannot exercise judicial powers under s. 26, nor can the Registrar determine whether a hearing is required. The Applicant Party's Form 8 Notice of Application is a hearing-required application under Rule 63(2), and the Registrar must accept or reject filings under Rule 38 only.
12. The *Registrar's Powers Practice Directive* authorizes the Registrar to "receive and determine other matters related to the management of the conduct of an appeal," but this authority is expressly limited by *COAA*, s. 37(3): if there is any inconsistency between the rules and a practice directive, the rules prevail. The rules require acceptance or rejection of filings under Rule 38, and do not authorize the Registrar to determine standing, party status, or whether a hearing is required.
13. Therefore, the Clerk's refusal to accept the Applicant Party's Form 8 Notice of Application was ultra vires. The Form 8 Notice of Application must be accepted for filing, and the Applicant Party is entitled to a hearing under Rule 63(2) and *COAA*, s. 35(2).
14. The adjudication of acts executed without authority cannot, as a matter of law, be relegated to an administrative process that circumvents the mandatory hearing structure prescribed by the *Court of Appeal Rules*. When an adjudicative body is confronted with allegations of an absolute nullity arising from acts executed by a Justice, by title but that did not belong to her judicial office (Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est) (see: McLean v. Bradley, 1878 CanLII 22 (SCC) as per Sir William Buell Richards, Knt., C.J,, et al) and in part were manifestly absent jurisdiction (see: *coram non judice* (see also: Pong v. Quong, 1927 CanLII 2 (SCC) as per Anglin C.J.C.), the remedy

cannot be administered through a written-only process that eliminates the procedural safeguards inherent in an oral hearing.

15. The definition of an "Order" in s. 1 of the *COAA* expressly includes "a direction or determination specifically authorized or required under an **Enactment**."

16. The purported "Orders" issued by The Honourable Madam Justice Horsman, having been executed outside the boundaries of the governing **Enactment**s and devoid of statutory jurisdiction, fail to meet this threshold definition. They are jurisdictional nullities. To shield the review of such nullities through a written-only process would constitute a denial of natural justice.

17. The declarations and Orders sought—some specifically authorized and some specifically required by an **Enactment** (see: *Interpretation Act*, s. 1)—are determined pursuant to Rule 62 on a standard of review ("SOR") that is not contingent upon filed documents from any of the prescribed "parties" (the "Prescribed Parties"), as the review is conducted by a division panel of Honourable Justices.

PART 1(A): COMPLETION INSTRUCTIONS AND THE MANDATORY HEARING FRAMEWORK

18. "Completion Instructions" are defined as those issued by the Registrar for the proper completion, formatting, and submission of documents under the *Court of Appeal Rules*. These instructions form part of the mandatory procedural architecture and must be complied with by each responding person.

19. While the word "hearing" is not expressly defined under the *COAA* or the *Court of Appeal Rules*, the terms "Hearing Date" and "Obtain a Hearing Date" are defined and governed by the Rules. Critically, Rule 62(5) provides that the Registrar **must** set the date, time, and place for the hearing of an application. The word "must" is imperative (see: *Interpretation Act*, RSBC 1996, c. 238, s. 29), and imposes a statutory duty and obligation.

20. By tying the **Applicant Party**'s Form 4 NOA to the date on which the Registrar sets the hearing of the **Applicant Party**'s Form 8, the **Applicant Party** accomplishes: (a) the avoidance of multiplicity of hearings and/or proceedings; and (b) the avoidance of inconsistent fact-finding.

21. This is permissible as a variation of a "Court Form" pursuant to Rule 79(3), which allows a Court Form to be prepared with variations as the circumstances or the proceedings require.

22. Under s. 29 of the *Interpretation Act*, the words "shall" and "must" are to be construed as imperative. Under s. 29, "obligation" includes a duty and a liability. The imperative nature of "must" falls squarely upon each of the Appellants and Respondents to comply with Rule 62, including the mandatory filing and service of individual Response Books.

PART 1(B): MANDATORY ATTENDANCE AND COUNSEL OF RECORD

23. Rule 64(4) of the *Court of Appeal Rules* states that each party to an application **must** attend the hearing of the application:
    a. (a) in person, or
    b. (b) if permitted under Rule 42, by telephone, video conference, or other means of telecommunication.
24. The LSBC is represented by Lawson Lundell LLP. The TLABC and Mr. Westell are represented by Fasken LLP. The AGBC and LGIC are represented by government counsel.
25. Rule 64(5) provides that a person's lawyer may attend on behalf of that person. Accordingly, Lawson Lundell LLP cannot attend on behalf of the TLABC, Mr. Westell, the AGBC, or the LGIC, as it is not counsel of record for those persons. Each counsel of record must attend on behalf of their respective clients and the Prescribed Parties.

PART 1(C): STATEMENT OF ISSUES AND BRIEF ANSWERS TO ISSUES

26. The **Applicant Party** identifies the following issues for determination, sequenced chronologically the procedural defects leading to substantive defects, void ab initio documents (non "Court Forms") which were incapable of being accept for filing:
    a. Issue #1 Leaving aside that the Purported Opposing Parties did not submit for filing a Response Book, the first issue is whether the Purported Opposing Parties attempted to serve a filed copy of the *Joint Response Book* [sic] within seven days of being served with the Applicant Party's Application Book.
        1. Answer: As demonstrated in the Applicant Party's appendicised emails at Appendix #1 and Appendix #2, the Purported Opposing Parties failed to attempt service of the *Joint Response Book* [sic] on each Party under the *Court of Appeal Rules* within seven days of service of the Applicant Party's Application Book.
    b. Issue #2: Whether the Purported Opposing Parties' failure to file and serve a Response Book not more than seven days after being served with the Applicant Party's Application Book confirms, by their conduct, that they did not wish to respond to the Applicant Party's Application Book.
        1. Answer: By clear Enactment language and unassailable corollary and syllogism, the Purported Opposing Parties—leaving aside their failure to submit a compliant

Response Book in accordance with the Completion Instructions—confirmed by their conduct that they did not wish to respond to the Applicant Party's Application Book.

c. Issue #3: (a) Leaving aside that the Purported Opposing Parties did not submit a document capable of being filed, whether they could de jure serve the *Joint Response Book* [sic] on the Prescribed Parties under Rule 64(1)(a) (the Applicant Party) and Rule 64(1)(b) (the other Prescribed Parties served with the Applicant Party's Form 8, Application Book (September 15), and Book of Authorities (September 18, 2026)). (b) Whether the Purported Opposing Parties, through Mr. Andrews of Lawson Lundell LLP on Monday, September 21, 2026, purported service of what Mr. Andrews described as a "Response Book," thereby serving the Applicant Party with the *Joint Response Book* [sic].
    1. Answer: The germane subrule requires service of a Response Book, not a *Joint Response Book* [sic]. The only joint books permitted are Joint Appeal Books and Joint Books of Authorities (see *COAA*, ss. 26–27). As such, the Purported Opposing Parties could not serve any Prescribed Party de jure. Their purported service on the Applicant Party was not service de jure. As they did not attempt service on the other Prescribed Parties, the issue is simply non-compliance.

d. Issue #4: Whether the Purported Opposing Parties had authority to prepare, submit for filing, or purport to serve the Applicant Party with the *Joint Response Book* [sic] and its accompanying letter.
    1. Answer: Rule 62(4) imposes mandatory obligations (see *Interpretation Act*, s. 29) on "a person" who wishes to respond to an Application Book: to file and serve a Response Book on each Rule 64(1)(a) and (b) Party not more than seven days after being served, and in accordance with the Completion Instructions. Each Responding Prescribed Party failed to: (i) file; (ii) serve; (iii) a Response Book; (iv) on each Rule 64(1)(a) and (b) Party; (v) within seven days or at all; and (vi) in accordance with the Completion Instructions.
    2. The *Joint Response Book* [sic] is a nullity at law. The accompanying letter is likewise a nullity. A Response Book is not a "Court Form" but is a document subject to Completion Instructions. The *Joint Response Book* [sic] did not comply with any mandatory requirement.

e. Issue #5: Whether the Registrar had jurisdiction to accept the *Joint Response Book* [sic] for filing. More specifically, whether acceptance of a filing category not authorized by any Enactment constitutes an ultra vires act, and whether such acceptance is a "direction"

within the meaning of *COAA*, s. 1, thereby engaging the Applicant Party's right to seek cancellation under *COAA*, s. 35(2) and Rule 63.

1. Answer: The Registrar is a creature of statute, with no powers outside the four corners of the *COAA* and the *Court of Appeal Rules*. Any act outside those limits is ultra vires, void ab initio, and of no force and effect. Under *R. v. Verma*, para. 20, if a document complies with the rules and a person insists on filing it, the Registrar must accept it. Conversely, where a document does not comply with: (i) its required name; (ii) the requirement that each Prescribed Party file its own Response Book; (iii) the non-variability of documents outside Schedule 3; and (iv) the Completion Instructions, the Registrar cannot accept it.
2. The Registrar, Associate Registrar, and Deputy Registrar (see *COAA*, s. 1) are officers of the Court (see *COAA*, s. 10) and must conduct Appeals in accordance with the Act and Rules (see *COAA*, s. 18). Rule 62(4) and Rule 64(1)(a) and (b) squarely govern the requirements. The Registrar may only exercise powers conferred by the Rules or by the Chief Justice. Any inconsistency between a Chief Justice authorization and the Rules is resolved in favour of the Rules (see *COAA*, s. 37(3)).
3. The Completion Instructions required a cover page that prohibited filing of a *Joint Response Book* [sic]. On that ground alone, the Registrar could not accept it.

f. Issue #9: Whether the Court should strike and expunge the *Joint Response Book* [sic] as void ab initio, a nullity, void, and of no force and effect. More specifically, whether the fabricated filing category, adversarial consolidation, service defects, and structural non-compliance justify striking the document under Rule 53, Rule 54, *COAA*, s. 18(2), and *Supreme Court Civil Rules*, Rule 95.

1. Answer: The issue answers itself. The experienced counsel for the LSBC, TLABC and Mr. Westell, and AGBC and LGIC must have known their actions were prohibited by the *COAA*, the *Court of Appeal Rules*, other Enactments, and their professional obligations. As the public may review filed documents in the Record of Proceedings, the *Joint Response Book* [sic] must be expunged to prevent reliance on an unlawful filing.

g. Issue #10: In light of the independent, concurrent, and intertwined non-compliance with the Act and Rules by the Purported Opposing Parties, must the review division panel exercise its authority to decline to hear from the Purported Opposing Parties in relation to the Form 8 Notice of Application?

1. Answer: The Purported Opposing Parties' conduct contains numerous egregious violations of the Act and Rules. They must not be heard. To hear them would require one counsel to speak for all five Prescribed Parties, further undermining the Act and Rules.

h. Issue #11: Whether the review division panel, being required to conduct Appeals in accordance with the Act and Rules, must exercise its authority to declare the LSBC and TLABC/Mr. Westell's Appeals abandoned.

1. Answer: Jurisprudential principles confirm that where breaches are numerous and not merely irregularities, dismissal as abandoned is not Draconian. The misconduct here—carried out by experienced counsel for all five Prescribed Parties, without seeking leave to dispense with the Rules, and in the face of a validly filed and served Form 8, Application Book, and Book of Authorities—requires dismissal of the Appeals as abandoned. The remaining issues in the Form 8, confined to questions of law, should be argued by the Applicant Party.

PART 2: THE ATTEMPTED PROCEDURAL TRAP, PROVISION (NOT SERVICE) OF LEGAL FICTION DOCUMENTS, AND THE DEFINITION OF "PARTY" UNDER THE *COURT OF APPEAL RULES*

27. The **Applicant Party** formally notifies this Honourable Court of the procedural mechanism deployed by the **Purported Opposing Parties** through premature, extra-statutory correspondence. The transmission of letters and documents prior to the crystallization of statutory deadlines operates as an attempted procedural trap designed to compel the **Applicant Party** into an informal exchange outside the mandatory framework of the *Court of Appeal Rules*.

28. The architecture of this attempted trap is straightforward: by communicating through informal correspondence and seeking extra-**Enactment** consensus or acquiescence and/or taking a fresh step with knowledge of what it would inevitably claim was an irregularity but *de jure* a nullity, the **Purported Opposing Parties** endeavour to induce the **Applicant Party** into implicitly accepting their flawed premise—namely, that only the formalized Appellants and Respondents constitute "Parties" to these proceedings.

29. Simply put, the Appellants and Respondents are appellate "Statutory Parties," but they were and are not the only "Prescribed Parties" under the *Court of Appeal Rules*. The mandatory service matrix under Rule 62(4) and Rule 64(1)(b) extends beyond the narrow subset of Appellants and Respondents.

30. The **Applicant Party** expressly declines to validate this exclusionary posture and formally refuses to respond to extra-statutory correspondence that is not transmitted in accordance with the *Court of Appeal Rules*.

31. Furthermore, the mechanics of service under the modernized regime are mathematically precise and cannot be bypassed through the tactical provision of documents to only some of the Prescribed Parties. Rule 4(3) of the *Court of Appeal Rules* governs deemed service by email or fax and provides:

> "A document transmitted for service by email or fax is deemed to be served as follows: (b) if the document is transmitted at either of the following times, the document is deemed to be served on the next business day: (i) after 4 p.m. on a business day."

32. This deeming provision is mandatory and cannot be circumvented by informal correspondence.

33. While it would have been open to the **Applicant Party** to wait until 4:01 p.m. on September 22, 2026, such a step would have played into the **Purported Opposing Parties**' attempted procedural manoeuvre. More critically, it would not matter, *de jure*, whether the **"Joint Response Book [Sic]"** was transmitted before or after 4:00 p.m., as the document is a legal fiction per se. A "Court Form" may be varied under Rule 79(3)(a), but a Response Book is not a Court Form and must be completed in accordance with the Completion Instructions, filed, and then served on *each* Rule 64(1)(a) and (b) "Party" (see: Rule 62(4)).

34. If the **Purported Opposing Parties**' extra-**Enactment** correspondence and defectively provided documents were transmitted after the 4:00 p.m. threshold, they are strictly deemed served on the next business day. The **Applicant Party** relies absolutely upon the precision of the *Court of Appeal Rules* and rejects any attempt to manipulate timelines or construct artificial urgency through non-compliant, late-afternoon transmissions.

PART 3: THE EXCLUSIVITY OF SECTION 32 DISPENSATION POWERS AND RULE 41

35. The **Purported Opposing Parties**' attempt to dispense with the mandatory oral hearing requirement of Rule 62 through an informal letter to the Registrar constitutes a clear error of law and a circumvention of the *COAA*. The statutory architecture governing the dispensation of Rules and the extension or abridgment of timelines is rigid, exclusive, and strictly reserved for the judiciary.

36. Section 32(1) of the *COAA* explicitly and unequivocally delineates the jurisdictional boundary: **"A justice may dispense with a requirement of the Rules."** This extraordinary power is conferred solely upon a justice. The statute does not authorize the Registrar to dispense with any requirement of the *Court of Appeal Rules*, nor does it permit litigants to dispense with mandatory Rules through consensus, correspondence, or informal communication. The Registrar is statutorily barred from entertaining any informal request to abandon an oral hearing mandated by Rule 62.

37. Furthermore, should the **Purported Opposing Parties** attempt to characterize their request as involving an extension or abridgment of time limits, s. 32(3) of the *COAA* dictates that a justice may extend a time limit even if it has expired. However, such an extension is subject to strict procedural prerequisites. Section 32 is inextricably tethered to Rule 41 of the *Court of Appeal Rules* (General Applications), which governs applications to vary timelines or dispense with procedural requirements.
38. To successfully invoke the dispensation or extension powers under s. 32, the defaulting or moving party must apply formally. Under the *Court of Appeal Rules*, an application to a justice to dispense with a Rule or vary a timeline requires a specific evidentiary and procedural matrix, including: (a) the filing of a formal Notice of Application in Form 4; (b) the filing of supporting Affidavits containing the requisite evidentiary foundation; and (c) the submission of a Written Argument.
39. The **Purported Opposing Parties** have filed none of these mandatory instruments. They have submitted: (a) no Form 4; (b) no sworn evidence justifying dispensation of the requirements of the *Court of Appeal Rules* to: (i) file a Response Book; (ii) serve a filed Response Book; (iii) file and serve a Response Book on each Party; and (c) no materials addressing any other mandatory requirements under the *Court of Appeal Rules*.
40. By attempting to secure a s. 26 written-only hearing—transmitted only to the **Applicant Party**—via a letter sent solely through the LSBC, the **Purported Opposing Parties** have engaged in a procedural approach that is incompatible with the *COAA* and the *Court of Appeal Rules*.
41. Simply put, they have engaged in obstructionist conduct which can only be inferred to be, with such experienced legal counsel, to be intentional violations of law.
42. Their failure to comply with the mandatory statutory and rule-based requirements is complete, and their attempt to bypass Rule 62 through informal correspondence is without legal foundation. Such acts were not merely voidable but void ab initio, void, and of no force and effect. Parties, statutory and/or prescribed, cannot even waive by consent, requirements of the *COAA* and the *Court of Appeal Rules* as only a Justice may do so.

PART 4: THE PROCEDURAL INVALIDITY OF THE "JOINT RESPONSE BOOK [SIC]", ADVERSARIAL ALIGNMENT, AND RULE 63

43. The **Applicant Party** brings this Form 4 Notice of Application to strictly enforce the pure, rule-based appellate geometry of the *Court of Appeal Rules*.
44. The instrument accepted as filed by the Registrar—submitted presumably by the LSBC on behalf of the **Purported Opposing Parties** and styled as a **"Joint Response Book [Sic]"**—is a procedural phantom.

The *Court Services Online* ("CSO") portal does not permit the filing of any joint adversarial "document" (see: Rule 1(1)). The only joint filing categories authorized under the *Court of Appeal Rules* are: (a) joint appeal books; and (b) joint books of authorities.

45. The *Court of Appeal Rules* simply do not authorize a **"Joint Response Book [Sic]"**. The Registrar possessed no jurisdiction under any **Enactment** to accept such a legal-fiction document. It is a fabricated filing category entirely absent from the governing statutory and regulatory framework.

46. Rule 62(4) explicitly dictates the mandatory obligations for responding to an application to vary: **"A person who wishes to respond to an application book… must file and serve… a response book."** The Rule imposes a singular, individual obligation on **"a person"** to file **"a response book."** Not joint. Not combined. Not consolidated. A response book. Singular.

47. It is axiomatic that the LSBC is a singular Appellant under the file number assigned to its Appeal, and the TLABC and Mr. Westell are singular Appellants under the file number assigned to their Appeal. The AGBC is a singular Respondent. Each is required to file and serve their own individual Response Book.

48. The word "joint" is entirely absent from the *COAA 2021*. However, the word "joint" appears exactly fourteen times within the modernized *Court of Appeal Rules 2022*. A rigorous statutory construction reveals that the Legislature specifically and exclusively authorized "joint" filings **only** in the context of: (a) a "joint appeal book" (Rule 26(1), (4), and (5)); (b) a "joint book of authorities" (Rule 28(3) and (4)); and (c) a "joint appeal book on cross appeal" (Rule 30(1) and (2)).

49. There is a fundamental structural reason why the Rules allow "joint" filings strictly for appeal books and books of authorities: these are neutral, administrative compilations of shared evidentiary materials. A joint appeal book is prepared jointly by all parties to organize the record. It is an administrative efficiency.

50. Conversely, a Response Book under Rule 62 is not a neutral compilation; it is an adversarial submission. It contains argument, procedural posturing, and sworn affidavits. The Rules deliberately do **not** permit joint adversarial filings. The Registrar cannot spontaneously create such a category, nor can the Registrar consolidate adverse parties into a single "unit" with a single **"Joint Response Book [Sic]"**.

51. This structural defect is fatal given the specific adversarial alignment of the parties in CA51535 and CA51536. The LSBC is an Appellant under its designated file number. The TLABC and Mr. Westell are joint Appellants under the designated BCCA file number. The AGBC is a Respondent. While the LSBC, and TLABC and Mr. Westell, could not file a **"Joint Response Book [Sic]"**, adding the AGBC and LGIC are purported joint completers under a singular filer, through counsel to the LSBC's CSO filing account, was particularly egregious when the AGBC and LGIC are adverse parties in the underlying litigation to the LSBC, TLABC and Mr. Westell and adverse statutory parties under the *COAA*. The Rules do not permit adverse parties to file a joint, consolidated adversarial response. This is a categorical defect of procedural alignment.

52. Furthermore, any attempt by the **Purported Opposing Parties** to justify the fabrication of a **"Joint Response Book [Sic]"** by relying on the variation allowance under Rule 79 is fundamentally doomed by strict statutory definitions. Rule 79(1) defines a "Court Form" precisely as "a document that is required under these Rules to be filed using a specified form [set out in Schedule 3]." While Rule 79(3)(a) allows a Court Form to be prepared "with variations as the circumstances or the proceedings require," a Response Book is **not** a Court Form.
53. A Response Book is a substantive document governed exclusively by Rule 62 and the Completion Instructions. However, it is **not** a "Court Form" and cannot be varied as It is entirely absent from the forms codified in Schedule 3. Ergo, the statutory allowance for "variations" is categorically inapplicable. The title page submitted by the institutional litigants—boldly declaring itself a **"Joint Response Book [Sic]"** on behalf of both Appellants and Respondents—is an unauthorized fabrication that cannot be saved by Rule 79. Because it is not a Court Form, it cannot be varied. It is an illicit document that must be summarily struck.
54. As established above, only a justice may dispense with compliance with the Rules pursuant to s. 32(1) of the *COAA*. The Registrar cannot modify Rule 62 or accept filings not authorized by the Rules. Therefore, the Registrar could not accept a **"Joint Response Book [Sic]"** unless a justice explicitly ordered it. No such dispensation order exists. The filing is *ultra vires*, irregular on its face, and improperly before the Court.
55. Furthermore, the lack of service is not merely cosmetic; it is a profound substantive defect. Rule 62(4) requires service of the Response Book "on each party." The **Purported Opposing Parties** failed to serve the broader matrix of counsel and interveners. This defect affects the validity of the **Joint Response Book** [sic], the ability of the Court to rely upon it, and the fundamental fairness of the Rule 62 process.
56. Because the Registrar's acceptance of this fabricated instrument constituted a "direction", but not an Order, under the *COAA*, the **Applicant Party** is mathematically required to bring this Rule 63 application to set aside that direction and formally strike the unauthorized document from the record. However, the end result is the same relating to the invalidity of the **"Joint Response Book [Sic]"** albeit the consequential relief of striking and expunging is distinct.

PART 5: THE STATUTORY MANDATE OF RULE 62 AND THE PROHIBITION OF NULLITIES

57. It is systematically acknowledged that Rule 62(5) of the *Court of Appeal Rules* explicitly mandates that the date, time, and place for the hearing of an application under said Rule **must** be set by the Registrar. The public-facing guidance of the Court of Appeal further notes that such hearings are presumptively 30 minutes in duration.

58. The imposition of a strict thirty-minute temporal limitation unequivocally signifies the Legislature's contemplation and mandate of an **oral hearing**. Limiting the time for a hearing that is purely written is a logical impossibility and a procedural absurdity. A written-only process has no "hearing time" to limit. Consequently, the invocation of s. 26(1)(c) or s. 26(1)(d) of the *COAA* to limit or eliminate the hearing is strictly ***ultra vires*** the specific statutory architecture governing variance applications under Rule 62.
59. As dictated by the venerable maxim *generalibus specialia derogant* (special provisions derogate from general ones), the specific temporal and structural requirements formulated exclusively for variance applications in Rule 62(5) strictly override the generalized, discretionary parameters of s. 26 of the *COAA*. A failure to apply the governing statutory text to orchestrate the hearing constitutes a pure, extricable error of law.

PART 5(A): SECTION 19 OF THE COAA: IRREGULARITIES VS. NULLITIES

60. Section 19 of the *COAA* provides that an Appeal is not defeated by an "irregularity or procedural error" in the conduct of the appeal. Section 19(2) empowers a justice to validate an act, impose terms, or make any order necessary to address such irregularities or procedural errors.
61. However, the statutory protection afforded by s. 19 applies **only** to irregularities — not to **nullities**. A nullity is not an "irregularity" within the meaning of s. 19(1). A nullity is a legal non-event: an act done without jurisdiction, without authority, or contrary to an **Enactment**. A nullity cannot be validated, cured, or retroactively regularized under s. 19(2). It is void ab initio.
62. The acceptance for filing of a **"Joint Response Book [Sic]"** by the Registrar is not an irregularity; it is a **nullity**. The Registrar had no jurisdiction under any **Enactment** to accept a fabricated filing category not authorized by the *Court of Appeal Rules*. The document is not merely defective — it is legally impossible. It is a filing that the Rules do not permit to exist.
63. Because s. 19 cannot cure a nullity, the **"Joint Response Book [Sic]"** cannot be validated, cannot be regularized, and cannot be salvaged by judicial discretion. It must be struck. The **Applicant Party** is therefore mathematically required to bring this Rule 63 application to set aside the Registrar's acceptance of the nullity and to formally expunge the unauthorized document from the record.

PART 6: NOVELTY, THE PUBLIC INTEREST, AND THE OPEN COURT PRINCIPLE

64. The present opposition engages a novel and unresolved issue of law under the modernized *COAA 2021* and the contemporary *Court of Appeal Rules 2022*. The interaction between the mandatory hearing parameters of Rule 62 and the discretionary written-only mechanisms of s. 26 of the *COAA*, in the context

of an unauthorized request not properly predicated *de jure*, remains an undecided and critical frontier of appellate jurisprudence in British Columbia.

65. The procedural mechanism advanced by the **Purported Opposing Parties** fundamentally engages the open court principle, a constitutional pillar of the Canadian justice system protected under s. 2(b) of the *Canadian Charter of Rights and Freedoms*. As articulated by the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25, and *Vancouver Sun (Re)*, 2004 SCC 43, the public ventilation of judicial proceedings is essential to maintaining institutional legitimacy, democratic accountability, and public confidence in the administration of justice.

66. The present application does not concern routine interlocutory matters. It is tethered to allegations of serious state-action irregularities and the procedural consequences arising from those allegations. The public holds a legitimate interest in observing the appellate division address the statutory, procedural, and jurisdictional issues raised in open court. This matter engages the highest level of public interest in the proper functioning of the justice system.

67. By seeking to force this adjudication into a written-only process under s. 26 of the *COAA*, the **Purported Opposing Parties** attempt to bypass the mandatory oral hearing structure prescribed by Rule 62. Such an approach would improperly quarantine the adjudication of issues that, by their nature, require public ventilation and judicial transparency. The open court principle prohibits the displacement of an oral hearing where the governing **Enactment**s mandate one.

PART 7: THE INAPPLICABILITY OF THE SECTION 26 JURISPRUDENCE

68. Assuming arguendo that the **Applicant Party** was put to argue the same, he respectfully provides the following.

69. The jurisprudential authorities proffered by the **Purported Opposing Parties** to substantiate the dispensation of an oral hearing are categorically distinguishable, factually impoverished, and profoundly inapplicable to the present matrix. The discretionary authority encapsulated within section 26 is customarily reserved for matters devoid of substantive complexity or wherein the administration of justice is uncontrovertibly served by written submissions.

70. A rigorous legal deconstruction of the authorities relied upon demonstrates their absolute irrelevance to an application addressing a jurisdictional nullity, as elucidated within the comparative table below:

Authority	Procedural Context	Distinguishing Factor (Nullity vs. Irregularity)

Gonzalez v. British Columbia (Attorney General), 2023 BCCA 155	Vexatious litigant, obvious lack of merit in an application for review.	The appellate tribunal dispensed with an oral hearing strictly upon the foundation of a lack of merit involving an existing vexatious litigant. The present matter engages profound constitutional issues, novel interpretations of the 2021 *COAA*, and strict *ultra vires* actions by a chambers justice.
Vesuna v. Stillwater Waterworks District, 2023 BCCA 431	Consent disposition regarding an *ex parte* substituted-service order.	Engaged a scenario wherein an appeal was allowed by absolute consent. In the present circumstances, vigorous, unyielding opposition is registered against the circumvention of the open court principle.
Raju v. Red Door Housing Society, 2025 BCCA 340	Judicial review of a residential tenancy dispute involving voluminous materials.	Involved a standard administrative review concerning residential tenancies. Here, the underlying issue is fundamental procedural fairness, acts executed *coram non judice*, and the suppression of forensic evidence.
Portnov v. Alexander Holburn Beaudin + Lang LLP, 2026 BCCA 193	Adjournment request where comprehensive materials were already filed.	Involved an adjournment request on a pedestrian civil practice issue. The instant matter engages catastrophic jurisdictional usurpation demanding absolute transparency.

71. By attempting to rely upon the aforementioned jurisprudence, the **Purported Opposing Parties** have strategically endeavoured to conflate a catastrophic jurisdictional nullity with a mere procedural irregularity. The adjudication of a nullity requires the purifying sunlight of an oral hearing.

PART 8: THE EVIDENTIARY VOID AND THE ABUSE OF PROCESS

72. The tactical refusal of the institutional litigants to engage with the substantive forensic evidence—electing instead to file an unauthorized **"Joint Response Book [Sic]"** that labels an exhaustively cited fifty-seven-page legal argument detailing unconstitutional state-sponsored digital incursions as indecipherable—crystallizes the evidentiary void.

73. It is advanced that the attempt to utilize the section 26 mechanism operates as a transparent stratagem to shield the profound constitutional violations, the Deflate64 compression algorithms masking the true binary state of the extracted files, and the binding formal admissions from public ventilation. Such a maneuver is *ipso facto* an abuse of process.
74. The administration of justice is incontrovertibly prejudiced when severe jurisdictional defects are swept into an administrative vacuum. Section 26 cannot be weaponized by institutional litigants to insulate themselves from accountability regarding actions that were executed without the requisite jurisdiction and thus rendered absolute constitutional nullities.

PART 9: STRIKING THE "JOINT RESPONSE BOOK [SIC]"

75. Under this heading, the **Applicant Party** repeats and relies upon his argument contained in his filed Application Book of September 15, 2026.
76. In the absence of an explicit provision within the *Court of Appeal Rules* specifically governing the striking of unauthorized, incidental responsive documents, the adjudicative body is mandated by section 18(2) of the *COAA* to apply the *Supreme Court Civil Rules* by analogy. Consequently, Rule 9-5 of the *BCSC Civil Rules* is irrevocably engaged to adjudicate the expungement of the Appellants' **"Joint Response Book [Sic]"** and associated memoranda.
77. In *Walker v. John Doe*, 2014 BCSC 830, The Honourable Mr. Justice Butler definitively established that the jurisdiction granted by Rule 9-5(1) extends far beyond originating pleadings to encompass "other documents" filed within a proceeding. The deliberate insertion of cost-threats into boilerplate notices was struck as an abuse of process. By analogy, the deliberate insertion of a fabricated, procedurally non-existent **"Joint Response Book [Sic]"** into the appellate registry—explicitly designed to bypass the mandatory service matrix and consolidate adverse parties into an unlawful alliance—constitutes an analogous misuse of procedural mechanisms demanding expungement.
78. Applying the jurisprudence of Rule 9-5(1)(b) and (c), the impugned filings are demonstrably scandalous, frivolous, and inherently prejudicial (*Gill v. Canada*, 2013 BCSC 1703; *McNutt v. A.G. Canada*, 2004 BCSC 1113). They serve no useful purpose because they advance arguments predicated upon a defunct 2018 lower-court order, constituting a direct, impermissible collateral attack upon the Court of Appeal's own subsequent acceptance of jurisdiction in docket CA45786 (*Wilson v. The Queen*, 1983 CanLII 35 (SCC)).
79. Furthermore, applying Rule 9-5(1)(d), the filings constitute an absolute abuse of process. As definitively articulated by the Supreme Court of Canada in *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26, the failure of a party to challenge jurisdictional validity at the appropriate temporal juncture—opting instead

to deploy self-help remedies and subsequently mount a defense based upon those unaddressed historical grievances—constitutes a flagrant abuse. The Appellants deliberately slept on their rights during the 2019 appellate proceedings (*McLean v. British Columbia*, 2019 BCCA 133) and are now strictly estopped from manufacturing a retroactive standing objection. The analogous application of Rule 9-5 demands the immediate striking of the Joint Response Book and the offending memoranda.

PART 10: THE NON-IRREGULARITIES IN THE FORM OF THE NULLITIES AND CONSEQUENTIAL RELIEF

80. Rule 36 authorizes a Justice to do the following when there has been a "failure to comply:

36 A justice may do one or more of the following if a party fails to comply with this Act or the rules or an order or direction of the court, a justice or the registrar:

(a)refuse to hear the party;

(b)impose terms and conditions, including the payment or disallowance of costs;

(c)if the party is an appellant, dismiss the appeal as abandoned.

81. The former section , which read as follows, from 1996 to 2021:

> Non-compliance
> 28 If a party fails to comply with this Act or the rules, the court or a justice may
>
> (a)dismiss the appeal as abandoned if the party is the appellant,
>
> (b)refuse to hear the party, or
>
> (c)impose terms including terms respecting the payment or disallowance of costs or disbursements.

82. Both the current s. 36 and former s. 28 use the word "party," referring to a Statutory Party. The repealed section permitted either the Court or a justice to exercise the dismissal and refusal jurisdiction. Under the current s. 36, only a justice may do so.

JURISPRUDENCE UNDER CURRENT SECTION 36

83. Most jurisprudence under the current s. 36 concerns failures to pay security for costs or failures to file documents within prescribed timelines.

84. In *Momeni v. Percy*, 2023 BCCA 295, former tenants (appellants) attempted to serve an appeal record on their landlords (respondents) via registered mail. The respondents applied to dismiss the appeal as

abandoned under s. 36(c) because registered mail is not a permitted method of service under the *Court of Appeal Rules* unless explicitly authorized. Although the justice agreed the service was invalid, dismissal was considered too "draconian" for an early-stage misstep that was not egregious.

85. Here, by contrast, the Purported Opposing Parties did not merely choose an improper method of service. The *Joint Response Book* [sic] was and is a nullity on its face and in substance, incapable of being served at law. The numerous violations of the *COAA* and the *Court of Appeal Rules* are far more egregious than the conduct of self-represented tenants in *Momeni*.

86. Moreover, the Purported Opposing Parties' failure even to attempt service of the *Joint Response Book* [sic] on each Party under Rule 62(4), citing Rule 64(1)(b), supports the inference that they knew the *Joint Response Book* [sic] was a nullity at law. Their conduct is consistent with bad faith, dishonesty, and fraud on the Court.

87. By syllogism, granting relief dismissing the Appeals as abandoned is not too draconian when considering the numerous, intertwined violations of the *COAA* and the *Court of Appeal Rules*

JURISPRUDENCE UNDER THE FORMER SECTION 28 OF THE COAA

88. In *British Columbia v. Leyen*, 2006 BCCA 180, Justice Davies held that where Appeals are hopeless, this militates in favour of dismissing the Appeals as abandoned.

89. The Applicant Party repeats and relies upon the filed documents in the Application Book regarding the hopeless nature of the Appeals, including fraud on the Court, the law of admissions without any cross-appeal, and abuse of process (which has continued as a pattern by the LSBC).

PART 11: NATURE OF THE ORDERS REQUESTED

90. The **Applicant Party** respectfully requests the following relief on a preliminary basis and prior to the hearing of his Form 8 (September 9, 2026) supported by his filed Application Book (September 15, 2026) and his BOA (September 17, 2026):

Part 11(A): Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and
D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Part 11(B): Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings")

in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule

41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.
Dated at the City of Toronto, Province of Ontario, this 25th day of September 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party
68 Abell St. (Receptionist desk) Toronto, ON M6J 0B1
Email: mclean@searchandseizure.ca

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.
[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a "Court Form" and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a "Response Book" is not discretionary as it must be prepared in accordance with the "Completion Instructions". Part of the "Completion Instructions" required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page
Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of "filing parties" is not required for joint book like a "Joint Appeal Book" (see: Rule 26) or a "Joint Book of Authorities" (see: Court of Appeal Rules, rule 27)

APPENDIX “A”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535/CA51536 - Service of Response Book and Letter

5 messages

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 6:26 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Please find attached the Joint Response Book of the parties, filed today in response to your application to vary or cancel the order of Justice Horsman.

Also attached is a letter from the parties to the Registrar of the Court of Appeal, which we will be filing momentarily. We will provide you with a filed copy of the letter in due course.

Regards,

Jonathan

Jonathan Andrews | Associate
D 604.631.9270 | **E** jandrews@lawsonlundell.com
Lawson Lundell LLP 1600 - 925 West Georgia Street, Vancouver, BC V6C 3L2
Vancouver | Calgary | Yellowknife | Kelowna

Disclaimer - This email and any accompanying attachments contain confidential information that may be subject to solicitor-client privilege and are intended only for the named recipients. If you have received this email in error, please notify the sender and destroy the email. Our e-mail terms of use can be found at https://www.lawsonlundell.com/legal/terms

2 attachments

Joint Response Book - Vary Order of a Justice - F_ September 21, 2026.PDF
874K

2026-09-21 LT Court of Appeal (Registrar) re Kevin McLean Rule 62 Application.PDF
267K

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 7:03 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews

<wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Further to my email below, here is a filed copy of the letter.

Regards,

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

[Quoted text hidden]
[Quoted text hidden]

2026-09-21 LT Court of Appeal Registrar - F_ September 21, 2026.PDF
268K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 2:48 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Subject: CA51535 / CA51536 – Service of “Joint Response Book” [sic] – confirmation of receipt not service *per se*

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I thank Mr. Andrews for his two emails and confirm receipt of the same.

I also confirm receipt of your “Joint Response Book” [sic] purportedly filed today in response to my application to vary or cancel the order of Justice Horsman. As you are aware, the Court of Appeal Rules do **not** authorize a “joint” response book, and such a filing is a **nullity** under Rule 62.

Leaving that aside, Rule 62(4) requires that *each person* who wishes to respond must file and **serve** a response book on the applicant and on **each party** described in Rule 64(1)(b). Based on the recipients included in Mr. Andrews’ email, I will presume that this “Joint Response Book” [sic] was **not** served on all Rule 64(1)(b) parties.

If purported service was effected separately (i.e., by a separate email to the prescribed parties), please provide proof of service forthwith.

I will address the remainder of the issues involving the same separately but it was important to confirm that (as the email addresses based upon a cursory review do not appear to include all legal representatives of parties as passed by the LGIC in 2022 under the Court of Appeal Rules) some “Prescribed Parties” were not included and were not served within seven days of a receipt of my Application Book.

I reserve all of my rights in fact and at law.

Regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Appendix – Rule 62(4)

“A person who wishes to respond to an application book filed under subrule (2)(b) must file and serve, on the applicant and on each party not more than 7 days after being served the application book, a response book prepared in accordance with the completion instructions.”

[Quoted text hidden]

Jonathan Andrews <jandrews@lawsonlundell.com> Wed, Sep 23, 2026 at 3:31 PM
To: "Mr. Kevin Alexander McLean" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean, we acknowledge receipt of your email.

Regards,

Jonathan

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

From: Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>
Sent: Wednesday, September 23, 2026 11:49 AM
To: Jonathan Andrews (3270) - 14Flr <jandrews@lawsonlundell.com>
Cc: Lapper, Emily AG:EX <emily.lapper@gov.bc.ca>; Trevor.Bant <trevor.bant@gov.bc.ca>; Ortega, Sergio AG:EX <sergio.ortega@gov.bc.ca>; Karin.Kotliarsky <karin.kotliarsky@gov.bc.ca>; Gavin Cameron <gcameron@fasken.com>; tposyniak <tposyniak@fasken.com>; Laura Abrioux <labrioux@fasken.com>; Will

Andrews <wandrews@fasken.com>; Craig Ferris (3197) - 14Flr <cferris@lawsonlundell.com>; Laura Bevan (3106) - 14Flr <lbevan@lawsonlundell.com>; Nicole Welsh (3193) - 14Flr <nwelsh@lawsonlundell.com>; Lindy Grant (3258) - 14Flr <lgrant@lawsonlundell.com>; Nastasia Virvilis (3497) - 14Flr <nvirvilis@lawsonlundell.com>
Subject: Re: CA51535/CA51536 - Service of Response Book and Letter

> EXTERNAL EMAIL - This email was sent by a person from outside your organization.

[Quoted text hidden]

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:37 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Thank you kindly Mr. Andrews and I hope you are all well. You will want to review my email to all of the Rule 64(1)(b) ‘parties’ (persons therein). I will be somewhat strict herein without being rude that all future correspondence regarding these issues shall be in that email thread. Please respond therein and I will respond in kind should any further correspondence be applicable or required.

[Quoted text hidden]

APPENDIX “B”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK" and non-service on ALL "Prescribed Parties" within seven days of September 15, 2026

1 message

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:31 PM
To: Chambers <Chambers@bccourts.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, lkt@tdslaw.com, Ian Knapp <iknapp@macfuj.com>, amackenzie@macfuj.com, "XT:Olthuis, Brent AG:IN" <bolthuis@ovcounsel.com>, dredman <dredman@arvayfinlay.ca>, David Wu <dwu@arvayfinlay.ca>, cbildfell@mccarthy.ca, "Frame, Lindsay" <lframe@mccarthy.ca>, roy.millen@blakes.com, nicholas.tollefson@blakes.com, joey@doyledefence.ca, ekirkpatrick@mcewanpartners.com, cdauvergne@litigationchambers.com, jmaclaren@accessprobono.ca, kyla@vancouvercriminallaw.com, rpeck@peckandcompany.ca, csenini@peckandcompany.ca, pmueller@peckandcompany.ca, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, cferris <cferris@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, mring@lawsonlundell.com, ccrane <ccrane@ovcounsel.com>, Chris Pang <cpang@ovcounsel.com>, mmiharija@ovcounsel.com, szarb@macfuj.com, "Lever, Vanessa AG:EX" <vanessa.lever@gov.bc.ca>, "KDOUMAKIS@mccarthy.ca" <KDOUMAKIS@mccarthy.ca>, kotto@lawsonlundell.com

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Reply via email: mclean@searchandseizure.ca

Date: September 23, 2026
Classification: Private and Confidential
Sending method: Via Email at first instance

To: Chambers@bccourts.ca; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; emily.lapper@gov.bc.ca; trevor.bant@gov.bc.ca; karin.kotliarsky@gov.bc.ca; sergio.ortega@gov.bc.ca; lkt@tdslaw.com; iknapp@macfuj.com; amackenzie@macfuj.com; bolthuis@ovcounsel.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; cbildfell@mccarthy.ca; lframe@mccarthy.ca; roy.millen@blakes.com; nicholas.tollefson@blakes.com; joey@doyledefence.ca; ekirkpatrick@mcewanpartners.com; cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; kyla@vancouvercriminallaw.com; rpeck@peckandcompany.ca; csenini@peckandcompany.ca; pmueller@peckandcompany.ca; lbevan@lawsonlundell.com; jandrews@lawsonlundell.com; nwelsh@lawsonlundell.com; cferris@lawsonlundell.com; lgrant@lawsonlundell.com; mring@lawsonlundell.com; ccrane@ovcounsel.com; cpang@ovcounsel.com; mmiharija@ovcounsel.com; szarb@macfuj.com; vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com

SUBJECT I: CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK"
SUBJECT II: FATAL NON-COMPLIANCE WITH MANDATORY SERVICE PROTOCOLS PURSUANT TO RULE 62(4) AND RULE 64(1)(B)
SUBJECT III: THE UNOPPOSED RECORD, THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION, AND ETHICAL APPREHENSIONS

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND IDENTIFICATION OF THE IMPUGNED ACTA

1. Correspondence is hereby effectuated to formally address the procedural ambuscade orchestrated by the Law Society of British Columbia, the Trial Lawyers Association of British Columbia, and the Attorney General of British Columbia (collectively, the "Purported **Purported Opposing Parties**"). It is strictly noted for the appellate record that the instrument transmitted by the **Purported Opposing Parties** on the late afternoon of September 21, 2026, styled extra-statutorily as a "Joint Response Book", alongside the accompanying informal correspondence directed to the Registrar (collectively, the "Impugned Instruments"), are recognized in law as absolute jurisdictional nullities.

2. The Impugned Instruments are definitively void *ab initio* and of no force or effect. By appending the historical email transmissions to this correspondence—whilst intentionally severing the attachments containing the Impugned Instruments—the inadvertent sanitization of an incurable jurisdictional defect is systematically precluded.

PART 2: THE STRUCTURAL INVALIDITY OF THE "JOINT RESPONSE BOOK" [SIC]

Subheading 2(A): Unauthorized Procedural Fabrication

3. A rigorous statutory deconstruction of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Court of Appeal Rules"), reveals the undeniable absence of any provision authorizing the amalgamation of adversarial entities into a singular, consolidated response mechanism. It is an immutable axiom of statutory interpretation, governed by the maxim *Expressio unius est exclusio alterius* (the explicit mention of one thing is the exclusion of another), that the explicit legislative authorization for a "joint appeal book" and a "joint book of authorities" definitively precludes the spontaneous fabrication of a "joint response book".

4. The **Purported Opposing Parties** have attempted to superimpose a procedural fiction upon the appellate registry. Inasmuch as the Registrar is fundamentally divested of the statutory jurisdiction to accept filing categories entirely absent from the governing enactments, the acceptance of said instrument was executed strictly *ultra vires* and *coram non judice*. A valid order or direction cannot be precipitated from an unauthorized mechanism; as the venerable maxim dictates, *Nemo dat quod non habet* (no one can give what they do not have).

PART 3: FATAL TRANSGRESSION OF MANDATORY SERVICE PROTOCOLS

Subheading 3(A): The Strictures of Rule 62(4) and Rule 64(1)(b)

5. Assuming, *arguendo*, that the fabricated instrument could miraculously transcend its status as an absolute nullity, the **Purported Opposing Parties** have catastrophically failed to execute the mandatory service protocols dictated by the *Court of Appeal Rules*. Pursuant to *rule 62(4)*, any "person" (as comprehensively defined under section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238) who wishes to respond to an Application Book is statutorily compelled to file and serve the response book on the applicant and on *each party*.

6. Concurrently, *rule 64(1)(b)* of the *Court of Appeal Rules* explicitly and unequivocally expands the definition of a "party", in relation to an application, to encompass any person who is served with a notice of application (the "Prescribed Parties"). It is empirically verifiable, upon a meticulous examination of the transmission matrix utilized by Mr. Jonathan Andrews on September 21, 2026, that the **Purported Opposing Parties** deliberately and exclusively restricted their service to themselves and the Applicant Party.

7. The broader constituency of counsel, interveners, and interested entities—who definitively obtained status as Prescribed Parties upon the antecedent service of the Applicant's Form 4 and Form 8 Notices of Application—were conspicuously and unlawfully excluded from the service matrix.

PART 4: THE EXPUNGEMENT AS A MERE ADMINISTRATIVE FORMALITY

8. It is advanced that the formal striking of the Impugned Instruments is not an adversarial contest necessitating substantive legal adjudication, but rather a mere administrative formality. Inasmuch as the "Joint Response Book" is a legal fiction entirely unrecognized by the *Court of Appeal Rules*, its removal from the registry ledger operates strictly as an exercise in fundamental procedural housekeeping.

9. Consequently, it is definitively confirmed that the **Purported Opposing Parties**, by deploying an unauthorized nullity and subsequently failing to execute service upon the Prescribed Parties, possess absolutely nothing before the Court of Appeal in response to the Form 8 Notice of Application.

PART 5: THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION AND ETHICAL APPREHENSIONS

Subheading 5(A): The Statutory Strictures of Section 32 and Rule 41

10. Should the **Purported Opposing Parties**, operating in their capacities as Prescribed Parties, seek to cure this fatal procedural entanglement, they are statutorily compelled to advance an application to dispense with the rules or extend the temporal limitations pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"), and *rule 41* of the *Court of Appeal Rules*.

11. A profound procedural paradox thereby arises: to retroactively legitimize the fabricated "Joint Response Book," these facially adversarial entities would be mathematically compelled to advance a joint Notice of Application. Such a unified, dependent posture betwixt supposed adversaries is posited to be a procedural impossibility and a direct affront to the structural integrity of the adversarial system.

12. The adjudication of the Form 8 Notice of Application is therefore left entirely unopposed. Given that the standard of review upon all issues, questions, and determinations before the Division panel is strictly that of correctness, the Applicant Party stands ready, willing, and able to present oral submissions the moment the Registrar mathematically complies with the mandatory scheduling dictates of *rule 62(5)*.

13. It is strictly confirmed that the Applicant Party shall not transmit, distribute, or forward the defective "Joint Response Book" to the unserved Prescribed Parties. Such transmission is unequivocally declined to systematically preclude any judicial or administrative inference that the Applicant Party has inadvertently waived the jurisdictional defect, cured a procedural irregularity, or sanitized an absolute nullity.

SUBHEADING 5(C): ETHICAL APPREHENSIONS AND THE ESCALATION OF NOTICE

14. It is hereby placed on the formal record that any prospective Notice of Application seeking an extension of time or dispensation of the rules to validate this nullity will be met with unyielding opposition. Furthermore, special costs will be vigorously sought against opposing counsel in their personal capacities, as seasoned appellate counsel are presumed to possess actual knowledge of these fundamental procedural architecture flaws.

15. The coordinated, extra-statutory maneuvering betwixt purported adversaries raises severe apprehensions regarding the nature of the communications occurring outside the purview of the Court. It is profoundly concerning that counsel for the Attorney General of British Columbia appears structurally uninvested in defending the rule of law or upholding the democratically enacted *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"). Consideration is presently being actively directed toward formally escalating these concerns to the attention of The Honourable Niki Sharma, Attorney General of British Columbia, regarding the posture adopted by Crown counsel. However, such determination will be considered in due course and be responsive to any potential NOA's by the now unit of the LSBC, TLABC (with Mr. Westell) and the AGBC (with LGIC). Bluntly speaking, so much for the notion that the LSBC and TLABC wanted independence from the BC government.

PART 6: CONCLUSION AND ANTICIPATED RELIEF

16. In my view, the Appellants have now also put into "legal play" for my submissions to cancel and very the purported Orders of Horsman J. and naturally have the relief sought in my Form 4 NOA (August 12, 2026), the section 36 of the COAA titled, "Failure to comply". I also note that in light of the nullities at issue, section 19 of the COAA is inapplicable to save the conduct of the Appellants.
17. The administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved, including but not limited to the pursuit of special costs awarded jointly and severally for intentional violations of the operative enactments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

/s/ Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party
Email: mclean@searchandseizure.ca

APPENDIX: STATUTORY AND REGULATORY EXTRACTS

Court of Appeal Act, S.B.C. 2021, c. 6

Definitions
1 In this Act:
"order" includes
(a) a judgment or decree, and
(b) an opinion, advice, direction, determination, decision or declaration that is specifically authorized or required under an enactment to be given or made;

Dispensing with rules and varying time limits
32 (1) A justice may dispense with a requirement of the rules.
(2) A justice may extend or shorten the time limit provided in this Act or the rules for doing an act.
(3) A justice may extend a time limit under subsection (2) even if the time limit for doing the act expired before the person applies for the extension.

Court of Appeal Rules, B.C. Reg. 120/2022

Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 [dispensing with
Edit directly or with Gemini
Click anywhere to type and edit directly, or select text to prompt Gemini for changes.

--
Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

NOTA BENE: This email is for dispute resolution and litigation purposes only. Without prejudice communication so denoted invokes settlement privilege.

CONFIDENTIALITY NOTICE: This email and any attachments are confidential and may contain privileged information. It is intended solely for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution, or reliance upon the contents of this email is strictly prohibited. If you have received this communication in error, please immediately notify the sender by replying to this email and permanently delete the original message and any attachments from your system.

EMAILS~1.PDF
186K

Appendix “C”

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4398900

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 25-Sep-2026 03:16

Submitted Through: Court Services Online

Filing Comments: Re: Filing of Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and Appendices Dear Registrar Outerbridge, Please accept this filing note confirming that the enclosed documents — including the Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and sequentially numbered Appendices — comply with the Court of Appeal Act and the Court of Appeal Rules, including Rule 38 and the Completion Instructions issued under COAA, s. 38. Each document tendered for filing is a Court Form or a document expressly authorized under the Court of Appeal Rules, prepared in accordance with the Completion Instructions, and served in accordance with Rule 4 and Rule 64(1)(a) and (b). As such, the documents meet all filing requirements under the Act and Rules. For clarity, and as confirmed in the Appendices, the LSBC, TLABC and Mr. Westell, and the AGBC and LGIC did not attempt to serve their Joint Response Book [sic] on each Party as required under Rule 62(4) and Rule 64(1)(b). This factual confirmation is one of several grounds supporting the Applicant Party's Form 4 Notice of Application and Written Argument, both of which are now submitted for immediate filing and will be served forthwith. I respectfully note R. v. Verma, 2005 BCCA 540, at para. 20, which confirms that where a document complies with the Rules and a party insists on filing it, the Registrar must accept the document for filing. The enclosed materials comply with all mandatory requirements. Kindly accept them for filing and issue the corresponding filing receipts. Thank you for your attention. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Print Submission Sheet

Print Receipt

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	Argument - Strike JRB et al - AP - Mr McLean - 25-09-26 - Filed.pdf	No	Submitted		Complete	View Withdraw
Application - Chambers - General	Form 4 - NOA - Strike JRB - s 36 et al - Applicant - Mr McLean - 25-09-26 - FILED.pdf	No	Submitted		Complete	View Withdraw

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4398900
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	25Sep2026
Filing Comments:	Re: Filing of Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and Appendices Dear Registrar Outerbridge, Please accept this filing note confirming that the enclosed documents — including the Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and sequentially numbered Appendices — comply with the Court of Appeal Act and the Court of Appeal Rules, including Rule 38 and the Completion Instructions issued under COAA, s. 38. Each document tendered for filing is a Court Form or a document expressly authorized under the Court of Appeal Rules, prepared in accordance with the Completion Instructions, and served in accordance with Rule 4 and Rule 64(1)(a) and (b). As such, the documents meet all filing requirements under the Act and Rules. For clarity, and as confirmed in the Appendices, the LSBC, TLABC and Mr. Westell, and the AGBC and LGIC did not attempt to serve their Joint Response Book [sic] on each Party as required under Rule 62(4) and Rule 64(1)(b). This factual confirmation is one of several grounds supporting the Applicant Party's Form 4 Notice of Application and Written Argument, both of which are now submitted for immediate filing and will be served forthwith. I respectfully note R. v. Verma, 2005 BCCA 540, at para. 20, which confirms that where a document complies with the Rules and a party insists on filing it, the Registrar must accept the document for filing. The enclosed materials comply with all mandatory requirements. Kindly accept them for filing and issue the corresponding filing receipts. Thank you for your attention.

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Chambers - General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4398900

Account ID:71252

Client ID:122957

Date: September 25, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	130131197	1515879582	Sep 25, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

BRITISH COLUMBIA

Ministry of Attorney General
Court Services Online
Submission Sheet

Court File #: CA51536
Cross Reference #: Not Provided
Package ID: 4398900
Date Submitted: 25-SEP-2026 03:16 pm

Submitted By: KEVIN MCLEAN
Client ID: 122957
Account ID: 71252
KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Chambers - General	N	Submitted	25-SEP-2026	Not Processed	N	$ 80.00	
2	Argument - Other	N	Submitted	25-SEP-2026	Not Required	N	$ 0.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	130131197	25-SEP-2026 03:16 PM	1515879582	08402G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

Appendix “D”

53
VANCOUVER
21-Sep-26
COURT OF APPEAL
REGISTRY

Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British Columbia et al

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced April 29, 2026.

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT RESPONSE BOOK

APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

---

TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA and KEVIN WESTELL

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Tom Posyniak
Laura Abrioux
Will Andrews

Fasken Martineau DuMoulin LLP
2900 – 550 Burrard Street
Vancouver, BC V6C 0A3

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tposyniak@faskenc.om
labrioux@fasken.com
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Trevor Bant
Karin Kotliarsky
Sergio Ortega

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jandrews@lawsonlundell.com
nwelsh@lawsonlundell.com

COUNSEL FOR THE APPELLANT

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2.	Table of Authorities	8

Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British Columbia et al

COURT OF APPEAL

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT MEMORANDUM OF ARGUMENT ON AN APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

---

Part 1: Facts

1. These two appeals are from the order of Chief Justice Skolrood made on April 29, 2026, dismissing the appellants' constitutional challenges to the *Legal Professions Act*, S.B.C. 2024, c. 26.[1] The appeals are set to be heard over two days on November 16-17, 2026.

2. On August 12, 2026, Kevin McLean filed a Notice of Application seeking an order granting him leave to intervene in both appeals. His Notice of Application also sought orders for "precautionary and pre-emptive relief" under section 32 of the *Court of Appeal Act* (dispensing with rules and varying time limits) and orders for "relief relating to the applicant's proposed relief, if intervention status is granted, in relation to dismissal and/or quashing." The latter included orders that the Law Society of British Columbia (the **Law Society**) be "denied standing and/or the right to be heard based upon fraud, bad faith, dishonesty and/or perjury" and orders dismissing the appeals on a summary basis under section 21 of the *Court of Appeal Act*.

3. Mr. McLean's application was heard in writing under s. 26 of the *Court of Appeal Act*, further to a request by the Law Society with the consent of all parties, and dismissed by Justice Horsman in a ruling issued on September 9, 2026.[2]

4. Justice Horsman denied Mr. McLean's request for an order granting him leave to intervene on the basis that he has "no direct interest in the appeal in the sense that his own legal rights or obligations may be affected by the proceedings" and "[h]e does not purport to have a broad representative base and offers no unique and different perspective on the constitutional issues, so there is no basis for public interest intervener status."[3]

[1] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779.
[2] *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372 [**Chambers Decision**].
[3] Chambers Decision, para. 8.

5. Justice Horsman also concluded that "none of the other relief sought by Mr. McLean is grounded in the issues raised on the appeals or the rules of procedure that govern them."[4]

Part 2: Issues

6. The issue on this application is whether the Court should vary or cancel Justice Horsman's order dismissing Mr. McLean's application. The parties submit that it should not.

Part 3: Analysis

7. Under section 29 of the *Court of Appeal Act*, the court may vary or cancel any order made by a justice, subject to certain exceptions that are not applicable here.

8. The standard of review on an application of this nature is highly deferential. As this Court recently explained: "An application to vary under s. 29 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, is not a re-hearing of the original application. The reviewing court may not intervene unless the applicants show the judge was wrong in law, wrong in principle, or misconceived the facts."[5]

9. Mr. McLean has not established any basis for the reviewing court to intervene. His written argument is incoherent. It lists eight "paramount issues" to be determined, but his submissions on these issues are indecipherable and indicate a preoccupation with individual lawyers he has encountered in his various court proceedings. Mr. McLean continues to "view these appeals as a platform to revisit his historical grievances about the Law Society's regulatory actions against him."[6]

10. There is no error of law, principle, or fact in Justice Horsman's conclusions that Mr. McLean did not meet the test for intervener status and was not entitled to any of the

[4] Chambers Decision, para. 7.
[5] *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation*, 2026 BCCA 85, para. 12.
[6] Chambers Decision, para. 8.

other relief sought in his Notice of Application of August 12, 2026. This Court should dismiss this application, with costs to the parties.[7]

Part 4: Order Sought

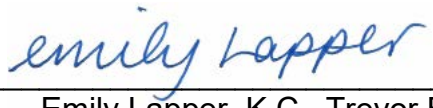
11. An order dismissing Mr. McLean's application with costs to the parties.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of British Columbia, this 18th day of September, 2026.

Craig Ferris, K.C., Laura Bevan,
Jonathan Andrews, and Nicole Welsh
Counsel for the Law Society of British Columbia

Gavin Cameron, Tom Posyniak,
Laura Abrioux, and Will Andrews
Counsel for the Trial Lawyers Association
and Kevin Westell



Emily Lapper, K.C., Trevor Bant,
Karin Kotliarsky, and Sergio Ortega,
Counsel for the Attorney General of British Columbia and
the Lieutenant Governor in Council of British Columbia

[7] With respect to costs, see *Este v. West Vancouver (District of)*, 2026 BCCA 366 at paras. 18-21.

PART 3 – TABLE OF AUTHORITIES

TAB CITATION

CASE LAW

1. *Este v. West Vancouver (District of)*, 2026 BCCA 366

2. *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779

3. *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation,* 2026 BCCA 85

4. *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372

LEGISLATION

5. *Court of Appeal Act*, s. 29

6. *Legal Professions Act*, S.B.C. 2024, c. 26

Appendix “E”

BRITISH COLUMBIA

Court Services Online **Registry Notice**

Package ID:	**4398900**	**Submission Date:**	**September 25, 2026**
Account ID:	71252		KEVIN MCLEAN
Client ID:	122957		'

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 25-SEP-2026

25SEP2026
We are unable to accept the application and argument for filing. If you insist, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO.

Thank you,
sl

Please keep a copy of this report for your records.

TAB 7

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4399228
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	27Sep2026
Filing Comments:	Filing Note — Resubmission Pursuant to Unauthorized Rejection Notice from "SL" (Package ID 4398900), cross‑referencing the suggested letter filed to Registrar Outerbridge (Package ID 4399224) Court of Appeal for British Columbia File Nos. CA51536 / CA51535 Submitted via CSO — September 27, 2026 Dear Esteemed Registrar Outerbridge, This filing note confirms that the Applicant Party is resubmitting the same Form 4 Notice of Application and Written Argument, together with their appendices, pursuant to the Registry instruction contained in the unauthorized Rejection Notice for Package ID 4398900 (Reason 1: Other, dated September 25, 2026). The Applicant Party has already submitted, via CSO, a formal letter addressed exclusively to you under Package ID 4399224, in accordance with that instruction. This resubmission is made solely in the spirit of cooperation with the Registry's direction and is tendered exclusively for processing by the Registrar, as contemplated by section 37 of the Court of Appeal Act and section 37(3) of the Court of Appeal Rules, in that the Registrar must exercise powers only in accordance with the Rules. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party mclean@searchandseizure.ca

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Chambers - General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

Home Copyright Disclaimer Privacy Accessibility

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4399228

Account ID:71252

Client ID:122957

Date: September 27, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	130181246	1515887300	Sep 27, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

Ministry of Attorney General
Court Services Online
Submission Sheet

Court File #: CA51536
Cross Reference #: Not Provided
Package ID: 4399228
Date Submitted: 27-SEP-2026 07:37 pm

Submitted By: KEVIN MCLEAN
Client ID: 122957
Account ID: 71252
KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Chambers - General	N	Submitted	27-SEP-2026	Not Processed	N	$ 80.00	
2	Argument - Other	N	Submitted	27-SEP-2026	Not Required	N	$ 0.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	130181246	27-SEP-2026 07:37 PM	1515887300	01677G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

TAB 8

COURT OF APPEAL

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

28 September 2026

Kevin McLean
mclean@searchandseizure.ca

Dear Mr. McLean:

RE: TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A)
vs.
THE ATTORNEY GENERAL OF BRITISH COLUMBIA
Court of Appeal File Nos: CA51535; CA51536

I have your recent letters.

I will place your unfiled application before the division set to hear your application to vary and you may address it before the Court then.

In the interim, the Court may give directions, including accepting your application for filing or asking the opposing parties to respond if they feel it is necessary.

Sincerely,

Timothy Outerbridge,
Registrar

cc: attached counsel list

COUNSEL LIST

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Counsel for BC Paralegal Association	J. Maclaren, K.C. jmaclaren@accessprobono.ca
Counsel for the Canadian Bar Association	C. Bildfell cbildfell@mccarthy.ca D. Siracusa dsiracusa@mccarthy.ca
Counsel for Criminal Defence	R. Peck, K.C. rpeck@peckandcompany.ca C. Senini csenini@peckandcompany.ca P. Mueller pmueller@peckandcompany.ca
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Counsel for the Law Society of Manitoba	L. Troup lkt@tdslaw.com
Counsel for Lawyers' Rights Watch Canada	J. Doyle joey@doyledefence.ca
Counsel for the Society of Notaries Public of BC	I. Knapp iknapp@macfuj.com szarb@macfuj.com A. Mackenzie amackenzie@macfuj.com
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Counsel for the Law Society of British Columbia	C. Ferris, K.C. cferris@lawsonlundell.com L. Bevan lbevan@lawsonlundell.com J. Andrews jandrews@lawsonlundell.com N. Welsh nwelsh@lawsonlundell.com

TAB 9

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 8 NOTICE OF APPLICATION TO VARY OR CANCEL AN ORDER OF A JUSTICE *(RULE 62(2))*

VANCOUVER
09-Sep-26
COURT OF APPEAL REGISTRY

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

To the person(s) filing the application (the *applicant*):

An application to vary or cancel an order of a justice is heard by a division of the court. Contact the court scheduler to obtain an application hearing date and time.

Communicate with the other person(s) to ensure they are available on the requested date. Applications to vary or cancel are to be no more than 30 minutes.

Name of person(s) bringing the application
Include name of law firm if represented.

Mr. Kevin A. McLean (BA, JD, CIM)

Date the order you are seeking to vary or cancel was pronounced
Not the date the order was entered.

08/09/2026

DD/MM/YYYY

Name of justice who pronounced the order

Madam Justice Horsman

Application hearing date and time to be set by the associate registrar

Date form completed

09/09/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean (BA, JD, CIM)

TAB 10

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4399228 **Submission Date: September 27, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 29-SEP-2026

29SEP2026
The Registrar will place your unfiled application before the division set to hear your application to vary.

sl

Please keep a copy of this report for your records.

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4399228 **Submission Date: September 27, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 29-SEP-2026

29SEP2026
The Registrar will place your unfiled application before the division set to hear your application to vary.

sl

Please keep a copy of this report for your records.

TAB 11

You are logged on as KEVIN MCLEAN

Log Off

View Filing Packages

The table below shows all of the filing packages for which you have access. You can change this view using the *Status Quick Filter* or use *Search Packages* to find a specific package.

Status Quick Filter: All Go Search Packages

Packages You Can View

1 - 10 of 13 results

Page 1 2 >>

Date Submitted	Your File #	Court File #	Package #	Results	Document Upload State	Action
09/29/2026		CA51536	4400539	Action Required	Uploaded	View
09/27/2026		CA51536	4399228	Action Required	Uploaded	View
09/27/2026		CA51535	4399224	Complete	Uploaded	View
09/25/2026		CA51536	4398900	Action Required	Uploaded	View
09/22/2026		CA51536	4394410	Action Required	Uploaded	View
09/22/2026		CA51536	4394252	Action Required	Uploaded	View
09/17/2026		CA51535	4391194	Complete	Uploaded	View
09/16/2026		CA51535	4390243	Action Required	Uploaded	View
09/15/2026		CA51536	4388040	Complete	Uploaded	View
09/14/2026		CA51536	4386944	Action Required	Uploaded	View

Tab 12

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Reply via email: mclean@searchandseizure.ca

Date: October 1, 2026

Filing method: Via CSO Portal

To: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia

SUBJECT I: EXCLUSIVE DIRECTION OF RESUBMITTED FILINGS AND OBJECTION TO PROCEDURAL NULLITIES EFFECTUATED BY NON-REGISTRAR (SEE: COAA, DEFINITION THEREIN) REGISTRY PERSONNEL IN "SL"

SUBJECT II: DEMAND FOR MANDAMUS RELIEF PRESERVATION OF THE APPELLATE RECORD AND THE INHERENT CONSEQUENCES OF ADMINISTRATIVE NON-COMPLIANCE

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Part 1: Introduction

1. Correspondence is hereby submitted for filing, directed exclusively and without delegation to the attention of Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia.
2. The enclosed resubmitted filings (the "**Resubmitted Filings**") are tendered strictly for the individualized attention and administrative processing of the aforementioned Registrar, precluding the involvement of any subordinate registry personnel.

Part 2: Procedural Irregularities and Absolute Nullities

3. Antecedent submissions were similarly directed to the exclusive attention of the Registrar, yet were visibly intercepted and administratively manipulated by an individual identified merely by the initials "SL".
4. Upon an exhaustive review of the pertinent documentation, it is unequivocally deduced that "SL" operates as the designation for Shelley Lin. The aforementioned individual summarily rejected the initially submitted filings (the "**Submitted Filings**") on Friday, September 25, 2026. The documented rationale for said rejection was the purportedly improper act of addressing correspondence directly to the Registrar (Head), Mr. Outerbridge.
5. Compliance with this ostensibly arbitrary directive was effectuated on Sunday, September 27, 2026, culminating in the acceptance of the materials for filing on Monday, September 28, 2026.
6. Notwithstanding such acceptance, the resubmitted filings were subsequently and inexplicably rejected late in the day on Tuesday, September 29, 2026, by the identical individual, "SL".

7. The exact phraseology deployed to justify this secondary refusal was articulated as follows: "29SEP2026 The Registrar will place your unfiled application before the division set to hear your application to vary. sl".

Part 3: Jurisdictional Usurpation and the Absence of Statutory Authority

8. *In limine*, consent is absolutely and irrevocably withheld regarding the involvement of "SL" or "Shelley Lin" in the processing of any materials associated with this appellate proceeding. The aforementioned individual fails to satisfy the statutory definition of a registrar within the *Court of Appeal Act* (the "*COAA*"). *Ipso facto*, she is devoid of the statutory encapsulation required to function as an officer of the court (the "**Officer Of The Court**"). Furthermore, the demonstrably adversarial tone permeating antecedent communications from this individual establishes, *prima facie*, a conflict of interest or a formidable apprehension thereof.
9. It is conceptually incongruous and legally impermissible for an individual to reject a submission on the explicit grounds that it was directed to the Registrar (Head), Mr. Outerbridge, only to subsequently usurp the processing of those very materials under alternate, newly fabricated grounds. Such actions are fundamentally *ultra vires*.
10. Consent is definitively withheld for the Registrar (Head), Mr. Outerbridge, or any personnel situated within the registry of the Court of Appeal for British Columbia, to function as an agent—whether *de facto*, *de jure*, implied, or explicit—on behalf of the applicant party.

Part 4: The Doctrine of Nullity and the Preservation of the Record

11. The Registrar was statutorily mandated to reject the joint response book (the "**Joint Response Book**"), as such an amalgamated document is entirely unauthorized by the *Court of Appeal Rules* (the "*Rules*") and thus constitutes an absolute nullity rather than a curable irregularity. It remains procedurally incomprehensible how the Registrar might propose to present expressly rejected, unfiled documents before the judicial adjudicators convened to adjudicate the Form 8 application. The presentation of a nullity to a judicial panel represents a catastrophic departure from standard appellate procedure.
12. Furthermore, it is a virtual certainty that whichever litigant receives an unfavourable disposition will inevitably seek leave to appeal to the Supreme Court of Canada (the "*SCC*"); therefore, the record of proceeding (the "**Record Of Proceeding**") must flawlessly reflect the *acta* that were lawfully situated before the review division panel (the "**Review Division Panel**"). Consequently, the filings are herewith resubmitted to restore the *status quo ante*, as the current procedural convolution was orchestrated entirely by the registry's departure from statutory mandates. The adjudication of application hearings amongst prescribed parties (the "**Prescribed Parties**") must be governed strictly in accordance with the *COAA* and the *rules*. The legislative intent articulated by the Legislative Assembly and the Lieutenant Governor in Council since the enactments of 2021 and 2022 remains unequivocal. As articulated in the

jurisprudential doctrines surrounding jurisdictional overreach, notably in *Pong v. Quong, 1927 CanLII 2 (SCC)* (*"Pong"*), actions taken without strict statutory adherence are void ab initio. To this end, the foundational maxim *Actus curiae neminem gravabit* (an act of the court shall prejudice no man) is invoked; the administrative failures of the registry cannot operate to the detriment of a compliant litigant.

Part 5: Imminent Applications for Mandamus Relief and Costs

13. Should the resubmitted filings fail to be stamped as filed forthwith, an inexorable compulsion will materialize to elevate this matter directly to the Chief Justice of the Court of Appeal for British Columbia, as previously promised. This escalation will manifest through the formal introduction of a notice of application (the "**Notice Of Application**") seeking extraordinary *mandamus* relief. Such relief will be required to compel the proper placement of the resubmitted filings before the review division panel. A consequential necessity will likely arise to seek a brief adjournment to ensure the meticulous reconstruction of the record of proceeding, followed by exhaustive submissions regarding the entirety of the requested relief.
14. This correspondence serves as a final, determinative opportunity for the registry to align its conduct with the mandatory strictures of the *COAA* and the *rules*. Failing such immediate compliance, the aforementioned procedural steps shall be rigorously undertaken, and special costs will be aggressively sought directly against the Registrar (Head), Mr. Outerbridge.
15. If a legitimate legal foundation exists to justify the improper rejection of submitted filings based upon a litany of profoundly inconsistent grounds, while simultaneously representing that unfiled documents will be presented to a judicial review panel, receptivity is maintained regarding the citation of such authorities. However, an exhaustive analysis reveals that no such legal bases can be discovered within the governing source law, rendering the registry's actions entirely devoid of jurisprudential support.

Conclusion

16. It is formally noted that a copy of this document shall be provided to all of the parties governed by subrule *64(1)(b)* of the *Court of Appeal Rules* (collectively defined as the "**Application Responding Parties**" or "**Prescribed Parties**").
17. The underlying issue is that the Registrar is strictly prohibited from providing the joint response book (the "**Joint Response Book [sic]**") to the review division panel (the "**Review Division Panel**"). Consequently, this enclosed notice of application is in the nature of a preliminary notice of application (the "**Preliminary NOA**") that must be heard prior to the hearing of the Form 8 application. While accepting the same for filing was explicitly prohibited by law, any such providing of this instrument to the division review panel, comprised of three justices, is also prohibited.

18. The immediate processing and filing of the enclosed documents is anticipated and required by source law, including applicable statutes and regulations (collectively defined as the "**Enactments**" or "**Source Law**").
19. I reserve the right to rely on this letter for any lawful purpose.

Yours truly,

Mr. Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca

Enclosed:
1. Resubmitted Filings

Forwarded to:
1. All Prescribed Parties

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4402771
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	01Oct2026
Filing Comments:	Dear Registrar Outerbridge, I am resubmitting the Applicant's Form 4 Notice of Application (Application – Division General) and Memorandum of Argument (Argument – Other) for the third time, now using the newly available CSO category "Application – Division General," which appears to be the correct filing pathway for this type of application. I wish to respectfully note that the prior CSO Registry Notice (initials "sl") stated: "The Registrar will place your unfiled application before the division set to hear your application to vary." I may be mistaken, but this disposition does not appear to be one recognized under the Court of Appeal Rules. In addition, the CSO backend indicated "Action Needed," while the notice itself stated "Rejected," which seem to be incompatible statuses. As the notice appears to have been generated at the staff level, I am resubmitting the materials directly for your review and clarification. For certainty, I respectfully request that this resubmission be handled exclusively by the Registrar, rather than at the staff level, given the procedural nature of the application and the need for clarity regarding the correct filing category. The Applicant continues to rely on the case management judge's reference to the "existing written record", and the resubmitted materials are tendered solely to ensure the integrity of that record and to permit the Applicant to proceed in accordance with the Rules. No substantive changes have been made to the documents; they are resubmitted only to ensure proper routing and compliance with the Registry's requirements. Thank you for your attention to this matter. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party on multiple

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

occasions pursuant to Rule 64(1)(a)

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Division-General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
3	Letter General	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

Home Copyright Disclaimer Privacy Accessibility

TAB 13

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Email follow up - Formal Request for Appellants' Factums – CA51536 / CA51535 (apparently filed on August 5, 2026, for your reference purposes)

Mr. Kevin McLean <mcleansettlement@gmail.com> Fri, Oct 2, 2026 at 2:46 PM
To: AppealRecords <appealrecords@bccourts.ca>, timothy.outerbridge@bccourts.ca, tim.outerbridge@bccourts.ca

To: AppealRecords appealrecords@bccourts.ca Cc: timothy.outerbridge@bccourts.ca, tim.outerbridge@bccourts.ca

Subject: RE: 2ND AND DISTINCT RECORDS REQUEST — Files CA51535 / CA51536 (Liquidated Fee Apportionment & Standby Payment)

Dear Sirs/Mesdames:

Cc: Registrar Timothy Outerbridge,

Further to the delivery of my SECOND AND DISTINCT FORMAL REQUISITION FOR ADJUDICATIVE COURT RECORDS transmitted earlier today, I write to clarify and confirm the precise fee calculations applicable under Schedule 2, Division 1, Item 9 of the Court of Appeal Rules, B.C. Reg. 120/2022 (the "Rules"), to ensure instantaneous invoice generation:

1. First Records Access Request (October 1, 2026): Pertaining to the two distinct Court of Appeal files (CA51535 and CA51536) on the Court Services Online docket, the prescribed electronic transmission fee under Schedule 2, Item 9 is fixed at $10.00 per case, constituting a liquidated sum of $20.00. I expressly maintain this first requisition, particularly as the June 25, 2026 correspondence of Mr. Craig A.B. Ferris, K.C. (Schedule "A", Item 4.4) contemplated potential secondary amendments to the operative pleadings initially deposited on August 5, 2026, the precise terms of approval or variation of which remain under consideration in Registrar Outerbridge's memorandum of June 29 / July 2, 2026.

2. **Second and Distinct Records Access Request (October 2, 2026):** Pertaining specifically to the singular, unified Case Center electronic proceeding established specifically for the joint hearing of both Appeals (as explicitly stipulated in Schedule "A", Item 4.1 to the June 25, 2026 correspondence, attached as Appendix "A"), this constitutes a single consolidated file within the Court's digital architecture. Consequently, the prescribed transmission tariff under Schedule 2, Item 9 for this proceeding is a liquidated amount of **exactly $10.00.**

If provincial (PST) or federal (GST) taxes are applicable to statutory electronic transmission tariffs under Schedule 2, please include the corresponding tax line item in your electronic invoice.

I respectfully request that you deliver the liquidated invoice for the Second and Distinct Records Request ($10.00, plus applicable tax) as a priority today. My authorized agent remains on standby in Vancouver to attend the Registry counter to effect immediate payment upon receipt of the invoice, whereupon the Records Department is required to transmit the electronic PDF factums via email without delay.

Please also be advised that a true and complete counterpart copy of the Second and Distinct Records Request was concurrently transmitted to the Registry via facsimile for confirmation and verification of receipt.

Thank you kindly for your prompt attention and assistance.

Yours very truly,

Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party (Court of Appeal File Nos.: CA51535 / CA51536) Chartered Investment Manager Email: mcleansettlement@gmail.com Phone: 647.370.9354 Fax: 1 (416) 352-0055

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: **1 (416) 352-0055**

Phone number: 647.370.9354

On Fri, Oct 2, 2026 at 2:29 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

VIA ELECTRONIC TRANSMISSION: appealrecords@bccourts.ca
COPY TRANSMITTED TO: timothy.outerbridge@bccourts.ca / tim.outerbridge@bccourts.ca

SECOND AND DISTINCT FORMAL REQUISITION FOR ADJUDICATIVE COURT RECORDS

DATE: October 2, 2026

TO:

Court of Appeal for British Columbia

The Law Courts, 400 - 800 Hornby Street

Vancouver, British Columbia V6Z 2C5

ATTENTION:

Mr. Wayne Ziants, Manager, Records

Court of Appeal Records Department

AND TO (IN OVERSIGHT):

Mr. Timothy Outerbridge, Registrar

Court of Appeal for British Columbia

IN THE MATTER OF:

Court of Appeal File Nos.: CA51535 and CA51536 (collectively, the "**Appeals**")

Consolidated Case Center Proceeding Identifier: As established and known to Registrar Timothy Outerbridge pursuant to the Case Management Conference conducted on June 29, 2026 (see: Appendix "B")

Between:

LAW SOCIETY OF BRITISH COLUMBIA (CA51536) /

TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (CA51535)

Appellants

And:

ATTORNEY GENERAL OF BRITISH COLUMBIA and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

Respondents

And:

KEVIN A. McLEAN

Applicant Party under *Rule 64(1)(a)* of the *Court of Appeal Rules*, B.C. Reg. 120/2022

SUBJECT:

SECOND AND DISTINCT ADJUDICATIVE RECORDS REQUISITION: APPELLANTS' FACTUMS TRANSMITTED, HELD, AND DEEMED FILED WITHIN THE CONSOLIDATED CASE CENTER PROCEEDING

PREFATORY STATEMENT OF REQUISITION

1. This instrument constitutes a second, distinct, and independent adjudicative records requisition submitted pursuant to *Rule 64(1)(a)* of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Rules*"), the inherent supervisory jurisdiction of the Court of Appeal for British Columbia, and the entrenched open court principle protected under Section 2(b) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982* (the "*Charter*").

2. This requisition operates independently of the prior requisition submitted on October 1, 2026. It is formulated upon newly crystallized and specific factual particulars concerning the operational repository established specifically for the Appeals within the digital Case Center platform (formerly CaseLines) (the "**Case Center Repository**"), the specific electronic file identifier of which is within the direct personal knowledge and administrative cognizance of Registrar Timothy Outerbridge.

3. Demand is hereby formally renewed for the immediate transmission of electronic portable document format (the "**PDF**") copies of:

   (a) The Appellant's Factum of the Law Society of British Columbia in File No. CA51536; and

   (b) The Appellant's Factum of the Trial Lawyers Association of British Columbia in File No. CA51535,

   both of which are currently residing within the institutional custody and under the direct, unassailable administrative control of this Court within the unified Case Center file designated specifically for the joint management and adjudication of the Appeals.

I. FACTUAL FOUNDATION: THE CONSOLIDATED CASE CENTER REPOSITORY AND DEEMED FILING ORDERS

4. By joint correspondence dated June 25, 2026, authored by lead counsel for the Law Society of British Columbia, Craig A.B. Ferris, K.C., and delivered to Registrar Timothy Outerbridge on behalf of all parties to the Appeals, explicit procedural stipulations were submitted governing the Case Management Conference convened on June 29, 2026 (the "**CMC**").

5. In Item 4.1 of Schedule "A" to the June 25, 2026 communication, the parties jointly stipulated that:

   (a) A singular, new electronic case file was to be created within Case Center to govern the joint hearing of the Appeals;

   (b) All materials uploaded to Case Center would match the formatting prescribed by the *Rules*; and

   (c) Pursuant to Item 4.4 of Schedule "A", factums were strictly mandated to be uploaded into Case Center on the precise date on which they fell due, whereupon:

   "A factum uploaded into Case Centre shall be considered duly filed and served."

6. Pursuant to the determinations rendered at the CMC on June 29, 2026, as memorialized in the administrative memorandum of Registrar Outerbridge and subsequently clarified by the Court of Appeal Chambers Scheduler on July 2, 2026 (attached hereto as Appendix "B"), this adjudicative filing structure was formally sanctioned and operationalized by the Court.

7. For the edification of the Records Department, while the procedural timetable accommodates the formal physical deposit of hardcopy paper counterparts on the terminal date that reply factums are exchanged (stipulated as October 19, 2026), the operative legal instrument governing adjudication remains the electronic pleadings uploaded to the unified Case Center file. The administrative suggestion that no factums exist or have been filed confuses the secondary ministerial deposit of hardcopy paper on October 19, 2026, with the primary adjudicative filing executed electronically on August 5, 2026.

8. On August 5, 2026, the Appellants duly uploaded their substantive factums into the Case Center Repository. That these adjudicative pleadings were in fact deposited was publicly affirmed by the Chief Executive Officer of the Law Society of British Columbia during the public Bencher meeting of September 25, 2026, wherein it was officially recorded in the Bencher Agenda that the Law Society's factum had been filed on August 5, 2026.

9. The administrative pretext previously articulated by the Records Department—namely, that the factums have not yet been manually indexed upon the public docketing mechanism known as Court Services Online (the "**CSO**") —is devoid of legal effect. An administrative system delay cannot supersede a judicial or registrarial deeming order.

II. JUDICIAL DIRECTIONS OF MADAM JUSTICE HORSMAN: THE "EXISTING WRITTEN RECORD"

10. The adjudicative status of the Case Center materials is further reinforced by the formal judicial directions issued in these Appeals by Madam Justice Horsman. In Her Ladyship's memorandum directed to Deputy Registrar Torri Enderton dated August 31, 2026 (reproduced in the Application Book of the Applicant Party dated September 15, 2026, at Tab 3K, page 203), Her Ladyship expressly ruled:

    "Having reviewed the material, I am satisfied that it is appropriate to hear Mr. McLean's application of August 12, 2026, based on the existing written record."

11. It is of paramount legal significance that Her Ladyship deliberately formulated the adjudicative foundation as the *"existing written record"*, conspicuously refraining from qualifying the phrase with restrictive ministerial prerequisites such as the *"existing filed written record"* or the *"record docketed on CSO"*.

12. The adjudicative materials deposited into the Case Center Repository on August 5, 2026, constitute the primary components of that *"existing written record"*. Judicial adjudication cannot proceed upon records that are simultaneously concealed from an active litigant.

13. Under the modernized architecture of the *Rules*, the status of a Prescribed Party under *Rule 64(1)(a)* is an institutional innovation designed precisely to guarantee immediate access to the operative evidentiary and argumentative record before the Court. To withhold portions of the *"existing written record"* while simultaneously requiring an active litigant to participate in proceedings governed by that very record is legally indefensible.

III. LEGAL FRAMEWORK: INSTITUTIONAL CONTROL AND ADJUDICATIVE CUSTODY

A. The Jurisprudential Doctrine of Institutional Control: *Ontario Criminal Code Review Board v. Hale*

14. The proposition that the Court of Appeal Records Department lacks possession of, or power over, documents lodged within its designated Case Center repository misapprehends the foundational distinction between mechanical possession and legal control.

15. In *Ontario Criminal Code Review Board v. Hale*, 1999 CanLII 3805 (ON CA), 47 O.R. (3d) 201 (the "*Hale*"), the Court of Appeal for Ontario, citing the judgment of the Federal Court of Appeal in *Canada Post Corp. v. Canada (Minister of Public Works)*, 1995 CanLII 3574 (FCA), [1995] 2 F.C. 110 (the "*Canada Post*"), authoritatively determined that an adjudicative entity retains *de jure* and *de facto* control over all materials generated, received, or maintained in fulfillment of its statutory mandate, irrespective of whether physical custody is temporarily held by a third-party contractor or software platform.

16. Writing for the unanimous Court in *Hale*, O'Connor J.A. enunciated the governing principle at paragraph 35:

    "...the Board cannot avoid the access provisions of the Act by entering into arrangements under which third parties hold custody of the Board's records..."

17. By direct application of *Hale*, the Court of Appeal for British Columbia possesses proprietary administrative credentials, supervisory oversight, and immediate judicial access to its own Case Center platform. The Case Center software is not an autonomous silo disconnected from the Court; it is the Court's institutional instrument.

18. Control is defined in law not by the physical act of retrieval, but by the legal right and authority to command production. The Court of Appeal exercises an unimpeachable legal entitlement to inspect and dispose of any document uploaded to its dockets. Consequently, the assertion that the Registry "has no record" of an uploaded factum constitutes an administrative fiction.

B. The Administrative Subordination of the Registry to Core Adjudicative Authority

19. It is a foundational constitutional tenet that ministerial officers and administrative personnel of the court act at the direction of the judiciary and must maintain administrative fealty to judicial determinations.

20. Where a document is deemed filed *ipso facto* by operation of an order or direction governing an appeal, ministerial registry personnel possess no statutory discretion to treat such a document as non-existent.

21. To subordinate a judicial deeming order to the technical ingestion schedule of CSO is an act *ultra vires* the administrative jurisdiction of the Records Department. Any administrative determination refusing access to an adjudicative record upon the ground of CSO invisibility represents a jurisdictional defect amounting to a legal nullity, rather than a mere procedural irregularity.

C. The Constitutional Imperative of the Open Court Principle (*Charter*, *Section 2(b)*) and the Truth-Seeking Function of Litigation

22. Freedom of expression, guaranteed under Section 2(b) of the *Charter*, encompasses the right of the public and active litigants to open court proceedings and access to adjudicative materials (*Nova Scotia (Attorney General) v. MacIntyre*, 1982 CanLII 14 (SCC), [1982] 1 S.C.R. 175; *Canadian Broadcasting Corp. v. New Brunswick (Attorney General)*, 1996 CanLII 184 (SCC), [1996] 3 S.C.R. 480; *Sherman Estate v. Donovan*, 2021 SCC 25).

23. It is trite law that appellate litigation is fundamentally a truth-seeking function of the judicial branch. The administration of justice cannot operate effectively, equitably, or legitimately under conditions of administrative opacity. Litigation cannot be conducted in the dark.

24. In appellate litigation, the written factum is the primary vehicle of advocacy and the foundation of judicial disposition. Written pleadings submitted to the Court for determination are presumptively accessible *prima facie*.

25. No sealing order, confidentiality directive, or publication ban has been pronounced in the Appeals. Absent an express judicial restriction satisfying the stringent constitutional test in *Sherman Estate*, administrative delays, platform siloing, or ministerial inconvenience cannot serve as an administrative veto to defeat the open court principle.

IV. APPLICABLE FEE SCHEDULE AND REGULATORY EXEMPTIONS

26. The applicable financial framework is codified in the *Rules* under *Schedule 2, Division 1*, and the official Court of Appeal policy entitled *Court of Appeal: Records Request Fees* (last updated February 24, 2025) (the "**Fee Policy**").

27. As an active Prescribed Party under *Rule 64(1)(a)* of the *Rules* (having appeared on the Record of Proceedings via *Form 4* and *Form 8* filings), the Applicant Party is entitled to the fee structures codified for civil parties:

Item Number	Service Requested	Governing Authority	Prescribed Fee
Item 8	Searches for Court Records by Court Staff (Party)	*Court of Appeal Rules, Schedule 2, Division 1, Item 8*; Fee Policy, *Section 3.2, Item 1*	**$0.00** (Statutorily Exempt)
Item 9	Electronic Transmission of Records via Email	*Court of Appeal Rules, Schedule 2, Division 1, Item 9*; Fee Policy, *Section 3.2, Item 3*	**$10.00** per case

28. Under *Section 3.2* of the Fee Policy, party searches incur an absolute search fee exemption of **$0.00**. The electronic transmission fee is fixed at **$10.00** per case.

29. Full pre-authorization for any and all lawful transmission charges under *Item 9* is hereby irrevocably tendered.

V. SUFFICIENCY OF REQUISITION PARTICULARS AND PLATFORM RETRIEVAL MECHANICS

30. The Applicant Party has provided exhaustive and definitive particulars identifying the exact records sought, leaving zero ambiguity for the Records Department:

Requisition Field	Specific Particulars
Court File Numbers	Court of Appeal File Nos. CA51535 and CA51536
Case Center Identifier	Consolidated Case Center Proceeding established specifically for the joint hearing of the Appeals, the designated number of which is known to Registrar Outerbridge pursuant to the June 29, 2026 CMC determinations (Appendix "B")
Electronic Location	Unified Case Center Repository established pursuant to the June 25, 2026 Lawson Lundell LLP correspondence (Schedule "A", Item 4.1) and CMC directions
Records Identified	1. Appellant's Factum of the Law Society of British Columbia (uploaded August 5, 2026) 2. Appellant's Factum of the Trial Lawyers Association of British Columbia (uploaded August 5, 2026)
Requesting Entity	Kevin A. McLean, Applicant Party under *Rule 64(1)(a)*
Judicial Foundation	Formally designated as part of the *"existing written record"* by Madam Justice Horsman on August 31, 2026 (Application Book, Tab 3K, p. 203)
Statutory Proof	Verified via certified identity documentation and completed official BCCA Court Records Request Form

31. As the Case Center proceeding number for both Appeals is directly known to Registrar Outerbridge, exhaustive particulars have been tendered to enable both the Registrar and the Records Department to effect retrieval without administrative impediment.

32. Having extensive personal familiarity with the operational architecture and mechanics of the Case Center platform across Canadian jurisdictions, and maintaining an active practitioner account within the Province of Ontario, it is within the direct knowledge of the Applicant Party that extracting two electronic PDF pleadings from an existing digital case file requires a *de minimis* administrative expenditure of no more than several minutes.

33. Because search fees are statutorily set at **$0.00** and the electronic transmission tariff is fixed under *Schedule 2, Item 9* at **$10.00** per appeal file, the total statutory fee constitutes a liquidated and ascertainable sum of exactly **$20.00**. Consequently, there is no requirement for time calculation or audit delay; the invoice is a liquidated amount that can be generated and transmitted instantaneously today.

34. To eliminate any administrative pretext concerning payment processing prior to transmission, notice is hereby given that the Applicant Party has an authorized agent on standby in Vancouver ready to attend the Registry counter to perfect physical payment in cash, debit, or cheque immediately upon electronic receipt of the liquidated invoice today. Upon satisfaction of the invoice, the Records Department is required to immediately transmit the requested PDF factums via electronic mail.

VI. DEMAND AND DEFINITIVE COURSE OF ACTION

35. The Manager of Records, Mr. Wayne Ziants, is hereby formally requisitioned to:

    (a) Access the consolidated Case Center file identified by Registrar Outerbridge and extract the PDF factums of the Appellants;

    (b) Formulate and transmit by electronic mail the statutory liquidated invoice for electronic transmission fees (calculated under *Schedule 2, Item 9* at $10.00 per appeal file, totaling $20.00); and

    (c) Transmit the requested factums upon satisfaction of said invoice prior to the close of business today, **Friday, October 2, 2026**.

36. Should the Records Department persist in refusing to process this requisition or fail to deliver an invoice and the requested records, take notice that the Applicant Party will immediately proceed to file and serve an urgent Notice of Application (*Form 4*) returnable in Chambers for:

    (a) A mandatory order in the nature of *mandamus* compelling the Registrar and the Manager of Records to deliver electronic copies of the deemed-filed Appellants' factums from Case Center;

    (b) A formal declaration that adjudicative records deemed filed within Case Center constitute official records of the Court of Appeal forming the *"existing written record"* subject to the *Charter*, Section 2(b) access principle; and

    (c) An award of special costs assessed against the Court Services Branch / Registry for the unnecessary obstruction of an active party's procedural rights.

DATED at the City of Toronto, in the Province of Ontario, this 2nd day of October, 2026.

Respectfully submitted,

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party (*Court of Appeal File Nos.: CA51535 / CA51536*)

Email: mcleansettlement@gmail.com

Telephone: 647.370.9354

Facsimile: 1 (416) 352-0055

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: **1 (416) 352-0055**

Phone number: 647.370.9354

On Thu, Oct 1, 2026 at 9:08 PM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

VIA EMAIL: appealrecords@bccourts.ca / timothy.outerbridge@bccourts.ca

DATE: October 1, 2026
TO:
Court of Appeal for British Columbia

The Law Courts, 400 - 800 Hornby Street

Vancouver, BC V6Z 2C5

ATTENTION:

Mr. Wayne Ziants, Manager, Records

Court of Appeal Records Department

Cc. Mr. Timothy Outerbridge, Head Registrar of the BCCA

RE:
Court of Appeal File Nos.: CA51535 / CA51536
Appeals: *Law Society of British Columbia v. Attorney General of British Columbia, et al.* (CA51535) /
Trial Lawyers Association of British Columbia v. Attorney General of British Columbia, et al. (CA51536)
Subject: Formal Records Request — Appellants' Factums Deemed Filed via Case Center
Applicant: Kevin A. McLean (Applicant Party under Rule 64(1)(a))
Dear Mr. Ziants:

I am in receipt of your email transmitted at 8:02 p.m. this evening, October 1, 2026, wherein you state:

"Still no factums filed for these cases. I suggest you keep an eye on the cases via CSO and resubmit the request form if and when they are filed."
With respect, the position taken by the Records Department is erroneous in law, contrary to judicial case management directions in these appeals, and inconsistent with binding appellate authority governing institutional custody and control of court records.

It is trite that all administrative court staff are required to act at the direction of the Chief Justice of British Columbia in matters assigned by law to the judiciary, and the judiciary must maintain complete independence over the administration and adjudication of its court.

I write to formally require that the Court of Appeal Records Department retrieve and provide electronic PDF copies of the Appellants' factums (specifically that of the Law Society of British Columbia, and if uploaded, the Trial Lawyers Association of British Columbia) by **no later than 10:00 a.m. tomorrow, Friday, October 2, 2026**.
The legal and factual bases for this requisition are as follows:

1. Case Center Uploads are Legally Deemed Filed and Form Part of the Court Record

Pursuant to the directions and orders of the Case Management Justice in files CA51535 and CA51536—consistent with correspondence submitted by counsel for the LSBC (Lawson Lundell LLP) in May and June 2026 requesting that all documents uploaded to Case Center be deemed filed—materials uploaded directly to the Court's Case Center repository were expressly **deemed filed**, constituting the "existing written record" before this Court.
Indeed, at its public Bencher meeting on September 25, 2026, the Law Society of British Columbia publicly reported in its official agenda that its Appellant's Factum had been filed on August 5, 2026 (see LSBC Bencher Agenda, September 25, 2026).
A judicial deeming order is an exercise of core judicial authority. The administrative ingestion, indexing, or display of a pleading on Court Services Online (CSO) is merely a ministerial recording mechanism. The public viewing portal of CSO does not define or limit the legal boundaries of what has been filed in this Court. A document deemed filed by judicial direction is, as a matter of law, an official record of the Court of Appeal.

2. The Legal Definition of Control and Institutional Duty

The Records Department cannot disclaim possession of, or responsibility for, an adjudicative record on the ground that it resides within the Court's Case Center platform rather than on the public-facing CSO database.

In Canadian law, "control" is established by the legal right and authority to make the demand for a record, not the prior physical exercise of that demand. Because the Court of Appeal exercises institutional governance over Case Center, the BCCA necessarily has legal and

actual control of those factums. As Manager of Records, you have the administrative power coupled with the statutory duty to requisition and extract those records. Certainly you are not suggesting that the BCCA lacks control over its own adjudicative factums.

This principle is firmly established in Canadian jurisprudence. In *Ontario Criminal Code Review Board v. Hale*, 1999 CanLII 3805 (ON CA), 47 O.R. (3d) 201 (citing with approval *Canada Post Corp. v. Canada (Minister of Public Works)*, [1995] 2 F.C. 110 (C.A.)), the Court held that an adjudicative body exercises both *de jure* and *de facto* control over all materials created or maintained in fulfillment of its statutory and adjudicative mandate. Justice O'Connor held at paragraph 35:
"...the Board cannot avoid the access provisions of the Act by entering into arrangements under which third parties hold custody of the Board's records..."
The Court of Appeal for British Columbia administers, controls, and holds institutional administrative credentials to its Case Center platform. The Appellants' factums reside within the Court's electronic custody and under its immediate control. Instructing an active litigant to "keep an eye on CSO" indefinitely while adjudicative materials remain accessible inside the Court's operational digital repository is untenable.

3. The Constitutional Open Court Principle ($s. 2(b)$ of the *Charter*)

Under Section 2(b) of the *Canadian Charter of Rights and Freedoms* and foundational Supreme Court of Canada jurisprudence (*Nova Scotia (Attorney General) v. MacIntyre*, [1982] 1 S.C.R. 175; *Canadian Broadcasting Corp. v. New Brunswick (Attorney General)*, [1996] 3 S.C.R. 480; *Sherman Estate v. Donovan*, 2021 SCC 25), court proceedings and court records are presumptively open to the public and to litigants.
In Canadian appellate practice, written factums are the primary instruments of adjudication. There is no sealing order or publication ban in place in these proceedings. Administrative backlogs, internal software boundaries, or ministerial delays cannot operate as a bureaucratic veto or suspension of the open court principle.

4. Procedural Fairness to an Active Litigant

I am an active Prescribed Party under Rule 64(1)(a) of the *Court of Appeal Rules* (holding standing pursuant to Form 4 and Form 8 filings). Withholding the Appellants' substantive legal arguments from an active party while the appellate process continues is a denial of natural justice and causes immediate procedural prejudice.

5. Full Compliance with Rules and Prescribed Fees

On October 1, 2026, at 6:28 p.m (EST) (3:28 p.m. PST)., I submitted a fully completed, official BCCA Court Records Request Form, accompanied by certified statutory identification.

Under Section 3.2 of the Court's *Records Request Fees* policy (and Schedule 2, Division 1, Item 8 of the *Court of Appeal Rules*), civil parties to a proceeding pay **$0 in search fees**. Furthermore, I have already pre-authorized payment of any applicable Schedule 2 transmission fees ($10/case). There is no administrative, procedural, or financial ground upon which production can be withheld.

FORMAL REQUISITION & NOTICE OF INTENDED PROCEEDINGS

Please confirm by **10:00 a.m. tomorrow, Friday, October 2, 2026**, that the Appellants' factums in CA51535 and CA51536 will be extracted from Case Center and transmitted to me by electronic mail with an invoice for fees rendered which will be paid on the same day by the method
In vein with the above, I would loathe to escalate this administrative matter above you to the *Primus Inter Pares* of the Court of Appeal for British Columbia, but I will be compelled to seek immediate judicial intervention if the Records Department does not comply with its legal obligations.

Please be advised that if the records are not provided or if written confirmation of compliance is not received by 10:00 a.m. tomorrow, I will proceed immediately to file and serve an urgent **Notice of Application (Form 4)** returnable before the Chambers Justice for:

1. An Order compelling the Registrar and the Manager of Records to immediately provide electronic PDF copies of the deemed-filed Appellants' factums;
2. A formal Declaration regarding the legal status and Registry control of deemed-filed adjudicative materials in Case Center; and
3. An Order for **Special Costs** occasioned by the Registry's improper refusal to produce official adjudicative records.

In that vein, I have copied Mr. Outerbridge to the email as he is the Head Registrar (specifically Registrar (Head) Mr. Outerbridge).

In my humble view and consistent with the law, I might add, such a response has the appearance of blatantly breaching ss. 2(b) of the Charter, specifically the open court principle and in Appeals such as these, with my already filed documents in the Record Of Proceeding(s), and that entities like the LSBC and TLABC are entitled to some level of secret method of "filing" or shadow method of filing. Registrar (Head) Mr. Outerbridge was an experienced and erudite lawyer in his own right prior to becoming the Head Registrar of the BCCA, and trust he can bridge the gap herein (trusting the above was an oversight on Mr. Ziants' part). Nonetheless, time is of the essence in light of the CEO of the LSBC representing what she did on September 25, 2026. In the spirit of cooperation and compliance with the law, I have copied and paste what she wrote to the public at large:

"The Law Society's factum was filed on August 5, 2026. The Respondent's factum must be submitted by October 5, 2026. The intervenor factums are due on October 5, 2026. The reply factums to the intervenor factums must be filed by October 19, 2026."

Thank you kindly. I await hearing from you at the stipulated time.

Yours very truly,

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party (Court of Appeal Files CA51535 / CA51536)

Email: mcleansettlement@gmail.com

Phone: 647.370.9354

Fax: 1 (416) 352-0055

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: **1 (416) 352-0055**

Phone number: 647.370.9354

On Thu, Oct 1, 2026 at 8:02 PM AppealRecords <appealrecords@bccourts.ca> wrote:

Hi

Still no factums filed for these cases. I suggest you keep an eye on the cases via CSO and resubmit the request form if and when they are filed.

Thanks

Wayne

(he/him/his)

From: Mr. Kevin McLean <mcleansettlement@gmail.com>
Sent: October 1, 2026 3:28 PM
To: AppealRecords <appealrecords@BCCourts.ca>
Subject: Re: Email follow up - Formal Request for Appellants' Factums – CA51536 / CA51535 (apparently filed on August 5, 2026, for your reference purposes)

Subject: Records Request Form – CA51535 / CA51536 (Prescribed Party Access)

Dear Mr. Ziants,

Further to our correspondence of September 29, 2026, I am providing the completed Court Records Request Form in proper PDF format for your processing. Thank you for your earlier clarification regarding the Records Department email address; I will use *appealrecords@bccourts.ca* for all future requests.

As noted previously, I write in my capacity as the **Applicant Party** under Rule 64(1)(a) in CA51535 and CA51536. The records requested—specifically the Appellants' factums—form part of the adjudicative materials that the chambers justice indicated would comprise the "existing written record" as of August 31, 2026. These documents are required for service, response, and proper inclusion in the Record of Proceedings.

I appreciate your explanation regarding fees. For clarity, as a Prescribed Party requesting adjudicative records in my own Appeals, I understand that Schedule 2 governs and that no search or retrieval fees apply. I do not require a fee estimate, invoice, or pre-payment confirmation; please proceed with any applicable Schedule 2 charges as needed.

Attached is the completed form. If any portion of the dynamic PDF did not render correctly on your end, please advise and I will re-transmit immediately.

Thank you again for your assistance and for your time.

Warm regards, **Mr. Kevin A. McLean (BA, JD, CIM)** Applicant Party mcleansettlement@gmail.com 647-370-9354

GENERAL SIGNATURE BLOCK

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: **1 (416) 352-0055**

Phone number: 647.370.9354

On Tue, Sep 29, 2026 at 2:17 PM AppealRecords <appealrecords@bccourts.ca> wrote:

> Hi
>
> I'm afraid we don't have a record of any factums being filed with us, probably because of the use of Case Centre. Once it's filed, its existence will be visible to anyone via CSO at which point you can fill out records request form (at the link in my signature, or by downloading the attached) and we can arrange that for you (see below for more details).
>
> For the record, this is the departmental email address for records requests, so please use this in the future. I'm curious how you came to send an email to my personal work address…
>
> Once the total cost has been calculated, we'll email you an invoice. Our fees in a nutshell:
>
> - no fee for parties requesting material from their own Criminal or Family cases;
> - to retrieve the material is $8 per case*;
> - to photocopy anything is $1 per sheet (eg a seven page original can be copied double-sided for $4, or single-sided for $7);
> - to post those photocopies is $10 per case;
> - to scan material is $25 per hour (or part thereof)(if there are fewer than 25 pages, we'll apply the single-sided photocopying-per-page cost);
> - to email anything (or provide it on memory stick) is $10 per case (in addition to any fee for scanning).
>
> *this would be waived if you are, or are acting on behalf of, one of the parties (for which we would require the appropriate proof), or if the case is a Criminal appeal.
>
> Any fees must be paid before we can release the material, and unfortunately, we only accept payment by cash, cheque or (at the counter) debit card.

Thanks

Wayne

(he/him/his)

Court of Appeal Records

phone: 604.660.2725 | **fax:** 604.660.1951

email: appealrecords@bccourts.ca

website: bccourts.ca

Records policy and forms

This message and any attachments are intended solely for the individual or entity to which the message is addressed and may contain information that is privileged, confidential or exempt from disclosure. Unauthorized distribution, copying or disclosure is strictly prohibited. If you have received this message in error, please notify the sender immediately and delete the original message and any attachments from your inbox and your deleted items folder. Thank you

---

From: Mr. Kevin McLean <mcleansettlement@gmail.com>
Sent: September 29, 2026 8:47 AM
To: Ziants, Wayne <Wayne.Ziants@BCCourts.ca>
Subject: Re: Email follow up - Formal Request for Appellants' Factums – CA51536 / CA51535 (apparently filed on August 5, 2026, for your reference purposes)

Dear Mr. Ziants,

I confirm that I received a bounce-back from the @*gov.bc.ca* domain, but not from the @*bccourts.ca* domain. Accordingly, I have excluded the former and retained the latter for all further correspondence. I also confirm that the faxed copies of the emails referenced herein were transmitted and delivery-confirmed a few minutes ago to ensure that I had provided my request to the correct manager (i.e. you with your esteemed position).

I await electronic copies of the filed Appellants' factums at your earliest opportunity today. Based on my review of correspondence from counsel for the LSBC dated May and June 2026, it appears they sought to have all materials uploaded to Case Center deemed as "filed." It is therefore my reasonable belief that the Appellants' factums may have been uploaded to Case Center pursuant to a case management judge's direction that such documents would be permitted to be uploaded and deemed filed. I provide this only to assist with locating the records, should it be relevant.

Thank you for your attention to this matter.

Mr. Kevin A. McLean (BA, JD, CIM)

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: **1 (416) 352-0055**

Phone number: 647.370.9354

On Tue, Sep 29, 2026 at 11:18 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Apologies Mr. Ziants but if you use your BC courts email for these purposes I have provided that email as well. Thanks (wayne.ziants@bccourts.ca).
>
> Warm regards,
>
> Mr. Kevin A. McLean (BA, JD, CIM)
>
> Chartered Investment Manager
>
> Email: mcleansettlement@gmail.com
>
> Fax: **1 (416) 352-0055**
>
> Phone number: 647.370.9354

On Tue, Sep 29, 2026 at 11:13 AM Mr. Kevin McLean <mcleansettlement@gmail.com> wrote:

> Dear Mr. Ziants,
>
> 1. I write in my capacity as the Applicant Party (Form 4's and Form 8) (see: Court of Appeal Rules, rule 64(1)(a)) in Court of Appeal files CA51536 and CA51535. Earlier today, I transmitted a formal records request to the Registry via fax concerning a discrepancy in the electronic court record of proceedings. Specifically, the Appellants' factums—those of the Law Society of British Columbia and the Trial Lawyers Association of British Columbia—did not appear anywhere on the Court Services Online docket, notwithstanding the LSBC's public representation, as of its September 25, 2026 Bencher meeting, that its factum was filed on August 5, 2026. This representation was previously unknown to me; however, as an active prescribed party to the Appeals, I am entitled to access the same documents along with the open court principle (under ss. 2(b) of the Charter) for others as well.
>
> 2. For accuracy of identification and proper routing along with the rush request with a holiday tomorrow as well, I am providing my confirmed contact information below. I have also attached a copy of the letter faxed to the Registry this morning for ease of reference, including the authorization for billing under Schedule 2 of the *Court of Appeal Rules*. In addition, I have attached government-issued identification (passport, driver's licence, and birth certificate with name change document (although my most recent birth certificate iteration contained my legally changed name) to facilitate verification.

3. As downloading these documents from the Registry's internal systems and transmitting them electronically would not ordinarily require more than a few minutes, and in recognition of your time and resources, I have provided this dedicated email thread for your convenience. Whatever rush billing may apply for transmission or retrieval, you are, again as per the delivered attached letter this morning, authorized to process the charges, and I will review my monthly statement accordingly.

4. I do **NOT** require any fee estimate, invoice or otherwise.

5. I respectfully request electronic PDF copies of both Appellants' factums today. If there is a choice between providing one over the other by way of priority (or if only the LSBC has filed a factum and the TLABC has not), please provide the LSBC's factum as the LSBC Appeal and TLABC Appeal have noticeably different file number with the BCCA.

6. I will presume that this is the best electronic mail for such correspondence unless I hear otherwise.

7. I will confirm safe receipt of the attachment and that it or they are readable, and that my request has been satisfactorily completed.

8. To ensure that you do not miss the email, I shall send a copy of the same via fax for confirmation purposes.

9. Thank you for your attention to this matter and you services as the Records Manager for the BCCA.

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Warm regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Chartered Investment Manager

Email: mcleansettlement@gmail.com

Fax: **1 (416) 352-0055**

Phone number: 647.370.9354

Appendix “A”

LAWSON LUNDELL LLP

Suite 1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2
T: 604.685.3456

VANCOUVER
25-Jun-26
COURT OF APPEAL
REGISTRY

June 25, 2026

Craig A.B. Ferris, K.C.
D: 604.631.9197
cferris@lawsonlundell.com

VIA EMAIL

Court of Appeal for British Columbia
The Law Courts
400 – 800 Hornby Street Vancouver,
British Columbia V6Z 2C5

Attention: Tim Outerbridge, Registrar

Dear Registrar Outerbridge,

RE: Law Society of British Columbia v. Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia, British Columbia Court of Appeal No. CA51536;

Trial Lawyers Association of British Columbia and Kevin Westell v. Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia, British Columbia Court of Appeal No. CA51535

We are counsel for the Law Society of British Columbia. We write on behalf of the parties in CA51535 and CA51536 (collectively, the **Appeals**) in response to your letter of June 17, 2026, concerning the Case Management Conference set for June 29, 2026, at 9:15 am (the **CMC**). Counsel for the other parties to the Appeals are copied on this letter.

We appreciate the directions in your letter that the Appeals should be heard together and the parties should prepare a joint appeal record, joint appeal book, and joint book of authorities. The parties will proceed accordingly.

You are correct that the parties have reserved November 16-17, 2026, for the hearing of both appeals. The parties' intent was that the reservation of these dates would be subject to confirmation of the Court at the CMC and also subject to potential revision based on a review of the factums.

The parties have discussed deadlines and process for the steps in these appeals. The parties' proposals and respective positions are set out in the attached Schedule "A", which has been framed as a proposed agenda for the CMC for convenience.

Please advise if you require any further information.

Yours very truly,

LAWSON LUNDELL LLP

Craig A.B. Ferris, K.C.

CAF/lgl
Enc

cc. Emily Lapper KC, Trevor Bant, Sergio Ortega, and Karin Kotliarsky, counsel for the Attorney General of British Columbia, and the Lieutenant Governor in Council

Gavin Cameron, Tom Posyniak, Laura Abrioux, and Will Andrews, counsel for the Trial Lawyers Association of British Columbia and Kevin Westell.

SCHEDULE "A"

AGENDA FOR CASE MANAGEMENT CONFERENCE OF JUNE 29, 2026

1. Hearing Dates

Joint Proposal: The Appeals be fixed for hearing for two days on November 16-17, 2026, subject to potential revisions based on a review of the factums.

All parties agree to this proposal.

2. Factum Deadlines

Appellants' Proposal

The parties and interveners (if any) are to exchange factums in accordance with the following schedule:

a. the Appellants' Factums shall be filed and served by August 5, 2026;

b. the Respondents' Factums shall be filed and served by September 4, 2026;

c. the Appellants' Replies shall be filed and served by September 11, 2026;

d. the Interveners' Factums (if any) shall be filed and served by September 25, 2026;

e. the Parties may file and serve a Reply to the Interveners by October 2, 2026.

The proposed deadlines for the parties' factums are the deadlines provided for under the *Court of Appeal Rules* (assuming that the Joint Appeal Record is filed by the deadline of July 6, 2026, which is the appellants' intention).

The appellants would be willing to agree to an extension of the deadline for the Respondents' Factum, provided that the deadline for the Appellants' Replies is also extended.

Respondents' Proposal

The parties and interveners (if any) are to exchange factums in accordance with the following schedule:

a. the Appellants' Factums shall be filed and served by August 5, 2026;

b. the Respondents' Factums shall be filed and served by October 5, 2026;

c. the Interveners' Factums (if any) shall be filed and served by October 5, 2026;

d. the Appellants' Replies shall be filed and served by October 13, 2026;

e. the Respondents may serve a Reply to the Interveners by October 13, 2026.

3. Intervention Applications

Appellants' Proposal: Any applications for leave to intervene must be filed by August 12, 2026. Responses must be filed by August 19, 2026. The applications must be heard by September 2, 2026, subject to further direction of the Court.

Respondents' Proposal: Any applications for leave to intervene must be filed by August 21, 2026. Responses must be filed by August 28, 2028. The applications must be heard by September 18, 2026, subject to further direction of the Court.

4. Use of Case Centre for the Appeals

Appellants' Proposal:

The joint application record for the summary trial before the Chief Justice contained approximately 20,000 pages. It is not yet clear how much of this evidence will need to be included in the joint appeal book pursuant to Rule 26(4)(b). Also, the joint book of authorities for the summary trial was in excess of 20,000 pages.

The appellants' position is that Case Centre will provide an efficient and economic means of managing the materials, and propose as follows:

4.1. Case Centre is to be used as the case compilation and presentation software on the understanding that:

a. A new case will be created for the Appeals;

b. All parties will ensure that they are using proper references to the Case Centre page numbering in their factums (and no other page numbering);

c. The format of documents in Case Centre will, as closely as possible, match the formatting expected in the Court forms and completion instructions; and,

d. Any party may seek further directions on the use of Case Centre as the Appeals proceed.

4.2. The parties are to file one joint appeal record and one joint book of transcripts in hard copy by July 6, 2026, and upload final electronic versions to Case Centre.

4.3. A joint appeal book and a joint book of authorities are to be prepared for the Appeals and shall be uploaded to Case Centre no more than 7 days after the last reply factum is filed. No paper version of these documents will be required. The joint appeal book and joint book of authorities shall be considered duly filed and served when uploaded to Case Centre.

4.4. Factums must be uploaded into Case Centre on the date they are due. A factum uploaded into Case Centre shall be considered duly filed and served. To ensure factums have the appropriate references, parties may edit references only in their uploaded factums up until the date that is one week past when the joint appeal book and joint book of authorities are uploaded.

4.5. Paper versions of the factums must be filed on the date the last reply factum is uploaded.

4.6. The parties will agree to grant the Court access to Case Centre for the purpose of conducting this review.

4.7. The parties will each prepare condensed books of authorities and condensed books of evidence for the Appeals. By default, these books are to be prepared in paper format (unless the parties wish to try to use the Case Centre technology to present their appeal). Either way, the parties should inform the Court how they intend to proceed at three weeks prior to the hearing of the appeal.

4.8. At least one week prior to the hearing of the Appeals, the parties must provide the Court a proposal for the order of oral submissions at the hearing of the Appeals and the allocation of time between counsel, as well as an attendance list. Parties should inquire and obtain the capacity of the scheduled courtroom from the registry and ensure planned remote and physical attendance of counsel is consistent with the space limitations.

Respondents' Proposal:

The Respondents do not agree that Case Centre is necessary or desirable for these appeals. If a joint appeal book is limited to the evidence that is necessary to resolve the issues on appeal as required by Rule 26(4)(b), it should not be more than a few hundred pages.

The Respondents propose that:

a. the parties prepare a joint appeal book as soon as possible after the last factums are filed on October 13, 2026;

b. within one business days after the joint appeal book is filed, all parties may amend their factums to add pinpoint citations to the joint appeal book; and,

c. despite the Registrar's Filing Directive, the parties may refrain from filing hardcopies of their factums until after they have amended their factums to add pinpoint citations to the joint appeal book.

Appendix “B”

Lin, Shelly

From: Chambers
Sent: July 2, 2026 11:43 AM
Subject: CA51535/CA51536 - Trial Lawyers Association of BC v. AGBC/ LSBC v. AGBC
Attachments: letter.pdf

Dear Counsel,

Please see message below sent on behalf of Registrar Outerbridge:

" Thank you for your recent letter concerning an omission from my memorandum of 29 June 2026. I would clarify as follows:

Intervener applications are to be filed and served by 14 August 2026*, responses to those applications should be filed and served by 21 August 2026, and the applications themselves are to be heard no later than 11 September 2026."*

Thank you,

Shelly Lin
Manager/Chambers Scheduler
Court of Appeal for British Columbia
400-800 Hornby St., | Vancouver, BC | V6Z 2C5

This message and any attachments are intended solely for the individual or entity to which the message is addressed and may contain information that is privileged, confidential or exempt from disclosure. Unauthorized distribution, copying or disclosure is strictly prohibited. If you have received this message in error, please notify the sender immediately and delete the original message and any attachments from your inbox and your deleted items folder. Thank you.

TAB 14

BRITISH COLUMBIA

Court Services Online **Registry Notice**

Package ID:	**4404905**	**Submission Date:**	**October 04, 2026**
Account ID:	71252		KEVIN MCLEAN
Client ID:	122957		’

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

Reply to: Mr. Kevin A. McLean (BA, JD, CIM) 980
Email: mclean@searchandseizure.ca
Fax: 1 (416) 352-0055

Date: **October 4, 2026**

Filing method: via CSO Portal Service method

Further notification or delivery methods may follow by different methods

TO:

The Court of Appeal for British Columbia

800 Hornby Street Vancouver, BC V6Z 2C5

Attention: The Honourable Chief Justice Leonard Marchand, Chief Justice of British Columbia

With a copy to Registrar (Head) Mr. Outerbridge

CC:

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The “Subjects” including the following but not limited to:

SUBJECT I: COURT OF APPEAL FILE NUMBERS CA51536 / CA51535 – INCLUSION BY FILING OF THE FORMAL PRODUCTION OF THE APPELLANTS’ FACTUMS IN THE DIFFERENT CASE CENTER CASE NUMBER (UNKNOWN), THE EVIDENTIARY LACUNA, AND THE VITIATION OF JUSTICIABILITY

SUBJECT II: FORMAL AND IMMEDIATE RESPONSE TO THE APPELLANTS’ CASE CENTER FACTUMS

Subject III: INVOCATION OF RULE 60, ABUSE OF PROCESS PROVEN BEYOND A BALANCE OF PROBABILITIES, STATUTORY IMPOSSIBILITY UNDER SECTION 3(A) OF THE LPA 1998, AND THE IMPERATIVE TO ABANDON THE APPELLATE PROCEEDINGS

Subject IV: JURISDICTIONAL USURPATION, PURE ERRORS OF LAW BY HORSMAN J., AND DETERMINATION OF THE FORM 8 VARIANCE ISSUES

Subject V: the outstanding and delayed accepting for filing of the Applicant Party’s NOA Form 4 (September 25, 2026) and written argument (September 25, 2026) pursuant to, inter alia, rule 54 et al

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Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION, CHAIN OF CUSTODY, AND FORMAL ACKNOWLEDGMENT OF PRODUCTION

1. The Applicant Party adopts and incorporates all definitions established within antecedent filings in these proceedings, each term bearing identical meaning herein.
2. Correspondence is formally directed to the Prescribed Parties (identified under Rule 64(1)(a) and (b) of the *Court of Appeal Rules*, B.C. Reg. 120/2022) and to the Court of Appeal for British Columbia (the "Court"), with special attention directed to the Chief Justice of British Columbia as *Primus Inter Pares*. The intervention of the Chief Justice is necessitated because the issues engage the integrity of the judicial branch, characterized by deep controversy, structural challenges, and profound public interest (*R. v. Baldovi et al.*, 2016 MBQB 90 at para. 72).

1. Correspondence is hereby formally directed to the respective Prescribed Parties (see: Rule 64(1)(a) and (b)) and to the British Columbia Court of Appeal (the "Court"), with attention to the Chief Justice of the BCCA due to the issues arising being those involve the integrity of the court is at issue along with may be defined by its challenges, its controversy and/or its high profile nature: *R. v. Baldovi et al,* 2016 MBQB 90 at paragraph 72 as per the Chief Justice of the MBQB regarding the aforementioned Appeals, as denoted in CSO and as recently learned by way of factums of the **Appellants** uploaded, but deemed filed, in Case Center as of August 5, 2026.
2. It is formally established and placed upon the record of proceedings that the substantive factums of the Law Society of British Columbia (the "LSBC") and the Trial Lawyers Association of British Columbia (the "TLABC") have now been formally received as a result of extensive demands and requests from the Records Department of the Court of Appeal.
3. The provision of these foundational appellate documents confirms unequivocally that said documents have resided within the institutional custody and under the direct, unassailable administrative control of the Court since **August 5, 2026**.
4. The necessity of administrative retrieval to secure these court highlights a systemic procedural obfuscation, wherein foundational appellate theories were structurally withheld from opposing and interested parties, thereby necessitating remedial action to ensure the preservation of procedural fairness.

Part 1(A): Immediate Relevance and Immediate Steps Taken

5. The immediate relevance of the **Appellants**' Factums to the "**EXISTING WRITTEN RECORD**" cannot be overstated. It is a matter of judicial record that The Honourable Madam Justice Horsman ("Horsman J.") explicitly Ordered[i] that that the Applicant's Form 4 NOA (see: Application Book, Tab 3(A)) along with the memorandum of argument (see: Rule 61(2)) be determined strictly upon the "**EXISTING WRITTEN RECORD**" as of August 31, 2026 (see: Form 8 Application Book, Tab 3(K), page 203).

6. With the finalized appellate theories of the **Appellants** now secured and forensically analyzed, these precise positions are immediately, lawfully, and irrevocably incorporated into the active record of proceedings for purposes of:
    a. The Applicant Party's Form 8 (September 9, 2026); and
    b. The Applicant Party NOA Form 4 (September 25, 2026).
7. The **Appellants** have committed their constitutional theories to paper; they are now strictly precluded from pivoting, altering their factual assertions, or subsequently claiming that their positions were misapprehended.
8. Litigation is inherently a truth-seeking function of the judicial branch of government; it cannot, and must not, be conducted in administrative darkness.

PART 2: THE CORE APPELLATE BATTLE LINES AND EVIDENTIARY DICHOTOMY

6. When measured against the **Application Book** of the **Applicant Party** dated September 15, 2026, the **Appellants**' factums reveal an acute, structural vulnerability that directly parallels the evidentiary lacuna identified in the record below:

Adjudicative Authority / Finding	**Law Society of British Columbia (CA51536)**	**Trial Lawyers Association of British Columbia (CA51535)**
Chief Justice Skolrood *(2026 BCSC 779 at para. 166)*: Concluded that there was *"nothing in the record to suggest that the LSBC in its current form has failed to govern lawyers in the public interest."*	**Appellate Strategy:** Relies entirely on an idealized 150-year historical narrative; attacks the 29% elected lawyer minority board structure (nota bene: although the lawyers under the *LPA* 2024 have a majority on the "New Board"); argues that no legislative justification was established on the record *(Factum, para. 69)*; and willfully ignores internal abuses and systemic regulatory overreach.	**Appellate Strategy:** Constructs an abstract threat analysis; advances hypothetical Section 8 *Charter* violations concerning warrantless searches under section 78; attacks competence and health provisions under Section 7; expressly adopts the LSBC's independence theories in full *(Factum, paras. 2, 26)*.

7. The **Appellants** have jointly constructed a cathedral of abstract constitutional theory built entirely upon the factual premise that the predecessor regulator operated as an unblemished, benevolent institution. Chief Justice Skolrood accepted that premise only because the evidentiary record before the court of first instance was critically sanitized.

PART 3: POINT-BY-POINT CONTRADICTION MATRIX OF APPELLANTS' FACTUMS

8. The following structural matrix isolates the specific assertions advanced within the **Appellants**' Factums and forensically cross-references them against the opposing statutory text, jurisprudential authorities, and suppressed evidentiary realities:

Appellant Factum Reference	**Asserted Appellate Position**	**Statutory, Evidentiary, and Jurisprudential Refutation**
LSBC Factum, Para. 69	Claims there is "no reason" for eliminating electoral self-governance and "no evidence" that the LSBC governed contrary to the public interest, relying exclusively on Skolrood C.J., para. 166.	**Evidentiary Suppression & Factual Vacuum:** The independent 2021 Cayton Report empirically established that the board was too large, ineffective, and prioritized the legal profession's interests over the paramount public interest. Furthermore, evidence of warrantless RAM dumps demonstrates severe regulatory overreach. Adjudicating without this evidence violates the Supreme Court's prohibition against deciding constitutional issues in a factual vacuum (*Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R. 1086; *MacKay v. Manitoba*, [1989] 2 S.C.R. 357; *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130).
LSBC Factum, Paras. 17(d) & 70(a)	Argues that reducing elected lawyers to a 29% minority (5 of 17) and mandating 9/17 lawyer representation destroys self-	**Binding Admission & Abuse of Process:** In November 2022, the LSBC formally admitted that self-regulation requires a "majority" of the board to be lawyers (9 of 17 constitutes a

	regulation and eviscerates institutional independence.	mathematical majority) and a "majority of the lawyer directors" to be elected (5 of 9 constitutes a mathematical majority). Attacking the exact formula previously endorsed as the standard for self-regulation violates the doctrine prohibiting inconsistent positions (*Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63).
TLABC Factum, Paras. 17, 34 & 109	Asserts that section 78 of Bill 21 authorizes unreasonable warrantless searches, and that the lack of absolute lawyer control over the regulator renders these searches an inevitable section 8 *Charter* breach.	**Statutory Modernization & Curing Overreach:** This position ignores the stringent new guardrails in Bill 21 that cure the severe deficiencies of the *Legal Profession Act, 1998*. Sections 78(2), 79(3), 80(1), and 80(6) mandate judicial warrants for private residences, establish a reasonable grounds threshold, require post-seizure reporting, and enforce strict 3-month detention limits. This constitutes an *intra vires* enhancement of privacy rights under sections 92(13) and 92(14) of the *Constitution Act, 1867*.
LSBC / TLABC Procedural Conduct (General)	Seeking equitable constitutional remedies to strike down provincial legislation while actively filtering the evidentiary record and filing non-compliant procedural nullities (e.g., the fabricated "Joint Response Book").	**Equitable Disentitlement (Unclean Hands):** The deliberate curation of a sanitized record to manufacture a factual vacuum, combined with procedural manipulations, engages the unclean hands doctrine (*Cock v. British Columbia (Labour Relations Board)*, 1960 CanLII 293 (BCCA); *Homex Realty & Development Co. v. Wyoming (Village)*, [1980] 2 S.C.R. 1011). The Court holds the inherent and statutory power to quash the appeals under *COAA* s. 21 and Rule 60 for abuse of

	987	process, and to dismiss under *COAA* s. 36 for failure to comply.

PART 4: THE EVIDENTIARY LACUNA AND THE CONSTITUTIONAL PROHIBITION OF THE FACTUAL VACUUM

9. A rigorous forensic deconstruction of the **Appellants**' factums reveals a fatal dependency that renders their appellate architecture profoundly vulnerable. The entire constitutional challenge advanced by the LSBC collapses upon a single, highly assailable point: the reliance at paragraph 69 of the LSBC Factum upon the finding of The Honourable Chief Justice Skolrood at paragraph 166 of *Law Society of British Columbia v. British Columbia (Attorney General)*, 2026 BCSC 779, wherein it was concluded that there was "**nothing** in the record to suggest that the LSBC in its current form has **failed** to govern lawyers in the **public interest**". [emphasis is the Applicant Party's].
10. When reviewing the Applicant Party's August 28, 2026, written argument, in support of the relief outside of the intervention relief (see: Tab 3(C)), it is now telling why, as concerning as it was and is, that there was some motive to denote, unlawful as it was and is, said court document (not a "Court Form", s. 79)) as "received – not filed" along with Horsman J. engaging in the purported issuance of the Order that she did (see: Order #2 at Tab 2 of the Application Book).
11. Case and point is paragraph 1 of said Applicant Party August 28 Written Argument (see: Application Book, Tab 3(C)), without even having seen or known of the Appellants' Factums having been "deemed filed" under a new and undisclosed Case Center number,

> [1]. As expressly articulated at paragraph 166 of the summary trial decision below, The Honourable Chief Justice Skolrood—relying on an incomplete and artificially sanitized evidentiary record—concluded:
>
> > "[166] Neither argument is compelling. As I noted above (see para. 145), there is nothing in the record to suggest that the LSBC in its current form has failed to govern lawyers in the public interest."
> >
> > [Emphasis is the Applicant's]]

12. Now having the Appellants' Factums, this is an immediate and independent legal ground or basis for the cancellation of Horsman J.'s two orders.
13. For ease of reference, paragraphs two to four are reproduced from Tab 3(C) of the Application Book at page 73:

> [2]It is respectfully submitted that the evidentiary record now before this Court demonstrates far more than a mere suggestion of such failure. When properly contextualized through the concealed volatile-memory extraction, the subsequent remote interception of communications through a far more egregious unloading of system modules of the Applicant's CPU then stationed at his home on March 2, 2016, (see: *infra*) (defined as "**March 2, 2016, Warrantless Remote Wiretap & Kernel Module Dump**"), and the LSBC's multi-year suppression of these facts, the record reveals a sustained and systemic departure from the LSBC's statutory and constitutional obligations.
> [3]At all material times, the LSBC was, in addition to the Charter, subject to section 3 of the *Legal Profession Act*, S.B.C. 1998, c. 9 ("*LPA* 1998"), which requires the Society to uphold and protect the public interest in the administration of justice by, inter alia, preserving and protecting the rights and freedoms of all persons. The LSBC has failed miserably under three different CEO's during that time period.
> [4]The Applicant, and all persons whose personal information, private communications, and volatile memory were captured in the concealed RAM dump on June 4, 2014, and the remote (see Appendices 1 and 2 to the Applicant's Memorandum of Argument for the **Intervention Application**), were, are, and remain entitled to the preservation and protection of their rights and freedoms under both statute and the Charter. Those aforementioned persons (known and unknown, and perhaps increasing with the LSBC's penchant of warrantless wiretaps of individual's property inside their homes) represent a **broad representative base**.

14. Ergo, the Applicant Party was not only entitled to advance and seek the relief sought in his NOA Form 4 of August 12, 2026 (see: Orders #4 to #10) (see: Tab 3(A)) on a procedural relief, he was prophetically and substantively correct in what the issues were in the Appeals and how the Appellants leveraged the finding of the Honourable Chief Justice Skolrood to their advantage albeit predicated on fraud by omission.

Part 4(A): Why the Appellants' Factums were obstructed from public viewing and requests

15. The only reason that the Appellants' Factums were obstructed from public viewing in the CSO was because of the request of Lawson Lundell LLP ("LL LLP") on June 25, 2026. However, the motivation behind the same can be inferred from the timing of the Applicant Party's FIPPA access request on Jun 5, 2026, some 20 days earlier (see: TAB 3(FF) of the Application Book).
16. With respect and for the Chief Justice of the BCCA's immediate attention and consideration on a general level, such an Order or direction (one that is not specifically authorized or required by an Enactment (see: IA, s. 1)) can never be lawful under the new scheme of the Act and Rules because it precludes "persons" from exercising legal rights and the Court and Justices (where only Justices can) under the following:
    a. *COAA*, ss. 20, ss. 24(3)(b), s. 30 et al; and
    b. Court of Appeal Rules, r. 60.

17. The reason for the same is trite in that if factums are not listed in the CSO but are deemed filed in Case Center when they are uploaded, then a "person", not a "Statutory Party", cannot know whether to exercise rights in relation to rule 60 "Quashing an appeal or raising a preliminary objection" with particular emphasis on rule 60(1)(a) (strike part of a factum). A "person" cannot apply to strike that which he, she, or it cannot view in the Record Of Proceeding(s).
18. This also raises the question, based the June 25, 2026, letter, (see: page 4 therein, "4. Use of Case Centre for the Appeals Appellants' Proposal:4.4. Factums must be uploaded into Case Centre on the date they are due. A factum uploaded into Case Centre shall be considered duly filed and served. To ensure factums have the appropriate references, parties may edit references only in their uploaded factums up until the date that is one week past when the joint appeal book and joint book of authorities are uploaded.") and the document (email) of Ms. Lin on behalf of Registrar (Head) Mr. Outerbridge (see: From: Chambers Sent: July 2, 2026 11:43 AM Subject: CA51535/CA51536 - Trial Lawyers Association of BC v. AGBC/ LSBC v. AGBC, Attachments: letter.pdf
Dear Counsel, Please see message below sent on behalf of Registrar Outerbridge: " Thank you for your recent letter concerning an omission from my memorandum of 29 Jun3 2026. I would clarify as follows: Intervener applications are to be filed and served by 14 August 2026, responses to those applications should be filed and served by 21 August 2026, and the applications themselves are to be heard no later than 11 September 2026." Thank you, Shelly Lin Manager/Chambers Scheduler" as to whether Registrar (Head) Mr. Outerbridge, who presumably conducted the case management conference as per his referenced but unproduced or undisclosed "memorandum" from the June 29, 2026, case management conference, as to whether such an Order or 'direction' can be granted. Rule 48 permits a wide range of powers for a Justice on case management but there are no prescribed powers for a Registrar (see: *COAA*, s. 10 for definition).
19. There is no prohibition per se under rule 47 and 48 but in light of my initial access request to the BCCA records division being met with, based upon requesting the factums from the CSO docket numbers, that they had not arrived yet (as per Mr. Ziants, Manager of Records for the BCCA), it seems that such a direction, particularly by a non Justice, was and is impermissible.

Part 4(B): Returning to the Appellants' reliance on Honourable Chief Justice Skolrood's finding, albeit based on fraudulently sanitized BCSC Record Of Proceeding, that the LSBC had not failed to govern lawyers in the public interest

20. This judicial finding was and is structurally defective, having been procured through the deliberate engineering of a factual vacuum.

21. It is trite that Canadian constitutional jurisprudence establishes a rigid, unyielding prohibition against adjudicating constitutional questions—particularly those seeking to strike down democratically enacted legislation—in the absence of an exhaustive and accurate factual matrix. In the seminal decisions of *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, *Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R. 1086, and *MacKay v. Manitoba*, [1989] 2 S.C.R. 357, the Supreme Court of Canada categorically decreed that constitutional decisions cannot be predicated upon unsupported hypotheses within a factual vacuum.
22. The evidentiary record before the court of first instance ("BCSC" herein, and "Inherent Jurisdiction Court") was critically sanitized.

Part 4(B)(I): Active Concealment by the Appellants' of the LSBC's failures

23. Furthermore, the active concealment of severe regulatory malfeasance—specifically, the execution of warrantless volatile-memory extractions (the "**Concealed RAM Dumps**"), the systemic non-disclosure to Independent Supervising Solicitors under the former *Law Society Rules* Rule 4-43, and the covert deployment of fileless surveillance protocols—completely distorts the judicial assessment of whether the Legislature possessed a rational, *intra vires* basis under sections 92(13) and 92(14) of the *Constitution Act, 1867* to enact the *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA* 2024").
24. To add to that, the LSBC engaging in disclosures of Personal Information and PHI to blockchains in Switzerland (not subject to PIPEDA or even GDPR), and then engaging in the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump, are far more severe than merely not regulating lawyers in the public interest but rather engaging in organizational criminal conduct.
25. For ease of reference, one of the seminal screenshots from the August 28, 2026, written argument, pursuant to, inter alia, rule 60(2)
26. It is submitted *prima facie* that the comprehensive filings tendered by the **Applicant Party** directly and empirically refute the factual assumption relied upon by Chief Justice Skolrood. The exposure of these suppressed facts reveals that the legislative intervention was not arbitrary, but rather a necessary, proportionate, and rational remedy to systemic investigatory overreach.

PART 5: ONGOING VIOLATIONS OF CITIZENS' RIGHTS AND THE STATUTORY IMPOSSIBILITY OF FULFILLING SECTION 3(A) OF THE LPA 1998

27. The foundational statutory mandate governing the predecessor regulator is codified within section 3 of the *Legal Profession Act*, S.B.C. 1998, c. 9 (the "*LPA* 1998"), which explicitly prescribes:

> "Object and duty of society
> 3 It is the object and duty of the society to uphold and protect the public interest in the administration of justice by

> (a) preserving and protecting the rights and freedoms of all persons,
> (b) ensuring the independence, integrity, honour and competence of lawyers,
> (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,
> (d) regulating the practice of law, and
> (e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.

28. It is a legal and factual impossibility for the LSBC to fulfill its core statutory object and duty under section 3(a) of the *LPA* 1998 while simultaneously engaging in, concealing, and perpetuating ongoing violations of citizens' fundamental rights and freedoms. The LSBC continues to engage in the same as of today's date absent even the attempt or façade of remedying the same.
29. The statutory command in *section 3(a)* is not restricted to the protection of lawyers; it mandates the active preservation and protection of the rights and freedoms of *all persons*. In direct, empirical contravention of this positive statutory obligation, the LSBC executed warrantless volatile-memory captures, deployed persistent Windows Management Instrumentation (WMI) monitoring triggers, and effected kernel-level system manipulation within a private residence without judicial authorization (see: Tab 3(B), Tab 3(C) ____; and Affidavits contained in the Application Book).
30. The sheer audacity of the Appellants to even breathe the words of protecting citizens' rights is shocking but not surprising.

Part 5(A): Section 184 of the Criminal Code

31. Such activities, which engaged the criminal prohibitions against the interception of private communications under section 184 of the *Criminal Code*, R.S.C. 1985, c. C-46, and violated section 8 of the *Canadian Charter of Rights and Freedoms*, constitute an ongoing assault upon the rights and freedoms of citizens. When unencrypted digital artifacts containing personal health information, private credentials, and third-party communications were subsequently exfiltrated onto decentralized public blockchains, the breach of section 3(a) crystallized into a permanent, irremediable statutory failure.
32. A statutory entity that systematically violates fundamental constitutional rights under the guise of administrative regulation is structurally and legally incapable of discharging its duty to protect the public interest. The legislative enactment of the *LPA* 2024 was therefore an imperative provincial intervention under sections 92(13) and 92(14) of the *Constitution Act, 1867* to terminate an operational regime that had become fundamentally antithetical to its own governing statute.

PART 6: BINDING INSTITUTIONAL ADMISSIONS AND THE EXTINCTION OF JUSTICIABILITY

33. The appellate posture adopted by the LSBC regarding the structural composition of the new regulatory board is fundamentally irreconcilable with its own formal, historical admissions of which the LSBC response (see: Tab 3(S)) to the AGBC's Intentions Paper (Tab 3(R)) which were expressly and explicitly adopted by formal pleading in the LSBC's NOCC (see: Tab 3(P)).
34. At **paragraphs 17(d)** and **70(a)** of the LSBC Factum, an attack is mounted against the board structure established under sections 8 and 17 of the *LPA* 2024, alleging that the reduction of elected lawyers to a 29% minority eviscerates institutional independence. Parenthetically, it is palpably clear from the "Joint Response Book [Sic]" that the LSBC does not want institutional independence from the BC government as per the ultra vires and unlawful creation, purported filing and non-service of the "Joint Response Book [Sic]" with its co-Appellants and the Respondents. In turn this goes to the relief in the Applicant Party's Form 4 NOA of September 25, 2026, which has been rejected twice on non-Enactment grounds and now remains binding. The Applicant Party kindly requests that you direct the Registrar to accept the filing so the rule 64(1)(b) "Parties" can be served with the same. This will avoid an additional NOA (Form 4) seeking mandamus in relation to the Registrar's failure to accept the filing and represent, while rejecting, that "unfiled copies would be provided to the Review Division Panel" in relation to the Applicant Party's Form 8 NOA.
35. This appellate grievance is fatally undermined by the doctrine of formal admissions. In its formal November 2022 response to the Ministry of Attorney General's Intentions Paper (see: Tab 3(S)), the LSBC explicitly declared its institutional standard for independence, stating unconditionally:

    "self-regulation of the legal profession requires that a majority of the board that governs lawyers are themselves lawyers and a majority of the lawyer directors are elected."
36. 9 of 17 is 52.94 (53) percent and not 29 percent. Parenthetically, since the LSBC lawyer licensees are able to work so well with government lawyers, who are also non-elected, the LSBC's apparent concern, which is non-justiciable in light of the law of admissions (see: Tab 3(C)), NTD____), about "elected vs. appointed" is rendered, as an additional legal ground, not justiciable by its conduct in relation to the "Joint Response Book [Sic]". Leaving all of that aside, the Appellants and Respondents have yet to serve "each party" as required by rule 62(4) of the Court of Appeal Rules (2022).
37. A rigorous mathematical application of the *LPA* 2024 to this admission reveals absolute statutory compliance. The legislation dictates a board of seventeen members, mandating that nine be lawyers (a mathematical majority), and that five of those nine lawyer directors must be elected (a mathematical majority of the lawyer directors). The Legislature enacted the exact mathematical formula demanded by the LSBC to preserve self-regulation.
38. It is a definitive jurisprudential axiom that formal admissions made in pleadings or official submissions are binding and conclusive, precluding the party from advancing contradictory positions (*Marchand*

(Litigation Guardian of) v. Public General Hospital Society of Chatham, 2000 CanLII 16946 (ON CA); *RPC Construction Ltd. v. Zhiyi Zhou*, 2017 ONSC 4044; *Canada Permanent Mortgage Corp. v. City of Toronto*, 1951 CanLII 121 (ON CA)).

39. To approbate and reprobate by inviting the Judicial branch to strike down legislation based on a formula previously endorsed to the Executive branch constitutes an abuse of process, violating the venerable legal maxim formulated by Herbert Broom: *Allegans contraria non est audiendus* (he is not to be heard who alleges things contradictory to each other). As established in *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63, the judicial process cannot be co-opted to litigate contradictory postures. Consequently, the LSBC is legally and syntactically precluded from litigating this issue, rendering the appeal functionally moot.

PART 7: THE JURISPRUDENTIAL MISAPPLICATION OF THE JUDICIAL INDEPENDENCE DOCTRINE

40. At **paragraphs 50 through 53** of the LSBC Factum, the Appellant attempts to import the three essential conditions of judicial independence—security of tenure, financial security, and administrative independence, as codified in the *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3 (the "*Judges Reference*")—directly into the self-governance of the legal profession.

41. This conceptual conflation represents an unsustainable jurisprudential overreach. The judiciary is constitutionally entrenched under Part VII (sections 96 to 101) of the *Constitution Act, 1867*, operating as a separate, co-equal branch of government. By contrast, the regulation of the legal profession has always resided within the exclusive provincial legislative competence over Property and Civil Rights in the Province (section 92(13)) and the Administration of Justice in the Province (section 92(14)).

42. As authoritatively determined by the Supreme Court of Canada in *Attorney General of Canada v. Law Society of British Columbia; Jabour v. Law Society of British Columbia*, [1982] 2 S.C.R. 307 (the "*Jabour*"), and reaffirmed in *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869, the authority of a provincial law society to govern its members is derived entirely from provincial statute. Self-regulation is an administrative model chosen by the Legislature; it is not a freestanding, unwritten constitutional right that insulates a regulatory body from democratic restructuring.

43. Chief Justice Skolrood correctly recognized at **paragraphs 140 through 167** of the trial judgment that while the independence of individual advocates is an unwritten constitutional norm, the specific institutional model of Bencher electoral self-governance is an act of ordinary provincial legislation, not an entrenched constitutional guarantee. The LSBC's attempt to elevate its historical governance model to the status of section 96 judicial independence was and is legally erroneous.

PART 8: STATUTORY EVOLUTION VERSUS THEORETICAL SEARCH AND SEIZURE APPREHENSIONS

44. The companion appeal advanced by the TLABC is similarly vitiated by a truncated, ahistorical analysis. At paragraphs 17, 34, and 109 of the TLABC Factum, it is alleged that section 78 of the *LPA* 2024 authorizes unreasonable warrantless searches, thereby violating section 8 of the *Charter*.
45. This argument relies upon a refusal to acknowledge the severe deficiencies of the predecessor regime and the substantive privacy enhancements codified within the modernized legislation. Evaluating the *LPA* 2024 against sections 36 and 37 of the *LPA* 1998 reveals that the new legislation operates as a definitive constraint on the very investigatory overreach historically perpetrated by the LSBC.
46. The following statutory comparison chart illuminates the constitutional enhancements effectuated by the *LPA* 2024:

Investigatory Parameter	***LPA* 1998 (ss. 36–37) (Status Quo Ante)**	***LPA* 2024 (ss. 78–80) (Modernized Regime)**	**Constitutional Impact**
Entry Into Private Residences	Statutory silence. Interpreted broadly by the regulator to permit warrantless digital access within private homes.	**Section 78(2):** Explicit prohibition on entering a private residence without express consent or a judicial warrant.	Permanently closes the residential loophole; directly fortifies s. 8 *Charter* protections.
Search & Seizure Standard	**Section 37:** Triggered upon mere speculation that a licensee "may have committed misconduct."	**Section 79(3):** Demands a rigorous evidentiary threshold of "reasonable grounds to believe."	Establishes a higher threshold, subordinating regulatory power to independent judicial scrutiny.
Detention of Seized Records	No statutory limits. Data and hard drives were held indefinitely without further judicial approval.	**Section 80(6):** Imposes a strict three-month maximum retention period for seized records.	Aligns the regulatory framework with fundamental criminal search and seizure principles; prevents indefinite data retention.

Oversight of Seizure Conduct	Statutory silence. No requirement to report the execution of a seizure back to the issuing judge.	**Section 80(1):** Imposes mandatory reporting of the seizure to the issuing judge "as soon as practicable."	Introduces post-seizure judicial accountability.
Production Orders	**Section 36(d):** Broad demands for cooperation with minimal procedural safeguards.	**Section 78(3):** Orders subject to explicit judicial review, modification, and written reasons.	Codifies administrative due process at the investigatory threshold.
Owner Access to Records	Statutory silence. No guaranteed right for the target to inspect or copy seized records.	**Section 80(5):** Guarantees the target's right to inspect seized materials and obtain one copy at the regulator's expense.	Restores transparency and equality of arms.

47. The empirical reality demonstrating why the Legislature enacted these rigorous safeguards is documented in the forensic record of the June 4, 2014 Concealed RAM Dump and the March 2, 2016 remote module extraction:

Category	**June 4, 2014 — Concealed RAM Dump (Local)**	**March 2, 2016 — Remote Wiretap & Kernel Module Dump (Remote)**	**Could Any Lawful Warrant Authorize It?**
Nature of Action	Local volatile memory extraction using DumpIt software.	Active remote intrusion, live interception of communications, and kernel-level driver manipulation.	**No.**
Intrusion Level	Extreme but non-interactive.	Beyond extreme: interactive, persistent, and manipulative.	**No.**

System Integrity	Live volatile memory altered during execution.	Altered: eight kernel modules sequentially unloaded over 25 minutes.	**No.**
Communication Interception	Capture of ephemeral memory and unsent drafts.	Live interception of communications contrary to s. 184 of the *Criminal Code*.	**Requires Part VI Authorization (None Obtained).**
Persistence Mechanism	Windows Management Instrumentation (WMI) event triggers seeded.	15 CommandLineEventConsumer instances firing; rootsubscription active.	**No.**
Judicial Disclosure	Concealed from Gerow J., Bowden J., Grauer J., MacIntosh J., Branch J., and Skolrood C.J.S.C.	Concealed from all courts and the Attorney General of British Columbia.	**No.**

48. Modernizing legislation explicitly designed to rein in a rogue regulator and impose strict judicial oversight represents a valid, proportional exercise of provincial authority under sections 92(13) and 92(14) of the *Constitution Act, 1867*. The TLABC's theoretical apprehensions are defeated by the empirical reality of the unconstitutional incursions perpetrated under the *status quo ante*.

PART 9: THE SECTION 7 CHARTER CHALLENGE: COMPASSION, COMPETENCE, AND ADMINISTRATIVE REMEDIATION

49. At paragraphs 56 through 94 and 100 through 105 of the TLABC Factum, an extensive challenge is mounted alleging that sections 68, 88, and 122 of the *LPA* 2024 violate section 7 of the *Charter* by associating competence with health conditions and authorizing orders for medical treatment or counselling.
50. This submission misapprehends the administrative and remedial purpose of professional regulation. The statutory focus of section 68 is not punitive; it is protective and restorative. Regulating competence where an individual's capacity to serve the public is impaired by a health condition is a standard, recognized

function of modern regulatory bodies designed to protect the public from professional harm while providing structured diversion pathways.

51. Chief Justice Skolrood correctly observed at paragraphs 216 through 222 of the trial judgment that the regime is grounded in administrative remediation rather than criminal sanction. Analogizing to established occupational health standards, non-compliance with a competence order under section 88 does not expose a practitioner to penal incarceration under sections 198 and 202, but rather engages administrative licensing controls under section 59.

52. It is contradictory for the **Appellants** to advance prospective, theoretical arguments regarding psychological stress and bodily autonomy under section 7 of the *Charter*, while simultaneously ignoring the documented, empirical psychological distress and privacy violations inflicted upon practitioners through years of concealed, warrantless surveillance executed under the *status quo ante*. Discretionary constitutional remedies cannot be invoked to perpetuate a regulatory regime that engaged in the very abuses the modernized statute eliminates.

PART 10: SUBSTANTIVE VULNERABILITIES OF APPELLANTS' RESPONSIVE POSTURE

53. The tactical vulnerability of the **Appellants**' position is illuminated by comparing their responses to the **Applicant Party**'s intervention within the active record of proceedings:

Litigant / Counsel	Procedural Posture in Application Book	Substantive Vulnerability & Forensic Refutation
Law Society of British Columbia *(Lawson Lundell LLP)*	Dismisses the **Applicant Party**'s submissions as "prolix and incoherent"; seeks refuge exclusively behind the 2018 vexatious litigant order of Branch J.	**Zero Denial of Substantive Misconduct:** The LSBC offers zero denial of the June 4, 2014 RAM dump, the October 25, 2021 ShareFile disclosure, the Kimm Otto metadata, or the March 2, 2016 remote intrusion. It attempts to wield a 2018 order as a shield against empirical evidence of technological spoliation and surveillance that was actively concealed until October 2021. Under the doctrine established in *Lazarus Estates Ltd. v. Beasley*, [1956] 1 Q.B. 702, and affirmed in *Landreville v. Town of Boucherville*, [1978] 2 S.C.R. 801, *"fraud unravels everything."*

Trial Lawyers Association of BC *(Fasken Martineau DuMoulin LLP)*	998 Characterizes the **Applicant Party**'s intervention as an attempt to "hijack the appeal with peripheral issues" and personal grievances.	**Ironic Vocabulary & Evidentiary Confirmation:** The TLABC's use of the term "hijack" is profoundly ironic: that exact term appears sixty-seven times throughout the LSBC's own extracted memory artifacts, describing hijacked threads, hijacked debugger calls, and hijacked CPU execution. The TLABC insists on an abstract record precisely because the empirical record demonstrates that self-regulation under the 1998 Act failed to protect the public.

PART 11: THE ESTABLISHED DOCTRINE OF ABUSE OF PROCESS: PROOF BEYOND A BALANCE OF PROBABILITIES

54. The procedural and substantive conduct of the **Appellants** engages the doctrine of abuse of process in its most acute manifestation. The jurisprudence of this Court and the Supreme Court of Canada establishes that advancing irreconcilable factual postures, maintaining litigation upon an artificially sanitized record, and orchestrating procedural ambuscades constitutes an abuse of process that the court is bound to suppress.

55. The binding jurisprudence establishes unequivocal principles governing this abuse of process which is now proven "intra" these Appellate Proceedings or Appeals albeit the "sectioning of the factums" into a non-public docket:

> In *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63, at paragraph 3, the Supreme Court of Canada decreed that advancing irreconcilable factual positions across different proceedings or distinct phases of litigation is impermissible, as it degrades the integrity of the judicial process.
> In *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5, at paragraph 22, this Court confirmed that maintaining inconsistent positions across prior and pending proceedings constitutes an actionable abuse of process.
> In *Mystar Holdings Ltd. v. 247037 Alberta Ltd.*, 2009 ABQB 480, the court established that a party is strictly prohibited from deliberately arguing diametrically inconsistent facts in various actions, thereby advancing mutually destructive positions not articulated as alternative claims.
> In *Glover v. Leakey*, 2016 BCSC 1624, Madam Justice Gropper affirmed that the doctrine of abuse of process extends to any circumstance in which the court's procedure is deployed for an improper, collateral purpose.
> In *Jensen v. Ross*, 2014 BCCA 173, this Court ruled that the doctrine of abuse of process applies with equal force whether the inconsistent positions arise before a superior court or an inferior administrative tribunal.

> In *Pepper's Produce Ltd. v. Mogallion Realty Ltd.*, 2012 BCCA 247, at paragraph 28, Madam Justice Levine held that contradictory positions cannot be permitted to stand together, and the court must find an abuse of process to preserve institutional integrity.
> In *Halagan v. Reifel*, 1997 CarswellBC 4040 (BCCA), Madam Justice Satanove established that a litigant cannot approbate and reprobate, decreeing that court processes are not a game to be manipulated according to tactical advantage.
> In *Canam Enterprises Inc. v. Coles*, 2000 O.J. No. 4930 (C.A.), the Ontario Court of Appeal confirmed the inherent jurisdiction of the courts to prevent abuses of process, explicitly including professional conduct engineered to manipulate, obscure, or mislead the adjudicative body.

56. Applying these binding authorities to the active record, it is established not merely on a balance of probabilities, but well beyond, that the LSBC and TLABC have committed a flagrant abuse of process. The **Appellants** have: a. Procured a judicial finding of "no regulatory failure" before Chief Justice Skolrood by deliberately suppressing the independent Cayton Governance Report and their own history of warrantless digital surveillance; b. Commenced appellate proceedings directly attacking a statutory board composition formula that identically mirrors their own formal institutional admissions of November 2022; c. Circumvented mandatory service protocols under Rule 62(4) and Rule 64(1)(b) by tendering a fabricated, collaborative "Joint Response Book [Sic]" between nominally adverse parties to stifle an oral hearing; and d. Attempted to wield a spent, lower-court 2018 vexatious litigant order to bar appellate scrutiny of spoliation and surveillance evidence that was actively concealed until October 25, 2021.
57. As this Court confirmed in *Yang v. Shi*, 2022 BCCA 317 (and reaffirmed in *Contreras v. Thomson*, 2024 BCCA 357; *Masjoody v. Trotignon*, 2023 BCCA 220; and *Wu v. Murray*, 2023 BCCA 270), the Court of Appeal possesses both a party-driven jurisdiction under Rule 60 and a summary determination jurisdiction under section 21 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*") to summarily dismiss or quash appeals that are frivolous, vexatious, or so devoid of substantive merit as to constitute an abuse of process. The empirical proof of continuous abuse on this record commands the immediate termination of these appeals.

PART 12: EQUITABLE MAXIMS, BROOM'S LEGAL PRINCIPLES, AND THE PROCEDURAL NULLITY OF THE "JOINT RESPONSE BOOK"

58. The **Appellants** seek extraordinary, discretionary public-law remedies. It is a foundational principle of Canadian appellate jurisprudence that a litigant seeking such relief must approach the adjudicative body with clean hands. The venerable maxim compiled by Herbert Broom, *Ex turpi causa non oritur actio* (no action arises from a dishonourable cause), dictates that equitable remedies must be categorically denied to applicants who engage in deception or procedural manipulation (*Cock v. British Columbia (Labour Relations Board)*, 1960 CanLII 293 (BCCA); *Homex Realty & Development Co. v. Wyoming (Village)*, [1980] 2 S.C.R. 1011).

59. The deliberate curation of a sanitized record, the advancement of theories that contradict binding institutional admissions, and the calculated suppression of the Cayton Governance Report engage the unclean hands doctrine in its most severe manifestation.

60. Concurrently, the procedural ambuscade orchestrated via the submission of the fabricated "Joint Response Book [Sic]"—accepted by the Registry on September 21, 2026, yet subsequently and retroactively marked "received – not filed" on September 25 and September 29, 2026—exposes a profound administrative contradiction. The Registry initially advised that the **Applicant Party**'s corresponding Notice of Application to strike the nullity could not be accepted without a formal letter invoking the *Verma* principle (*R. v. Verma*, 2016 BCCA 307), only to unilaterally decree days later that the unfiled application would be placed before the division panel.

61. This administrative gatekeeping operates strictly *ultra vires*. Under the *Verma* doctrine, the Registrar possesses no judicial authority to pre-judge standing or merit; if a document complies with the rules, it must be accepted for filing. Leaving an application in an "unfiled" limbo while transmitting it to an appellate panel denies the document official docketing and violates the statutory mandates of the *COAA*.

62. As dictated by Broom's legal maxims:

    a. *Nemo dat quod non habet* (no one can give what they do not have): The Registrar cannot confer legal validity upon a filing category unauthorized by the Rules;
    b. *Generalibus specialia derogant* (special provisions derogate from general ones): The specific service and filing protocols of Rule 62 strictly override generalized administrative conveniences;
    c. *Actus curiae neminem gravabit* (an act of the court shall prejudice no man): The administrative mishandling and unfiled status of compliant motion materials cannot operate to prejudice an active litigant's statutory standing; and
    d. *Fraus omnia corrumpit* (fraud vitiates all transactions): Deceitful omissions and sanitized records vitiate standing to seek equitable appellate relief.

63. The "Joint Response Book [Sic]" itself remains an absolute jurisdictional nullity. The *Court of Appeal Rules* strictly prohibit adverse statutory parties or any Prescribed Parties for that matter from consolidating adversarial responses to circumvent mandatory service protocols under Rule 62(4) and Rule 64(1)(b).

PART 13: IRRESPECTIVE OF THE APPELLANTS' BREACHES OF THE ACT AND RULES, ABUSES OF PROCESS ET AL., POINTS OF LAW MUST BE DECIDED IN RELATION TO HORSMAN J.'S ERRORS OF PRINCIPLE, JURISDICTION AND LAW

64. Irrespective of the **Appellants**' cascading procedural defaults, bad-faith contrivances, and systemic abuses of process, the pure points of law governing the Impugned Orders of Madam Justice Horsman dated September 8, 2026, command immediate and independent adjudication by the Division Review Panel. The threshold issue in navigating the **Applicant Party**'s relief under Rule 62 of the *Court of Appeal*

Rules, B.C. Reg. 120/2022, revolves entirely around the applicable standard of review concerning the orders pronounced by the chambers justice.

65. While section 29 of the *COAA* generally accords deference to the case-management and interlocutory decisions of a single justice, Canadian appellate jurisprudence unequivocally dictates that deference collapses entirely when the impugned findings are predicated upon extricable errors of law, the application of incorrect legal tests, or acts executed absent statutory jurisdiction (*Arvanitis v. Slater Vecchio LLP*, 2022 BCCA 326 at para. 14; *Housen v. Nikolaisen*, 2002 SCC 33). In such circumstances, the standard of review is strictly that of correctness. The September 8 orders are beset by a cascading series of profound jurisdictional and legal errors that mandate the application of the correctness standard.

13.1 The Misapplication of the Binding Definition of "Party" (Rule 64):

66. The chambers justice fundamentally erred in law by failing to apply the binding definition of a "party" as codified in Rule 64 of the *Court of Appeal Rules* (defined by the Applicant Party throughout as a "Prescribed Party"). The contemporary *COAA* and its accompanying Rules represent a massive legislative overhaul designed to modernize and clarify appellate procedure. Part 9 of the Rules strictly governs "Applications." Within this Part, Rule 64(1) provides an overriding, context-specific definition of a party: in relation to an application, a "party" means the person who brings the application in accordance with the rules, or a person served with the notice of application.

67. By ignoring this binding statutory parameter, the chambers justice impermissibly imported the archaic, repealed statutory text of the former *Court of Appeal Act*, R.S.B.C. 1996, c. 77, and the former 2001 Rules. Under the repealed 1996 regime, section 20 explicitly restricted the right to raise a preliminary objection strictly to a formalized "Respondent" to the main appeal. However, the modernized 2021 *COAA* deliberately excised this rigid restriction. Section 20(2) of the modern *COAA* expansively provides that "A justice may, on application, quash an appeal" without restricting standing to a formal Respondent.

68. By importing the page-limit constraints and procedural thresholds of Rule 61 (Intervention) into the adjudication of relief sought under entirely separate and distinct statutory tracks—namely Rule 60 (Quashing) and sections 20 and 21 (Summary Determination)—the chambers justice applied an incorrect statutory framework. Once the Applicant filed a compliant Form 4 Notice of Application, he automatically became a "Prescribed Party" to that application by operation of Rule 64(1)(a). Concluding that the Applicant was not entitled to invoke Rule 60 or section 20 based on repealed logic constitutes a pure, extricable error of law, directly contrary to the binding authority of *R. v. Verma*, 2016 BCCA 307, which established that if a notice complies with the rules, it must be accepted, and status flows from that compliant filing.

13.2 Ultra Vires Directives, Coram Non Judice, and Section 38(2) of the COAA:

69. The chambers justice acted *ultra vires* and *coram non judice* by purporting to direct the Registrar to retroactively reclassify the Applicant's fully compliant, processed August 28, 2026, written argument as "received – not filed."
70. The Court of Appeal is a statutory court, divested of the broad inherent jurisdiction possessed by section 96 superior courts. Any act executed outside the powers conferred by the *COAA* and the Rules is void. Section 38(2) of the *COAA* vests the exclusive statutory authority to refuse filings in the Registrar, and this power is highly circumscribed: the Registrar may only refuse a document for non-compliance with the Rules or a formal practice directive. The Applicant's August 28 filing complied with all formatting, transmission, and procedural prerequisites. The statutory condition precedent for rejection was never triggered.
71. A single justice possesses no statutory authority under the modern Enactments to unilaterally and retroactively manipulate the registry ledger to alter the filing status of a compliant document, particularly absent a formal Rule 63 application to review a Registrar's direction. As established in *Pong v. Quong*, 1927 CanLII 2 (SCC), when an adjudicator assumes jurisdiction over matters not conferred by statute, the entire proceeding is *coram non judice*. The retroactive "un-filing" of the document was an assumption of procedural power belonging exclusively to the Rules Committee and the Registrar, rendering the directive void *ab initio*.

13.3 Sua Sponte Reversals and the Violation of Functus Officio:

72. The chambers justice further erred in law and principle by acting *sua sponte* (on her own initiative), absent any formal application or notice from the parties, to revoke or contradict the procedural directives previously established in the August 31 Memorandum.
73. The August 31 Memorandum contained a clear, unequivocal directive that the application would proceed on the "**EXISTING WRITTEN RECORD**." The subsequent September 8 reversal—which retroactively rejected the compliant August 28 written argument—constituted a unilateral departure from that established directive. In Canadian appellate jurisprudence (*Chandler v. Alberta Association of Architects*, [1989] 2 S.C.R. 848; *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33), once a procedural or substantive determination is rendered, the adjudicator's jurisdiction is exhausted (*functus officio*), subject only to narrow statutory exceptions for clerical errors.
74. A justice cannot intervene *sua sponte* to alter substantive procedural rights previously determined without violating the fundamental doctrine of procedural fairness (*audi alteram partem*). Reversing the "**EXISTING WRITTEN RECORD**" directive without notice, without a formal application to vary under the

COAA, and without affording the Applicant an opportunity to respond constitutes a severe breach of natural justice, rendering the resulting orders legally invalid irrespective of their underlying merits.

13.4 Objective Reasonable Apprehension of Bias:

75. Finally, the adjudication of the application is irreparably tainted by an objective reasonable apprehension of bias. The legal test is not actual bias, but whether an informed person, viewing the matter realistically and practically, would conclude that the adjudicator could not decide the matter impartially (*Committee for Justice and Liberty v. National Energy Board*, [1978] 1 S.C.R. 369; *Marchand (Litigation Guardian of) v. Public General Hospital Society of Chatham*, 2000 CanLII 16946 (ON CA)).
76. The evidentiary record establishes that the presiding justice, during her tenure as senior counsel within the Attorney General of British Columbia (AGBC), acted as direct co-counsel with Ms. Sarah Bevan before the Supreme Court of Canada (SCC Docket 36495). Subsequently, the Applicant formally reported Ms. Bevan for professional misconduct arising from misleading the Court of Appeal in *McLean v. British Columbia*, 2019 BCCA 133. In the current proceedings, submissions opposing portions of the Applicant's relief were advanced by Ms. Laura Bevan of Lawson Lundell LLP, counsel for the LSBC.
77. Formal declarations of law must be made establishing that a Justice of the Court of Appeal must strictly recuse themselves and must not hear an application or appeal where opposing counsel is a family member of, or closely connected to, a former law colleague with whom the Justice practiced in close association. The appearance of overlapping professional relationships—where an adjudicator is ruling upon submissions advanced by counsel closely connected to the adjudicator's former co-counsel, whom an active litigant had previously reported for misconduct—firmly engages the objective test for a reasonable apprehension of bias under *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25. Where this apprehension is established, the resulting orders are void *ab initio* (*Wewaykum Indian Band v. Canada*, 2003 SCC 45).
78. The following matrix synthesizes the incurable jurisdictional defects invalidating the Impugned Orders:

Jurisdictional Defect	**Governing Authority / Statute**	**Consequence**
Misapplication of "Party" definition	Rule 64(1) of the *Court of Appeal Rules* (2022)	Vitiates standing analysis; requires correctness review.
Retroactive "un-filing" of document	Section 38(2) of the *Court of Appeal Act* (2021)	Act executed *coram non judice*; order is void *ab initio*.

Sua sponte reversal of directives	Doctrine of *Functus Officio* / *Audi Alteram Partem*	Breach of natural justice; renders disposition legally invalid.
Reasonable Apprehension of Bias	*Committee for Justice and Liberty v. National Energy Board*	Disqualifying conflict; all impugned orders are void *ab initio*.

PART 14: ANSWERS TO THE ISSUES IN THE FORM 8 NOTICE OF APPLICATION

79. The paramount issues raised for determination within the **Applicant Party**'s Form 8 Notice of Application under Rule 62 are answered conclusively as follows:

Form 8 Issue for Determination	**Adjudicative Analysis and Answer**
(a) Failure to apply the binding definition of "party" under Rule 64	**Affirmative Error of Law:** Madam Justice Horsman fundamentally erred in law by failing to apply Rule 64(1)(a), which statutorily defines "party" as any person who brings an application in accordance with the rules. The chambers justice imported repealed language from the 1996 Act, ignoring that the 2021 overhaul excised the "Respondent-only" restriction for quashing applications under section 20. Standing was possessed *ipso facto*.
(b) Importing Rule 61 constraints into Rule 60 and Sections 20/21 relief	**Affirmative Error of Law:** The chambers justice erred by collapsing independent statutory applications into a single intervention silo. Procedural page limits and criteria under Rule 61 cannot be imported to bar summary determination under section 21 or quashing under Rule 60. Under *R. v. Verma*, 2016 BCCA 307, compliant filings cannot be administratively truncated.
(c) Ultra vires and Coram Non Judice reclassification of compliant filings	**Affirmative Usurpation of Jurisdiction:** The direction to mark the August 28 filing as "received – not filed" was executed without statutory jurisdiction. Section 38(2) of the *COAA* vests document refusal authority exclusively in the Registrar for non-compliance with Rules. The document complied with all directives; the retroactive un-filing was an act *coram non judice* and void *ab initio*.

(d) Sua sponte revocation of the August 31 "EXISTING WRITTEN RECORD" directive	**Affirmative Error of Principle:** The chambers justice acted *sua sponte*, absent notice or application, violating the doctrine of *functus officio* (*Chandler*, [1989] 2 S.C.R. 848) and *audi alteram partem*. A justice cannot unilaterally dismantle an established procedural order without affording the affected litigant an opportunity to be heard.
(e) Failure to adjudicate Section 20 and Rule 60 relief	**Affirmative Denial of Natural Justice:** Once the Applicant became a party under Rule 64(1) and the hearing was ordered on the "**EXISTING WRITTEN RECORD**," the chambers justice possessed no statutory discretion to decline adjudication of the substantive preliminary objections and quashing relief properly before the Court.
(f) Failure to apply the mandatory correctness standard	**Affirmative Error of Law:** Pure questions of law, statutory interpretation, jurisdiction, and abuse of process attract a non-deferential correctness standard (*Housen v. Nikolaisen*, 2002 SCC 33; *Law Society of Saskatchewan v. Abrametz*, 2022 SCC 29). Deference under section 29 of the *COAA* collapses where extricable errors of law and jurisdiction are established.
(g) Objective reasonable apprehension of bias	**Affirmative Disqualification:** The prior professional co-counsel relationship between the chambers justice and Ms. Sarah Bevan before the Supreme Court of Canada, combined with the Applicant's prior misconduct report against Ms. Bevan, and the contemporaneous appearance of Ms. Laura Bevan, meets the objective test in *Yukon Francophone School Board*, 2015 SCC 25. The orders are void *ab initio*.
(h) Consequential relief to be granted	**Mandatory Appellate Orders:** The Division Review Panel must: (1) cancel and vary the September 8 orders; (2) direct the Registrar to formally mark the August 28 argument as filed *nunc pro tunc*; (3) strike the fabricated "Joint Response Book"; and (4) summarily dismiss or quash the **Appellants**' appeals under sections 21, 24, 25, and 36 of the *COAA* and Rule 60.

PART 15: ENCOURAGEMENT TO APPELLANTS TO ABANDON APPEALS FORMALLY AND NOT FILE ANY PAPER COPIES OF THE CASE CENTER FACTUMS, SECTION 36 COAA SANCTIONS, AND CLOSING PROCEDURAL WARNING

80. This correspondence serves as a formal encouragement and demand to the **Appellants** to immediately abandon their respective Appeals without costs by filing formal Notices of Abandonment in Form 6, and to strictly refrain from delivering or filing any physical paper counterpart copies of their Case Center factums on the scheduled October 19, 2026 deadline.
81. A failure to abandon these proceedings will precipitate the inevitable, public exposure of the undeniable conclusion that the LSBC has systematically abused the process of the courts from 2014 through 2026, while rendering it impossible to fulfill its statutory duty under section 3(a) of the *LPA* 1998.
82. The **Appellants** and the Registry are further placed on formal notice that an exhaustive Written Argument for the Honourable Review Division Panel is being finalized for immediate delivery. This comprehensive submission will mercilessly dissect the binding mathematical admissions, expose the deliberate mischaracterization of the modernized search and seizure safeguards, and firmly invoke the summary dismissal jurisdictions encapsulated within sections 20, 21, 24, 25, and 36 of the *COAA*, alongside Rule 60.
83. Pursuant to section 36 of the *COAA*, a justice possesses the explicit statutory authority to refuse to hear a party, impose punitive costs, or dismiss an appeal as abandoned where a party fails to comply with the Act, the Rules, or an order of the Court. The **Appellants**' cascading failures—culminating in the tender of procedural nullities, the evasion of mandatory service, and the maintenance of an appeal in a factual vacuum—trigger this summary dismissal jurisdiction.
84. As a final, critical point of law: It is respectfully submitted that an Order in case management must never be granted in such a fashion that an Appellant's factum is uploaded via an external portal (Case Center) and merely "deemed filed." Such an opaque administrative mechanism circumvents the public registry, operating to fundamentally disenfranchise the public and interested persons from their statutory right under Rule 60 to inspect adjudicative pleadings, raise preliminary objections *in limine*, or apply to quash the appeal before judicial resources are squandered.

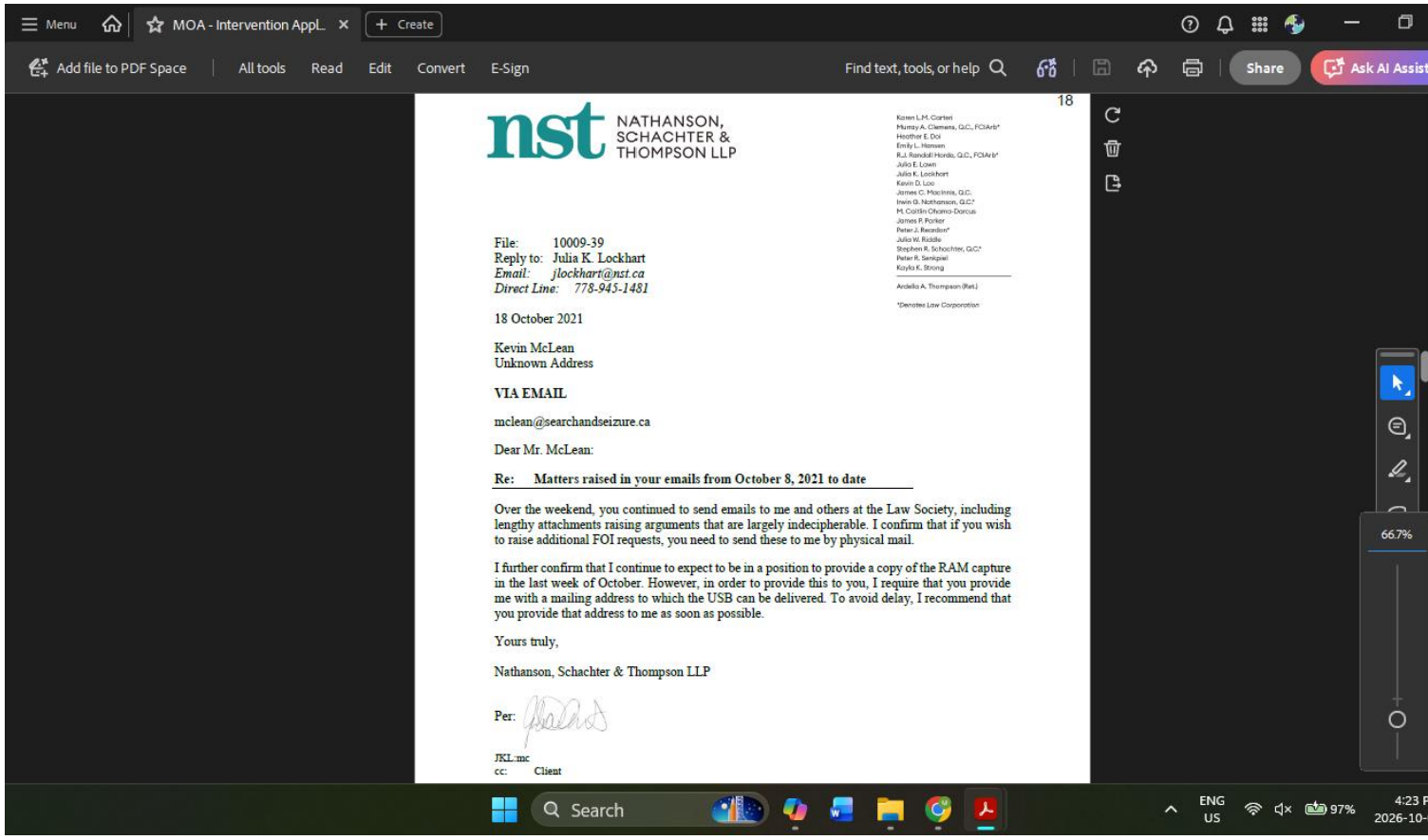
PART 16: WAS MR. KEVIN A. MCLEAN (BA, JD, CIM) THE ONLY LAWYER LICENSEE SUBJECT TO CONCEALED RAM CAPTURES? THE VENN DIAGRAM CONVERGENCE AND THE NOMENCLATURE OF "CAPTURE"

85. While it was initially presumed that the Applicant Party was the singular, idiosyncratic target of these unconstitutional incursions, a rigorous comparative analysis of the primary transcripts and official correspondence reveals a systemic regulatory practice. The intersection of language deployed by former

senior counsel for the LSBC, Mr. Gomery, Q.C. (as he then was), and subsequent correspondence authored by Ms. Julia Lockhart of Nathanson, Schachter & Thompson LLP ("NST LLP") establishes that the execution of volatile-memory extractions was not an isolated incident, but an institutionalized methodology.

86. The specific linguistic nexus is established by cross-referencing the official correspondence of NST LLP with the transcript of proceedings before The Honourable Madam Justice Gerow on May 29, 2015.

87. In the October 18 and October 25, 2021 correspondence from NST LLP (Application Book, Tab 3B, pp. 18–20), Ms. Lockhart formally utilized the term "RAM capture" to describe the extraction executed upon the Applicant's computer (not "forensic copying" of a 'hard drive'):



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NATHANSON, SCHACHTER & THOMPSON LLP

File: 10009-39
Reply to: Julia K. Lockhart
Email: jlockhart@nst.ca
Direct Line: 778-945-1481

18 October 2021

Kevin McLean
Unknown Address

VIA EMAIL

mclean@searchandseizure.ca

Dear Mr. McLean:

Re: Matters raised in your emails from October 8, 2021 to date

Over the weekend, you continued to send emails to me and others at the Law Society, including lengthy attachments raising arguments that are largely indecipherable. I confirm that if you wish to raise additional FOI requests, you need to send these to me by physical mail.

I further confirm that I continue to expect to be in a position to provide a copy of the RAM capture in the last week of October. However, in order to provide this to you, I require that you provide me with a mailing address to which the USB can be delivered. To avoid delay, I recommend that you provide that address to me as soon as possible.

Yours truly,

Nathanson, Schachter & Thompson LLP

Per:

JKL:mc
cc: Client

Menu | MOA - Intervention Appl. | Create

Add file to PDF Space | All tools | Read | Edit | Convert | E-Sign | Find text, tools, or help | Share | Ask AI Assist

Reply to: Julia R. Lockhart
Email: jlockhart@nst.ca
Direct Line: 778-945-1481

Kayla K. Strong

Ardella A. Thompson (Ret.)

*Denotes Law Corporation

25 October 2021

Kevin McLean
Unknown Address

VIA EMAIL

mclean@searchandseizure.ca

Dear Mr. McLean:

Re: Copy of RAM Capture

We are writing to respond to the request you confirmed on October 8, 2021 under the *Freedom of Information and Protection of Privacy Act* ("FIPPA") on the Law Society of British Columbia.

Further to that request for a copy of the RAM capture made from your computer in June 2014, I enclose a link to download that file.

Under section 52 of the FIPPA, you may apply to the Information and Privacy Commissioner for a review of the Law Society's response to your request. You have 30 business days to request a review by writing to the Office of the Information and Privacy Commissioner at the contact information provided below.

If you wish to request a review under section 52, please provide the Commissioner's office with the following information:

1. Your name, address and telephone number;
2. A copy of your request;
3. A copy of this letter; and
4. The specific reasons for requesting a review.

The Office of the Information and Privacy Commissioner can be reached at the contact information provided below:

Office of the Information and Privacy

750 - 900 Howe Street, Vancouver, BC V6Z 2M4 T: 604.662.8840 nst.ca

010009/039/00560192

Search | ENG US | 97% | 4:24 P 2026-10-

88. By way of context of previously cited portions from transcripts, the Applicant Party respectfully refers the BCCA, particularly the BCCA Chief Justice to the following (see: **Tab 3(C), pages 74 and 75**):

THE COURT: Which on a plain reading -- and if you're asking me to plainly read -- that allows a search and seizure of material in -- without consent or on request, presumably, and then you get your consent. But that's what the argument is, is that -- not that they -- I mean, if there was an investigation where they had permitted you to come in and permitted the investigation to go on, of course, you know, it makes sense that you could copy the documents in that context. What Mr. McLean is actually complaining of is that the rule that your client relied on, that took -- allowed them to go further than that. It allowed them to go in and search and seize without an order under section 37, and that's the issue, is whether or not that constitutionality of that rule is made out."

8. The next reproduction is from the hearing before Madam Justice Gerow on May 29, 2015, in *McLean v. LSBC et al.* (BCSC File No. S-1410056):

"**LSBC**: Now, in my submission there's nothing here to express a **legislative intent** that records means anything less than records as defined in the Interpretation Act. And

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having regard to the purpose, the purpose is of course the investigation of books, records and accounts of a lawyer. It is necessary that the Law Society not be **stopped cold** in its investigation if the lawyer has decided to mix personal and business records on a **hard drive**, as lawyers do.

THE COURT: Well, **they wouldn't be stopped cold**. That's the point. They would make an application under section 37, which would allow them **if they had appropriate evidence** to then go in and --

...you can't say they would be stopped cold.

They would be not able to **seize** or to copy **the entirety of a hard drive** presumably if it was within the -- **if that didn't fall within the definition of records under section 36**, but that wouldn't preclude the Law Society from then saying well, we want the computer, the hard drive computer for this particular individual. **We need to make an application to court**. So that's -- section 37 allows that, so I don't understand that submission.

MR. GOMERY: It's -- **I think I overstated it.**

89. Crucially, during the May 29, 2015 hearing before Madam Justice Gerow in *McLean v. Law Society of British Columbia* (BCSC File No. **S-1410056;** transcript at page 40; Petitioner's Record in **S-175785,** Tab 4, Exhibit "D", p. 16), Mr. Gomery, Q.C., advancing general submissions regarding the operational scope of the predecessor regulatory regime, explicitly declared

> "**Mr. Gomery**:
>
> The whole process is one that's designed to **<u>CAPTURE</u>** professional records, recognizing that personal records may be caught where they're mixed up with professional records, and of course it includes a process for independent oversight for the exclusion of records that contain personal information not relevant to the investigation."
>
> [emphasis is the Applicant Party's]

90. It is trite and self-evident that the word "copy" is included with "forensic **copy[ing]**" and "capture" is included with "RAM capture".

91. The relevant definition of “capture” is: to take and hold (someone or something) as a captive or prisoner; also : to gain control of especially by force (see: Merriam-Webster Online Dictionary).
92. “Copying” and “capturing” are alien to each other.
93. In legal, grammatical, and forensic usage, the words “copy” and “capture” are mutually exclusive:
    a. “Copy” (*Forensic Copying*): Signifies a static, bit-stream duplication of persistent, magnetic storage utilizing hardware write-blockers that alter zero bytes of the underlying media (**NIST SP 800-86**);
    b. “Capture” (*RAM Capture / RAM Dump*): Denotes the physical and logical taking into custody of volatile system memory, requiring the active injection of specialized executable binaries (e.g., DumpIt) directly into the CPU's live execution space, an act defined lexicographically as *gaining control by force or taking captive* (Merriam-Webster).

94. The deliberate invocation of the word “capture” by former senior counsel for the regulator when describing the institutional design of Rule 4-43 investigations—viewed alongside the subsequent admission by NST LLP that a “RAM capture” was executed—generates the compelling and inescapable inference: the LSBC deployed warrantless volatile-memory extractions as a standard investigatory mechanism against legal practitioners across British Columbia.
95. During the operational tenure of former Rule 4-43, the LSBC executed an average of five to six investigation orders per year. Each order authorized multi-hour forensic attendances. Because legal workstations routinely process personal information, private communications, and third-party records, the widespread deployment of volatile-memory “captures” would mean that dozens of practitioners and hundreds of clients were exposed to surreptitious, unconstitutional digital extractions without their knowledge or consent.
96. The Applicant Party formally requests that the Chief Justice of British Columbia direct the LSBC to provide a definitive answer upon the record: Was Mr. Kevin A. McLean the sole practitioner subjected to a concealed volatile-memory “RAM capture,” or was this invasive extraction technique deployed against other members of the Bar under the guise of Rule 4-43?
97. This profound institutional question highlights why the appeals cannot proceed upon a sanitized factual record. The Review Division Panel possesses the statutory authority and the constitutional obligation under sections 20, 21, 24, 25, and 36 of the *COAA*, alongside Rule 60, to terminate these proceedings: a. Quashing the appeals pursuant to section 20(2)(a) of the *COAA* for lack of jurisdiction; b. Dismissing the appeals summarily pursuant to section 21 of the *COAA*; c. Quashing the appeals or striking portions of the Appellants' factums pursuant to Rule 60(1)(a) and (c); d. Refusing to hear the Appellants and

Respondents pursuant to section 36(a) of the *COAA* for persistent non-compliance; and e. Dismissing the appeals as abandoned pursuant to section 36(c) of the *COAA*.

98. This correspondence, incorporating the Appellants' factums into the active Record of Proceedings for the Applicant Party's Form 8 application, is provided to Registrar Timothy Outerbridge to ensure that the September 25, 2026 Notice of Application and accompanying Written Argument are formally docketed and served upon all Prescribed Parties under Rule 64(1)(b) forthwith.

99. The supervisory jurisdiction of the Chief Justice as *Primus Inter Pares*, established in *Ruffo v. Conseil de la magistrature*, [1995] 4 S.C.R. 267, and *Faber c. R.*, 2015 QCCS 12 (para. 111), encompasses the non-delegable responsibility to protect the administration of justice from administrative capture through the exercise of the Thirteen Chief Justice Duties:

    a. ultimate jurisdiction (the "**Ultimate Jurisdiction**"): The possession of the definitive and final authority over the adjudicative and administrative functions of the Court, ensuring that the judicial hierarchy remains intact and that the *status quo ante* is preserved against unauthorized deviation;
    b. constitutional trust stewards (the "**Constitutional Trust Stewards**"): The non-delegable responsibility to serve as the primary guardian of the constitutional trust bestowed upon the judicial branch by the sovereign and the citizenry, a trust that is predicated upon the absolute neutrality of the bench;
    c. imperviously influenced mandate (the "**Imperviously Influenced Mandate**"): The requirement to remain completely impervious to external influences, bearing the unique burden of ensuring the Court as a whole remains insulated from such pressures, whether they be political, executive, or administrative (see: *Faber c. R.*, 2015 QCCS 12 (the "**Faber**"), paragraph 111; BOA, *Tab #133*, pp. 3028–3030);
    d. master of the roster (the "**Master of the Roster**"): The absolute authority over the scheduling and distribution of judicial resources, preventing the emergence of "judicial silos" or the arbitrary and *ad hoc* assumption of jurisdiction by individual members of the bench;
    e. self-assignment power (the "**Self-Assignment Power**"): The inherent authority to *take over* or self-assign matters of profound institutional significance where high-quality justice or the reputation of the tribunal is at risk due to administrative capture;
    f. administrative steward (the "**Administrative Steward**"): The duty to oversee the clerical and registry functions as a necessary extension of judicial sovereignty, ensuring that the administrative arm of the court does not operate in a state of lawlessness or procedural stasis;
    g. institutional reputation guardian (the "**Institutional Reputation Guardian**"): The obligation to serve as the face of the Court and the protector of its standing in the public eye, rectifying any conduct that may cast a pall upon the perceived impartiality of the judiciary;

h. efficiency operation duty (the "**Efficiency Operation Duty**"): The responsibility to ensure the seamless and efficient operation of all Court functions, preventing the occurrence of administrative *lacunae* or the functional stagnation of the list;

i. ethical compliance guarantee (the "**Ethical Compliance Guarantee**"): The occupation of a preferred position to ensure and guarantee absolute compliance with judicial ethics within the tribunal, acting as the final arbiter of professional conduct;

j. complaint laying power (the "**Complaint Laying Power**"): The intrinsic authority to initiate formal complaints against colleagues where ethical breaches are identified, a power that is central to the self-regulating nature of the judicature;

k. puisne judge removal power (the "**Puisne Judge Removal Power**"): The authority to relieve or reassign a colleague from judicial duties during the pendency of ethical inquiries or complaints, thereby preserving the public's perception of institutional integrity;

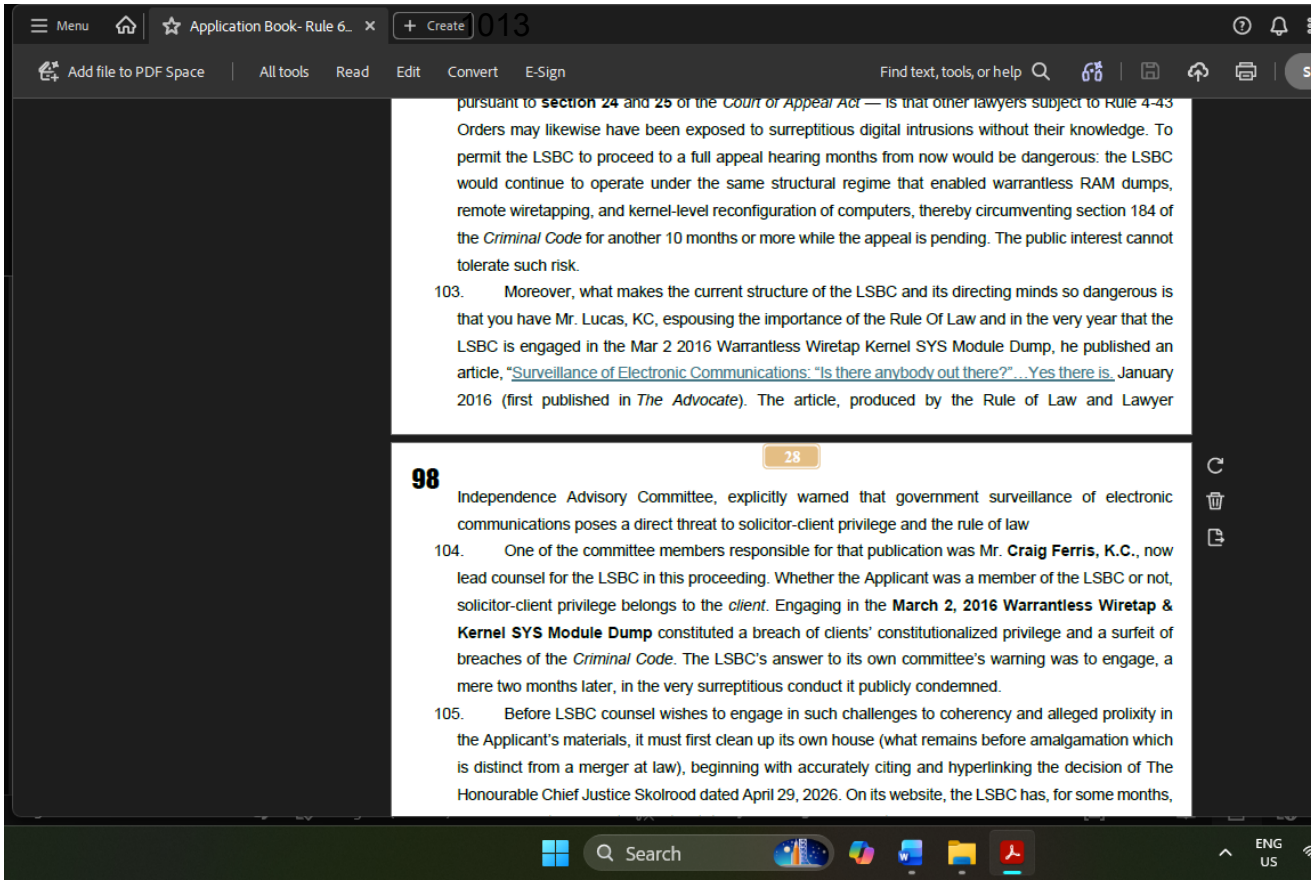
l. moral barometer (the "**Moral Barometer**"): The role of serving as the ethical and integrity barometer for the entire judicial institution, setting the standard for comportment and professionalism; and

m. moral authority (the "**Moral Authority**"): The power to impose judicial will upon other *puisne* judges through the exercise of moral authority regarding directives to which they may not be legally subject but are ethically bound to follow for the collective good.

100. The EXISTING WRITTEN RECORD upon which the NOA Form 4 was adjudicated by Horsman J. and by which the Form 8 NOA must be determined is now complete. The administration of justice cannot permit its formalized rules to be discarded, nor can it allow constitutional challenges to be prosecuted upon a fabricated factual foundation.

101. Further, the administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved.

102. If the Rule Of Law is to have any substance and teeth, then the Appeals must be dismissed or quashed under any or all of the above legal bases. Certainly, the LSBC' Rule of Law and Lawyer Independence Committee **must agree** and I quote from paragraphs 103 an 104 from Tab 3(C) of the Applicant Party' Application Book along with a screenshot of the same:



pursuant to **section 24** and **25** of the *Court of Appeal Act* — is that other lawyers subject to Rule 4-43 Orders may likewise have been exposed to surreptitious digital intrusions without their knowledge. To permit the LSBC to proceed to a full appeal hearing months from now would be dangerous: the LSBC would continue to operate under the same structural regime that enabled warrantless RAM dumps, remote wiretapping, and kernel-level reconfiguration of computers, thereby circumventing section 184 of the *Criminal Code* for another 10 months or more while the appeal is pending. The public interest cannot tolerate such risk.

103. Moreover, what makes the current structure of the LSBC and its directing minds so dangerous is that you have Mr. Lucas, KC, espousing the importance of the Rule Of Law and in the very year that the LSBC is engaged in the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump, he published an article, "Surveillance of Electronic Communications: "Is there anybody out there?"…Yes there is. January 2016 (first published in *The Advocate*). The article, produced by the Rule of Law and Lawyer

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Independence Advisory Committee, explicitly warned that government surveillance of electronic communications poses a direct threat to solicitor-client privilege and the rule of law

104. One of the committee members responsible for that publication was Mr. **Craig Ferris, K.C.**, now lead counsel for the LSBC in this proceeding. Whether the Applicant was a member of the LSBC or not, solicitor-client privilege belongs to the *client*. Engaging in the **March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump** constituted a breach of clients' constitutionalized privilege and a surfeit of breaches of the *Criminal Code*. The LSBC's answer to its own committee's warning was to engage, a mere two months later, in the very surreptitious conduct it publicly condemned.

105. Before LSBC counsel wishes to engage in such challenges to coherency and alleged prolixity in the Applicant's materials, it must first clean up its own house (what remains before amalgamation which is distinct from a merger at law), beginning with accurately citing and hyperlinking the decision of The Honourable Chief Justice Skolrood dated April 29, 2026. On its website, the LSBC has, for some months,

> "[103] Moreover, what makes the current structure of the LSBC and its directing minds so dangerous is that you have Mr. Lucas, KC, espousing the importance of the Rule Of Law and in the very year that the LSBC is engaged in the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump, he published an article, "Surveillance of Electronic Communications: "Is there anybody out there?"…Yes there is. January 2016 (first published in *The Advocate*). The article, produced by the Rule of Law and Lawyer Independence Advisory Committee, explicitly warned that government surveillance of electronic communications poses a direct threat to solicitor-client privilege and the rule of law
> [103 One of the committee members responsible for that publication was Mr. **Craig Ferris, K.C.**, now lead counsel for the LSBC in this proceeding. Whether the Applicant was a member of the LSBC or not, solicitor-client privilege belongs to the *client*. Engaging in the **March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump** constituted a breach of clients' constitutionalized privilege and a surfeit of breaches of the *Criminal Code*. The LSBC's answer to its own committee's warning was to engage, a mere two months later, in the very surreptitious conduct it publicly condemned."

103. Has the LSBC become more or less compliant with the Rule Of Law since that time? The question answers itself.

104. The LSBC's own Rule of Law and Lawyer Independence Committee warned the profession in January 2016 that surveillance of electronic communications threatens solicitor-client privilege and the rule of law. Two months later, the LSBC engaged in the very conduct it publicly condemned. That contradiction is not merely hypocrisy — it is self-impeachment. It is admission by publication, admission

by conduct, and admission by timing. No constitutional challenge can proceed when its proponent stands on a factual foundation it has itself corrupted. The Rule of Law requires dismissal. The integrity of the administration of justice requires dismissal. The protection of solicitor-client privilege requires dismissal. Nothing less will suffice.

105. Vast and deep remedial work will required by the new regulator, the **LPBC**, and justice delayed is justice denied for that broad base of persons so affected by the LSBC's lawless admitted 'captures'."

ALL OF WHICH IS RESPECTFULLY SUBMITTED ON October 4, 2026

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party (Court of Appeal File Nos.: CA51535 / CA51536)

Email: mclean@searchandseizure.ca

Phone: 647.370.9354

Fax: 1 (416) 352-0055

[i]See: COAA, ss. 1(1)

Appendix “A”

COURT OF APPEAL FILE NO. CA51536
Law Society of British Columbia v. Attorney General of British Columbia
Appellant's Factum

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on April 29, 2026

BETWEEN:

Law Society of British Columbia

APPELLANT
(Plaintiff)

AND:

Attorney General of British Columbia and
Lieutenant Governor in Council of British Columbia

RESPONDENTS
(Defendants)

APPELLANT'S FACTUM
Law Society of British Columbia

Law Society of British Columbia

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CHRONOLOGY

Date	Event	Reference
March 1, 2022	The Attorney General of British Columbia announces that the government will impose a new regulatory model to govern lawyers, notaries and paralegals in British Columbia.	Affidavit #1 of Brook Greenberg, K.C., made May 24, 2024 [**Greenberg #1],** Ex. 23, (Joint Appeal Book (**JAB**) Tab ●, p. ●).
September 14, 2022	The Ministry of Attorney General (**MAG**) releases an Intentions Paper on Legal Professions Regulatory Modernization. Details of the proposed governance structure are not included in the Intentions Paper.	Greenberg #1, Ex. 24 (JAB Tab ●, p. ●).
May 2023	MAG issues a "What We Heard" report detailing some of the results of MAG's public engagement and public survey related to the proposed regulatory changes.	Greenberg #1, Ex. 31 (JAB Tab ●, p. ●).
January – March 2024	The Federation of Law Societies of Canada, Canadian Bar Association (BC Branch), Trial Lawyers Association of British Columbia and 10 other professional lawyers' associations issue letters asking the government to share draft legislation with lawyers.	Greenberg #1, Exs. 43-44 (JAB Tab ●, p ●).
March 2024	MAG releases a public update about the proposed single legal regulator legislation. The public update contains limited information about the regulatory framework in the proposed legislation.	Greenberg #1, Ex. 33 (JAB Tab ●, p. ●).
April 10, 2024	Bill 21 – *Legal Professions Act* is introduced in the Legislature for first reading. This is the first time a draft of the proposed legislation is made available to the public.	Greenberg #1, Ex. 35 (JAB Tab ●, p. ●).
April 10, 2024	The Law Society of British Columbia (**LSBC**) issues a statement opposing Bill 21.	Greenberg #1, Ex. 37 (JAB Tab ●, p. ●).

April 19, 2024	The CBABC asks the AG not to proceed with Bill 21 without meaningful engagement to resolve concerns raised by lawyers through a collaborative process.	Greenberg #1, Ex. 45 (JAB Tab ●, p. ●).
April 26, 2024	The Benchers of the LSBC write to the Attorney General to urge the government to reconsider proceeding with Bill 21 without significant amendment.	Greenberg #1, Ex. 38 (JAB Tab ●, p. ●).
May 15, 2024	The government closes debate in the Legislature and enacts Bill 21 as the *Legal Professions Act*, S.B.C. 2024, c. 26 (**Bill 21**). Certain provisions of Bill 21 come into force on enactment.	
May 17, 2024	The LSBC files a Notice of Civil Claim in Supreme Court of British Columbia Action No. S-243258 alleging that Bill 21 is unconstitutional.	Notice of Civil Claim filed May 17, 2024 (Joint Appeal Record (**JAR**) Tab 1).
October 2025	LSBC's claim is heard by way of summary trial before the Hon. Chief Justice Skolrood.	
April 29, 2025	LSBC's claim is dismissed.	Order of the Honourable Chief Justice Skolrood (JAR Tab 19)

OPENING STATEMENT

An independent Bar stands between the government and the citizen to ensure the public's access to legal rights and independent courts. If independence of the Bar is compromised, then the foundations of our constitutional democracy are left vulnerable to the will of the government of the day.

The Chief Justice correctly found that independence of the Bar is an unwritten constitutional principle that is one of the basic tenets of our constitutional arrangements, and which is closely related to and maintains judicial independence and the rule of law in Canada. The Chief Justice also correctly defined the general principle of independence of the Bar and concluded that the principle is properly applied as an interpretive aid to the scope of the Legislature's authority under s. 92(13) and (14) of the *Constitution Act, 1867*. This Court should adopt and endorse the Chief Justice's findings in this regard.

But the Chief Justice applied the wrong test in his determination of whether Bill 21 was *ultra vires* ss. 92(13) and (14) of the *Constitution Act, 1867*. The correct test is whether a reasonable person, informed of the relevant statutory provisions in their historical and traditional context, viewing the matter realistically and practically, would conclude that Bill 21 maintains an independent Bar. The answer to this correct test is 'no'. Bill 21, viewed holistically and in its proper context, is objectively inconsistent with the maintenance of an independent Bar in British Columbia. It is therefore inconsistent with the Constitution and must be struck down.

PART 1 - STATEMENT OF FACTS

1. The facts set out below are not in dispute. The parties disagree as to their relevance to the constitutional question before this Court.

A. The Law Society of British Columbia

2. The appellant Law Society of British Columbia (the **Law Society**) is an independent, self-governing non-profit society continued by s. 2(1) of the *Legal Profession Act,* S.B.C. 1998, c. 9 (the ***LPA***).[1] The Law Society ensures robust, visible and independent professional regulation of lawyers in the public interest[2] under the *LPA,* the Law Society Rules (the **Rules**), and the *Code of Professional Conduct* (the ***Code***). Through the enabling provisions of the *LPA* (including ss. 3, 4 and 11), the public is assured of access to a trustworthy and competent Bar, whose admission, competence and discipline is regulated by lawyers who are accountable to the public interest, and not to government policy or outside influence.

3. The Law Society is governed by 32 Benchers, consisting of 25 lawyer Benchers elected by the lawyers of British Columbia from nine electoral districts across the province, six lay Benchers appointed by the Lieutenant Governor in Council (**LGIC**), and the Attorney General (an *ex officio* bencher, who does not vote at the Bencher table[3]).[4] The *LPA* does not prescribe the number of Benchers, or the manner of their election.[5] The Benchers have a duty to abide by the *LPA*, the Rules and the *Code*, and to uphold

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[1] *Legal Profession Act*, S.B.C. 1998, c. 9 [*LPA*], Book of Enactments (**BE**) Tab ●.

[2] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779 at paras. 1, 9 [Reasons for Judgment] (JAR Tab 21, pp. 268, 270).

[3] Examination for Discovery of Katharine Armitage by Craig Ferris, K.C., March 14, 2025 [**Armitage XFD**] (JAB Tab ●, p. ●, q. 124).

[4] *LPA* at paras. 4, 7 (BE Tab ●, p. ●).

[5] Affidavit #3 of Brook Greenberg, K.C., made April 3, 2025 [**Greenberg #3**], Ex. 42, Rules 1-19 to 1-44 (JAB Tab ●, p. ●).

the objects of the Law Society and ensure they are guided by the public interest in the performance of their duties.[6]

4. One of the core self-regulatory functions of the Benchers is rule-making.[7] The Rules made by Benchers govern membership and admission into the Law Society; the authority to practice law; processes for protection of the public through the investigation of complaints, promotion of the mental and physical health of lawyers, maintenance of practice standards, and continuing education of lawyers; discipline of lawyers who are alleged to have breached the Rules; and all aspects of the day-to-day practice of law.[8] The Rules, rather than the *LPA*, also provide for the manner of election of Benchers.[9]

5. The Benchers also maintain the *Code*.[10] The Code is an expression of the Benchers' views on the special ethical responsibility of lawyers, and articulates lawyers' duties to the state, to courts, to clients, and to each other.[11] The maintenance of the *Code* forms an integral part of independent self-regulation of lawyers in the public interest. The Code is significantly related to the Federation of Law Societies' Model Code of Professional Conduct, which ensures pan-Canadian standards for the practice of law.[12]

6. The Rules and the *Code* are not subject to the influence of any body or group and do not require the approval of government.

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[6] Greenberg #3, Ex. 41 (JAB Tab ●, p. ●).

[7] Greenberg #1, Ex. 6 (JAB Tab ●, p. ●); *Reasons for Judgment* at para. 8 (JAR Tab 21, p. 269). See for example: *LPA* ss. 6(1),7(1), 8, 11-15, 36 (BE Tab ●).

[8] Greenberg #1, para. 23 (JAB Tab ●, p. ●).

[9] Greenberg #3, Ex. 42, Rules 1-19 to 1-44 (JAB Tab ●, pp. ●).

[10] Greenberg #3, Ex. 44 (JAB Tab ●, p. ●).

[11] Greenberg #3, Ex. 44, C-2.1 (JAB Tab ●, p. ●).

[12] Greenberg #1, para. 25 (JAB Tab ●, p. ●); Greenberg #3, Ex. 44 (Tab ●, p. ●); *Reasons for Judgment* at para. 8 (JAR Tab 21, p. 269).

B. The Legislature unilaterally reforms legal regulation through Bill 21

7. On March 1, 2022, the government announced it would impose a new regulatory model to govern lawyers, notaries and paralegals in British Columbia.[13]

8. On September 14, 2022, the Ministry of Attorney General released an Intentions Paper on Legal Professions Regulatory Modernization (the **Intentions Paper**).[14] The Intentions Paper was the first public communication of the government's policy intention behind Bill 21. It did not contain specific details of any proposed legislation.

9. The theory of lawyer independence underlying Bill 21 was explained in the Intentions Paper as "the ability of a lawyer (or other legal service provider) to fearlessly advocate for their client and provide independent legal advice to their client, even, and especially, when their client is at odds with the government."[15] The Intentions Paper describes self-regulation as a "policy decision to assign a professional regulator the primary responsibility for the development of structures, processes and policies for regulation."[16]

10. The Law Society responded to the Intentions Paper on November 16, 2022.[17] While the Law Society agreed with the Ministry's emphasis on access to justice and other issues (such as licensing paralegals), the Law Society was concerned that the Intentions Paper did not make clear how the government intended to preserve independence of the Bar within this new regulatory framework.

11. The fact that the specific details of the legislation to be imposed on a self-regulating and self-governing profession were not shared with members of the profession was a matter of significant concern among the Bar. Multiple professional associations wrote

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[13] Greenberg #1, Ex. 23 (JAB Tab ●, p. ●).

[14] Greenberg #1, Ex. 24 JAB Tab ●, p. ●).

[15] Greenberg #1, Ex. 24 (JAB Tab ●, p. ●).

[16] Greenberg #1, Ex. 24 (JAB Tab ●, p. ●).

[17] Greenberg #1, Ex. 25 (JAB Tab ●, p. ●).

private and public letters requesting further consultation with lawyers in order to ensure independence of the Bar was preserved in the proposed legislation.[18]

12. One month before the introduction of Bill 21 in the Legislature, the Ministry released a public update about the proposed single legal regulator legislation.[19] The public update provided limited details about the regulatory model the government intended to impose.

13. The Law Society responded to the public update on March 18, 2024 expressing concern regarding the lack of recognition and protection of the necessary independence of a new legal regulator from government. The Law Society encouraged the government to address its concerns about the degree of mandated direction and prescription the proposed legislation was expected to contain.[20]

i. *Bill 21 is enacted into law*

14. Bill 21 was introduced in the Legislature on April 10, 2024.[21] The introduction of Bill 21 at first reading was the first public disclosure of the text of the proposed legislation, in "stark contrast" to the process for every past revision to legal regulation since 1955.[22]

15. The Law Society issued a public response to Bill 21 on the same day. It asserted that the public interest required the public's trust that the legal regulator is independent of government influence.[23] The Benchers of the Law Society also wrote to the Attorney General to urge the government to reconsider proceeding with Bill 21 absent significant

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[18] Greenberg #1, para. 82, Exs. 32, 43-44 (JAB Tab ●, pp. ●).

[19] Greenberg #1, Ex. 33 (JAB Tab ●, p. ●).

[20] Greenberg #1, Ex. 34 (JAB Tab ●, p. ●).

[21] Greenberg #1, Ex. 35 (JAB Tab ●, p. ●).

[22] *Reasons for Judgment* at paras. 58-60 (JAR Tab 21, p. 285).

[23] Greenberg #1, Ex. 37 (JAB Tab ●. p. ●).

amendment.[24] Bar associations also requested that the enactment of the legislation be paused to permit meaningful engagement on the draft Bill.[25]

16. Notwithstanding these concerns, the government invoked closure to end the debate in the House on Bill 21 on May 15, 2024. The Bill passed third reading that evening and received Royal Assent on May 16, 2024. Certain transitional provisions of Bill 21 came into force on Royal Assent, and the remainder will be brought into force by regulation of the LGIC.

17. The key provisions of Bill 21 include the following:

a. Bill 21 eliminates the Law Society. On the amalgamation date, each Bencher of the Law Society, whether elected or appointed, ceases to hold office as a Bencher (s. 230(1)), and the assets of the Law Society will be combined with the Society of Notaries Public of British Columbia to become Legal Professions British Columbia (**LPBC**).

b. The Rules are not continued. The board of LPBC may make rules that are binding on licensees.[26] The *Code* is also not continued. The board of LPBC must establish a new code of professional conduct "for licensees" that is binding on all licensees, and which must accommodate definitions for "conduct unbecoming a professional", "incompetently", "professional conduct violation" and "professional misconduct" prescribed by the legislature.[27]

c. Bill 21 establishes a transitional board and a transitional Indigenous council who must collaborate to develop the first rules of the board.[28] The first rules of

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[24] Greenberg #1, Exs. 38 (JAB Tab ●, pp. ●).

[25] Greenberg #1, Exs. 45-47 (JAB Tab ●, p. ●).

[26] Bill 21, ss. 25-27 (BE Tab ●, p. ●).

[27] Bill 21, ss. 68, 70, 71 (BE Tab ●, p. ●).

[28] Bill 21, ss. 224, 225, 226 (BE Tab ●, p. ●).

the board "may not be made unless they are first approved, before the amalgamation date, by the transitional Indigenous council."[29]

d. The board of LPBC, once constituted in accordance with the process set out in ss. 230, reduces the role of elected lawyers in governance from a minimum of 78% majority to a 29% minority. Combined with appointments, lawyers must comprise 9 of 17 board members, where quorum of the board is 12.[30] Lawyers do not form the majority of the executive committee.[31]

e. Bill 21 creates an Indigenous council, which must work in collaboration with the board on certain matters, participate in the regulator's strategic planning processes, advise the board on certain matters, and exercise approval powers conferred by the Act. There is no requirement that any of the 6-9 members of the Indigenous council be lawyers.[32]

f. Bill 21 does not continue the object and duty of the Law Society. Instead it imposes duties of the regulator and "guiding principles" to which the regulator must have regard.[33]

g. Under ss. 3, 4 and 211-214 of Bill 21, the LGIC has various regulation-making powers, including the power to create and regulate a new class of "profession" that has the authority to practise law, and which may be exempted from licensing requirements under ss. 38 and 212. The LGIC may designate a new legal profession based on, among other things, the Attorney General's

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[29] Bill 21, s. 226 (BE Tab ●, p. ●).

[30] Bill 21, ss. 8 and 17 (BE Tab ●, p. ●).

[31] Bill 21, s. 10 (BE Tab ●, p. ●).

[32] Bill 21, s. 29, 30 (BE Tab ●, p. ●).

[33] Bill 21, ss. 6, 7(BE Tab ●, p. ●).

consideration of whether the designation "would have an undue impact on the independence of licensees under [the] Act."[34]

C. The Law Society's constitutional challenge of Bill 21

18. Immediately following the enactment of Bill 21, on May 17, 2024, the Law Society filed a Notice of Civil Claim seeking declarations that Bill 21 is *ultra vires* the Legislature's authority under ss. 92(13) and (14) of the *Constitution Act, 1867*, and therefore of no force or effect. The Law Society's claims were heard by way of summary trial before Chief Justice Skolrood in October 2025.

i. *The Court held that Independence of the Bar is an unwritten constitutional principle*

19. The Chief Justice found that independence of the Bar is an unwritten constitutional principle that is implicit in the written constitutional text, including in the judicature provisions of the *Constitution Act, 1867* (ss. 96-101) and in the fundamental rights and freedoms guaranteed under ss. 7, 10(b) and 11(d) of the *Charter*.[35] Sections 97 and 98 of the *Constitution Act, 1867*, which provide for the appointment of judges from among the Bar, "specifically acknowledge the existence of the Bars" of the provinces, and in doing so "the Constitution implicitly contemplates the continuance of independent Bars."[36]

20. The Chief Justice concluded that the principle of independence of the Bar informs the scope of ss. 92(13) and (14) and functions to limit the Legislature's authority under those sections: "the idea that the legislature could use its plenary authority under ss. 92(13) and (14) to regulate lawyers in such a manner as to eviscerate an independent Bar is simply unthinkable."[37]

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[34] Bill 21, s. 4(2)(b)(v) (BE Tab ●, p. ●).

[35] *Reasons for Judgment* at para. 88 (JAR Tab 21, p. 292).

[36] *Reasons for Judgment* at para. 90 (JAR Tab 21, p. 292.

[37] *Reasons for Judgment* at para. 137 (JAR Tab 21, p. 302).

21. The Court concluded that in order to protect the public's access to legal advice that is free from undue outside influence,[38] lawyers must be, and must be seen to be, independent from outside influences, including in particular the influence of the state.[39] The principle of independence has both individual and institutional dimensions, which reflect lawyers duties not only to their clients, but to the administration of justice more generally.[40]

ii. *The Court held that Bill 21 was not unconstitutional*

22. The Chief Justice concluded that both the substance of Bill 21 and the process leading to its enactment represent a "significant departure" from the long-established approach to the regulation of lawyers in British Columbia.[41] He described the government's "inability, or failure, to justify overturning 150 years of self-regulation, in the face of widespread opposition from the Bar" as "notable".[42] But he concluded that the process leading to the enactment of Bill 21 was a "political, rather than a legal or constitutional" issue, and therefore did not consider any evidence of the history of legal regulation in British Columbia or Bill 21's enactment in his analysis.[43]

23. The Court agreed that Bill 21 eliminates electoral self-governance and self-regulation of lawyers in British Columbia.[44] Based on his review of existing jurisprudence, the Court found that "[n]o authority has gone so far as to hold that the model of self-governance advanced by the LSBC is constitutionally guaranteed and that ss. 92(13) and (14) must be interpreted in a way that precludes a provincial legislature imposing a

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[38] *Reasons for Judgment* at para. 107 (JAR Tab 21, p. 295).

[39] *Reasons for Judgment* at para. 106 (JAR Tab 21, p. 295).

[40] *Reasons for Judgment* at paras. 109-110 (JAR Tab 21, p. 296).

[41] *Reasons for Judgment* at para. 58 (JAR Tab 21, p. 285).

[42] *Reasons for Judgment* at para. 79 (JAR Tab 21, p. 289).

[43] *Reasons for Judgment* at para. 66 (JAR Tab 21, p. 286).

[44] *Reasons for Judgment* at para. 140 (JAR Tab 21, p. 303).

different model."[45] He held that the legislature has the authority to determine how lawyers should be regulated and, while the legislature has historically chosen a self-governance model, that model is not constitutionally mandated as a requirement for maintaining an independent Bar.[46]

24. The Chief Justice examined the provisions in Bill 21 and determined that none of them interfere with independence of the Bar.[47] Although he acknowledged that Bill 21 represented a "dramatic change" in lawyer regulation, the Chief Justice was not satisfied, based on the test he applied, that the new regulatory structure is unconstitutional.[48]

PART 2 - ERRORS IN JUDGMENT

25. The Chief Justice erred by applying the wrong test to determine whether Bill 21 complies with the Constitution. This was an error of law.[49]

26. As a result of this legal error, the Chief Justice incorrectly concluded that Bill 21 is not *ultra vires* the Legislature's authority in ss. 92(13) and (14) of the *Constitution Act, 1867*.

PART 3 – ARGUMENT

A. An independent Bar is part of the structure of Canada's Constitution

27. The Law Society submits that this Court should endorse the Chief Justice's conclusion that the Canadian constitution requires an independent Bar, for the following reasons.

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[45] *Reasons for Judgment* at para. 147 (JAR Tab 21, p. 305).

[46] *Reasons for Judgment* at para. 167 (JAR Tab 21, p. 310).

[47] *Reasons for Judgment* at para. 201 (JAR Tab 21. p. 318).

[48] *Reasons for Judgment* at para. 205 (JAR Tab 21, p. 319).

[49] *Kitsilano Coalition for Children & Family Safety Society v. British Columbia (Attorney General)*, 2024 BCCA 423 at paras. 50-51

28. The existence of an independent Bar is essential to the structural coherence and integrity of the constitution of Canada.

29. Canada's constitution is partly written and partly unwritten.[50] The written Constitution includes the *Constitution Acts 1867-1982*, and the instruments listed in the Schedule to the *Constitution Act, 1982*.[51] The unwritten constitution includes underlying constitutional principles (such as federalism, democracy, the rule of law,[52] and judicial independence[53]) and encompasses the norms necessary for Canada's system of governance to function.[54] The unwritten constitution predates Confederation, continues to operate after Confederation, and forms an essential part of our constitutional structure.[55]

30. The underlying principles that form part of the unwritten constitution are the "'basic principles inherent in a given form of governance' from which concrete rules can be derived 'to make the system work in a coherent fashion.'"[56] They arise from Canada's constitutional history and the text of the Constitution. Underlying principles "inform and sustain the constitutional text: they are the vital unstated assumptions upon which the text

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[50] The Hon. Justice Rowe and Manish Oza, "Structural Analysis and the Canadian Constitution" (2023) 101 Can Bar Rev. 205 [**Rowe and Oza, "Structural Analysis"**] at 206; *Reference re Secession of Quebec*, [1998] 2 SCR 217 at para. 32 (SCC) [*Secession Reference*] (Joint Book of Authorities (**JBOA**) Tab ●, p. ●).

[51] The Constitution Acts, 1867-1982 (BE Tab ●, p. ●).

[52] *Secession Reference* at para. 32 (SCC) (JBOA Tab ●, p. ●).

[53] *Ref re Remuneration of Judges of the Prov. Court of P.E.I.; Ref re Independence and Impartiality of Judges of the Prov. Court of P.E.I.* (1997), [1997] 3 SCR 3 at para. 105 (Nfld & PEIR) [*Judges Reference*] (JBOA Tab ●, p. ●).

[54] Rowe and Oza, "Structural Analysis" at 207 (JBOA Tab ●, p. ●).

[55] Rowe and Oza, "Structural Analysis" at 211 (JBOA Tab ●, p. ●).

[56] Rowe and Oza, "Structural Analysis" at 231 (JBOA Tab ●, p. ●).

is based."[57] By their nature, underlying principles are expressed at a "high level of generality", but more specific rules can be derived from them.[58]

31. Unwritten constitutional principles can "give rise to substantive legal obligations… which constitute substantive limitations upon government action."[59] These legal obligations are identified and elaborated through an interpretive process that discerns (and protects) "the structure of government that [the Constitution] seeks to implement".[60]

32. An independent Bar composed of lawyers who are free of influence by public authorities (or any other source) is a fundamental component of our free society.[61] The principle of independence of the Bar is a fundamental public right that lawyers may provide legal assistance for or on behalf of a client without fear of interference or sanction by the government, subject only to the lawyer's professional responsibilities as prescribed by the Law Society, and the lawyer's general duty as a citizen to obey the law.[62] This principle has a "fundamentally constitutional character"[63] because it is a condition

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[57] *Secession Reference* at para. 49 (SCC) (JBOA Tab ●, p. ●).

[58] Rowe and Oza, "Structural Analysis", at 232 (JBOA Tab ●, p. ●); *Secession Reference* at para. 54 (SCC) (JBOA Tab ●, p. ●).

[59] *Secession Reference* at para. 54 (SCC) (JBOA Tab ●, p. ●).

[60] *Reference re Senate Reform*, 2014 SCC 32 at para. 26 (JBOA Tab ●, p. ●). See also Rowe and Oza, "Structural Analysis" (JBOA Tab ●, p. ●); Kate Glover Berger, "The Structural and Administrative Demands of Unwritten Constitutional Principles" (2019) 65:2 McGill LJ 305 at paras. 311-312 [Glover Berger] (JBOA Tab ●, p. ●).

[61] *Finney v. Barreau du Québec*, 2004 SCC 36 [*Finney*] (JBOA Tab ●, p. ●). See also *A.G. Can. v. Law Society of B.C.*, 1982 CanLII 29 (SCC) at 335-336 (JBOA Tab ●, p. ●); *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32 at para. 37 [*TWU*] (JBOA Tab ●, p. ●).

[62] Greenberg #3, Ex. 56 (JAB Tab ●, p. ●). See also *Federation of Law Societies of Canada v. Canada (Attorney General)*, 2013 BCCA 147 at paras. 105-114 (JBOA Tab ●, p. ●); *Reasons for Judgment* at para. 96 (JAR Tab 21, p. 294).

[63] Greenberg #3, Ex. 69 (JAB Tab ●, p. ●).

precedent to access to the rights and freedoms that are guaranteed in a "free and democratic society".[64]

33. The principle of independence of the Bar is also deeply connected to other foundational unwritten principles: including judicial independence,[65] the rule of law, and access to justice.[66] An independent Bar is essential to maintaining the rule of law and judicial independence: "[w]ithout the dignity, independence and integrity of the Bar, impartial justice and the maintenance of the rule of law are impossible."[67] Together with the rule of law and judicial independence, an independent Bar gives meaning to the rights and freedoms the Constitution protects, and to the values and principles from which the rights and freedoms entrenched in the *Charter* arise.[68]

i. The written text of the Constitution implies the existence of an independent Bar

34. The judicature provisions (ss. 96-101) of the *Constitution Act, 1867*, and the remedial provisions of the *Constitution Act, 1982* (ss. 24 and 52) establish a network of textual provisions that contemplate an independent and impartial court system that has "special and inalienable status",[69] and which includes both an independent judiciary and an independent Bar.

35. An independent Bar is essential to the public's access to independent courts (protected by ss. 96-101 of the *Constitution Act, 1867*) in two ways. First, the public and the judiciary rely on lawyers to present facts and argue the law in accordance with their

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[64] *R. v. Oakes*, [1986] 1 SCR 103 at p. 136 (SCC) (JBOA Tab ●, p. ●).

[65] See, for example, *Judges Reference* (1997) at paras. 83-84 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[66] *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General),* 2014 SCC 59 , 2014 SCC 59 [*TLABC*] (JBOA Tab ●, p. ●).

[67] Roy Millen, The Independence of the Bar: An Unwritten Constitutional Principle, (2005) 84 Can. Bar Rev. 107 at p. 113 [Millen] (JBOA Tab ●, p. ●).

[68] *Millen* (JBOA Tab ●, p. ●). See also Greenberg #3, Ex. 56 (JAB Tab ●, p. ●).

[69] *TLABC* at para. 29 (JBOA Tab ●, p. ●).

duties to clients and the administration of justice so that judges may exercise their jurisdiction to independently resolve disputes and the public may access their legal rights.[70]

36. Second, the members of the judiciary are "selected from the respective Bars" of the provinces, under ss. 97 and 98 of the *Constitution Act, 1867*.[71] These provisions recognize the Bars of each province and territory as basic institutions of our constitutional structure. The reason judges are selected from the Bars of the provinces and territories is that "the Bar" represents a collection of individuals who (in addition to being educated in the law) have a shared commitment to our constitutional democracy, as evidenced, for example, by solemn oaths to uphold the Constitution of Canada, the rule of law, and the administration of justice sworn as a condition of membership in the Bar.[72]

37. Legal regulation legislation enacted by a province under s. 92(13) and (14) of the *Constitution Act, 1867* does not create the Bar; the Bar exists as an institution because the Constitution requires it to exist for our system of governance to function as designed. It is therefore impossible to conceive that a provincial legislature could by ordinary

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[70] *Reasons for Judgment* at para. 92 (JAR Tab 21, p. 293).

[71] *Supreme Court Act, RSC 1985*, c S-26, ss. 5-6 (BE Tab ●); *Reference re Supreme Court Act, ss. 5 and 6*, 2014 SCC 21 (JBOA Tab ●, p. ●).

[72] Greenberg #1, Ex. 17 (JAB Tab ●, p. ●); Affidavit #1 of Alan D. Macleod, K.C., made April 1, 2025, Ex. T (JAB Tab ●, p. ●); Affidavit #3 of Leah Kosokowsky, made April 2, 2025, Ex. F (JAB Tab ●, p. ●); Affidavit #1 of Dwight Gordon Newman, K.C., made March 28, 2025, Ex. EE (JAB Tab ●, p. ●); Affidavit #1 of Peter Kryworuk, made April 2, 2025, Ex. C (JAB Tab ●, p. ●); Affidavit #1 of Michel Jolin, F.A.C.T.L. Ad.E., made April 4, 2025, Ex. I (JAB Tab ●, p. ●); Affidavit #1 of Philip Aaron Bull, made May 16, 2025, Ex. A (JAB Tab ●, p. ●); Affidavit #1 of Marc L. Richard, K.C., made March 27, 2025, Ex. E (JAB Tab ●, p. ●); Affidavit #1 of Joe Thorne, made April 3, 2025, Ex. B (JAB Tab ●, p. ●); Affidavit #1 of Cheryl Hodder, K.C., made March 25, 2025, Ex. E (JAB Tab ●, p. ●); Affidavit #1 of James Travers, K.C., made April 3, 2025, Ex. D (JAB Tab ●, p. ●); Affidavit #1 of Grant Macdonald, K.C., made April 2, 2025, Ex. D (JAB Tab ●, p. ●); Affidavit #1 of Jessica Copple, made March 24, 2025, Ex. A (JAB Tab ●, p. ●); Affidavit #1 of Nalini Vaddapalli, made March 31, 2025, Ex. B (JAB Tab ●, p. ●); *Wirring v Law Society of Alberta*, 2023 ABKB 580 (JBOA Tab ●, p. ●).

legislation abolish the Bar.[73] While it is certainly appropriate for the Legislature to make laws in relation to the regulation of lawyers, it must do so in a manner that complies with the system of government contemplated by the Constitution.

38. The existence of an independent Bar is also assumed by the *Charter*, which gives rise to more specific rules arising from the freedoms and guarantees in that part of the Constitution, including under:

a. s. 7, which gives rise to a right to state-funded counsel in certain circumstances.[74] The lawyer's duty of commitment to the client's cause[75] and the right of effective assistance of counsel[76] are principles of fundamental justice which can limit the exercise of state power;

b. s. 10(b), which guarantees a detainee the right to an opportunity to obtain legal advice (and the right to be advised of that right), including in support of the right under s. 7 to remain silent in the face of interrogation;[77] and

c. s. 11(d), which guarantees the right to a fair and public hearing by an independent and impartial tribunal when charged with an offence.[78]

39. The judicature provisions and the *Charter* imply not just the existence of a Bar, but of an independent Bar. Public confidence in the administration of justice (e.g. in the effectiveness of the courts and the independence of the judiciary, and in the meaning of

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[73] *Reasons for Judgment* at paras. 90, 137 (JAR Tab 21, pp. 292, 302).

[74] *New Brunswick (Minister of Health and Community Services) v. G. (J.),* 1999 CanLII 653 (SCC), [1999] 3 SCR 46 (JBOA Tab ●, p. ●).

[75] *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7 [*FLSC*] (JBOA Tab ●, p. ●).

[76] *Millen* at 115 (JBOA Tab ●, p. ●).

[77] *R v Sinclair*, 2010 SCC 35, [2010] 2 SCR 310 at paras 24, 32 (JBOA Tab ●, p. ●); *R. v. Manninen*, [1987] 1 SCR 1233 at pp. 1242-1243 (JBOA Tab ●, p. ●).

[78] *Valente v. The Queen*, [1985] 2 SCR 673 [*Valente*] (JBOA Tab ●, p. ●); *R. v. Kahsai*, 2023 SCC 20 (JBOA Tab ●, p. ●).

the specific rights enshrined in the *Charter*) depends on both the perception and the reality that lawyers may provide legal assistance for or on behalf of a client without fear of interference or sanction by the government or other outside influence.

40. A province's power to legislate under ss. 92(13) or 92(14) is not unlimited: "[u]nder the rule of law, all public powers must be legal, and all legal powers have limits."[79] The exercise of that power is constrained by and must be consistent with the other provisions of the Constitution,[80] interpreted purposively and as a coherent whole,[81] by reference to the written text, informed by unwritten principles.[82]

ii. Independence of the Bar has both individual and institutional dimensions

41. The Chief Justice agreed that the principle of independence of the Bar has both individual and institutional dimensions. But, as further set out below, the test he applied to Bill 21 did not properly accommodate that institutional dimension. The basis for the appropriate articulation of institutional independence is set out below.

42. Individual independence refers to the performance of lawyers' duties in their individual client mandates. Institutional independence relates to the status of the Bar as an institution that maintains the conditions in which the public can access a trustworthy and competent lawyer.[83] These dual dimensions of independence of the Bar arise from the dual private and public nature of lawyers' duties. As the Chief Justice held, "[t]he need for institutional independence acknowledges the fact that in addition to the duties

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[79] *Democracy Watch v. Canada (Attorney General)*, 2026 SCC 28 at para. 1 [*Democracy Watch*], (JBOA Tab ●, p. ●).

[80] *Conférence des juges de paix magistrats du Québec v. Quebec (Attorney General)*, 2016 SCC 39 at para. 39 [*Conference des juges*] (JBOA Tab ●, p. ●).

[81] Rowe and Oza, "Structural Analysis" at 218 (JBOA Tab ●, p. ●).

[82] *Toronto (City) v. Ontario (Attorney General)*, 2021 SCC 34 at para. 55 [*Toronto City*] (JBOA Tab ●, p. ●).

[83] *Mackin v. New Brunswick (Minister of Finance); Rice v. New Brunswick*, 2002 SCC 13 at para. 39 [*Mackin*] (JBOA Tab ●, p. ●).

owed to clients, lawyers owe broader duties to the courts and to the administration of justice more generally."[84]

43. Lawyers are the "guardians of our legal system and the rule of law."[85] A lawyer is a "minister of justice, an officer of the courts, a client's advocate and a member of an ancient, honourable and learned profession."[86] These sometime competing duties have both a private or individual quality in the provision of legal advice and services within a particular client mandate, and a public or institutional quality in support of public confidence in the administration of justice:

a. A lawyer owes a fiduciary duty to a client, from which springs the duty of loyalty and its sub-duties of commitment to the client's cause (which includes the duty of resolute advocacy[87]) and the duty to avoid conflicting interests.[88] The fiduciary relationship that grounds all of these specific duties serves the private purpose of ensuring a lawyer acts in the best interests of their client, and it serves the public purpose of ensuring public confidence in the administration of justice.[89]

b. Lawyers also owe duties of candour, fairness, integrity, and respect to the court, as officers of the court and ministers of justice. A lawyers' duty to the

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[84] *Reasons for Judgment* at para. 109 (JAR Tab 21, p. 296).

[85] The Right Hon. Beverley McLachlin, P.C., Chief Justice of Canada, "Professional Independence and the Rule of Law" (2007) 23 W.R.L.S.I. 3, at p. 5 (JBOA Tab ●, p. ●).

[86] Greenberg #3, Ex. 44, c. 2.1 (JBOA Tab ●, p. ●). See also *Fortin v. Chrétien,* , 2001 SCC 45 at paras. 49-53 (JBOA Tab ●, p. ●).

[87] *Groia v. Law Society of Upper Canada*, 2018 SCC 27 at para. 72 [*Groia*] (JBOA Tab ●, p. ●).

[88] See, for example, *R. v. Neil*, 2002 SCC 70 at para. 19 [*Neil*] (JBOA Tab ●, p. ●); *Canadian National Railway Co v McKercher LLP*, 2013 SCC 39, [2013] 2 SCR 649 at paras. 19-47 (JBOA Tab ●, p. ●); *FLSC* SCC at para. 99 (JBOA Tab ●, p. ●).

[89] See, for example, *Neil* at para. 24, citing D. W. M. Waters, M. R. Gillen and L. D. Smith, eds., *Waters' Law of Trusts in Canada* (4th ed. 2012), at p. 968 (JBOA Tab ● , p. ●); *FLSC* at para. 96 (JBOA Tab ●, p. ●); *Groia* at para. 73 (JBOA Tab ●, p. ●);

court is "time-tested and vital to the legal profession's role in the administration of justice."[90] As the Chief Justice put it, "the courts can only function by having lawyers present evidence and arguments in accordance with their duties owed to their clients and to the administration of justice more generally."[91]

c. Lawyers have a duty to encourage public respect for and try to improve the administration of justice.[92] This obligation is "not restricted to the lawyer's professional activities but is a general responsibility resulting from the lawyer's position in the community."[93] By training, opportunity, and experience, lawyers are in a position to observe the workings and discover the strengths and weaknesses of laws, legal institutions and public authorities, and must act accordingly.

44. The institutional dimension of independence recognizes that the Bar "participates along with other institutions in shaping the life" of our shared community.[94] Lawyers are not only individual actors within our legal system, but also part of a functioning collective that is essential to the administration of justice.[95]

45. Institutional independence requires the court to consider the relationship of the Bar to external actors, such as the executive and legislative branches of government. As the Chief Justice concluded, institutional independence means that "lawyers cannot be said

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Alice Woolley, Richard Devlin, Brent Cotter, & John M. Law, Lawyers' Ethics and Professional Regulation, 4th ed. (Markham: LexisNexis Canada Inc., 2021), c. 3.1 (JBOA Tab ●, p. ●).

[90] *May v. Law Society of British Columbia*, 2023 BCCA 218 at paras. 4-10 (JBOA Tab ● , p. ●).

[91] *Reasons for Judgment* at para. 92 (JAR Tab 21, p. 293).

[92] Greenberg #3, Ex. 44, c. 5.6 (JAB Tab ●, p. ●).

[93] Greenberg #3, Ex. 44, c. 5.6-1 (JAB Tab ●, p. ●).

[94] *The Queen v. Beauregard*, [1986] 2 SCR 56 at pp. 69-70 (DLR) [*Beauregard*] (JBOA Tab ●, p. ●).

[95] *Andrews v. Law Society of British Columbia*, [1989] 1 SCR 143 at pp. 187-188 (JBOA Tab ●, p. ●); *Beauregard* at p. 24 (DLR) (JBOA Tab ●, p. ●).

to be truly independent if they are subject to regulation by a body which is itself controlled, or unduly influenced, by outside forces, particularly those exerted by the state".[96]

B. The Chief Justice applied the wrong test to assess Bill 21's constitutionality

46. The test applied to the Law Society's central *vires* argument is set out at paragraph 110 of the Reasons for Judgment:

> [110] Accordingly, the determination of the plaintiffs' *vires* arguments turns on whether Bill 21 violates this concept of an independent Bar, by interfering with or unduly influencing the duties owed by lawyers, both to their clients and to the administration of justice more broadly, either through its direct application to lawyers and their clients or by way of the regulatory structure it creates.

47. The central flaw in this test is that it does not properly take account of the institutional dimension of the principle of independence of the Bar. Instead, the Chief Justice asks whether the provisions of Bill 21 (read in the four corners of the statute, without reference to their history and context) interfere with the *individual* independence of lawyers (i.e. the lawyers' duties and functions) directly or through the regulator.

48. Protection of the institutional dimension of independence of the Bar requires more than this functional analysis. Protection of the Bar as an institution also requires consideration of public perception of the independence of the Bar.[97]

49. The correct test is whether a reasonable person informed of the relevant statutory provisions, their historical background and the traditions surrounding them, after viewing the matter realistically and practically would conclude that Bill 21 maintains an

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[96] *Reasons for Judgment* at para. 108 (JAR Tab 21, p. 296).

[97] *FLSC* at para. 97 (JBOA Tab ●, p. ●); *Judges Reference* (1997) at para. 112 (Nfld & PEIR) (JBOA Tab ●, p. ●).

independent Bar.[98] The application of this test requires the Court to identify the legal guarantees that ensure a reasonable perception of independence.[99]

i. *The characteristics of an independent Bar*

50. By implication, the Chief Justice accepted that certain characteristics define the relationship of an independent Bar to other entities: "[i]ndependence of the Bar is a fundamental public right that lawyers may provide legal assistance for or on behalf of a client without fear of interference or sanction by the government, subject only to the lawyer's professional responsibilities as prescribed by the Law Society, and the lawyer's general duty as a citizen to obey the law."[100] But because he did not apply the correct test, the Chief Justice did not further articulate those characteristics, or how they maintain the reality and the perception of an independent Bar.

51. The SCC's jurisprudence on the principle of judicial independence (which is inextricably tied to independence of the Bar[101]) illustrates the need to identify characteristics that create a relationship of independence. The SCC identified the unwritten constitutional principle of judicial independence through "the reading together of s. 11(d) of the *Charter*, and the preamble and ss. 96 to 100 of the *Constitution Act*, *1867*."[102] And the Court held that this principle protects all courts, not just the

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[98] *Judges Reference* (1997) at para. 113 (Nfld & PEIR) (JBOA Tab ●, p. ●). See also *Mackin* at para. 38 (JBOA Tab ●, p. ●); *Ell v. Alberta*, 2003 SCC 35 at para. 32 [*Ell*] (JBOA Tab ●, p. ●); *Conference des juges* at para. 33 (JBOA Tab ●, p. ●); *R. v. Edwards*, 2024 SCC 15 at paras. 84-85 [*Edwards*] (JBOA Tab ●, p. ●); *Glover Berger* at paras. 329-330 (JBOA Tab ●, p. ●).

[99] *Valente* at p. 685 (JBOA Tab ●, p. ●). See also *Beauregard* at p. 73 (DLR) (JBOA Tab ●, p. ●); *Judges Reference* (1997) at paras. 111-112, 123-130 (Nfld & PEIR) (JBOA Tab ●, p. ●); *Mackin* at paras. 37-40 (JBOA Tab ●, p. ●); *Ell* at para. 28 (JBOA Tab ●, p. ●); *Conference des juges* at para. 33 (JBOA Tab ●, p. ●); *Edwards* at paras. 84-85 (JBOA Tab ●, p. ●); *FLSC* at para. 97 (JBOA Tab ●, p. ●); *Glover Berger* at paras. 329-330 (JBOA Tab ●, p. ●).

[100] *Reasons for Judgment* at para. 96 (JAR Tab 21, p. 294).

[101] *Reasons for Judgment* at para. 92 (JAR Tab 21, p. 293).

[102] *Toronto City* at para. 64 (JBOA Tab ●, p. ●), citing *Judges Reference* (1997) at para. 124 (Nfld & PEIR) (JBOA Tab ●, p. ●). See also *Judges Reference* (1997) at paras.

superior courts identified in s. 96, in recognition of the "central place that courts hold within the Canadian system of government" and to give effect to the "constitutional imperative" of preserving the "basic structure of our Constitution.[103] The result of the Court's structural analysis is that "the jurisdiction of the provinces over 'courts', as that term is used in s. 92(14) of the *Constitution Act, 1867*, contains within it an implied limitation that the independence of those courts cannot be undermined."[104]

52. The SCC articulated three characteristics of judicial independence that are necessary to ensure the reasonable perception of independence as a matter of preserving and upholding the Constitution: security of tenure;[105] financial security (which mandates an independent, effective, and objective judicial remuneration process, depoliticizes salary negotiations, and requires that judicial salaries not fall below a minimum level necessary to protect the judiciary from economic manipulation);[106] and administrative independence, which requires judicial control over the administrative decisions that bear directly and immediately on the exercise of the judicial function.[107]

53. These essential conditions are specific to the constitutional role of the judiciary and serve as constitutional guardrails (or minimum standards) for government action in respect of the judiciary. The SCC has held that each of these conditions must be "institutionalized through appropriate legal mechanisms"[108] though the exact details of the

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83, 108 (Nfld & PEIR) (JBOA Tab ●, p. ●); *Beauregard* at pp. 70-74 (DLR) (JBOA Tab ●, p. ●).

[103] *Judges Reference* (1997) at para. 108 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[104] *Judges Reference* (1997) at para. 108 (Nfld & PEIR) (JBOA Tab ●, p. ●). See also Rowe and Oza, "Structural Analysis" at paras. 218-219 (JBOA Tab ●, p. ●).

[105] See *Valente* at p. 698 (JBOA Tab ●, p. ●). See also *Ell* at paras. 32-37 (JBOA Tab ● , p. ●).

[106] See *Judges Reference* (1997) at paras. 131-137 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[107] See *Valente* at pp. 711-712 (JBOA Tab ●, p. ●); see also *Edwards* at paras. 116-117 (JBOA Tab ●, p. ●); Greenberg #3, Ex. 60 (JAB Tab ●, p. ●). See also Canadian Judicial Council, "Why Judicial Independence Matters" (2026) (JBOA Tab ●, p. ●).

[108] *Mackin* at para. 40 (JBOA Tab ●, p. ●).

institutional design need not be specified, leaving room for policy discretion within constitutional limits.[109] In this way, unwritten constitutional principles give rise to concrete legal rules that constrain government action in order to preserve our basic constitutional structure, while accommodating the variability and evolution that is central to the Canadian legal context.

ii. *Two essential characteristics of independence of the Bar are self-governance and self-regulation*

54. The systems and structures that best ensure the Bar's independent status, "thereby assuring the public of lawyers' independence and freedom from conflicts with the state" [110] include (i) self-regulation and (ii) self-governance. Self-regulation as a characteristic of independence of the Bar refers to the Bar's ability to set and enforce standards (i.e. through the Rules or the *Code*) that apply to the admission, practice of law, competence and discipline of lawyers in the province. Self-governance as a characteristic of independence of the Bar refers to a collective governance structure through which lawyers maintain and advance the rules and programs necessary to uphold the public's access to trustworthy and competent lawyers.

55. Without self-governance and self-regulation, it is open to the government or other interests to dictate the individuals or groups that may regulate lawyers (or the government or outside groups may regulate them directly), the manner in which lawyers are regulated, and ultimately the manner in which lawyers carry out their duties to clients, courts, and the administration of justice. When that occurs, the public is not assured of access to independent courts facilitated by an independent Bar. It follows then that self-governance

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[109] See, for example, *Valente* at pp. 692-694 (JBOA Tab ●, p. ●); *R. v. Généreux*, [1992] 1 SCR 259 at paras. 284-285 (JBOA Tab ●, p. ●); *Judges Reference* (1997) at paras. 167, 185 (Nfld & PEIR) (JBOA Tab ●, p. ●); *Therrien (Re), 2001 SCC 35 (CanLII)*, 2001 SCC 35 at paras. 65-71 (JBOA Tab ●, p. ●); *Ell* at paras. 30-32 (JBOA Tab ●, p. ●); *Conference des juges* at paras. 33, 39, 50, 55 (JBOA Tab ●, p. ●); *Glover Berger* at paras. 120, 130 (JBOA Tab ●, p. ●).

[110] Greenberg #1, para. 69, Ex. 20 (JAB Tab ●, pp. ●); Greenberg #3, Ex. 56 (JAB Tab ●, p. ●).

and self-regulation are essential characteristics of independence of the Bar, without which it cannot exist.

56. Identifying the characteristics of independence of the Bar as self-governance and self-regulation does not imply that any particular *mode* of self-governance (such as electoral self-governance) is constitutionally required in all circumstances, just as identifying financial security as a characteristic of judicial independence does not set a constitutionally-required salary. These characteristics do not dictate a "particular legislative or constitutional formula"[111] or entrench a "particular institutional framework in constitutional stone," [112] and there is "scope for local choice."[113] The provincial and territorial schemes for legal regulation may reflect the diversity in legal context across Canada. As set out below, the tradition of self-governance that has developed in British Columbia is governance by a strong majority of elected Benchers.[114] Considering that tradition in the context of Bill 21's elimination of electoral self-governance is central to a proper understanding of whether the independence of the Bar in British Columbia is compromised by Bill 21.

57. Identifying self-governance and self-regulation as characteristics of an independent Bar as also does not imply that lawyers are not subject to other means of regulation. Legislatures, the judiciary, and the public all play important roles in modern legal regulation.[115] However, in order to main the status of the Bar as an independent institution, these other sources of regulation must be optimally balanced to enhance, rather than erode, the public's access to independent legal advice, the public's access to

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[111] *Valente* at p. 675 (JBOA Tab ●, p. ●).

[112] *Judges Reference* (1997) at para. 185 (Nfld & PEIR)(JBOA Tab ●, p. ●).

[113] *Judges Reference* (1997) at para. 167 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[114] Greenberg #3, Exs. 3, 9, 12-17, 37 (JAB Tab ●, pp. ●).

[115] Amy Salzyn, "The Judicial Regulation of Lawyers in Canada" (2014) 37:2 Dal LJ 481 (JBOA Tab ●, p. ●).

independent courts, and the rule of law.[116] Self-governance and self-regulation ensure this essential balance.

iii. *Self-governance and self-regulation are not indulgences to be dispensed by the state*

58. Rather than considering the objective effect on an independent Bar if its essential characteristics of self-governance and self-regulation are revoked unilaterally by government, the Chief Justice considered whether there was authority for the proposition that *electoral* self-governance is a constitutional requirement.[117] Relying on *Jabour*, he found that it was not.[118]

59. *Jabour* cannot stand for the proposition that the government may eliminate self-governance and self-regulation by ordinary legislation, which is subordinate to the supreme law of Canada in the Constitution. *Jabour* did not involve reform to governance structure of the legal profession, which requires a holistic assessment of the changes to the conditions that impact the constitutional principle (independence of the Bar).[119] By the Chief Justice's own reasoning, the constitutional landscape should be understood differently than at the time of *Jabour*.[120] And in any event the specific question of institutional design in constitutional context was considered open by the SCC in *FLSC*,[121] not determined by *Jabour*.

60. Similarly, *Pearlman* did not decide that self-governance is a policy choice that can be revoked by the Legislature at its will. *Pearlman* endorsed the "particular importance

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[116] Law Society of Upper Canada, "Protecting the Public through an Independent Bar: The Task Force Report", in In the Public Interest: The Report and Research Papers of the Law Society of Upper Canada's Task Force on the Rule of Law and the Independence of the Bar (Toronto: Irwin Law, 2007) at pp. 8-9 (JBOA Tab ●, p. ●).

[117] *Reasons for Judgment* at para. 140 (JAR Tab 21, p. 303).

[118] *Reasons for Judgment* at para. 158 (JAR Tab 21, p. 309).

[119] *Conference des juges* at paras. 36, 70 (JBOA Tab ●, p. ●).

[120] *Reasons for Judgment* at para. 95 (JAR Tab 21, p. 293).

[121] *FLSC* at para. 86 (emphasis added) (JBOA Tab ●, p. ●).

of an autonomous legal profession to a free and democratic society",[122] and connected the self-governing status of the profession to the public interest. The SCC recognized that the Manitoba Law Society *is* self-governing,[123] not that it is a valid exercise of the legislature's authority to impose a new structure on a law society.

61. Self-regulation is a privilege and a duty; it is not an indulgence to be dispensed by the state. If the concepts of self-governance and self-regulation – not just their modes – are "policy choices", as the Attorney General contends, then independence of the Bar and the rights it protects are meaningless.[124]

C. Bill 21 does not maintain an independent Bar

62. The correct analysis is the examination of Bill 21 holistically, considering the independent Bar as part of our basic constitutional structure, and the context in which Bill 21 is enacted. The correct question is whether Bill 21, which eliminates the Law Society and removes the Benchers from office, and creates a new and different regulatory regime in which lawyers, including elected lawyers, have a more limited role in their governance, interferes with the essential characteristics of self-governance and self-regulation and thereby violates the principle of an independent Bar.

i. Evidence of the history and context of legal regulation and of Bill 21 is legally relevant to a constitutional analysis

63. The Court's conclusion that the government's "significant departure" from established practice in the enactment of Bill 21 was a "political issue", not a legal issue, and that the history or context of legal regulation in British Columbia is irrelevant to the Court's constitutional analysis, is an error of law. The history and context of the enactment of legislation is legally relevant in a constitutional analysis if it affects the

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[122] *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 SCR 869 at p. 887 [*Pearlman*] (JBOA Tab ●, p. ●).

[123] *Pearlman* at p. 888 (JBOA Tab ●, p. ●).

[124] Greenberg #1, Ex. 22 (JAB Tab ●, p. ●).

government's compliance with the constitutional principle at issue,[125] and is essential to understanding the effect of legal reform.[126] An understanding of the historical background and traditions surrounding the impugned provisions is central to the objective test that must be applied to questions of interference with independence.[127]

An abbreviated history of legal regulation in BC

64. The first provision for a court of record and for the practice of law in the colonies that became British Columbia was made by order-in-council proclaimed by Queen Victoria on April 4, 1856.[128] This order represents the origin of the justice system in British Columbia, directly imports the principles of the Westminster system into British Columbia, and confirms the fundamental connection between lawyers and the courts within that system.

65. The first *Legal Professions Act* was enacted in the Colony of British Columbia (and extended to the Colony of Vancouver's Island) in 1863.[129] In 1869, thirteen members of the Bar formed a self-governing association to be known as the Law Society of British Columbia. That Society was formally incorporated by the *Legal Professions Act, 1874*,[130] and re-established by the *Legal Professions Act 1884*.[131] These Acts both provided for a self-governing structure composed of elected Benchers with the power to enact rules to govern the members of the Society. This basic structure of electoral self-governance and self-regulation was maintained in each iteration of the enabling legislation for 150 years

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[125] *British Columbia Teachers' Federation v. British Columbia*, 2015 BCCA 184 at paras. 283-303, Donald JA, (dissenting) (JBOA Tab ●, p. ●); appeal allowed, *British Columbia Teachers' Federation v. British Columbia*, 2016 SCC 49 (JBOA Tab ●, p. ●); *Mikisew Cree First Nation v. Canada (Governor General in Council)*, 2018 SCC 40 at para. 48 (JBOA Tab ●, p. ●).

[126] *Mackin* at paras. 65-67 (JBOA Tab ●, p. ●).

[127] *Judges Reference* (1997) at para. 113 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[128] Greenberg #3, Ex. 3 (JAB Tab ●, p. ●).

[129] Greenberg #3, Ex. 5 (JAB Tab ●, p. ●).

[130] Greenberg #3, Ex. 12 (JAB Tab ●, p. ●).

[131] Greenberg #3, Ex. 16 (JAB Tab ●, p. ●).

until the enactment of Bill 21 in 2024,[132] and has evolved to mean the election of 25 Benchers from nine geographical regions, together with six appointed lay Benchers.

66. Further, at past major reiterations of the enabling legislation in 1987 and 1998, the Benchers worked to develop consensus among the Bar about the principles and provisions of the governing legislation, with the Legislature's encouragement and at its request.[133]

67. The history and tradition of electoral self-governance and self-regulation of lawyers, founded on careful negotiation and collaboration between the Bar and the executive in British Columbia, is how the independent status of the Bar is maintained in British Columbia, and how that status is communicated to the public. This history and context provides the baseline against which the reforms the government seeks to introduce through Bill 21 must be considered. The Chief Justice ought to have considered the evidence of the unilateral enactment of Bill 21 in stark contrast to the history and tradition of legal regulation in the province as evidence that informs the objective inquiry of whether Bill 21 is *ultra vires* the Constitution.

ii. Bill 21 violates the independence of the Bar and is therefore ultra vires the Legislature

68. By ss. 5 and 230 of Bill 21, when brought into force, the Law Society is eliminated as the body through which the independent Bar governs itself. The Benchers – elected by lawyers to carry out the regulatory task in concert with lay Benchers – are dismissed from office.[134] The Rules and the *Code*, carefully crafted by the Bar over more than 150 years, and which guide and inform lawyers individually and collectively, are not continued. The legislation was drafted by the executive and enacted by the legislature over the public opposition of the Bar, including as expressed by the Benchers[135] and numerous

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[132] Greenberg #3, Exs. 3, 9, 12-17, 37 (JAB Tab ●, pp. ●).

[133] Greenberg #3, Exs. 19-22, 24, 27, 30-31, 34-35 (JAB Tab ●, pp. ●).

[134] Bill 21, s. 230(1) (BE Tab ●, p. ●).

[135] Greenberg #1, Ex. 38 (JAB Tab ●, p. ●).

significant lawyer associations.[136] There has not been a more stark interference with the governance of the Bar in the history of Canada. The enactment of Bill 21 in this context objectively interferes with the self-governance and self-regulation of lawyers, and so does not maintain the independent Bar.

69. There is no reason for the elimination of the Law Society or electoral self-governance of lawyers in British Columbia.[137] There is no evidence that the Law Society has governed lawyers in a manner that is contrary to the public interest.[138] In the debate over Bill 21, the Attorney General told the Legislative Assembly that "[t]here's no doubt that I have that the benches [*sic*] and the members of the Law Society act honourably, and they do their best to protect the public interest."[139] The absence of any justification for the wholesale replacement of electoral self-governance of lawyers in British Columbia suggests the interference is arbitrary and not consistent with maintenance of independence of the Bar.

70. The regulatory structure created by Bill 21, in reality and in perception, vests control over the role and conduct of lawyers in outside parties:

a. ss. 6 (Duties of Regulator) and 8 (Board of Directors): The members of the Bar will not have control over the body responsible for regulating the practice of law and establishing standards and programs for the education, training, competence, practice and conduct of lawyers and law firms (section 6(1)). Once the transition is complete,[140] the Bar will be governed by a board consisting of 17 directors, only five of whom will be elected by lawyers – 29% of the board, compared with 78% under the existing *LPA* and Rules.[141] The five

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[136] Greenberg #1, Ex. 44 (JAB Tab ●, p. ●).

[137] *Reasons for Judgment* at para. 79 (JAR Tab 21, p. 289).

[138] *Reasons for Judgment* at para. 145 (JAR Tab 21, p. 304).

[139] Affidavit #1 of Patti Lewis made May 24, 2024, Ex. G (JAB Tab ●, p. ●).

[140] Bill 21, s. 230(4)-(6) (BE Tab ●, p. ●).

[141] Armitage XFD (JAB Tab ●, p. ●, q. 348).

elected lawyers do not determine the additional four lawyers who must be appointed as directors, with the result that Bill 21's provision for a board with a minimum of nine out of 17 lawyers does not enable electoral self-governance. Lawyers can never form a majority of the executive committee of the regulator, and the government's appointment to the Board is ensured a seat on the executive committee.[142] As a result, Bill 21 does not include a key mechanism for ensuring institutional independence,[143] which is significant generally and as a departure from the history of legal regulation in this province.[144]

b. s. 7 (Guiding Principles): The Board must govern the Bar with regard to governing principles chosen by the government, rather than the Bar. These guiding principles include a direction to support "the implementation of the United Nations Declaration on the Rights of Indigenous Peoples", an international instrument that is currently only partially implemented in this province[145] and the implementation of which is the subject of extensive and divisive public debate. Governance of the Bar, and individual lawyers, has always been subject to the law; the introduction of "guiding principles" is intended to direct the Board in its consideration of the law, and therefore encroaches on self-regulation.

c. ss. 26 (Rules – consultation) and 226 (Transition – first rules): The first rules of the new regulator, which govern admission, practice of law, competence and discipline "may not be made unless they are first approved…by the transitional Indigenous council" (s. 226), and the Indigenous council also holds more

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[142] Bill 21, s. 10 (BE Tab ●, p. ●).

[143] See, for example, *TWU* at paras. 37-38 (JBOA Tab ●, p. ●); *Finney* at para. 1 (JBOA Tab ●, p. ●).

[144] *Reasons for Judgment* at para. 140 (JAR Tab 21, p. 303).

[145] *Gitxaala v. British Columbia (Chief Gold Commissioner)*, 2025 BCCA 430 at para. 145 (JBOA Tab ●, p. ●).

specific rule approval powers set out in s. 30.[146] The transitional bodies are also co-developing the professional code of conduct,[147] which is now made binding on lawyers by Bill 21. The Chief Justice concluded that rule-approval power does not undermine independence because it "does not equate to rule-making authority".[148] However, there can be no dispute that s. 226 gives an entity external to the Bar significant influence over all rules governing lawyers, in process and substance, and as a matter of fact and perception. The Chief Justice's conclusion fails to appreciate the impact of this external influence on institutional independence, and it is inconsistent with his acknowledgement that "lawyers cannot be said to be truly independent if they are subject to regulation by a body which is itself controlled, or unduly influenced, by outside forces."[149]

d. Section 211 (General regulation-making authority): This provision gives Cabinet the power to "make regulations respecting any matter for which regulations are contemplated by this Act" (section 211(1)). The Chief Justice concluded that this power only applies where Bill 21 expressly provides for Cabinet regulations.[150] With respect, this interpretation disregards section 211(2), which states that "the authority to make regulations under another provision of this Act does not limit subsection (1)". Thus, the authority granted by section 211(1) is distinct from and not limited by the express grants of authority elsewhere in the statute. It is a vague power that creates the potential, and the perception, of Cabinet regulation of lawyers.

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[146] Bill 21, ss. 26 and 226 (BE Tab ●, p. ●).

[147] See, for example, Affidavit #1 of Lindy Grant filed September 24, 2025, Ex. A (JAB Tab ●, p. ●).

[148] *Reasons for Judgment* at para. 190 (JAR Tab 21, p. 315).

[149] *Reasons for Judgment* at para. 108 (JAR Tab 21, p. 296).

[150] *Reasons for Judgment* at para. 198 (JAR Tab 21, p. 317).

e. Part 6: Bill 21 prescribes and proscribes certain conduct[151] by lawyers that has long been the subject of careful protection by the Benchers through the Rules and the *Code*.

71. It is not possible to read constitutionally compliant meaning into these provisions. Bill 21 is based on a concept of "lawyer independence" that does not recognize the institutional dimension of independence of the Bar, and it is fundamentally incompatible with the Constitution.[152]

72. The Law Society does not suggest that a legislature can never make changes to a legal regulation statute under s. 92(13) or (14) of the *Constitution Act, 1867*, or even introduce reforms. Modernization of legal regulation has been and will continue to be the subject of legislation. But those reforms will always be subject to constitutional guardrails required to maintain the independence of the Bar. Bill 21 fails that test.

PART 4 - NATURE OF ORDER SOUGHT

73. The appellant seeks an order that the appeal be allowed, and seeks the following declarations:

a. Bill 21, save and except sections 311-314, or alternatively that Parts 1-6, 15, 17 and 18 (excepting ss. 311-314) of Bill 21 are *ultra vires* provincial authority to legislate under ss. 92(13) and 92(14) of the *Constitution Act, 1867*, and are therefore of no force or effect.

74. The appellant seeks an order for costs of this proceeding in favour of the Law Society, or alternatively, if the appeal is not allowed, that the parties bear their own costs.

All of which is respectfully submitted.

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[151] Bill 21, Part 6 (BE Tab ●, p. ●).

[152] *Democracy Watch* at para. 83 (JBOA Tab ●, p. ●).

Dated at the City of Vancouver, Province of British Columbia, August 5, 2026.

Craig A.B. Ferris, K.C., Laura L. Bevan,
Jonathan Andrews, Nicole Welsh

Counsel for the Appellant
Law Society of British Columbia

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APPENDICES: ENACTMENTS

(Provided in a separate volume)

Appendix “B”

COURT OF APPEAL FILE NO. CA51535
Trial Lawyers Association of British Columbia v. Attorney General of British Columbia
APPELLANTS' FACTUM

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on April 29, 2026.

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

APPELLANTS
(PLAINTIFFS)

AND:

The Attorney General of British Columbia and the Lieutenant Governor in Council

RESPONDENTS
(DEFENDANTS)

APPELLANTS' FACTUM

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CHRONOLOGY

Date	Event	Reference
March 1, 2022	The Attorney General announces the Province's intention to combine the regulation of lawyers, notaries public, and licensed paralegals under a single regulator.	Joint Appeal Book, p. [●] ("**JAB**"), Affidavit #1 of Brook Greenberg, K.C., made May 24, 2024 (LSBC Action), at paras. 33, 76 ("**Greenberg #1**"), Ex. 23.
September 14, 2022	The Attorney General releases an "Intentions Paper on Legal Professions Regulatory Modernization", in which it outlines its plans to "modernize the regulatory framework for legal service providers in British Columbia to help make it easier for the public to access legal services and advice".	JAB, p. [●], Greenberg #1 at para. 77, Ex. 24.
November 2022	The Law Society of British Columbia ("**LSBC**") issues a response to the announcement of Bill 21, the *Legal Professions Act*, S.B.C. 2024, c. 26 ("**Bill 21**") and the Intentions Paper, expressing concern that the proposed model did not directly disclose an intention to protect the institutional dimension of the independence of the Bar.	JAB, p. [●], Greenberg #1 at para. 78, Ex. 25.
January 2024	The Federation of Law Societies of Canada writes to the Attorney General seeking an opportunity to review and comment on the draft legislation that would become Bill 21. The Attorney General ignores the request.	JAB, p. [●], Greenberg #1 at para. 82, Ex. 32.
March 2024	The Attorney General releases an update on the proposed legislation. The LSBC responds again, encouraging the	JAB, p. [●], Greenberg #1 at

Date	Event	Reference
	government to recognize and address its concerns that the legislation did not adequately protect the independence of the Bar. The Trial Lawyers Association of British Columbia ("**TLABC**") and other bar associations throughout the province similarly call on the Attorney General to consult with lawyers and the public. The government refuses.	paras. 83–84, Exs. 33–34.
April 10, 2024	Bill 21 is introduced in the Legislature, marking the first time the text of Bill 21 was made publicly available.	JAB, p. [•], Greenberg #1 at para. 85.
April 10, 2024	TLABC issues a statement stating that Bill 21 constitutes an assault on the principle of lawyer independence and an enormous departure from the norms governing legal regulation in liberal, democratic societies.	JAB, p. [•], Affidavit #1 of Kevin Gourlay, made May 27, 2024 (TLABC Action), at para. 27 ("**Gourlay #1**"), Ex. B.
May 15, 2024	The Province moves to close the debate on Bill 21, and Bill 21 receives third reading.	JAB, p. [•], Greenberg #1 at paras. 93–94.
May 16, 2024	Bill 21 receives Royal Assent.	JAB, p. [•], Greenberg #1 at para. 94.
May 17, 2024	LSBC files a constitutional challenge to Bill 21.	Joint Appeal Record, p. 1 ("**JAR**"), Notice of Civil Claim (LSBC Action), dated May 17, 2024.
May 21, 2024	TLABC files a constitutional challenge to Bill 21.	JAR, p. 32, Second Amended Notice of Civil Claim (TLABC Action), dated

Date	Event	Reference
		December 19, 2024.
June 17–19, 2024	Hearing of TLABC and LSBC's applications for injunctive relief before the Honourable Justice Gropper.	JAB, p. [●], *Law Society of British Columbia v. British Columbia*, 2024 BCSC 1292 ("**Injunction Reasons**").
July 17, 2024	Justice Gropper dismisses LSBC and TLABC's applications for injunctive relief.	JAB, p. [●], Injunction Reasons at para. 6.
October 14–17, 20–24, 27–28, 2025	Hearing of the summary trial of TLABC and LSBC's constitutional challenge to Bill 21 before the Honourable Chief Justice Skolrood.	JAR, p. 265, Reasons of Chief Justice Skolrood ("**Reasons**").
April 29, 2026	Chief Justice Skolrood dismisses TLABC and LSBC's actions in reasons indexed as 2026 BCSC 779.	JAR, p. 326, Reasons, at para. 234.
May 5, 2026	TLABC and LSBC file notices of appeal.	JAR, p. 327, Notice of Appeal (CA51535) (TLABC), dated May 5, 2026; JAR, p. 333, Notice of Appeal (CA51536) (LSBC), dated May 5, 2026.

OPENING STATEMENT

The appellants are a lawyer and an organization which consists, in the main, of lawyers. This litigation concerns them, but also concerns every person in this Province, whether they know it or not—their rights are at stake. The legislation in question is of paramount importance to every citizen, but is likely not on their radar, when things like rent and dinner are the daily questions. So, we must take on the challenge presented by this legislation, to ensure that our fellow citizens are protected from legislation which will remove the bulwarks they have against government excess—an independent Bar, and an independent judiciary. One cannot exist without the other.

The Legislature cannot provide a rationale for what it is doing. As the Chief Justice noted, "[t]hroughout their submissions, both written and oral, the defendants offered no clear rationale for the significant changes brought about to the regulation of lawyers under Bill 21 or to the jettisoning of the long-established practice of consultation and collaboration with the legal profession about changes to their governing legislation."

The "why" cannot be answered. The "what" is a root and branch attack not only on lawyers and their clients, but this Court as an institution. If there is no why, and the what is the destruction of fundamental rights and freedoms, how can we say yes?

The sole question to be decided on this appeal is whether our courts, upon which every member of the public relies no matter how ignorant of their rights they might be, will take up the invitation these appellants make to preserve their clients' rights and to ensure this Court has an independent Bar who will represent those clients before it.

This is not a case about lawyers trying to preserve some special privilege. It is about those whom they represent, and those who they have the privilege of appearing before. Will lawyers continue to be able to perform those functions without fetters imposed by the Legislature, which the executive of our government has not deigned to even explain? Or will they be subject to governance by those whom their clients have grievances with, setting the playing field ever so slightly, or perhaps substantially, in their favour?

PART 1 - STATEMENT OF FACTS

1. This case is about the regulation and independence of lawyers in British Columbia. The appellants in this appeal, TLABC and Kevin Westell (collectively, the "**appellants**"), and the companion appeal (CA51536), the LSBC, challenge the constitutionality of Bill 21 on the basis that it undermines the independence of the Bar and violates lawyers' and the public's constitutional rights. The Chief Justice found that Bill 21 does not improperly undermine the independence of the Bar or violate the *Charter*.

2. Both the appellants and LSBC appeal those conclusions. The appellants adopt and rely upon LSBC's factum and arguments regarding the independence of the Bar. There is no challenge to the Chief Justice's findings of fact. Accordingly, the following summary is taken largely from his reasons.

A. <u>Background</u>

3. For over 150 years, since its creation in 1874, the LSBC has been an independent, self-governing society charged with regulating lawyers in the public interest.[1]

4. In 2024, the Legislature of British Columbia enacted Bill 21, which provides for the amalgamation of the LSBC with the Society of Notaries Public of British Columbia in order to create a new regulator (the "**new regulator**") with regulatory jurisdiction over lawyers, notaries public, and paralegals as well as, potentially, new legal professions. A central element of Bill 21 is the elimination of self-governance and self-regulation of lawyers by a board comprised of a majority of elected lawyers.[2]

(a) The current regulatory model: Legal Profession Act

5. At present, the LSBC is continued pursuant to the *Legal Profession Act*, S.B.C. 1998, c. 9, as amended (the "***LPA***"), which creates the self-governing and self-regulating model governing the legal profession in British Columbia.[3]

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[1] JAR, p. 268, Reasons, at para. 1.
[2] JAR, p. 268, Reasons, at para. 2.
[3] JAR, p. 271, Reasons, at para. 9.

6. Importantly, s. 11 empowers the LSBC to make rules for the governing of the society, lawyers, law firms, articled students, and applicants and for carrying out the *LPA*. The rules do not require government approval, although certain rules must be approved by a vote of members at a general meeting. As part of its rule-making function under s. 11, the LSBC has established a *Code of Professional Conduct*, which is based in large part on the Federation of Law Societies' Model Code of Professional Conduct.[4]

(b) **The new regulatory model: Bill 21**

7. In March 2022, the government announced its intention to combine the regulation of lawyers, notaries public, and licensed paralegals under a single regulator.[5] The Attorney General did not open meaningful consultation on Bill 21 to lawyers or the public subsequent to the announcement and prior to the tabling of Bill 21.[6]

8. Bill 21 was not made publicly available until it was introduced to the Legislature on April 10, 2024.[7] The Government closed debate on Bill 21 on May 15, 2024.[8] Bill 21 received third reading that day, and Royal Assent on May 16, 2024.

9. As the Chief Justice found, if brought into force, Bill 21 will significantly alter the regulation of lawyers in British Columbia, including by eliminating self-governance and self-regulation of lawyers by a board comprised of a majority of elected lawyers.[9] The changes relevant to the issues on this appeal are set out below.

(i) <u>The Indigenous Council and Transitional Indigenous Council</u>

10. Section 29 establishes an Indigenous Council comprised of a majority of members appointed from persons nominated by the BC First Nations Justice Council ("**BCFNJC**") and persons nominated by Métis peoples or entities representing Métis peoples. Section 30 sets out the role of the Indigenous Council, which includes: (a) advising and working in collaboration with the regulator on any matter relating to the implementation of UNDRIP in the context of the regulation of the practice of law in British Columbia, including in

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[4] JAR, pp. 270–271, Reasons, at para. 8.
[5] JAB, p. [●], Injunction Reasons at para. 19.
[6] JAB, p. [●], Gourlay #1 at para. 26.
[7] JAB, p. [●], Injunction Reasons at para. 24; JAB, p. [●], Greenberg #1 at para. 85.
[8] JAB, p. [●], Injunction Reasons at para. 27.
[9] JAR, pp. 268, 270, Reasons, at paras. 2, 10.

respect of the incorporation of Indigenous legal traditions and Indigenous practices and the systemic challenges faced by Indigenous persons that require investigation and action by the regulator; (b) advising on matters that under the Act require consultation with the Indigenous Council; (c) participating in the regulator's strategic planning processes; and (d) exercising certain approval powers as conferred by the Act.[10]

11. Section 224 establishes a Transitional Indigenous Council comprised of a majority of members appointed by the BCFNJC and the Métis Nation British Columbia. Section 226 provides that the Transitional Indigenous Council is required to collaborate with the transitional board of the new regulator to develop the first rules of the new regulator. Under s. 226(2)(b), any such new rules may not be made unless first approved by the Transitional Indigenous Council.[11] This is a veto power.

(ii) Professional conduct and competence

12. Section 68 sets out a number of definitions relating to professional conduct and competence. It defines "incompetently", in relation to the practice of law, as meaning in a manner that demonstrates either: (a) certain specified deficiencies that give rise to a reasonable apprehension that the quality of service to clients of a licensee or law firm may be significant adversely affected; or (b) a "health condition" preventing a licensee from practising law with reasonable skill and competence.[12]

13. Section 88 empowers the chief executive officer, upon determining that someone has practised law incompetently, to require a licensee or trainee to receive counselling or medical treatment, including treatment for a substance use disorder.[13]

14. Section 122 permits the Legal Professions Tribunal, upon determining in a discipline hearing that a licensee has practiced law incompetently,[14] to require a licensee

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[10] JAR, pp. 272–273, Reasons, at para. 10(h).
[11] JAR, p. 273, Reasons, at para. 10(i).
[12] Book of Enactments, p. [●] ("**BE**"), Bill 21, s. 68; JAR, p. 274, Reasons, at para. 11(b).
[13] JAR, p. 274, Reasons, at para. 11(c).
[14] BE, p. [●], Bill 21, s. 122(2)(b)(ii). The chief executive officer submits citations to the discipline committee, which determines if the citation should be approved and a discipline hearing before the Legal Professions Tribunal be set: BE, p. [●], Bill 21, s. 90.

to receive counselling or medical treatment, including treatment for a substance use problem or disorder.[15]

15. Section 198 provides that a person commits an offence if the person wilfully interferes with or obstructs another person in the exercise of a power or performance of a duty under Bill 21, or in carrying out an order under Bill 21.

16. Section 202 provides that an individual who commits an offence under Bill 21 is liable on conviction to a fine not exceeding $200,000 or to imprisonment for a term not exceeding two years, or to both.[16]

(iii) Search and seizure

17. Section 78 authorizes the chief executive officer of the new regulator to enter the office of a lawyer or law firm and examine records relating to the practice of law and further, for the purposes of an investigation, to order a licensee or law firm to produce records and attend for an examination under oath.[17]

B. Reasons of the Chief Justice

18. The Chief Justice dismissed the appellants' and LSBC's actions. In doing so he addressed six issues: (a) Is the independence of the Bar an unwritten constitutional principle? (b) If so, what is the content of or meaning to be given to that principle? (c) Does Bill 21, in whole or in part, infringe the principle of an independent Bar? (d) Does Bill 21 infringe the *Charter*? (e) If so, can the infringement(s) be justified in a free and democratic society pursuant to s. 1? (f) If some or all of Bill 21 is found to be unconstitutional, what is the appropriate remedy?[18]

(a) The Chief Justice found that the independence of the Bar is a constraint on Legislative action

19. The Chief Justice found that the independence of the Bar is an unwritten constitutional principle. He found that it is an essential underpinning of Canada's constitutional order and necessary for maintaining an independent judiciary and the

[15] BE, p. [●], Bill 21, s. 122(3)(c)(ii).
[16] BE, p. [●], Bill 21, ss. 198, 202.
[17] JAR, p. 273, Reasons, at para. 11(a).
[18] JAR, pp. 286–287, Reasons, at para. 67.

proper administration of justice. He concluded that, while unwritten, the independence of the Bar is a principle that is implicit in the written constitutional text, specifically in the judicature provisions of the *Constitution Act, 1867* (ss. 96–101) and in the fundamental rights and freedoms guaranteed under ss. 7, 10(b), and 11(d) of the *Charter.*[19]

20. The Chief Justice concluded that the importance and fundamental constitutional character of independence of the Bar stems from the fact that, where it is interfered with, all other constitutional rights, including the rule of law, are placed in jeopardy. In his view, as expressed by Jack Giles K.C., it is "simply inconceivable that a constitution which guarantees fundamental human rights and freedoms should not first protect that which makes it possible to benefit from such guarantees, namely every citizen's constitutional right to effective, meaningful, unimpeded access to a court of law through the aegis of an independent bar".[20]

21. The Chief Justice correctly found that the Legislature cannot use its plenary authority under ss. 92(13) and (14) to regulate lawyers in such a manner as to eviscerate an independent Bar.[21]

(b) **The Chief Justice found independence of the Bar prohibits legal regulation by a body which is controlled or unduly influenced by outside forces**

22. The Chief Justice found the principle of the independence of the Bar prohibits legal regulation by a body which is "controlled, or unduly influenced, by outside forces".[22] He found that the independence of the Bar must be examined through the lens of lawyers' duties to their clients, the courts, and the administration of justice.[23]

23. The Chief Justice found that it was "axiomatic" that in carrying out their advisory and advocacy roles, lawyers must be—and seen to be—independent from outside influences, including, in particular, the influence of the state. This, he concluded, reflects the fact that the right to impartial advice free from undue outside influence is a right that

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[19] JAR, pp. 290–293, Reasons, at paras. 80–94.
[20] JAR, pp. 293–294, Reasons, at para. 95.
[21] JAR, pp. 302–303, Reasons, at paras. 136–137.
[22] JAR, p. 296, Reasons, at para. 108.
[23] JAR, pp. 295–296, Reasons, at paras. 106–110.

belongs to clients.[24] The Chief Justice found that the need for institutional independence also acknowledges the fact that in addition to the duties owed to clients, lawyers owe broader duties to the courts and to the administration of justice generally. He concluded the powers and duties exercised by lawyers are vital to the maintenance of order in our society and the due administration of the law in the interest of the whole community.[25]

24. Legislation is *ultra vires* where it interferes with or unduly influences the duties owed by lawyers to their clients and the administration of justice, either through its direct application to lawyers and their clients or by way of the regulatory structure it creates.[26]

25. The appellants accept this statement of the law, but do not accept that it was applied to the facts of this case and the language of Bill 21 as it has been drafted.

(c) The Chief Justice found that Bill 21 does not infringe the principle of an independent Bar

26. The Chief Justice found that Bill 21 does not infringe the principle of an independent Bar. The appellants appeal this determination and, to avoid duplication, adopt and rely upon LSBC's factum and arguments on why the Chief Justice erred in that principal conclusion. The appellants' argument here focuses specifically on why the Chief Justice erred in law in finding that the independence of the Bar was not undermined by the role of the Indigenous Council and Transitional Indigenous Council in relation to the rules governing lawyers.

27. The Chief Justice found that the role of the Indigenous Council and Transitional Indigenous Council do not undermine the independence of the Bar because they do not have "independent rule making authority" or a power to "unilaterally impose rules".[27]

28. The Chief Justice found the Indigenous Council has an important but carefully circumscribed role in the new regulator. He found this role is purely advisory with the exception of approval powers in respect of two sets of rules: (a) rules respecting the use of alternative resolution processes in discipline and competence matters that reflect or

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[24] JAR, p. 295, Reasons, at paras. 106–107.
[25] JAR, p. 296, Reasons, at para. 109.
[26] JAR, p. 296, Reasons, at para. 110.
[27] JAR, pp. 313–316, Reasons, at paras. 181–193.

are influenced by Indigenous practices (s. 94(3)); and (b) rules that are designed to meet the specific needs of Indigenous persons who are parties to, or witnesses in, a proceeding before the tribunal (s. 131(6)). He concluded that this role does not undermine the independence of the bar because, even where the Indigenous Council has approval powers, such powers do not enable the "unilateral imposition of rules".[28] Given this conclusion, he also found that the fact that the members of the Transitional Indigenous Council and Indigenous Council need not be lawyers in no way threatens independence.[29]

29. The Chief Justice reached the same conclusion with respect to the Transitional Indigenous Council. He found that, as set out in s. 226 of Bill 21, the Transitional Indigenous Council must: (a) collaborate with the transitional board to develop the board's first set of rules; and (b) approve these rules. He found that this does not undermine independence because it does not equate to rule-making authority. He further noted that the transitional board has the duty to ensure the independence of licensees such that any rules that the Indigenous Council might consider for approval "should not pose any threat to independence in the first place".[30]

(d) **The Chief Justice found that Bill 21 does not violate the public's rights under ss. 7, 10(b), and 11(d) of the Charter**

30. The Chief Justice found that Bill 21 does not violate the public's rights under ss. 7, 10(b), and 11(d) of the *Charter* because it does not deprive the public of independent lawyers or infringe the independence of the Bar.[31]

(e) **The Chief Justice found that Bill 21 does not infringe lawyers' s. 7 rights to life, liberty, and security of the person**

31. The Chief Justice found that Bill 21 does not infringe lawyers' s. 7 rights because:

A. the definition of "incompetently" in s. 68 focuses on conduct, that is, whether a health condition is affecting a licensee's ability to practice with reasonable skill and competence.[32] The Chief Justice accepted the

[28] JAR, pp. 313–314, Reasons at paras. 182–184.
[29] JAR, pp. 314–315, Reasons at para. 186.
[30] JAR, pp. 315–316, Reasons at paras. 187–190.
[31] JAR, p. 325, Reasons, at para. 233.
[32] JAR, p. 321, Reasons, at para. 216.

government's proposition that the regime is based on "compassion, not stigmatization";[33]

B. the new regulator cannot compel lawyers to receive treatment they do not want. Analogizing to COVID-19 vaccine requirements for health care workers, the Chief Justice affirmed that s. 7 does not protect the right to work in a profession, particularly when the job loss arises from non-compliance with its governing rules and regulations;[34] and

C. declining to comply with an order for medical treatment under s. 198 would not constitute an offence under Bill 21.[35]

32. On this basis, the Chief Justice concluded Bill 21 does not engage lawyers' s. 7 rights and declined to address the balance of the analysis under s. 7.[36] As a result, the Chief Justice did not acknowledge—much less contend with—the evidence on mental health in the legal profession or the expert opinion on the stigmatizing impact of Bill 21. The Chief Justice did not acknowledge the mental health crisis in the legal profession, where women, professionals living with a disability, and professionals identifying as LGBTQ2S+ experience particularly high rates of mental health issues.[37]

33. Absent from his reasons was reference to the fact that lawyers delay seeking help for mental health and substance use, including for fear of regulatory repercussions.[38] The Chief Justice did not acknowledge the parties' experts agreed compelled treatment is

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[33] JAR, p. 321, Reasons, at paras. 217–218.
[34] JAR, p. 322, Reasons, at para. 220.
[35] JAR, p. 322, Reasons, at para. 221.
[36] JAR, p. 322, Reasons, at para. 222.
[37] JAB, p. [●], Affidavit #3 of Brook Greenberg, K.C., made April 3, 2025 (LSBC Action), at paras. 92–94, 168–171, 211 ("**Greenberg #3**"), Ex. 105, at pp. 27, 34, 35, 40, 47, 53, 83, 185–188, 219–221, 233–234, 246–253, 258–262 ("**National Study, Phase 1 Report**"); Expert Report of Dr. Michael Colleton, dated June 27, 2025, at paras. 14–16 ("**Colleton Report**").
[38] JAB, p. [●], National Study, Phase 1 Report, at pp. 54–60, 283–285, 337; JAB, p. [●], Greenberg #3, Ex. 106, at pp. 7, 10, 17 ("**National Study, Executive Summary**"); JAB, [●], p. [●], Greenberg #3, Ex. 107, at pp. 2756, 2779 ("**National Study, Targeted Recommendations**"); JAB, p. [●], Affidavit #1 of Doron J. Gold, made March 3, 2025 (TLABC Action), Ex. A, at pp. 5, 7–9, 11 ("**Gold Report**"); JAB, p. [●], Cross-Examination of Dr. Michael Colleton, dated October 7, 2025, at Q237–241 ("**Colleton Cross-Examination**"); JAB, p. [●], Greenberg #3 at paras. 93, 107, 119–126, 250, 170–172.

generally less effective than voluntary treatment,[39] nor the appellants' evidence that compelled treatment heightens stigma and discourages self-help.[40] There is no consideration in the Chief Justice's reasons of the consequences of delayed help or stigma, including greater risk of suicide, self-harm, or deterioration of other conditions.[41]

(f) The Chief Justice found that Bill 21 does not infringe the s. 8 right to be secure against unreasonable search or seizure

34. The Chief Justice found that, because s. 78 of Bill 21 authorizes a warrantless search which is presumptively unreasonable, and because there is no specific search or seizure in issue, whether or not Bill 21 infringes lawyers' rights under s. 8 turns on the reasonableness of s. 78. The Chief Justice relied on previous decisions in which courts "upheld similar search provisions in the current *LPA*" and found that the protections for solicitor-client privilege in s. 209 of Bill 21, which largely replicate the protections in the *LPA*, "are clear and unambiguous in their protection of privilege". He concluded those protections are not undermined by the fact that the new regulator is not a body controlled by lawyers because, in his view, the new regulatory model does not undermine the independence of the regulator.[42]

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[39] JAB, p. [●], Gold Report at pp. 12–14; JAB, p. [●], Gold Cross-Examination at Q113; JAB, p. [●], Affidavit #1 of Dr. Soma Ganesan, made March 29, 2025, Ex. A, at pp. 4–8 ("**Ganesan Report**"); JAB, p. [●], Colleton Cross-Examination at Q203–205.

[40] JAB, p. [●], Ganesan Report at p. 5; JAB, p. [●], Cross-Examination of Dr. Soma Ganesan, dated September 17, 2025, at Q147 ("**Ganesan Cross-Examination**"); JAB, p. [●], Gold Report at pp. 12–13; JAB, p. [●], Cross-Examination of Doron Gold, dated September 16, 2025, at Q38, 69–109 ("**Gold Cross-Examination**"); JAB, p. [●], Greenberg #1 at paras. 117–118, 120; JAB, p. [●], Greenberg #3 at para. 204.

[41] JAB, p. [●], National Study, Phase 1 Report, at pp. 283–284; JAB, p. [●], Greenberg #3 at para. 209; JAB, p. [●], Gold Report at pp. 6, 8–9; JAB, p. [●], Ganesan Report at p. 8.

[42] JAR, pp. 324–325, Reasons, at paras. 227–232.

PART 2 - ISSUES ON APPEAL

35. The Chief Justice erred in law by concluding Bill 21:

A. does not undermine independence of the Bar, despite the Transitional Indigenous Council and Indigenous Council's effective veto over rules governing the conduct and duties of lawyers;

B. does not violate the public's fair trial rights under ss. 7, 10(b), and 11(d) of the *Charter*, which cannot stand if Bill 21 is found to undermine the independence of the Bar;

C. does not engage lawyers' rights under s. 7 of the *Charter*, despite the text, legislative evolution, and context supporting the conclusion that Bill 21 associates competence and health conditions to the detriment of lawyers' s. 7 rights; and

D. does not violate s. 8 of the *Charter*, which cannot stand if Bill 21 is found to undermine the independence of the Bar.

PART 3 - ARGUMENT

A. Standard of Review

36. The issues raised on this appeal concern statutory interpretation and determinations of constitutional validity, both of which are questions of law reviewable on the correctness standard.[43]

B. The Chief Justice erred in law in concluding that the Transitional Indigenous Council and Indigenous Council's veto over rules governing the conduct and duties of lawyers does not undermine the independence of the Bar

37. The Chief Justice erred in law in concluding that the Transitional Indigenous Council and Indigenous Council's veto over rules governing the conduct and duties of lawyers does not undermine the independence of the Bar.

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[43] Joint Book of Authorities, p. [●] ("**JBOA**"), *Brar v. British Columbia*, 2024 BCCA 265 at para. 38.

38. The LSBC argues that the Chief Justice's test for independence is flawed because it does not properly take account of the institutional dimension of the principle of independence of the Bar and thereby fails to apply the correct structural limits to the scope of ss. 92(13) and (14) of the *Constitution Act, 1867*. As above, the appellants adopt and rely upon LSBC's factum and arguments in this respect. In the alternative, however, the appellants argue that even if the Chief Justice did not err in law by applying the incorrect test, he did so by concluding that Bill 21 does not undermine his own narrower conception of the constitutional requirements of independence.

39. The Chief Justice found that the role of the Indigenous Council and Transitional Indigenous Council does not undermine the independence of the Bar because their approval powers do not equate to "independent rule making authority" or a power to "unilaterally impose rules".[44]

40. This is an error of law because it fails to apply the Chief Justice's own interpretation of the principle and standard of independence of the Bar. The Chief Justice found that lawyers cannot be said to be truly independent if they are subject to regulation by a body which is itself controlled, or unduly influenced, by outside forces.[45] He concluded that legislation is *ultra vires* where it interferes with or unduly influences the duties owed by lawyers to their clients and to the administration of justice, either through its direct application to lawyers and their clients or by way of the regulatory structure it creates.[46]

41. Bill 21 violates this principle because the regulatory structure it creates subjects lawyers to regulation by a body that is controlled, or unduly influenced, by outside forces.

42. With respect to control or undue influence, Bill 21 provides the Transitional Indigenous Council and Indigenous Council with a statutory veto over rules governing the conduct and duties of lawyers to their clients and to the administration of justice. Under Bill 21, the Transitional Indigenous Council and Indigenous Council have a statutory right (and obligation) to consult on and approve rules governing the professional conduct of lawyers.[47] As the Chief Justice found, the first rules and certain rules thereafter cannot be

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[44] JAR, pp. 313–316, Reasons, at paras. 181–193.
[45] JAR, p. 296, Reasons at para. 108.
[46] JAR, p. 296, Reasons, at para. 110.
[47] BE, p. [●], Bill 21, ss. 94(3), 131(6), 226.

enacted without their approval.[48] Further, while not specifically contemplated in Bill 21, the Transitional Indigenous Council will also approve the replacement code of conduct applicable to lawyers.[49]

43. The point is this: the veto deprives the regulator, *i.e.*, the transitional board and board, of "independent" or "unilateral" rule-making authority. This undermines independence in two critical ways.

44. First, the veto deprives the transitional board and board of the authority to independently or unilaterally enact rules including, for example, those which they consider necessary to promote or maintain the independence of licensees. It destroys lawyers' freedom to choose and adopt, as a profession, the rules that govern them. In finding that this does not undermine independence, the Chief Justice reasoned that: (a) "there is no basis for believing that the inclusion of another set of perspectives, through the vehicle of the Indigenous Council, will in any way threaten the independence of the Bar";[50] and (b) "the transitional board has the duty to ensure the independence of licensees such that any rules that the Indigenous Council might consider for approval should not pose any threat to independence in the first place".[51] Both conclusions are divorced from the text of Bill 21. In any event, neither address the fundamental constitutional issue.

45. For one thing, the regulatory structure of Bill 21 does not merely contemplate the "inclusion of another set of perspectives"; it privileges the bodies advancing those perspectives with a statutory power to block the regulatory body from making rules. Further, the Chief Justice's statement that the "transitional board has the duty to ensure the independence of licensees" is an error of law as it is at odds with the text of Bill 21.[52] Bill 21 does not impose on the transitional board or the Transitional Indigenous Council a duty to ensure the independence of licensees. This duty applies only to <u>the regulator</u>,[53] after the amalgamation date and thus after the first rules have been made and the

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[48] JAR, pp. 272–273, 313–315, Reasons, at paras. 10(h), 10(i), 182, 187.
[49] JAB, p. [●], Affidavit #1 of Thomas L. Spraggs, K.C., made April 3, 2025 (LSBC Action) ("**Spraggs #1**"), Ex. U, at p. 446.
[50] JAR, p. 315, Reasons at para. 186.
[51] JAR, p. 315, Reasons, at para. 190.
[52] JBOA, p. [●], *Manns v. Vancouver Island Health Authority*, 2024 BCCA 110 at para. 15 ("***Manns***").
[53] BE, p. [●], Bill 21, s. 6(1)(c).

transitional board and Transitional Indigenous Council have been dissolved.[54] In any event, the concern is not that the Transitional Indigenous Council and Indigenous Council have the power to approve rules that threaten lawyer independence; it is that they have the power to veto rules that are necessary to protect it. By limiting his analysis to "the inclusion of perspectives" and approval of rules that pose "threats to independence", the Chief Justice failed to grapple with the true nature and consequence of the statutory veto.

46. Second, the veto provides the Transitional Indigenous Council and Indigenous Council with *de jure* and *de facto* control over aspects of the rule making process including, most importantly, the development of the first rules. A veto necessarily changes decision-making dynamics and process. It narrows the range of rules that will be approved and, as a result, drives the investigation, development, and assessment of rules toward those more likely to receive approval. In this sense, the veto not only impacts the outcome, but the rule-making process itself. It functionally amounts to regulatory power. Under Bill 21, this effect is not just a logical and practical consequence of the veto power, it is a statutory requirement. Section 226, for example, provides that the transitional board and Transitional Indigenous Council must "collaborate to develop the first rules of the board."[55] This is joint decision making by a joint board on the rules governing lawyers' conduct and duties to their clients and to the administration of justice. The statute can be interpreted no other way. The fact that this is precisely how the rule-making process has played out in practice only confirms this.[56]

47. This control and undue influence is clearly exerted by an "outside force". There is no statutory requirement that any member of the Transitional Indigenous Council or Indigenous Council be a lawyer. Bill 21 provides that they be comprised of Indigenous appointees of the BCFNJC, the Métis Nation British Columbia, and the transitional board or board.[57] The result is that a subset of the non-lawyer population have direct control over the rules governing the conduct of counsel charged with advocating for or against their interests. First Nations are regularly, and increasingly, involved as parties to litigation. Members of TLABC, and the legal profession generally, are regularly involved

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[54] BE, p. [●], Bill 21, ss. 223(8), 224(5), 226(2)(b).
[55] BE, p. [●], Bill 21, s. 226.
[56] JAB, p. [●], Spraggs #1 at paras. 17–23, Exs. O–S.
[57] BE, p. [●], Bill 21, ss. 29, 224.

in advocating for or against First Nations.[58] Lawyers are also called upon to negotiate, conclude, and interpret agreements with governments and First Nations.[59] That the structural inclusion of Indigenous perspectives is a benefit, that the members of the Transitional Indigenous Council or Indigenous Council are not "representing" their nations, or that their involvement furthers reconciliation is beside the point. A statutory veto over rules governing the conduct and duties of lawyers violates the independence of the Bar regardless of which subset of the non-lawyer population holds it.

48. A veto is by nature preclusive of true and meaningful independence. It cannot be read into constitutional compliance.[60] A correct application of the Chief Justice's own test demonstrates that Bill 21 is *ultra vires* as it creates a regulatory structure that interferes with and unduly influences the duties owed by lawyers to their clients and to the administration of justice, and thereby undermines the independence of the Bar.

C. The Chief Justice erred in finding that Bill 21 does not violate the public's fair trial rights under ss. 7, 10(b), and 11(d) of the *Charter* on the basis that it does not infringe the independence of the Bar

49. The Chief Justice's finding that Bill 21 does not violate the public's fair trial rights under ss. 7, 10(b), and 11(d) of the *Charter* rests entirely on his erroneous conclusion that Bill 21 does not undermine the independence of the Bar.[61]

50. If Bill 21 undermines independence of the Bar, it necessarily infringes the public's fair trial rights. The Chief Justice found "an independent Bar is necessary to ensure that the fundamental rights enshrined by ss. 7, 10(b) and 11(d) are properly acknowledged and protected".[62] This is so because the absence of an independent lawyer:

A. prevents a fair trial absent abuse of process, guaranteed under s. 7, because a fair trial depends on the integrity of the administration of justice, which is guaranteed by an independent Bar and judiciary;[63]

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[58] JAB, p. [●], Gourlay #1 at paras. 33–35.
[59] JAB, p. [●], Affidavit #1 of Rajiv Gandhi, made May 27, 2024 (TLABC Action), at para. 13.
[60] JBOA, p. [●], *Democracy Watch v. Canada (Attorney General)*, 2026 SCC 28 at para. 83.
[61] JAR, p. 325, Reasons, at para. 233.
[62] JAR, p. 293, Reasons, at para. 94.
[63] JBOA, p. [●], *Charkaoui v. Canada (Citizenship and Immigration)*, 2007 SCC 9 at paras. 20–22, 28, 32; JBOA, p. [●], *R. v. Rose*, [1998] 3 S.C.R. 262 at para. 96.

B. prevents individuals from instructing counsel effectively, guaranteed under s. 10(b), because an independent lawyer is required to effectively protect the rights of accused in the criminal justice system;[64] and

C. prevents a fair and public hearing before an independent judiciary, guaranteed by s. 11(d), because an independent judiciary can only be achieved by an independent Bar.[65]

51. The Chief Justice's interpretation of independence of the Bar confirms this. He found that: (a) lawyers owe broader duties to the administration of justice and exercise powers and duties which are vital to the maintenance of order in our society and the due administration of the law in the interest of the whole community;[66] (b) the essential role of lawyers is perhaps best reflected in the area of criminal law where lawyers act to protect the liberty of their clients in criminal prosecutions backed by the weight and resources of the state;[67] and (c) the independence of the courts is "inextricably tied" to the independence of the Bar, because judges are selected from the independent Bar and the courts can only function by having lawyers present evidence and arguments in accordance with their duties owed to their clients and to the administration of justice.[68]

52. If the Chief Justice erred in finding that Bill 21 does not undermine the independence of the Bar, he erred in finding that it does not infringe the public's fair trial rights under ss. 7, 10(b), and 11(d) of the *Charter*.

D. <u>The Chief Justice erred in concluding Bill 21 does not violate lawyers' s. 7 rights to life, liberty, and security of the person</u>

53. The Chief Justice erred in concluding Bill 21 does not engage lawyers' s. 7 rights because his interpretation was not anchored in the text and contradicts the legislative and factual context. The Chief Justice's conclusions cannot stand when the text of ss. 68, 88, 198, and 202 are properly interpreted in their immediate, legislative, and factual context.

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[64] JBOA, p. [●], *R v. Sinclair*, 2010 SCC 35 at para. 26; JBOA, p. [●], *R v. Sanclemente*, 2021 ONCA 906 at para. 132.
[65] JBOA, p. [●], *Valente v. The Queen*, [1985] 2 S.C.R. 673 at paras. 22–25.
[66] JAR, p. 296, Reasons, at para. 109.
[67] JAR, p. 295, Reasons, at paras. 104–105.
[68] JAR, p. 293, Reasons, at para. 92.

54. The Chief Justice's reasons evince three legal errors:

A. He erred in concluding s. 68 focused on conduct, not health conditions, by ignoring the provision's text and context.

B. He erred in concluding s. 88(1)(c) did not permit the new regulator to compel treatment by incorrectly analogizing to the COVID-19 cases.

C. He erred in concluding non-compliance with a competence order would not result in prosecution and associated penalties, as contemplated in ss. 198 and 202.

55. These errors establish that, contrary to the Chief Justice's conclusion, Bill 21 cultivates a fear of help-seeking, heightened anxiety of potential investigation, and risk of exacerbating existing conditions. These consequences are sufficient to engage and infringe lawyers' s. 7 rights.

(a) The Chief Justice erred in interpreting s. 68 to focus on conduct, not health conditions

56. The Chief Justice erred in interpreting s. 68 by disregarding the text, legislative context, and factual context. His conclusion that s. 68 focuses on conduct, not condition,[69] is the product of an analysis contrary to the rules of statutory interpretation: that the legislative text must be interpreted harmoniously in light of the statutory context and legislative purpose.[70]

57. When interpreted with proper regard to the text and context, Bill 21 associates incompetence with health conditions in a manner that pushes lawyers farther from help, engaging their s. 7 interests. Contrary to the Chief Justice's conclusion, s. 68 does not focus on conduct. It targets health conditions. It signals to lawyers and the public that health conditions are a legislatively recognized reason of and for incompetence and presumed cause for regulatory intervention.

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[69] JAR, p. 321, Reasons, at para. 216.

[70] JBOA, p. [●], *Chisholm v. Valemount Forest Products Ltd.*, 2025 BCCA 48 at para. 16 ("***Chisholm***"), citing JBOA, p. [●], *Wang v. British Columbia (Securities Commission)*, 2023 BCCA 101 at paras. 39–41.

(i) The Chief Justice erred by disregarding the text of s. 68 itself

58. The Chief Justice's interpretation fails to come to grips with s. 68's plain and obvious textual association between competence and health conditions. Contrary to the Chief Justice's assertion at paragraph 216 of his reasons, the text of s. 68 itself creates an apparent and unwarranted link between lawyers' conditions (their mental health or substance use) and their ability to practice law competently.

59. The Chief Justice's analysis accepts the government's interpretation that conduct is the exclusive focus under Bill 21. But there are three problems with this position.

60. First, the Chief Justice does not grapple with the fact that the legislation itself makes the normative association between health conditions, including mental health conditions, and competency. In other words, on its face, the legislation makes a judgment about the connections between competency and health.

61. Second, the Chief Justice fails to ask the obvious question raised by the text of s. 68: if the purpose of the provision is to target incompetent conduct and conduct alone,[71] as the government says, and the Chief Justice found, then what is the point of even mentioning a health condition in the same section and making the obvious association between the two? Why bother mentioning the "why" of a lawyer's incompetence at all? The Chief Justice and the government's "conduct only" interpretation does not provide an answer, and ignores that language, contrary to the basic principles of statutory interpretation that all the words of the legislation must be given effect.[72]

62. Third, the Chief Justice's finding that Bill 21 focuses on conduct not condition is contradicted by his finding that s. 68's aim is to allow the regulator to probe into the health-related causes of incompetence and "understand why issues are arising in a lawyer's practice, so that the appropriate steps can be taken to get them back on track."[73] On this view, s. 68 is not "focused" on conduct; it is focused on identifying and associating causes of incompetence, which legislatively include a person's mental health and substance use.

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[71] JAR, p. 321, Reasons, at para. 216.
[72] JBOA, p. [●], *Manns* at para. 15; JBOA, p. [●], *Chisholm* at para. 19.
[73] JAR, p. 321, Reasons, at para. 217 [emphasis in original].

63. In any event of these errors of statutory interpretation, the Chief Justice also fell into error by failing to appreciate that the text of Bill 21 itself is an unmistakeable signal to each and every lawyer and applicant that the legislature and the new regulator presumptively associate competence with health conditions. This is the ordinary meaning that arises when the text is read in its immediate context.[74] Bill 21 makes this association rather than stating a content-neutral floor of competence.

64. The Chief Justice's interpretation of the text s. 68 masks its actual function. It is formal and textual cover for the new regulator to make unfounded assumptions and investigate conditions as a presumptive cause of a competency issue.

65. Put simply, s. 68, and Bill 21 more generally, tells its readers that health conditions, including one's mental health, are a valid reason to suspect and assume incompetence. The Chief Justice erred in ignoring s. 68's ordinary textual meaning in this regard.

(ii) <u>The Chief Justice erred in allowing the legislative purpose to overwhelm the text</u>

66. The Chief Justice erred by placing undue reliance on the government's purported legislative purpose when that purpose conflicts with the words of s. 68. In doing so, the Chief Justice committed a "purpose error" by allowing the legislation's alleged purpose to overwhelm the text.[75] While it is proper—and, here, necessary—to turn to context to interpret the legislation,[76] the court cannot adopt an interpretation that is contrary to the actual words used.[77]

67. The Chief Justice accepted the government's submission that competence provisions are "based on compassion, not stigmatization".[78] This is an error because there is no textual anchor supporting that conclusion. Nothing in the text of s. 68 "conveys" that "there is nothing fundamentally wrong" with a licensee when their ability to practice is impaired by a health condition.[79] Nothing in the text of s. 68 expresses "compassion, not

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[74] JBOA, p. [●], R. Sullivan, *The Construction of Statutes* (Toronto: LexisNexis Canada Inc., 2022), ch. 3 at s. 3.02 ("**Sullivan**").
[75] JBOA, p. [●], *Manns* at paras. 32–35.
[76] JBOA, p. [●], *Chisholm* at paras. 19, 37.
[77] JBOA, p. [●], *Manns* at para. 15.
[78] JAR, p. 321, Reasons, at para. 218.
[79] JAR, p. 321, Reasons, at para. 218.

stigmatization".[80] To the contrary, the only actual message in s. 68 is that lawyers with health conditions are presumptively suspect in their capacity.

68. The Chief Justice in effect assumed, without any textual support, that lawyers will read and interpret Bill 21 in a certain manner (*i.e.*, that the government and the new regulator is intervening out of compassion). However, in the absence of a textual anchor, it is equally plausible to interpret Bill 21 as the appellants do—that is, as creating an association between incompetence and health conditions in a way that heightens stigma and deters help-seeking behaviour. One person's so-called "compassion" is another person's regulatory nightmare.

69. Absent words to anchor the legislative purpose, the Chief Justice commits a purpose error: his conclusion assigns too much weight to an abstract purpose that has little, if any, representation in the text. The Chief Justice's conclusion that s. 68 focuses on conduct, not condition, is unsupportable on the text.

(iii) The Chief Justice erred in ignoring Bill 21's legislative development

70. The Chief Justice erred in the interpretation of s. 68 by ignoring the legislative evolution of lawyer competence provisions. The evolution and history of competence regulation is relevant context to the interpretation of Bill 21.[81] Legislative evolution is presumed to be purposeful.[82] Yet, the Chief Justice ignores this critical interpretative aid and therefore fails to appreciate the legislature's intent in upending the history of competence regulation.

71. For many reasons, Bill 21 is a departure from historical models of legal regulation. Bill 21 introduces an association between competence and health conditions. In striking contrast, Rule 3.1-1 of the *Code of Professional Conduct* does not define competence with reference to any health conditions—or any causes of incompetence.[83]

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[80] JAR, p. 321, Reasons, at para. 218.
[81] JBOA, p. [●], *Chisholm* at paras. 17, 27–31; JBOA, p. [●], *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53 at para. 43 ("***Mowat***").
[82] JBOA, p. [●], *Mowat* at paras. 43–52; JBOA, p. [●], Sullivan at s. 23.02[2].
[83] JAB, p. [●], British Columbia Code of Professional Conduct, s. 3.1-1.

72. In line with the actual focus on conduct, the pre-Bill 21 regulatory model employs suspensions, among other powers, to regulate competence. It is undisputed that suspensions are effective in protecting the public from incompetent practice.[84] In fact, suspensions are the only regulatory tool that immediately and fulsomely achieve this goal. A suspension responds to conduct and conduct only.

73. In this context, Bill 21's inclusion of ss. 68 and 88(1)(c) are notable and unexplained additions. The legislative evolution signals to lawyers and the public that the target of competence regulation has shifted. It signals that suspensions are no longer a complete answer to the problem, and that the legislation is targeting something broader: health conditions. This context is missing in the Chief Justice's analysis.

74. The Chief Justice failed to take this evolution into account in assessing what s. 68 actually is and does. The inference from the evolution in competence regulation is that health conditions now presumptively matter to competence. That is how the new regulator will operate, and that is how members of the legal profession, and those seeking to join it, can assume it operates.

(iv) The Chief Justice erred in ignoring the context in which lawyers would interpret s. 68

75. The Chief Justice accepted what the legislation "conveys" to the legal profession matters to the interpretative analysis.[85] The reality in which s. 68 operates and is received is relevant to the interpretative exercise as factual context.[86] The Chief Justice ignored the obvious reality that lawyers, who as a population are experiencing an ongoing mental health crisis, will read the text of s. 68 and make the natural association between competence and health.[87]

76. Indeed, before the Chief Justice, it was accepted by all parties that the legal profession is experiencing a mental health crisis, where lawyers experience health

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[84] JAB, p. [●], Gold Cross-Examination at Q96; JAB, p. [●], Colleton Cross-Examination at Q224, see also generally Q209–223, 262–264; JAB, p. [●], Greenberg #1 at para. 117.
[85] JAR, p. 321, Reasons, at para. 218.
[86] JBOA, p. [●], *West Fraser Mills Ltd. v. British Columbia (Workers' Compensation Appeal Tribunal)*, 2018 SCC 22 at para. 41; JBOA, p. [●], Sullivan at s. 22.01[2].
[87] JAB, p. [●], Gold Cross-Examination, at Q56–57.

conditions and substance use disorders beyond the general population.[88] There is also no dispute that lawyers as a population delay or avoid seeking help for mental health and substance use, out of fear of reputational and regulatory repercussions.[89]

77. In this context, s. 68's association between health condition and incompetent practice cannot be interpreted neutrally, as the Chief Justice found. Nor does it serve—as the Chief Justice appeared to conclude—the purpose of "compassion" by conveying that lawyers "are simply experiencing a health issue for which they need health care".[90] That conclusion fails to appreciate that lawyers see the association and assume their condition is in and of itself a cause for regulatory intervention.

78. The government's only evidence on this point was from the Attorney General's representative, who stated that the policy was to "ensure that a member of the public who may have a concern about a regulated individual has a clear understanding of the types of issues or concerns that the regulator has the power to investigate".[91] In other words, the legislature wished the public to know that lawyers might practice incompetently on account of a health condition and that the public could make complaints on that basis.

79. If the government's purpose was to advertise that the public could make complaints because of a link between competence and health conditions, it is not unreasonable for the appellants and lawyers generally to make that association as well.

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[88] JAB, p. [●], Greenberg #3 at paras. 92–94, 168–171, 211; JAB, p. [●], National Study, Phase 1 Report, at pp. 27, 34, 35, 40, 47, 53, 83, 185–188, 219–221, 233–234, 246–253, 258–262; JAB, p. [●], National Study, Executive Summary, at pp. 3–6, 14–16; JAB, p. [●], Greenberg #3, Ex. 99; JAB, p. [●], Gold Report at pp. 5–9; JAB, p. [●], Colleton Report at paras. 14–16; JAB, p. [●], Colleton Cross-Examination at Q57–59, 251–257; JAB, p. [●], Colleton Report at paras. 14–16.

[89] JAB, p. [●], National Study, Phase 1 Report, at pp. 54–60, 283–285, 337; JAB, p. [●], National Study, Executive Summary, at pp. 7, 10, 17; JAB, p. [●], National Study, Targeted Recommendations, at pp. 2756, 2779; JAB, p. [●], Gold Report at pp. 5, 7–9, 11; JAB, p. [●], Colleton Cross-Examination at Q237–241; JAB, p. [●], Greenberg #3 at paras. 93, 107, 119–126, 140, 170–172.

[90] JAR, p. 321, Reasons, at para. 218.

[91] JAB, p. [●], Examination for Discovery of Katharine Armitage, dated March 17, 2025, at Q115. A member of the public may make a complaint to the chief executive officer if they believe a licensee may have practiced incompetently. Unless the complaint is dismissed, the chief executive officer must commence an investigation: BE, p. [●], Bill 21, ss. 76, 77. As part of an investigation, the chief executive officer may require a licensee to undergo examination by a medical practitioner: BE, p. [●], Bill 21, s. 85(1)(g).

80. Put simply, the Chief Justice failed to interpret s. 68 in light of the undisputed and practical reality in which it will be read by lawyers and the public. In the result, the Chief Justice's interpretation of s. 68 as only facially focusing on conduct not condition cannot be supported in context. Bill 21 and s. 68 do associate, in an unwarranted way, mental health and competence in a way that engages lawyers' s. 7 rights.

(b) **The Chief Justice erred in interpreting ss. 88(1)(c) and 122(3)(c)(ii) by analogizing to the COVID-19 cases**

81. The Chief Justice erred in concluding the new regulator could not compel counselling or medical treatment by improperly relying on the COVID-19 cases. His interpretation of ss. 88(1)(c) and 122(3)(c)(ii) oversimplifies the constitutional choice presented to lawyers.

82. The Chief Justice erred in analogizing to the COVID-19 cases because:

A. he ignored Bill 21's broader infringement of the interests of lawyers' not subject to regulatory intervention; and

B. he incorrectly equated the constitutional choices presented to lawyers and health professionals by competence orders and the COVID-19 vaccine, respectively.

83. In the result, the Chief Justice's analogy to the COVID-19 cases produced an incomplete and flawed assessment of Bill 21's infringement of s. 7 interests.

(i) <u>The Chief Justice erred in failing to appreciate Bill 21's unconstitutional effects on lawyers not subject to regulatory intervention</u>

84. The Chief Justice erred in analogizing to the COVID-19 cases because he failed to appreciate Bill 21's unconstitutional effects on lawyers not subject to regulatory intervention. The COVID-19 cases could only be relevant to the s. 7 interests of lawyers subject to regulatory intervention. The COVID-19 cases do not grapple with the broader infringement caused by Bill 21: the heightened fear and stigma—and attendant reluctance to seek help—among lawyers not subject to regulatory intervention or investigation.[92] By

[92] JAB, p. [●], National Study, Phase 1 Report, at p. 58; JAB, p. [●], Gold Report at pp. 4–9.

equating the appellants' challenge to the COVID-19 cases, the Chief Justice disregarded the broader infringement caused by Bill 21.

85. For lawyers not subject to regulatory intervention, they are not presented with any choice between: (a) accepting treatment; or (b) leaving the profession. Rather, their s. 7 interests are infringed by mere practice of their profession in the regulatory scheme created by Bill 21. If you are a lawyer, you are at risk of being forced (by someone with zero medical qualifications) to take the blue pill, or the red pill.

(ii) The Chief Justice erred in equating COVID-19 vaccines with the interventions contemplated by Bill 21

86. The Chief Justice also erred in analogizing to the COVID-19 cases in respect of lawyers who are subject to regulatory intervention. The choice presented to lawyers subject to Bill 21 and health professionals subject to a COVID-19 vaccine is materially different such that Bill 21 cannot pass constitutional muster.

87. What underlies the Chief Justice's analogy to the COVID-19 cases is the assumption that Bill 21 and public health orders present individuals with the same choice: (a) accept what is universally regarded as safe and effective medical treatment; or (b) leave the profession. Indeed, in *Hoogerbrug v. British Columbia*, Justice Coval concluded vaccines were an effective preventative measure against transmission.[93]

88. However, the medical interventions contemplated by Bill 21 cannot be equated to the COVID-19 vaccine. There is no basis to say that a COVID-19 vaccine is inherently harmful.[94] The same cannot be said for an imposed medical treatment aimed at a lawyer's mental health or substance use. The vagueness of ss. 88(1)(c) and 122(3)(c)(ii) permits the chief executive officer or hearing panel of the new regulator to impose wide range of interventions on lawyers, with a degree of uncertainty of whether they will resolve the competency issue at all or on what timeline.[95] It authorizes such orders for forced

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[93] JBOA, p. [●], *Hoogerbrug v. British Columbia*, 2024 BCSC 794 at paras. 124, 145 ("***Hoogerbrug***"), appeal dismissed as moot, JBOA, p. [●], *Tatlock v. British Columbia (Attorney General)*, 2025 BCCA 181.

[94] JBOA, p. [●], *Hoogerbrug* at para. 124. Courts have taken judicial notice of the safety of vaccines, and the COVID-19 vaccine in particular: JBOA, p. [●], *Parmar v. Tribe Management Inc.*, 2022 BCSC 1675 at paras. 108–110, 153.

[95] JAB, p. [●], Colleton Cross-Examination at Q207–208, 212, 215–222.

treatment without requirement that the chief executive officer obtain medical advice before making such an order.[96] It authorizes such forced treatment without any guarantee of confidentiality for the lawyer.[97] The scheme also fails to grapple with the undisputed fact and truth that voluntary treatment is generally more effective than compelled interventions.[98] As a result, the choice that Bill 21 foists on lawyers subject to regulatory intervention is: (a) accept invasive interventions of uncertain effectiveness ordered by a non-health professional, without confidentiality; or (b) leave the profession.

89. Our constitution does not permit a government-dominated regulator (without any medical professionals providing input) to impose treatment on persons simply because the other option is to abandon professions, jobs, livelihoods, and one of the most important things about a person's identity. If the law accepts such an impossible choice, then it has failed indeed.

90. The Chief Justice's analogy to the COVID-19 cases does not account for these distinguishing characteristics. Put simply, the COVID-19 cases are not apposite, and the Chief Justice erred in relying on them.

(c) The Chief Justice erred in finding that the failure to comply with a competence order could not result in prosecution

91. The Chief Justice concluded that a failure to comply with a competence order would not amount to an offence under Bill 21.[99] The Chief Justice appeared to conclude that the government's interpretation was an unequivocal representation that the government would not prosecute for non-compliance with a competence order.[100]

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[96] BE, p. [●], Bill 21, s. 88(1)(c). Before the chief executive officer makes an order under s. 88(1), they must give the licensee notice and a reasonable opportunity to make submissions: BE, p. [●], Bill 21, s. 88(3). There is no requirement to obtain a medical consultation or seek other expert opinion. This is contrary to the evidence that treatment for mental health and substance use should have a solid evidentiary foundation: JAB, p. [●], Colleton Cross-Examination at Q205; see also JBOA, p. [●], *Grewal (Re)*, 2022 LSBC 22 at paras. 93–94.

[97] JAB, p. [●], Gold Report at p. 12; JAB, p. [●], Colleton Report at para. 57; JAB, p. [●], Greenberg #1 at para. 117.

[98] JAB, p. [●], Gold Report at pp. 12–14; JAB, p. [●], Ganesan Report at pp. 6–8; JAB, p. [●], Colleton Cross-Examination at Q176.

[99] JAR, p. 321, Reasons, at para. 221.

[100] JAB, p. [●], Written Submissions of the Attorney General of British Columbia, dated September 15, 2025, at para. 670: "Declining to comply with a competence order is not an offence."

92. In the absence of a Legislative amendment confirming that the definition of an offence does not capture non-compliance with a competence order, the Chief Justice erred. His conclusion is contrary to the text of s. 198.

93. On the face of s. 198, a lawyer that fails to comply with a competence order "willfully interferes with or obstructs another person [the chief executive officer] in the exercise of a power [the power to impose competence orders under s. 88]". Per the text, that lawyer is committing an offence and is thus exposed to the penalties prescribed in s. 202: a fine of up to $200,000 or imprisonment up to two years.

94. Nothing in the text of Bill 21 clarifies that non-compliance with competence orders are exempt from ss. 198 and 202, or that the powers in s. 59 are the only possible consequences of failing to comply with a competence order.[101] The text says imprisonment or a fine is available. The Chief Justice erred in adopting an interpretation of s. 198 that is contrary to the words enacted.

(d) The Court can decide Bill 21's consistency with s. 7 on the available record

95. The evidentiary record is sufficient for this Court to decide Bill 21's consistency with s. 7 of the *Charter*. Remitting the action to the Supreme Court is unnecessary.

96. The Chief Justice's errors arise from a flawed interpretation of Bill 21. As a result, the Chief Justice did not grapple with the appellants' evidence on Bill 21's unconstitutional effects on lawyers' s. 7 rights. The appellants' evidence remains unchallenged or aligned with that of the government.

97. On this record, Bill 21 engages and infringes the life, liberty, and security interests of lawyers in a manner that is not in accordance with the principles of fundamental justice.

98. Bill 21 signals to the profession that mental health and substance use are proper targets of professional regulation and can be remedied with compelled treatment by the new regulator. This signal creates an atmosphere of anxiety and suspicion among

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[101] BE, p. [●], Bill 21, s. 59 permits the chief executive officer to impose limits or conditions on a license.

lawyers that leads to delayed treatment and decreased trust in seeking help for mental health and substance use.

99. The record below supports the following findings.

(i) Bill 21 engages and infringes lawyers' s. 7 rights

100. Bill 21 infringes liberty interests because it constrains lawyers' agency to make fundamentally personal decisions: decisions about their mental health and the integrity of their bodies. The right to personal autonomy is "so entrenched in the traditions of our law as to be ranked as fundamental and deserving of the highest order of protection."[102] Sections 88(1)(c) and 122(3)(c)(ii) empower the chief executive officer and a hearing panel to interfere with lawyers' medical self-determination by imposing particular counselling or treatment, with the threat of imprisonment or substantial fine.[103] The effects of these powers are to heighten stigma, and to discourage lawyers from choosing whether to self-report and seek help.[104] Bill 21 narrows lawyers' choices to seek help, from whom to seek help, and how to treat their condition, thus engaging their liberty interest.[105] The evidence is aligned that the legal profession experiences mental health and substance use disorders beyond the general population[106] and lawyers are already discouraged from seeking help.[107] In context, Bill 21's effects engage and infringe lawyers' liberty interests.

101. Bill 21 infringes security of the person because it discourages help-seeking and delays treatment, which exacerbates existing health conditions or causes new psychological stress.[108] Bill 21 creates this harm by (a) associating mental health and substance use with incompetent practice; and (b) enforcing that unwarranted association

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[102] JBOA, p. [●], *Council of Canadians with Disabilities v. British Columbia (Attorney General)*, 2026 BCSC 1416 at para. 739 ("***CCD***"), quoting JBOA, p. [●], *Fleming v. Reid*, [1991] O.J. No. 1083 at para. 39 (C.A.).
[103] BE, p. [●], Bill 21, ss. 88, 122(3)(c)(ii), 198, 202.
[104] JAB, p. [●], Greenberg #1 at paras. 117–118, 120; JAB, p. [●], Greenberg #3 at para. 204; JAB, p. [●], Gold Report at pp. 12–13; JAB, p. [●], Gold Cross-Examination at Q38, 69–109; JAB, p. [●], Ganesan Cross-Examination at Q147.
[105] JBOA, p. [●], *CCD* at paras. 778–782.
[106] See footnote 88.
[107] See footnote 89.
[108] JBOA, p. [●], *R v. Morgentaler*, [1988] 1 S.C.R. 30 at p. 59; JBOA, p. [●], *Chaoulli v. Quebec (Attorney General)*, 2005 SCC 35 at para. 119; JAB, p. [●], Ganesan Report at p. 8; JAB, p. [●], National Study, Phase 1 Report, at pp. 283–284; JAB, p. [●], Gold Report at pp. 6, 8–9.

with threat of treatment, which is imposed by a chief executive officer with no guaranteed medical expertise or assurance of confidentiality.[109] Where a regulatory system, like Bill 21, exacerbates an atmosphere of stigma, it leads to more avoidance of help-seeking behaviour, which only compounds lawyers' already heightened disinclination to self-report or seek treatment.[110] These lawyers are subject to state-induced psychological harm beyond ordinary stress and anxiety or deterioration of existing conditions.

102. Bill 21 infringes lawyers' life interests for the same reasons it engages lawyers' security of the person. Considering the legal profession experiences suicidal ideation beyond the general population, Bill 21 creates a real risk that lawyers may engage in self-harm or suicide.[111] That risk is sufficient to engage their life interests.[112]

(ii) Bill 21's infringement of lawyers' s. 7 interests is not in accordance with the principles of fundamental justice

103. Bill 21 is arbitrary because associating competence with health conditions has no connection with the government's alleged purpose of protecting the public from incompetent practice. Bill 21 is counterproductive because it risks worsening lawyers' conditions by delaying treatment and heightening stigma. Lawyers delaying treatment and avoiding help-seeking behaviours out of fear of the regulator harms the lawyer and the public.[113] Bill 21 harms lawyers (exacting an unconstitutional price) and does not serve its own theory of the public good. In so doing, it limits lawyers' rights arbitrarily.[114]

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[109] JAB, p. [●], Gold Report at p. 12; JAB, p. [●], Greenberg #1 at para. 117. The government's expert, Dr. Colleton, agrees confidentiality is an important concern and that Bill 21 does not protect against the risk of exposing lawyers' intimate personal health information to the public: JAB, p. [●], Colleton Report at para. 57. While Dr. Colleton opines lawyers' confidentiality interests must be balanced against the public interest in confidence in the legal profession, that is no answer in the s. 7 analysis: JBOA, p. [●], *Canada (Attorney General) v. Bedford*, 2013 SCC 72 at para. 125; JBOA, p. [●], *R. v. Brown*, 2022 SCC 18 at paras. 71–72; JBOA, p. [●], *CCD* at para. 889.

[110] JAB, p. [●], National Study, Phase 1 Report, at pp. 56–58, 281, 283–284; JAB, p. [●], National Study, Executive Summary, at pp. 7, 10; JAB, p. [●], National Study, Targeted Recommendations, at pp. 2756, 2779–2781; JAB, p. [●], Greenberg #3, Ex. 108, at pp. 20–21; JAB, p. [●], Gold Report at pp. 5–9.

[111] JAB, p. [●], National Study, Phase 1 Report, at pp. 40–42, 53, 55; JAB, p. [●], Greenberg #3 at para. 209; JAB, p. [●], Gold Report at p. 6.

[112] JBOA, p. [●], *CCD* at paras. 735, 772, 776.

[113] JAB, p. [●], Greenberg #3 at paras. 141, 214; JAB, p. [●], Gold Report at pp. 8–12.

[114] JBOA, p. [●], *Carter v. Canada (Attorney General),* 2015 SCC 5 at para. 83; JBOA, p. [●], *CCD* at paras. 747, 811.

104. If Bill 21 has some connection with the government's purported purpose, it remains overbroad. The statutory association between competence and health, backed by the power to compel treatment, is unnecessary when (a) the evidence is aligned that suspensions are a complete answer to incompetent practice;[115] and (b) the LSBC's model illustrates competency can be assessed without reference to health conditions.[116]

105. If Bill 21 has some connection with the government's purported purpose, Bill 21 is nevertheless grossly disproportionate. For lawyers subject to regulatory intervention, they may be compelled to counselling or medical treatment contrary to their right to medical self-determination. Compelled treatment is generally much less effective and should be relied upon as a last resort.[117] Yet, Bill 21 provides no such safeguard. As a result, Bill 21 interferes with lawyers' fundamentally personal choices to impose treatment that is ineffective in achieving the government's purpose. For lawyers not subject to regulatory intervention, Bill 21 still has grossly disproportionate effects. The fear arising from the possibility of compelled treatment disincentivizes help-seeking and self-reporting. This fear arises despite the evidence that not all mental health and substance use disorders impair practice.[118] The harsh effect on lawyers' s. 7 interests is out of sync with Bill 21's purpose. It is unconstitutional to impose these harms on lawyers when suspensions are sufficient to achieve the goal of protecting the public from incompetent practice.

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[115] JAB, p. [●], Gold Cross-Examination at Q96; JAB, p. [●], Colleton Cross-Examination at Q224, see generally Q209–223, 262–264; JAB, p. [●], Greenberg #1 at para. 117.

[116] The LSBC's Mental Health Task Force undertook substantial research on how to address mental health and substance use among lawyers without perpetuating stigma. This led to the removal of stigmatizing language from the *Code of Professional Conduct* and the alternative disciplinary process: JAB, p. [●], Greenberg #1 at paras. 110–123, Exs. 49–54; JAB, p. [●], Greenberg #3 at paras. 85–163, Exs. 98–110.

[117] The government's expert, Dr. Colleton, conceded on cross-examination that compelled treatment is not always effective, not least immediately effective, and should be used as a last resort: JAB, p. [●], Colleton Cross-Examination at Q207–208, 212, 215–222. See also JAB, p. [●], Colleton Cross-Examination at Q176; JAB, p. [●], Gold Report at pp. 12–14; JAB, p. [●], Gold Cross-Examination at Q113; JAB, p. [●], Greenberg #3 at paras. 136–140; JAB, p. [●], Ganesan Report at pp. 4–8.

[118] JAB, p. [●], Colleton Report at para. 21; JAB, p. [●], Gold Report at p. 10; JAB, p. [●], Greenberg #3 at paras. 99, 210; JAB, p. [●], National Study, Targeted Recommendations, at p. 2780; JAB, p. [●], Colleton Cross-Examination at Q228–231.

(iii) Bill 21's violation of s. 7 cannot be justified in a free and democratic society

106. In the court below, the government properly conceded that any violation of s. 7 could not be justified under s. 1.[119]

107. In the result, the evidentiary record is sufficient for this Court to assess whether Bill 21 violates lawyers' s. 7 rights. The appellants' evidence was largely unchallenged and effectively conceded by the Respondents' own expert. In substance, if this Court concludes the Chief Justice erred in the interpretation of Bill 21, the evidence supports a finding that Bill 21 violates s. 7 of the *Charter*.

(e) **Alternatively, the Court should remit the s. 7 issue with directions on the correct interpretation and legal principles**

108. If the Court finds the Chief Justice erred in the s. 7 analysis and concludes it cannot decide the issues, the appropriate remedy is to remit the s. 7 analysis with directions on the correct interpretation of Bill 21.

E. The Chief Justice erred in finding that Bill 21 does not violate the s. 8 right to be free from unreasonable search and seizure on the basis that it does not undermine the independence of the Bar

109. The Chief Justice's finding that Bill 21 does not violate s. 8 is bound up with his erroneous conclusion that Bill 21 does not undermine the independence of the Bar. In particular, the Chief Justice's (a) reliance on the s. 8 cases decided under the *LPA*; and (b) finding that the statutory protections for solicitor-client privilege in Bill 21, are not significantly undermined by the fact that the new regulator is not a body controlled by lawyers, are dependent on his conclusion that the new regulatory model does not undermine the independence of the new regulator.[120] As a result, if the appellants and LSBC are correct that Bill 21 undermines the independence of the Bar and, by extension, the new regulator, the Chief Justice's analysis cannot stand. Put simply, the search and seizure power in s. 78 is not reasonable, and the protections for solicitor-client privilege

[119] JAR, p. 246, Application Response of AGBC, filed May 23, 2025 (TLABC Action), at para. 42.
[120] JAR, p. 325, Reasons, at paras. 230–231.

in s. 209 are not sufficient, if the regulator exercising that power and receiving the privileged information is not independent.

PART 4 - NATURE OF ORDER SOUGHT

110. The appellants seek orders:

A. allowing the appeal;

B. setting aside the order made at paragraph 234 of the judgment dismissing the action of the appellants;

C. declaring that Bill 21: (a) is *ultra vires* the Legislative Assembly of British Columbia under ss. 92(13) and (14) of the *Constitution Act, 1867*; (b) violates ss. 7, 8, 10(b), and 11(d) of the *Charter* in a manner that cannot be justified in a free and democratic society under s. 1 of the *Charter*; and (c) is of no force or effect under s. 52 of the *Constitution Act, 1982*; in the alternative, declaring that ss. 68, 76–78, 85, 88, 122(3)(c)(ii), 198, 202, and 209 of Bill 21 violate ss. 7 and 8 of the *Charter* in a manner that cannot be justified in a free and democratic society under s. 1 of the *Charter*; (e) those portions of Bill 21 are of no force and effect to the extent of any inconsistency with the Constitution of Canada under s. 52 of the *Constitution Act, 1982*; in the further alternative, remitting the action to the Supreme Court of British Columbia for a new trial; and

D. awarding the appellants costs of the appeal and in the Supreme Court of British Columbia on a solicitor-and-own client indemnity basis.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of B.C., this 5th day of August, 2026.

Signed by:
Gavin Cameron
AC3B07833A6B4D9...

Gavin Cameron, Tom Posyniak, Laura Abrioux, and Will Andrews
Counsel for the Appellants, Trial Lawyers Association of British Columbia and Kevin Westell

APPENDICES: LIST OF AUTHORITIES

Authorities	Page # in factum	Para # in factum
Cases		
Brar v. British Columbia, 2024 BCCA 265	10	36
Canada (Attorney General) v. Bedford, 2013 SCC 72	27	101
Canada (Canadian Human Rights Commission) v. Canada (Attorney General), 2011 SCC 53	19	70
Carter v. Canada (Attorney General), 2015 SCC 5	27	103
Chaoulli v. Quebec (Attorney General), 2005 SCC 35	26	101
Charkaoui v. Canada (Citizenship and Immigration), 2007 SCC 9	14	50
Chisholm v. Valemount Forest Products Ltd., 2025 BCCA 48	16, 17, 18, 19	56, 61, 66, 70
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Fleming v. Reid, [1991] O.J. No. 1083 (C.A.)	26	100
Grewal (Re), 2022 LSBC 22	24	88
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Manns v. Vancouver Island Health Authority, 2024 BCCA 110	12, 17, 18	45, 61, 66

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R. v. Morgentaler, [1988] 1 S.C.R. 30	26	101
R. v. Rose, [1998] 3 S.C.R. 262	14	50
R. v. Sanclemente, 2021 ONCA 906	15	50
R. v. Sinclair, 2010 SCC 35	15	50
Tatlock v. British Columbia (Attorney General), 2025 BCCA 181	23	87
Valente v. The Queen, [1985] 2 S.C.R. 673	15	50
Wang v. British Columbia (Securities Commission), 2023 BCCA 101	16	56
West Fraser Mills Ltd. British Columbia (Workers' Compensation Appeal Tribunal), 2018 SCC 22	20	75
Secondary Authorities		
R. Sullivan, *The Construction of Statutes* (Toronto: LexisNexis Canada Inc., 2022)	18, 19, 20	63, 70, 75

APPENDICES: ENACTMENTS

[See Appellants' Book of Enactments.]

TAB 15

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

Name(s) of responding person(s) to be served with the application

The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

TBD based hearing date for AP's Form 8 NOA (heard at same time)

Chambers applications begin at 9:30 a.m.

The applicant anticipates that this application will be…
Check only one.

☒ Contested ☐ Uncontested

Enter the section(s) or rule(s) that you are relying on for your application
E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."

Court of Appeal Act, S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 10, 11, 12, 18, 24, 25, 28, 32, 36, 37, 38, 44-46

Court of Appeal Rules, B.C. Reg. 120/2022 (the "*COR",* "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 2, 3, 4, 5, 26-27 (by implication as there is no legal entitlement of Prescribed Parties, particularly different and adversarial "Statutory Parties" and distinct Prescribed Parties to purport to file a "Joint Response Book [Sic]"), 41, 52-56, 64, 69-78, 79 (citing Schedule 3), 80-84

Law and Equity Act, R.S.B.C. 1996, c. 253, Section 8.

Interpretation Act, R.S.B,C 1996, c 238

All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following orders which are contained in his written argument in support of the same:

Order #1: An Order abridging (shortening) all time periods within the COAA an Court of Appeal Rules to file and serve documents, and have this NOA heard on the day of the Applicant Party's NOA Form 8 (September 9, 2026) (inclusive of Application Book (September 15, 2026) and BOA (September 17, 2026);

Order #2: A Declaration that the Registrar of the British Columbia Court of Appeal is not permitted and prohibited from neither accepting nor rejecting a submitted filing; A Declaration that the BCCA Registrar is not permitted and prohibited from representing to a filing person that unfiled copies of paid for and submitted filings will be brought to the attention of a Justice or Justices as that, inter alia, would deprive rule 64(1)(b) "Parties" (herein, "Prescribed Parties") of the legal entitlement to respond to the NOA;

Order #3: A Declaration that the BCCA Registrar is not permitted and prohibited from dispensing with the requirements of the Rules sua sponte, otherwise and particularly on behalf of filing persons;

Order #4: A Declaration that the rejections by "SL" on September 25 and 29, 2026, were contrary to the Act and rules;

Order #5: A Declaration that since "SL" (Ms. Shelly Lin) is not a registrar, associate registrar, or deputy registrar(s) defined under s.1 and pursuant to COAA, s. 10 (collectively, the "PSA Appointed Registrars"), but rather a "Manager/Chambers Scheduler", Ms. Lin could not be delegated the powers and duties of any of the PSA Appointed Registrars, and could not exercise powers more than they had and less duties than they had;

Order #6: A Declaration that to the extent that Ms. Lin was delegated any such powers and/or duties that were on behalf of the PSA Appointed Registrars to rejected the submitted filings on September 25 and 29, 2026, such delegation was impermissible, void ab initio and of no force and effect;

Order #7: An Order in the nature of mandamus compelling the BCCA Registrar to accept the filings particularized and appended at Appendices A and B, and supported by receipt at Appendix C;

Order #8: An Order returning the filing fees to the Applicant Party's CSO account that were incurred unnecessarily and without legal bases;

Order #9: Costs against the BCCA Registrar; and

Order #19: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;

b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this **October 5, 2026, Form 4 Notice of Application.**

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

05/10/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

Appendix “A”

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

Mr. Kevin A. McLean (BA, JD, CIM) (he/him)

Name(s) of responding person(s) to be served with the application

The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

TBD based hearing date for AP's Form 8 NOA (heard at same time)

Chambers applications begin at 9:30 a.m.

The applicant anticipates that this application will be…
Check only one.

☒ Contested ☐ Uncontested

Enter the section(s) or rule(s) that you are relying on for your application
E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."

Court of Appeal Act, S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, **36**, 44-46,

Court of Appeal Rules, B.C. Reg. 120/2022 (the "*COR",* "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75

Law and Equity Act, R.S.B.C. 1996, c. 253, Section 8.

Interpretation Act, R.S.B,C 1996, c 238

All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following orders which are contained in his written argument in support of the same (wherein the following statutory parties ("Statutory Parties") in the: 1. the LSBC; and 2. TLABC and Mr. Westell (said three persons collectively defined as well as the "Appellants"); and 3. The AGBC and LGIC (together defined as the "Respondents") but also sad persons were some of many prescribed parties ("Prescribed Parties") under sub-rule 64(1)(b) (the five "Statutory Parties" defined in this NOA (Form 4) as the "**Purported Opposing Parties**"):

Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and

D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings") in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the

LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule 41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The filed affidavits in the Applicant Party Application Book of September 15, 2026 which are particularized again herein:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this September 22, 2026, Form 4 NOA.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

25/09/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.

[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a “Court Form” and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a “Response Book” is not discretionary as it must be prepared in accordance with the “Completion Instructions”. Part of the “Completion Instructions” required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page

Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of “filing parties” is not

required for joint book like a “Joint Appeal Book” (see: Rule 26) or a “Joint Book of Authorities” (see: Court of Appeal Rules, rule 27)

Appendix “B”

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS
(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS
(Defendants)

APPLICANT PARTY'S WRITTEN ARGUMENT CONCERNING AN APPLICATION TO:

I. Declare the **"Joint Response Book [Sic]"** void, void ab initio, and of no force and effect;
II. Strike and expunge the **"Joint Response Book [Sic]"** from the BCCA record under the above noted file numbers;
III. Declare the Registrar's acceptance of the **"Joint Response Book [Sic]"** to be without jurisdiction, void ab initio, and of no force and effect;
IV. Declare that the **"Joint Response Book [Sic]"** could not be lawfully served on the other "parties" under *Court of Appeal Rules*, rule 64(1)(b).
V. A Declaration that the LSBC, TLABC, and AGBC failed to comply with rule 62(4) and an Order that the aforementioned persons **"Joint Response Book [Sic]"** is not before the Court;
VI. Special costs against counsel for the LSBC, TLABC, and AGBC jointly and severally for intentional violations of the law; and
VII. Residual relief.

Hearing date: on the date of the **Applicant Party**'s Form 8 NOA to cancel the purported Orders of Horsman J.

Written argument dated and signed on: Friday, September 25, 2026
Written argument submitted for filing on: Friday, September 25, 2026

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PART 1: INTRODUCTION, PROCEDURAL VEHICLE, AND THE JURISDICTIONAL IMPERATIVE

1. The **Applicant Party** repeats and relies upon his evidence in the filed Application Book, and his argument and authorities contained therein and in his Book of Authorities, both for his Form 8 NOA to be heard and decided on a date, time and place as required by Rule 62(5) of the *Court of Appeal Rules*.
2. The **Applicant Party** adopts the definitions from the aforementioned filed documents and they have the same meaning herein as they do therein.
3. The present Written Argument is meticulously formulated and formally submitted to support a Notice of Application in Form 4, brought pursuant to the cited sections in the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*" or "*COAA 2021*"), and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*" or "*Court of Appeal Rules 2022*").
4. The **Applicant Party** seeks the relief particularized in his Form 4 Notice of Application ("NOA"), as denoted supra in summary form.
5. Concurrently, this Written Argument registers the **Applicant Party**'s formal opposition, supplementary to the Applicant Party's objection without taking a fresh step after notice of the irregularity in the failure to serve or be able to serve the "Joint Response Book [Sic]" of which the latter is a nullity at law and the former is an irregularity, to the unlawful steps taken and advanced by the Law Society of British Columbia ("LSBC"), the Trial Lawyers Association of British Columbia ("TLABC") and Mr. Westell, and the Attorney General of British Columbia ("AGBC") and LGIC (collectively, the "**Purported Opposing Parties**").
6. The **Purported Opposing Parties** seek to relegate the impending application to vary or cancel an order of a justice (the "Rule 62 Application") to a written-only adjudication pursuant to s. 26 of the *COAA*. However, the document they have styled as a **"Joint Response Book [Sic]"** is a nullity, void ab initio, and of no force and effect. As a matter of law, an unauthorized filing category cannot be placed "on top of" a mandatory procedural structure that does not permit it. The filing of a **"Joint Response Book [Sic]"** by adversarial statutory parties also raises structural concerns regarding whether any one Purported Opposing Party could purport to file a response on behalf of another.
7. It is formally articulated that the procedural mechanism invoked by the **Purported Opposing Parties** to bypass an oral hearing is misaligned with the mandatory statutory and rule-based architecture governing variance applications under Rule 62 and s. 35(2) of the *COAA*. Even if such a request could be made in that regard, wherein the 'hearing' itself was reduced to written or the time limit for 'hearing' was truncated (see: *COAA*, clauses 26(1)(a), (c) and (d) but not 26(1)(b) as the Form 8 NOA requires a 'hearing' and it is not merely a 'matter' per se wherein the Civil Rules Committee, blessed by the LGIC, used the language of 'hearing under Rule 62(5)).

8. The Legislature deliberately distinguishes between a "matter" and a "hearing" in *Court of Appeal Act* (the *COAA*), s. 26. A "matter" is the underlying proceeding; a "hearing" is the adjudicative event. Section 26(1)(a) empowers the Court to modify the conduct of a hearing, whereas s. 26(1)(b) empowers the Court — and only the Court — to decide a matter without a hearing.
9. The Registrar's administrative authority to "receive any matter," as referenced in the *Registrar's Powers Practice Directive* (3 May 2024), cannot override the Legislature's distinction. A Form 8 Notice of Application under Rule 63(2) and *COAA*, s. 35(2) requires a hearing. It is not a "matter" capable of being decided without a hearing unless the Court so orders under *COAA*, s. 26(1)(b).
10. Accordingly, the Registrar cannot treat the Applicant Party's Form 8 Notice of Application as a "matter," cannot block filings based on standing, and cannot exercise judicial discretion under *COAA*, s. 26. The Registrar's role is purely administrative: filings must be accepted or rejected under Rule 38 and the Completion Instructions. Any attempt to convert a hearing-required application into a "matter" is ultra vires.
11. This distinction is reinforced by the structure of the *COAA*. Section 26(1)(a) presupposes that a hearing date exists and that the matter is properly before the Court. Section 26(1)(b) presupposes that only the Court may eliminate a hearing. The Registrar cannot exercise judicial powers under s. 26, nor can the Registrar determine whether a hearing is required. The Applicant Party's Form 8 Notice of Application is a hearing-required application under Rule 63(2), and the Registrar must accept or reject filings under Rule 38 only.
12. The *Registrar's Powers Practice Directive* authorizes the Registrar to "receive and determine other matters related to the management of the conduct of an appeal," but this authority is expressly limited by *COAA*, s. 37(3): if there is any inconsistency between the rules and a practice directive, the rules prevail. The rules require acceptance or rejection of filings under Rule 38, and do not authorize the Registrar to determine standing, party status, or whether a hearing is required.
13. Therefore, the Clerk's refusal to accept the Applicant Party's Form 8 Notice of Application was ultra vires. The Form 8 Notice of Application must be accepted for filing, and the Applicant Party is entitled to a hearing under Rule 63(2) and *COAA*, s. 35(2).
14. The adjudication of acts executed without authority cannot, as a matter of law, be relegated to an administrative process that circumvents the mandatory hearing structure prescribed by the *Court of Appeal Rules*. When an adjudicative body is confronted with allegations of an absolute nullity arising from acts executed by a Justice, by title but that did not belong to her judicial office (Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est) (see: McLean v. Bradley, 1878 CanLII 22 (SCC) as per Sir William Buell Richards, Knt., C.J,, et al) and in part were manifestly absent jurisdiction (see: *coram non judice* (see also: Pong v. Quong, 1927 CanLII 2 (SCC) as per Anglin C.J.C.), the remedy

cannot be administered through a written-only process that eliminates the procedural safeguards inherent in an oral hearing.

15. The definition of an "Order" in s. 1 of the *COAA* expressly includes "a direction or determination specifically authorized or required under an **Enactment**."

16. The purported "Orders" issued by The Honourable Madam Justice Horsman, having been executed outside the boundaries of the governing **Enactment**s and devoid of statutory jurisdiction, fail to meet this threshold definition. They are jurisdictional nullities. To shield the review of such nullities through a written-only process would constitute a denial of natural justice.

17. The declarations and Orders sought—some specifically authorized and some specifically required by an **Enactment** (see: *Interpretation Act*, s. 1)—are determined pursuant to Rule 62 on a standard of review ("SOR") that is not contingent upon filed documents from any of the prescribed "parties" (the "Prescribed Parties"), as the review is conducted by a division panel of Honourable Justices.

PART 1(A): COMPLETION INSTRUCTIONS AND THE MANDATORY HEARING FRAMEWORK

18. "Completion Instructions" are defined as those issued by the Registrar for the proper completion, formatting, and submission of documents under the *Court of Appeal Rules*. These instructions form part of the mandatory procedural architecture and must be complied with by each responding person.

19. While the word "hearing" is not expressly defined under the *COAA* or the *Court of Appeal Rules*, the terms "Hearing Date" and "Obtain a Hearing Date" are defined and governed by the Rules. Critically, Rule 62(5) provides that the Registrar **must** set the date, time, and place for the hearing of an application. The word "must" is imperative (see: *Interpretation Act*, RSBC 1996, c. 238, s. 29), and imposes a statutory duty and obligation.

20. By tying the **Applicant Party**'s Form 4 NOA to the date on which the Registrar sets the hearing of the **Applicant Party**'s Form 8, the **Applicant Party** accomplishes: (a) the avoidance of multiplicity of hearings and/or proceedings; and (b) the avoidance of inconsistent fact-finding.

21. This is permissible as a variation of a "Court Form" pursuant to Rule 79(3), which allows a Court Form to be prepared with variations as the circumstances or the proceedings require.

22. Under s. 29 of the *Interpretation Act*, the words "shall" and "must" are to be construed as imperative. Under s. 29, "obligation" includes a duty and a liability. The imperative nature of "must" falls squarely upon each of the Appellants and Respondents to comply with Rule 62, including the mandatory filing and service of individual Response Books.

PART 1(B): MANDATORY ATTENDANCE AND COUNSEL OF RECORD

23. Rule 64(4) of the *Court of Appeal Rules* states that each party to an application **must** attend the hearing of the application:
    a. (a) in person, or
    b. (b) if permitted under Rule 42, by telephone, video conference, or other means of telecommunication.
24. The LSBC is represented by Lawson Lundell LLP. The TLABC and Mr. Westell are represented by Fasken LLP. The AGBC and LGIC are represented by government counsel.
25. Rule 64(5) provides that a person's lawyer may attend on behalf of that person. Accordingly, Lawson Lundell LLP cannot attend on behalf of the TLABC, Mr. Westell, the AGBC, or the LGIC, as it is not counsel of record for those persons. Each counsel of record must attend on behalf of their respective clients and the Prescribed Parties.

PART 1(C): STATEMENT OF ISSUES AND BRIEF ANSWERS TO ISSUES

26. The **Applicant Party** identifies the following issues for determination, sequenced chronologically the procedural defects leading to substantive defects, void ab initio documents (non "Court Forms") which were incapable of being accept for filing:
    a. Issue #1 Leaving aside that the Purported Opposing Parties did not submit for filing a Response Book, the first issue is whether the Purported Opposing Parties attempted to serve a filed copy of the *Joint Response Book* [sic] within seven days of being served with the Applicant Party's Application Book.
        1. Answer: As demonstrated in the Applicant Party's appendicised emails at Appendix #1 and Appendix #2, the Purported Opposing Parties failed to attempt service of the *Joint Response Book* [sic] on each Party under the *Court of Appeal Rules* within seven days of service of the Applicant Party's Application Book.
    b. Issue #2: Whether the Purported Opposing Parties' failure to file and serve a Response Book not more than seven days after being served with the Applicant Party's Application Book confirms, by their conduct, that they did not wish to respond to the Applicant Party's Application Book.
        1. Answer: By clear Enactment language and unassailable corollary and syllogism, the Purported Opposing Parties—leaving aside their failure to submit a compliant

Response Book in accordance with the Completion Instructions—confirmed by their conduct that they did not wish to respond to the Applicant Party's Application Book.

c. Issue #3: (a) Leaving aside that the Purported Opposing Parties did not submit a document capable of being filed, whether they could de jure serve the *Joint Response Book* [sic] on the Prescribed Parties under Rule 64(1)(a) (the Applicant Party) and Rule 64(1)(b) (the other Prescribed Parties served with the Applicant Party's Form 8, Application Book (September 15), and Book of Authorities (September 18, 2026)). (b) Whether the Purported Opposing Parties, through Mr. Andrews of Lawson Lundell LLP on Monday, September 21, 2026, purported service of what Mr. Andrews described as a "Response Book," thereby serving the Applicant Party with the *Joint Response Book* [sic].
    1. Answer: The germane subrule requires service of a Response Book, not a *Joint Response Book* [sic]. The only joint books permitted are Joint Appeal Books and Joint Books of Authorities (see *COAA*, ss. 26–27). As such, the Purported Opposing Parties could not serve any Prescribed Party de jure. Their purported service on the Applicant Party was not service de jure. As they did not attempt service on the other Prescribed Parties, the issue is simply non-compliance.

d. Issue #4: Whether the Purported Opposing Parties had authority to prepare, submit for filing, or purport to serve the Applicant Party with the *Joint Response Book* [sic] and its accompanying letter.
    1. Answer: Rule 62(4) imposes mandatory obligations (see *Interpretation Act*, s. 29) on "a person" who wishes to respond to an Application Book: to file and serve a Response Book on each Rule 64(1)(a) and (b) Party not more than seven days after being served, and in accordance with the Completion Instructions. Each Responding Prescribed Party failed to: (i) file; (ii) serve; (iii) a Response Book; (iv) on each Rule 64(1)(a) and (b) Party; (v) within seven days or at all; and (vi) in accordance with the Completion Instructions.
    2. The *Joint Response Book* [sic] is a nullity at law. The accompanying letter is likewise a nullity. A Response Book is not a "Court Form" but is a document subject to Completion Instructions. The *Joint Response Book* [sic] did not comply with any mandatory requirement.

e. Issue #5: Whether the Registrar had jurisdiction to accept the *Joint Response Book* [sic] for filing. More specifically, whether acceptance of a filing category not authorized by any Enactment constitutes an ultra vires act, and whether such acceptance is a "direction"

within the meaning of *COAA*, s. 1, thereby engaging the Applicant Party's right to seek cancellation under *COAA*, s. 35(2) and Rule 63.

1. Answer: The Registrar is a creature of statute, with no powers outside the four corners of the *COAA* and the *Court of Appeal Rules*. Any act outside those limits is ultra vires, void ab initio, and of no force and effect. Under *R. v. Verma*, para. 20, if a document complies with the rules and a person insists on filing it, the Registrar must accept it. Conversely, where a document does not comply with: (i) its required name; (ii) the requirement that each Prescribed Party file its own Response Book; (iii) the non-variability of documents outside Schedule 3; and (iv) the Completion Instructions, the Registrar cannot accept it.
2. The Registrar, Associate Registrar, and Deputy Registrar (see *COAA*, s. 1) are officers of the Court (see *COAA*, s. 10) and must conduct Appeals in accordance with the Act and Rules (see *COAA*, s. 18). Rule 62(4) and Rule 64(1)(a) and (b) squarely govern the requirements. The Registrar may only exercise powers conferred by the Rules or by the Chief Justice. Any inconsistency between a Chief Justice authorization and the Rules is resolved in favour of the Rules (see *COAA*, s. 37(3)).
3. The Completion Instructions required a cover page that prohibited filing of a *Joint Response Book* [sic]. On that ground alone, the Registrar could not accept it.

f. Issue #9: Whether the Court should strike and expunge the *Joint Response Book* [sic] as void ab initio, a nullity, void, and of no force and effect. More specifically, whether the fabricated filing category, adversarial consolidation, service defects, and structural non-compliance justify striking the document under Rule 53, Rule 54, *COAA*, s. 18(2), and *Supreme Court Civil Rules*, Rule 95.

1. Answer: The issue answers itself. The experienced counsel for the LSBC, TLABC and Mr. Westell, and AGBC and LGIC must have known their actions were prohibited by the *COAA*, the *Court of Appeal Rules*, other Enactments, and their professional obligations. As the public may review filed documents in the Record of Proceedings, the *Joint Response Book* [sic] must be expunged to prevent reliance on an unlawful filing.

g. Issue #10: In light of the independent, concurrent, and intertwined non-compliance with the Act and Rules by the Purported Opposing Parties, must the review division panel exercise its authority to decline to hear from the Purported Opposing Parties in relation to the Form 8 Notice of Application?

1. Answer: The Purported Opposing Parties' conduct contains numerous egregious violations of the Act and Rules. They must not be heard. To hear them would require one counsel to speak for all five Prescribed Parties, further undermining the Act and Rules.

h. Issue #11: Whether the review division panel, being required to conduct Appeals in accordance with the Act and Rules, must exercise its authority to declare the LSBC and TLABC/Mr. Westell's Appeals abandoned.

1. Answer: Jurisprudential principles confirm that where breaches are numerous and not merely irregularities, dismissal as abandoned is not Draconian. The misconduct here—carried out by experienced counsel for all five Prescribed Parties, without seeking leave to dispense with the Rules, and in the face of a validly filed and served Form 8, Application Book, and Book of Authorities—requires dismissal of the Appeals as abandoned. The remaining issues in the Form 8, confined to questions of law, should be argued by the Applicant Party.

PART 2: THE ATTEMPTED PROCEDURAL TRAP, PROVISION (NOT SERVICE) OF LEGAL FICTION DOCUMENTS, AND THE DEFINITION OF "PARTY" UNDER THE *COURT OF APPEAL RULES*

27. The **Applicant Party** formally notifies this Honourable Court of the procedural mechanism deployed by the **Purported Opposing Parties** through premature, extra-statutory correspondence. The transmission of letters and documents prior to the crystallization of statutory deadlines operates as an attempted procedural trap designed to compel the **Applicant Party** into an informal exchange outside the mandatory framework of the *Court of Appeal Rules*.

28. The architecture of this attempted trap is straightforward: by communicating through informal correspondence and seeking extra-**Enactment** consensus or acquiescence and/or taking a fresh step with knowledge of what it would inevitably claim was an irregularity but *de jure* a nullity, the **Purported Opposing Parties** endeavour to induce the **Applicant Party** into implicitly accepting their flawed premise—namely, that only the formalized Appellants and Respondents constitute "Parties" to these proceedings.

29. Simply put, the Appellants and Respondents are appellate "Statutory Parties," but they were and are not the only "Prescribed Parties" under the *Court of Appeal Rules*. The mandatory service matrix under Rule 62(4) and Rule 64(1)(b) extends beyond the narrow subset of Appellants and Respondents.

30. The **Applicant Party** expressly declines to validate this exclusionary posture and formally refuses to respond to extra-statutory correspondence that is not transmitted in accordance with the *Court of Appeal Rules*.

31. Furthermore, the mechanics of service under the modernized regime are mathematically precise and cannot be bypassed through the tactical provision of documents to only some of the Prescribed Parties. Rule 4(3) of the *Court of Appeal Rules* governs deemed service by email or fax and provides:

> "A document transmitted for service by email or fax is deemed to be served as follows: (b) if the document is transmitted at either of the following times, the document is deemed to be served on the next business day: (i) after 4 p.m. on a business day."

32. This deeming provision is mandatory and cannot be circumvented by informal correspondence.

33. While it would have been open to the **Applicant Party** to wait until 4:01 p.m. on September 22, 2026, such a step would have played into the **Purported Opposing Parties**' attempted procedural manoeuvre. More critically, it would not matter, *de jure*, whether the **"Joint Response Book [Sic]"** was transmitted before or after 4:00 p.m., as the document is a legal fiction per se. A "Court Form" may be varied under Rule 79(3)(a), but a Response Book is not a Court Form and must be completed in accordance with the Completion Instructions, filed, and then served on *each* Rule 64(1)(a) and (b) "Party" (see: Rule 62(4)).

34. If the **Purported Opposing Parties**' extra-**Enactment** correspondence and defectively provided documents were transmitted after the 4:00 p.m. threshold, they are strictly deemed served on the next business day. The **Applicant Party** relies absolutely upon the precision of the *Court of Appeal Rules* and rejects any attempt to manipulate timelines or construct artificial urgency through non-compliant, late-afternoon transmissions.

PART 3: THE EXCLUSIVITY OF SECTION 32 DISPENSATION POWERS AND RULE 41

35. The **Purported Opposing Parties**' attempt to dispense with the mandatory oral hearing requirement of Rule 62 through an informal letter to the Registrar constitutes a clear error of law and a circumvention of the *COAA*. The statutory architecture governing the dispensation of Rules and the extension or abridgment of timelines is rigid, exclusive, and strictly reserved for the judiciary.

36. Section 32(1) of the *COAA* explicitly and unequivocally delineates the jurisdictional boundary: **"A justice may dispense with a requirement of the Rules."** This extraordinary power is conferred solely upon a justice. The statute does not authorize the Registrar to dispense with any requirement of the *Court of Appeal Rules*, nor does it permit litigants to dispense with mandatory Rules through consensus, correspondence, or informal communication. The Registrar is statutorily barred from entertaining any informal request to abandon an oral hearing mandated by Rule 62.

37. Furthermore, should the **Purported Opposing Parties** attempt to characterize their request as involving an extension or abridgment of time limits, s. 32(3) of the *COAA* dictates that a justice may extend a time limit even if it has expired. However, such an extension is subject to strict procedural prerequisites. Section 32 is inextricably tethered to Rule 41 of the *Court of Appeal Rules* (General Applications), which governs applications to vary timelines or dispense with procedural requirements.
38. To successfully invoke the dispensation or extension powers under s. 32, the defaulting or moving party must apply formally. Under the *Court of Appeal Rules*, an application to a justice to dispense with a Rule or vary a timeline requires a specific evidentiary and procedural matrix, including: (a) the filing of a formal Notice of Application in Form 4; (b) the filing of supporting Affidavits containing the requisite evidentiary foundation; and (c) the submission of a Written Argument.
39. The **Purported Opposing Parties** have filed none of these mandatory instruments. They have submitted: (a) no Form 4; (b) no sworn evidence justifying dispensation of the requirements of the *Court of Appeal Rules* to: (i) file a Response Book; (ii) serve a filed Response Book; (iii) file and serve a Response Book on each Party; and (c) no materials addressing any other mandatory requirements under the *Court of Appeal Rules*.
40. By attempting to secure a s. 26 written-only hearing—transmitted only to the **Applicant Party**—via a letter sent solely through the LSBC, the **Purported Opposing Parties** have engaged in a procedural approach that is incompatible with the *COAA* and the *Court of Appeal Rules*.
41. Simply put, they have engaged in obstructionist conduct which can only be inferred to be, with such experienced legal counsel, to be intentional violations of law.
42. Their failure to comply with the mandatory statutory and rule-based requirements is complete, and their attempt to bypass Rule 62 through informal correspondence is without legal foundation. Such acts were not merely voidable but void ab initio, void, and of no force and effect. Parties, statutory and/or prescribed, cannot even waive by consent, requirements of the *COAA* and the *Court of Appeal Rules* as only a Justice may do so.

PART 4: THE PROCEDURAL INVALIDITY OF THE "JOINT RESPONSE BOOK [SIC]", ADVERSARIAL ALIGNMENT, AND RULE 63

43. The **Applicant Party** brings this Form 4 Notice of Application to strictly enforce the pure, rule-based appellate geometry of the *Court of Appeal Rules*.
44. The instrument accepted as filed by the Registrar—submitted presumably by the LSBC on behalf of the **Purported Opposing Parties** and styled as a **"Joint Response Book [Sic]"**—is a procedural phantom.

The *Court Services Online* ("CSO") portal does not permit the filing of any joint adversarial "document" (see: Rule 1(1)). The only joint filing categories authorized under the *Court of Appeal Rules* are: (a) joint appeal books; and (b) joint books of authorities.

45. The *Court of Appeal Rules* simply do not authorize a **"Joint Response Book [Sic]"**. The Registrar possessed no jurisdiction under any **Enactment** to accept such a legal-fiction document. It is a fabricated filing category entirely absent from the governing statutory and regulatory framework.

46. Rule 62(4) explicitly dictates the mandatory obligations for responding to an application to vary: **"A person who wishes to respond to an application book… must file and serve… a response book."** The Rule imposes a singular, individual obligation on **"a person"** to file **"a response book."** Not joint. Not combined. Not consolidated. A response book. Singular.

47. It is axiomatic that the LSBC is a singular Appellant under the file number assigned to its Appeal, and the TLABC and Mr. Westell are singular Appellants under the file number assigned to their Appeal. The AGBC is a singular Respondent. Each is required to file and serve their own individual Response Book.

48. The word "joint" is entirely absent from the *COAA 2021*. However, the word "joint" appears exactly fourteen times within the modernized *Court of Appeal Rules 2022*. A rigorous statutory construction reveals that the Legislature specifically and exclusively authorized "joint" filings **only** in the context of: (a) a "joint appeal book" (Rule 26(1), (4), and (5)); (b) a "joint book of authorities" (Rule 28(3) and (4)); and (c) a "joint appeal book on cross appeal" (Rule 30(1) and (2)).

49. There is a fundamental structural reason why the Rules allow "joint" filings strictly for appeal books and books of authorities: these are neutral, administrative compilations of shared evidentiary materials. A joint appeal book is prepared jointly by all parties to organize the record. It is an administrative efficiency.

50. Conversely, a Response Book under Rule 62 is not a neutral compilation; it is an adversarial submission. It contains argument, procedural posturing, and sworn affidavits. The Rules deliberately do **not** permit joint adversarial filings. The Registrar cannot spontaneously create such a category, nor can the Registrar consolidate adverse parties into a single "unit" with a single **"Joint Response Book [Sic]"**.

51. This structural defect is fatal given the specific adversarial alignment of the parties in CA51535 and CA51536. The LSBC is an Appellant under its designated file number. The TLABC and Mr. Westell are joint Appellants under the designated BCCA file number. The AGBC is a Respondent. While the LSBC, and TLABC and Mr. Westell, could not file a **"Joint Response Book [Sic]"**, adding the AGBC and LGIC are purported joint completers under a singular filer, through counsel to the LSBC's CSO filing account, was particularly egregious when the AGBC and LGIC are adverse parties in the underlying litigation to the LSBC, TLABC and Mr. Westell and adverse statutory parties under the *COAA*. The Rules do not permit adverse parties to file a joint, consolidated adversarial response. This is a categorical defect of procedural alignment.

52. Furthermore, any attempt by the **Purported Opposing Parties** to justify the fabrication of a **"Joint Response Book [Sic]"** by relying on the variation allowance under Rule 79 is fundamentally doomed by strict statutory definitions. Rule 79(1) defines a "Court Form" precisely as "a document that is required under these Rules to be filed using a specified form [set out in Schedule 3]." While Rule 79(3)(a) allows a Court Form to be prepared "with variations as the circumstances or the proceedings require," a Response Book is **not** a Court Form.
53. A Response Book is a substantive document governed exclusively by Rule 62 and the Completion Instructions. However, it is **not** a "Court Form" and cannot be varied as It is entirely absent from the forms codified in Schedule 3. Ergo, the statutory allowance for "variations" is categorically inapplicable. The title page submitted by the institutional litigants—boldly declaring itself a **"Joint Response Book [Sic]"** on behalf of both Appellants and Respondents—is an unauthorized fabrication that cannot be saved by Rule 79. Because it is not a Court Form, it cannot be varied. It is an illicit document that must be summarily struck.
54. As established above, only a justice may dispense with compliance with the Rules pursuant to s. 32(1) of the *COAA*. The Registrar cannot modify Rule 62 or accept filings not authorized by the Rules. Therefore, the Registrar could not accept a **"Joint Response Book [Sic]"** unless a justice explicitly ordered it. No such dispensation order exists. The filing is *ultra vires*, irregular on its face, and improperly before the Court.
55. Furthermore, the lack of service is not merely cosmetic; it is a profound substantive defect. Rule 62(4) requires service of the Response Book "on each party." The **Purported Opposing Parties** failed to serve the broader matrix of counsel and interveners. This defect affects the validity of the **Joint Response Book** [sic], the ability of the Court to rely upon it, and the fundamental fairness of the Rule 62 process.
56. Because the Registrar's acceptance of this fabricated instrument constituted a "direction", but not an Order, under the *COAA*, the **Applicant Party** is mathematically required to bring this Rule 63 application to set aside that direction and formally strike the unauthorized document from the record. However, the end result is the same relating to the invalidity of the **"Joint Response Book [Sic]"** albeit the consequential relief of striking and expunging is distinct.

PART 5: THE STATUTORY MANDATE OF RULE 62 AND THE PROHIBITION OF NULLITIES

57. It is systematically acknowledged that Rule 62(5) of the *Court of Appeal Rules* explicitly mandates that the date, time, and place for the hearing of an application under said Rule **must** be set by the Registrar. The public-facing guidance of the Court of Appeal further notes that such hearings are presumptively 30 minutes in duration.

58. The imposition of a strict thirty-minute temporal limitation unequivocally signifies the Legislature's contemplation and mandate of an **oral hearing**. Limiting the time for a hearing that is purely written is a logical impossibility and a procedural absurdity. A written-only process has no "hearing time" to limit. Consequently, the invocation of s. 26(1)(c) or s. 26(1)(d) of the *COAA* to limit or eliminate the hearing is strictly ***ultra vires*** the specific statutory architecture governing variance applications under Rule 62.
59. As dictated by the venerable maxim *generalibus specialia derogant* (special provisions derogate from general ones), the specific temporal and structural requirements formulated exclusively for variance applications in Rule 62(5) strictly override the generalized, discretionary parameters of s. 26 of the *COAA*. A failure to apply the governing statutory text to orchestrate the hearing constitutes a pure, extricable error of law.

PART 5(A): SECTION 19 OF THE COAA: IRREGULARITIES VS. NULLITIES

60. Section 19 of the *COAA* provides that an Appeal is not defeated by an "irregularity or procedural error" in the conduct of the appeal. Section 19(2) empowers a justice to validate an act, impose terms, or make any order necessary to address such irregularities or procedural errors.
61. However, the statutory protection afforded by s. 19 applies **only** to irregularities — not to **nullities**. A nullity is not an "irregularity" within the meaning of s. 19(1). A nullity is a legal non-event: an act done without jurisdiction, without authority, or contrary to an **Enactment**. A nullity cannot be validated, cured, or retroactively regularized under s. 19(2). It is void ab initio.
62. The acceptance for filing of a **"Joint Response Book [Sic]"** by the Registrar is not an irregularity; it is a **nullity**. The Registrar had no jurisdiction under any **Enactment** to accept a fabricated filing category not authorized by the *Court of Appeal Rules*. The document is not merely defective — it is legally impossible. It is a filing that the Rules do not permit to exist.
63. Because s. 19 cannot cure a nullity, the **"Joint Response Book [Sic]"** cannot be validated, cannot be regularized, and cannot be salvaged by judicial discretion. It must be struck. The **Applicant Party** is therefore mathematically required to bring this Rule 63 application to set aside the Registrar's acceptance of the nullity and to formally expunge the unauthorized document from the record.

PART 6: NOVELTY, THE PUBLIC INTEREST, AND THE OPEN COURT PRINCIPLE

64. The present opposition engages a novel and unresolved issue of law under the modernized *COAA 2021* and the contemporary *Court of Appeal Rules 2022*. The interaction between the mandatory hearing parameters of Rule 62 and the discretionary written-only mechanisms of s. 26 of the *COAA*, in the context

of an unauthorized request not properly predicated *de jure*, remains an undecided and critical frontier of appellate jurisprudence in British Columbia.

65. The procedural mechanism advanced by the **Purported Opposing Parties** fundamentally engages the open court principle, a constitutional pillar of the Canadian justice system protected under s. 2(b) of the *Canadian Charter of Rights and Freedoms*. As articulated by the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25, and *Vancouver Sun (Re)*, 2004 SCC 43, the public ventilation of judicial proceedings is essential to maintaining institutional legitimacy, democratic accountability, and public confidence in the administration of justice.

66. The present application does not concern routine interlocutory matters. It is tethered to allegations of serious state-action irregularities and the procedural consequences arising from those allegations. The public holds a legitimate interest in observing the appellate division address the statutory, procedural, and jurisdictional issues raised in open court. This matter engages the highest level of public interest in the proper functioning of the justice system.

67. By seeking to force this adjudication into a written-only process under s. 26 of the *COAA*, the **Purported Opposing Parties** attempt to bypass the mandatory oral hearing structure prescribed by Rule 62. Such an approach would improperly quarantine the adjudication of issues that, by their nature, require public ventilation and judicial transparency. The open court principle prohibits the displacement of an oral hearing where the governing **Enactment**s mandate one.

PART 7: THE INAPPLICABILITY OF THE SECTION 26 JURISPRUDENCE

68. Assuming arguendo that the **Applicant Party** was put to argue the same, he respectfully provides the following.

69. The jurisprudential authorities proffered by the **Purported Opposing Parties** to substantiate the dispensation of an oral hearing are categorically distinguishable, factually impoverished, and profoundly inapplicable to the present matrix. The discretionary authority encapsulated within section 26 is customarily reserved for matters devoid of substantive complexity or wherein the administration of justice is uncontrovertibly served by written submissions.

70. A rigorous legal deconstruction of the authorities relied upon demonstrates their absolute irrelevance to an application addressing a jurisdictional nullity, as elucidated within the comparative table below:

Authority	Procedural Context	Distinguishing Factor (Nullity vs. Irregularity)

Gonzalez v. British Columbia (Attorney General), 2023 BCCA 155	Vexatious litigant, obvious lack of merit in an application for review.	The appellate tribunal dispensed with an oral hearing strictly upon the foundation of a lack of merit involving an existing vexatious litigant. The present matter engages profound constitutional issues, novel interpretations of the 2021 *COAA*, and strict *ultra vires* actions by a chambers justice.
Vesuna v. Stillwater Waterworks District, 2023 BCCA 431	Consent disposition regarding an *ex parte* substituted-service order.	Engaged a scenario wherein an appeal was allowed by absolute consent. In the present circumstances, vigorous, unyielding opposition is registered against the circumvention of the open court principle.
Raju v. Red Door Housing Society, 2025 BCCA 340	Judicial review of a residential tenancy dispute involving voluminous materials.	Involved a standard administrative review concerning residential tenancies. Here, the underlying issue is fundamental procedural fairness, acts executed *coram non judice*, and the suppression of forensic evidence.
Portnov v. Alexander Holburn Beaudin + Lang LLP, 2026 BCCA 193	Adjournment request where comprehensive materials were already filed.	Involved an adjournment request on a pedestrian civil practice issue. The instant matter engages catastrophic jurisdictional usurpation demanding absolute transparency.

71. By attempting to rely upon the aforementioned jurisprudence, the **Purported Opposing Parties** have strategically endeavoured to conflate a catastrophic jurisdictional nullity with a mere procedural irregularity. The adjudication of a nullity requires the purifying sunlight of an oral hearing.

PART 8: THE EVIDENTIARY VOID AND THE ABUSE OF PROCESS

72. The tactical refusal of the institutional litigants to engage with the substantive forensic evidence—electing instead to file an unauthorized **"Joint Response Book [Sic]"** that labels an exhaustively cited fifty-seven-page legal argument detailing unconstitutional state-sponsored digital incursions as indecipherable—crystallizes the evidentiary void.

73. It is advanced that the attempt to utilize the section 26 mechanism operates as a transparent stratagem to shield the profound constitutional violations, the Deflate64 compression algorithms masking the true binary state of the extracted files, and the binding formal admissions from public ventilation. Such a maneuver is *ipso facto* an abuse of process.
74. The administration of justice is incontrovertibly prejudiced when severe jurisdictional defects are swept into an administrative vacuum. Section 26 cannot be weaponized by institutional litigants to insulate themselves from accountability regarding actions that were executed without the requisite jurisdiction and thus rendered absolute constitutional nullities.

PART 9: STRIKING THE "JOINT RESPONSE BOOK [SIC]"

75. Under this heading, the **Applicant Party** repeats and relies upon his argument contained in his filed Application Book of September 15, 2026.
76. In the absence of an explicit provision within the *Court of Appeal Rules* specifically governing the striking of unauthorized, incidental responsive documents, the adjudicative body is mandated by section 18(2) of the *COAA* to apply the *Supreme Court Civil Rules* by analogy. Consequently, Rule 9-5 of the *BCSC Civil Rules* is irrevocably engaged to adjudicate the expungement of the Appellants' **"Joint Response Book [Sic]"** and associated memoranda.
77. In *Walker v. John Doe*, 2014 BCSC 830, The Honourable Mr. Justice Butler definitively established that the jurisdiction granted by Rule 9-5(1) extends far beyond originating pleadings to encompass "other documents" filed within a proceeding. The deliberate insertion of cost-threats into boilerplate notices was struck as an abuse of process. By analogy, the deliberate insertion of a fabricated, procedurally non-existent **"Joint Response Book [Sic]"** into the appellate registry—explicitly designed to bypass the mandatory service matrix and consolidate adverse parties into an unlawful alliance—constitutes an analogous misuse of procedural mechanisms demanding expungement.
78. Applying the jurisprudence of Rule 9-5(1)(b) and (c), the impugned filings are demonstrably scandalous, frivolous, and inherently prejudicial (*Gill v. Canada*, 2013 BCSC 1703; *McNutt v. A.G. Canada*, 2004 BCSC 1113). They serve no useful purpose because they advance arguments predicated upon a defunct 2018 lower-court order, constituting a direct, impermissible collateral attack upon the Court of Appeal's own subsequent acceptance of jurisdiction in docket CA45786 (*Wilson v. The Queen*, 1983 CanLII 35 (SCC)).
79. Furthermore, applying Rule 9-5(1)(d), the filings constitute an absolute abuse of process. As definitively articulated by the Supreme Court of Canada in *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26, the failure of a party to challenge jurisdictional validity at the appropriate temporal juncture—opting instead

to deploy self-help remedies and subsequently mount a defense based upon those unaddressed historical grievances—constitutes a flagrant abuse. The Appellants deliberately slept on their rights during the 2019 appellate proceedings (*McLean v. British Columbia*, 2019 BCCA 133) and are now strictly estopped from manufacturing a retroactive standing objection. The analogous application of Rule 9-5 demands the immediate striking of the Joint Response Book and the offending memoranda.

PART 10: THE NON-IRREGULARITIES IN THE FORM OF THE NULLITIES AND CONSEQUENTIAL RELIEF

80. Rule 36 authorizes a Justice to do the following when there has been a "failure to comply:

36 A justice may do one or more of the following if a party fails to comply with this Act or the rules or an order or direction of the court, a justice or the registrar:

(a)refuse to hear the party;

(b)impose terms and conditions, including the payment or disallowance of costs;

(c)if the party is an appellant, dismiss the appeal as abandoned.

81. The former section , which read as follows, from 1996 to 2021:

> Non-compliance
> 28 If a party fails to comply with this Act or the rules, the court or a justice may
>
> (a)dismiss the appeal as abandoned if the party is the appellant,
>
> (b)refuse to hear the party, or
>
> (c)impose terms including terms respecting the payment or disallowance of costs or disbursements.

82. Both the current s. 36 and former s. 28 use the word "party," referring to a Statutory Party. The repealed section permitted either the Court or a justice to exercise the dismissal and refusal jurisdiction. Under the current s. 36, only a justice may do so.

JURISPRUDENCE UNDER CURRENT SECTION 36

83. Most jurisprudence under the current s. 36 concerns failures to pay security for costs or failures to file documents within prescribed timelines.

84. In *Momeni v. Percy*, 2023 BCCA 295, former tenants (appellants) attempted to serve an appeal record on their landlords (respondents) via registered mail. The respondents applied to dismiss the appeal as

abandoned under s. 36(c) because registered mail is not a permitted method of service under the *Court of Appeal Rules* unless explicitly authorized. Although the justice agreed the service was invalid, dismissal was considered too "draconian" for an early-stage misstep that was not egregious.

85. Here, by contrast, the Purported Opposing Parties did not merely choose an improper method of service. The *Joint Response Book* [sic] was and is a nullity on its face and in substance, incapable of being served at law. The numerous violations of the *COAA* and the *Court of Appeal Rules* are far more egregious than the conduct of self-represented tenants in *Momeni*.

86. Moreover, the Purported Opposing Parties' failure even to attempt service of the *Joint Response Book* [sic] on each Party under Rule 62(4), citing Rule 64(1)(b), supports the inference that they knew the *Joint Response Book* [sic] was a nullity at law. Their conduct is consistent with bad faith, dishonesty, and fraud on the Court.

87. By syllogism, granting relief dismissing the Appeals as abandoned is not too draconian when considering the numerous, intertwined violations of the *COAA* and the *Court of Appeal Rules*

JURISPRUDENCE UNDER THE FORMER SECTION 28 OF THE COAA

88. In *British Columbia v. Leyen*, 2006 BCCA 180, Justice Davies held that where Appeals are hopeless, this militates in favour of dismissing the Appeals as abandoned.

89. The Applicant Party repeats and relies upon the filed documents in the Application Book regarding the hopeless nature of the Appeals, including fraud on the Court, the law of admissions without any cross-appeal, and abuse of process (which has continued as a pattern by the LSBC).

PART 11: NATURE OF THE ORDERS REQUESTED

90. The **Applicant Party** respectfully requests the following relief on a preliminary basis and prior to the hearing of his Form 8 (September 9, 2026) supported by his filed Application Book (September 15, 2026) and his BOA (September 17, 2026):

Part 11(A): Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and
D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Part 11(B): Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings")

in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule

41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.
Dated at the City of Toronto, Province of Ontario, this 25th day of September 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party
68 Abell St. (Receptionist desk) Toronto, ON M6J 0B1
Email: mclean@searchandseizure.ca

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.
[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a "Court Form" and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a "Response Book" is not discretionary as it must be prepared in accordance with the "Completion Instructions". Part of the "Completion Instructions" required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page
Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of "filing parties" is not required for joint book like a "Joint Appeal Book" (see: Rule 26) or a "Joint Book of Authorities" (see: Court of Appeal Rules, rule 27)

APPENDIX “A”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535/CA51536 - Service of Response Book and Letter

5 messages

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 6:26 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Please find attached the Joint Response Book of the parties, filed today in response to your application to vary or cancel the order of Justice Horsman.

Also attached is a letter from the parties to the Registrar of the Court of Appeal, which we will be filing momentarily. We will provide you with a filed copy of the letter in due course.

Regards,

Jonathan

Jonathan Andrews | Associate
D 604.631.9270 | **E** jandrews@lawsonlundell.com
Lawson Lundell LLP 1600 - 925 West Georgia Street, Vancouver, BC V6C 3L2
Vancouver | Calgary | Yellowknife | Kelowna

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2 attachments

Joint Response Book - Vary Order of a Justice - F_ September 21, 2026.PDF
874K

2026-09-21 LT Court of Appeal (Registrar) re Kevin McLean Rule 62 Application.PDF
267K

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 7:03 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews

<wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Further to my email below, here is a filed copy of the letter.

Regards,

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

[Quoted text hidden]
[Quoted text hidden]

2026-09-21 LT Court of Appeal Registrar - F_ September 21, 2026.PDF
268K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 2:48 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Subject: CA51535 / CA51536 – Service of “Joint Response Book” [sic] – confirmation of receipt not service *per se*

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I thank Mr. Andrews for his two emails and confirm receipt of the same.

I also confirm receipt of your “Joint Response Book” [sic] purportedly filed today in response to my application to vary or cancel the order of Justice Horsman. As you are aware, the Court of Appeal Rules do **not** authorize a “joint” response book, and such a filing is a **nullity** under Rule 62.

Leaving that aside, Rule 62(4) requires that *each person* who wishes to respond must file and **serve** a response book on the applicant and on **each party** described in Rule 64(1)(b). Based on the recipients included in Mr. Andrews’ email, I will presume that this “Joint Response Book” [sic] was **not** served on all Rule 64(1)(b) parties.

If purported service was effected separately (i.e., by a separate email to the prescribed parties), please provide proof of service forthwith.

I will address the remainder of the issues involving the same separately but it was important to confirm that (as the email addresses based upon a cursory review do not appear to include all legal representatives of parties as passed by the LGIC in 2022 under the Court of Appeal Rules) some “Prescribed Parties” were not included and were not served within seven days of a receipt of my Application Book.

I reserve all of my rights in fact and at law.

Regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Appendix – Rule 62(4)

“A person who wishes to respond to an application book filed under subrule (2)(b) must file and serve, on the applicant and on each party not more than 7 days after being served the application book, a response book prepared in accordance with the completion instructions.”

[Quoted text hidden]

Jonathan Andrews <jandrews@lawsonlundell.com> Wed, Sep 23, 2026 at 3:31 PM
To: "Mr. Kevin Alexander McLean" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean, we acknowledge receipt of your email.

Regards,

Jonathan

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

From: Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>
Sent: Wednesday, September 23, 2026 11:49 AM
To: Jonathan Andrews (3270) - 14Flr <jandrews@lawsonlundell.com>
Cc: Lapper, Emily AG:EX <emily.lapper@gov.bc.ca>; Trevor.Bant <trevor.bant@gov.bc.ca>; Ortega, Sergio AG:EX <sergio.ortega@gov.bc.ca>; Karin.Kotliarsky <karin.kotliarsky@gov.bc.ca>; Gavin Cameron <gcameron@fasken.com>; tposyniak <tposyniak@fasken.com>; Laura Abrioux <labrioux@fasken.com>; Will

Andrews <wandrews@fasken.com>; Craig Ferris (3197) - 14Flr <cferris@lawsonlundell.com>; Laura Bevan (3106) - 14Flr <lbevan@lawsonlundell.com>; Nicole Welsh (3193) - 14Flr <nwelsh@lawsonlundell.com>; Lindy Grant (3258) - 14Flr <lgrant@lawsonlundell.com>; Nastasia Virvilis (3497) - 14Flr <nvirvilis@lawsonlundell.com>
Subject: Re: CA51535/CA51536 - Service of Response Book and Letter

> EXTERNAL EMAIL - This email was sent by a person from outside your organization.

[Quoted text hidden]

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:37 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Thank you kindly Mr. Andrews and I hope you are all well. You will want to review my email to all of the Rule 64(1)(b) ‘parties’ (persons therein). I will be somewhat strict herein without being rude that all future correspondence regarding these issues shall be in that email thread. Please respond therein and I will respond in kind should any further correspondence be applicable or required.

[Quoted text hidden]

APPENDIX “B”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK" and non-service on ALL "Prescribed Parties" within seven days of September 15, 2026

1 message

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:31 PM
To: Chambers <Chambers@bccourts.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, lkt@tdslaw.com, Ian Knapp <iknapp@macfuj.com>, amackenzie@macfuj.com, "XT:Olthuis, Brent AG:IN" <bolthuis@ovcounsel.com>, dredman <dredman@arvayfinlay.ca>, David Wu <dwu@arvayfinlay.ca>, cbildfell@mccarthy.ca, "Frame, Lindsay" <lframe@mccarthy.ca>, roy.millen@blakes.com, nicholas.tollefson@blakes.com, joey@doyledefence.ca, ekirkpatrick@mcewanpartners.com, cdauvergne@litigationchambers.com, jmaclaren@accessprobono.ca, kyla@vancouvercriminallaw.com, rpeck@peckandcompany.ca, csenini@peckandcompany.ca, pmueller@peckandcompany.ca, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, cferris <cferris@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, mring@lawsonlundell.com, ccrane <ccrane@ovcounsel.com>, Chris Pang <cpang@ovcounsel.com>, mmiharija@ovcounsel.com, szarb@macfuj.com, "Lever, Vanessa AG:EX" <vanessa.lever@gov.bc.ca>, "KDOUMAKIS@mccarthy.ca" <KDOUMAKIS@mccarthy.ca>, kotto@lawsonlundell.com

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Reply via email: mclean@searchandseizure.ca

Date: September 23, 2026
Classification: Private and Confidential
Sending method: Via Email at first instance

To: Chambers@bccourts.ca; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; emily.lapper@gov.bc.ca; trevor.bant@gov.bc.ca; karin.kotliarsky@gov.bc.ca; sergio.ortega@gov.bc.ca; lkt@tdslaw.com; iknapp@macfuj.com; amackenzie@macfuj.com; bolthuis@ovcounsel.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; cbildfell@mccarthy.ca; lframe@mccarthy.ca; roy.millen@blakes.com; nicholas.tollefson@blakes.com; joey@doyledefence.ca; ekirkpatrick@mcewanpartners.com; cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; kyla@vancouvercriminallaw.com; rpeck@peckandcompany.ca; csenini@peckandcompany.ca; pmueller@peckandcompany.ca; lbevan@lawsonlundell.com; jandrews@lawsonlundell.com; nwelsh@lawsonlundell.com; cferris@lawsonlundell.com; lgrant@lawsonlundell.com; mring@lawsonlundell.com; ccrane@ovcounsel.com; cpang@ovcounsel.com; mmiharija@ovcounsel.com; szarb@macfuj.com; vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com

SUBJECT I: CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK"
SUBJECT II: FATAL NON-COMPLIANCE WITH MANDATORY SERVICE PROTOCOLS PURSUANT TO RULE 62(4) AND RULE 64(1)(B)
SUBJECT III: THE UNOPPOSED RECORD, THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION, AND ETHICAL APPREHENSIONS

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND IDENTIFICATION OF THE IMPUGNED ACTA

1. Correspondence is hereby effectuated to formally address the procedural ambuscade orchestrated by the Law Society of British Columbia, the Trial Lawyers Association of British Columbia, and the Attorney General of British Columbia (collectively, the "Purported **Purported Opposing Parties**"). It is strictly noted for the appellate record that the instrument transmitted by the **Purported Opposing Parties** on the late afternoon of September 21, 2026, styled extra-statutorily as a "Joint Response Book", alongside the accompanying informal correspondence directed to the Registrar (collectively, the "Impugned Instruments"), are recognized in law as absolute jurisdictional nullities.

2. The Impugned Instruments are definitively void *ab initio* and of no force or effect. By appending the historical email transmissions to this correspondence—whilst intentionally severing the attachments containing the Impugned Instruments—the inadvertent sanitization of an incurable jurisdictional defect is systematically precluded.

PART 2: THE STRUCTURAL INVALIDITY OF THE "JOINT RESPONSE BOOK" [SIC]

Subheading 2(A): Unauthorized Procedural Fabrication

3. A rigorous statutory deconstruction of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Court of Appeal Rules"), reveals the undeniable absence of any provision authorizing the amalgamation of adversarial entities into a singular, consolidated response mechanism. It is an immutable axiom of statutory interpretation, governed by the maxim *Expressio unius est exclusio alterius* (the explicit mention of one thing is the exclusion of another), that the explicit legislative authorization for a "joint appeal book" and a "joint book of authorities" definitively precludes the spontaneous fabrication of a "joint response book".

4. The **Purported Opposing Parties** have attempted to superimpose a procedural fiction upon the appellate registry. Inasmuch as the Registrar is fundamentally divested of the statutory jurisdiction to accept filing categories entirely absent from the governing enactments, the acceptance of said instrument was executed strictly *ultra vires* and *coram non judice*. A valid order or direction cannot be precipitated from an unauthorized mechanism; as the venerable maxim dictates, *Nemo dat quod non habet* (no one can give what they do not have).

PART 3: FATAL TRANSGRESSION OF MANDATORY SERVICE PROTOCOLS

Subheading 3(A): The Strictures of Rule 62(4) and Rule 64(1)(b)

5. Assuming, *arguendo*, that the fabricated instrument could miraculously transcend its status as an absolute nullity, the **Purported Opposing Parties** have catastrophically failed to execute the mandatory service protocols dictated by the *Court of Appeal Rules*. Pursuant to *rule 62(4)*, any "person" (as comprehensively defined under section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238) who wishes to respond to an Application Book is statutorily compelled to file and serve the response book on the applicant and on *each party*.

6. Concurrently, *rule 64(1)(b)* of the *Court of Appeal Rules* explicitly and unequivocally expands the definition of a "party", in relation to an application, to encompass any person who is served with a notice of application (the "Prescribed Parties"). It is empirically verifiable, upon a meticulous examination of the transmission matrix utilized by Mr. Jonathan Andrews on September 21, 2026, that the **Purported Opposing Parties** deliberately and exclusively restricted their service to themselves and the Applicant Party.

7. The broader constituency of counsel, interveners, and interested entities—who definitively obtained status as Prescribed Parties upon the antecedent service of the Applicant's Form 4 and Form 8 Notices of Application—were conspicuously and unlawfully excluded from the service matrix.

PART 4: THE EXPUNGEMENT AS A MERE ADMINISTRATIVE FORMALITY

8. It is advanced that the formal striking of the Impugned Instruments is not an adversarial contest necessitating substantive legal adjudication, but rather a mere administrative formality. Inasmuch as the "Joint Response Book" is a legal fiction entirely unrecognized by the *Court of Appeal Rules*, its removal from the registry ledger operates strictly as an exercise in fundamental procedural housekeeping.

9. Consequently, it is definitively confirmed that the **Purported Opposing Parties**, by deploying an unauthorized nullity and subsequently failing to execute service upon the Prescribed Parties, possess absolutely nothing before the Court of Appeal in response to the Form 8 Notice of Application.

PART 5: THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION AND ETHICAL APPREHENSIONS

Subheading 5(A): The Statutory Strictures of Section 32 and Rule 41

10. Should the **Purported Opposing Parties**, operating in their capacities as Prescribed Parties, seek to cure this fatal procedural entanglement, they are statutorily compelled to advance an application to dispense with the rules or extend the temporal limitations pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"), and *rule 41* of the *Court of Appeal Rules*.

11. A profound procedural paradox thereby arises: to retroactively legitimize the fabricated "Joint Response Book," these facially adversarial entities would be mathematically compelled to advance a joint Notice of Application. Such a unified, dependent posture betwixt supposed adversaries is posited to be a procedural impossibility and a direct affront to the structural integrity of the adversarial system.

12. The adjudication of the Form 8 Notice of Application is therefore left entirely unopposed. Given that the standard of review upon all issues, questions, and determinations before the Division panel is strictly that of correctness, the Applicant Party stands ready, willing, and able to present oral submissions the moment the Registrar mathematically complies with the mandatory scheduling dictates of *rule 62(5)*.

13. It is strictly confirmed that the Applicant Party shall not transmit, distribute, or forward the defective "Joint Response Book" to the unserved Prescribed Parties. Such transmission is unequivocally declined to systematically preclude any judicial or administrative inference that the Applicant Party has inadvertently waived the jurisdictional defect, cured a procedural irregularity, or sanitized an absolute nullity.

SUBHEADING 5(C): ETHICAL APPREHENSIONS AND THE ESCALATION OF NOTICE

14. It is hereby placed on the formal record that any prospective Notice of Application seeking an extension of time or dispensation of the rules to validate this nullity will be met with unyielding opposition. Furthermore, special costs will be vigorously sought against opposing counsel in their personal capacities, as seasoned appellate counsel are presumed to possess actual knowledge of these fundamental procedural architecture flaws.

15. The coordinated, extra-statutory maneuvering betwixt purported adversaries raises severe apprehensions regarding the nature of the communications occurring outside the purview of the Court. It is profoundly concerning that counsel for the Attorney General of British Columbia appears structurally uninvested in defending the rule of law or upholding the democratically enacted *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"). Consideration is presently being actively directed toward formally escalating these concerns to the attention of The Honourable Niki Sharma, Attorney General of British Columbia, regarding the posture adopted by Crown counsel. However, such determination will be considered in due course and be responsive to any potential NOA's by the now unit of the LSBC, TLABC (with Mr. Westell) and the AGBC (with LGIC). Bluntly speaking, so much for the notion that the LSBC and TLABC wanted independence from the BC government.

PART 6: CONCLUSION AND ANTICIPATED RELIEF

16. In my view, the Appellants have now also put into "legal play" for my submissions to cancel and very the purported Orders of Horsman J. and naturally have the relief sought in my Form 4 NOA (August 12, 2026), the section 36 of the COAA titled, "Failure to comply". I also note that in light of the nullities at issue, section 19 of the COAA is inapplicable to save the conduct of the Appellants.
17. The administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved, including but not limited to the pursuit of special costs awarded jointly and severally for intentional violations of the operative enactments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

/s/ Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party
Email: mclean@searchandseizure.ca

APPENDIX: STATUTORY AND REGULATORY EXTRACTS

Court of Appeal Act, S.B.C. 2021, c. 6

Definitions
1 In this Act:
"order" includes
(a) a judgment or decree, and
(b) an opinion, advice, direction, determination, decision or declaration that is specifically authorized or required under an enactment to be given or made;

Dispensing with rules and varying time limits
32 (1) A justice may dispense with a requirement of the rules.
(2) A justice may extend or shorten the time limit provided in this Act or the rules for doing an act.
(3) A justice may extend a time limit under subsection (2) even if the time limit for doing the act expired before the person applies for the extension.

Court of Appeal Rules, B.C. Reg. 120/2022

Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 [dispensing with
Edit directly or with Gemini
Click anywhere to type and edit directly, or select text to prompt Gemini for changes.

--
Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

NOTA BENE: This email is for dispute resolution and litigation purposes only. Without prejudice communication so denoted invokes settlement privilege.

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186K

Appendix “C”

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4402771
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	01Oct2026
Filing Comments:	Dear Registrar Outerbridge, I am resubmitting the Applicant's Form 4 Notice of Application (Application – Division General) and Memorandum of Argument (Argument – Other) for the third time, now using the newly available CSO category "Application – Division General," which appears to be the correct filing pathway for this type of application. I wish to respectfully note that the prior CSO Registry Notice (initials "sl") stated: "The Registrar will place your unfiled application before the division set to hear your application to vary." I may be mistaken, but this disposition does not appear to be one recognized under the Court of Appeal Rules. In addition, the CSO backend indicated "Action Needed," while the notice itself stated "Rejected," which seem to be incompatible statuses. As the notice appears to have been generated at the staff level, I am resubmitting the materials directly for your review and clarification. For certainty, I respectfully request that this resubmission be handled exclusively by the Registrar, rather than at the staff level, given the procedural nature of the application and the need for clarity regarding the correct filing category. The Applicant continues to rely on the case management judge's reference to the "existing written record", and the resubmitted materials are tendered solely to ensure the integrity of that record and to permit the Applicant to proceed in accordance with the Rules. No substantive changes have been made to the documents; they are resubmitted only to ensure proper routing and compliance with the Registry's requirements. Thank you for your attention to this matter. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party on multiple

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

occasions pursuant to Rule 64(1)(a)

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Division-General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
3	Letter General	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

Home Copyright Disclaimer Privacy Accessibility

TAB 16

1

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS

(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS

(Defendants)

APPLICANT PARTY'S WRITTEN ARGUMENT SEEKING MANDAMUS RELIEF IN RELATION TO IMPROPERLY REJECTED FILINGS AND NOW FILINGS THAT REMAIN IN "PENDING STATUS"

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PART 1: OVERVIEW

1. The Applicant Party seeks the issuance of orders (the "**Orders**"), as statutorily defined by the Legislature within the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*"), *s. 1*, which inherently encompasses the declarations articulated within the *Form 4 Notice of Application* dated October 5, 2026. In addition to declarations of law and declarations of mixed fact and law, relief in the nature of *mandamus* is sought, strictly compelling the Registrar to accept the Thursday, October 1, 2026, submitted filings (the "**Submitted Filings**"), which comprised:
    a. The *Form 4 Notice of Application* that seeks to, *inter alia*, strike the "Joint Response Book [Sic]" as it being legally a jurisdictional and absolute nullity, alongside relief pursuant to *section 36* of the *COAA*; and
    b. The written argument promulgated in support of the same.
2. While those Submitted Filings were in absolute compliance with the *COAA* and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Rules*"), the Applicant Party initially submitted said documents—one constituting a prescribed court form (the "**Court Form**") (see: *Court of Appeal Rules, r. 79*) and one being a permissible document under the *Rules*.
3. The Applicant Party was procedurally compelled to bring the *Form 4 Notice of Application* because receipt had occurred, albeit not *de jure* served, in response to the *Form 8 Notice of Application* and application book (the "**Application Book**") (September 15, 2026), of a "Joint Response Book [Sic]" from the Law Society of British Columbia, Trial Lawyers Association of British Columbia, Kevin Westell, Attorney General of British Columbia, and Lieutenant Governor in Council of British Columbia (the "**Purported Opposing Parties**") on Monday, September 21, 2026. The aforementioned transmission was executed by Mr. Andrews, legal counsel at Lawson Lundell LLP, who represents the Appellant, the Law Society of British Columbia. The pertinent electronic correspondence is appendicized at Appendix #1 to this written argument.

4. This written argument is directed exclusively to the review division panel constituted under, *inter alia*, *section 29* of the *COAA* and *rule 62* because the inclusion of the Submitted Filings is strictly required to determine whether the Purported Opposing Parties' "Joint Response Book [Sic]" constituted, and continues to constitute, an absolute nullity rather than a mere irregularity. If categorized as the latter, the Purported Opposing Parties have *ipso facto* failed to take any valid procedural steps recognized at law.

PART 2: STATEMENT OF ISSUES

5. The issues are as follows:

   a. Issue #1: Whether the abridgment of statutorily prescribed or required temporal periods is demonstrably in the interests of justice and ought to be granted?

   b. Issue #2: Whether the Registrar is strictly prohibited at law from neither accepting nor rejecting a submitted filing *in limine*? Concurrently, whether the Registrar is vested with the requisite legal authority to represent to a filing litigant that unfiled copies shall merely be brought to the attention of the presiding Justice or Review Division Panel?

   c. Issue #3: Whether a Registrar is cloaked with the jurisdiction to dispense with mandatory requirements explicitly delineated within the *Court of Appeal Rules*?

   d. Issue #4: Whether "SL" is identifiable as Ms. Shelly Lin? If affirmed, whether an unappointed individual, employed by or contracted to the British Columbia government (Court Services Division), such as Ms. Lin, possessed the legal authority to reject the September 25, 2026, filings on the ambiguous ground of "other" whilst inviting correspondence to the Registrar? Furthermore, whether Ms. Lin acted *ultra vires* on September 29, 2026, by rejecting the resubmitted filings on the premise that the Registrar would advance unfiled copies to the attention of the Review Division Panel, subsequent to the Applicant Party submitting the suggested correspondence which was accepted for filing and to which the September 25, 2026, *Notice of Application* and written argument were appended?

   e. Issue #5: What are the requisite duties of an officer of the court, specifically a Registrar as defined pursuant to the *COAA* (see: *s. 1* and *s. 10*)? How do such solemn duties contrast with those of a "manager/chambers scheduler," and what is the consequent legal effect of said distinction?

   f. Issue #6: What are the governing legal doctrines concerning the delegation of powers and duties, and is a Registrar empowered to delegate such authority to a non-Registrar (i.e., an individual who is neither a Registrar, Associate Registrar, nor a Deputy Registrar)? Was Ms. Shelly Lin formally delegated such purported powers and duties to substantiate her representations of September 29, 2026, or did she act unilaterally and devoid of any lawful delegation?

   g. Issue #7: Whether the rigorous legal test for *mandamus* has been wholly satisfied by the Applicant Party?

   h. Issue #8: Whether the Registrar is legally compelled to return the nominal filing fees remitted for the twice-resubmitted filings?

   i. Issue #9: Whether costs ought to be awarded against the Registrar for these compounding, continuous failures executed over a ten-day period without any curative remediation?

PART 3: ARGUMENT

ISSUE #1: SHORTENING OF TIME PERIODS

Legal Bases

COAA *and* Court of Appeal Rules

6. *Sections 32(2)* and *(3)* articulate:

    a. (2) A justice may extend or shorten a time limit, provided in this Act or the rules, for doing an act, including the time limit for commencing an appeal or application for leave to appeal.
    b. (3) Subsection (2) applies to an extension of a time limit even if the time limit for doing an act expires before
        i. (a) a person applies for the extension, or
        ii. (b) the justice orders the extension.

Application of the Law to the Facts

7. The Applicant Party duly submitted the *Form 4 Notice of Application* and accompanying written argument within mere days of the receipt of the "Joint Response Book [Sic]", actively registering a formal objection *in limine* while permitting the expiration of the statutorily mandated seven-day period under *rule 62(4)* for each *rule 64(1)(b)* party (the "**Prescribed Responding Party**"), which crystallized on Tuesday, September 22, 2026.
8. Pursuant to *R. v. Verma, 2016 BCCA 307* (*Verma*), the Registrar is fundamentally bereft of any statutory power or inherent jurisdiction to reject compliantly submitted filings. Consequently, the abridgment of time must necessarily be granted to facilitate procedural equity. Order #1 must follow sequentially.

ISSUE #2: NEITHER ACCEPTING NOR REJECTING

Legal Bases

9. In *Verma*, the appellate panel explicitly found: "While it is entirely appropriate for the Registrar or a member of his staff to advise a prospective appellant that this Court lacks jurisdiction to deal with a proposed appeal or application for leave to appeal, if the notice that person seeks to file to initiate proceedings in this Court complies with this Court's rules and that person insists on filing that notice, then the notice must be accepted for filing."
10. The Applicant Party also relies on *Yassin* which is cited and brief *infra.*

"Filed Version" of the Document

11. *Court of Appeal Rules, r. 3* unequivocally commands:

> Unless a contrary intention appears, if a rule in these rules requires a person to file and serve a document that relates to an appeal, the person must
> (a) file the document, and
> (b) serve on each party to the appeal a copy of the filed version of the document.

Application of the Law to the Facts

12. As Ms. Shelly Lin utilized the precise vernacular of "insist" within her impermissible September 25, 2026, rejection of the Submitted Filings, the Applicant Party meticulously filed the suggested correspondence on Monday, September 28, 2026, and subsequently resubmitted the filings on September 29, 2026. The ensuing rejection on Monday, September 29, 2026, was predicated upon the legally fictitious premise that the Applicant Party's unfiled documents would merely be brought to the attention of the Review Division Panel.

13. Such an administrative posture, profoundly untethered from statutory authority, constitutes an absolute nullity. The Applicant Party is statutorily bound to serve the filed version of the documents (see: *rule 3(b)*) upon the *rule 64(1)(b)* parties. It is a fundamental precept of administrative law that a statutory delegate cannot sit in abeyance; a decision to neither accept nor reject is legally non-existent.

14. Ergo, the declarations sought under Order #2 must strictly follow: A Declaration that the Registrar of the British Columbia Court of Appeal is structurally prohibited from neither accepting nor rejecting a submitted filing; A Declaration that the BCCA Registrar is prohibited from representing to a filing person that unfiled copies of paid and submitted filings will be placed before a Justice or Justices, as such an *ultra vires* act would irreparably deprive the *rule 64(1)(b)* parties (the "**Prescribed Parties**") of their strict legal entitlement to formally respond to the *Notice of Application*.

ISSUE #3: WHETHER A REGISTRAR IS PERMITTED TO DISPENSE WITH THE REQUIREMENTS UNDER THE COURT OF APPEAL RULES?

Legal Bases

15. Jurisdiction to dispense with a requirement under the *Rules* is the exclusive province of a Justice: *COAA, s. 32* and *Court of Appeal Rules, r. 41*.

16. The Registrar may solely exercise powers explicitly conferred by: (a) the *Rules*; or (b) the Chief Justice under *s. 37* (see: *s. 37(1)*). However, it is an immutable principle of statutory interpretation that even where authorization is ostensibly delegated by the Chief Justice to the Registrar, such authorization is strictly subordinate to the *Court of Appeal Rules* in the event of any inconsistency: *COAA, s. 37(3)*. Furthermore, while an authorization that operates in addition to the *Rules* is not inconsistent for that reason alone, the gravamen herein is not whether an authorization was granted—as none is in evidence—but rather the execution of conduct not conferred by the *Rules*. To the extent any authorization was presumed, it operated in direct contravention and derogation of the *Rules* (i.e., subtraction, not addition), rendering the resultant acta a nullity.
17. The Registrar is permitted to issue directives concerning submitted filings strictly pursuant to *section 38* of the *COAA*.

Application of the Law to the Facts

18. As the Registrar does not possess the constitutional or statutory standing of a Justice, the Registrar is wholly incapable of varying any requirement under the *Court of Appeal Rules*. The fundamental maxim *actus inceptus cujus perfectio pendet ex voluntate partium, revocari potest* highlights that procedural structures must be strictly adhered to by the respective statutory authorities.
19. Neither the Registrar nor Ms. Shelly Lin proffered that any of the Submitted Filings tendered on September 25 or 29, 2026, contravened the *Court of Appeal Rules* or any Registrar-issued directive.
20. Order #3 must unconditionally follow: A Declaration that the BCCA Registrar is fundamentally prohibited from dispensing with the mandatory requirements of the *Rules sua sponte*, or purportedly on behalf of filing persons.

ISSUE #4: AUTHORITY OF "SL" (MS. SHELLY LIN) AND THE ULTRA VIRES REJECTIONS

Legal Bases

21. The Applicant Party incorporates and strictly relies upon the aforementioned legal doctrines and bases.

Application of the Law to the Facts

22. It is a trite extrapolation of the governing legal principles to the empirical facts that Ms. Shelly Lin lacked the requisite jurisdiction to reject the September 25 and 29, 2026, filings upon the arbitrary grounds

presented. An act executed outside the parameters of statutory authority is not a mere irregularity; it is a nullity *void ab initio*.

23. Order #4 must follow: A Declaration that the successive rejections by "SL" on September 25 and 29, 2026, were executed in absolute contravention of the *COAA* and the *Rules*.

ISSUE #5: DUTIES OF AN OFFICER OF THE COURT VERSUS A "MANAGER/CHAMBERS SCHEDULER"

Legal Bases

24. Officers of the court are burdened with an elevated fiduciary obligation to provide an honest, forthright, and administratively neutral execution of their duties. This necessitates the absolute preservation of administrative neutrality, ensuring the unassailable integrity, completeness, and public accessibility of the appellate record.

Application of the Law to the Facts

25. As the Head Registrar, Mr. Outerbridge is statutorily bound to discharge duties that transcend the standard obligations of a common employee, such as Ms. Shelly Lin.

26. The seminal conclusion drawn herein reveals the precise rationale as to why Ms. Shelly Lin represented to the Applicant Party on September 25, 2026, that correspondence could be directed to the Registrar; she recognized the boundaries of her own limited administrative capacity.

27. Order #5 must follow: A Declaration that since "SL" (Ms. Shelly Lin) is not a registrar, associate registrar, or deputy registrar as strictly defined under *s. 1* and pursuant to *COAA, s. 10* (collectively, the "**PSA Appointed Registrars**"), but rather operates as a "Manager/Chambers Scheduler," Ms. Lin was legally incapable of being delegated the sovereign powers and duties of any PSA Appointed Registrar. Consequently, she could not lawfully exercise powers exceeding her station, nor circumvent the duties inherent thereto.

ISSUE #6: THE LAW OF DELEGATION OF POWERS AND DUTIES

Legal Bases

28. In stark contrast to administrative statutes such as the *Freedom of Information and Protection of Privacy Act* (*FIPPA*), which explicitly permit the "Head" of a "Public Body" to delegate authority, the *COAA*

contains no explicit provision authorizing the Registrars to delegate their quasi-judicial or statutory powers to non-Registrars. *Section 10* meticulously delineates how these officers of the court function hierarchically during periods of absenteeism. This legislative architecture embodies sound public policy, ensuring that the three formally designated Registrars (Head, Associate, and Deputy) cannot unlawfully delegate across the procedural chasm separating "officers of the court" from "non-officers of the court."

29. It is a bedrock principle of administrative law, encapsulated by the maxim *delegata potestas non potest delegari* (a delegated power cannot be further delegated), that a statutory delegate cannot sub-delegate without explicit legislative authority. Concurrently, the maxim *nemo dat quod non habet* (no one can give what they do not have) decisively prevents the Registrar from imparting powers to Ms. Lin that the statute strictly reserves.

Application of the Law to the Facts

30. It remains forensically undetermined under what purported authority Ms. Shelly Lin was operating; nonetheless, she was unequivocally prohibited at law from rejecting the Submitted Filings of September 25 and 29, 2026.

ISSUE #7: THE SATISFACTION OF THE LEGAL TEST FOR MANDAMUS

Legal Bases

31. A writ of *mandamus* is, by definition, an extraordinary prerogative command issued by a Superior Court judge directing the absolute consummation of a statutory or public obligation to which an applicant possesses a strict, vested legal right. As articulated by Herbert Broom, *Ubi jus, ibi remedium* (where there is a right, there is a remedy).
32. The court is continued as a superior court of record vested with both civil and criminal jurisdiction: *COAA, s. 2(1)*.
33. The formidable and binding eight-part legal framework governing *mandamus* is comprehensively solidified in *Apotex*. The Federal Court of Appeal, in *Apotex Inc. v. Canada (A.G.), 1993 CanLII 3004 (FCA)* (*Apotex*), aff'd *1994 CanLII 47 (SCC)*, articulated the mandatory preconditions that must be strictly satisfied before an order of *mandamus* shall issue:
    a. (1) There must be a public legal duty (as opposed to a mere discretionary power) to act;
    b. (2) The duty must be owed directly to the Applicant;
    c. (3) There must be a clear, unambiguous right to expect the performance of the duty, and all conditions precedent giving rise to the duty must be completely satisfied, including a formal demand that the duty be exercised and a corresponding refusal to do so;
    d. (4) Where the duty sought to be enforced is discretionary, the following strictures apply:

i. (a) The decision-maker must not act in a manner characterized as “unfair”, “oppressive”, or demonstrating “flagrant impropriety” or “bad faith”;
ii. (b) *Mandamus* is unavailable if the decision-maker's discretion is characterized as being “unqualified”, “absolute”, “permissive”, or “unfettered”;
iii. (c) In the exercise of a “fettered” discretion, the decision-maker must act solely upon “relevant”, as opposed to “irrelevant”, considerations;
iv. (d) *Mandamus* is unavailable to compel the exercise of a “fettered discretion” in a particularized manner; and
v. (e) *Mandamus* is solely available when the decision-maker's discretion is “spent” (i.e., the claimant holds a vested right to the performance of the duty).

e. (5) The applicant must possess no other adequate remedy or alternative recourse;
f. (6) The order sought must possess practical value or effect;
g. (7) There must be no equitable bar to the court granting *mandamus*; and
h. (8) The balance of convenience must decisively favour the granting of *mandamus*.

34. Subsequent jurisprudence irrevocably fortifies the Applicant Party’s strict entitlement to *mandamus*:

a. *Steiner v. Canada, 1981 CanLII 4581 (FC)* (*Steiner*), wherein the Court affirmed that defendants possess a mandatory public duty to accept for delivery all mail complying with the relevant Act and regulations. This prerogative writ constitutes an equitable instrument of the judiciary, the fundamental essence of which is to provide a comprehensive remedy where a substantive legal right exists and has suffered impairment, yet for which no alternative adequate legal recourse is available.

b. In *Mundulai v. Law Society of Ontario, 2018 ONSC 6965* (*Mundulai*), at para. 26, the Court noted that *mandamus* remains a discretionary remedy, primarily invoked when a repository of public power is formally requested to exercise a mandatory authority.

35. Furthermore, where a statutory delegate refuses the exercise of a power which they are legally compelled to manifest but perversely declines to do so, *mandamus* is the sole corrective vehicle: *Zaki v. Director, 2017 ONSC 1324* (*Zaki*), at para. 45.

36. Additional authorities substantiating the Applicant Party’s absolute entitlement include *Sunrise North Senior Living Ltd. v. The Sheriff (Regional Municipality of York), 2020 ONSC 469 (Div. Ct.)* (*Sunrise*), and *New Blue Ontario Fund v. Ontario (Chief Electoral Officer), 2024 ONSC 1048 (Div. Ct.)* (*New Blue*), at para. 29.

37. A Registrar cannot lawfully sit in abeyance. *Mandamus* was appropriately ordered to compel the rendering of a decision where a statutory duty existed: *Yassin v. Canada (Public Safety and Emergency Preparedness), 2018 FC 423* (*Yassin*).

Application of the Law to the Facts

38. The Applicant Party surpasses the rigorous eight-part threshold with mathematical certainty. The Applicant Party approaches the Court with immaculate hands, and the balance of convenience heavily anchors in favour of granting the extraordinary relief.
39. Order #7 must unequivocally follow.

ISSUE #8: RETURN OF FILING FEES

40. Predicated upon the aforementioned legal foundations, the Applicant Party is strictly entitled to the restitution of the procedural fees unlawfully extracted for the resubmission of filings ($7.00 per iteration), necessitated entirely by the registry's *ultra vires* rejections.

ISSUE #9: COSTS

41. Subject to the Registrar forthwith formally stamping and accepting the resubmitted documents (now tendered for the third occasion), the Applicant Party is strictly entitled to an award of costs to remedy the egregious and repetitive procedural prejudice suffered.

PART 4: ORDERS SOUGHT

42. The Applicant Party is strictly entitled to the totality of the Orders sought within the Form 4 NOA.

All of which is respectfully submitted on October 6, 2026:

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party

Appendix “A”

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Reply via email: mclean@searchandseizure.ca

URGENT

Date: Sunday, September 27, 2026

Filing method: Via CSO Portal

Sending method (at first instance): via CSO Portal

TO:

The British Columbia Court of Appeal
800 Smithe Street
Vancouver, BC

Attention of the Registrar (Head): Mr. Timothy Outerbridge

FURTHER PARTICULARS OF ASSISTANCE TO THE RECIPIENT

File numbers at the BCCA: CA51536 / CA51535 (defined herein as the "Appeals")
Sender: Mr. Kevin A. McLean (BA, JD, CIM)
Status: Applicant Party in relation to Form 4's and Form 8
Date: *supra*

SUBJECT I: TENDERED LETTER AS PER THE SUGGESTION OF "SL" IN RELATION TO THE UNLAWFUL REJECTION (BY "SL") OF COMPLIANT FILINGS BY THE APPLICANT PARTY (MR. KEVIN A. MCLEAN (BA, JD, CIM) ON FRIDAY, SEPTEMBER 25, 2026

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND PROCEDURAL POSTURE

1. The Applicant Party repeats and relies upon the definitions contained in the documents he has filed in the Appeals and they have the same meaning herein as they do therein. The Applicant Party, at times, refers to himself in third person for ease of reference and delineation purposes.
2. The Applicant Party writes regarding the above with particular reference to the unlawful or unauthorized rejection (by "SL") of the Applicant Party's submitted filings by way of the Applicant Party's Form 4 Notice of Application ("NOA") and written argument ("Written Argument") (collectively, the "Unlawfully Rejected Filings") relating to, *inter alia*, the nullity filing by the LSBC, TLABC, Mr. Westell, AGBC and LGIC (the "Purported Opposing Parties") named as the "Joint Response Book [Sic]" (September 21, 2026) in relation to my filed and served Application Book (September 15, 2026) and the failure of the Purported

Opposing Parties to serve "Response Books" to each "Party" (as defined under Rule 64(1)(b) of the *Court of Appeal Rules*) within seven days of being served with the Applicant Party's Application Book. The latter may be considered at an irregularity at first instance but as the Purported Opposing Parties have not evinced any intention to attempt to rectify said potential, which is not admitted, irregularity, it is veering into the real of nullity. There is also jurisprudence that a direct contravention of rules of procedure enters the realm of nullity (see for example: *König v. Hobza*, 2015 ONCA 885 ("*Konig*").

3. the crystallization of these filings irrevocably engages section 36 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"). The unyielding failure of the Purported Opposing Parties to comply with the governing enactments—specifically their failure to lawfully serve the prescribed parties—establishes a formidable statutory foundation for the adjudicative body to refuse to hear said parties and to definitively dismiss the Appeals as abandoned.
4. Concurrently, an administrative anomaly has manifested within the Court Services Online (the "CSO") portal. An unlawful and procedurally defective rejection notice was issued by a registry employee identified merely as **"SL"** (the "**Unlawful Rejection**"). While lacking legal merit, the **Unlawful Rejection** is recognized as highly advantageous, as it explicitly instructs:

> "We are unable to accept the application and argument for filing. If you **INSIST**, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO. Thank you, sl"
>
> [emphasis is the Applicant Party's]

4. It is evident that bizarre and legally insupportable conduct is being effectuated by an employee of the registry who definitively fails to meet the statutory definition of a Registrar. Pursuant to section 1 of the *COAA*, the definition of a registrar strictly encompasses the Registrar, an associate registrar, and a deputy registrar. It is posited that the Registrar does not actively manage the ground-level processing within the CSO, an administrative reality that necessitates this precise and highly formalized intervention.
5. The aforementioned administrative blockade is systematically deconstructed herein. The precision of this legal analysis is engineered to compel the registry—being both statutorily able and unconditionally required—to stamp the resubmitted filings forthwith, thereby permitting the effectuation of lawful service upon the prescribed parties.

*PART 2: DECONSTRUCTION OF THE **"SL" UNLAWFUL REJECTION** AND STATUTORY DEFINITIONS*

6. The **Unlawful Rejection** is definitively established as not merely ultra vires, but falsely premised. It is a foundational axiom of logical reasoning that a conclusion predicated upon a false premise constitutes a mere sophism.

7. The rejection notice relies upon the term "unable." Lexicographically, "unable" is defined as lacking the necessary skill, power, competence, time, or opportunity to accomplish a specified act. Consequently, the assertion of being "unable" is intrinsically tethered to the possession or absence of jurisdictional power.
8. Pursuant to section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238 (the "*Interpretation Act*"), the term "may" is strictly construed as permissive, whereas the terms "must" and "shall" are construed as imperative. While extensive jurisprudence distinguishes these terms, the statutory obligation in the present matrix is unambiguous on its face.
9. The Applicant Party has financially remitted the requisite fees, submitted for filing, and successfully served the following foundational documents in relation to the impugned orders and directions pronounced by The Honourable Madam Justice Horsman, noting strictly that a "direction" cannot be elevated to an "order" under the statutory definition: a. The Form 8 Notice of Application, dated September 9, 2026; b. The Application Book, prepared in strict accordance with the Completion Instructions (as defined under section 1 of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*")), submitted on September 15, 2026; and c. The supporting Book of Authorities, submitted and served on September 17, 2026.
10. The individual identified as **"SL"** does not satisfy the statutory definition of a Registrar under the *COAA*. This distinction carries profound legal import, as those who satisfy the statutory definition are strictly recognized as officers of the court. An officer of the court is bound by an immutable legal and ethical obligation to promote justice, uphold the rule of law, and ensure [guaranteeing as required by law] the effective, unbiased operation of the judicial system.
11. It is a striking procedural paradox that an administrative clerk would assert the jurisdictional authority to reject a mathematically and procedurally compliant Form 4 Notice of Application, whilst the registry concurrently accepted a **"Joint Response Book" [sic]**—a fabricated filing category entirely unrecognized by the *Court of Appeal Rules* (attached hereto as Appendix "D"). The acceptance of a nullity, paired with the rejection of a compliant instrument, fundamentally offends the venerable maxim of Herbert Broom, *Actus curiae neminem gravabit* (an act of the court shall prejudice no man).

PART 3: THE MANDAMUS THRESHOLD AND THE PUBLIC LEGAL DUTY

12. I provide the facts and law herein to ensure that we are all respectful of the public purse, and finite resources along with the resources that will be required for the hearing of my Form 8 NOA et al.
13. The legal test for the issuance of an order of mandamus is thoroughly entrenched within Canadian administrative jurisprudence. It is delineated herein to ensure [guaranteeing as required by law] the

administrative record formally reflects the absolute lack of discretion possessed by the registry regarding compliant filings.

14. The foundational premise establishes that the registry is not merely "able," but statutorily "required" to accept compliant filings. This strict administrative duty is unequivocally confirmed by the British Columbia Court of Appeal in *R. v. Verma*, 2016 BCCA 307 (the "**Verma Decision**"), a precedent that operates with magnified force under the modernized architecture of the *COAA* and the *Court of Appeal Rules*.
15. The mandatory conditions precedent for the issuance of mandamus were exhaustively codified by the Federal Court of Appeal in *Apotex Inc. v. Canada (A.G.)*, 1993 CanLII 3004 (FCA), aff'd 1994 CanLII 47 (SCC) (the "Apotex Decision"). The eight requisite conditions are enumerated as follows: (1) There must be a public legal duty (as opposed to a mere power) to act; (2) The duty must be owed to the Applicant; (3) There must be a clear right to expect performance of the duty, and all conditions precedent giving rise to the duty must be satisfied, including the demand that the duty be exercised and a refusal to do so; (4) Where the duty sought to be enforced is discretionary, specific ancillary rules apply; (5) The applicant must have no other remedy or recourse available; (6) The order sought must be of some practical value or effect; (7) There must be no equitable bar to the court granting mandamus; and (8) The balance of convenience must favour the granting of mandamus.
16. The application of the aforementioned jurisprudential test to the present factual matrix yields an unequivocal result: a. The registry, and the Head Registrar specifically, bears a clear, non-discretionary public legal duty to accept submitted filings that comply with the *Court of Appeal Rules*; b. Said duty is definitively owed to the Applicant Party; c. No unfulfilled conditions precedent exist, and a clear right to expect performance is established, as the submitted filings are flawlessly compliant with all formatting and structural rules; d. The Registrar is a creature of statute; the acceptance of compliant filings is purely administrative and entirely devoid of discretion (which renders the antecedent acceptance of the unstatutory **"Joint Response Book" [sic]** all the more jurisdictionally defective); e. While alternative remedies are theoretically available, this correspondence is transmitted in the spirit of judicial economy and administrative cooperation; f. The performance of the duty possesses profound practical effect, directly preserving the Applicant Party's obligation to avoid taking a fresh step with knowledge of the Purported Opposing Parties' irregularities—specifically, their failure to serve EACH party pursuant to Rule 64(1)(b) and Rule 62(4)—whilst seeking declarations regarding the void ab initio nature of the **"Joint Response Book" [sic]**; g. Absolutely no equitable bars exist to preclude the seeking of mandamus; and h. The balance of convenience tips enormously and indisputably in favour of the Applicant Party.

PART 4: THE SCHEDULING MANDATE, RULE 55, AND THE ABSOLUTE NULLITY OF PURPORTED SERVICE

16. It is further articulated that the **"Joint Response Book" [sic]** was not merely defectively served, but rather characterized by a complete failure of lawful service. Specifically, purported service of said nullity upon the Applicant Party was impossible at law, as the instrument itself is an unauthorized procedural fiction entirely devoid of legal force. Concurrently, in relation to all other "parties" as defined under rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Prescribed Parties" or "Application Responding Parties"), the instrument was definitively not served at all.
17. In relation to the Form 4 Notice of Application (submitted September 25, 2026) being heard, it is structurally mandated that said application be adjudicated contemporaneously with the antecedent Form 8 Notice of Application. It is rigorously noted that rule 55 of the *Court of Appeal Rules* strictly compels all entities who have been lawfully served with the Form 4 Notice of Application and accompanying written argument to file any responsive written arguments and/or affidavits at least two business days prior to the Application Hearing Date.
18. Consequently, to facilitate compliance with the strictures of rule 62(5), which imposes a mandatory scheduling obligation upon the Registrar, it is advanced that the allocation of two discrete thirty-minute intervals will be mathematically required to assist the registry and properly ventilate the bifurcated applications before the Division panel.

PART 5: THE JURISPRUDENTIAL IMPERATIVE OF VERMA, THE LEXICOGRAPHICAL IMPORT OF "INSIST," AND REMEDIAL ADJUDICATIVE TRAINING

19. The specific lexicographical choices utilized within the **Unlawful Rejection** necessitate rigorous doctrinal scrutiny. The individual identified as **"SL"** explicitly articulated: "If you **insist**, you may write to the Registrar..." The deployment of the term "**insist**" is recognized as a profound, albeit perhaps inadvertent, invocation of binding appellate jurisprudence.
20. To "**insist**" is lexicographically defined as to state something very firmly or to demand something forcefully, specifically in circumstances characterized by disagreement or opposition.
21. It is a matter of established appellate record that paragraph 20 of the *Verma Decision* (*R. v. Verma*, 2016 BCCA 307) explicitly dictates the mandatory protocol for registry clerks when confronted with compliant filings. As unequivocally articulated by the Division panel, while it is appropriate for a clerk to advise a prospective appellant regarding perceived jurisdictional defects,

> "if the notice that person seeks to file to initiate proceedings in this Court complies with this Court's rules and that person **INSISTS** on filing that notice, then the notice **MUST** be accepted for filing."
>
> [emphasis is the Applicant Party's]

22. Consequently, by the very language employed in the **Unlawful Rejection**, the registry has acknowledged the operative trigger. The Applicant Party is hereby formally and forcefully **insisting** upon the filing of the mathematically and structurally compliant Form 4 Notice of Application and the accompanying Written Argument. Ergo, pursuant to the binding authority of the *Verma Decision*, the submitted documents (one a "Court Form" and the other a required document in support of such an NOA) **must** be accepted for filing forthwith; the Registrar is entirely divested of any residual discretion to refuse.
23. Concurrently, profound respect is maintained for the livelihood and employment security of registry personnel. It is formally acknowledged that the preservation of professional livelihood for administrative staff is of intrinsic value. It is respectfully requested that this severe administrative overreach be utilized strictly as a confidential, remedial registry/administrative processing training opportunity for the individual identified as **"SL"** or **"SL"** (or any other gender-neutral pronoun so adopted). This magnanimous posture is advanced to ensure [guaranteeing as required by law] that the proper boundaries of administrative authority are definitively understood, thereby shielding future participants in the justice system from analogous ultra vires blockades.

PART 6: CONCLUSION AND REQUISITE ADMINISTRATIVE PROCESSING RECTIFICATION

24. In conclusion, while no Enactment (see: s. 1 of the Interpretation Act) condition precedent necessitates the filing of an introductory letter prior to the acceptance of compliant documents, this comprehensive correspondence has been prepared and filed in strict accordance with the **Unlawful Rejection**. This step is executed in the spirit of cooperation, with profound respect for the public purse and the preservation of finite judicial resources.
25. It is further articulated that sections 37 and 38 of the *COAA* strictly circumscribe the registry's authority. The unassailable upshot of these statutory provisions is that while a Registrar may refuse to accept a document if it is filed contrary to a formally issued practice directive, the Registrar cannot, as a matter of statute and regulation (the "Source Laws"), refuse to accept documents that comply with the established filing requirements.
26. Most crucially, the stated rationale for the **Unlawful Rejection** was categorized as "other" and "unable." The administrative clerk was definitively not "unable," but rather statutorily "required" to execute the filing. Consequently, subsequent to the submission of this letter as expressly suggested by the registry, the

Form 4 Notice of Application and the Written Argument shall be resubmitted exactly as they were originally transmitted.

27. Should filed and stamped copies of the Form 4 Notice of Application and the Written Argument (originally submitted on Friday, September 25, 2026) not be provided forthwith, a subsequent escalation will be regretfully compelled. A direct correspondence will be transmitted to the Primus Inter Pares, the Chief Justice of the British Columbia Court of Appeal. The preservation of an independent judiciary intrinsically demands that the administration of the court directs its staff to strictly comply with the duties assigned to them by law.
28. Furthermore, in the event of continued administrative obstruction, the filing of a Form 4 Notice of Application in the nature of mandamus will be precipitated. Such an action would inevitably result in a multiplicity of proceedings, requiring an additional Notice of Application to be heard contemporaneously with the Form 8 hearing.
29. Inasmuch as justice is mandated to be administered in an expeditious, just, and cost-effective manner, the failure to comply with the statutory duties of the Registrar is fundamentally antithetical to the administration of justice. It is presumed that the Head Registrar was entirely unaware of this administrative overreach until the transmission of this correspondence
30. I reserve the right to rely on this correspondence for any lawful purpose, explicitly inclusive of the adjudication of costs, the affirmation that the **"Joint Response Book" [sic]** was a nullity on its face, and the incontrovertible fact that ALL of the "Prescribed Parties" were not served in accordance with Rule 62(4).
31. Thank you kindly for ensuring [guaranteeing as required by law] that the Form 4 Notice of Application and the Written Argument are stamped as filed. I will then provide a copy of the filed Form 4 and written argument to the Rule 64(1)(b) "Parties" so that they are served and are able to exercise their rights at least two days before the "Application Hearing Date" of my Form 8 and said Form 4 NOA (see: Appendix "A"). Trusting that this was an innocent oversight by **"SL"**, I trust my approach in this regard was appreciated although very time consuming and exhaustive, albeit unnecessary, to do so.
32. I await the filed (stamped as such with the notation of September 28, 2026) by your earliest opportunity tomorrow and in turn there will be no requirement for me to draw this issue to the attention of the Chief Justice of the BCCA and bring an additional NOA seeking, *inter alia*, mandamus relief.
33. Thank you kindly.

Yours truly,

Mr. Kevin A. McLean (BA, JD, CIM)

Email: mclean@searchandseizure.ca

Appendix “A”: Form 4 Notice of Application Appendix “B”: Written Argument Appendix “C”: Receipts of Filing Appendix “D”: The **“Joint Response Book” [sic]** (A nullity on its face, purported to have been served on the Applicant Party which was impossible at law, and in relation to all other “parties” under rule 64(1)(b) (the “Prescribed Parties” or “Application Responding Parties”), not served at all) Appendix “E”: The “SL” **Unlawful Rejection** Notice

APPENDICES

Appendix “A”

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application	Mr. Kevin A. McLean (BA, JD, CIM) (he/him)
Name(s) of responding person(s) to be served with the application	The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)
Location where the application will be heard *Enter the address of the courthouse.*	800 Smithe Street Vancouver, BC V6Z 2E1
Date the application will be heard	TBD based hearing date for AP's Form 8 NOA (heard at same time) *Chambers applications begin at 9:30 a.m.*
The applicant anticipates that this application will be… *Check only one.*	☒ Contested ☐ Uncontested
Enter the section(s) or rule(s) that you are relying on for your application *E.g., If you are applying for leave to appeal, enter "Section 31 of the* Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."	*Court of Appeal Act,* S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, **36**, 44-46, *Court of Appeal Rules,* B.C. Reg. 120/2022 (the "*COR*", "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75 *Law and Equity Act*, R.S.B.C. 1996, c. 253, Section 8. *Interpretation Act*, R.S.B,C 1996, c 238 All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following orders which are contained in his written argument in support of the same (wherein the following statutory parties ("Statutory Parties") in the: 1. the LSBC; and 2. TLABC and Mr. Westell (said three persons collectively defined as well as the "Appellants"); and 3. The AGBC and LGIC (together defined as the "Respondents") but also sad persons were some of many prescribed parties ("Prescribed Parties") under sub-rule 64(1)(b) (the five "Statutory Parties" defined in this NOA (Form 4) as the "**Purported Opposing Parties**"):

Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and

D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings") in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the

LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule 41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The filed affidavits in the Applicant Party Application Book of September 15, 2026 which are particularized again herein:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this September 22, 2026, Form 4 NOA.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

25/09/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

---

[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.

[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a “Court Form” and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a “Response Book” is not discretionary as it must be prepared in accordance with the “Completion Instructions”. Part of the “Completion Instructions” required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page

Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of “filing parties” is not

required for joint book like a “Joint Appeal Book” (see: Rule 26) or a “Joint Book of Authorities” (see: Court of Appeal Rules, rule 27)

Appendix “B”

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS
(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS
(Defendants)

APPLICANT PARTY'S WRITTEN ARGUMENT CONCERNING AN APPLICATION TO:

I. Declare the **"Joint Response Book [Sic]"** void, void ab initio, and of no force and effect;
II. Strike and expunge the **"Joint Response Book [Sic]"** from the BCCA record under the above noted file numbers;
III. Declare the Registrar's acceptance of the **"Joint Response Book [Sic]"** to be without jurisdiction, void ab initio, and of no force and effect;
IV. Declare that the **"Joint Response Book [Sic]"** could not be lawfully served on the other "parties" under *Court of Appeal Rules*, rule 64(1)(b).
V. A Declaration that the LSBC, TLABC, and AGBC failed to comply with rule 62(4) and an Order that the aforementioned persons **"Joint Response Book [Sic]"** is not before the Court;
VI. Special costs against counsel for the LSBC, TLABC, and AGBC jointly and severally for intentional violations of the law; and
VII. Residual relief.

Hearing date: on the date of the **Applicant Party**'s Form 8 NOA to cancel the purported Orders of Horsman J.

Written argument dated and signed on: Friday, September 25, 2026
Written argument submitted for filing on: Friday, September 25, 2026

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PART 1: INTRODUCTION, PROCEDURAL VEHICLE, AND THE JURISDICTIONAL IMPERATIVE

1. The **Applicant Party** repeats and relies upon his evidence in the filed Application Book, and his argument and authorities contained therein and in his Book of Authorities, both for his Form 8 NOA to be heard and decided on a date, time and place as required by Rule 62(5) of the *Court of Appeal Rules*.
2. The **Applicant Party** adopts the definitions from the aforementioned filed documents and they have the same meaning herein as they do therein.
3. The present Written Argument is meticulously formulated and formally submitted to support a Notice of Application in Form 4, brought pursuant to the cited sections in the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*" or "*COAA 2021*"), and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*" or "*Court of Appeal Rules 2022*").
4. The **Applicant Party** seeks the relief particularized in his Form 4 Notice of Application ("NOA"), as denoted supra in summary form.
5. Concurrently, this Written Argument registers the **Applicant Party**'s formal opposition, supplementary to the Applicant Party's objection without taking a fresh step after notice of the irregularity in the failure to serve or be able to serve the "Joint Response Book [Sic]" of which the latter is a nullity at law and the former is an irregularity, to the unlawful steps taken and advanced by the Law Society of British Columbia ("LSBC"), the Trial Lawyers Association of British Columbia ("TLABC") and Mr. Westell, and the Attorney General of British Columbia ("AGBC") and LGIC (collectively, the "**Purported Opposing Parties**").
6. The **Purported Opposing Parties** seek to relegate the impending application to vary or cancel an order of a justice (the "Rule 62 Application") to a written-only adjudication pursuant to s. 26 of the *COAA*. However, the document they have styled as a **"Joint Response Book [Sic]"** is a nullity, void ab initio, and of no force and effect. As a matter of law, an unauthorized filing category cannot be placed "on top of" a mandatory procedural structure that does not permit it. The filing of a **"Joint Response Book [Sic]"** by adversarial statutory parties also raises structural concerns regarding whether any one Purported Opposing Party could purport to file a response on behalf of another.
7. It is formally articulated that the procedural mechanism invoked by the **Purported Opposing Parties** to bypass an oral hearing is misaligned with the mandatory statutory and rule-based architecture governing variance applications under Rule 62 and s. 35(2) of the *COAA*. Even if such a request could be made in that regard, wherein the 'hearing' itself was reduced to written or the time limit for 'hearing' was truncated (see: *COAA*, clauses 26(1)(a), (c) and (d) but not 26(1)(b) as the Form 8 NOA requires a 'hearing' and it is not merely a 'matter' per se wherein the Civil Rules Committee, blessed by the LGIC, used the language of 'hearing under Rule 62(5)).

8. The Legislature deliberately distinguishes between a "matter" and a "hearing" in *Court of Appeal Act* (the *COAA*), s. 26. A "matter" is the underlying proceeding; a "hearing" is the adjudicative event. Section 26(1)(a) empowers the Court to modify the conduct of a hearing, whereas s. 26(1)(b) empowers the Court — and only the Court — to decide a matter without a hearing.
9. The Registrar's administrative authority to "receive any matter," as referenced in the *Registrar's Powers Practice Directive* (3 May 2024), cannot override the Legislature's distinction. A Form 8 Notice of Application under Rule 63(2) and *COAA*, s. 35(2) requires a hearing. It is not a "matter" capable of being decided without a hearing unless the Court so orders under *COAA*, s. 26(1)(b).
10. Accordingly, the Registrar cannot treat the Applicant Party's Form 8 Notice of Application as a "matter," cannot block filings based on standing, and cannot exercise judicial discretion under *COAA*, s. 26. The Registrar's role is purely administrative: filings must be accepted or rejected under Rule 38 and the Completion Instructions. Any attempt to convert a hearing-required application into a "matter" is ultra vires.
11. This distinction is reinforced by the structure of the *COAA*. Section 26(1)(a) presupposes that a hearing date exists and that the matter is properly before the Court. Section 26(1)(b) presupposes that only the Court may eliminate a hearing. The Registrar cannot exercise judicial powers under s. 26, nor can the Registrar determine whether a hearing is required. The Applicant Party's Form 8 Notice of Application is a hearing-required application under Rule 63(2), and the Registrar must accept or reject filings under Rule 38 only.
12. The *Registrar's Powers Practice Directive* authorizes the Registrar to "receive and determine other matters related to the management of the conduct of an appeal," but this authority is expressly limited by *COAA*, s. 37(3): if there is any inconsistency between the rules and a practice directive, the rules prevail. The rules require acceptance or rejection of filings under Rule 38, and do not authorize the Registrar to determine standing, party status, or whether a hearing is required.
13. Therefore, the Clerk's refusal to accept the Applicant Party's Form 8 Notice of Application was ultra vires. The Form 8 Notice of Application must be accepted for filing, and the Applicant Party is entitled to a hearing under Rule 63(2) and *COAA*, s. 35(2).
14. The adjudication of acts executed without authority cannot, as a matter of law, be relegated to an administrative process that circumvents the mandatory hearing structure prescribed by the *Court of Appeal Rules*. When an adjudicative body is confronted with allegations of an absolute nullity arising from acts executed by a Justice, by title but that did not belong to her judicial office (Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est) (see: McLean v. Bradley, 1878 CanLII 22 (SCC) as per Sir William Buell Richards, Knt., C.J,, et al) and in part were manifestly absent jurisdiction (see: *coram non judice* (see also: Pong v. Quong, 1927 CanLII 2 (SCC) as per Anglin C.J.C.), the remedy

cannot be administered through a written-only process that eliminates the procedural safeguards inherent in an oral hearing.

15. The definition of an "Order" in s. 1 of the *COAA* expressly includes "a direction or determination specifically authorized or required under an **Enactment**."

16. The purported "Orders" issued by The Honourable Madam Justice Horsman, having been executed outside the boundaries of the governing **Enactment**s and devoid of statutory jurisdiction, fail to meet this threshold definition. They are jurisdictional nullities. To shield the review of such nullities through a written-only process would constitute a denial of natural justice.

17. The declarations and Orders sought—some specifically authorized and some specifically required by an **Enactment** (see: *Interpretation Act*, s. 1)—are determined pursuant to Rule 62 on a standard of review ("SOR") that is not contingent upon filed documents from any of the prescribed "parties" (the "Prescribed Parties"), as the review is conducted by a division panel of Honourable Justices.

PART 1(A): COMPLETION INSTRUCTIONS AND THE MANDATORY HEARING FRAMEWORK

18. "Completion Instructions" are defined as those issued by the Registrar for the proper completion, formatting, and submission of documents under the *Court of Appeal Rules*. These instructions form part of the mandatory procedural architecture and must be complied with by each responding person.

19. While the word "hearing" is not expressly defined under the *COAA* or the *Court of Appeal Rules*, the terms "Hearing Date" and "Obtain a Hearing Date" are defined and governed by the Rules. Critically, Rule 62(5) provides that the Registrar **must** set the date, time, and place for the hearing of an application. The word "must" is imperative (see: *Interpretation Act*, RSBC 1996, c. 238, s. 29), and imposes a statutory duty and obligation.

20. By tying the **Applicant Party**'s Form 4 NOA to the date on which the Registrar sets the hearing of the **Applicant Party**'s Form 8, the **Applicant Party** accomplishes: (a) the avoidance of multiplicity of hearings and/or proceedings; and (b) the avoidance of inconsistent fact-finding.

21. This is permissible as a variation of a "Court Form" pursuant to Rule 79(3), which allows a Court Form to be prepared with variations as the circumstances or the proceedings require.

22. Under s. 29 of the *Interpretation Act*, the words "shall" and "must" are to be construed as imperative. Under s. 29, "obligation" includes a duty and a liability. The imperative nature of "must" falls squarely upon each of the Appellants and Respondents to comply with Rule 62, including the mandatory filing and service of individual Response Books.

PART 1(B): MANDATORY ATTENDANCE AND COUNSEL OF RECORD

23. Rule 64(4) of the *Court of Appeal Rules* states that each party to an application **must** attend the hearing of the application:
    a. (a) in person, or
    b. (b) if permitted under Rule 42, by telephone, video conference, or other means of telecommunication.
24. The LSBC is represented by Lawson Lundell LLP. The TLABC and Mr. Westell are represented by Fasken LLP. The AGBC and LGIC are represented by government counsel.
25. Rule 64(5) provides that a person's lawyer may attend on behalf of that person. Accordingly, Lawson Lundell LLP cannot attend on behalf of the TLABC, Mr. Westell, the AGBC, or the LGIC, as it is not counsel of record for those persons. Each counsel of record must attend on behalf of their respective clients and the Prescribed Parties.

PART 1(C): STATEMENT OF ISSUES AND BRIEF ANSWERS TO ISSUES

26. The **Applicant Party** identifies the following issues for determination, sequenced chronologically the procedural defects leading to substantive defects, void ab initio documents (non "Court Forms") which were incapable of being accept for filing:
    a. Issue #1 Leaving aside that the Purported Opposing Parties did not submit for filing a Response Book, the first issue is whether the Purported Opposing Parties attempted to serve a filed copy of the *Joint Response Book* [sic] within seven days of being served with the Applicant Party's Application Book.
        1. Answer: As demonstrated in the Applicant Party's appendicised emails at Appendix #1 and Appendix #2, the Purported Opposing Parties failed to attempt service of the *Joint Response Book* [sic] on each Party under the *Court of Appeal Rules* within seven days of service of the Applicant Party's Application Book.
    b. Issue #2: Whether the Purported Opposing Parties' failure to file and serve a Response Book not more than seven days after being served with the Applicant Party's Application Book confirms, by their conduct, that they did not wish to respond to the Applicant Party's Application Book.
        1. Answer: By clear Enactment language and unassailable corollary and syllogism, the Purported Opposing Parties—leaving aside their failure to submit a compliant

Response Book in accordance with the Completion Instructions—confirmed by their conduct that they did not wish to respond to the Applicant Party's Application Book.

c. Issue #3: (a) Leaving aside that the Purported Opposing Parties did not submit a document capable of being filed, whether they could de jure serve the *Joint Response Book* [sic] on the Prescribed Parties under Rule 64(1)(a) (the Applicant Party) and Rule 64(1)(b) (the other Prescribed Parties served with the Applicant Party's Form 8, Application Book (September 15), and Book of Authorities (September 18, 2026)). (b) Whether the Purported Opposing Parties, through Mr. Andrews of Lawson Lundell LLP on Monday, September 21, 2026, purported service of what Mr. Andrews described as a "Response Book," thereby serving the Applicant Party with the *Joint Response Book* [sic].
    1. Answer: The germane subrule requires service of a Response Book, not a *Joint Response Book* [sic]. The only joint books permitted are Joint Appeal Books and Joint Books of Authorities (see *COAA*, ss. 26–27). As such, the Purported Opposing Parties could not serve any Prescribed Party de jure. Their purported service on the Applicant Party was not service de jure. As they did not attempt service on the other Prescribed Parties, the issue is simply non-compliance.

d. Issue #4: Whether the Purported Opposing Parties had authority to prepare, submit for filing, or purport to serve the Applicant Party with the *Joint Response Book* [sic] and its accompanying letter.
    1. Answer: Rule 62(4) imposes mandatory obligations (see *Interpretation Act*, s. 29) on "a person" who wishes to respond to an Application Book: to file and serve a Response Book on each Rule 64(1)(a) and (b) Party not more than seven days after being served, and in accordance with the Completion Instructions. Each Responding Prescribed Party failed to: (i) file; (ii) serve; (iii) a Response Book; (iv) on each Rule 64(1)(a) and (b) Party; (v) within seven days or at all; and (vi) in accordance with the Completion Instructions.
    2. The *Joint Response Book* [sic] is a nullity at law. The accompanying letter is likewise a nullity. A Response Book is not a "Court Form" but is a document subject to Completion Instructions. The *Joint Response Book* [sic] did not comply with any mandatory requirement.

e. Issue #5: Whether the Registrar had jurisdiction to accept the *Joint Response Book* [sic] for filing. More specifically, whether acceptance of a filing category not authorized by any Enactment constitutes an ultra vires act, and whether such acceptance is a "direction"

within the meaning of *COAA*, s. 1, thereby engaging the Applicant Party's right to seek cancellation under *COAA*, s. 35(2) and Rule 63.

1. Answer: The Registrar is a creature of statute, with no powers outside the four corners of the *COAA* and the *Court of Appeal Rules*. Any act outside those limits is ultra vires, void ab initio, and of no force and effect. Under *R. v. Verma*, para. 20, if a document complies with the rules and a person insists on filing it, the Registrar must accept it. Conversely, where a document does not comply with: (i) its required name; (ii) the requirement that each Prescribed Party file its own Response Book; (iii) the non-variability of documents outside Schedule 3; and (iv) the Completion Instructions, the Registrar cannot accept it.
2. The Registrar, Associate Registrar, and Deputy Registrar (see *COAA*, s. 1) are officers of the Court (see *COAA*, s. 10) and must conduct Appeals in accordance with the Act and Rules (see *COAA*, s. 18). Rule 62(4) and Rule 64(1)(a) and (b) squarely govern the requirements. The Registrar may only exercise powers conferred by the Rules or by the Chief Justice. Any inconsistency between a Chief Justice authorization and the Rules is resolved in favour of the Rules (see *COAA*, s. 37(3)).
3. The Completion Instructions required a cover page that prohibited filing of a *Joint Response Book* [sic]. On that ground alone, the Registrar could not accept it.

f. Issue #9: Whether the Court should strike and expunge the *Joint Response Book* [sic] as void ab initio, a nullity, void, and of no force and effect. More specifically, whether the fabricated filing category, adversarial consolidation, service defects, and structural non-compliance justify striking the document under Rule 53, Rule 54, *COAA*, s. 18(2), and *Supreme Court Civil Rules*, Rule 95.

1. Answer: The issue answers itself. The experienced counsel for the LSBC, TLABC and Mr. Westell, and AGBC and LGIC must have known their actions were prohibited by the *COAA*, the *Court of Appeal Rules*, other Enactments, and their professional obligations. As the public may review filed documents in the Record of Proceedings, the *Joint Response Book* [sic] must be expunged to prevent reliance on an unlawful filing.

g. Issue #10: In light of the independent, concurrent, and intertwined non-compliance with the Act and Rules by the Purported Opposing Parties, must the review division panel exercise its authority to decline to hear from the Purported Opposing Parties in relation to the Form 8 Notice of Application?

1. Answer: The Purported Opposing Parties' conduct contains numerous egregious violations of the Act and Rules. They must not be heard. To hear them would require one counsel to speak for all five Prescribed Parties, further undermining the Act and Rules.

h. Issue #11: Whether the review division panel, being required to conduct Appeals in accordance with the Act and Rules, must exercise its authority to declare the LSBC and TLABC/Mr. Westell's Appeals abandoned.

1. Answer: Jurisprudential principles confirm that where breaches are numerous and not merely irregularities, dismissal as abandoned is not Draconian. The misconduct here—carried out by experienced counsel for all five Prescribed Parties, without seeking leave to dispense with the Rules, and in the face of a validly filed and served Form 8, Application Book, and Book of Authorities—requires dismissal of the Appeals as abandoned. The remaining issues in the Form 8, confined to questions of law, should be argued by the Applicant Party.

PART 2: THE ATTEMPTED PROCEDURAL TRAP, PROVISION (NOT SERVICE) OF LEGAL FICTION DOCUMENTS, AND THE DEFINITION OF "PARTY" UNDER THE *COURT OF APPEAL RULES*

27. The **Applicant Party** formally notifies this Honourable Court of the procedural mechanism deployed by the **Purported Opposing Parties** through premature, extra-statutory correspondence. The transmission of letters and documents prior to the crystallization of statutory deadlines operates as an attempted procedural trap designed to compel the **Applicant Party** into an informal exchange outside the mandatory framework of the *Court of Appeal Rules*.

28. The architecture of this attempted trap is straightforward: by communicating through informal correspondence and seeking extra-**Enactment** consensus or acquiescence and/or taking a fresh step with knowledge of what it would inevitably claim was an irregularity but *de jure* a nullity, the **Purported Opposing Parties** endeavour to induce the **Applicant Party** into implicitly accepting their flawed premise—namely, that only the formalized Appellants and Respondents constitute "Parties" to these proceedings.

29. Simply put, the Appellants and Respondents are appellate "Statutory Parties," but they were and are not the only "Prescribed Parties" under the *Court of Appeal Rules*. The mandatory service matrix under Rule 62(4) and Rule 64(1)(b) extends beyond the narrow subset of Appellants and Respondents.

30. The **Applicant Party** expressly declines to validate this exclusionary posture and formally refuses to respond to extra-statutory correspondence that is not transmitted in accordance with the *Court of Appeal Rules*.

31. Furthermore, the mechanics of service under the modernized regime are mathematically precise and cannot be bypassed through the tactical provision of documents to only some of the Prescribed Parties. Rule 4(3) of the *Court of Appeal Rules* governs deemed service by email or fax and provides:

> "A document transmitted for service by email or fax is deemed to be served as follows: (b) if the document is transmitted at either of the following times, the document is deemed to be served on the next business day: (i) after 4 p.m. on a business day."

32. This deeming provision is mandatory and cannot be circumvented by informal correspondence.

33. While it would have been open to the **Applicant Party** to wait until 4:01 p.m. on September 22, 2026, such a step would have played into the **Purported Opposing Parties**' attempted procedural manoeuvre. More critically, it would not matter, *de jure*, whether the **"Joint Response Book [Sic]"** was transmitted before or after 4:00 p.m., as the document is a legal fiction per se. A "Court Form" may be varied under Rule 79(3)(a), but a Response Book is not a Court Form and must be completed in accordance with the Completion Instructions, filed, and then served on *each* Rule 64(1)(a) and (b) "Party" (see: Rule 62(4)).

34. If the **Purported Opposing Parties**' extra-**Enactment** correspondence and defectively provided documents were transmitted after the 4:00 p.m. threshold, they are strictly deemed served on the next business day. The **Applicant Party** relies absolutely upon the precision of the *Court of Appeal Rules* and rejects any attempt to manipulate timelines or construct artificial urgency through non-compliant, late-afternoon transmissions.

PART 3: THE EXCLUSIVITY OF SECTION 32 DISPENSATION POWERS AND RULE 41

35. The **Purported Opposing Parties**' attempt to dispense with the mandatory oral hearing requirement of Rule 62 through an informal letter to the Registrar constitutes a clear error of law and a circumvention of the *COAA*. The statutory architecture governing the dispensation of Rules and the extension or abridgment of timelines is rigid, exclusive, and strictly reserved for the judiciary.

36. Section 32(1) of the *COAA* explicitly and unequivocally delineates the jurisdictional boundary: **"A justice may dispense with a requirement of the Rules."** This extraordinary power is conferred solely upon a justice. The statute does not authorize the Registrar to dispense with any requirement of the *Court of Appeal Rules*, nor does it permit litigants to dispense with mandatory Rules through consensus, correspondence, or informal communication. The Registrar is statutorily barred from entertaining any informal request to abandon an oral hearing mandated by Rule 62.

37. Furthermore, should the **Purported Opposing Parties** attempt to characterize their request as involving an extension or abridgment of time limits, s. 32(3) of the *COAA* dictates that a justice may extend a time limit even if it has expired. However, such an extension is subject to strict procedural prerequisites. Section 32 is inextricably tethered to Rule 41 of the *Court of Appeal Rules* (General Applications), which governs applications to vary timelines or dispense with procedural requirements.
38. To successfully invoke the dispensation or extension powers under s. 32, the defaulting or moving party must apply formally. Under the *Court of Appeal Rules*, an application to a justice to dispense with a Rule or vary a timeline requires a specific evidentiary and procedural matrix, including: (a) the filing of a formal Notice of Application in Form 4; (b) the filing of supporting Affidavits containing the requisite evidentiary foundation; and (c) the submission of a Written Argument.
39. The **Purported Opposing Parties** have filed none of these mandatory instruments. They have submitted: (a) no Form 4; (b) no sworn evidence justifying dispensation of the requirements of the *Court of Appeal Rules* to: (i) file a Response Book; (ii) serve a filed Response Book; (iii) file and serve a Response Book on each Party; and (c) no materials addressing any other mandatory requirements under the *Court of Appeal Rules*.
40. By attempting to secure a s. 26 written-only hearing—transmitted only to the **Applicant Party**—via a letter sent solely through the LSBC, the **Purported Opposing Parties** have engaged in a procedural approach that is incompatible with the *COAA* and the *Court of Appeal Rules*.
41. Simply put, they have engaged in obstructionist conduct which can only be inferred to be, with such experienced legal counsel, to be intentional violations of law.
42. Their failure to comply with the mandatory statutory and rule-based requirements is complete, and their attempt to bypass Rule 62 through informal correspondence is without legal foundation. Such acts were not merely voidable but void ab initio, void, and of no force and effect. Parties, statutory and/or prescribed, cannot even waive by consent, requirements of the *COAA* and the *Court of Appeal Rules* as only a Justice may do so.

PART 4: THE PROCEDURAL INVALIDITY OF THE "JOINT RESPONSE BOOK [SIC]", ADVERSARIAL ALIGNMENT, AND RULE 63

43. The **Applicant Party** brings this Form 4 Notice of Application to strictly enforce the pure, rule-based appellate geometry of the *Court of Appeal Rules*.
44. The instrument accepted as filed by the Registrar—submitted presumably by the LSBC on behalf of the **Purported Opposing Parties** and styled as a **"Joint Response Book [Sic]"**—is a procedural phantom.

The *Court Services Online* ("CSO") portal does not permit the filing of any joint adversarial "document" (see: Rule 1(1)). The only joint filing categories authorized under the *Court of Appeal Rules* are: (a) joint appeal books; and (b) joint books of authorities.

45. The *Court of Appeal Rules* simply do not authorize a **"Joint Response Book [Sic]"**. The Registrar possessed no jurisdiction under any **Enactment** to accept such a legal-fiction document. It is a fabricated filing category entirely absent from the governing statutory and regulatory framework.

46. Rule 62(4) explicitly dictates the mandatory obligations for responding to an application to vary: **"A person who wishes to respond to an application book… must file and serve… a response book."** The Rule imposes a singular, individual obligation on **"a person"** to file **"a response book."** Not joint. Not combined. Not consolidated. A response book. Singular.

47. It is axiomatic that the LSBC is a singular Appellant under the file number assigned to its Appeal, and the TLABC and Mr. Westell are singular Appellants under the file number assigned to their Appeal. The AGBC is a singular Respondent. Each is required to file and serve their own individual Response Book.

48. The word "joint" is entirely absent from the *COAA 2021*. However, the word "joint" appears exactly fourteen times within the modernized *Court of Appeal Rules 2022*. A rigorous statutory construction reveals that the Legislature specifically and exclusively authorized "joint" filings **only** in the context of: (a) a "joint appeal book" (Rule 26(1), (4), and (5)); (b) a "joint book of authorities" (Rule 28(3) and (4)); and (c) a "joint appeal book on cross appeal" (Rule 30(1) and (2)).

49. There is a fundamental structural reason why the Rules allow "joint" filings strictly for appeal books and books of authorities: these are neutral, administrative compilations of shared evidentiary materials. A joint appeal book is prepared jointly by all parties to organize the record. It is an administrative efficiency.

50. Conversely, a Response Book under Rule 62 is not a neutral compilation; it is an adversarial submission. It contains argument, procedural posturing, and sworn affidavits. The Rules deliberately do **not** permit joint adversarial filings. The Registrar cannot spontaneously create such a category, nor can the Registrar consolidate adverse parties into a single "unit" with a single **"Joint Response Book [Sic]"**.

51. This structural defect is fatal given the specific adversarial alignment of the parties in CA51535 and CA51536. The LSBC is an Appellant under its designated file number. The TLABC and Mr. Westell are joint Appellants under the designated BCCA file number. The AGBC is a Respondent. While the LSBC, and TLABC and Mr. Westell, could not file a **"Joint Response Book [Sic]"**, adding the AGBC and LGIC are purported joint completers under a singular filer, through counsel to the LSBC's CSO filing account, was particularly egregious when the AGBC and LGIC are adverse parties in the underlying litigation to the LSBC, TLABC and Mr. Westell and adverse statutory parties under the *COAA*. The Rules do not permit adverse parties to file a joint, consolidated adversarial response. This is a categorical defect of procedural alignment.

52. Furthermore, any attempt by the **Purported Opposing Parties** to justify the fabrication of a **"Joint Response Book [Sic]"** by relying on the variation allowance under Rule 79 is fundamentally doomed by strict statutory definitions. Rule 79(1) defines a "Court Form" precisely as "a document that is required under these Rules to be filed using a specified form [set out in Schedule 3]." While Rule 79(3)(a) allows a Court Form to be prepared "with variations as the circumstances or the proceedings require," a Response Book is **not** a Court Form.

53. A Response Book is a substantive document governed exclusively by Rule 62 and the Completion Instructions. However, it is **not** a "Court Form" and cannot be varied as It is entirely absent from the forms codified in Schedule 3. Ergo, the statutory allowance for "variations" is categorically inapplicable. The title page submitted by the institutional litigants—boldly declaring itself a **"Joint Response Book [Sic]"** on behalf of both Appellants and Respondents—is an unauthorized fabrication that cannot be saved by Rule 79. Because it is not a Court Form, it cannot be varied. It is an illicit document that must be summarily struck.

54. As established above, only a justice may dispense with compliance with the Rules pursuant to s. 32(1) of the *COAA*. The Registrar cannot modify Rule 62 or accept filings not authorized by the Rules. Therefore, the Registrar could not accept a **"Joint Response Book [Sic]"** unless a justice explicitly ordered it. No such dispensation order exists. The filing is *ultra vires*, irregular on its face, and improperly before the Court.

55. Furthermore, the lack of service is not merely cosmetic; it is a profound substantive defect. Rule 62(4) requires service of the Response Book "on each party." The **Purported Opposing Parties** failed to serve the broader matrix of counsel and interveners. This defect affects the validity of the **Joint Response Book** [sic], the ability of the Court to rely upon it, and the fundamental fairness of the Rule 62 process.

56. Because the Registrar's acceptance of this fabricated instrument constituted a "direction", but not an Order, under the *COAA*, the **Applicant Party** is mathematically required to bring this Rule 63 application to set aside that direction and formally strike the unauthorized document from the record. However, the end result is the same relating to the invalidity of the **"Joint Response Book [Sic]"** albeit the consequential relief of striking and expunging is distinct.

PART 5: THE STATUTORY MANDATE OF RULE 62 AND THE PROHIBITION OF NULLITIES

57. It is systematically acknowledged that Rule 62(5) of the *Court of Appeal Rules* explicitly mandates that the date, time, and place for the hearing of an application under said Rule **must** be set by the Registrar. The public-facing guidance of the Court of Appeal further notes that such hearings are presumptively 30 minutes in duration.

58. The imposition of a strict thirty-minute temporal limitation unequivocally signifies the Legislature's contemplation and mandate of an **oral hearing**. Limiting the time for a hearing that is purely written is a logical impossibility and a procedural absurdity. A written-only process has no "hearing time" to limit. Consequently, the invocation of s. 26(1)(c) or s. 26(1)(d) of the *COAA* to limit or eliminate the hearing is strictly ***ultra vires*** the specific statutory architecture governing variance applications under Rule 62.
59. As dictated by the venerable maxim *generalibus specialia derogant* (special provisions derogate from general ones), the specific temporal and structural requirements formulated exclusively for variance applications in Rule 62(5) strictly override the generalized, discretionary parameters of s. 26 of the *COAA*. A failure to apply the governing statutory text to orchestrate the hearing constitutes a pure, extricable error of law.

PART 5(A): SECTION 19 OF THE COAA: IRREGULARITIES VS. NULLITIES

60. Section 19 of the *COAA* provides that an Appeal is not defeated by an "irregularity or procedural error" in the conduct of the appeal. Section 19(2) empowers a justice to validate an act, impose terms, or make any order necessary to address such irregularities or procedural errors.
61. However, the statutory protection afforded by s. 19 applies **only** to irregularities — not to **nullities**. A nullity is not an "irregularity" within the meaning of s. 19(1). A nullity is a legal non-event: an act done without jurisdiction, without authority, or contrary to an **Enactment**. A nullity cannot be validated, cured, or retroactively regularized under s. 19(2). It is void ab initio.
62. The acceptance for filing of a **"Joint Response Book [Sic]"** by the Registrar is not an irregularity; it is a **nullity**. The Registrar had no jurisdiction under any **Enactment** to accept a fabricated filing category not authorized by the *Court of Appeal Rules*. The document is not merely defective — it is legally impossible. It is a filing that the Rules do not permit to exist.
63. Because s. 19 cannot cure a nullity, the **"Joint Response Book [Sic]"** cannot be validated, cannot be regularized, and cannot be salvaged by judicial discretion. It must be struck. The **Applicant Party** is therefore mathematically required to bring this Rule 63 application to set aside the Registrar's acceptance of the nullity and to formally expunge the unauthorized document from the record.

PART 6: NOVELTY, THE PUBLIC INTEREST, AND THE OPEN COURT PRINCIPLE

64. The present opposition engages a novel and unresolved issue of law under the modernized *COAA 2021* and the contemporary *Court of Appeal Rules 2022*. The interaction between the mandatory hearing parameters of Rule 62 and the discretionary written-only mechanisms of s. 26 of the *COAA*, in the context

of an unauthorized request not properly predicated *de jure*, remains an undecided and critical frontier of appellate jurisprudence in British Columbia.

65. The procedural mechanism advanced by the **Purported Opposing Parties** fundamentally engages the open court principle, a constitutional pillar of the Canadian justice system protected under s. 2(b) of the *Canadian Charter of Rights and Freedoms*. As articulated by the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25, and *Vancouver Sun (Re)*, 2004 SCC 43, the public ventilation of judicial proceedings is essential to maintaining institutional legitimacy, democratic accountability, and public confidence in the administration of justice.

66. The present application does not concern routine interlocutory matters. It is tethered to allegations of serious state-action irregularities and the procedural consequences arising from those allegations. The public holds a legitimate interest in observing the appellate division address the statutory, procedural, and jurisdictional issues raised in open court. This matter engages the highest level of public interest in the proper functioning of the justice system.

67. By seeking to force this adjudication into a written-only process under s. 26 of the *COAA*, the **Purported Opposing Parties** attempt to bypass the mandatory oral hearing structure prescribed by Rule 62. Such an approach would improperly quarantine the adjudication of issues that, by their nature, require public ventilation and judicial transparency. The open court principle prohibits the displacement of an oral hearing where the governing **Enactment**s mandate one.

PART 7: THE INAPPLICABILITY OF THE SECTION 26 JURISPRUDENCE

68. Assuming arguendo that the **Applicant Party** was put to argue the same, he respectfully provides the following.

69. The jurisprudential authorities proffered by the **Purported Opposing Parties** to substantiate the dispensation of an oral hearing are categorically distinguishable, factually impoverished, and profoundly inapplicable to the present matrix. The discretionary authority encapsulated within section 26 is customarily reserved for matters devoid of substantive complexity or wherein the administration of justice is uncontrovertibly served by written submissions.

70. A rigorous legal deconstruction of the authorities relied upon demonstrates their absolute irrelevance to an application addressing a jurisdictional nullity, as elucidated within the comparative table below:

Authority	Procedural Context	Distinguishing Factor (Nullity vs. Irregularity)

Gonzalez v. British Columbia (Attorney General), 2023 BCCA 155	Vexatious litigant, obvious lack of merit in an application for review.	The appellate tribunal dispensed with an oral hearing strictly upon the foundation of a lack of merit involving an existing vexatious litigant. The present matter engages profound constitutional issues, novel interpretations of the 2021 *COAA*, and strict *ultra vires* actions by a chambers justice.
Vesuna v. Stillwater Waterworks District, 2023 BCCA 431	Consent disposition regarding an *ex parte* substituted-service order.	Engaged a scenario wherein an appeal was allowed by absolute consent. In the present circumstances, vigorous, unyielding opposition is registered against the circumvention of the open court principle.
Raju v. Red Door Housing Society, 2025 BCCA 340	Judicial review of a residential tenancy dispute involving voluminous materials.	Involved a standard administrative review concerning residential tenancies. Here, the underlying issue is fundamental procedural fairness, acts executed *coram non judice*, and the suppression of forensic evidence.
Portnov v. Alexander Holburn Beaudin + Lang LLP, 2026 BCCA 193	Adjournment request where comprehensive materials were already filed.	Involved an adjournment request on a pedestrian civil practice issue. The instant matter engages catastrophic jurisdictional usurpation demanding absolute transparency.

71. By attempting to rely upon the aforementioned jurisprudence, the **Purported Opposing Parties** have strategically endeavoured to conflate a catastrophic jurisdictional nullity with a mere procedural irregularity. The adjudication of a nullity requires the purifying sunlight of an oral hearing.

PART 8: THE EVIDENTIARY VOID AND THE ABUSE OF PROCESS

72. The tactical refusal of the institutional litigants to engage with the substantive forensic evidence—electing instead to file an unauthorized **"Joint Response Book [Sic]"** that labels an exhaustively cited fifty-seven-page legal argument detailing unconstitutional state-sponsored digital incursions as indecipherable—crystallizes the evidentiary void.

73. It is advanced that the attempt to utilize the section 26 mechanism operates as a transparent stratagem to shield the profound constitutional violations, the Deflate64 compression algorithms masking the true binary state of the extracted files, and the binding formal admissions from public ventilation. Such a maneuver is *ipso facto* an abuse of process.
74. The administration of justice is incontrovertibly prejudiced when severe jurisdictional defects are swept into an administrative vacuum. Section 26 cannot be weaponized by institutional litigants to insulate themselves from accountability regarding actions that were executed without the requisite jurisdiction and thus rendered absolute constitutional nullities.

PART 9: STRIKING THE "JOINT RESPONSE BOOK [SIC]"

75. Under this heading, the **Applicant Party** repeats and relies upon his argument contained in his filed Application Book of September 15, 2026.
76. In the absence of an explicit provision within the *Court of Appeal Rules* specifically governing the striking of unauthorized, incidental responsive documents, the adjudicative body is mandated by section 18(2) of the *COAA* to apply the *Supreme Court Civil Rules* by analogy. Consequently, Rule 9-5 of the *BCSC Civil Rules* is irrevocably engaged to adjudicate the expungement of the Appellants' **"Joint Response Book [Sic]"** and associated memoranda.
77. In *Walker v. John Doe*, 2014 BCSC 830, The Honourable Mr. Justice Butler definitively established that the jurisdiction granted by Rule 9-5(1) extends far beyond originating pleadings to encompass "other documents" filed within a proceeding. The deliberate insertion of cost-threats into boilerplate notices was struck as an abuse of process. By analogy, the deliberate insertion of a fabricated, procedurally non-existent **"Joint Response Book [Sic]"** into the appellate registry—explicitly designed to bypass the mandatory service matrix and consolidate adverse parties into an unlawful alliance—constitutes an analogous misuse of procedural mechanisms demanding expungement.
78. Applying the jurisprudence of Rule 9-5(1)(b) and (c), the impugned filings are demonstrably scandalous, frivolous, and inherently prejudicial (*Gill v. Canada*, 2013 BCSC 1703; *McNutt v. A.G. Canada*, 2004 BCSC 1113). They serve no useful purpose because they advance arguments predicated upon a defunct 2018 lower-court order, constituting a direct, impermissible collateral attack upon the Court of Appeal's own subsequent acceptance of jurisdiction in docket CA45786 (*Wilson v. The Queen*, 1983 CanLII 35 (SCC)).
79. Furthermore, applying Rule 9-5(1)(d), the filings constitute an absolute abuse of process. As definitively articulated by the Supreme Court of Canada in *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26, the failure of a party to challenge jurisdictional validity at the appropriate temporal juncture—opting instead

to deploy self-help remedies and subsequently mount a defense based upon those unaddressed historical grievances—constitutes a flagrant abuse. The Appellants deliberately slept on their rights during the 2019 appellate proceedings (*McLean v. British Columbia*, 2019 BCCA 133) and are now strictly estopped from manufacturing a retroactive standing objection. The analogous application of Rule 9-5 demands the immediate striking of the Joint Response Book and the offending memoranda.

PART 10: THE NON-IRREGULARITIES IN THE FORM OF THE NULLITIES AND CONSEQUENTIAL RELIEF

80. Rule 36 authorizes a Justice to do the following when there has been a "failure to comply:

36 A justice may do one or more of the following if a party fails to comply with this Act or the rules or an order or direction of the court, a justice or the registrar:

(a)refuse to hear the party;

(b)impose terms and conditions, including the payment or disallowance of costs;

(c)if the party is an appellant, dismiss the appeal as abandoned.

81. The former section , which read as follows, from 1996 to 2021:

> Non-compliance
> 28 If a party fails to comply with this Act or the rules, the court or a justice may
>
> (a)dismiss the appeal as abandoned if the party is the appellant,
>
> (b)refuse to hear the party, or
>
> (c)impose terms including terms respecting the payment or disallowance of costs or disbursements.

82. Both the current s. 36 and former s. 28 use the word "party," referring to a Statutory Party. The repealed section permitted either the Court or a justice to exercise the dismissal and refusal jurisdiction. Under the current s. 36, only a justice may do so.

JURISPRUDENCE UNDER CURRENT SECTION 36

83. Most jurisprudence under the current s. 36 concerns failures to pay security for costs or failures to file documents within prescribed timelines.

84. In *Momeni v. Percy*, 2023 BCCA 295, former tenants (appellants) attempted to serve an appeal record on their landlords (respondents) via registered mail. The respondents applied to dismiss the appeal as

abandoned under s. 36(c) because registered mail is not a permitted method of service under the *Court of Appeal Rules* unless explicitly authorized. Although the justice agreed the service was invalid, dismissal was considered too "draconian" for an early-stage misstep that was not egregious.

85. Here, by contrast, the Purported Opposing Parties did not merely choose an improper method of service. The *Joint Response Book* [sic] was and is a nullity on its face and in substance, incapable of being served at law. The numerous violations of the *COAA* and the *Court of Appeal Rules* are far more egregious than the conduct of self-represented tenants in *Momeni*.

86. Moreover, the Purported Opposing Parties' failure even to attempt service of the *Joint Response Book* [sic] on each Party under Rule 62(4), citing Rule 64(1)(b), supports the inference that they knew the *Joint Response Book* [sic] was a nullity at law. Their conduct is consistent with bad faith, dishonesty, and fraud on the Court.

87. By syllogism, granting relief dismissing the Appeals as abandoned is not too draconian when considering the numerous, intertwined violations of the *COAA* and the *Court of Appeal Rules*

JURISPRUDENCE UNDER THE FORMER SECTION 28 OF THE COAA

88. In *British Columbia v. Leyen*, 2006 BCCA 180, Justice Davies held that where Appeals are hopeless, this militates in favour of dismissing the Appeals as abandoned.

89. The Applicant Party repeats and relies upon the filed documents in the Application Book regarding the hopeless nature of the Appeals, including fraud on the Court, the law of admissions without any cross-appeal, and abuse of process (which has continued as a pattern by the LSBC).

PART 11: NATURE OF THE ORDERS REQUESTED

90. The **Applicant Party** respectfully requests the following relief on a preliminary basis and prior to the hearing of his Form 8 (September 9, 2026) supported by his filed Application Book (September 15, 2026) and his BOA (September 17, 2026):

Part 11(A): Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and
D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Part 11(B): Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings")

in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule

41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.
Dated at the City of Toronto, Province of Ontario, this 25th day of September 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party
68 Abell St. (Receptionist desk) Toronto, ON M6J 0B1
Email: mclean@searchandseizure.ca

---

[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.
[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a "Court Form" and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a "Response Book" is not discretionary as it must be prepared in accordance with the "Completion Instructions". Part of the "Completion Instructions" required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page
Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of "filing parties" is not required for joint book like a "Joint Appeal Book" (see: Rule 26) or a "Joint Book of Authorities" (see: Court of Appeal Rules, rule 27)

APPENDIX “A”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535/CA51536 - Service of Response Book and Letter

5 messages

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 6:26 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Please find attached the Joint Response Book of the parties, filed today in response to your application to vary or cancel the order of Justice Horsman.

Also attached is a letter from the parties to the Registrar of the Court of Appeal, which we will be filing momentarily. We will provide you with a filed copy of the letter in due course.

Regards,

Jonathan

Jonathan Andrews | Associate
D 604.631.9270 | **E** jandrews@lawsonlundell.com
Lawson Lundell LLP 1600 - 925 West Georgia Street, Vancouver, BC V6C 3L2
Vancouver | Calgary | Yellowknife | Kelowna

Disclaimer - This email and any accompanying attachments contain confidential information that may be subject to solicitor-client privilege and are intended only for the named recipients. If you have received this email in error, please notify the sender and destroy the email. Our e-mail terms of use can be found at https://www.lawsonlundell.com/legal/terms

2 attachments

Joint Response Book - Vary Order of a Justice - F_ September 21, 2026.PDF
874K

2026-09-21 LT Court of Appeal (Registrar) re Kevin McLean Rule 62 Application.PDF
267K

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 7:03 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews

<wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Further to my email below, here is a filed copy of the letter.

Regards,

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

[Quoted text hidden]
[Quoted text hidden]

2026-09-21 LT Court of Appeal Registrar - F_ September 21, 2026.PDF
268K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 2:48 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Subject: CA51535 / CA51536 – Service of “Joint Response Book” [sic] – confirmation of receipt not service *per se*

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I thank Mr. Andrews for his two emails and confirm receipt of the same.

I also confirm receipt of your “Joint Response Book” [sic] purportedly filed today in response to my application to vary or cancel the order of Justice Horsman. As you are aware, the Court of Appeal Rules do **not** authorize a “joint” response book, and such a filing is a **nullity** under Rule 62.

Leaving that aside, Rule 62(4) requires that *each person* who wishes to respond must file and **serve** a response book on the applicant and on **each party** described in Rule 64(1)(b). Based on the recipients included in Mr. Andrews’ email, I will presume that this “Joint Response Book” [sic] was **not** served on all Rule 64(1)(b) parties.

If purported service was effected separately (i.e., by a separate email to the prescribed parties), please provide proof of service forthwith.

I will address the remainder of the issues involving the same separately but it was important to confirm that (as the email addresses based upon a cursory review do not appear to include all legal representatives of parties as passed by the LGIC in 2022 under the Court of Appeal Rules) some “Prescribed Parties” were not included and were not served within seven days of a receipt of my Application Book.

I reserve all of my rights in fact and at law.

Regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Appendix – Rule 62(4)

“A person who wishes to respond to an application book filed under subrule (2)(b) must file and serve, on the applicant and on each party not more than 7 days after being served the application book, a response book prepared in accordance with the completion instructions.”

[Quoted text hidden]

Jonathan Andrews <jandrews@lawsonlundell.com> Wed, Sep 23, 2026 at 3:31 PM
To: "Mr. Kevin Alexander McLean" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean, we acknowledge receipt of your email.

Regards,

Jonathan

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

From: Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>
Sent: Wednesday, September 23, 2026 11:49 AM
To: Jonathan Andrews (3270) - 14Flr <jandrews@lawsonlundell.com>
Cc: Lapper, Emily AG:EX <emily.lapper@gov.bc.ca>; Trevor.Bant <trevor.bant@gov.bc.ca>; Ortega, Sergio AG:EX <sergio.ortega@gov.bc.ca>; Karin.Kotliarsky <karin.kotliarsky@gov.bc.ca>; Gavin Cameron <gcameron@fasken.com>; tposyniak <tposyniak@fasken.com>; Laura Abrioux <labrioux@fasken.com>; Will

Andrews <wandrews@fasken.com>; Craig Ferris (3197) - 14Flr <cferris@lawsonlundell.com>; Laura Bevan (3106) - 14Flr <lbevan@lawsonlundell.com>; Nicole Welsh (3193) - 14Flr <nwelsh@lawsonlundell.com>; Lindy Grant (3258) - 14Flr <lgrant@lawsonlundell.com>; Nastasia Virvilis (3497) - 14Flr <nvirvilis@lawsonlundell.com>
Subject: Re: CA51535/CA51536 - Service of Response Book and Letter

> EXTERNAL EMAIL - This email was sent by a person from outside your organization.

[Quoted text hidden]

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:37 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Thank you kindly Mr. Andrews and I hope you are all well. You will want to review my email to all of the Rule 64(1)(b) ‘parties’ (persons therein). I will be somewhat strict herein without being rude that all future correspondence regarding these issues shall be in that email thread. Please respond therein and I will respond in kind should any further correspondence be applicable or required.

[Quoted text hidden]

APPENDIX “B”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK" and non-service on ALL "Prescribed Parties" within seven days of September 15, 2026

1 message

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:31 PM
To: Chambers <Chambers@bccourts.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, lkt@tdslaw.com, Ian Knapp <iknapp@macfuj.com>, amackenzie@macfuj.com, "XT:Olthuis, Brent AG:IN" <bolthuis@ovcounsel.com>, dredman <dredman@arvayfinlay.ca>, David Wu <dwu@arvayfinlay.ca>, cbildfell@mccarthy.ca, "Frame, Lindsay" <lframe@mccarthy.ca>, roy.millen@blakes.com, nicholas.tollefson@blakes.com, joey@doyledefence.ca, ekirkpatrick@mcewanpartners.com, cdauvergne@litigationchambers.com, jmaclaren@accessprobono.ca, kyla@vancouvercriminallaw.com, rpeck@peckandcompany.ca, csenini@peckandcompany.ca, pmueller@peckandcompany.ca, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, cferris <cferris@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, mring@lawsonlundell.com, ccrane <ccrane@ovcounsel.com>, Chris Pang <cpang@ovcounsel.com>, mmiharija@ovcounsel.com, szarb@macfuj.com, "Lever, Vanessa AG:EX" <vanessa.lever@gov.bc.ca>, "KDOUMAKIS@mccarthy.ca" <KDOUMAKIS@mccarthy.ca>, kotto@lawsonlundell.com

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Reply via email: mclean@searchandseizure.ca

Date: September 23, 2026
Classification: Private and Confidential
Sending method: Via Email at first instance

To: Chambers@bccourts.ca; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; emily.lapper@gov.bc.ca; trevor.bant@gov.bc.ca; karin.kotliarsky@gov.bc.ca; sergio.ortega@gov.bc.ca; lkt@tdslaw.com; iknapp@macfuj.com; amackenzie@macfuj.com; bolthuis@ovcounsel.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; cbildfell@mccarthy.ca; lframe@mccarthy.ca; roy.millen@blakes.com; nicholas.tollefson@blakes.com; joey@doyledefence.ca; ekirkpatrick@mcewanpartners.com; cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; kyla@vancouvercriminallaw.com; rpeck@peckandcompany.ca; csenini@peckandcompany.ca; pmueller@peckandcompany.ca; lbevan@lawsonlundell.com; jandrews@lawsonlundell.com; nwelsh@lawsonlundell.com; cferris@lawsonlundell.com; lgrant@lawsonlundell.com; mring@lawsonlundell.com; ccrane@ovcounsel.com; cpang@ovcounsel.com; mmiharija@ovcounsel.com; szarb@macfuj.com; vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com

SUBJECT I: CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK"
SUBJECT II: FATAL NON-COMPLIANCE WITH MANDATORY SERVICE PROTOCOLS PURSUANT TO RULE 62(4) AND RULE 64(1)(B)
SUBJECT III: THE UNOPPOSED RECORD, THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION, AND ETHICAL APPREHENSIONS

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND IDENTIFICATION OF THE IMPUGNED ACTA

1. Correspondence is hereby effectuated to formally address the procedural ambuscade orchestrated by the Law Society of British Columbia, the Trial Lawyers Association of British Columbia, and the Attorney General of British Columbia (collectively, the "Purported **Purported Opposing Parties**"). It is strictly noted for the appellate record that the instrument transmitted by the **Purported Opposing Parties** on the late afternoon of September 21, 2026, styled extra-statutorily as a "Joint Response Book", alongside the accompanying informal correspondence directed to the Registrar (collectively, the "Impugned Instruments"), are recognized in law as absolute jurisdictional nullities.

2. The Impugned Instruments are definitively void *ab initio* and of no force or effect. By appending the historical email transmissions to this correspondence—whilst intentionally severing the attachments containing the Impugned Instruments—the inadvertent sanitization of an incurable jurisdictional defect is systematically precluded.

PART 2: THE STRUCTURAL INVALIDITY OF THE "JOINT RESPONSE BOOK" [SIC]

Subheading 2(A): Unauthorized Procedural Fabrication

3. A rigorous statutory deconstruction of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Court of Appeal Rules"), reveals the undeniable absence of any provision authorizing the amalgamation of adversarial entities into a singular, consolidated response mechanism. It is an immutable axiom of statutory interpretation, governed by the maxim *Expressio unius est exclusio alterius* (the explicit mention of one thing is the exclusion of another), that the explicit legislative authorization for a "joint appeal book" and a "joint book of authorities" definitively precludes the spontaneous fabrication of a "joint response book".

4. The **Purported Opposing Parties** have attempted to superimpose a procedural fiction upon the appellate registry. Inasmuch as the Registrar is fundamentally divested of the statutory jurisdiction to accept filing categories entirely absent from the governing enactments, the acceptance of said instrument was executed strictly *ultra vires* and *coram non judice*. A valid order or direction cannot be precipitated from an unauthorized mechanism; as the venerable maxim dictates, *Nemo dat quod non habet* (no one can give what they do not have).

PART 3: FATAL TRANSGRESSION OF MANDATORY SERVICE PROTOCOLS

Subheading 3(A): The Strictures of Rule 62(4) and Rule 64(1)(b)

5. Assuming, *arguendo*, that the fabricated instrument could miraculously transcend its status as an absolute nullity, the **Purported Opposing Parties** have catastrophically failed to execute the mandatory service protocols dictated by the *Court of Appeal Rules*. Pursuant to *rule 62(4)*, any "person" (as comprehensively defined under section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238) who wishes to respond to an Application Book is statutorily compelled to file and serve the response book on the applicant and on *each party*.

6. Concurrently, *rule 64(1)(b)* of the *Court of Appeal Rules* explicitly and unequivocally expands the definition of a "party", in relation to an application, to encompass any person who is served with a notice of application (the "Prescribed Parties"). It is empirically verifiable, upon a meticulous examination of the transmission matrix utilized by Mr. Jonathan Andrews on September 21, 2026, that the **Purported Opposing Parties** deliberately and exclusively restricted their service to themselves and the Applicant Party.

7. The broader constituency of counsel, interveners, and interested entities—who definitively obtained status as Prescribed Parties upon the antecedent service of the Applicant's Form 4 and Form 8 Notices of Application—were conspicuously and unlawfully excluded from the service matrix.

PART 4: THE EXPUNGEMENT AS A MERE ADMINISTRATIVE FORMALITY

8. It is advanced that the formal striking of the Impugned Instruments is not an adversarial contest necessitating substantive legal adjudication, but rather a mere administrative formality. Inasmuch as the "Joint Response Book" is a legal fiction entirely unrecognized by the *Court of Appeal Rules*, its removal from the registry ledger operates strictly as an exercise in fundamental procedural housekeeping.

9. Consequently, it is definitively confirmed that the **Purported Opposing Parties**, by deploying an unauthorized nullity and subsequently failing to execute service upon the Prescribed Parties, possess absolutely nothing before the Court of Appeal in response to the Form 8 Notice of Application.

PART 5: THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION AND ETHICAL APPREHENSIONS

Subheading 5(A): The Statutory Strictures of Section 32 and Rule 41

10. Should the **Purported Opposing Parties**, operating in their capacities as Prescribed Parties, seek to cure this fatal procedural entanglement, they are statutorily compelled to advance an application to dispense with the rules or extend the temporal limitations pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"), and *rule 41* of the *Court of Appeal Rules*.

11. A profound procedural paradox thereby arises: to retroactively legitimize the fabricated "Joint Response Book," these facially adversarial entities would be mathematically compelled to advance a joint Notice of Application. Such a unified, dependent posture betwixt supposed adversaries is posited to be a procedural impossibility and a direct affront to the structural integrity of the adversarial system.

12. The adjudication of the Form 8 Notice of Application is therefore left entirely unopposed. Given that the standard of review upon all issues, questions, and determinations before the Division panel is strictly that of correctness, the Applicant Party stands ready, willing, and able to present oral submissions the moment the Registrar mathematically complies with the mandatory scheduling dictates of *rule 62(5)*.

13. It is strictly confirmed that the Applicant Party shall not transmit, distribute, or forward the defective "Joint Response Book" to the unserved Prescribed Parties. Such transmission is unequivocally declined to systematically preclude any judicial or administrative inference that the Applicant Party has inadvertently waived the jurisdictional defect, cured a procedural irregularity, or sanitized an absolute nullity.

SUBHEADING 5(C): ETHICAL APPREHENSIONS AND THE ESCALATION OF NOTICE

14. It is hereby placed on the formal record that any prospective Notice of Application seeking an extension of time or dispensation of the rules to validate this nullity will be met with unyielding opposition. Furthermore, special costs will be vigorously sought against opposing counsel in their personal capacities, as seasoned appellate counsel are presumed to possess actual knowledge of these fundamental procedural architecture flaws.

15. The coordinated, extra-statutory maneuvering betwixt purported adversaries raises severe apprehensions regarding the nature of the communications occurring outside the purview of the Court. It is profoundly concerning that counsel for the Attorney General of British Columbia appears structurally uninvested in defending the rule of law or upholding the democratically enacted *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"). Consideration is presently being actively directed toward formally escalating these concerns to the attention of The Honourable Niki Sharma, Attorney General of British Columbia, regarding the posture adopted by Crown counsel. However, such determination will be considered in due course and be responsive to any potential NOA's by the now unit of the LSBC, TLABC (with Mr. Westell) and the AGBC (with LGIC). Bluntly speaking, so much for the notion that the LSBC and TLABC wanted independence from the BC government.

PART 6: CONCLUSION AND ANTICIPATED RELIEF

16. In my view, the Appellants have now also put into "legal play" for my submissions to cancel and very the purported Orders of Horsman J. and naturally have the relief sought in my Form 4 NOA (August 12, 2026), the section 36 of the COAA titled, "Failure to comply". I also note that in light of the nullities at issue, section 19 of the COAA is inapplicable to save the conduct of the Appellants.
17. The administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved, including but not limited to the pursuit of special costs awarded jointly and severally for intentional violations of the operative enactments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

/s/ Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party
Email: mclean@searchandseizure.ca

APPENDIX: STATUTORY AND REGULATORY EXTRACTS

Court of Appeal Act, S.B.C. 2021, c. 6

Definitions
1 In this Act:
"order" includes
(a) a judgment or decree, and
(b) an opinion, advice, direction, determination, decision or declaration that is specifically authorized or required under an enactment to be given or made;

Dispensing with rules and varying time limits
32 (1) A justice may dispense with a requirement of the rules.
(2) A justice may extend or shorten the time limit provided in this Act or the rules for doing an act.
(3) A justice may extend a time limit under subsection (2) even if the time limit for doing the act expired before the person applies for the extension.

Court of Appeal Rules, B.C. Reg. 120/2022

Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 [dispensing with
Edit directly or with Gemini
Click anywhere to type and edit directly, or select text to prompt Gemini for changes.

--
Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

NOTA BENE: This email is for dispute resolution and litigation purposes only. Without prejudice communication so denoted invokes settlement privilege.

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Appendix “C”

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4398900

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 25-Sep-2026 03:16

Submitted Through: Court Services Online

Filing Comments: Re: Filing of Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and Appendices Dear Registrar Outerbridge, Please accept this filing note confirming that the enclosed documents — including the Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and sequentially numbered Appendices — comply with the Court of Appeal Act and the Court of Appeal Rules, including Rule 38 and the Completion Instructions issued under COAA, s. 38. Each document tendered for filing is a Court Form or a document expressly authorized under the Court of Appeal Rules, prepared in accordance with the Completion Instructions, and served in accordance with Rule 4 and Rule 64(1)(a) and (b). As such, the documents meet all filing requirements under the Act and Rules. For clarity, and as confirmed in the Appendices, the LSBC, TLABC and Mr. Westell, and the AGBC and LGIC did not attempt to serve their Joint Response Book [sic] on each Party as required under Rule 62(4) and Rule 64(1)(b). This factual confirmation is one of several grounds supporting the Applicant Party's Form 4 Notice of Application and Written Argument, both of which are now submitted for immediate filing and will be served forthwith. I respectfully note R. v. Verma, 2005 BCCA 540, at para. 20, which confirms that where a document complies with the Rules and a party insists on filing it, the Registrar must accept the document for filing. The enclosed materials comply with all mandatory requirements. Kindly accept them for filing and issue the corresponding filing receipts. Thank you for your attention. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Print Submission Sheet

Print Receipt

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	Argument - Strike JRB et al - AP - Mr McLean - 25-09-26 - Filed.pdf	No	Submitted		Complete	View Withdraw
Application - Chambers - General	Form 4 - NOA - Strike JRB - s 36 et al - Applicant - Mr McLean - 25-09-26 - FILED.pdf	No	Submitted		Complete	View Withdraw

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4398900
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	25Sep2026
Filing Comments:	Re: Filing of Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and Appendices Dear Registrar Outerbridge, Please accept this filing note confirming that the enclosed documents — including the Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and sequentially numbered Appendices — comply with the Court of Appeal Act and the Court of Appeal Rules, including Rule 38 and the Completion Instructions issued under COAA, s. 38. Each document tendered for filing is a Court Form or a document expressly authorized under the Court of Appeal Rules, prepared in accordance with the Completion Instructions, and served in accordance with Rule 4 and Rule 64(1)(a) and (b). As such, the documents meet all filing requirements under the Act and Rules. For clarity, and as confirmed in the Appendices, the LSBC, TLABC and Mr. Westell, and the AGBC and LGIC did not attempt to serve their Joint Response Book [sic] on each Party as required under Rule 62(4) and Rule 64(1)(b). This factual confirmation is one of several grounds supporting the Applicant Party's Form 4 Notice of Application and Written Argument, both of which are now submitted for immediate filing and will be served forthwith. I respectfully note R. v. Verma, 2005 BCCA 540, at para. 20, which confirms that where a document complies with the Rules and a party insists on filing it, the Registrar must accept the document for filing. The enclosed materials comply with all mandatory requirements. Kindly accept them for filing and issue the corresponding filing receipts. Thank you for your attention.

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Chambers - General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4398900

Account ID:71252

Client ID:122957

Date: September 25, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	130131197	1515879582	Sep 25, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

BRITISH COLUMBIA

Ministry of Attorney General
Court Services Online
Submission Sheet

Court File #: CA51536
Cross Reference #: Not Provided
Package ID: 4398900
Date Submitted: 25-SEP-2026 03:16 pm

Submitted By: KEVIN MCLEAN
Client ID: 122957
Account ID: 71252
KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Chambers - General	N	Submitted	25-SEP-2026	Not Processed	N	$ 80.00	
2	Argument - Other	N	Submitted	25-SEP-2026	Not Required	N	$ 0.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	130131197	25-SEP-2026 03:16 PM	1515879582	08402G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

Appendix “D”

53
VANCOUVER
21-Sep-26
COURT OF APPEAL
REGISTRY

Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British Columbia et al

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced April 29, 2026.

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT RESPONSE BOOK

APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

---

TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA and KEVIN WESTELL

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Tom Posyniak
Laura Abrioux
Will Andrews

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Trevor Bant
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Sergio Ortega

Ministry of Attorney General
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COUNSEL FOR THE APPELLANT

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Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British Columbia et al

COURT OF APPEAL

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT MEMORANDUM OF ARGUMENT ON AN APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

---

Part 1: Facts

1. These two appeals are from the order of Chief Justice Skolrood made on April 29, 2026, dismissing the appellants' constitutional challenges to the *Legal Professions Act*, S.B.C. 2024, c. 26.[1] The appeals are set to be heard over two days on November 16-17, 2026.

2. On August 12, 2026, Kevin McLean filed a Notice of Application seeking an order granting him leave to intervene in both appeals. His Notice of Application also sought orders for "precautionary and pre-emptive relief" under section 32 of the *Court of Appeal Act* (dispensing with rules and varying time limits) and orders for "relief relating to the applicant's proposed relief, if intervention status is granted, in relation to dismissal and/or quashing." The latter included orders that the Law Society of British Columbia (the **Law Society**) be "denied standing and/or the right to be heard based upon fraud, bad faith, dishonesty and/or perjury" and orders dismissing the appeals on a summary basis under section 21 of the *Court of Appeal Act*.

3. Mr. McLean's application was heard in writing under s. 26 of the *Court of Appeal Act*, further to a request by the Law Society with the consent of all parties, and dismissed by Justice Horsman in a ruling issued on September 9, 2026.[2]

4. Justice Horsman denied Mr. McLean's request for an order granting him leave to intervene on the basis that he has "no direct interest in the appeal in the sense that his own legal rights or obligations may be affected by the proceedings" and "[h]e does not purport to have a broad representative base and offers no unique and different perspective on the constitutional issues, so there is no basis for public interest intervener status."[3]

[1] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779.
[2] *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372 [**Chambers Decision**].
[3] Chambers Decision, para. 8.

5. Justice Horsman also concluded that "none of the other relief sought by Mr. McLean is grounded in the issues raised on the appeals or the rules of procedure that govern them."[4]

Part 2: Issues

6. The issue on this application is whether the Court should vary or cancel Justice Horsman's order dismissing Mr. McLean's application. The parties submit that it should not.

Part 3: Analysis

7. Under section 29 of the *Court of Appeal Act*, the court may vary or cancel any order made by a justice, subject to certain exceptions that are not applicable here.

8. The standard of review on an application of this nature is highly deferential. As this Court recently explained: "An application to vary under s. 29 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, is not a re-hearing of the original application. The reviewing court may not intervene unless the applicants show the judge was wrong in law, wrong in principle, or misconceived the facts."[5]

9. Mr. McLean has not established any basis for the reviewing court to intervene. His written argument is incoherent. It lists eight "paramount issues" to be determined, but his submissions on these issues are indecipherable and indicate a preoccupation with individual lawyers he has encountered in his various court proceedings. Mr. McLean continues to "view these appeals as a platform to revisit his historical grievances about the Law Society's regulatory actions against him."[6]

10. There is no error of law, principle, or fact in Justice Horsman's conclusions that Mr. McLean did not meet the test for intervener status and was not entitled to any of the

[4] Chambers Decision, para. 7.
[5] *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation*, 2026 BCCA 85, para. 12.
[6] Chambers Decision, para. 8.

other relief sought in his Notice of Application of August 12, 2026. This Court should dismiss this application, with costs to the parties.[7]

Part 4: Order Sought

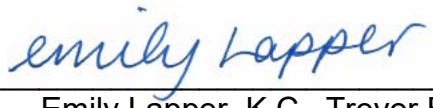
11. An order dismissing Mr. McLean's application with costs to the parties.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of British Columbia, this 18th day of September, 2026.

Craig Ferris, K.C., Laura Bevan,
Jonathan Andrews, and Nicole Welsh
Counsel for the Law Society of British Columbia

Gavin Cameron, Tom Posyniak,
Laura Abrioux, and Will Andrews
Counsel for the Trial Lawyers Association
and Kevin Westell



Emily Lapper, K.C., Trevor Bant,
Karin Kotliarsky, and Sergio Ortega,
Counsel for the Attorney General of British Columbia and
the Lieutenant Governor in Council of British Columbia

[7] With respect to costs, see *Este v. West Vancouver (District of)*, 2026 BCCA 366 at paras. 18-21.

PART 3 – TABLE OF AUTHORITIES

TAB CITATION

CASE LAW

1. *Este v. West Vancouver (District of)*, 2026 BCCA 366

2. *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779

3. *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation,* 2026 BCCA 85

4. *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372

LEGISLATION

5. *Court of Appeal Act*, s. 29

6. *Legal Professions Act*, S.B.C. 2024, c. 26

Appendix “E”

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4398900 **Submission Date: September 25, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 25-SEP-2026

25SEP2026
We are unable to accept the application and argument for filing. If you insist, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO.

Thank you,
sl

Please keep a copy of this report for your records.

TAB 17

COURT OF APPEAL

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

6 October 2026

Kevin McLean
mclean@searchandseizure.ca

Dear Mr. McLean:

RE: TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A) vs. THE ATTORNEY GENERAL OF BRITISH COLUMBIA
Court of Appeal File Nos: CA51535; CA51536

I am writing to advise you of the following:

1. Your application to vary or cancel the order of Justice Horsman made on 18 September 2026 has been referred to a division comprised of Justices Groberman, Fenlon, and Riley;

2. As mentioned in my letter of 28 September 2026, that division also has your previously submitted and presently unfiled application;

3. That division has directed:

   a) these applications be dealt with in writing; and

   b) the registry is not to file any further material on these applications, including material presently submitted for filing.

If you continue to submit further lengthy filings to the Court, I can advise you they will likely not result in a response from me in accordance with my letter of 2 October 2026.

Sincerely,

Timothy Outerbridge,
Registrar

cc: attached counsel list

COUNSEL LIST

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Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

Re: CA51535-CA51536 - TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA(A) v. THE ATTORNEY GENERAL OF BRITISH COLUMBIA

Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Tue, Oct 6, 2026 at 1:13 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

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TAB 18

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

Re: CA51535-CA51536 - TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA(A) v. THE ATTORNEY GENERAL OF BRITISH COLUMBIA

3 messages

Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Mon, Sep 28, 2026 at 5:47 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

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Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Tue, Oct 6, 2026 at 1:13 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

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CA51535-CA51536.pdf
95K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Oct 7, 2026 at 11:04 AM
To: "Dhamrait, Kristine" <Kristine.Dhamrait@bccourts.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find below and attached the same letter along with the attachments particularized addressing the below. I hope all are well and I look forward to hearing from the relevant persons where applicable. I thank Ms. Dhamrait for a copy of the same and confirm receipt. Thank you kindly. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca
Fax: 1 (416) 352-0055

Date: October 7, 2026
Service method: via email
Filing method: to be determined or exercised based upon response or lack thereof

TO:

The Court of Appeal for British Columbia
The Law Courts, 400 - 800 Hornby Street
Vancouver, BC V6Z 2C5

Attention: Ms. S. Dhamrait, Registry Officer / Chambers Scheduler

For the Immediate Attention of: The Honourable Division Panel (The Honourable Justices Groberman, Fenlon, and Riley)

With a copy to: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia

CC (Prescribed Parties' Counsel List):

Tom Posyniak tposyniak@fasken.com; Laura Abrioux labrioux@fasken.com; Will Andrews wandrews@fasken.com; Gavin Cameron gcameron@fasken.com; Lapper, Emily AG:EX emily.lapper@gov.bc.ca; Bant, Trevor AG:EX trevor.bant@gov.bc.ca; Kotliarsky, Karin AG:EX karin.kotliarsky@gov.bc.ca; Ortega, Sergio AG:EX sergio.ortega@gov.bc.ca; lkt@tdslaw.com lkt@tdslaw.com; Ian Knapp iknapp@macfuj.com; amackenzie@macfuj.com amackenzie@macfuj.com; bolthuis bolthuis@ovcounsel.com; dredman dredman@arvayfinlay.ca; David Wu dwu@arvayfinlay.ca; cbildfell@mccarthy.ca cbildfell@mccarthy.ca; Frame, Lindsay lframe@mccarthy.ca; roy.millen roy.millen@blakes.com; nicholas.tollefson@blakes.com nicholas.tollefson@blakes.com; JoeyDoyle joey@doyledefence.ca; ekirkpatrick ekirkpatrick@mcewanpartners.com; CDauvergne@litigationchambers.com cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca jmaclaren@accessprobono.ca; kyla kyla@vancouvercriminallaw.com; rpeck rpeck@peckandcompany.ca; Caroline Senini csenini@peckandcompany.ca; pmueller@peckandcompany.ca pmueller@peckandcompany.ca; Laura Bevan lbevan@lawsonlundell.com; Jonathan Andrews jandrews@lawsonlundell.com; Nicole Welsh nwelsh@lawsonlundell.com; cferris cferris@lawsonlundell.com; lgrant@lawsonlundell.com lgrant@lawsonlundell.com; mring@lawsonlundell.com mring@lawsonlundell.com; ccrane@ovcounsel.com; Chris Pang cpang@ovcounsel.com; mmiharija@ovcounsel.com mmiharija@ovcounsel.com; szarb@macfuj.com szarb@macfuj.com; Lever, Vanessa AG:EX vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com kotto@lawsonlundell.com; Chambers@bccourts.ca

SUBJECTS:

SUBJECT I: CONFIRMATION OF RECEIPT OF ELECTRONIC CORRESPONDENCE AND ATTACHED DIRECTION FROM MS. DHAMRAIT ON BEHALF OF REGISTRAR TIMOTHY OUTERBRIDGE

SUBJECT II: IMMEDIATE FACTUAL AND CLERICAL CORRECTION REGARDING THE NON-EXISTENT ORDER DATE OF "18 SEPTEMBER 2026"

SUBJECT III: FATAL PLURAL JUDICIAL ADMISSION ("THESE APPLICATIONS") CONFIRMING DIVISION SEIZURE OF BOTH THE FORM 8 APPLICATION TO VARY AND THE SEPTEMBER 25 APPLICATION TO STRIKE / SECTION 36 SANCTIONS

SUBJECT IV: IMMEDIATE CLARIFICATION AND RECONSIDERATION OF DIRECTION NO. 3(B) ("REGISTRY IS NOT TO FILE ANY FURTHER MATERIAL ON

THESE APPLICATIONS, INCLUDING MATERIAL PRESENTLY SUBMITTED FOR FILING") ON A PRE-EMPTIVE AND EX ABUNDANTI CAUTELA BASIS
SUBJECT V: UNLAWFUL DUE PROCESS CATCH-22: ORDERING A WRITTEN HEARING WHILE EMBARGOING WRITTEN MATERIALS CONTRARY TO NATURAL JUSTICE, BAKER, AND SURESH
SUBJECT VI: STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COURT OF APPEAL ACT
SUBJECT VII: FORMAL REQUEST UNDER RULE 82(1) FOR PERMISSION OF THE DIVISION PANEL TO AMEND THE APPLICATION BOOK TO INCLUDE THE OCTOBER 4, 2026 TRANSMITTAL AND THE APPELLANTS' FACTUMS; AND CONTEMPORANEOUS REQUEST FOR CONSENT FROM ALL PRESCRIBED PARTIES
SUBJECT VIII: CONFIRMATION OF THE "EXISTING WRITTEN RECORD" AND RESIDUAL PROCEDURAL DIRECTIONS

Dear Ms. Dhamrait, Registrar Outerbridge, and Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND PRELIMINARY CLERICAL CORRECTION

1. The Applicant Party, Mr. Kevin A. McLean (BA, JD, CIM), acknowledges receipt of the electronic correspondence transmitted by Ms. S. Dhamrait on October 6, 2026, enclosing the formal administrative letter authored by Registrar Timothy Outerbridge on behalf of the Division comprised of The Honourable Mr. Justice Groberman, The Honourable Madam Justice Fenlon, and The Honourable Mr. Justice Riley (the "Division Panel").
2. As an immediate threshold matter of procedural accuracy, a critical clerical error on the face of the Registrar's letter requires rectification. Paragraph 1 of the letter references an application to vary or cancel an order of Madam Justice Horsman *"made on 18 September 2026"*.
3. The formal record of proceedings confirms that no order or decision was pronounced by Madam Justice Horsman on September 18, 2026. The reasons for decision (*2026 BCCA 372*) were pronounced in chambers on **September 8, 2026**, and the formal order was entered on **September 14, 2026** (Application Book, Tabs 1 and 2). To prevent clerical confusion within the permanent records of the Court, this chronological slip must be corrected upon the registry ledger.
4. A secondary, substantive clarification is urgently necessitated by the operational language formulated within Direction No. 3(b): *"the registry is not to file any further material on these applications, including material presently submitted for filing"*. The analysis set out below addresses this **direction**, establishing why it is legally uncertain, contrary to the governing statutory architecture, and irreconcilable with the natural justice guarantees governing written hearings under section 26 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA").

PART 2: CONFIRMATION OF PLURAL APPLICATIONS YET CLARIFICATION REQUIRED IN RELATION TO THE LANGUAGE OF DIRECTION NO. 3(B)

5. The Applicant Party takes formal note of the Registrar's explicit use of the plural noun phrase **"these applications"** across paragraphs 2 and 3 of the October 6, 2026 letter:
   - Paragraph 2 records: *"that division also has your previously submitted and presently unfiled application"*; and
   - Paragraph 3 directs: *"these applications be dealt with in writing..."*
6. This formulation constitutes a definitive judicial and administrative admission that the Division Panel has been formally constituted and seized of **two distinct applications**:

   a. The Applicant Party's Form 8 Notice of Application to Vary or Cancel the Order of a Justice (*September 9, 2026*); and

   b. The Applicant Party's Form 4 Notice of Application and Written Argument (*September 25, 2026*) seeking, *inter alia*, declarations of nullity regarding the fabricated "Joint Response Book [Sic]", striking relief under *Rule 9-5* by analogy, and summary sanctions under section 36 of the COAA.
7. Having judicially acknowledged that the Division Panel possesses both applications and has directed that both be adjudicated together in writing, the Registry cannot logically or lawfully maintain the administrative fiction that the September 25, 2026 application remains "unfiled" or non-existent upon the public docket. The Court cannot purport to adjudicate an application that its administrative arm refuses to docket.
8. Concurrently, the exact syntax of Direction No. 3(b)—stating that the *"registry is not to file any further material on these applications"*—is ambiguous and devoid of precise legal effect. Is this **direction** intended to state that:

   a. "the registry is not to <u>accept any further</u> file<u>ings</u> any further material on these applications";

   b. "the registry is not to <u>accept any further documents submitted for filing</u> on these applications"; or

   c. something to that effect?
9. While I appreciate that the Legislature intended that an Order is valid from the time it is pronounced (see: COAA, ss. 39(2)), the language of "direction" was utilized. While appreciating the definition of Order being inclusive of the word "direction", statutory interpretation in this regard requires that the direction, in order to be subsumed under that statutory definition must be "SPECIFICALLY" authorized or required under an **Enactment** (see: supra). In this regard, that would require particularized reasons for why each of the submitted documents were subject to a blunt "direction". Leaving that aside and awaiting the erudite and Honourable Division or "Division Panel's" clarification in these multiple and independent regards, I note that if the "direction", which need not be specifically authorized or required by an **Enactment** to be lawful or intra vires per se but if not specifically authorized or required by an **Enactment**, then it does not fall within the statutory definition of Order. Ergo, such a "direction" does not fall within ss. 39(2) of the COAA. Consequently,

the validity from the time of pronouncement, statutorily, does not apply which lends itself to further grounds for clarification and an absence, at least statutorily, of the functus officio doctrine.

PART 3: APPELLANTS' FACTUMS: CONFIRMATION AS PART OF THE RECORD BEFORE THE DIVISION PANEL

10. Direction No. 3(a) orders that these applications be determined strictly in writing. This **direction** reinforces the primary question formally placed before the Court in the Applicant Party's transmittal of October 4, 2026: **Are the Appellants' Factums recognized as part of the active record of proceedings before the Division Panel?**
11. Madam Justice Horsman explicitly ordered in her August 31, 2026 memorandum that the Applicant Party's applications would proceed strictly upon the **"existing written record"** (Application Book, Tab 3K, p. 203). Her Ladyship did not qualify that foundation as the "docketed CSO record."
12. Pursuant to the case management determinations of June 29, 2026 (confirmed by Registrar Outerbridge and Chambers Scheduler Shelly Lin on July 2, 2026), the substantive factums of the Law Society of British Columbia (CA51536) and the Trial Lawyers Association of British Columbia (CA51535) were uploaded to the Court's Case Center repository on August 5, 2026, and were expressly **deemed filed** on that date.
13. The Chief Executive Officer of the LSBC publicly confirmed at the September 25, 2026 Bencher meeting that its factum had been filed on August 5, 2026. Those pleadings have resided within the institutional custody and administrative control of the Court since August 5, 2026. They constituted the foundational pillars of the "existing written record" as of August 31, 2026.
14. The Division Panel is respectfully requested to confirm upon the record that the Appellants' Factums form part of the written evidentiary and argumentative matrix to be considered on these applications, ensuring that adjudication does not take place in an artificial factual vacuum.

PART 4: WERE SUBMITTED MATERIALS BROUGHT BEFORE THE DIVISION PANEL? JURISPRUDENCE AND RECONSIDERATION BEFORE ORDER ENTRY

15. It is a critical procedural inquiry whether the specific, individual documents submitted for filing by the Applicant Party on September 25, September 27, and October 4, 2026, were placed physically and electronically before Justices Groberman, Fenlon, and Riley for judicial evaluation, or whether Direction No. 3(b) was formulated upon a generalized administrative summary.
16. If the Division Panel was not provided with each discrete document—specifically including the Form 4 Notice of Application to strike the "Joint Response Book [Sic]" and the October 4 transmittal incorporating the Appellants' Factums—the Applicant Party formally seeks reconsideration of Direction No. 3(b) prior to the entry of any formal order.

Part 4(A): The Doctrine of Functus Officio is Inapplicable to Direction No. 3(b)

17. The doctrine of *functus officio* does not bar the Division Panel from reconsidering, clarifying, or rescinding Direction No. 3(b). In *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 (*"CBC v. Manitoba"*), the Supreme Court of Canada authoritatively reaffirmed at paragraphs 33 and 34 that *functus officio* applies strictly to **final** decisions after formal judgment has been entered:

> "According to the rule of functus officio, a final decision of a court that is susceptible of appeal cannot, as a general rule, be reconsidered by the court that rendered that decision. A court loses jurisdiction once the formal judgment has been entered."

18. Direction No. 3(b) is an interlocutory administrative **direction**; it is not a final judgment under section 40(1) of the *Supreme Court Act*, R.S.C. 1985, c. S-26, as it determines no substantive rights. Furthermore, no formal order in Form 11 or Form 12 has been drawn up, approved, or entered under Rule 66.
19. As established by the Ontario Court of Appeal in *Meridian Credit Union Limited v. Baig*, 2016 ONCA 150 (paras. 33–37), a superior appellate court retains inherent and statutory jurisdiction to reconsider an interlocutory decision before an order is formally entered.
20. Similarly, in *Smith Bus Lines Ltd. v. Bank of Montreal*, 1987 CanLII 4190 (ON SC), Sutherland J. held that an adjudicator acts judicially when withdrawing or varying an order prior to formal entry to avoid procedural unfairness:

> "There is abundant authority... for the proposition that a judgment can be reconsidered and varied or withdrawn before it is entered... Such a jurisdiction is quite independent of the rules, and of the fact that once entered an order takes effect from the time of its pronouncement."

21. Where an administrative **direction** is issued without reasons, upon an unparticularized bundle of materials, and creates an operational barrier to natural justice, the Court possesses jurisdiction to recall the **direction** *ex debito justitiae*.

Part 4(A)(i): Demonstrable Legal Oversight and the Per Incuriam Principle

22. In *Menzies v. Harlos*, 1989 CanLII 2760 (BC CA), Esson J.A., writing for this Court, confirmed the established power to reconsider interlocutory rulings where there is a demonstrable oversight in a particular aspect:

> "It is not unusual for an application to vary to be made and granted where the basis of the application is a demonstrable oversight or error in a particular aspect. An example in the area of fact is an error in calculation... An example in the area of law is reliance on a statute which has been repealed."

23. This principle was reaffirmed in *Grace Estate (Re)*, 2022 BCSC 1283 (para. 10), citing *Signcorp v. Vancouver (City)* (1986), 9 B.C.L.R. (2d) 238 (S.C.), confirming that a court may reverse itself when a decision is predicated upon a legal point or statutory parameter that was not properly argued or considered.
24. Direction No. 3(b) was pronounced without the benefit of adversarial argument and without identifying any statutory provision authorizing a blanket preclusion on filings. It constitutes an

administrative oversight that falls within the *Menzies v. Harlos* framework for immediate reconsideration.

PART 5: THE UNLAWFUL DUE PROCESS CATCH-22: WRITTEN HEARINGS UNDER SECTION 26 DEMAND ACCESS TO WRITTEN PLEADINGS

25. The core legal contradiction in Direction No. 3 is acute:
    - Direction No. 3(a) orders that the applications be dealt with **in writing**; yet
    - Direction No. 3(b) orders that the Registry **not file any further material on these applications, including material presently submitted for filing**.
26. This creates an unconstitutional procedural Catch-22: the Court orders a litigant to proceed strictly in writing, while simultaneously directing its registry to refuse the very written materials submitted to advance and support the applications.
27. In *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, the Supreme Court of Canada established at paragraphs 28 through 33 that while oral hearings are not required in every context, the chosen procedural format must afford the affected party a meaningful opportunity to present their case fully and fairly.
28. In *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, the Supreme Court held at paragraph 115 that when an adjudicative body elects to determine an issue on written submissions, procedural fairness demands that the party be entitled to know the case to be met and have their written materials received, docketed, and considered by the decision-maker.
29. To direct that an application to strike a void "Joint Response Book [Sic]" be decided in writing, while directing the clerk to reject the Form 4 and Written Argument submitted to explain *why* the document is a nullity, is a denial of natural justice (*audi alteram partem*). The Division Panel cannot lawfully adjudicate the validity of the September 25 application while maintaining its moving papers in an unfiled administrative void.

PART 6: THE STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COAA

30. The Registrar's closing warning—stating that further submissions *"will likely not result in a response from me"*—operates outside the statutory framework of the *Court of Appeal Act*.
31. Neither a single justice, nor a Division Panel via administrative letter, nor the Registrar possesses the statutory authority to construct an informal, extra-statutory filing embargo Section 38(2) of the COAA confines the Registrar's power to refuse documents strictly to non-compliance with the Rules or an entered practice **direction** (*R. v. Verma*, 2016 BCCA 307 at para. 20).
32. If the Court seeks to restrict a litigant's statutory right to submit filings, it must comply with the mandatory prescribed or statutory conditions along with procedural fairness. It cannot achieve that

result through administrative **direction**s that bypass the statutory safeguards enacted by the Legislature.

PART 7: THE BCCA IS A STATUTORY COURT DIVESTED OF INHERENT JURISDICTION TO OVERRIDE ENACTMENT INTENT

35. The Court of Appeal is a statutory court created by enactment. Unlike the Supreme Court of British Columbia, it possesses no broad inherent jurisdiction. Any power exercised by the Court must find its source within the four corners of the COAA and the *Court of Appeal Rules*.
36. Section 18(1) of the COAA commands: *"An appeal or application for leave to appeal must be brought and conducted in accordance with this Act and the rules."* Section 28 further specifies that the Court may exercise a power given to a justice by the Act or the Rules. If a power is not conferred by statute, it does not exist.
37. As authoritatively decreed by the Supreme Court of Canada in *Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 S.C.R. 475 at page 480, even inherent jurisdiction cannot be invoked to override or bypass explicit statutory mandates.
38. While section 26(1)(a)(i) of the COAA authorizes the Court to order that a hearing be conducted in writing, no provision in the COAA or the Rules authorizes the Court to direct a registry not to accept compliant documents submitted by a Prescribed Party in any circumstance and certainly not these circumstances.

PART 8: PROCEDURAL FAIRNESS AND THE IMPORTANCE OF CLARITY IN COURT ORDERS

39. In *Petro-Canada v. British Columbia (Workers' Compensation Board)*, 2009 BCCA 396, this Court emphasized at paragraph 65 that procedural fairness requirements are not technical, but functional:

> "The question is whether, in the circumstances of a given case, the party that contends it was denied procedural fairness was given an adequate opportunity to know the case against it and to respond to it."

40. In *Gurtins v. Goyert*, 2008 BCCA 196, this Court stressed the imperative of precision in judicial **direction**s, ruling at paragraph 15:

> "The rule of law requires that court orders be obeyed. Accordingly, it is of paramount importance that persons who are subject to court orders be able to readily determine their obligations and responsibilities. They do this by having regard to what is on the face of the formal order... An order should be clear in its terms and should not require the person to whom it is addressed to cross-refer to other material in order to ascertain his precise obligation."

41. Direction No. 3(b) fails the *Gurtins v. Goyert* standard. It purports to direct the Registry not to "file" materials, leaving active litigants in complete uncertainty as to whether compliant motion materials previously delivered to the Registry are legally before the Court, whether they have been received, or whether they have been discarded without adjudication.

PART 9: FORMAL REQUEST UNDER RULE 82(1) TO AMEND APPLICATION BOOK AND SEEKING OF CONSENT

42. To resolve part of this unfortunate procedural impasse, eliminate any asserted prejudice, and ensure that the Division Panel is furnished with the complete record without violating Direction No. 3(b), the Applicant Party hereby invokes **Rule 82(1) of the Court of Appeal Rules**.
43. Rule 82(1) provides:

> "Subject to subrules (2), (3) and (4), a document that has been filed with the court may be amended by a person only with the consent of all the parties or the permission of the court, a justice or the registrar."

44. Pursuant to Rule 82(1), the Applicant Party formally makes two requests:

    a. **Seeking Permission of the Division Panel:** The Applicant Party formally applies to the Division Panel (Justices Groberman, Fenlon, and Riley) for permission to amend the filed Application Book of September 15, 2026, by inserting a Supplemental Volume containing:

    i. The Applicant Party's transmittal letter of October 4, 2026 which enclosed or attached the below:

    ii. The Appellant's Factum of the Law Society of British Columbia (CA51536), deemed filed August 5, 2026; and

    iii. The Appellant's Factum of the Trial Lawyers Association of British Columbia (CA51535), deemed filed August 5, 2026.

    b. **Seeking Consent of All Prescribed Parties:** The Applicant Party contemporaneously requests that counsel for each of the Prescribed Parties identified in the caption of this correspondence provide their written consent under Rule 82(1) to amend the Application Book to include their own deemed-filed factums.

45. The inclusion of the Appellants' Factums causes zero prejudice: the factums were authored by the Appellants themselves, were deemed filed on August 5, 2026, and are already within Case Center. Granting permission under Rule 82(1) ensures equality of arms and provides the Division Panel with the exact written Factum "deemed filed" upon which the Appellants' constitutional theories rest.

PART 10: CONCLUSION AND REQUESTED DISPOSITION

46. In conclusion, the Applicant Party respectfully requests that the Division Panel:

    a. Note and correct the clerical error in paragraph 1 of the Registrar's letter (correcting "18 September 2026" to "September 8, 2026 / entered September 14, 2026");

    b. Confirm that the Division Panel is seized of both the Form 8 Application to Vary and the September 25 Application to Strike the "Joint Response Book [Sic]";

    c. Clarify and recall Direction No. 3(b) to ensure that the moving papers and written arguments supporting the September 25 application are formally stamped and docketed nunc pro tunc; and

d. Grant permission pursuant to Rule 82(1) to amend the Application Book to include the Appellants' Factums and the October 4, 2026 transmittal letter.

47. Counsel for the Prescribed Parties are requested to advise in writing forthwith whether they consent to the Rule 82(1) amendment.
48. The Applicant Party confirms that the composition of the Division Panel (Justices Groberman, Fenlon, and Riley) is noted and accepted without objection, and confirms his readiness to proceed with the determination of these applications in writing upon the complete, unredacted record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 7th day of October, 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party (Court of Appeal File Nos.: CA51535 / CA51536) and by reference to the undisclosed and non-public Case Center file number
Email: mclean@searchandseizure.ca
Telephone: 647.370.9354
Facsimile: 1 (416) 352-0055

ENCLOSURES TRANSMITTED HEREWITH:

1. True copy of the Applicant Party's formal transmittal letter dated October 4, 2026, incorporating the deemed-filed Appellants' Factums in CA51535 and CA51536.
2. Official Court Services Online (CSO) Registry Notice dated September 29, 2026 (Package ID 4399228), confirming the Registrar's formal decision: *"The Registrar will place your unfiled application before the division set to hear your application to vary."*

On Tue, Oct 6, 2026 at 1:13 PM Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> wrote:

> Dear Mr. McLean,
>
> Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.
>
> Kindly confirm receipt of this email.
>
> Thank you,
>
> Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

This message and any attachments are intended solely for the individual or entity to which the message is addressed and may contain information that is privileged, confidential or exempt from disclosure. Unauthorized distribution, copying or disclosure is strictly prohibited. If you have received this message in error, please notify the sender immediately and delete the original message and any attachments from your inbox and your deleted items folder.

3 attachments

Rejection from CSO - BCCA - regaading NOA Form 4 and MOA -Sept 29 2026 wherein the Registrar said unfiled APP before Division Panel.pdf
239K

Letter (App) - Immediate to Appellants' Factums - AP - Mr McLean - 4-10-26 - F S.pdf
1736K

Final Ltr - Clarification - Recon - Amend AB - LSCB et al v TLABC et al - AP - KAM - 7-Oct-26 - PDF Signed.pdf
302K

TAB 19

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

View Filing Packages

The table below shows all of the filing packages for which you have access. You can change this view using the *Status Quick Filter* or use *Search Packages* to find a specific package.

Status Quick Filter: All Go Search Packages

Packages You Can View

1 - 10 of 16 results

Page 1 2 >>

Date Submitted	Your File #	Court File #	Package #	Results	Document Upload State	Action
10/06/2026		CA51536	4406357	Pending	Uploaded	View
10/05/2026		CA51536	4405302	Pending	Uploaded	View
10/04/2026		CA51535	4404905	Pending	Uploaded	View
10/01/2026		CA51535	4402771	Pending	Uploaded	View
09/29/2026		CA51536	4400539	Action Required	Uploaded	View
09/27/2026		CA51536	4399228	Action Required	Uploaded	View
09/27/2026		CA51535	4399224	Complete	Uploaded	View
09/25/2026		CA51536	4398900	Action Required	Uploaded	View
09/22/2026		CA51536	4394410	Action Required	Uploaded	View
09/22/2026		CA51536	4394252	Action Required	Uploaded	View

TAB 20

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4402771 **Submission Date: October 01, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Application - Division- Gener	Rejected
2	Argument - Other	Rejected
3	Letter General	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4402771 **Submission Date: October 01, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Application - Division- Gener	Rejected
2	Argument - Other	Rejected
3	Letter General	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4402771 **Submission Date: October 01, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Application - Division- Gener	Rejected
2	Argument - Other	Rejected
3	Letter General	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

BRITISH COLUMBIA

Court Services Online **Registry Notice**

Package ID:	**4404905**	**Submission Date:**	**October 04, 2026**
Account ID:	71252		KEVIN MCLEAN
Client ID:	122957		’

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4406357 **Submission Date: October 06, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

BRITISH COLUMBIA

Court Services Online **Registry Notice**

Package ID:	**4405302**	**Submission Date:**	**October 05, 2026**
Account ID:	71252		KEVIN MCLEAN
Client ID:	122957		’

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Division- Gener	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Rejected CA51536

2 messages

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:10 PM
To: MCLEANSETTLEMENT@gmail.com

Your electronic filing has been processed and the results are shown below

Court File Number: CA51536
Style of Cause:
Document Type: Memorandum of Other
Status: Rejected
Package Id: 4406357
Link: https://justice.gov.bc.ca/cso/accounts/bceidNotification.do?packageNo=4406357

You can view the record and the document by clicking on the link above.

If there are any problems with your filing, please do not hesitate to contact the support team via email at Courts.CSO@gov.bc.ca.

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:10 PM
To: MCLEANSETTLEMENT@gmail.com

Your electronic filing has been processed and the results are shown below

Court File Number: CA51536
Style of Cause:
Document Type: Application - Division - General
Status: Rejected
Package Id: 4405302
Link: https://justice.gov.bc.ca/cso/accounts/bceidNotification.do?packageNo=4405302
[Quoted text hidden]

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Rejected CA51535

4 messages

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:09 PM
To: MCLEANSETTLEMENT@gmail.com, mclean@searchandseizure.ca

Your electronic filing has been processed and the results are shown below

Court File Number: CA51535
Style of Cause:
Document Type: Application - Division - General
Status: Rejected
Package Id: 4402771
Link: https://justice.gov.bc.ca/cso/accounts/bceidNotification.do?packageNo=4402771

You can view the record and the document by clicking on the link above.

If there are any problems with your filing, please do not hesitate to contact the support team via email at Courts.CSO@gov.bc.ca.

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:09 PM
To: MCLEANSETTLEMENT@gmail.com, mclean@searchandseizure.ca

Your electronic filing has been processed and the results are shown below

Court File Number: CA51535
Style of Cause:
Document Type: Memorandum of Other
[Quoted text hidden]

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:09 PM
To: MCLEANSETTLEMENT@gmail.com, mclean@searchandseizure.ca

Your electronic filing has been processed and the results are shown below

Court File Number: CA51535
Style of Cause:
Document Type: Letter General
[Quoted text hidden]

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:10 PM
To: MCLEANSETTLEMENT@gmail.com, mclean@searchandseizure.ca

Your electronic filing has been processed and the results are shown below

Court File Number: CA51535
Style of Cause:
Document Type: Memorandum of Other
Status: Rejected
Package Id: 4404905
Link: https://justice.gov.bc.ca/cso/accounts/bceidNotification.do?packageNo=4404905
[Quoted text hidden]

TAB 21

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

View Filing Packages

The table below shows all of the filing packages for which you have access. You can change this view using the *Status Quick Filter* or use *Search Packages* to find a specific package.

Status Quick Filter: All Go Search Packages

Packages You Can View

11 - 16 of 16 results

<< Page 1 2

Date Submitted	Your File #	Court File #	Package #	Results	Document Upload State	Action
09/17/2026		CA51535	4391194	Complete	Uploaded	View
09/16/2026		CA51535	4390243	Action Required	Uploaded	View
09/15/2026		CA51536	4388040	Complete	Uploaded	View
09/14/2026		CA51536	4386944	Action Required	Uploaded	View
09/11/2026		CA51536	4386050	Action Required	Uploaded	View
09/09/2026		CA51535	4382779	Complete	Uploaded	View

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

View Filing Packages

The table below shows all of the filing packages for which you have access. You can change this view using the *Status Quick Filter* or use *Search Packages* to find a specific package.

Status Quick Filter: All Go Search Packages

Packages You Can View

1 - 10 of 16 results

Page 1 2 >>

Date Submitted	Your File #	Court File #	Package #	Results	Document Upload State	Action
10/06/2026		CA51536	4406357	Action Required	Uploaded	View
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10/04/2026		CA51535	4404905	Action Required	Uploaded	View
10/01/2026		CA51535	4402771	Action Required	Uploaded	View
09/29/2026		CA51536	4400539	Action Required	Uploaded	View
09/27/2026		CA51536	4399228	Action Required	Uploaded	View
09/27/2026		CA51535	4399224	Complete	Uploaded	View
09/25/2026		CA51536	4398900	Action Required	Uploaded	View
09/22/2026		CA51536	4394410	Action Required	Uploaded	View
09/22/2026		CA51536	4394252	Action Required	Uploaded	View

TAB 22

1. Single Legal Regulator Update

Bill 21 Litigation

The Law Society's appeal of the British Columbia Supreme Court decision, regarding the constitutionality of Bill 21 (*Legal Professions Act*), is scheduled to be heard on November 16 and 17, 2026.

Thirteen applications for leave to intervene were filed, including applications submitted by the Federation of Law Societies of Canada and the Law Society of Manitoba. One applicant, a twice disbarred lawyer, was denied leave to intervene solely on the basis of written materials. All other applicants were granted leave to intervene.

The Law Society's factum was filed on August 5, 2026. The Respondent's factum must be submitted by October 5, 2026. The intervenor factums are due on October 5, 2026. The reply factums to the intervenor factums must be filed by October 19, 2026.

Transitional Board and Transitional Indigenous Council

The most recent meetings of the transitional board and the transitional Indigenous council were held on July 20, 2026 and August 17, 2026.

At the July meeting, the transitional board and the transitional Indigenous council considered rules related to the licensing and registration of legal professionals under the Legal Professions Act. Lesley Small, Senior Director, Credentials, Professional Development and Practice Support, was permitted to attend the meeting to provide advice and assistance on the content of these rules. A revised set of rules reflecting the discussion will come back to the transitional board and the transitional Indigenous council for further consideration.

At the August meeting, the transitional board and the transitional Indigenous council considered the trust accounting and client identification and verification (CIV) rules and proposed provisions for the Code of Professional Conduct relating to withdrawal from representation, making legal services available and licensees as advocates.

The draft trust accounting and CIV rules presented for consideration, which were largely based on the Law Society's current proposed rules, received considerable attention and discussion. There was a focus on the impact of the draft rules on licensees and the express desire for less prescriptive rules. Senior staff from the Law Society observed the meeting deliberations and subsequently prepared a memorandum which was provided to the transitional board chair. The memorandum contains additional information about the rationale behind the Law Society's current proposed trust accounting and CIV rules (including protection of the public, strong measures to combat money laundering, maintaining public confidence, and consistency with Federation guidelines and other

TAB 23

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4412400

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 09-Oct-2026 02:05

Submitted Through: Court Services Online

Filing Comments: ATTENTION: REGISTRAR TIMOTHY OUTERBRIDGE / BCCA REGISTRY You are required by law to accept this filing package containing six (6) structurally and mathematically compliant documents, including the Applicant Party's Form 4 NOA (Strike "Joint Response Book"), Form 4 NOA (Mandamus), supporting Written Arguments, and associated covering correspondence. As detailed in the enclosed October 9, 2026 covering letter, the Registry's failure to confirm the judicial provenance of Directions 3(a) and 3(b) within the stipulated temporal window operates as a tacit admission. It is now crystallized on the record that the purported filing embargo was generated administratively, not judicially. Because an administrative clerk or Registrar possesses no statutory jurisdiction to embargo compliant filings, Direction 3(b) operates strictly ultra vires as an absolute nullity. An administrative nullity cannot strip a litigant of their procedural rights. Consequently, the Applicant Party formally INSISTS upon the immediate filing and docketing of these compliant materials pursuant to the binding authority of R. v. Verma, 2016 BCCA 307 (at para. 20). The Registrar is statutorily divested of any residual discretion to reject these instruments. Kindly process, stamp, and docket forthwith to ensure the preservation of the appellate record prior to the release of any disposition. I await the filed copies so I can serve the Prescribed Parties. Kindly ensure that my letter to the Chief Justice of the BCCA requesting amendment of my Application Book is delivered to him forthwith. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM)

Print Submission Sheet

Print Receipt

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Letter General	Cover Letter - Direction 3A and B not issued by Division et al - AP - KAM - 9-Oct-2026.pdf	No	Submitted		In Progress	View Withdraw
Letter General	Letter (App) - Immediate to Appellants' Factums - AP - Mr McLean - 4-10-26 - F S.pdf	No	Submitted		Complete	View Withdraw
Argument - Other	Written Argument - Mandamus - LSBC et al v	No	Submitted		Complete	View Withdraw

	AGBC et al - AP - KAM - Oct-6-26.pdf					
Argument - Other	Argument - Strike JRB et al - AP - Mr McLean - 25-09-26 - Filed.pdf	No	Submitted		Complete	View Withdraw
Application - Division-General	Form 4 - NOA - Mandamus - Stamp - NOA strike JRB et al - AP - KAM - 5-10-26 - FILED.pdf	No	Submitted		Complete	View Withdraw
Application - Division-General	Form 4 - NOA - Strike JRB - s 36 et al - Applicant - Mr McLean - 25-09-26 - FILED.pdf	No	Submitted		Complete	View Withdraw

Return

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4412400
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	09Oct2026
Filing Comments:	ATTENTION: REGISTRAR TIMOTHY OUTERBRIDGE / BCCA REGISTRY You are required by law to accept this filing package containing six (6) structurally and mathematically compliant documents, including the Applicant Party's Form 4 NOA (Strike "Joint Response Book"), Form 4 NOA (Mandamus), supporting Written Arguments, and associated covering correspondence. As detailed in the enclosed October 9, 2026 covering letter, the Registry's failure to confirm the judicial provenance of Directions 3(a) and 3(b) within the stipulated temporal window operates as a tacit admission. It is now crystallized on the record that the purported filing embargo was generated administratively, not judicially. Because an administrative clerk or Registrar possesses no statutory jurisdiction to embargo compliant filings, Direction 3(b) operates strictly ultra vires as an absolute nullity. An administrative nullity cannot strip a litigant of their procedural rights. Consequently, the Applicant Party formally INSISTS upon the immediate filing and docketing of these compliant materials pursuant to the binding authority of R. v. Verma, 2016 BCCA 307 (at para. 20). The Registrar is statutorily divested of any residual discretion to reject these instruments. Kindly process, stamp, and docket forthwith to ensure the preservation of the appellate record prior to the release of any disposition. I await the filed copies so I can serve the Prescribed Parties. Kindly ensure that my letter to the Chief Justice of the BCCA requesting amendment of my Application Book is delivered to him forthwith. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM)

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Letter General	No	In Progress	$0.00
2	Letter General	No	Complete	$0.00
3	Application - Division-General	No	Complete	$80.00
4	Argument - Other	No	Complete	$0.00
5	Application - Division-General	No	Complete	$80.00
6	Argument - Other	No	Complete	$0.00
			Subtotal:	$160.00
			CSO Fee:	$7.00
			Total Fees:	**$167.00**

Print Submission Sheet Print Receipt View Filing Package

Done

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4412400

Account ID:71252

Client ID:122957

Date: October 09, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	130629585	1515945220	Oct 09, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

Ministry of Attorney General
Court Services Online
Submission Sheet

1279

Court File #:	CA51536	**Submitted By:**	KEVIN MCLEAN
Cross Reference #:	Not Provided	**Client ID:**	122957
Package ID:	4412400	**Account ID:**	71252
Date Submitted:	09-OCT-2026 02:05 pm		KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Letter General	N	Submitted	09-OCT-2026	Not Required	N	$ 0.00	
2	Letter General	N	Submitted	09-OCT-2026	Not Required	N	$ 0.00	
3	Application - Division-General	N	Submitted	09-OCT-2026	Not Processed	N	$ 80.00	
4	Argument - Other	N	Submitted	09-OCT-2026	Not Required	N	$ 0.00	
5	Application - Division-General	N	Submitted	09-OCT-2026	Not Processed	N	$ 80.00	
6	Argument - Other	N	Submitted	09-OCT-2026	Not Required	N	$ 0.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	130629585	09-OCT-2026 02:06 PM	1515945220	08149G
		Total:	$ 7.00				

Ministry of Attorney General
Court Services Online
Submission Sheet

1280

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

TAB 24

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☒ The Court (3 Justices) ☐ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

Mr. Kevin A. McLean (BA, JD, CIM) (he/him) (defined herein also as "Applicant Party")

Name(s) of responding person(s) to be served with the application

The above Appellants and Respondents (collectively, the "Statutory Parties"); and
The Registrar (as defined under the COAA, s. 1 and s. 10), other interveners, interested persons and/or persons entitled to service or served with the Applicant Party application and supporting documents (whether or already served or not) (prescribed by definition as "Parties" pursuant to rule 64(1)(b) (defined herein as "Prescribed Parties" or "Prescribed Responding Parties")

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

TBD based hearing date for AP's Form 8 NOA (heard at same time)

Chambers applications begin at 9:30 a.m.

The applicant anticipates that this application will be…
Check only one.

☒ Contested ☐ Uncontested

Enter the section(s) or rule(s) that you are relying on for your application
E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."

Court of Appeal Act, S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, 44-46,

Court of Appeal Rules, B.C. Reg. 120/2022 (the "*COR*", "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75

Law and Equity Act, R.S.B.C. 1996, c. 253, Section 8.

Interpretation Act, R.S.B,C 1996, c 238

All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026 along with his submitted documents for filing including but not limited to:

a. The NOA Form 4 of September 25, 2026, and written argument to, inter alia, strike the "Joint Response Book [Sic]", declare the failure of the Purported Opposing Parties to serve all other prescribed Parties was a nullity because it was a direct contravention of the Court of Appeal Rules, and consequential relief in relation to section 36 of the COAA;
b. The Applicant Party's October 4, 2026, letter enclosing the Appellants' Factums obtained under demands and requests from the same under the undisclosed and non-public Case Center file number (albeit represented by the CEO of the LSBC| that the LSBC had filed its factum on August 5, 2026);
c. The Applicant Party's NOA Form 4 (October 5, 2026) and written argument (October 6, 2026) seeking, inter alia, mandamus from the Registrar to accept those improperly and falsely premised rejected documents submitted for filing; and
d. Other documents so particularized.

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following Orders, declarations, determinations, findings, directions and/or relief infra:

Volume #1 Orders et al: PRELIMINARY ORDERS (DISPENSATION & TIMING)

Order #1(A): An Order pursuant to section 32(1) of the *COAA* and *Rule* 41 dispensing with any and all *Rule*s to permit this Notice of Application (Form 4) to be heard concurrently with, or immediately prior to, the Applicant Party's Form 8 Notice of Application before the Honourable Division Panel;

Order #1(B): A further Order dispensing with the administrative requirement of "Obtaining a Hearing Date" from the Chambers Scheduler, as this application involves the immediate setting aside of an unlawful administrative direction;

Order #2(A): An Order pursuant to section 32(2) of the *COAA* abridging the time required to serve this Notice of Application and any accompanying written argument, directing that this relief be adjudicated prior to the disposition of the main Form 8 application;

Order #2(B): An Order directing that the Prescribed Responding Parties must provide any responsive documents on a forthwith basis after being served with an "unfiled" courtesy copy of this Notice of Application, with such relief granted *nunc pro tunc*;

Volume #2 Orders et al: SUBSTANTIVE ORDERS (DECLARATORY & CORRECTIVE)

Order #3(A): A Declaration that the Honourable Division Panel did not make, pronounce, or issue the directives denoted as Directions 3(a) and 3(b) in the October 6, 2026 memorandum (attached as Appendix "B"[i]);

Order #3(B): In the alternative, if the Honourable Division Panel did pronounce said Directions, a Declaration and Order that Direction 3(a) is null, void, and of no force and effect because it operated *sua sponte* to set aside and cancel the entered procedural direction of Registrar Timothy Outerbridge dated September 28, 2026 (attached as Appendix "A"), without an application, without notice, and in breach of natural justice;

Order #3(C): In the further alternative, if the Honourable Division Panel did pronounce Direction 3(b), an Order that the Division Panel clarify the jurisdictional basis of the same, with leave granted to all Prescribed Parties to tender submissions and evidence regarding its validity;

Order #4: A Declaration that upon the expiration of the 7-day limitation period on October 5, 2026, no party having applied to set aside the Registrar's September 28, 2026 direction (see: *COAA*, s. 35(2) and *Rule* 63(2)(b)), the Applicant Party's right to raise his rejected September 25, 2026 Notice of Application orally before the Division Panel formally vested. Consequently, any subsequent directive mandating a written-only hearing is null and void, as a Registrar cannot *sua sponte* set aside his own entered direction, nor can a Justice or the Court set aside a Registrar's direction absent a formal application from a Prescribed Party;

Order #5: An Order pursuant to *COAA* s. 35(2) and *Rule* 63(1) reviewing, varying, and setting aside Direction 3(b) of the October 6, 2026 memorandum, which unlawfully directed that "the registry is not to file any further material on these applications, including material presently submitted for filing";

Order #6: An Order in the nature of *mandamus* directing the Registrar to immediately accept, stamp, and docket the Applicant Party's compliant filings submitted on September 25, October 1, 4, 5, 6, and 9, 2026, *nunc pro tunc* to the exact dates and times they were submitted via the Court Services Online portal;

Volume #3 Orders et al: ORDERS REGARDING PRIVILEGE, PRODUCTION, AND SUPERVISORY CARRIAGE

Order #7(A): An Order that the Chief Justice of British Columbia, The Honourable Chief Justice Leonard Marchand, shall assume direct supervisory carriage of any and all administrative steps involving these Appeals and applications, including the instant application for clarification and reconsideration;

Order #7(B): A Declaration that neither administrative privilege, deliberative secrecy, nor judicial privilege applies to shield the origins of Directions 3(a) and 3(b) from appellate scrutiny;

Order #7(C): In the alternative, to the extent that any *prima facie* administrative or deliberative privilege applies, an Order that the underlying evidentiary record (including the chronological impossibility detailed in Appendix "C") establishes an exception vitiating such privilege;

Order #7(D): An Order directing the Court to forthwith produce and provide the Applicant Party and all Prescribed Parties with a true copy of any and all documents, internal records, and communications involving the creation, pronouncement, and transmission of the impugned Directions 3(a) and 3(b) from the Honourable Division Panel to the Head Registrar;

Order #7(E): An Order directing the Court to forthwith produce any and all metadata, internal records, and communications involving the drafting, review, and finalization of the October 6, 2026 memorandum involving Ms. Samantha Servis (the "Metadata Author") and Registrar (Head) Mr. Outerbridge (the "Head Registrar" or "Prima Facie Author");

Order #7(F): An Order granting the Applicant Party and all Prescribed Parties leave to make submissions and tender

evidence upon the Record of Proceedings with respect to the materials produced under Orders 7(D) and 7(E);

ORDERS REGARDING ADJOURNMENT & FINAL JUDGMENT STATUS

Order #8(A): An Order adjourning the disposition of the Applicant Party's Form 8 Notice of Application pending the resolution of the relief sought herein and the receipt of the records particularized supra, with all Prescribed Parties directed to submit any responsive evidence or submissions within two days of receipt of said records;

Order #8(B): A further Order that the Applicant Party's Form 8 Notice of Application shall be heard orally within three business days of the deadline for submitting further documents, and by no later than Friday, October 30, 2026;

Order #9: A Declaration that the Honourable Division Panel is not *functus officio* until all issues contained in this Notice of Application and the previously submitted filings have been formally filed, served on the Responding Parties, and fully adjudicated;

Order #10: A Declaration that, to the extent the Honourable Division Panel did issue Direction 3(b) intending it to apply to the Applicant Party, such an absolute embargo operates to finally and conclusively extinguish the Applicant Party's substantive and procedural rights. As there exists no statutory entitlement to appeal or set aside a direction of a three-judge Division Panel within the Court of Appeal, Direction 3(b) constitutes a "final judgment" within the meaning of section 2(1) and section 40 of the *Supreme Court Act*, R.S.C. 1985, c. S-26, for which leave to appeal to the Supreme Court of Canada may be sought on that issue alone or otherwise;

Order #11: Costs of this application; and

Order #12: Any further relief that is just and equitable, strictly compliant with the Enactments, in the interests of justice, and consistent with the relief sought herein pursuant to section 24(3)(b) of the *COAA*.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;
c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;
d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;
e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;
f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;
g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;
h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to the Applicant Party's Form 8 NOA at first instance or arising from the circumstances, facts, procedural and substantive issues since his filing and service of his NOA Form 8 (**Sept 9, 2026).**

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

13/10/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

[i]See: Rule 79(3)(a)…with variations as the circumstances or the proceedings require.

Appendix “A”

COURT OF APPEAL

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

28 September 2026

Kevin McLean
mclean@searchandseizure.ca

Dear Mr. McLean:

RE: TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A)
vs.
THE ATTORNEY GENERAL OF BRITISH COLUMBIA
Court of Appeal File Nos: CA51535; CA51536

I have your recent letters.

I will place your unfiled application before the division set to hear your application to vary and you may address it before the Court then.

In the interim, the Court may give directions, including accepting your application for filing or asking the opposing parties to respond if they feel it is necessary.

Sincerely,

Timothy Outerbridge,
Registrar

cc: attached counsel list

COUNSEL LIST

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Counsel for the Law Society of British Columbia	C. Ferris, K.C. cferris@lawsonlundell.com L. Bevan lbevan@lawsonlundell.com J. Andrews jandrews@lawsonlundell.com N. Welsh nwelsh@lawsonlundell.com

Appendix “B”

COURT OF APPEAL

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

6 October 2026

Kevin McLean
mclean@searchandseizure.ca

Dear Mr. McLean:

RE: TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A) vs. THE ATTORNEY GENERAL OF BRITISH COLUMBIA
Court of Appeal File Nos: CA51535; CA51536

I am writing to advise you of the following:

1. Your application to vary or cancel the order of Justice Horsman made on 18 September 2026 has been referred to a division comprised of Justices Groberman, Fenlon, and Riley;

2. As mentioned in my letter of 28 September 2026, that division also has your previously submitted and presently unfiled application;

3. That division has directed:

   a) these applications be dealt with in writing; and

   b) the registry is not to file any further material on these applications, including material presently submitted for filing.

If you continue to submit further lengthy filings to the Court, I can advise you they will likely not result in a response from me in accordance with my letter of 2 October 2026.

Sincerely,

Timothy Outerbridge,
Registrar

cc: attached counsel list

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Counsel for the Indigenous Bar Association of Canada	D. Redman dredman@arvayfinlay.ca D. Wu dwu@arvayfinlay.ca
Counsel for the Workers for Ethical Substance Use Policy	K. Lee kyla@vancouvercriminallaw.com
Counsel for the Law Society of British Columbia	C. Ferris, K.C. cferris@lawsonlundell.com L. Bevan lbevan@lawsonlundell.com J. Andrews jandrews@lawsonlundell.com N. Welsh nwelsh@lawsonlundell.com

Appendix “C”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

Re: CA51535-CA51536 - TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA(A) v. THE ATTORNEY GENERAL OF BRITISH COLUMBIA

3 messages

Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Mon, Sep 28, 2026 at 5:47 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

This message and any attachments are intended solely for the individual or entity to which the message is addressed and may contain information that is privileged, confidential or exempt from disclosure. Unauthorized distribution, copying or disclosure is strictly prohibited. If you have received this message in error, please notify the sender immediately and delete the original message and any attachments from your inbox and your deleted items folder.

CA51535-CA51536.pdf
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Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Tue, Oct 6, 2026 at 1:13 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

[Quoted text hidden]

CA51535-CA51536.pdf
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Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Oct 7, 2026 at 11:04 AM
To: "Dhamrait, Kristine" <Kristine.Dhamrait@bccourts.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find below and attached the same letter along with the attachments particularized addressing the below. I hope all are well and I look forward to hearing from the relevant persons where applicable. I thank Ms. Dhamrait for a copy of the same and confirm receipt. Thank you kindly. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca
Fax: 1 (416) 352-0055

Date: October 7, 2026
Service method: via email
Filing method: to be determined or exercised based upon response or lack thereof

TO:

The Court of Appeal for British Columbia
The Law Courts, 400 - 800 Hornby Street
Vancouver, BC V6Z 2C5
Attention: Ms. S. Dhamrait, Registry Officer / Chambers Scheduler
For the Immediate Attention of: The Honourable Division Panel (The Honourable Justices Groberman, Fenlon, and Riley)
With a copy to: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia
CC (Prescribed Parties' Counsel List):
Tom Posyniak tposyniak@fasken.com; Laura Abrioux labrioux@fasken.com; Will Andrews wandrews@fasken.com; Gavin Cameron gcameron@fasken.com; Lapper, Emily AG:EX emily.lapper@gov.bc.ca; Bant, Trevor AG:EX trevor.bant@gov.bc.ca; Kotliarsky, Karin AG:EX karin.kotliarsky@gov.bc.ca; Ortega, Sergio AG:EX sergio.ortega@gov.bc.ca; lkt@tdslaw.com lkt@tdslaw.com; Ian Knapp iknapp@macfuj.com; amackenzie@macfuj.com amackenzie@macfuj.com; bolthuis bolthuis@ovcounsel.com; dredman dredman@arvayfinlay.ca; David Wu dwu@arvayfinlay.ca; cbildfell@mccarthy.ca cbildfell@mccarthy.ca; Frame, Lindsay lframe@mccarthy.ca; roy.millen roy.millen@blakes.com; nicholas.tollefson@blakes.com nicholas.tollefson@blakes.com; JoeyDoyle joey@doyledefence.ca; ekirkpatrick ekirkpatrick@mcewanpartners.com; CDauvergne@litigationchambers.com cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca jmaclaren@accessprobono.ca; kyla kyla@vancouvercriminallaw.com; rpeck rpeck@peckandcompany.ca; Caroline Senini csenini@peckandcompany.ca; pmueller@peckandcompany.ca pmueller@peckandcompany.ca; Laura Bevan lbevan@lawsonlundell.com; Jonathan Andrews jandrews@lawsonlundell.com; Nicole Welsh nwelsh@lawsonlundell.com; cferris cferris@lawsonlundell.com; lgrant@lawsonlundell.com lgrant@lawsonlundell.com; mring@lawsonlundell.com mring@lawsonlundell.com; ccrane@ovcounsel.com; Chris Pang cpang@ovcounsel.com; mmiharija@ovcounsel.com

mmiharija@ovcounsel.com; szarb@macfuj.com szarb@macfuj.com; Lever, Vanessa AG:EX vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com kotto@lawsonlundell.com; Chambers@bccourts.ca

SUBJECTS:

SUBJECT I: CONFIRMATION OF RECEIPT OF ELECTRONIC CORRESPONDENCE AND ATTACHED DIRECTION FROM MS. DHAMRAIT ON BEHALF OF REGISTRAR TIMOTHY OUTERBRIDGE
SUBJECT II: IMMEDIATE FACTUAL AND CLERICAL CORRECTION REGARDING THE NON-EXISTENT ORDER DATE OF "18 SEPTEMBER 2026"
SUBJECT III: FATAL PLURAL JUDICIAL ADMISSION ("THESE APPLICATIONS") CONFIRMING DIVISION SEIZURE OF BOTH THE FORM 8 APPLICATION TO VARY AND THE SEPTEMBER 25 APPLICATION TO STRIKE / SECTION 36 SANCTIONS
SUBJECT IV: IMMEDIATE CLARIFICATION AND RECONSIDERATION OF DIRECTION NO. 3(B) ("REGISTRY IS NOT TO FILE ANY FURTHER MATERIAL ON THESE APPLICATIONS, INCLUDING MATERIAL PRESENTLY SUBMITTED FOR FILING") ON A PRE-EMPTIVE AND EX ABUNDANTI CAUTELA BASIS
SUBJECT V: UNLAWFUL DUE PROCESS CATCH-22: ORDERING A WRITTEN HEARING WHILE EMBARGOING WRITTEN MATERIALS CONTRARY TO NATURAL JUSTICE, BAKER, AND SURESH
SUBJECT VI: STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COURT OF APPEAL ACT
SUBJECT VII: FORMAL REQUEST UNDER RULE 82(1) FOR PERMISSION OF THE DIVISION PANEL TO AMEND THE APPLICATION BOOK TO INCLUDE THE OCTOBER 4, 2026 TRANSMITTAL AND THE APPELLANTS' FACTUMS; AND CONTEMPORANEOUS REQUEST FOR CONSENT FROM ALL PRESCRIBED PARTIES
SUBJECT VIII: CONFIRMATION OF THE "EXISTING WRITTEN RECORD" AND RESIDUAL PROCEDURAL DIRECTIONS

Dear Ms. Dhamrait, Registrar Outerbridge, and Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND PRELIMINARY CLERICAL CORRECTION

1. The Applicant Party, Mr. Kevin A. McLean (BA, JD, CIM), acknowledges receipt of the electronic correspondence transmitted by Ms. S. Dhamrait on October 6, 2026, enclosing the formal administrative letter authored by Registrar Timothy Outerbridge on behalf of the Division comprised

of The Honourable Mr. Justice Groberman, The Honourable Madam Justice Fenlon, and The Honourable Mr. Justice Riley (the "Division Panel").

2. As an immediate threshold matter of procedural accuracy, a critical clerical error on the face of the Registrar's letter requires rectification. Paragraph 1 of the letter references an application to vary or cancel an order of Madam Justice Horsman *"made on 18 September 2026"*.
3. The formal record of proceedings confirms that no order or decision was pronounced by Madam Justice Horsman on September 18, 2026. The reasons for decision (*2026 BCCA 372*) were pronounced in chambers on **September 8, 2026**, and the formal order was entered on **September 14, 2026** (Application Book, Tabs 1 and 2). To prevent clerical confusion within the permanent records of the Court, this chronological slip must be corrected upon the registry ledger.
4. A secondary, substantive clarification is urgently necessitated by the operational language formulated within Direction No. 3(b): *"the registry is not to file any further material on these applications, including material presently submitted for filing"*. The analysis set out below addresses this **direction**, establishing why it is legally uncertain, contrary to the governing statutory architecture, and irreconcilable with the natural justice guarantees governing written hearings under section 26 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA").

PART 2: CONFIRMATION OF PLURAL APPLICATIONS YET CLARIFICATION REQUIRED IN RELATION TO THE LANGUAGE OF DIRECTION NO. 3(B)

5. The Applicant Party takes formal note of the Registrar's explicit use of the plural noun phrase **"these applications"** across paragraphs 2 and 3 of the October 6, 2026 letter:
   - Paragraph 2 records: *"that division also has your previously submitted and presently unfiled application"*; and
   - Paragraph 3 directs: *"these applications be dealt with in writing..."*
6. This formulation constitutes a definitive judicial and administrative admission that the Division Panel has been formally constituted and seized of **two distinct applications**:

   a. The Applicant Party's Form 8 Notice of Application to Vary or Cancel the Order of a Justice (*September 9, 2026*); and

   b. The Applicant Party's Form 4 Notice of Application and Written Argument (*September 25, 2026*) seeking, *inter alia*, declarations of nullity regarding the fabricated "Joint Response Book [Sic]", striking relief under *Rule 9-5* by analogy, and summary sanctions under section 36 of the COAA.
7. Having judicially acknowledged that the Division Panel possesses both applications and has directed that both be adjudicated together in writing, the Registry cannot logically or lawfully maintain the administrative fiction that the September 25, 2026 application remains "unfiled" or non-existent upon the public docket. The Court cannot purport to adjudicate an application that its administrative arm refuses to docket.
8. Concurrently, the exact syntax of Direction No. 3(b)—stating that the *"registry is not to file any further material on these applications"*—is ambiguous and devoid of precise legal effect. Is this **direction** intended to state that:

a. "the registry is not to accept any further fileings any further material on these applications";

b. "the registry is not to accept any further documents submitted for filing on these applications"; or

c. something to that effect?

9. While I appreciate that the Legislature intended that an Order is valid from the time it is pronounced (see: COAA, ss. 39(2)), the language of "direction" was utilized. While appreciating the definition of Order being inclusive of the word "direction", statutory interpretation in this regard requires that the direction, in order to be subsumed under that statutory definition must be "SPECIFICALLY" authorized or required under an **Enactment** (see: supra). In this regard, that would require particularized reasons for why each of the submitted documents were subject to a blunt "direction". Leaving that aside and awaiting the erudite and Honourable Division or "Division Panel's" clarification in these multiple and independent regards, I note that if the "direction", which need not be specifically authorized or required by an **Enactment** to be lawful or intra vires per se but if not specifically authorized or required by an **Enactment**, then it does not fall within the statutory definition of Order. Ergo, such a "direction" does not fall within ss. 39(2) of the COAA. Consequently, the validity from the time of pronouncement, statutorily, does not apply which lends itself to further grounds for clarification and an absence, at least statutorily, of the functus officio doctrine.

PART 3: APPELLANTS' FACTUMS: CONFIRMATION AS PART OF THE RECORD BEFORE THE DIVISION PANEL

10. Direction No. 3(a) orders that these applications be determined strictly in writing. This **direction** reinforces the primary question formally placed before the Court in the Applicant Party's transmittal of October 4, 2026: **Are the Appellants' Factums recognized as part of the active record of proceedings before the Division Panel?**
11. Madam Justice Horsman explicitly ordered in her August 31, 2026 memorandum that the Applicant Party's applications would proceed strictly upon the **"existing written record"** (Application Book, Tab 3K, p. 203). Her Ladyship did not qualify that foundation as the "docketed CSO record."
12. Pursuant to the case management determinations of June 29, 2026 (confirmed by Registrar Outerbridge and Chambers Scheduler Shelly Lin on July 2, 2026), the substantive factums of the Law Society of British Columbia (CA51536) and the Trial Lawyers Association of British Columbia (CA51535) were uploaded to the Court's Case Center repository on August 5, 2026, and were expressly **deemed filed** on that date.
13. The Chief Executive Officer of the LSBC publicly confirmed at the September 25, 2026 Bencher meeting that its factum had been filed on August 5, 2026. Those pleadings have resided within the institutional custody and administrative control of the Court since August 5, 2026. They constituted the foundational pillars of the "existing written record" as of August 31, 2026.
14. The Division Panel is respectfully requested to confirm upon the record that the Appellants' Factums form part of the written evidentiary and argumentative matrix to be considered on these applications,

ensuring that adjudication does not take place in an artificial factual vacuum.

PART 4: WERE SUBMITTED MATERIALS BROUGHT BEFORE THE DIVISION PANEL? JURISPRUDENCE AND RECONSIDERATION BEFORE ORDER ENTRY

15. It is a critical procedural inquiry whether the specific, individual documents submitted for filing by the Applicant Party on September 25, September 27, and October 4, 2026, were placed physically and electronically before Justices Groberman, Fenlon, and Riley for judicial evaluation, or whether Direction No. 3(b) was formulated upon a generalized administrative summary.
16. If the Division Panel was not provided with each discrete document—specifically including the Form 4 Notice of Application to strike the "Joint Response Book [Sic]" and the October 4 transmittal incorporating the Appellants' Factums—the Applicant Party formally seeks reconsideration of Direction No. 3(b) prior to the entry of any formal order.

Part 4(A): The Doctrine of Functus Officio is Inapplicable to Direction No. 3(b)

17. The doctrine of *functus officio* does not bar the Division Panel from reconsidering, clarifying, or rescinding Direction No. 3(b). In *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 (*"CBC v. Manitoba"*), the Supreme Court of Canada authoritatively reaffirmed at paragraphs 33 and 34 that *functus officio* applies strictly to **final** decisions after formal judgment has been entered:

> "According to the rule of functus officio, a final decision of a court that is susceptible of appeal cannot, as a general rule, be reconsidered by the court that rendered that decision. A court loses jurisdiction once the formal judgment has been entered."

18. Direction No. 3(b) is an interlocutory administrative **direction**; it is not a final judgment under section 40(1) of the *Supreme Court Act*, R.S.C. 1985, c. S-26, as it determines no substantive rights. Furthermore, no formal order in Form 11 or Form 12 has been drawn up, approved, or entered under Rule 66.
19. As established by the Ontario Court of Appeal in *Meridian Credit Union Limited v. Baig*, 2016 ONCA 150 (paras. 33–37), a superior appellate court retains inherent and statutory jurisdiction to reconsider an interlocutory decision before an order is formally entered.
20. Similarly, in *Smith Bus Lines Ltd. v. Bank of Montreal*, 1987 CanLII 4190 (ON SC), Sutherland J. held that an adjudicator acts judicially when withdrawing or varying an order prior to formal entry to avoid procedural unfairness:

> "There is abundant authority... for the proposition that a judgment can be reconsidered and varied or withdrawn before it is entered... Such a jurisdiction is quite independent of the rules, and of the fact that once entered an order takes effect from the time of its pronouncement."

21. Where an administrative **direction** is issued without reasons, upon an unparticularized bundle of materials, and creates an operational barrier to natural justice, the Court possesses jurisdiction to recall the **direction** *ex debito justitiae*.

Part 4(A)(i): Demonstrable Legal Oversight and the Per Incuriam Principle

22. In *Menzies v. Harlos*, 1989 CanLII 2760 (BC CA), Esson J.A., writing for this Court, confirmed the established power to reconsider interlocutory rulings where there is a demonstrable oversight in a particular aspect:

> "It is not unusual for an application to vary to be made and granted where the basis of the application is a demonstrable oversight or error in a particular aspect. An example in the area of fact is an error in calculation... An example in the area of law is reliance on a statute which has been repealed."

23. This principle was reaffirmed in *Grace Estate (Re)*, 2022 BCSC 1283 (para. 10), citing *Signcorp v. Vancouver (City)* (1986), 9 B.C.L.R. (2d) 238 (S.C.), confirming that a court may reverse itself when a decision is predicated upon a legal point or statutory parameter that was not properly argued or considered.
24. Direction No. 3(b) was pronounced without the benefit of adversarial argument and without identifying any statutory provision authorizing a blanket preclusion on filings. It constitutes an administrative oversight that falls within the *Menzies v. Harlos* framework for immediate reconsideration.

PART 5: THE UNLAWFUL DUE PROCESS CATCH-22: WRITTEN HEARINGS UNDER SECTION 26 DEMAND ACCESS TO WRITTEN PLEADINGS

25. The core legal contradiction in Direction No. 3 is acute:
    - Direction No. 3(a) orders that the applications be dealt with **in writing**; yet
    - Direction No. 3(b) orders that the Registry **not file any further material on these applications, including material presently submitted for filing**.
26. This creates an unconstitutional procedural Catch-22: the Court orders a litigant to proceed strictly in writing, while simultaneously directing its registry to refuse the very written materials submitted to advance and support the applications.
27. In *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, the Supreme Court of Canada established at paragraphs 28 through 33 that while oral hearings are not required in every context, the chosen procedural format must afford the affected party a meaningful opportunity to present their case fully and fairly.
28. In *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, the Supreme Court held at paragraph 115 that when an adjudicative body elects to determine an issue on written submissions, procedural fairness demands that the party be entitled to know the case to be met and have their written materials received, docketed, and considered by the decision-maker.
29. To direct that an application to strike a void "Joint Response Book [Sic]" be decided in writing, while directing the clerk to reject the Form 4 and Written Argument submitted to explain *why* the document

is a nullity, is a denial of natural justice (*audi alteram partem*). The Division Panel cannot lawfully adjudicate the validity of the September 25 application while maintaining its moving papers in an unfiled administrative void.

PART 6: THE STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COAA

30. The Registrar's closing warning—stating that further submissions *"will likely not result in a response from me"*—operates outside the statutory framework of the *Court of Appeal Act*.
31. Neither a single justice, nor a Division Panel via administrative letter, nor the Registrar possesses the statutory authority to construct an informal, extra-statutory filing embargo Section 38(2) of the COAA confines the Registrar's power to refuse documents strictly to non-compliance with the Rules or an entered practice **direction** (*R. v. Verma*, 2016 BCCA 307 at para. 20).
32. If the Court seeks to restrict a litigant's statutory right to submit filings, it must comply with the mandatory prescribed or statutory conditions along with procedural fairness. It cannot achieve that result through administrative **direction**s that bypass the statutory safeguards enacted by the Legislature.

PART 7: THE BCCA IS A STATUTORY COURT DIVESTED OF INHERENT JURISDICTION TO OVERRIDE ENACTMENT INTENT

35. The Court of Appeal is a statutory court created by enactment. Unlike the Supreme Court of British Columbia, it possesses no broad inherent jurisdiction. Any power exercised by the Court must find its source within the four corners of the COAA and the *Court of Appeal Rules*.
36. Section 18(1) of the COAA commands: *"An appeal or application for leave to appeal must be brought and conducted in accordance with this Act and the rules."* Section 28 further specifies that the Court may exercise a power given to a justice by the Act or the Rules. If a power is not conferred by statute, it does not exist.
37. As authoritatively decreed by the Supreme Court of Canada in *Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 S.C.R. 475 at page 480, even inherent jurisdiction cannot be invoked to override or bypass explicit statutory mandates.
38. While section 26(1)(a)(i) of the COAA authorizes the Court to order that a hearing be conducted in writing, no provision in the COAA or the Rules authorizes the Court to direct a registry not to accept compliant documents submitted by a Prescribed Party in any circumstance and certainly not these circumstances.

PART 8: PROCEDURAL FAIRNESS AND THE IMPORTANCE OF CLARITY IN COURT ORDERS

39. In *Petro-Canada v. British Columbia (Workers' Compensation Board)*, 2009 BCCA 396, this Court emphasized at paragraph 65 that procedural fairness requirements are not technical, but functional:

> "The question is whether, in the circumstances of a given case, the party that contends it was denied procedural fairness was given an adequate opportunity to know the case against it and to respond to it."

40. In *Gurtins v. Goyert*, 2008 BCCA 196, this Court stressed the imperative of precision in judicial **direction**s, ruling at paragraph 15:

> "The rule of law requires that court orders be obeyed. Accordingly, it is of paramount importance that persons who are subject to court orders be able to readily determine their obligations and responsibilities. They do this by having regard to what is on the face of the formal order... An order should be clear in its terms and should not require the person to whom it is addressed to cross-refer to other material in order to ascertain his precise obligation."

41. Direction No. 3(b) fails the *Gurtins v. Goyert* standard. It purports to direct the Registry not to "file" materials, leaving active litigants in complete uncertainty as to whether compliant motion materials previously delivered to the Registry are legally before the Court, whether they have been received, or whether they have been discarded without adjudication.

PART 9: FORMAL REQUEST UNDER RULE 82(1) TO AMEND APPLICATION BOOK AND SEEKING OF CONSENT

42. To resolve part of this unfortunate procedural impasse, eliminate any asserted prejudice, and ensure that the Division Panel is furnished with the complete record without violating Direction No. 3(b), the Applicant Party hereby invokes **Rule 82(1) of the Court of Appeal Rules**.
43. Rule 82(1) provides:

> "Subject to subrules (2), (3) and (4), a document that has been filed with the court may be amended by a person only with the consent of all the parties or the permission of the court, a justice or the registrar."

44. Pursuant to Rule 82(1), the Applicant Party formally makes two requests:

    a. **Seeking Permission of the Division Panel:** The Applicant Party formally applies to the Division Panel (Justices Groberman, Fenlon, and Riley) for permission to amend the filed Application Book of September 15, 2026, by inserting a Supplemental Volume containing:

    i. The Applicant Party's transmittal letter of October 4, 2026 which enclosed or attached the below:

    ii. The Appellant's Factum of the Law Society of British Columbia (CA51536), deemed filed August 5, 2026; and

    iii. The Appellant's Factum of the Trial Lawyers Association of British Columbia (CA51535), deemed filed August 5, 2026.

    b. **Seeking Consent of All Prescribed Parties:** The Applicant Party contemporaneously requests that counsel for each of the Prescribed Parties identified in the caption of this correspondence provide their written consent under Rule 82(1) to amend the Application Book to include their own deemed-filed factums.

45. The inclusion of the Appellants' Factums causes zero prejudice: the factums were authored by the Appellants themselves, were deemed filed on August 5, 2026, and are already within Case Center.

Granting permission under Rule 82(1) ensures equality of arms and provides the Division Panel with the exact written Factum "deemed filed" upon which the Appellants' constitutional theories rest.

PART 10: CONCLUSION AND REQUESTED DISPOSITION

46. In conclusion, the Applicant Party respectfully requests that the Division Panel:
    a. Note and correct the clerical error in paragraph 1 of the Registrar's letter (correcting "18 September 2026" to "September 8, 2026 / entered September 14, 2026");
    b. Confirm that the Division Panel is seized of both the Form 8 Application to Vary and the September 25 Application to Strike the "Joint Response Book [Sic]";
    c. Clarify and recall Direction No. 3(b) to ensure that the moving papers and written arguments supporting the September 25 application are formally stamped and docketed nunc pro tunc; and
    d. Grant permission pursuant to Rule 82(1) to amend the Application Book to include the Appellants' Factums and the October 4, 2026 transmittal letter.
47. Counsel for the Prescribed Parties are requested to advise in writing forthwith whether they consent to the Rule 82(1) amendment.
48. The Applicant Party confirms that the composition of the Division Panel (Justices Groberman, Fenlon, and Riley) is noted and accepted without objection, and confirms his readiness to proceed with the determination of these applications in writing upon the complete, unredacted record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 7th day of October, 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party (Court of Appeal File Nos.: CA51535 / CA51536) and by reference to the undisclosed and non-public Case Center file number
Email: mclean@searchandseizure.ca
Telephone: 647.370.9354
Facsimile: 1 (416) 352-0055

ENCLOSURES TRANSMITTED HEREWITH:

1. True copy of the Applicant Party's formal transmittal letter dated October 4, 2026, incorporating the deemed-filed Appellants' Factums in CA51535 and CA51536.
2. Official Court Services Online (CSO) Registry Notice dated September 29, 2026 (Package ID 4399228), confirming the Registrar's formal decision: *"The Registrar will place your unfiled application before the division set to hear your application to vary."*

[Quoted text hidden]

3 attachments

Rejection from CSO - BCCA - regaading NOA Form 4 and MOA -Sept 29 2026 wherein the Registrar said unfiled APP before Division Panel.pdf
239K

Letter (App) - Immediate to Appellants' Factums - AP - Mr McLean - 4-10-26 - F S.pdf
1736K

Final Ltr - Clarification - Recon - Amend AB - LSCB et al v TLABC et al - AP - KAM - 7-Oct-26 - PDF Signed.pdf
302K

1

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS

(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS

(Defendants)

WRITTEN ARGUMENT OF THE APPLICANT PARTY PROMULGATED IN SUPPORT OF THE NOTICE OF APPLICATION IN FORM 4 SUBMITTED OCTOBER 13, 2026, SEEKING DECLARATORY, SUPERVISORY, AND CORRECTIVE RELIEF)

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PART 1: OVERVIEW AND THE SYSTEMIC PATTERN OF ADMINISTRATIVE USURPATION

1. This formal legal instrument (the "**Written Argument**") is promulgated in support of the formally submitted notice of application in form 4 (the "**Supervisory Application**"). Imperative declaratory, supervisory, and corrective relief is sought regarding the unconstitutional, *ultra vires*, and extra-statutory administrative embargo orchestrated by the Court of Appeal registry (the "**Registry**").
2. The paramount jurisprudential controversy involves the unlawful invocation of an administrative directive—purportedly issued by the tripartite judicial composition (the "**Honourable Division Panel**") on October 6, 2026—to permanently estop the reception, filing, and docketing of perfectly compliant submissions.
3. This *de facto* embargo does not exist in an administrative vacuum; it constitutes the culmination of a systemic pattern of procedural usurpation executed by the Registry and the adjudicative apparatus. This pattern commenced explicitly with the unlawful marking of the Applicant Party's compliant August 28, 2026 written argument as "Received – Not Filed," followed subsequently by Madam Justice Horsman *sua sponte* ordering the Registry not to accept a filing that was procedurally compliant, transmitted, and statutorily paid for.
4. This systemic obstruction exists in jarring contrast to the preferential administrative accommodation afforded to the Appellants. Registrar (Head) Mr. Outerbridge previously issued an extra-statutory memorandum following a case management conference that permitted the Law Society of British Columbia (the "LSBC") and the Trial Lawyers Association of British Columbia (the "TLABC") to file their factums via a mere "deeming order" by uploading them to the Case Center repository.
5. As established in comparative appellate jurisdictions (e.g., Ontario), uploading to Case Center is *not* filing; it is an administrative step required *after* a document has been formally filed upon the public docket. The Registrar's "deeming order" operated as a fundamental breach of the open court principle, shielding the Appellants' factums from public view, as evidenced by the extensive efforts required by the Applicant Party to ultimately obtain them.

6. Furthermore, this dual-track administrative processing breaches the modernized architecture of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA") and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Rules"). Under the scheme of these Enactments, explicit statutory rights were granted to "persons" (not merely formalized respondents) to quash appeals or strike portions of factums. It is a foundational axiom of procedural fairness that *that which is not visible to the public cannot be struck*.

PART 2: STATEMENT OF ISSUES FOR DETERMINATION

7. The adjudication of the Supervisory Application demands the resolution of the following pure questions of law, tort, and constitutional jurisdiction:
   a. **Issue A:** Whether the extra-statutory rejection of compliant filings breaches the open court principle enshrined in Section 2(b) of the *Charter*, Sections 7 and 15, and the judicature guarantees of the *Constitution Act, 1867*, operating as an absolute nullity under *Rule 79(5)*.
   b. **Issue B:** Whether the assertion of administrative privilege to shield the origins of the embargo must yield *a fortiori* to the exceptions recognized for solicitor-client privilege (*Smith v. Jones*; *Goldman Sachs*; *Blank v. Canada*), specifically when confronted with convincing evidence of an abuse of process or tortious breach of duty.
   c. **Issue C:** Whether Registrars—as creatures of statute devoid of judicial immunity—and other actors can be held liable for the tort of unlawful means conspiracy (*Reach M.D.*; *Torquay Hotel*) when enforcing an embargo *coram non judice*.
   d. **Issue D:** Whether the strict parameters of judicial immunity (*Prefontaine v. Gosman*; *R. v. Germain*; *R. v. Feeney*) require a definitive *belief* in jurisdiction, thereby rendering it mathematically and jurisprudentially impossible that the Honourable Division Panel actually authored the impugned **directions**.
   e. **Issue E:** Whether relief in the nature of *mandamus* must issue to compel the Registrar to fulfill mandatory statutory duties, and whether the *Primus Inter Pares* supervisory jurisdiction of the Chief Justice must be engaged.

PART 3: ARGUMENT

ISSUE A: CONSTITUTIONAL IMPERATIVES, THE OPEN COURT PRINCIPLE, AND THE JUDICATURE SECTIONS

The Law:

8. The open court principle is inextricably intertwined with the freedom of expression guaranteed under Section 2(b) of the *Canadian Charter of Rights and Freedoms*. In *Toronto Star v. AG Ontario*, 2018

ONSC 2586, Justice E. Morgan powerfully reaffirmed the axiom that "justice delayed is justice denied," establishing the corollary that "reportage delayed is reportage denied."

9. What is occurring within this Registry transcends the improper sealing or denial of access to existing court documents; it is the absolute preclusion of compliant documents from ever entering the *acta curiae* (the file itself). To the extent that the BCCA Registry rejects the Notice of Application in Form 4 and its accompanying written argument, it exhibits a pattern of conduct that fundamentally breaches Section 2(b), Section 7, and Section 15 of the *Charter*.
10. Furthermore, and fatally to the administrative posture of the Registry, this conduct breaches the *Constitution Act, 1867*, including but not limited to the Judicature Sections (sections 96 to 101). Unlike the *Charter*, which permits the theoretical justification of rights infringements under Section 1, there exists *no saving provision* for conduct that strips a superior or appellate court of its core jurisdiction. As established in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59, and *MacMillan Bloedel Ltd. v. Simpson*, [1995] 4 S.C.R. 725, measures that prevent citizens from accessing the courts to resolve disputes strike at the very core of the judicial function and are definitively unconstitutional.

ISSUE B: THE A FORTIORI PIERCING OF ADMINISTRATIVE PRIVILEGE

The Law: The Zenith of Privilege and Its Exceptions

11. To the extent the Registry attempts to shield the origins, metadata, and drafting history of the October 6, 2026 memorandum behind the veil of administrative or deliberative privilege, the Applicant Party advances a profound jurisprudential analogy regarding the penetrability of even the highest privileges known to Canadian law.
12. Solicitor-client privilege is recognized as the zenith of privilege, having evolved into a substantive rule of law possessing a constitutionalized status. However, even this fiercely guarded privilege is not absolute. In the landmark decision of *Smith v. Jones, 1999 CanLII 674 (SCC)*, the Supreme Court of Canada conclusively established that solicitor-client privilege must yield in the face of compelling public interest exceptions.
13. The Supreme Court of British Columbia, in *Goldman Sachs & Co. v. Sessions, 1999 CanLII 5317 (BCSC)* and subsequently *Goldman Sachs & Co. v. Sessions, 2000 BCSC 67*, definitively expanded upon these parameters in the civil arena. The Court ruled that the exceptions to privilege extend beyond strict criminal fraud to encompass abuses of process, breaches of regulatory statutes, torts, and breaches of fiduciary duty. The threshold requirement is that there must be *convincing evidence* of the illegal or improper purpose to pierce the veil.

14. Furthermore, in *Blank v. Canada (Justice), 2015 FC 956*, the Federal Court reinforced that privilege cannot be weaponized to shield the structural subversion of justice or egregious state misconduct.

The A Fortiori Application:

15. 15. The logical and jurisprudential deduction is unassailable: If the highest, constitutionally entrenched privilege in Canadian law (solicitor-client privilege) must give way to convincing evidence of an abuse of process or a tortious breach of duty, then *a fortiori* (with even greater force), a mere qualified *administrative* privilege cannot possibly serve as an impenetrable shield.
16. The metadata establishing the 33-minute temporal interval—wherein the Applicant Party submitted a *mandamus* application against the Registry at 9:38 a.m., only to have the Registry finalize an embargo memorandum at 10:11 a.m.—provides the exact "convincing evidence" of an abuse of process required by the *Goldman Sachs* standard. Administrative privilege cannot be invoked to conceal *ultra vires* conduct, the unlawful embargoing of a litigant's filings, or the structural orchestration of a factual vacuum.

ISSUE C: REGISTRARS, THE LIMITS OF IMMUNITY, AND UNLAWFUL MEANS CONSPIRACY

The Law:

17. Registrars and court clerks are creatures of statute. They do not possess the absolute judicial immunity afforded to judges, particularly concerning acts, orders, or directions that are executed in bad faith, outside their statutory mandate, or *coram non judice*.
18. There is a positive duty incumbent upon all administrative actors *not* to facilitate, aid, or abet unlawful acts or the deployment of unlawful means. Consistent with the principle that there is no plea of justification for a constable relying on a "bad" warrant issued by a judicial officer lacking jurisdiction (*McLean v. Bradley, 1878 CanLII 22 (SCC) as per Sir William Buell Richards, Knt., C.J,, et al* , there is no plea of justification for any litigant or court staff relying on a void administrative embargo.
19. The law of or tort of civil conspiracy (with its two branches) provides binding authority in this regard. In *Reach M.D. Inc. v. Pharmaceutical Manufacturers Assn. of Canada*, 2003 CanLII 27828 (ON CA), the Ontario Court of Appeal cited the seminal contribution of Lord Denning in *Torquay Hotel Co. Ltd. v. Cousins*, [1969] 2 Ch. 106 (C.A.) at p. 530:

> *"I have always understood that if one person deliberately interferes with the trade or business of another, and does so by unlawful means, that is, by an act which he is not at liberty to commit, then he is acting unlawfully... If the means are unlawful, that is enough."*

20. It is indisputable that any acts executing an embargo against compliant filings are acts the Registry is "not at liberty to commit" under *Rule 79(5)*. Furthermore, as established in *Sugar v. Peat Marwick Ltd.* (1988), 55 D.L.R. (4th) 230 (Ont H.C.J.), liability can be imposed for maintaining silence and permitting the promulgation of false statements or unlawful **directions**. An administrative actor cannot enforce an *ultra vires* embargo and subsequently claim immunity.

ISSUE D: JUDICIAL IMMUNITY AND THE THRESHOLD OF BELIEF IN JURISDICTION

The Law:

21. Even absolute judicial immunity is bounded by specific jurisprudential parameters. As analyzed in *Prefontaine v. Gosman*, 2000 CanLII 28227 (AB KB), at paragraph 39, Jones J. (citing *R. v. Germain*, 1984 CanLII 1307 (AB KB)), articulated the core principle:

> "...a judge acting in her or his judicial capacity will not be liable civilly for any actions done in such judicial capacity whether the judge was acting within or outside of her or his jurisdiction... if the judge believed that he or she was acting with jurisdiction and in the course of his or her judicial duties." [Emphasis added].

22. The obvious emphasis is on the requirement that the judge must genuinely *believe* that they were acting with jurisdiction.

Application to the Facts:

23. Applying this standard to the October 6, 2026 memorandum yields a profound deductive conclusion. How could three justices of the experience and erudition of The Honourable Justices Groberman, Riley, and Fenlon possibly have believed that they had the power or jurisdiction to permanently deny an Applicant Party from filing a Notice of Application to strike a non-compliant, fabricated document (the "Joint Response Book [Sic]")?
24. Could three appellate judges not know the fundamental statutory difference between an Applicant Party's right to submit and the Registry's internal administrative constraints regarding stamping? Would those same Honourable Justices not have immediately corrected a slip or clarified their language if they had actually made it?
25. Those questions seemingly answer themselves.
26. Litigation is not a tea party but it also cannot be conducted in the dark as its core it is a "truth seeking function".
27. The irresistible legal conclusion is that the Honourable Division Panel did *not* deliberate upon, draft, or issue the embargoing language in Direction 3(b). The directive is an administrative fabrication, divested of both judicial provenance and lawful jurisdiction.

PART 4: DENOUEMENT

28. For the foregoing reasons, the issues raised by Directions 3(A) and 3(B) transcend the immediate interests of the parties and warrant determination by the Supreme Court of Canada. They concern the statutory limits of the British Columbia Court of Appeal's authority, the availability of review where a division of that Court restricts access to its filing process, and the legal consequences of an order or direction made without jurisdiction.

I. STATUTORY FRAMEWORK AND FINALITY

29. The British Columbia Court of Appeal is a statutory court. Its judges are appointed by the Governor General on the advice of the federal Cabinet, following the federal judicial appointments process, and are remunerated by the federal government. The Court's authority must therefore be found in, and exercised consistently with, the *Court of Appeal Act*, the Court of Appeal Rules, and any other applicable law.
30. The Applicant's position is that neither the Act nor the Rules authorize the Court to prevent a prescribed party from submitting a compliant document. The Applicant relies on *R. v. Verma*, 2016 BCCA, as having addressed that principle through a three-judge division. Where a registrar refuses a filing, a review mechanism is available under the Act and the Rules. Where a single justice makes the impugned decision, relief may likewise be sought under the prescribed procedure, including Form 8. By contrast, no internal review lies from a direction made by a division of the Court.
31. Accordingly, if a division's filing direction conclusively determines the Applicant's ability to place compliant materials before the Court and is not subject to further internal review, it is properly characterized as a final judgment for the purpose of seeking leave to appeal to the Supreme Court of Canada. Finality, however, does not itself establish jurisdiction. A three-judge division—even one acting unanimously or by majority—cannot acquire authority that the governing legislation and rules do not confer. The central question is therefore not whether the division asserted jurisdiction, but whether jurisdiction existed in law.

II. CONSEQUENCES OF AN ALLEGED JURISDICTIONAL ERROR

32. The legal consequences of a direction made without jurisdiction are distinct from the subjective belief of the judges who issued it. The Applicant relies on *R. v. Germain* (Alberta, 1984) for the proposition that liability in the circumstances considered there rested with the state rather than the individual judge. The Applicant also relies on *R. v. Feeney* for the Federal Court of Appeal's conclusion that, absent exceptional circumstances, judges are not servants, employees, or agents of the Crown. That conclusion

followed prior authority and rejected an unpleaded argument concerning the Office of the Commissioner for Federal Judicial Affairs; it also recognized that superior-court appointments are made under s. 96 of the *Constitution Act, 1867*.

33. Those authorities raise, but do not by themselves resolve, a further issue: whether personal liability could ever arise where judicial officers issue a direction that is beyond their lawful authority and do so without a good-faith belief that such authority exists. The Applicant submits that recognizing a narrowly confined issue of this kind would not open the floodgates to routine litigation against judges. The proposed question is limited to exceptional circumstances involving an alleged absence of jurisdiction coupled with the alleged absence of a good-faith jurisdictional basis. Whether that proposition is legally sustainable should be determined by reference to the governing authorities on judicial immunity, misfeasance, Crown liability, and the requisite state of mind.

III. PROSPECTIVE HARM AND THE NEED FOR EFFECTIVE RELIEF

34. The Applicant further submits that the jurisdictional issue has immediate practical significance. The underlying appeals are said to engage allegations that the Law Society of British Columbia has used, is using, or may use concealed RAM acquisition, unauthorized blockchain disclosures, warrantless kernel-module extraction, or remotely injected malicious software to obtain information from licensees' computers. These are serious allegations and must be established by admissible evidence; they should not be treated as proven merely because they are pleaded or asserted.

35. If established, however, the alleged conduct could affect not only licensees but also other persons whose personal information or personal health information was captured from a device. The Applicant refers to the terminology allegedly used by Mr. Gomery, K.C. (as he then was), in 2015 and later by Ms. Lockhart of NST LLP, said to have acted for or as agent of the Law Society, to distinguish a "RAM dump" from ordinary copying or forensic copying. On that premise, the refusal to strike, dismiss, or quash the appeals—or otherwise restore the status quo ante in relation to the *Legal Professions Act, 2024*—is alleged to expose identifiable persons to continuing or prospective harm.

36. The Applicant therefore advances the further question whether, once a court is placed on notice of a credible and legally cognizable prospective risk, any duty to warn, protect, or grant effective relief may arise. The Applicant does not contend that liability follows automatically from an adverse judicial decision. Rather, the submission is that the interaction among jurisdiction, immunity, notice, prospective harm, and the availability of protective relief presents a novel issue requiring authoritative determination.

IV. DIRECTION 3(B) AND THE RECORD

37. A threshold factual and legal question remains whether the division ever pronounced Direction 3(B) in a manner sufficient to create a binding direction. That question must be assessed against the record, including the direction of Registrar (Head) Mr. Outerbridge dated September 28, 2026, which the Applicant says permitted the Applicant to address before the division the relevant issues, including the unfiled notice of appeal. The same record may also bear on Direction 3(A).

V. ISSUES OF PUBLIC IMPORTANCE

38. These issues satisfy the governing leave criteria because they raise questions of public importance, important questions of law or mixed fact and law that ought to be decided by the Court, and matters whose nature and significance warrant the Supreme Court's intervention. In particular, they concern:
    a. the statutory limits on a provincial court of appeal's power to restrict the filing of otherwise compliant materials;
    b. the characterization of an unreviewable divisional filing direction as a final judgment;
    c. the relationship among jurisdictional error, judicial immunity, Crown liability, and any exceptional basis for personal liability;
    d. the procedural and constitutional implications of alleged state-authorized acquisition or disclosure of privileged, personal, or health information; and
    e. the availability of prospective relief where the alleged harm may extend beyond the immediate parties.
39. These questions are novel, extend beyond the private dispute, and may have systemic consequences for access to appellate justice, the rule of law, judicial accountability, constitutional rights, and the protection of privileged and sensitive information. The Court should therefore grant leave so that the jurisdictional status and legal effect of Directions 3(A) and 3(B), and the consequential issues arising from them, may be determined on a complete record.

PART 5: RELIEF SOUGHT / ORDERS SOUGHT

40. The Applicant Party adopts and relies upon the relief particularized in Appendix "A," including the accompanying index of documents and the meticulous chronology of events relevant to the issues raised herein, in addition to those already set out in the Applicant Party's Application Book.

41. For the foregoing reasons, and to remedy the constitutional violations, pierce the invalid assertions of privilege, and rectify the administrative displacement of the appellate record, the Applicant Party respectfully requests that all outstanding relief be granted, together with the relief sought in his Notice of Application (Form 4) dated October 13, 2026.

All of which is respectfully submitted on October 13, 2026:

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party

Appendix “A”

Reply to: Mr. Kevin A. McLean (BA, JD, CIM) 1323
Email: mclean@searchandseizure.ca
Fax: 1 (416) 352-0055

Date: October 9, 2026

Service method: via email and facsimile

Filing method: via CSO Portal

TO:

The Court of Appeal for British Columbia

The Law Courts, 400 - 800 Hornby Street

Vancouver, BC V6Z 2C5

Attention: The Honourable Chief Justice Leonard Marchand, Chief Justice of British Columbia

With a copy to: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia; Ms. S. Dhamrait, Registry Officer / Chambers Scheduler

CC (Prescribed Parties' Counsel List):

Tom Posyniak tposyniak@fasken.com; Laura Abrioux labrioux@fasken.com; Will Andrews wandrews@fasken.com; Gavin Cameron gcameron@fasken.com; Lapper, Emily AG:EX emily.lapper@gov.bc.ca; Bant, Trevor AG:EX trevor.bant@gov.bc.ca; Kotliarsky, Karin AG:EX karin.kotliarsky@gov.bc.ca; Ortega, Sergio AG:EX sergio.ortega@gov.bc.ca; lkt@tdslaw.com lkt@tdslaw.com; Ian Knapp iknapp@macfuj.com; amackenzie@macfuj.com amackenzie@macfuj.com; bolthuis bolthuis@ovcounsel.com; dredman dredman@arvayfinlay.ca; David Wu dwu@arvayfinlay.ca; cbildfell@mccarthy.ca cbildfell@mccarthy.ca; Frame, Lindsay lframe@mccarthy.ca; roy.millen roy.millen@blakes.com; nicholas.tollefson@blakes.com nicholas.tollefson@blakes.com; JoeyDoyle joey@doyledefence.ca; ekirkpatrick ekirkpatrick@mcewanpartners.com; CDauvergne@litigationchambers.com cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca jmaclaren@accessprobono.ca; kyla kyla@vancouvercriminallaw.com; rpeck rpeck@peckandcompany.ca; Caroline Senini csenini@peckandcompany.ca; pmueller@peckandcompany.ca pmueller@peckandcompany.ca; Laura Bevan lbevan@lawsonlundell.com; Jonathan Andrews jandrews@lawsonlundell.com; Nicole Welsh nwelsh@lawsonlundell.com; cferris cferris@lawsonlundell.com; lgrant@lawsonlundell.com lgrant@lawsonlundell.com; mring@lawsonlundell.com mring@lawsonlundell.com; ccrane@ovcounsel.com; Chris Pang cpang@ovcounsel.com; mmiharija@ovcounsel.com mmiharija@ovcounsel.com; szarb@macfuj.com szarb@macfuj.com; Lever, Vanessa AG:EX vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com kotto@lawsonlundell.com; Chambers@bccourts.ca

SUBJECTS:
SUBJECT I: FORMAL ACKNOWLEDGMENT OF THE OCTOBER 8, 2026 REGISTRY CORRESPONDENCE AND THE CRYSTALLIZATION OF THE ADMINISTRATIVE NULLITY REGARDING DIRECTION 3(B)
SUBJECT II: THE LAW OF TACIT ADMISSIONS AND THE UNCHALLENGED PREMISE OF ADMINISTRATIVE USURPATION
SUBJECT III: IMMEDIATE RESUBMISSION OF COMPLIANT FILINGS PURSUANT TO THE BINDING AUTHORITY OF R. V. VERMA AND THE PRESERVATION OF THE APPELLATE RECORD
SUBJECT IV: FORMAL REQUEST PURSUANT TO RULE 82 OF THE COURT OF APPEAL RULES TO AMEND THE APPLICATION BOOK TO INCLUDE THE SEPTEMBER 25 AND OCTOBER 5 NOTICES OF APPLICATION, ACCOMPANYING WRITTEN ARGUMENTS, AND THE OCTOBER 4 TRANSMITTAL ENCLOSING THE APPELLANTS' FACTUMS

Dear Chief Justice Marchand, Registrar Outerbridge, Ms. Dhamrait, and Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: THE REGISTRY'S RESPONSE AND THE CRYSTALLIZATION OF THE NEWLY DEDUCED POSITION

1. The Applicant Party, Mr. Kevin A. McLean (BA, JD, CIM), formally acknowledges receipt of the electronic correspondence transmitted by Ms. S. Dhamrait on October 8, 2026, at 12:58 p.m. PST, sent on behalf of Registrar Outerbridge.
2. The aforementioned correspondence explicitly stated: *"The Registrar would like to clarify a point in his letter. The Registrar's letter of October 6 should have referred to Justice Horsman's September 8 decision, not September 18..."*
3. The administrative correction of this chronological error is formally noted for the appellate record. However, it is rigorously and forcefully observed that the Registry's correspondence conspicuously and entirely failed to address the paramount substantive demand articulated within the Applicant Party's formal transmittal of October 8, 2026.
4. Specifically, a highly precise temporal window was provided for the Registry to explicitly confirm or deny the provenance of Directions 3(a) and 3(b) contained within the October 6, 2026 memorandum—namely, whether the Honourable Division Panel (Justices Groberman, Fenlon, and Riley) actually convened, deliberated, and pronounced a blanket embargo on the Applicant Party's filings.
5. In administrative and appellate law, silence in the face of a direct, formalized demand regarding jurisdictional validity operates as a tacit admission. By electing to correct a minor clerical date while

maintaining absolute administrative silence regarding the jurisdictional provenance of Direction 3(b), the Registry has formally conceded the Applicant Party's "Newly Deduced Position."

6. Consequently, it is now established as an unassailable procedural reality upon the Record of Proceedings that Direction 3(b)—purporting to embargo the filing of further materials—was not a judicial order pronounced by the Honourable Division Panel, but was generated administratively by the Registry.

PART 2: THE ADMINISTRATIVE NULLITY AND THE R. V. VERMA MANDATE

7. As previously established, an administrative clerk or a Registrar possesses zero statutory jurisdiction under the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"), to spontaneously embargo compliant filings, unilaterally dispense with the mandatory procedural rules, or strip a litigant of their fundamental rights to *audi alteram partem*.
8. Because Direction 3(b) was generated without explicit statutory authority and outside the proper convening of the judicial adjudicators, it operates strictly *ultra vires* and *coram non judice*. It is an absolute nullity. As dictated by the venerable maxim *nemo dat quod non habet* (no one can give what they do not have), an administrative nullity cannot lawfully bind a litigant, nor can it suspend the statutory obligations of the Court of Appeal Registry.
9. The strict administrative duty of the Registry is unequivocally confirmed by the British Columbia Court of Appeal in *R. v. Verma*, 2016 BCCA 307. The Division panel explicitly dictated at paragraph 20:

> "if the notice that person seeks to file to initiate proceedings in this Court complies with this Court's rules and that person INSISTS on filing that notice, then the notice MUST be accepted for filing."

PART 3: RESUBMISSION OF FILINGS AND THE PRESERVATION OF THE APPELLATE RECORD

10. The Applicant Party refuses to permit his procedural rights to be extinguished by an administrative fiction. Accordingly, the Applicant Party formally and forcefully **insists** upon the filing of his compliant materials pursuant to the binding authority of the *Verma* decision.
11. Enclosed herewith, and concurrently submitted via the Court Services Online (CSO) portal, are the following documents for immediate stamping and docketing:

> a. The Form 4 Notice of Application (originally submitted September 25, 2026) seeking, *inter alia*, declarations of nullity regarding the fabricated "Joint Response Book [Sic]" and summary sanctions under section 36 of the COAA;
> b. The Written Argument promulgated in support of the aforementioned Form 4 Notice of Application; and
> c. The Form 4 Notice of Application seeking *mandamus* relief and associated declarations (originally submitted October 5, 2026).

12. The immediate processing and filing of the enclosed documents is anticipated and strictly required by Source Law. The Registrar is divested of any residual discretion to reject these instruments. The

ongoing administrative suppression of these filings operates to severely prejudice the Applicant Party and corrupts the integrity of the *acta curiae*.

PART 4: FORMAL REQUEST TO A JUSTICE OF THE BCCA UNDER RULE 82 TO AMEND THE APPLICATION BOOK

13. To definitively cure the evidentiary lacuna and ensure the Review Division Panel is furnished with the comprehensive adjudicative history of these proceedings, the Applicant Party formally seeks the permission of the Court or a Justice, most specifically the Chief Justice of the Court of Appeal for British Columbia in his capacity as *Primus Inter Pares*, to amend his Application Book in accordance with Rule 82 of the *Court of Appeal Rules*, B.C. Reg. 120/2022.
14. Permission is explicitly sought to amend the Application Book to formally include the following critical adjudicative instruments:

    a. The Form 4 Notice of Application (submitted September 25, 2026) that seeks, *inter alia*, the striking of the "Joint Response Book [Sic]" and section 36 of the COAA relief, alongside the written argument promulgated in support of the same;
    b. The Applicant Party's formal correspondence of Sunday, October 4, 2026, which incorporated and attached the Appellants' Factums; and
    c. The Applicant Party's Form 4 Notice of Application (submitted Monday, October 5, 2026) that seeks relief in the nature of *mandamus*, together with the written argument of Tuesday, October 6, 2026, promulgated in support thereof.
15. It is rigorously noted for the record that the Registrar has not provided the requisite permission for this amendment, as is empirically denoted within the prior request reproduced at Appendix "A" to this correspondence.
16. The full, comprehensive chronological and factual matrix validating the absolute necessity of this amendment request is appended hereto as Appendix "B".
17. The appellate record must flawlessly reflect that the Applicant Party continuously, properly, and formally tendered his responsive pleadings and applications to the Court. All rights, remedies, and privileges, both in fact and at law, remain strictly and unequivocally reserved—including the right to rely upon this correspondence to demonstrate a catastrophic breach of procedural fairness and the deliberate engineering of a factual vacuum by the Registry.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 9th day of October, 2026.

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party (Court of Appeal File Nos.: CA51535/CA51536)
Email: mclean@searchandseizure.ca
Telephone: 647.370.9354
Facsimile: 1 (416) 352-0055

ENCLOSURES TRANSMITTED HEREWITH VIA CSO PORTAL FOR IMMEDIATE DOCKETING:

1. Resubmitted Filings (Form 4 NOAs and Written Arguments)

Appendices to this letter

2. Appendix "A" (Email chain involving the
3. Appendix "B" (Chronological and Factual Matrix in the form of a list of documents (“LOD”) which was provided to the Registrar, Ms. Dhamrait and the Prescribed Parties’ counsel on October 8, 2026

Appendix “A”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

Re: CA51535-CA51536 - TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA(A) v. THE ATTORNEY GENERAL OF BRITISH COLUMBIA

6 messages

Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Mon, Sep 28, 2026 at 5:47 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

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Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Tue, Oct 6, 2026 at 1:13 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
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Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Oct 7, 2026 at 11:04 AM
To: "Dhamrait, Kristine" <Kristine.Dhamrait@bccourts.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find below and attached the same letter along with the attachments particularized addressing the below. I hope all are well and I look forward to hearing from the relevant persons where applicable. I thank Ms. Dhamrait for a copy of the same and confirm receipt. Thank you kindly. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca
Fax: 1 (416) 352-0055

Date: October 7, 2026
Service method: via email
Filing method: to be determined or exercised based upon response or lack thereof

TO:

The Court of Appeal for British Columbia
The Law Courts, 400 - 800 Hornby Street
Vancouver, BC V6Z 2C5

Attention: Ms. S. Dhamrait, Registry Officer / Chambers Scheduler
For the Immediate Attention of: The Honourable Division Panel (The Honourable Justices Groberman, Fenlon, and Riley)
With a copy to: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia
CC (Prescribed Parties' Counsel List):
Tom Posyniak tposyniak@fasken.com; Laura Abrioux labrioux@fasken.com; Will Andrews wandrews@fasken.com; Gavin Cameron gcameron@fasken.com; Lapper, Emily AG:EX emily.lapper@gov.bc.ca; Bant, Trevor AG:EX trevor.bant@gov.bc.ca; Kotliarsky, Karin AG:EX karin.kotliarsky@gov.bc.ca; Ortega, Sergio AG:EX sergio.ortega@gov.bc.ca; lkt@tdslaw.com lkt@tdslaw.com; Ian Knapp iknapp@macfuj.com; amackenzie@macfuj.com amackenzie@macfuj.com; bolthuis bolthuis@ovcounsel.com; dredman dredman@arvayfinlay.ca; David Wu dwu@arvayfinlay.ca; cbildfell@mccarthy.ca cbildfell@mccarthy.ca; Frame, Lindsay lframe@mccarthy.ca; roy.millen roy.millen@blakes.com; nicholas.tollefson@blakes.com nicholas.tollefson@blakes.com; JoeyDoyle joey@doyledefence.ca; ekirkpatrick ekirkpatrick@mcewanpartners.com; CDauvergne@litigationchambers.com cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca jmaclaren@accessprobono.ca; kyla kyla@vancouvercriminallaw.com; rpeck rpeck@peckandcompany.ca; Caroline Senini csenini@peckandcompany.ca; pmueller@peckandcompany.ca pmueller@peckandcompany.ca; Laura Bevan lbevan@lawsonlundell.com; Jonathan Andrews jandrews@lawsonlundell.com; Nicole Welsh nwelsh@lawsonlundell.com; cferris cferris@lawsonlundell.com; lgrant@lawsonlundell.com lgrant@lawsonlundell.com; mring@lawsonlundell.com mring@lawsonlundell.com; ccrane@ovcounsel.com; Chris Pang cpang@ovcounsel.com; mmiharija@ovcounsel.com mmiharija@ovcounsel.com; szarb@macfuj.com szarb@macfuj.com; Lever, Vanessa AG:EX vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com kotto@lawsonlundell.com; Chambers@bccourts.ca

SUBJECTS:

SUBJECT I: CONFIRMATION OF RECEIPT OF ELECTRONIC CORRESPONDENCE AND ATTACHED DIRECTION FROM MS. DHAMRAIT ON BEHALF OF REGISTRAR TIMOTHY OUTERBRIDGE
SUBJECT II: IMMEDIATE FACTUAL AND CLERICAL CORRECTION REGARDING THE NON-EXISTENT ORDER DATE OF "18 SEPTEMBER 2026"
SUBJECT III: FATAL PLURAL JUDICIAL ADMISSION ("THESE APPLICATIONS") CONFIRMING DIVISION SEIZURE OF BOTH THE FORM 8 APPLICATION TO VARY AND THE SEPTEMBER 25 APPLICATION TO STRIKE / SECTION 36 SANCTIONS
SUBJECT IV: IMMEDIATE CLARIFICATION AND RECONSIDERATION OF DIRECTION NO. 3(B) ("REGISTRY IS NOT TO FILE ANY FURTHER MATERIAL ON

THESE APPLICATIONS, INCLUDING MATERIAL PRESENTLY SUBMITTED FOR FILING") ON A PRE-EMPTIVE AND EX ABUNDANTI CAUTELA BASIS
SUBJECT V: UNLAWFUL DUE PROCESS CATCH-22: ORDERING A WRITTEN HEARING WHILE EMBARGOING WRITTEN MATERIALS CONTRARY TO NATURAL JUSTICE, BAKER, AND SURESH
SUBJECT VI: STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COURT OF APPEAL ACT
SUBJECT VII: FORMAL REQUEST UNDER RULE 82(1) FOR PERMISSION OF THE DIVISION PANEL TO AMEND THE APPLICATION BOOK TO INCLUDE THE OCTOBER 4, 2026 TRANSMITTAL AND THE APPELLANTS' FACTUMS; AND CONTEMPORANEOUS REQUEST FOR CONSENT FROM ALL PRESCRIBED PARTIES
SUBJECT VIII: CONFIRMATION OF THE "EXISTING WRITTEN RECORD" AND RESIDUAL PROCEDURAL DIRECTIONS

Dear Ms. Dhamrait, Registrar Outerbridge, and Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND PRELIMINARY CLERICAL CORRECTION

1. The Applicant Party, Mr. Kevin A. McLean (BA, JD, CIM), acknowledges receipt of the electronic correspondence transmitted by Ms. S. Dhamrait on October 6, 2026, enclosing the formal administrative letter authored by Registrar Timothy Outerbridge on behalf of the Division comprised of The Honourable Mr. Justice Groberman, The Honourable Madam Justice Fenlon, and The Honourable Mr. Justice Riley (the "Division Panel").
2. As an immediate threshold matter of procedural accuracy, a critical clerical error on the face of the Registrar's letter requires rectification. Paragraph 1 of the letter references an application to vary or cancel an order of Madam Justice Horsman *"made on 18 September 2026"*.
3. The formal record of proceedings confirms that no order or decision was pronounced by Madam Justice Horsman on September 18, 2026. The reasons for decision (*2026 BCCA 372*) were pronounced in chambers on **September 8, 2026**, and the formal order was entered on **September 14, 2026** (Application Book, Tabs 1 and 2). To prevent clerical confusion within the permanent records of the Court, this chronological slip must be corrected upon the registry ledger.
4. A secondary, substantive clarification is urgently necessitated by the operational language formulated within Direction No. 3(b): *"the registry is not to file any further material on these applications, including material presently submitted for filing"*. The analysis set out below addresses this **direction**, establishing why it is legally uncertain, contrary to the governing statutory architecture, and irreconcilable with the natural justice guarantees governing written hearings under section 26 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA").

PART 2: CONFIRMATION OF PLURAL APPLICATIONS YET CLARIFICATION REQUIRED IN RELATION TO THE LANGUAGE OF DIRECTION NO. 3(B)

5. The Applicant Party takes formal note of the Registrar's explicit use of the plural noun phrase **"these applications"** across paragraphs 2 and 3 of the October 6, 2026 letter:
   - Paragraph 2 records: *"that division also has your previously submitted and presently unfiled application"*; and
   - Paragraph 3 directs: *"these applications be dealt with in writing..."*
6. This formulation constitutes a definitive judicial and administrative admission that the Division Panel has been formally constituted and seized of **two distinct applications**:

   a. The Applicant Party's Form 8 Notice of Application to Vary or Cancel the Order of a Justice (*September 9, 2026*); and

   b. The Applicant Party's Form 4 Notice of Application and Written Argument (*September 25, 2026*) seeking, *inter alia*, declarations of nullity regarding the fabricated "Joint Response Book [Sic]", striking relief under *Rule 9-5* by analogy, and summary sanctions under section 36 of the COAA.
7. Having judicially acknowledged that the Division Panel possesses both applications and has directed that both be adjudicated together in writing, the Registry cannot logically or lawfully maintain the administrative fiction that the September 25, 2026 application remains "unfiled" or non-existent upon the public docket. The Court cannot purport to adjudicate an application that its administrative arm refuses to docket.
8. Concurrently, the exact syntax of Direction No. 3(b)—stating that the *"registry is not to file any further material on these applications"*—is ambiguous and devoid of precise legal effect. Is this **direction** intended to state that:

   a. "the registry is not to <u>accept any further</u> file<u>ings</u> any further material on these applications";

   b. "the registry is not to <u>accept any further documents submitted for filing</u> on these applications"; or

   c. something to that effect?
9. While I appreciate that the Legislature intended that an Order is valid from the time it is pronounced (see: COAA, ss. 39(2)), the language of "direction" was utilized. While appreciating the definition of Order being inclusive of the word "direction", statutory interpretation in this regard requires that the direction, in order to be subsumed under that statutory definition must be "SPECIFICALLY" authorized or required under an **Enactment** (see: supra). In this regard, that would require particularized reasons for why each of the submitted documents were subject to a blunt "direction". Leaving that aside and awaiting the erudite and Honourable Division or "Division Panel's" clarification in these multiple and independent regards, I note that if the "direction", which need not be specifically authorized or required by an **Enactment** to be lawful or intra vires per se but if not specifically authorized or required by an **Enactment**, then it does not fall within the statutory definition of Order. Ergo, such a "direction" does not fall within ss. 39(2) of the COAA. Consequently,

the validity from the time of pronouncement, statutorily, does not apply which lends itself to further grounds for clarification and an absence, at least statutorily, of the functus officio doctrine.

PART 3: APPELLANTS' FACTUMS: CONFIRMATION AS PART OF THE RECORD BEFORE THE DIVISION PANEL

10. Direction No. 3(a) orders that these applications be determined strictly in writing. This **direction** reinforces the primary question formally placed before the Court in the Applicant Party's transmittal of October 4, 2026: **Are the Appellants' Factums recognized as part of the active record of proceedings before the Division Panel?**
11. Madam Justice Horsman explicitly ordered in her August 31, 2026 memorandum that the Applicant Party's applications would proceed strictly upon the **"existing written record"** (Application Book, Tab 3K, p. 203). Her Ladyship did not qualify that foundation as the "docketed CSO record."
12. Pursuant to the case management determinations of June 29, 2026 (confirmed by Registrar Outerbridge and Chambers Scheduler Shelly Lin on July 2, 2026), the substantive factums of the Law Society of British Columbia (CA51536) and the Trial Lawyers Association of British Columbia (CA51535) were uploaded to the Court's Case Center repository on August 5, 2026, and were expressly **deemed filed** on that date.
13. The Chief Executive Officer of the LSBC publicly confirmed at the September 25, 2026 Bencher meeting that its factum had been filed on August 5, 2026. Those pleadings have resided within the institutional custody and administrative control of the Court since August 5, 2026. They constituted the foundational pillars of the "existing written record" as of August 31, 2026.
14. The Division Panel is respectfully requested to confirm upon the record that the Appellants' Factums form part of the written evidentiary and argumentative matrix to be considered on these applications, ensuring that adjudication does not take place in an artificial factual vacuum.

PART 4: WERE SUBMITTED MATERIALS BROUGHT BEFORE THE DIVISION PANEL? JURISPRUDENCE AND RECONSIDERATION BEFORE ORDER ENTRY

15. It is a critical procedural inquiry whether the specific, individual documents submitted for filing by the Applicant Party on September 25, September 27, and October 4, 2026, were placed physically and electronically before Justices Groberman, Fenlon, and Riley for judicial evaluation, or whether Direction No. 3(b) was formulated upon a generalized administrative summary.
16. If the Division Panel was not provided with each discrete document—specifically including the Form 4 Notice of Application to strike the "Joint Response Book [Sic]" and the October 4 transmittal incorporating the Appellants' Factums—the Applicant Party formally seeks reconsideration of Direction No. 3(b) prior to the entry of any formal order.

Part 4(A): The Doctrine of Functus Officio is Inapplicable to Direction No. 3(b)

17. The doctrine of *functus officio* does not bar the Division Panel from reconsidering, clarifying, or rescinding Direction No. 3(b). In *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 (*"CBC v. Manitoba"*), the Supreme Court of Canada authoritatively reaffirmed at paragraphs 33 and 34 that *functus officio* applies strictly to **final** decisions after formal judgment has been entered:

> "According to the rule of functus officio, a final decision of a court that is susceptible of appeal cannot, as a general rule, be reconsidered by the court that rendered that decision. A court loses jurisdiction once the formal judgment has been entered."

18. Direction No. 3(b) is an interlocutory administrative **direction**; it is not a final judgment under section 40(1) of the *Supreme Court Act*, R.S.C. 1985, c. S-26, as it determines no substantive rights. Furthermore, no formal order in Form 11 or Form 12 has been drawn up, approved, or entered under Rule 66.
19. As established by the Ontario Court of Appeal in *Meridian Credit Union Limited v. Baig*, 2016 ONCA 150 (paras. 33–37), a superior appellate court retains inherent and statutory jurisdiction to reconsider an interlocutory decision before an order is formally entered.
20. Similarly, in *Smith Bus Lines Ltd. v. Bank of Montreal*, 1987 CanLII 4190 (ON SC), Sutherland J. held that an adjudicator acts judicially when withdrawing or varying an order prior to formal entry to avoid procedural unfairness:

> "There is abundant authority... for the proposition that a judgment can be reconsidered and varied or withdrawn before it is entered... Such a jurisdiction is quite independent of the rules, and of the fact that once entered an order takes effect from the time of its pronouncement."

21. Where an administrative **direction** is issued without reasons, upon an unparticularized bundle of materials, and creates an operational barrier to natural justice, the Court possesses jurisdiction to recall the **direction** *ex debito justitiae*.

Part 4(A)(i): Demonstrable Legal Oversight and the Per Incuriam Principle

22. In *Menzies v. Harlos*, 1989 CanLII 2760 (BC CA), Esson J.A., writing for this Court, confirmed the established power to reconsider interlocutory rulings where there is a demonstrable oversight in a particular aspect:

> "It is not unusual for an application to vary to be made and granted where the basis of the application is a demonstrable oversight or error in a particular aspect. An example in the area of fact is an error in calculation... An example in the area of law is reliance on a statute which has been repealed."

23. This principle was reaffirmed in *Grace Estate (Re)*, 2022 BCSC 1283 (para. 10), citing *Signcorp v. Vancouver (City)* (1986), 9 B.C.L.R. (2d) 238 (S.C.), confirming that a court may reverse itself when a decision is predicated upon a legal point or statutory parameter that was not properly argued or considered.
24. Direction No. 3(b) was pronounced without the benefit of adversarial argument and without identifying any statutory provision authorizing a blanket preclusion on filings. It constitutes an

administrative oversight that falls within the *Menzies v. Harlos* framework for immediate reconsideration.

PART 5: THE UNLAWFUL DUE PROCESS CATCH-22: WRITTEN HEARINGS UNDER SECTION 26 DEMAND ACCESS TO WRITTEN PLEADINGS

25. The core legal contradiction in Direction No. 3 is acute:
    - Direction No. 3(a) orders that the applications be dealt with **in writing**; yet
    - Direction No. 3(b) orders that the Registry **not file any further material on these applications, including material presently submitted for filing**.
26. This creates an unconstitutional procedural Catch-22: the Court orders a litigant to proceed strictly in writing, while simultaneously directing its registry to refuse the very written materials submitted to advance and support the applications.
27. In *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, the Supreme Court of Canada established at paragraphs 28 through 33 that while oral hearings are not required in every context, the chosen procedural format must afford the affected party a meaningful opportunity to present their case fully and fairly.
28. In *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, the Supreme Court held at paragraph 115 that when an adjudicative body elects to determine an issue on written submissions, procedural fairness demands that the party be entitled to know the case to be met and have their written materials received, docketed, and considered by the decision-maker.
29. To direct that an application to strike a void "Joint Response Book [Sic]" be decided in writing, while directing the clerk to reject the Form 4 and Written Argument submitted to explain *why* the document is a nullity, is a denial of natural justice (*audi alteram partem*). The Division Panel cannot lawfully adjudicate the validity of the September 25 application while maintaining its moving papers in an unfiled administrative void.

PART 6: THE STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COAA

30. The Registrar's closing warning—stating that further submissions *"will likely not result in a response from me"*—operates outside the statutory framework of the *Court of Appeal Act*.
31. Neither a single justice, nor a Division Panel via administrative letter, nor the Registrar possesses the statutory authority to construct an informal, extra-statutory filing embargo Section 38(2) of the COAA confines the Registrar's power to refuse documents strictly to non-compliance with the Rules or an entered practice **direction** (*R. v. Verma*, 2016 BCCA 307 at para. 20).
32. If the Court seeks to restrict a litigant's statutory right to submit filings, it must comply with the mandatory prescribed or statutory conditions along with procedural fairness. It cannot achieve that

result through administrative **direction**s that bypass the statutory safeguards enacted by the Legislature.

PART 7: THE BCCA IS A STATUTORY COURT DIVESTED OF INHERENT JURISDICTION TO OVERRIDE ENACTMENT INTENT

35. The Court of Appeal is a statutory court created by enactment. Unlike the Supreme Court of British Columbia, it possesses no broad inherent jurisdiction. Any power exercised by the Court must find its source within the four corners of the COAA and the *Court of Appeal Rules*.
36. Section 18(1) of the COAA commands: *"An appeal or application for leave to appeal must be brought and conducted in accordance with this Act and the rules."* Section 28 further specifies that the Court may exercise a power given to a justice by the Act or the Rules. If a power is not conferred by statute, it does not exist.
37. As authoritatively decreed by the Supreme Court of Canada in *Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 S.C.R. 475 at page 480, even inherent jurisdiction cannot be invoked to override or bypass explicit statutory mandates.
38. While section 26(1)(a)(i) of the COAA authorizes the Court to order that a hearing be conducted in writing, no provision in the COAA or the Rules authorizes the Court to direct a registry not to accept compliant documents submitted by a Prescribed Party in any circumstance and certainly not these circumstances.

PART 8: PROCEDURAL FAIRNESS AND THE IMPORTANCE OF CLARITY IN COURT ORDERS

39. In *Petro-Canada v. British Columbia (Workers' Compensation Board)*, 2009 BCCA 396, this Court emphasized at paragraph 65 that procedural fairness requirements are not technical, but functional:

> "The question is whether, in the circumstances of a given case, the party that contends it was denied procedural fairness was given an adequate opportunity to know the case against it and to respond to it."

40. In *Gurtins v. Goyert*, 2008 BCCA 196, this Court stressed the imperative of precision in judicial **direction**s, ruling at paragraph 15:

> "The rule of law requires that court orders be obeyed. Accordingly, it is of paramount importance that persons who are subject to court orders be able to readily determine their obligations and responsibilities. They do this by having regard to what is on the face of the formal order... An order should be clear in its terms and should not require the person to whom it is addressed to cross-refer to other material in order to ascertain his precise obligation."

41. Direction No. 3(b) fails the *Gurtins v. Goyert* standard. It purports to direct the Registry not to "file" materials, leaving active litigants in complete uncertainty as to whether compliant motion materials previously delivered to the Registry are legally before the Court, whether they have been received, or whether they have been discarded without adjudication.

PART 9: FORMAL REQUEST UNDER RULE 82(1) TO AMEND APPLICATION BOOK AND SEEKING OF CONSENT

42. To resolve part of this unfortunate procedural impasse, eliminate any asserted prejudice, and ensure that the Division Panel is furnished with the complete record without violating Direction No. 3(b), the Applicant Party hereby invokes **Rule 82(1) of the Court of Appeal Rules**.
43. Rule 82(1) provides:

> "Subject to subrules (2), (3) and (4), a document that has been filed with the court may be amended by a person only with the consent of all the parties or the permission of the court, a justice or the registrar."

44. Pursuant to Rule 82(1), the Applicant Party formally makes two requests:

    a. **Seeking Permission of the Division Panel:** The Applicant Party formally applies to the Division Panel (Justices Groberman, Fenlon, and Riley) for permission to amend the filed Application Book of September 15, 2026, by inserting a Supplemental Volume containing:

    i. The Applicant Party's transmittal letter of October 4, 2026 which enclosed or attached the below:

    ii. The Appellant's Factum of the Law Society of British Columbia (CA51536), deemed filed August 5, 2026; and

    iii. The Appellant's Factum of the Trial Lawyers Association of British Columbia (CA51535), deemed filed August 5, 2026.

    b. **Seeking Consent of All Prescribed Parties:** The Applicant Party contemporaneously requests that counsel for each of the Prescribed Parties identified in the caption of this correspondence provide their written consent under Rule 82(1) to amend the Application Book to include their own deemed-filed factums.

45. The inclusion of the Appellants' Factums causes zero prejudice: the factums were authored by the Appellants themselves, were deemed filed on August 5, 2026, and are already within Case Center. Granting permission under Rule 82(1) ensures equality of arms and provides the Division Panel with the exact written Factum "deemed filed" upon which the Appellants' constitutional theories rest.

PART 10: CONCLUSION AND REQUESTED DISPOSITION

46. In conclusion, the Applicant Party respectfully requests that the Division Panel:

    a. Note and correct the clerical error in paragraph 1 of the Registrar's letter (correcting "18 September 2026" to "September 8, 2026 / entered September 14, 2026");

    b. Confirm that the Division Panel is seized of both the Form 8 Application to Vary and the September 25 Application to Strike the "Joint Response Book [Sic]";

    c. Clarify and recall Direction No. 3(b) to ensure that the moving papers and written arguments supporting the September 25 application are formally stamped and docketed nunc pro tunc; and

d. Grant permission pursuant to Rule 82(1) to amend the Application Book to include the Appellants' Factums and the October 4, 2026 transmittal letter.

47. Counsel for the Prescribed Parties are requested to advise in writing forthwith whether they consent to the Rule 82(1) amendment.
48. The Applicant Party confirms that the composition of the Division Panel (Justices Groberman, Fenlon, and Riley) is noted and accepted without objection, and confirms his readiness to proceed with the determination of these applications in writing upon the complete, unredacted record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 7th day of October, 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party (Court of Appeal File Nos.: CA51535 / CA51536) and by reference to the undisclosed and non-public Case Center file number
Email: mclean@searchandseizure.ca
Telephone: 647.370.9354
Facsimile: 1 (416) 352-0055

ENCLOSURES TRANSMITTED HEREWITH:

1. True copy of the Applicant Party's formal transmittal letter dated October 4, 2026, incorporating the deemed-filed Appellants' Factums in CA51535 and CA51536.
2. Official Court Services Online (CSO) Registry Notice dated September 29, 2026 (Package ID 4399228), confirming the Registrar's formal decision: *"The Registrar will place your unfiled application before the division set to hear your application to vary."*

On Tue, Oct 6, 2026 at 1:13 PM Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> wrote:

> Dear Mr. McLean,
>
> Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.
>
> Kindly confirm receipt of this email.
>
> Thank you,
>
> Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

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3 attachments

- **Rejection from CSO - BCCA - regaading NOA Form 4 and MOA -Sept 29 2026 wherein the Registrar said unfiled APP before Division Panel.pdf**
  239K
- **Letter (App) - Immediate to Appellants' Factums - AP - Mr McLean - 4-10-26 - F S.pdf**
  1736K
- **Final Ltr - Clarification - Recon - Amend AB - LSCB et al v TLABC et al - AP - KAM - 7-Oct-26 - PDF Signed.pdf**
  302K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Thu, Oct 8, 2026 at 1:04 PM
To: "Dhamrait, Kristine" <Kristine.Dhamrait@bccourts.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, timothy.outerbridge@bccourts.ca

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

A signed copy of this letter in substantially the same form will follow. In the interim, having reviewed the documents contained in the attached Compendium of Documents, I now have serious concerns as to whether the Honourable Division Panel issued or made Directions 3(a) and 3(b).

These concerns arise, inter alia, from the timing of my last submitted filing on October 6, 2026 at 9:38 a.m. PST, and the time of the memorandum attributed to Registrar (Head) Mr. Outerbridge (finalized at 10:11 a.m. PST, as confirmed by the metadata).

I repeat and rely upon my correspondence of yesterday's date. I also confirm that no response or clarification has been provided regarding Direction 3(b). The continued absence of clarification leads to the further inference that the Honourable Division Panel may not have issued or made the directions in question. If the October 6 memorandum contains clerical or attribution error, it must be corrected forthwith.

If two hours is not sufficient time to confirm, deny, or clarify the provenance of Directions 3(a) and 3(b) with the authors of the October 6 memorandum, kindly advise. Otherwise, I will presume that two hours is sufficient.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party

FORMAL EMAIL DEMAND/REQUEST (SECOND AND INDEPENDENT TO THE REQUEST YESTERDAY) TO BE REDUCED TO LETTER IN SUBSTANTIALLY THE SAME FORM BUT SENT ON ACCOUNT OF URGENCY - TIME IS NOW 10:00 A.M. OCTOBER 8, 2026

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca
Fax: 1 (416) 352-0055

Date: October 8, 2026
Service and/or notification method: via email (at first instance)

TO:
The Court of Appeal for British Columbia
The Law Courts, 400 - 800 Hornby Street
Vancouver, BC V6Z 2C5
Attention: Ms. S. Dhamrait, Registry Officer / Chambers Scheduler
For the Immediate Attention of: The Honourable Division Panel (The Honourable Justices Groberman, Fenlon, and Riley)
With a copy to: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia (timothy.outerbridge@bccourts.ca)

CC (Prescribed Parties' Counsel List):
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SUBJECTS:
Subject I: Formal Notification of the Newly Deduced Position Regarding the Administrative Improbability that the Honourable Division Panel Pronounced Directions 3(a) and 3(b) – Demand/Request for Confirmation or Denial that the Honourable Division Panel issued/made such purported directions
Subject II: The 33-Minute Chronological Impossibility and the Finalization of the October 6 Memorandum
Subject III: The "Unfiled" Versus "Rejected" Distinction, the Evasion of Proper Service of Filed Version of a Document, and the September 28 Memorandum inconsistenticies
Subject IV: Preservation of the Appellate Record, the Potential Resubmission of Rejected Filings based upon an alleged direction from the Division which remains inapplicable to me and unlikely issued/made by the Honourable Division Panel, and the Deadline provided herein (subject to written correspondence requesting further time)

Dear Ms. Dhamrait, Registrar Outerbridge, and Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: OPENING POSTURE, THE NEWLY DEDUCED POSITION, AND INCORPORATION OF THE RECORD

1. The Applicant Party, Mr. Kevin A. McLean (BA, JD, CIM), formally repeats, relies upon, and incorporates by reference all previously tendered, provided, filed, and served documents within these appellate proceedings (the "Appeals"), strictly adopting the definitions established therein.

2. Correspondence is hereby effectuated not merely as a request for clarification, but to formally advance the newly deduced position (the "Newly Deduced Position") that it appears mathematically, procedurally, and logically unlikely that the Honourable Division Panel (the "Division Panel"), comprised of The Honourable Justices Groberman, Fenlon, and Riley, actually made, issued, or pronounced Directions 3(a) and 3(b) as encapsulated within the administrative correspondence dated October 6, 2026. Explicit confirmation or denial of this newly deduced position is formally demanded herein.

3. This correspondence is transmitted to preserve the unassailable integrity of the appellate record and the procedural rights of all prescribed parties (the "Prescribed Parties"). A foundational axiom of appellate jurisprudence commands that the *acta curiae* (acts of the court) must be free from administrative obfuscation, and the record must flawlessly reflect only those *acta* that were lawfully placed before the judicial adjudicators.

PART 2: THE 33-MINUTE CHRONOLOGY AND THE ADMINISTRATIVE IMPOSSIBILITY

4. The enclosed chronology, exhaustively substantiated by immutable digital metadata and system timestamps, demonstrates that precisely 33 minutes elapsed between the submission of the Applicant Party's written argument seeking *mandamus* relief (submitted at 9:38 a.m. PST) and the finalization of the memorandum attributed to Registrar Outerbridge (finalized at 10:11 a.m. PST).

5. Within that highly compressed 33-minute temporal span, it is an administrative and practical impossibility that the Honourable Division Panel could have sequentially executed the requisite judicial processes. The incontrovertible inference drawn from the mechanics of appellate administration is that to issue such directions, the Division Panel would have been required to simultaneously:

   (a) Receive the physical or digital transmittal of all six heavily particularized and procedurally complex documents;

   (b) Exhaustively review and absorb the substantive legal and evidentiary content of each individual document;

   (c) Convene formally as a three-judge appellate panel, either in person or via secure judicial teleconference;

   (d) Deliberate thoughtfully upon the novel jurisdictional, statutory, and constitutional issues raised therein;

   (e) Reach a majority consensus or unanimous decision regarding the procedural disposition of the *mandamus* application;
   (f) Formulate and issue two distinct, highly specific procedural directions (Directions 3(a) and 3(b));
   (g) Relay those specific directions downward to the Registrar for administrative execution;
   (h) Instruct the drafting of a formal memorandum reflecting those judicial directives;
   (i) Review the drafted memorandum to ensure absolute accuracy and syntax; and
   (j) Approve its formal release to the litigants.

6. The proximity of these events is presented as a pure chronology of fact, allowing the incontrovertible timeline to inform the inquiry regarding the provenance of the directions. The inescapable logical extrapolation is that the 33-minute window precludes substantive judicial deliberation by a three-justice panel, thereby elevating the Newly Deduced Position from a suspicion to an empirical probability: the directions were generated administratively, *ultra vires* the statutory jurisdiction of the registry.

PART 3: THE MANDAMUS TRIGGER AND THE CONFLICT OF INTEREST

7. The formal written argument supporting the application for *mandamus* was submitted to the Court Services Online (the "CSO") portal at 9:38 a.m. PST on October 6, 2026. The memorandum bearing the impugned directions followed instantaneously at 10:11 a.m. PST.

8. The acute proximity of these two events raises profound uncertainty as to whether the Honourable Division Panel was ever furnished with, or permitted the opportunity to review, the *mandamus* materials prior to the issuance of the memorandum.

9. It must be respectfully observed that an application in the nature of *mandamus*—which seeks to compel the Registrar to fulfill a mandatory, non-discretionary statutory duty—creates an inherent structural conflict if the very administrative body whose conduct is being challenged intercepts the application before it reaches the adjudicative body. If the registry insulated the Division Panel from the *mandamus* application, such an act offends the foundational tenets of natural justice.

PART 4: THE "UNFILED" VERSUS "REJECTED" DISTINCTION AND THE EVASION OF SERVICE

10. The October 6, 2026 memorandum states that the Division Panel *"has your previously submitted and presently unfiled application."*

11. Respectfully, the Form 4 Notice of Application and its accompanying written argument were not merely "unfiled" in a state of administrative abeyance; they were formally, affirmatively, and explicitly *rejected* by the Registry on September 25, 2026, and again on September 29, 2026 (CSO Package ID: 4398900 and 4399228).

12. A formally rejected filing cannot simultaneously be described to a judicial panel as "presently unfiled" or pending. This glaring administrative inconsistency generates the Newly Deduced Position that the Honourable Division Panel was presented with a generalized, inaccurate, and sanitized administrative summary rather than the actual pleadings.

13. Crucially, the Applicant Party does not, and cannot, agree that his "unfiled" (read: unlawfully rejected) Notice of Application in Form 4 and accompanying written argument are merely "provided" to the Honourable Division Panel in a subterranean fashion, without the officially stamped, *filed* versions having been lawfully served upon all Prescribed Parties. Adjudication cannot proceed upon ghost documents shielded from the public docket.

PART 5: CONTRADICTORY REGISTRY MEMORANDA

14. The September 28, 2026 memorandum, authored by Registrar Outerbridge, explicitly advised that *"the Court may give directions, including accepting your application for filing."*

15. Conversely, the October 6, 2026 memorandum decrees that *"the registry is not to file any further material."*

16. These two administrative statements are mutually exclusive. The abrupt oscillation from inviting potential acceptance by the Court to an absolute, extra-statutory embargo on all filings generates a profound procedural paradox. It remains procedurally inexplicable how an application moves from pending potential acceptance to an absolute filing embargo without the convening of a formal hearing, without notice to the parties, and without the issuance of a formal judicial order.

PART 6: JUDGE AVAILABILITY AND THE ABSENCE OF A FORMAL CONVENING

17. The October 6, 2026 memorandum identifies The Honourable Justices Groberman, Fenlon, and Riley as the properly constituted Division Panel.

18. However, an examination of the weekly court list indicates that none of these Justices were actively presiding or formally convened in a division at the relevant time on the morning of October 6, 2026.

19. This objective scheduling reality fortifies the Newly Deduced Position that the Honourable Division Panel did not actually convene to deliberate upon the submitted materials. The assembly of a three-justice panel *ad hoc* generates distinct administrative footprints—such as a formal chambers fiat or emergency docketing—none of which appear present.

PART 7: THE 6-HOUR DELAY BEFORE REJECTIONS

20. The digital metadata confirms that the memorandum containing Directions 3(a) and 3(b) was finalized at 10:11 a.m. PST. However, it remains entirely unclear why the Registry did not execute the corresponding formal rejections on the CSO portal until after 4:00 p.m. PST.

21. It is an established axiom of appellate administration that judicial directions pronounced by a division panel are implemented by the registry immediately. A six-hour administrative delay between the purported judicial pronouncement and the ministerial execution of that pronouncement yields the inference that the rejections required subsequent administrative rationalization rather than immediate judicial implementation.

PART 8: THE MEMORANDUM CHAIN OF AUTHORSHIP

22. A review of the administrative correspondence in these proceedings reveals a shifting, highly irregular chain of authorship:

    - The August 31, 2026 memorandum of Madam Justice Horsman was formally addressed to Deputy Registrar Tori Enderton.
    - The July 2, 2026 case-conference memorandum was transmitted by Ms. Shelly Lin *"on behalf of"* Registrar Outerbridge.
    - The October 6, 2026 memorandum (as confirmed by the PDF metadata properties) was authored and created by Ms. Samantha Servis.

23. This disjointed chain of authorship, completely devoid of a judicial signature, judicial memorandum format, or formal judicial docket reference, is structurally inconsistent with the customary process for binding directions issued by a three-judge appellate panel. The issuance of a blanket embargo on an active litigant's filings without a corresponding judicial signature operates strictly *coram non judice*.

PART 9: THE WRITTEN HEARING ISSUE AND THE DENIAL OF NATURAL JUSTICE

24. Direction 3(a) purports to mandate that the applications be dealt with strictly in writing.

25. It is a fundamental precept of procedural fairness and the doctrine of *audi alteram partem* that, regardless of whether an adjudicative hearing is conducted orally or in writing, a specific date must be formally set for the determination.

26. No such date has been provided. A direction to proceed in writing without a corresponding schedule for deliberation, without timelines for the exchange of responsive materials, and without a date certain for adjudication relegates the Applicant Party to a state of perpetual administrative limbo, which operates as a functional denial of natural justice. Nonetheless, I

await whether there will be confirmation, denial or clarification whether the Honourable Division Panel de facto and de jure made such directions under 3(a) and (b).

PART 10: THE UNFORTUNATE PATTERN OF UNLAWFUL REGISTRY RESULTS

27. The urgency underpinning this correspondence is self-evident. As demonstrated by the enclosed Compendium of Documents, there exists an unfortunate, sustained pattern of unlawful and unjust administrative results directed specifically toward the Applicant Party's submitted filings.

28. Conversely, the Purported Opposing Parties (the LSBC, TLABC, AGBC) have been permitted to file an entirely fabricated, procedurally prohibited instrument (the "Joint Response Book [Sic]"), completely evade the mandatory service prescripts of Rule 62(4), and face zero administrative friction. This asymmetry in registry processing is structurally indefensible.

PART 11: SYNTACTICAL LIMITATIONS: DIRECTION 3(B) APPLIES STRICTLY TO THE REGISTRAR

29. Assuming, *arguendo*, that the Honourable Division Panel did issue Direction 3(b)—*"the registry is not to file any further material on these applications"*—it must be rigorously observed that the syntactical constraint of this sentence applies *exclusively* to the Registry, and to no other person.

30. To the extent that confirmation is received from the Division Panel that such language was pronounced, it operates merely as an internal administrative directive. It does not strip the Applicant Party of his statutory right to submit materials, nor does it extinguish his obligation to object to nullities *in limine*. I do not wish to be overly technical, but the inconsistencies permeating these administrative documents demand absolute syntactical precision.

PART 12: THE PURPORTED DIRECTION'S APPLICABILITY, THE OBLIGATION TO CORRECT THE RECORD, AND THE TWO-HOUR DEADLINE

31. In light of the comprehensive objective matrix detailed above, I respectfully demand explicit confirmation or denial on behalf of the Honourable Division Panel as to whether Directions 3(a) and 3(b) were, in fact, deliberated upon, pronounced, and issued by those three Justices.

32. If I do not receive confirmation within two (2) hours of the transmission of this correspondence that the Honourable Division Panel issued said directions, I will definitively presume that my Newly Deduced Position is correct: the Justices did not issue the directions, and a profound administrative error has occurred. I will of course be required to apply to strike those directions on similar grounds, proceeding accordingly to correct the *acta curiae*.

33. I am providing this opportunity regarding the October 6, 2026 memorandum so that this catastrophic administrative deviation can be handled confidentially and without further escalation. Should more time be required due to existing judicial commitments, kindly advise;

however, a simple confirmation that the directions were, in fact and at law, made by the Honourable Division Panel will suffice.

34. Should that confirmation not be provided, I will be legally entitled to rely upon the position advanced herein—that no such judicial confirmation exists, and that language purporting to embargo filings does not lawfully apply to me.

35. I do not intend to castigate, but a correction to the language of a direction would take no more than a few minutes to effectuate—certainly no longer than the apparent 33-minute window required to finalize the October 6 memorandum following the submission of my *mandamus* argument.

36. With great respect, Registrar Outerbridge does not possess the right to simply not respond or ignore that which is incorrect on its face. If a mistake in language or attribution was made by Registrar Outerbridge and his drafter, Ms. Servis, he is strictly required to amend the memorandum and transmit the corrected instrument to all Prescribed Parties.

37. The Head Registrar, along with the Associate and Deputy Registrars, are officers of the court. Officers of the court bear an unyielding ethical obligation to correct the record or to procure clear terms from the Honourable Division Panel establishing the exact rights and responsibilities of the parties. Direction 3(B) cannot sit in limbo like it is with such language.

38. The deadline for the provision of confirmation, denial, or a formally amended memorandum is strictly set at within two (2) hours from the receipt of this correspondence. Kindly advise if further time is required. Otherwise I will presume it is sufficient. Should anything be unclear to anyone, kindly advise. I trust this approach taken by myself is appreciated as opposed to immediate escalation.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 8th day of October, 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party (Court of Appeal File Nos.: CA51535 / CA51536)
Email: mclean@searchandseizure.ca
Telephone: 647.370.9354
Facsimile: 1 (416) 352-0055

On Wed, Oct 7, 2026 at 11:04 AM Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> wrote:

> Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:
>
> Please find below and attached the same letter along with the attachments particularized addressing the below. I hope all are well and I look forward to hearing from the relevant persons where applicable. I thank Ms. Dhamrait for a copy of the same and confirm receipt. Thank you kindly. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)
>
> Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Email: mclean@searchandseizure.ca
Fax: 1 (416) 352-0055

Date: October 7, 2026
Service method: via email
Filing method: to be determined or exercised based upon response or lack thereof

TO:

The Court of Appeal for British Columbia
The Law Courts, 400 - 800 Hornby Street
Vancouver, BC V6Z 2C5
Attention: Ms. S. Dhamrait, Registry Officer / Chambers Scheduler
For the Immediate Attention of: The Honourable Division Panel (The Honourable Justices Groberman, Fenlon, and Riley)
With a copy to: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia
CC (Prescribed Parties' Counsel List):
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SUBJECTS:

SUBJECT I: CONFIRMATION OF RECEIPT OF ELECTRONIC CORRESPONDENCE AND ATTACHED DIRECTION FROM MS. DHAMRAIT ON BEHALF OF REGISTRAR TIMOTHY OUTERBRIDGE
SUBJECT II: IMMEDIATE FACTUAL AND CLERICAL CORRECTION REGARDING THE NON-EXISTENT ORDER DATE OF "18 SEPTEMBER 2026"
SUBJECT III: FATAL PLURAL JUDICIAL ADMISSION ("THESE APPLICATIONS") CONFIRMING DIVISION SEIZURE OF BOTH THE FORM 8 APPLICATION TO VARY AND THE SEPTEMBER 25 APPLICATION TO STRIKE / SECTION 36 SANCTIONS
SUBJECT IV: IMMEDIATE CLARIFICATION AND RECONSIDERATION OF DIRECTION NO. 3(B) ("REGISTRY IS NOT TO FILE ANY FURTHER MATERIAL ON THESE APPLICATIONS, INCLUDING MATERIAL PRESENTLY SUBMITTED FOR FILING") ON A PRE-EMPTIVE AND EX ABUNDANTI CAUTELA BASIS
SUBJECT V: UNLAWFUL DUE PROCESS CATCH-22: ORDERING A WRITTEN HEARING WHILE EMBARGOING WRITTEN MATERIALS CONTRARY TO NATURAL JUSTICE, BAKER, AND SURESH
SUBJECT VI: STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COURT OF APPEAL ACT
SUBJECT VII: FORMAL REQUEST UNDER RULE 82(1) FOR PERMISSION OF THE DIVISION PANEL TO AMEND THE APPLICATION BOOK TO INCLUDE THE OCTOBER 4, 2026 TRANSMITTAL AND THE APPELLANTS' FACTUMS; AND CONTEMPORANEOUS REQUEST FOR CONSENT FROM ALL PRESCRIBED PARTIES
SUBJECT VIII: CONFIRMATION OF THE "EXISTING WRITTEN RECORD" AND RESIDUAL PROCEDURAL DIRECTIONS

Dear Ms. Dhamrait, Registrar Outerbridge, and Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND PRELIMINARY CLERICAL CORRECTION

1. The Applicant Party, Mr. Kevin A. McLean (BA, JD, CIM), acknowledges receipt of the electronic correspondence transmitted by Ms. S. Dhamrait on October 6, 2026, enclosing the formal administrative letter authored by Registrar Timothy Outerbridge on behalf of the Division comprised of The Honourable Mr. Justice Groberman, The Honourable Madam Justice Fenlon, and The Honourable Mr. Justice Riley (the "Division Panel").

2. As an immediate threshold matter of procedural accuracy, a critical clerical error on the face of the Registrar's letter requires rectification. Paragraph 1 of the letter references an application to vary or cancel an order of Madam Justice Horsman *"made on 18 September 2026"*.
3. The formal record of proceedings confirms that no order or decision was pronounced by Madam Justice Horsman on September 18, 2026. The reasons for decision (*2026 BCCA 372*) were pronounced in chambers on **September 8, 2026**, and the formal order was entered on **September 14, 2026** (Application Book, Tabs 1 and 2). To prevent clerical confusion within the permanent records of the Court, this chronological slip must be corrected upon the registry ledger.
4. A secondary, substantive clarification is urgently necessitated by the operational language formulated within Direction No. 3(b): *"the registry is not to file any further material on these applications, including material presently submitted for filing"*. The analysis set out below addresses this **direction**, establishing why it is legally uncertain, contrary to the governing statutory architecture, and irreconcilable with the natural justice guarantees governing written hearings under section 26 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA").

PART 2: CONFIRMATION OF PLURAL APPLICATIONS YET CLARIFICATION REQUIRED IN RELATION TO THE LANGUAGE OF DIRECTION NO. 3(B)

5. The Applicant Party takes formal note of the Registrar's explicit use of the plural noun phrase **"these applications"** across paragraphs 2 and 3 of the October 6, 2026 letter:
   - Paragraph 2 records: *"that division also has your previously submitted and presently unfiled application"*; and
   - Paragraph 3 directs: *"these applications be dealt with in writing..."*
6. This formulation constitutes a definitive judicial and administrative admission that the Division Panel has been formally constituted and seized of **two distinct applications**:
   a. The Applicant Party's Form 8 Notice of Application to Vary or Cancel the Order of a Justice (*September 9, 2026*); and
   b. The Applicant Party's Form 4 Notice of Application and Written Argument (*September 25, 2026*) seeking, *inter alia*, declarations of nullity regarding the fabricated "Joint Response Book [Sic]", striking relief under *Rule 9-5* by analogy, and summary sanctions under section 36 of the COAA.
7. Having judicially acknowledged that the Division Panel possesses both applications and has directed that both be adjudicated together in writing, the Registry cannot logically or lawfully maintain the administrative fiction that the September 25, 2026 application remains "unfiled" or non-existent upon the public docket. The Court cannot purport to adjudicate an application that its administrative arm refuses to docket.
8. Concurrently, the exact syntax of Direction No. 3(b)—stating that the *"registry is not to file any further material on these applications"*—is ambiguous and devoid of precise legal effect. Is this **direction** intended to state that:
   a. "the registry is not to <u>accept any further</u> file<u>ings</u> any further material on these applications";

b. "the registry is not to accept any further documents submitted for filing on these applications"; or

c. something to that effect?

9. While I appreciate that the Legislature intended that an Order is valid from the time it is pronounced (see: COAA, ss. 39(2)), the language of "direction" was utilized. While appreciating the definition of Order being inclusive of the word "direction", statutory interpretation in this regard requires that the direction, in order to be subsumed under that statutory definition must be "SPECIFICALLY" authorized or required under an **Enactment** (see: supra). In this regard, that would require particularized reasons for why each of the submitted documents were subject to a blunt "direction". Leaving that aside and awaiting the erudite and Honourable Division or "Division Panel's" clarification in these multiple and independent regards, I note that if the "direction", which need not be specifically authorized or required by an **Enactment** to be lawful or intra vires per se but if not specifically authorized or required by an **Enactment**, then it does not fall within the statutory definition of Order. Ergo, such a "direction" does not fall within ss. 39(2) of the COAA. Consequently, the validity from the time of pronouncement, statutorily, does not apply which lends itself to further grounds for clarification and an absence, at least statutorily, of the functus officio doctrine.

PART 3: APPELLANTS' FACTUMS: CONFIRMATION AS PART OF THE RECORD BEFORE THE DIVISION PANEL

10. Direction No. 3(a) orders that these applications be determined strictly in writing. This **direction** reinforces the primary question formally placed before the Court in the Applicant Party's transmittal of October 4, 2026: **Are the Appellants' Factums recognized as part of the active record of proceedings before the Division Panel?**
11. Madam Justice Horsman explicitly ordered in her August 31, 2026 memorandum that the Applicant Party's applications would proceed strictly upon the **"existing written record"** (Application Book, Tab 3K, p. 203). Her Ladyship did not qualify that foundation as the "docketed CSO record."
12. Pursuant to the case management determinations of June 29, 2026 (confirmed by Registrar Outerbridge and Chambers Scheduler Shelly Lin on July 2, 2026), the substantive factums of the Law Society of British Columbia (CA51536) and the Trial Lawyers Association of British Columbia (CA51535) were uploaded to the Court's Case Center repository on August 5, 2026, and were expressly **deemed filed** on that date.
13. The Chief Executive Officer of the LSBC publicly confirmed at the September 25, 2026 Bencher meeting that its factum had been filed on August 5, 2026. Those pleadings have resided within the institutional custody and administrative control of the Court since August 5, 2026. They constituted the foundational pillars of the "existing written record" as of August 31, 2026.
14. The Division Panel is respectfully requested to confirm upon the record that the Appellants' Factums form part of the written evidentiary and argumentative matrix to be considered on these applications, ensuring that adjudication does not take place in an artificial factual vacuum.

PART 4: WERE SUBMITTED MATERIALS BROUGHT BEFORE THE DIVISION PANEL? JURISPRUDENCE AND RECONSIDERATION BEFORE ORDER ENTRY

15. It is a critical procedural inquiry whether the specific, individual documents submitted for filing by the Applicant Party on September 25, September 27, and October 4, 2026, were placed physically and electronically before Justices Groberman, Fenlon, and Riley for judicial evaluation, or whether Direction No. 3(b) was formulated upon a generalized administrative summary.
16. If the Division Panel was not provided with each discrete document—specifically including the Form 4 Notice of Application to strike the "Joint Response Book [Sic]" and the October 4 transmittal incorporating the Appellants' Factums—the Applicant Party formally seeks reconsideration of Direction No. 3(b) prior to the entry of any formal order.

Part 4(A): The Doctrine of Functus Officio is Inapplicable to Direction No. 3(b)

17. The doctrine of *functus officio* does not bar the Division Panel from reconsidering, clarifying, or rescinding Direction No. 3(b). In *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 (*"CBC v. Manitoba"*), the Supreme Court of Canada authoritatively reaffirmed at paragraphs 33 and 34 that *functus officio* applies strictly to **final** decisions after formal judgment has been entered:

> "According to the rule of functus officio, a final decision of a court that is susceptible of appeal cannot, as a general rule, be reconsidered by the court that rendered that decision. A court loses jurisdiction once the formal judgment has been entered."

18. Direction No. 3(b) is an interlocutory administrative **direction**; it is not a final judgment under section 40(1) of the *Supreme Court Act*, R.S.C. 1985, c. S-26, as it determines no substantive rights. Furthermore, no formal order in Form 11 or Form 12 has been drawn up, approved, or entered under Rule 66.
19. As established by the Ontario Court of Appeal in *Meridian Credit Union Limited v. Baig*, 2016 ONCA 150 (paras. 33–37), a superior appellate court retains inherent and statutory jurisdiction to reconsider an interlocutory decision before an order is formally entered.
20. Similarly, in *Smith Bus Lines Ltd. v. Bank of Montreal*, 1987 CanLII 4190 (ON SC), Sutherland J. held that an adjudicator acts judicially when withdrawing or varying an order prior to formal entry to avoid procedural unfairness:

> "There is abundant authority... for the proposition that a judgment can be reconsidered and varied or withdrawn before it is entered... Such a jurisdiction is quite independent of the rules, and of the fact that once entered an order takes effect from the time of its pronouncement."

21. Where an administrative **direction** is issued without reasons, upon an unparticularized bundle of materials, and creates an operational barrier to natural justice, the Court possesses jurisdiction to recall the **direction** *ex debito justitiae*.

Part 4(A)(i): Demonstrable Legal Oversight and the Per Incuriam Principle

22. In *Menzies v. Harlos*, 1989 CanLII 2760 (BC CA), Esson J.A., writing for this Court, confirmed the established power to reconsider interlocutory rulings where there is a demonstrable oversight in a particular aspect:

> "It is not unusual for an application to vary to be made and granted where the basis of the application is a demonstrable oversight or error in a particular aspect. An example in the area of fact is an error in calculation... An example in the area of law is reliance on a statute which has been repealed."

23. This principle was reaffirmed in *Grace Estate (Re)*, 2022 BCSC 1283 (para. 10), citing *Signcorp v. Vancouver (City)* (1986), 9 B.C.L.R. (2d) 238 (S.C.), confirming that a court may reverse itself when a decision is predicated upon a legal point or statutory parameter that was not properly argued or considered.
24. Direction No. 3(b) was pronounced without the benefit of adversarial argument and without identifying any statutory provision authorizing a blanket preclusion on filings. It constitutes an administrative oversight that falls within the *Menzies v. Harlos* framework for immediate reconsideration.

PART 5: THE UNLAWFUL DUE PROCESS CATCH-22: WRITTEN HEARINGS UNDER SECTION 26 DEMAND ACCESS TO WRITTEN PLEADINGS

25. The core legal contradiction in Direction No. 3 is acute:
    - Direction No. 3(a) orders that the applications be dealt with **in writing**; yet
    - Direction No. 3(b) orders that the Registry **not file any further material on these applications, including material presently submitted for filing**.
26. This creates an unconstitutional procedural Catch-22: the Court orders a litigant to proceed strictly in writing, while simultaneously directing its registry to refuse the very written materials submitted to advance and support the applications.
27. In *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, the Supreme Court of Canada established at paragraphs 28 through 33 that while oral hearings are not required in every context, the chosen procedural format must afford the affected party a meaningful opportunity to present their case fully and fairly.
28. In *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, the Supreme Court held at paragraph 115 that when an adjudicative body elects to determine an issue on written submissions, procedural fairness demands that the party be entitled to know the case to be met and have their written materials received, docketed, and considered by the decision-maker.
29. To direct that an application to strike a void "Joint Response Book [Sic]" be decided in writing, while directing the clerk to reject the Form 4 and Written Argument submitted to explain *why* the

document is a nullity, is a denial of natural justice (*audi alteram partem*). The Division Panel cannot lawfully adjudicate the validity of the September 25 application while maintaining its moving papers in an unfiled administrative void.

PART 6: THE STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COAA

30. The Registrar's closing warning—stating that further submissions *"will likely not result in a response from me"*—operates outside the statutory framework of the *Court of Appeal Act*.
31. Neither a single justice, nor a Division Panel via administrative letter, nor the Registrar possesses the statutory authority to construct an informal, extra-statutory filing embargo Section 38(2) of the COAA confines the Registrar's power to refuse documents strictly to non-compliance with the Rules or an entered practice **direction** (*R. v. Verma*, 2016 BCCA 307 at para. 20).
32. If the Court seeks to restrict a litigant's statutory right to submit filings, it must comply with the mandatory prescribed or statutory conditions along with procedural fairness. It cannot achieve that result through administrative **direction**s that bypass the statutory safeguards enacted by the Legislature.

PART 7: THE BCCA IS A STATUTORY COURT DIVESTED OF INHERENT JURISDICTION TO OVERRIDE ENACTMENT INTENT

35. The Court of Appeal is a statutory court created by enactment. Unlike the Supreme Court of British Columbia, it possesses no broad inherent jurisdiction. Any power exercised by the Court must find its source within the four corners of the COAA and the *Court of Appeal Rules*.
36. Section 18(1) of the COAA commands: *"An appeal or application for leave to appeal must be brought and conducted in accordance with this Act and the rules."* Section 28 further specifies that the Court may exercise a power given to a justice by the Act or the Rules. If a power is not conferred by statute, it does not exist.
37. As authoritatively decreed by the Supreme Court of Canada in *Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 S.C.R. 475 at page 480, even inherent jurisdiction cannot be invoked to override or bypass explicit statutory mandates.
38. While section 26(1)(a)(i) of the COAA authorizes the Court to order that a hearing be conducted in writing, no provision in the COAA or the Rules authorizes the Court to direct a registry not to accept compliant documents submitted by a Prescribed Party in any circumstance and certainly not these circumstances.

PART 8: PROCEDURAL FAIRNESS AND THE IMPORTANCE OF CLARITY IN COURT ORDERS

39. In *Petro-Canada v. British Columbia (Workers' Compensation Board)*, 2009 BCCA 396, this Court emphasized at paragraph 65 that procedural fairness requirements are not technical, but functional:

> "The question is whether, in the circumstances of a given case, the party that contends it was denied procedural fairness was given an adequate opportunity to know the case against it and to respond to it."

40. In *Gurtins v. Goyert*, 2008 BCCA 196, this Court stressed the imperative of precision in judicial **direction**s, ruling at paragraph 15:

> "The rule of law requires that court orders be obeyed. Accordingly, it is of paramount importance that persons who are subject to court orders be able to readily determine their obligations and responsibilities. They do this by having regard to what is on the face of the formal order... An order should be clear in its terms and should not require the person to whom it is addressed to cross-refer to other material in order to ascertain his precise obligation."

41. Direction No. 3(b) fails the *Gurtins v. Goyert* standard. It purports to direct the Registry not to "file" materials, leaving active litigants in complete uncertainty as to whether compliant motion materials previously delivered to the Registry are legally before the Court, whether they have been received, or whether they have been discarded without adjudication.

PART 9: FORMAL REQUEST UNDER RULE 82(1) TO AMEND APPLICATION BOOK AND SEEKING OF CONSENT

42. To resolve part of this unfortunate procedural impasse, eliminate any asserted prejudice, and ensure that the Division Panel is furnished with the complete record without violating Direction No. 3(b), the Applicant Party hereby invokes **Rule 82(1) of the Court of Appeal Rules**.
43. Rule 82(1) provides:

> "Subject to subrules (2), (3) and (4), a document that has been filed with the court may be amended by a person only with the consent of all the parties or the permission of the court, a justice or the registrar."

44. Pursuant to Rule 82(1), the Applicant Party formally makes two requests:

a. **Seeking Permission of the Division Panel:** The Applicant Party formally applies to the Division Panel (Justices Groberman, Fenlon, and Riley) for permission to amend the filed Application Book of September 15, 2026, by inserting a Supplemental Volume containing:

i. The Applicant Party's transmittal letter of October 4, 2026 which enclosed or attached the below:

ii. The Appellant's Factum of the Law Society of British Columbia (CA51536), deemed filed August 5, 2026; and

iii. The Appellant's Factum of the Trial Lawyers Association of British Columbia (CA51535), deemed filed August 5, 2026.

b. **Seeking Consent of All Prescribed Parties:** The Applicant Party contemporaneously requests that counsel for each of the Prescribed Parties identified in the caption of this correspondence provide their written consent under Rule 82(1) to amend the Application Book to include their own deemed-filed factums.

45. The inclusion of the Appellants' Factums causes zero prejudice: the factums were authored by the Appellants themselves, were deemed filed on August 5, 2026, and are already within Case Center.

Granting permission under Rule 82(1) ensures equality of arms and provides the Division Panel with the exact written Factum "deemed filed" upon which the Appellants' constitutional theories rest.

PART 10: CONCLUSION AND REQUESTED DISPOSITION

46. In conclusion, the Applicant Party respectfully requests that the Division Panel:
    a. Note and correct the clerical error in paragraph 1 of the Registrar's letter (correcting "18 September 2026" to "September 8, 2026 / entered September 14, 2026");
    b. Confirm that the Division Panel is seized of both the Form 8 Application to Vary and the September 25 Application to Strike the "Joint Response Book [Sic]";
    c. Clarify and recall Direction No. 3(b) to ensure that the moving papers and written arguments supporting the September 25 application are formally stamped and docketed nunc pro tunc; and
    d. Grant permission pursuant to Rule 82(1) to amend the Application Book to include the Appellants' Factums and the October 4, 2026 transmittal letter.
47. Counsel for the Prescribed Parties are requested to advise in writing forthwith whether they consent to the Rule 82(1) amendment.
48. The Applicant Party confirms that the composition of the Division Panel (Justices Groberman, Fenlon, and Riley) is noted and accepted without objection, and confirms his readiness to proceed with the determination of these applications in writing upon the complete, unredacted record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 7th day of October, 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party (Court of Appeal File Nos.: CA51535 / CA51536) and by reference to the undisclosed and non-public Case Center file number
Email: mclean@searchandseizure.ca
Telephone: 647.370.9354
Facsimile: 1 (416) 352-0055

ENCLOSURES TRANSMITTED HEREWITH:

1. True copy of the Applicant Party's formal transmittal letter dated October 4, 2026, incorporating the deemed-filed Appellants' Factums in CA51535 and CA51536.
2. Official Court Services Online (CSO) Registry Notice dated September 29, 2026 (Package ID 4399228), confirming the Registrar's formal decision: *"The Registrar will place your unfiled application before the division set to hear your application to vary."*

On Tue, Oct 6, 2026 at 1:13 PM Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> wrote:

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

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Compendium of Documents - Tabs 1 to 18 - challenging the validity of whether Division issued such directions - 8-Oct-26.pdf
8618K

Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Thu, Oct 8, 2026 at 2:58 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca"

<dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear parties,

The Registrar would like to clarify a point in his letter.

The Registrar's letter of October 6 should have referred to Justice Horsman's **September 8** decision, not September 18, which dealt only with the balance of the interveners.

Thank you,

Kristine

From: Dhamrait, Kristine
Sent: October 6, 2026 10:14 AM
To: mclean@searchandseizure.ca
Cc: Gavin Cameron <gcameron@fasken.com>; Tom Posyniak <tposyniak@fasken.com>; labrioux@fasken.com; wandrews@fasken.com; Lapper, Emily AG:EX <emily.lapper@gov.bc.ca>; Bant, Trevor AG:EX <trevor.bant@gov.bc.ca>; Kotliarsky, Karin AG:EX <karin.kotliarsky@gov.bc.ca>; Ortega, Sergio AG:EX <sergio.ortega@gov.bc.ca>; dauvergne@allard.ubc.ca; CDauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; Bildfell, Connor <cbildfell@mccarthy.ca>; dsiracusa@mccarthy.ca; rpeck@peckandcompany.ca; Caroline Senini <csenini@peckandcompany.ca>; pmueller@peckandcompany.ca; Brent Olthuis KC <bolthuis@ovcounsel.com>; ccrane@ovcounsel.com; lkt@tdslaw.com; joey@doyledefence.ca; iknapp@macfuj.com; szarb@macfuj.com; amackenzie@macfuj.com; J. Kenneth McEwan <kmcewan@mcewanpartners.com>; Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>; mhergert@mcewanpartners.com; roy.millen@blakes.com; 'vancouver.service@blakes.com' <vancouver.service@blakes.com>; nicholas.tollefson@blakes.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; kyla@vancouvercriminallaw.com; Craig Ferris <cferris@lawsonlundell.com>; Laura Bevan <lbevan@lawsonlundell.com>; Jonathan Andrews <jandrews@lawsonlundell.com>; Nicole Welsh <nwelsh@lawsonlundell.com>
Subject: Re: CA51535-CA51536 - TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA(A) v. THE ATTORNEY GENERAL OF BRITISH COLUMBIA

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

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Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Fri, Oct 9, 2026 at 4:16 PM
To: "Dhamrait, Kristine" <Kristine.Dhamrait@bccourts.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Ms. Dhamrait, Registrar Outerbridge, and Counsel for the Prescribed Parties:

Receipt of the electronic correspondence transmitted by Ms. Dhamrait on October 8, 2026, at 12:58 p.m. PST is formally acknowledged. The administrative correction of the clerical error regarding the non-existent September 18, 2026 date is noted and appreciated.

However, it is rigorously noted for the appellate record that the aforementioned correspondence conspicuously and entirely failed to address the paramount substantive demand articulated in the Applicant Party's formal correspondence of October 8, 2026: specifically, the demand for explicit confirmation or denial that the Honourable Division Panel (Justices Groberman, Fenlon, and Riley) actually convened, deliberated, and pronounced Directions 3(a) and 3(b).

The Registrar was afforded a precise temporal window to confirm the judicial provenance of those directives or to correct the attribution. The election by the Registrar to address a minor date discrepancy while maintaining absolute administrative silence regarding the jurisdictional validity of an embargo on a litigant's filings operates as a profound tacit admission.

Consequently, having received no confirmation within the stipulated deadlines—nor at any time over the subsequent 24 hours—that the Honourable Division Panel issued said directions, the Applicant Party's "Newly Deduced Position" is hereby formally crystallized as the operational reality upon the Record of Proceedings.

It is now established on the record that Directions 3(a) and 3(b) were not pronounced by the Honourable Division Panel, but were generated administratively. As an administrative clerk or Registrar possesses zero statutory jurisdiction under the *Court of Appeal Act*, S.B.C. 2021, c. 6, to embargo compliant filings or unilaterally dispense with the mandatory hearing architecture of Rule 62, said directions operate strictly *ultra vires* and *coram non judice*. They are absolute nullities.

An administrative nullity cannot lawfully bind a litigant, nor can it suspend the statutory obligation of the registry to accept compliant filings pursuant to the binding authority of *R. v. Verma*, 2016 BCCA 307.

Accordingly, the Applicant Party is legally entitled to, and shall, proceed on the established premise that no lawful judicial embargo exists. The previously submitted Notice of Application in Form 4 and its accompanying Written Argument remain fully active and unlawfully rejected. The necessary application in the nature of *mandamus*, alongside formal escalation to the Chief Justice of British Columbia in his capacity as *Primus Inter Pares* to address this severe administrative usurpation of the judicial function, shall proceed forthwith.

All rights, remedies, and privileges, both in fact and at law, remain strictly and unequivocally reserved.

Yours truly,

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party

On Thu, Oct 8, 2026 at 2:58 PM Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> wrote:

> Dear parties,
>
> The Registrar would like to clarify a point in his letter.
>
> The Registrar's letter of October 6 should have referred to Justice Horsman's **September 8** decision, not September 18, which dealt only with the balance of the interveners.
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> Kristine
>
> ---
>
> **From:** Dhamrait, Kristine
> **Sent:** October 6, 2026 10:14 AM
> **To:** mclean@searchandseizure.ca
> **Cc:** Gavin Cameron <gcameron@fasken.com>; Tom Posyniak <tposyniak@fasken.com>; labrioux@fasken.com; wandrews@fasken.com; Lapper, Emily AG:EX <emily.lapper@gov.bc.ca>; Bant, Trevor AG:EX <trevor.bant@gov.bc.ca>; Kotliarsky, Karin AG:EX <karin.kotliarsky@gov.bc.ca>; Ortega, Sergio AG:EX <sergio.ortega@gov.bc.ca>; dauvergne@allard.ubc.ca; CDauvergne@litigationchambers.com;

jmaclaren@accessprobono.ca; Bildfell, Connor <cbildfell@mccarthy.ca>; dsiracusa@mccarthy.ca; rpeck@peckandcompany.ca; Caroline Senini <csenini@peckandcompany.ca>; pmueller@peckandcompany.ca; Brent Olthuis KC <bolthuis@ovcounsel.com>; ccrane@ovcounsel.com; lkt@tdslaw.com; joey@doyledefence.ca; iknapp@macfuj.com; szarb@macfuj.com; amackenzie@macfuj.com; J. Kenneth McEwan <kmcewan@mcewanpartners.com>; Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>; mhergert@mcewanpartners.com; roy.millen@blakes.com; 'vancouver.service@blakes.com' <vancouver.service@blakes.com>; nicholas.tollefson@blakes.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; kyla@vancouvercriminallaw.com; Craig Ferris <cferris@lawsonlundell.com>; Laura Bevan <lbevan@lawsonlundell.com>; Jonathan Andrews <jandrews@lawsonlundell.com>; Nicole Welsh <nwelsh@lawsonlundell.com>
Subject: Re: CA51535-CA51536 - TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA(A) v. THE ATTORNEY GENERAL OF BRITISH COLUMBIA

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

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Appendix “B”

INDEX FOR 2ND DEMAND/REQUEST OF OCTOBER 8, 2026: CLARIFY OR RECONSIDER (IF THE HONOURABLE DIVISION PANEL MADE/ISSUE/PRONOUNCED DIRECTIONS 3(A) AND (B)) THE HONOURABLE DIVISION PANEL ALLEGED DIRECTION IN THE REGISTRAR (HEAD) MR. OUTERBRIDGE MEMORANDUM OF OCT. 6/26: COURT OF APPEAL FILE NOS. CA51536 / CA515355 (DATE: OCTOBER 8, 2026, AT 930 A.M. PST)

#	LTR.	DOCUMENT DESCRIPTION	DATE
		September 25, 2026	
1		Documents from CSO related to the Applicant Party's Friday, September 25, 2026, filing of his Form 4 NOA and written argument to inter alia strike the "Joint Response Book [Sic]" and consequential relief Response from Ms. Shelly Lin in relation to Package ID: 4398900 25SEP2026 We are unable to accept the application and argument for filing. If you insist, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO	September 25, 2026
2		Filed Ltr Sept 27 (Sunday) to Registrar (Head) Mr. Outerbridge as pe the suggestion of Ms. Shelly Lin on Friday, September 25, 2026, in relation to the Applicant Party insisting on filing (see: *R. v. Verma* 2016 BCCA using the same language	September 27, 2026
3		Sept 27-Resubmitted Form 4 and Written Argument ("WA") in relation to striking the "Joint Response Book [Sic]" and section 36 of the COAA relief	September 27, 2026
4		Registrar (Head) Mr. Outerbridge memorandum relating to, inter alia, the Applicant Party's rejected (not unfiled as he termed it) Form 4 NOA and WA would be brought to he attention of the Honourable Division Panel (unnamed at the time) (nota bene: not acceptable) but also this representation: "I will place your unfiled application before the division set to hear your application to vary and you may address it before the Court then" (see: infra when measured against the Registrar (Head) Mr. Outerbridge October 6 2026 memorandum)	September 28, 2026 (Monday)
5		Rejections of the Applicant Party's resubmitted Form 4 NOA and Written Argument ("WA") in relation to striking the "Joint Response Book [Sic]" and section 36 of the COAA relief (Ms. Shelly Lin was named therein)	Sept 29, 2026
		SEPT 30 2026: HOLIDAY	

		1365	
6		History of the Applicant Party's filings as of said date	Oct 1, 2026
7		Documents relating to resubmitted documents for filing: ▪ Form 4 Strike ▪ WA ▪ Letter to Registrar (Head) Mr. Outerbridge	Oct 4, 2026
8		Emails with Registrar (Head) Mr. Outerbridge and Mr. Wayne Ziants (Manager of Records for BCCA) including the first and second records request forms with the former having the Appendices therein (A: letter of Lawson Lundell LLP of Jun 25, 2026; and B: email from Ms. Shelly Lin to Statutory Parties regarding the Registrar (Head) Mr. Outerbridge memorandum from case management conference on June 29, 2026 (email dated July 2, 2026)) regarding missing information in the Registrar (Head) Mr. Outerbridge June 29, 2026, memorandum (nota bene: Registrar (Head) Mr. Outerbridge memorandum – not that of another Justice) (nota bene #2: key was the second records request seeking the deemed filing in Case Center)	Sept 29 to Oct 2, 2026
		Sunday October 4, 2026, letter with Appellants' Factums	
9		Applicant Party's letter with attachment of Appellants' Factums	October 4, 2026,
		Monday, October 5, 2026	
10		Applicant Party NOA Form 4 for mandamus type relief and declarations as per the outstanding submitted filings of Thursday, October 1, 2026, and Sunday, October 4, 2026, remaining in pending mode (nota bene: not rejected at the end of the day)	October 5, 2026 (Monday)
		Tuesday, October 6, 2026	
		October 6, 2026, Applicant Party submits WA for Mandamus relief at 938 a.m.	
11		Mandamus: Written Argument submitted for filing at 938 am	October 6 2026

55		**October 6, 2026, Ms. Dhamrait email and Registrar (Head) Mr. Outerbridge memorandum (10:11 (a.m.) completed as per metadata at Tab 13 infra**	
12		Ms. Dhamrait email and Registrar (Head) Mr. Outerbridge Memorandum sent to the Prescribed Parties at 1013 am (nota bene: the specific language at issue herein: I am writing to advise you of the following: 1. Your application to vary or cancel the order of Justice Horsman made on 18 September 2026 [sic] has been referred to a division comprised of Justices Groberman, Fenlon, and Riley [nota bene: when?]; 2. As mentioned in my letter of 28 September 2026, that division also has your previously submitted and presently unfiled application [nota bene: not unfiled but rejected] ; 3. **That** division has directed: a) these applications be dealt with in writing; and b) the registry is not to file any further material on these applications, including material presently submitted for filing [nota bene: said language in direction 3(b) remains at issue as of October 8, 2026]	October 6, 2026
13		The metadata involving the Registrar (Head) Mr. Outerbridge of October 6, 2026	October 6, 2026
14		Email thread - Sept 28 to Oct 7 involving the two Registrar (Head) Mr. Outerbridge memorandums an response of the Applicant Party to the same on October 7, 2026,	September 28 to October 7, 2026
15		Filing Packages: CSO online as of Oct 6 midday	October 6, 2026,
16		Six rejection notices from the CSO from “VN” with emails of times of rejections which are in EST (minus three hours on or around 410 p.m. PST)	October 6, 2026
17		CSO of the Applicant Party’s account: Back-End Filing-Sept 9 to Oct 6	October 8, 2026 (as of)
18		The LSBC bencher agenda document with extraction for page 31 wherein CEO of the LSBC represented that the LSBC had “filed” its factum on August 5, 2026 (nota bene: Existing Written Record issue with Horsman J. memorandum of August 31, 2026, memorandum to Deputy Registrar Ms. Tori Endicott)	September 25, 2026

- **Nothing past this line but endnotes -**

Tab 1

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4398900 **Submission Date: September 25, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 25-SEP-2026

25SEP2026
We are unable to accept the application and argument for filing. If you insist, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO.

Thank you,
sl

Please keep a copy of this report for your records.

Tab 2

Reply via email: mclean@searchandseizure.ca

URGENT

Date: Sunday, September 27, 2026

Filing method: Via CSO Portal

Sending method (at first instance): via CSO Portal

TO:

The British Columbia Court of Appeal
800 Smithe Street
Vancouver, BC

Attention of the Registrar (Head): Mr. Timothy Outerbridge

FURTHER PARTICULARS OF ASSISTANCE TO THE RECIPIENT

File numbers at the BCCA: CA51536 / CA51535 (defined herein as the "Appeals")
Sender: Mr. Kevin A. McLean (BA, JD, CIM)
Status: Applicant Party in relation to Form 4's and Form 8
Date: *supra*

SUBJECT I: TENDERED LETTER AS PER THE SUGGESTION OF "SL" IN RELATION TO THE UNLAWFUL REJECTION (BY "SL") OF COMPLIANT FILINGS BY THE APPLICANT PARTY (MR. KEVIN A. MCLEAN (BA, JD, CIM) ON FRIDAY, SEPTEMBER 25, 2026

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND PROCEDURAL POSTURE

1. The Applicant Party repeats and relies upon the definitions contained in the documents he has filed in the Appeals and they have the same meaning herein as they do therein. The Applicant Party, at times, refers to himself in third person for ease of reference and delineation purposes.
2. The Applicant Party writes regarding the above with particular reference to the unlawful or unauthorized rejection (by "SL") of the Applicant Party's submitted filings by way of the Applicant Party's Form 4 Notice of Application ("NOA") and written argument ("Written Argument") (collectively, the "Unlawfully Rejected Filings") relating to, *inter alia*, the nullity filing by the LSBC, TLABC, Mr. Westell, AGBC and LGIC (the "Purported Opposing Parties") named as the "Joint Response Book [Sic]" (September 21, 2026) in relation to my filed and served Application Book (September 15, 2026) and the failure of the Purported

Opposing Parties to serve "Response Books" to each "Party" (as defined under Rule 64(1)(b) of the *Court of Appeal Rules*) within seven days of being served with the Applicant Party's Application Book. The latter may be considered at an irregularity at first instance but as the Purported Opposing Parties have not evinced any intention to attempt to rectify said potential, which is not admitted, irregularity, it is veering into the real of nullity. There is also jurisprudence that a direct contravention of rules of procedure enters the realm of nullity (see for example: *König v. Hobza*, 2015 ONCA 885 ("*Konig*").

3. the crystallization of these filings irrevocably engages section 36 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"). The unyielding failure of the Purported Opposing Parties to comply with the governing enactments—specifically their failure to lawfully serve the prescribed parties—establishes a formidable statutory foundation for the adjudicative body to refuse to hear said parties and to definitively dismiss the Appeals as abandoned.
4. Concurrently, an administrative anomaly has manifested within the Court Services Online (the "CSO") portal. An unlawful and procedurally defective rejection notice was issued by a registry employee identified merely as **"SL"** (the "**Unlawful Rejection**"). While lacking legal merit, the **Unlawful Rejection** is recognized as highly advantageous, as it explicitly instructs:

> "We are unable to accept the application and argument for filing. If you **INSIST**, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO. Thank you, sl"
>
> [emphasis is the Applicant Party's]

4. It is evident that bizarre and legally insupportable conduct is being effectuated by an employee of the registry who definitively fails to meet the statutory definition of a Registrar. Pursuant to section 1 of the *COAA*, the definition of a registrar strictly encompasses the Registrar, an associate registrar, and a deputy registrar. It is posited that the Registrar does not actively manage the ground-level processing within the CSO, an administrative reality that necessitates this precise and highly formalized intervention.
5. The aforementioned administrative blockade is systematically deconstructed herein. The precision of this legal analysis is engineered to compel the registry—being both statutorily able and unconditionally required—to stamp the resubmitted filings forthwith, thereby permitting the effectuation of lawful service upon the prescribed parties.

*PART 2: DECONSTRUCTION OF THE **"SL" UNLAWFUL REJECTION** AND STATUTORY DEFINITIONS*

6. The **Unlawful Rejection** is definitively established as not merely ultra vires, but falsely premised. It is a foundational axiom of logical reasoning that a conclusion predicated upon a false premise constitutes a mere sophism.

7. The rejection notice relies upon the term "unable." Lexicographically, "unable" is defined as lacking the necessary skill, power, competence, time, or opportunity to accomplish a specified act. Consequently, the assertion of being "unable" is intrinsically tethered to the possession or absence of jurisdictional power.
8. Pursuant to section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238 (the "*Interpretation Act*"), the term "may" is strictly construed as permissive, whereas the terms "must" and "shall" are construed as imperative. While extensive jurisprudence distinguishes these terms, the statutory obligation in the present matrix is unambiguous on its face.
9. The Applicant Party has financially remitted the requisite fees, submitted for filing, and successfully served the following foundational documents in relation to the impugned orders and directions pronounced by The Honourable Madam Justice Horsman, noting strictly that a "direction" cannot be elevated to an "order" under the statutory definition: a. The Form 8 Notice of Application, dated September 9, 2026; b. The Application Book, prepared in strict accordance with the Completion Instructions (as defined under section 1 of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*")), submitted on September 15, 2026; and c. The supporting Book of Authorities, submitted and served on September 17, 2026.
10. The individual identified as **"SL"** does not satisfy the statutory definition of a Registrar under the *COAA*. This distinction carries profound legal import, as those who satisfy the statutory definition are strictly recognized as officers of the court. An officer of the court is bound by an immutable legal and ethical obligation to promote justice, uphold the rule of law, and ensure [guaranteeing as required by law] the effective, unbiased operation of the judicial system.
11. It is a striking procedural paradox that an administrative clerk would assert the jurisdictional authority to reject a mathematically and procedurally compliant Form 4 Notice of Application, whilst the registry concurrently accepted a **"Joint Response Book" [sic]**—a fabricated filing category entirely unrecognized by the *Court of Appeal Rules* (attached hereto as Appendix "D"). The acceptance of a nullity, paired with the rejection of a compliant instrument, fundamentally offends the venerable maxim of Herbert Broom, *Actus curiae neminem gravabit* (an act of the court shall prejudice no man).

PART 3: THE MANDAMUS THRESHOLD AND THE PUBLIC LEGAL DUTY

12. I provide the facts and law herein to ensure that we are all respectful of the public purse, and finite resources along with the resources that will be required for the hearing of my Form 8 NOA et al.
13. The legal test for the issuance of an order of mandamus is thoroughly entrenched within Canadian administrative jurisprudence. It is delineated herein to ensure [guaranteeing as required by law] the

administrative record formally reflects the absolute lack of discretion possessed by the registry regarding compliant filings.

14. The foundational premise establishes that the registry is not merely "able," but statutorily "required" to accept compliant filings. This strict administrative duty is unequivocally confirmed by the British Columbia Court of Appeal in *R. v. Verma*, 2016 BCCA 307 (the "**Verma Decision**"), a precedent that operates with magnified force under the modernized architecture of the *COAA* and the *Court of Appeal Rules*.
15. The mandatory conditions precedent for the issuance of mandamus were exhaustively codified by the Federal Court of Appeal in *Apotex Inc. v. Canada (A.G.)*, 1993 CanLII 3004 (FCA), aff'd 1994 CanLII 47 (SCC) (the "Apotex Decision"). The eight requisite conditions are enumerated as follows: (1) There must be a public legal duty (as opposed to a mere power) to act; (2) The duty must be owed to the Applicant; (3) There must be a clear right to expect performance of the duty, and all conditions precedent giving rise to the duty must be satisfied, including the demand that the duty be exercised and a refusal to do so; (4) Where the duty sought to be enforced is discretionary, specific ancillary rules apply; (5) The applicant must have no other remedy or recourse available; (6) The order sought must be of some practical value or effect; (7) There must be no equitable bar to the court granting mandamus; and (8) The balance of convenience must favour the granting of mandamus.
16. The application of the aforementioned jurisprudential test to the present factual matrix yields an unequivocal result: a. The registry, and the Head Registrar specifically, bears a clear, non-discretionary public legal duty to accept submitted filings that comply with the *Court of Appeal Rules*; b. Said duty is definitively owed to the Applicant Party; c. No unfulfilled conditions precedent exist, and a clear right to expect performance is established, as the submitted filings are flawlessly compliant with all formatting and structural rules; d. The Registrar is a creature of statute; the acceptance of compliant filings is purely administrative and entirely devoid of discretion (which renders the antecedent acceptance of the unstatutory **"Joint Response Book" [sic]** all the more jurisdictionally defective); e. While alternative remedies are theoretically available, this correspondence is transmitted in the spirit of judicial economy and administrative cooperation; f. The performance of the duty possesses profound practical effect, directly preserving the Applicant Party's obligation to avoid taking a fresh step with knowledge of the Purported Opposing Parties' irregularities—specifically, their failure to serve EACH party pursuant to Rule 64(1)(b) and Rule 62(4)—whilst seeking declarations regarding the void ab initio nature of the **"Joint Response Book" [sic]**; g. Absolutely no equitable bars exist to preclude the seeking of mandamus; and h. The balance of convenience tips enormously and indisputably in favour of the Applicant Party.

PART 4: THE SCHEDULING MANDATE, RULE 55, AND THE ABSOLUTE NULLITY OF PURPORTED SERVICE

16. It is further articulated that the **"Joint Response Book" [sic]** was not merely defectively served, but rather characterized by a complete failure of lawful service. Specifically, purported service of said nullity upon the Applicant Party was impossible at law, as the instrument itself is an unauthorized procedural fiction entirely devoid of legal force. Concurrently, in relation to all other "parties" as defined under rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Prescribed Parties" or "Application Responding Parties"), the instrument was definitively not served at all.
17. In relation to the Form 4 Notice of Application (submitted September 25, 2026) being heard, it is structurally mandated that said application be adjudicated contemporaneously with the antecedent Form 8 Notice of Application. It is rigorously noted that rule 55 of the *Court of Appeal Rules* strictly compels all entities who have been lawfully served with the Form 4 Notice of Application and accompanying written argument to file any responsive written arguments and/or affidavits at least two business days prior to the Application Hearing Date.
18. Consequently, to facilitate compliance with the strictures of rule 62(5), which imposes a mandatory scheduling obligation upon the Registrar, it is advanced that the allocation of two discrete thirty-minute intervals will be mathematically required to assist the registry and properly ventilate the bifurcated applications before the Division panel.

PART 5: THE JURISPRUDENTIAL IMPERATIVE OF VERMA, THE LEXICOGRAPHICAL IMPORT OF "INSIST," AND REMEDIAL ADJUDICATIVE TRAINING

19. The specific lexicographical choices utilized within the **Unlawful Rejection** necessitate rigorous doctrinal scrutiny. The individual identified as **"SL"** explicitly articulated: "If you **insist**, you may write to the Registrar..." The deployment of the term "**insist**" is recognized as a profound, albeit perhaps inadvertent, invocation of binding appellate jurisprudence.
20. To "**insist**" is lexicographically defined as to state something very firmly or to demand something forcefully, specifically in circumstances characterized by disagreement or opposition.
21. It is a matter of established appellate record that paragraph 20 of the *Verma Decision* (*R. v. Verma*, 2016 BCCA 307) explicitly dictates the mandatory protocol for registry clerks when confronted with compliant filings. As unequivocally articulated by the Division panel, while it is appropriate for a clerk to advise a prospective appellant regarding perceived jurisdictional defects,

> "if the notice that person seeks to file to initiate proceedings in this Court complies with this Court's rules and that person **INSISTS** on filing that notice, then the notice **MUST** be accepted for filing."
> [emphasis is the Applicant Party's]

22. Consequently, by the very language employed in the **Unlawful Rejection**, the registry has acknowledged the operative trigger. The Applicant Party is hereby formally and forcefully **insisting** upon the filing of the mathematically and structurally compliant Form 4 Notice of Application and the accompanying Written Argument. Ergo, pursuant to the binding authority of the *Verma Decision*, the submitted documents (one a "Court Form" and the other a required document in support of such an NOA) **must** be accepted for filing forthwith; the Registrar is entirely divested of any residual discretion to refuse.
23. Concurrently, profound respect is maintained for the livelihood and employment security of registry personnel. It is formally acknowledged that the preservation of professional livelihood for administrative staff is of intrinsic value. It is respectfully requested that this severe administrative overreach be utilized strictly as a confidential, remedial registry/administrative processing training opportunity for the individual identified as **"SL"** or **"SL"** (or any other gender-neutral pronoun so adopted). This magnanimous posture is advanced to ensure [guaranteeing as required by law] that the proper boundaries of administrative authority are definitively understood, thereby shielding future participants in the justice system from analogous ultra vires blockades.

PART 6: CONCLUSION AND REQUISITE ADMINISTRATIVE PROCESSING RECTIFICATION

24. In conclusion, while no Enactment (see: s. 1 of the Interpretation Act) condition precedent necessitates the filing of an introductory letter prior to the acceptance of compliant documents, this comprehensive correspondence has been prepared and filed in strict accordance with the **Unlawful Rejection**. This step is executed in the spirit of cooperation, with profound respect for the public purse and the preservation of finite judicial resources.
25. It is further articulated that sections 37 and 38 of the *COAA* strictly circumscribe the registry's authority. The unassailable upshot of these statutory provisions is that while a Registrar may refuse to accept a document if it is filed contrary to a formally issued practice directive, the Registrar cannot, as a matter of statute and regulation (the "Source Laws"), refuse to accept documents that comply with the established filing requirements.
26. Most crucially, the stated rationale for the **Unlawful Rejection** was categorized as "other" and "unable." The administrative clerk was definitively not "unable," but rather statutorily "required" to execute the filing. Consequently, subsequent to the submission of this letter as expressly suggested by the registry, the

Form 4 Notice of Application and the Written Argument shall be resubmitted exactly as they were originally transmitted.

27. Should filed and stamped copies of the Form 4 Notice of Application and the Written Argument (originally submitted on Friday, September 25, 2026) not be provided forthwith, a subsequent escalation will be regretfully compelled. A direct correspondence will be transmitted to the Primus Inter Pares, the Chief Justice of the British Columbia Court of Appeal. The preservation of an independent judiciary intrinsically demands that the administration of the court directs its staff to strictly comply with the duties assigned to them by law.
28. Furthermore, in the event of continued administrative obstruction, the filing of a Form 4 Notice of Application in the nature of mandamus will be precipitated. Such an action would inevitably result in a multiplicity of proceedings, requiring an additional Notice of Application to be heard contemporaneously with the Form 8 hearing.
29. Inasmuch as justice is mandated to be administered in an expeditious, just, and cost-effective manner, the failure to comply with the statutory duties of the Registrar is fundamentally antithetical to the administration of justice. It is presumed that the Head Registrar was entirely unaware of this administrative overreach until the transmission of this correspondence
30. I reserve the right to rely on this correspondence for any lawful purpose, explicitly inclusive of the adjudication of costs, the affirmation that the **"Joint Response Book" [sic]** was a nullity on its face, and the incontrovertible fact that ALL of the "Prescribed Parties" were not served in accordance with Rule 62(4).
31. Thank you kindly for ensuring [guaranteeing as required by law] that the Form 4 Notice of Application and the Written Argument are stamped as filed. I will then provide a copy of the filed Form 4 and written argument to the Rule 64(1)(b) "Parties" so that they are served and are able to exercise their rights at least two days before the "Application Hearing Date" of my Form 8 and said Form 4 NOA (see: Appendix "A"). Trusting that this was an innocent oversight by **"SL"**, I trust my approach in this regard was appreciated although very time consuming and exhaustive, albeit unnecessary, to do so.
32. I await the filed (stamped as such with the notation of September 28, 2026) by your earliest opportunity tomorrow and in turn there will be no requirement for me to draw this issue to the attention of the Chief Justice of the BCCA and bring an additional NOA seeking, *inter alia*, mandamus relief.
33. Thank you kindly.

Yours truly,

Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca

Appendix “A”: Form 4 Notice of Application Appendix “B”: Written Argument Appendix “C”: Receipts of Filing Appendix “D”: The **“Joint Response Book” [sic]** (A nullity on its face, purported to have been served on the Applicant Party which was impossible at law, and in relation to all other “parties” under rule 64(1)(b) (the “Prescribed Parties” or “Application Responding Parties”), not served at all) Appendix “E”: The “SL” **Unlawful Rejection** Notice

APPENDICES

Appendix “A”

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION ***(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))***

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application	Mr. Kevin A. McLean (BA, JD, CIM) (he/him)
Name(s) of responding person(s) to be served with the application	The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)
Location where the application will be heard *Enter the address of the courthouse.*	800 Smithe Street Vancouver, BC V6Z 2E1
Date the application will be heard	TBD based hearing date for AP's Form 8 NOA (heard at same time) *Chambers applications begin at 9:30 a.m.*
The applicant anticipates that this application will be… *Check only one.*	☒ Contested ☐ Uncontested
Enter the section(s) or rule(s) that you are relying on for your application *E.g., If you are applying for leave to appeal, enter "Section 31 of the* Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."	*Court of Appeal Act,* S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, **36**, 44-46, *Court of Appeal Rules,* B.C. Reg. 120/2022 (the "*COR*", "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75 *Law and Equity Act*, R.S.B.C. 1996, c. 253, Section 8. *Interpretation Act*, R.S.B,C 1996, c 238 All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following orders which are contained in his written argument in support of the same (wherein the following statutory parties ("Statutory Parties") in the: 1. the LSBC; and 2. TLABC and Mr. Westell (said three persons collectively defined as well as the "Appellants"); and 3. The AGBC and LGIC (together defined as the "Respondents") but also sad persons were some of many prescribed parties ("Prescribed Parties") under sub-rule 64(1)(b) (the five "Statutory Parties" defined in this NOA (Form 4) as the "**Purported Opposing Parties**"):

Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and

D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings") in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the

LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule 41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The filed affidavits in the Applicant Party Application Book of September 15, 2026 which are particularized again herein:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this September 22, 2026, Form 4 NOA.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

25/09/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

---

[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.
[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a “Court Form” and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a “Response Book” is not discretionary as it must be prepared in accordance with the “Completion Instructions”. Part of the “Completion Instructions” required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page
Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of “filing parties” is not

required for joint book like a “Joint Appeal Book” (see: Rule 26) or a “Joint Book of Authorities” (see: Court of Appeal Rules, rule 27)

Appendix “B”

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS
(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS
(Defendants)

APPLICANT PARTY'S WRITTEN ARGUMENT CONCERNING AN APPLICATION TO:

I. Declare the **"Joint Response Book [Sic]"** void, void ab initio, and of no force and effect;
II. Strike and expunge the **"Joint Response Book [Sic]"** from the BCCA record under the above noted file numbers;
III. Declare the Registrar's acceptance of the **"Joint Response Book [Sic]"** to be without jurisdiction, void ab initio, and of no force and effect;
IV. Declare that the **"Joint Response Book [Sic]"** could not be lawfully served on the other "parties" under *Court of Appeal Rules*, rule 64(1)(b).
V. A Declaration that the LSBC, TLABC, and AGBC failed to comply with rule 62(4) and an Order that the aforementioned persons **"Joint Response Book [Sic]"** is not before the Court;
VI. Special costs against counsel for the LSBC, TLABC, and AGBC jointly and severally for intentional violations of the law; and
VII. Residual relief.

Hearing date: on the date of the **Applicant Party**'s Form 8 NOA to cancel the purported Orders of Horsman J.

Written argument dated and signed on: Friday, September 25, 2026
Written argument submitted for filing on: Friday, September 25, 2026

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PART 1: INTRODUCTION, PROCEDURAL VEHICLE, AND THE JURISDICTIONAL IMPERATIVE

1. The **Applicant Party** repeats and relies upon his evidence in the filed Application Book, and his argument and authorities contained therein and in his Book of Authorities, both for his Form 8 NOA to be heard and decided on a date, time and place as required by Rule 62(5) of the *Court of Appeal Rules*.
2. The **Applicant Party** adopts the definitions from the aforementioned filed documents and they have the same meaning herein as they do therein.
3. The present Written Argument is meticulously formulated and formally submitted to support a Notice of Application in Form 4, brought pursuant to the cited sections in the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*" or "*COAA 2021*"), and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*" or "*Court of Appeal Rules 2022*").
4. The **Applicant Party** seeks the relief particularized in his Form 4 Notice of Application ("NOA"), as denoted supra in summary form.
5. Concurrently, this Written Argument registers the **Applicant Party**'s formal opposition, supplementary to the Applicant Party's objection without taking a fresh step after notice of the irregularity in the failure to serve or be able to serve the "Joint Response Book [Sic]" of which the latter is a nullity at law and the former is an irregularity, to the unlawful steps taken and advanced by the Law Society of British Columbia ("LSBC"), the Trial Lawyers Association of British Columbia ("TLABC") and Mr. Westell, and the Attorney General of British Columbia ("AGBC") and LGIC (collectively, the "**Purported Opposing Parties**").
6. The **Purported Opposing Parties** seek to relegate the impending application to vary or cancel an order of a justice (the "Rule 62 Application") to a written-only adjudication pursuant to s. 26 of the *COAA*. However, the document they have styled as a **"Joint Response Book [Sic]"** is a nullity, void ab initio, and of no force and effect. As a matter of law, an unauthorized filing category cannot be placed "on top of" a mandatory procedural structure that does not permit it. The filing of a **"Joint Response Book [Sic]"** by adversarial statutory parties also raises structural concerns regarding whether any one Purported Opposing Party could purport to file a response on behalf of another.
7. It is formally articulated that the procedural mechanism invoked by the **Purported Opposing Parties** to bypass an oral hearing is misaligned with the mandatory statutory and rule-based architecture governing variance applications under Rule 62 and s. 35(2) of the *COAA*. Even if such a request could be made in that regard, wherein the 'hearing' itself was reduced to written or the time limit for 'hearing' was truncated (see: *COAA*, clauses 26(1)(a), (c) and (d) but not 26(1)(b) as the Form 8 NOA requires a 'hearing' and it is not merely a 'matter' per se wherein the Civil Rules Committee, blessed by the LGIC, used the language of 'hearing under Rule 62(5)).

8. The Legislature deliberately distinguishes between a "matter" and a "hearing" in *Court of Appeal Act* (the *COAA*), s. 26. A "matter" is the underlying proceeding; a "hearing" is the adjudicative event. Section 26(1)(a) empowers the Court to modify the conduct of a hearing, whereas s. 26(1)(b) empowers the Court — and only the Court — to decide a matter without a hearing.
9. The Registrar's administrative authority to "receive any matter," as referenced in the *Registrar's Powers Practice Directive* (3 May 2024), cannot override the Legislature's distinction. A Form 8 Notice of Application under Rule 63(2) and *COAA*, s. 35(2) requires a hearing. It is not a "matter" capable of being decided without a hearing unless the Court so orders under *COAA*, s. 26(1)(b).
10. Accordingly, the Registrar cannot treat the Applicant Party's Form 8 Notice of Application as a "matter," cannot block filings based on standing, and cannot exercise judicial discretion under *COAA*, s. 26. The Registrar's role is purely administrative: filings must be accepted or rejected under Rule 38 and the Completion Instructions. Any attempt to convert a hearing-required application into a "matter" is ultra vires.
11. This distinction is reinforced by the structure of the *COAA*. Section 26(1)(a) presupposes that a hearing date exists and that the matter is properly before the Court. Section 26(1)(b) presupposes that only the Court may eliminate a hearing. The Registrar cannot exercise judicial powers under s. 26, nor can the Registrar determine whether a hearing is required. The Applicant Party's Form 8 Notice of Application is a hearing-required application under Rule 63(2), and the Registrar must accept or reject filings under Rule 38 only.
12. The *Registrar's Powers Practice Directive* authorizes the Registrar to "receive and determine other matters related to the management of the conduct of an appeal," but this authority is expressly limited by *COAA*, s. 37(3): if there is any inconsistency between the rules and a practice directive, the rules prevail. The rules require acceptance or rejection of filings under Rule 38, and do not authorize the Registrar to determine standing, party status, or whether a hearing is required.
13. Therefore, the Clerk's refusal to accept the Applicant Party's Form 8 Notice of Application was ultra vires. The Form 8 Notice of Application must be accepted for filing, and the Applicant Party is entitled to a hearing under Rule 63(2) and *COAA*, s. 35(2).
14. The adjudication of acts executed without authority cannot, as a matter of law, be relegated to an administrative process that circumvents the mandatory hearing structure prescribed by the *Court of Appeal Rules*. When an adjudicative body is confronted with allegations of an absolute nullity arising from acts executed by a Justice, by title but that did not belong to her judicial office (Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est) (see: McLean v. Bradley, 1878 CanLII 22 (SCC) as per Sir William Buell Richards, Knt., C.J,, et al) and in part were manifestly absent jurisdiction (see: *coram non judice* (see also: Pong v. Quong, 1927 CanLII 2 (SCC) as per Anglin C.J.C.), the remedy

cannot be administered through a written-only process that eliminates the procedural safeguards inherent in an oral hearing.

15. The definition of an "Order" in s. 1 of the *COAA* expressly includes "a direction or determination specifically authorized or required under an **Enactment**."

16. The purported "Orders" issued by The Honourable Madam Justice Horsman, having been executed outside the boundaries of the governing **Enactment**s and devoid of statutory jurisdiction, fail to meet this threshold definition. They are jurisdictional nullities. To shield the review of such nullities through a written-only process would constitute a denial of natural justice.

17. The declarations and Orders sought—some specifically authorized and some specifically required by an **Enactment** (see: *Interpretation Act*, s. 1)—are determined pursuant to Rule 62 on a standard of review ("SOR") that is not contingent upon filed documents from any of the prescribed "parties" (the "Prescribed Parties"), as the review is conducted by a division panel of Honourable Justices.

PART 1(A): COMPLETION INSTRUCTIONS AND THE MANDATORY HEARING FRAMEWORK

18. "Completion Instructions" are defined as those issued by the Registrar for the proper completion, formatting, and submission of documents under the *Court of Appeal Rules*. These instructions form part of the mandatory procedural architecture and must be complied with by each responding person.

19. While the word "hearing" is not expressly defined under the *COAA* or the *Court of Appeal Rules*, the terms "Hearing Date" and "Obtain a Hearing Date" are defined and governed by the Rules. Critically, Rule 62(5) provides that the Registrar **must** set the date, time, and place for the hearing of an application. The word "must" is imperative (see: *Interpretation Act*, RSBC 1996, c. 238, s. 29), and imposes a statutory duty and obligation.

20. By tying the **Applicant Party**'s Form 4 NOA to the date on which the Registrar sets the hearing of the **Applicant Party**'s Form 8, the **Applicant Party** accomplishes: (a) the avoidance of multiplicity of hearings and/or proceedings; and (b) the avoidance of inconsistent fact-finding.

21. This is permissible as a variation of a "Court Form" pursuant to Rule 79(3), which allows a Court Form to be prepared with variations as the circumstances or the proceedings require.

22. Under s. 29 of the *Interpretation Act*, the words "shall" and "must" are to be construed as imperative. Under s. 29, "obligation" includes a duty and a liability. The imperative nature of "must" falls squarely upon each of the Appellants and Respondents to comply with Rule 62, including the mandatory filing and service of individual Response Books.

PART 1(B): MANDATORY ATTENDANCE AND COUNSEL OF RECORD

23. Rule 64(4) of the *Court of Appeal Rules* states that each party to an application **must** attend the hearing of the application:
    a. (a) in person, or
    b. (b) if permitted under Rule 42, by telephone, video conference, or other means of telecommunication.
24. The LSBC is represented by Lawson Lundell LLP. The TLABC and Mr. Westell are represented by Fasken LLP. The AGBC and LGIC are represented by government counsel.
25. Rule 64(5) provides that a person's lawyer may attend on behalf of that person. Accordingly, Lawson Lundell LLP cannot attend on behalf of the TLABC, Mr. Westell, the AGBC, or the LGIC, as it is not counsel of record for those persons. Each counsel of record must attend on behalf of their respective clients and the Prescribed Parties.

PART 1(C): STATEMENT OF ISSUES AND BRIEF ANSWERS TO ISSUES

26. The **Applicant Party** identifies the following issues for determination, sequenced chronologically the procedural defects leading to substantive defects, void ab initio documents (non "Court Forms") which were incapable of being accept for filing:
    a. Issue #1 Leaving aside that the Purported Opposing Parties did not submit for filing a Response Book, the first issue is whether the Purported Opposing Parties attempted to serve a filed copy of the *Joint Response Book* [sic] within seven days of being served with the Applicant Party's Application Book.
        1. Answer: As demonstrated in the Applicant Party's appendicised emails at Appendix #1 and Appendix #2, the Purported Opposing Parties failed to attempt service of the *Joint Response Book* [sic] on each Party under the *Court of Appeal Rules* within seven days of service of the Applicant Party's Application Book.
    b. Issue #2: Whether the Purported Opposing Parties' failure to file and serve a Response Book not more than seven days after being served with the Applicant Party's Application Book confirms, by their conduct, that they did not wish to respond to the Applicant Party's Application Book.
        1. Answer: By clear Enactment language and unassailable corollary and syllogism, the Purported Opposing Parties—leaving aside their failure to submit a compliant

Response Book in accordance with the Completion Instructions—confirmed by their conduct that they did not wish to respond to the Applicant Party's Application Book.

c. Issue #3: (a) Leaving aside that the Purported Opposing Parties did not submit a document capable of being filed, whether they could de jure serve the *Joint Response Book* [sic] on the Prescribed Parties under Rule 64(1)(a) (the Applicant Party) and Rule 64(1)(b) (the other Prescribed Parties served with the Applicant Party's Form 8, Application Book (September 15), and Book of Authorities (September 18, 2026)). (b) Whether the Purported Opposing Parties, through Mr. Andrews of Lawson Lundell LLP on Monday, September 21, 2026, purported service of what Mr. Andrews described as a "Response Book," thereby serving the Applicant Party with the *Joint Response Book* [sic].
    1. Answer: The germane subrule requires service of a Response Book, not a *Joint Response Book* [sic]. The only joint books permitted are Joint Appeal Books and Joint Books of Authorities (see *COAA*, ss. 26–27). As such, the Purported Opposing Parties could not serve any Prescribed Party de jure. Their purported service on the Applicant Party was not service de jure. As they did not attempt service on the other Prescribed Parties, the issue is simply non-compliance.

d. Issue #4: Whether the Purported Opposing Parties had authority to prepare, submit for filing, or purport to serve the Applicant Party with the *Joint Response Book* [sic] and its accompanying letter.
    1. Answer: Rule 62(4) imposes mandatory obligations (see *Interpretation Act*, s. 29) on "a person" who wishes to respond to an Application Book: to file and serve a Response Book on each Rule 64(1)(a) and (b) Party not more than seven days after being served, and in accordance with the Completion Instructions. Each Responding Prescribed Party failed to: (i) file; (ii) serve; (iii) a Response Book; (iv) on each Rule 64(1)(a) and (b) Party; (v) within seven days or at all; and (vi) in accordance with the Completion Instructions.
    2. The *Joint Response Book* [sic] is a nullity at law. The accompanying letter is likewise a nullity. A Response Book is not a "Court Form" but is a document subject to Completion Instructions. The *Joint Response Book* [sic] did not comply with any mandatory requirement.

e. Issue #5: Whether the Registrar had jurisdiction to accept the *Joint Response Book* [sic] for filing. More specifically, whether acceptance of a filing category not authorized by any Enactment constitutes an ultra vires act, and whether such acceptance is a "direction"

within the meaning of *COAA*, s. 1, thereby engaging the Applicant Party's right to seek cancellation under *COAA*, s. 35(2) and Rule 63.

1. Answer: The Registrar is a creature of statute, with no powers outside the four corners of the *COAA* and the *Court of Appeal Rules*. Any act outside those limits is ultra vires, void ab initio, and of no force and effect. Under *R. v. Verma*, para. 20, if a document complies with the rules and a person insists on filing it, the Registrar must accept it. Conversely, where a document does not comply with: (i) its required name; (ii) the requirement that each Prescribed Party file its own Response Book; (iii) the non-variability of documents outside Schedule 3; and (iv) the Completion Instructions, the Registrar cannot accept it.
2. The Registrar, Associate Registrar, and Deputy Registrar (see *COAA*, s. 1) are officers of the Court (see *COAA*, s. 10) and must conduct Appeals in accordance with the Act and Rules (see *COAA*, s. 18). Rule 62(4) and Rule 64(1)(a) and (b) squarely govern the requirements. The Registrar may only exercise powers conferred by the Rules or by the Chief Justice. Any inconsistency between a Chief Justice authorization and the Rules is resolved in favour of the Rules (see *COAA*, s. 37(3)).
3. The Completion Instructions required a cover page that prohibited filing of a *Joint Response Book* [sic]. On that ground alone, the Registrar could not accept it.

f. Issue #9: Whether the Court should strike and expunge the *Joint Response Book* [sic] as void ab initio, a nullity, void, and of no force and effect. More specifically, whether the fabricated filing category, adversarial consolidation, service defects, and structural non-compliance justify striking the document under Rule 53, Rule 54, *COAA*, s. 18(2), and *Supreme Court Civil Rules*, Rule 95.

1. Answer: The issue answers itself. The experienced counsel for the LSBC, TLABC and Mr. Westell, and AGBC and LGIC must have known their actions were prohibited by the *COAA*, the *Court of Appeal Rules*, other Enactments, and their professional obligations. As the public may review filed documents in the Record of Proceedings, the *Joint Response Book* [sic] must be expunged to prevent reliance on an unlawful filing.

g. Issue #10: In light of the independent, concurrent, and intertwined non-compliance with the Act and Rules by the Purported Opposing Parties, must the review division panel exercise its authority to decline to hear from the Purported Opposing Parties in relation to the Form 8 Notice of Application?

1. Answer: The Purported Opposing Parties' conduct contains numerous egregious violations of the Act and Rules. They must not be heard. To hear them would require one counsel to speak for all five Prescribed Parties, further undermining the Act and Rules.

h. Issue #11: Whether the review division panel, being required to conduct Appeals in accordance with the Act and Rules, must exercise its authority to declare the LSBC and TLABC/Mr. Westell's Appeals abandoned.

1. Answer: Jurisprudential principles confirm that where breaches are numerous and not merely irregularities, dismissal as abandoned is not Draconian. The misconduct here—carried out by experienced counsel for all five Prescribed Parties, without seeking leave to dispense with the Rules, and in the face of a validly filed and served Form 8, Application Book, and Book of Authorities—requires dismissal of the Appeals as abandoned. The remaining issues in the Form 8, confined to questions of law, should be argued by the Applicant Party.

PART 2: THE ATTEMPTED PROCEDURAL TRAP, PROVISION (NOT SERVICE) OF LEGAL FICTION DOCUMENTS, AND THE DEFINITION OF "PARTY" UNDER THE *COURT OF APPEAL RULES*

27. The **Applicant Party** formally notifies this Honourable Court of the procedural mechanism deployed by the **Purported Opposing Parties** through premature, extra-statutory correspondence. The transmission of letters and documents prior to the crystallization of statutory deadlines operates as an attempted procedural trap designed to compel the **Applicant Party** into an informal exchange outside the mandatory framework of the *Court of Appeal Rules*.

28. The architecture of this attempted trap is straightforward: by communicating through informal correspondence and seeking extra-**Enactment** consensus or acquiescence and/or taking a fresh step with knowledge of what it would inevitably claim was an irregularity but *de jure* a nullity, the **Purported Opposing Parties** endeavour to induce the **Applicant Party** into implicitly accepting their flawed premise—namely, that only the formalized Appellants and Respondents constitute "Parties" to these proceedings.

29. Simply put, the Appellants and Respondents are appellate "Statutory Parties," but they were and are not the only "Prescribed Parties" under the *Court of Appeal Rules*. The mandatory service matrix under Rule 62(4) and Rule 64(1)(b) extends beyond the narrow subset of Appellants and Respondents.

30. The **Applicant Party** expressly declines to validate this exclusionary posture and formally refuses to respond to extra-statutory correspondence that is not transmitted in accordance with the *Court of Appeal Rules*.

31. Furthermore, the mechanics of service under the modernized regime are mathematically precise and cannot be bypassed through the tactical provision of documents to only some of the Prescribed Parties. Rule 4(3) of the *Court of Appeal Rules* governs deemed service by email or fax and provides:

> "A document transmitted for service by email or fax is deemed to be served as follows: (b) if the document is transmitted at either of the following times, the document is deemed to be served on the next business day: (i) after 4 p.m. on a business day."

32. This deeming provision is mandatory and cannot be circumvented by informal correspondence.

33. While it would have been open to the **Applicant Party** to wait until 4:01 p.m. on September 22, 2026, such a step would have played into the **Purported Opposing Parties**' attempted procedural manoeuvre. More critically, it would not matter, *de jure*, whether the **"Joint Response Book [Sic]"** was transmitted before or after 4:00 p.m., as the document is a legal fiction per se. A "Court Form" may be varied under Rule 79(3)(a), but a Response Book is not a Court Form and must be completed in accordance with the Completion Instructions, filed, and then served on *each* Rule 64(1)(a) and (b) "Party" (see: Rule 62(4)).

34. If the **Purported Opposing Parties**' extra-**Enactment** correspondence and defectively provided documents were transmitted after the 4:00 p.m. threshold, they are strictly deemed served on the next business day. The **Applicant Party** relies absolutely upon the precision of the *Court of Appeal Rules* and rejects any attempt to manipulate timelines or construct artificial urgency through non-compliant, late-afternoon transmissions.

PART 3: THE EXCLUSIVITY OF SECTION 32 DISPENSATION POWERS AND RULE 41

35. The **Purported Opposing Parties**' attempt to dispense with the mandatory oral hearing requirement of Rule 62 through an informal letter to the Registrar constitutes a clear error of law and a circumvention of the *COAA*. The statutory architecture governing the dispensation of Rules and the extension or abridgment of timelines is rigid, exclusive, and strictly reserved for the judiciary.

36. Section 32(1) of the *COAA* explicitly and unequivocally delineates the jurisdictional boundary: **"A justice may dispense with a requirement of the Rules."** This extraordinary power is conferred solely upon a justice. The statute does not authorize the Registrar to dispense with any requirement of the *Court of Appeal Rules*, nor does it permit litigants to dispense with mandatory Rules through consensus, correspondence, or informal communication. The Registrar is statutorily barred from entertaining any informal request to abandon an oral hearing mandated by Rule 62.

37. Furthermore, should the **Purported Opposing Parties** attempt to characterize their request as involving an extension or abridgment of time limits, s. 32(3) of the *COAA* dictates that a justice may extend a time limit even if it has expired. However, such an extension is subject to strict procedural prerequisites. Section 32 is inextricably tethered to Rule 41 of the *Court of Appeal Rules* (General Applications), which governs applications to vary timelines or dispense with procedural requirements.
38. To successfully invoke the dispensation or extension powers under s. 32, the defaulting or moving party must apply formally. Under the *Court of Appeal Rules*, an application to a justice to dispense with a Rule or vary a timeline requires a specific evidentiary and procedural matrix, including: (a) the filing of a formal Notice of Application in Form 4; (b) the filing of supporting Affidavits containing the requisite evidentiary foundation; and (c) the submission of a Written Argument.
39. The **Purported Opposing Parties** have filed none of these mandatory instruments. They have submitted: (a) no Form 4; (b) no sworn evidence justifying dispensation of the requirements of the *Court of Appeal Rules* to: (i) file a Response Book; (ii) serve a filed Response Book; (iii) file and serve a Response Book on each Party; and (c) no materials addressing any other mandatory requirements under the *Court of Appeal Rules*.
40. By attempting to secure a s. 26 written-only hearing—transmitted only to the **Applicant Party**—via a letter sent solely through the LSBC, the **Purported Opposing Parties** have engaged in a procedural approach that is incompatible with the *COAA* and the *Court of Appeal Rules*.
41. Simply put, they have engaged in obstructionist conduct which can only be inferred to be, with such experienced legal counsel, to be intentional violations of law.
42. Their failure to comply with the mandatory statutory and rule-based requirements is complete, and their attempt to bypass Rule 62 through informal correspondence is without legal foundation. Such acts were not merely voidable but void ab initio, void, and of no force and effect. Parties, statutory and/or prescribed, cannot even waive by consent, requirements of the *COAA* and the *Court of Appeal Rules* as only a Justice may do so.

PART 4: THE PROCEDURAL INVALIDITY OF THE "JOINT RESPONSE BOOK [SIC]", ADVERSARIAL ALIGNMENT, AND RULE 63

43. The **Applicant Party** brings this Form 4 Notice of Application to strictly enforce the pure, rule-based appellate geometry of the *Court of Appeal Rules*.
44. The instrument accepted as filed by the Registrar—submitted presumably by the LSBC on behalf of the **Purported Opposing Parties** and styled as a **"Joint Response Book [Sic]"**—is a procedural phantom.

The *Court Services Online* ("CSO") portal does not permit the filing of any joint adversarial "document" (see: Rule 1(1)). The only joint filing categories authorized under the *Court of Appeal Rules* are: (a) joint appeal books; and (b) joint books of authorities.

45. The *Court of Appeal Rules* simply do not authorize a **"Joint Response Book [Sic]"**. The Registrar possessed no jurisdiction under any **Enactment** to accept such a legal-fiction document. It is a fabricated filing category entirely absent from the governing statutory and regulatory framework.

46. Rule 62(4) explicitly dictates the mandatory obligations for responding to an application to vary: **"A person who wishes to respond to an application book… must file and serve… a response book."** The Rule imposes a singular, individual obligation on **"a person"** to file **"a response book."** Not joint. Not combined. Not consolidated. A response book. Singular.

47. It is axiomatic that the LSBC is a singular Appellant under the file number assigned to its Appeal, and the TLABC and Mr. Westell are singular Appellants under the file number assigned to their Appeal. The AGBC is a singular Respondent. Each is required to file and serve their own individual Response Book.

48. The word "joint" is entirely absent from the *COAA 2021*. However, the word "joint" appears exactly fourteen times within the modernized *Court of Appeal Rules 2022*. A rigorous statutory construction reveals that the Legislature specifically and exclusively authorized "joint" filings **only** in the context of: (a) a "joint appeal book" (Rule 26(1), (4), and (5)); (b) a "joint book of authorities" (Rule 28(3) and (4)); and (c) a "joint appeal book on cross appeal" (Rule 30(1) and (2)).

49. There is a fundamental structural reason why the Rules allow "joint" filings strictly for appeal books and books of authorities: these are neutral, administrative compilations of shared evidentiary materials. A joint appeal book is prepared jointly by all parties to organize the record. It is an administrative efficiency.

50. Conversely, a Response Book under Rule 62 is not a neutral compilation; it is an adversarial submission. It contains argument, procedural posturing, and sworn affidavits. The Rules deliberately do **not** permit joint adversarial filings. The Registrar cannot spontaneously create such a category, nor can the Registrar consolidate adverse parties into a single "unit" with a single **"Joint Response Book [Sic]"**.

51. This structural defect is fatal given the specific adversarial alignment of the parties in CA51535 and CA51536. The LSBC is an Appellant under its designated file number. The TLABC and Mr. Westell are joint Appellants under the designated BCCA file number. The AGBC is a Respondent. While the LSBC, and TLABC and Mr. Westell, could not file a **"Joint Response Book [Sic]"**, adding the AGBC and LGIC are purported joint completers under a singular filer, through counsel to the LSBC's CSO filing account, was particularly egregious when the AGBC and LGIC are adverse parties in the underlying litigation to the LSBC, TLABC and Mr. Westell and adverse statutory parties under the *COAA*. The Rules do not permit adverse parties to file a joint, consolidated adversarial response. This is a categorical defect of procedural alignment.

52. Furthermore, any attempt by the **Purported Opposing Parties** to justify the fabrication of a **"Joint Response Book [Sic]"** by relying on the variation allowance under Rule 79 is fundamentally doomed by strict statutory definitions. Rule 79(1) defines a "Court Form" precisely as "a document that is required under these Rules to be filed using a specified form [set out in Schedule 3]." While Rule 79(3)(a) allows a Court Form to be prepared "with variations as the circumstances or the proceedings require," a Response Book is **not** a Court Form.
53. A Response Book is a substantive document governed exclusively by Rule 62 and the Completion Instructions. However, it is **not** a "Court Form" and cannot be varied as It is entirely absent from the forms codified in Schedule 3. Ergo, the statutory allowance for "variations" is categorically inapplicable. The title page submitted by the institutional litigants—boldly declaring itself a **"Joint Response Book [Sic]"** on behalf of both Appellants and Respondents—is an unauthorized fabrication that cannot be saved by Rule 79. Because it is not a Court Form, it cannot be varied. It is an illicit document that must be summarily struck.
54. As established above, only a justice may dispense with compliance with the Rules pursuant to s. 32(1) of the *COAA*. The Registrar cannot modify Rule 62 or accept filings not authorized by the Rules. Therefore, the Registrar could not accept a **"Joint Response Book [Sic]"** unless a justice explicitly ordered it. No such dispensation order exists. The filing is *ultra vires*, irregular on its face, and improperly before the Court.
55. Furthermore, the lack of service is not merely cosmetic; it is a profound substantive defect. Rule 62(4) requires service of the Response Book "on each party." The **Purported Opposing Parties** failed to serve the broader matrix of counsel and interveners. This defect affects the validity of the **Joint Response Book** [sic], the ability of the Court to rely upon it, and the fundamental fairness of the Rule 62 process.
56. Because the Registrar's acceptance of this fabricated instrument constituted a "direction", but not an Order, under the *COAA*, the **Applicant Party** is mathematically required to bring this Rule 63 application to set aside that direction and formally strike the unauthorized document from the record. However, the end result is the same relating to the invalidity of the **"Joint Response Book [Sic]"** albeit the consequential relief of striking and expunging is distinct.

PART 5: THE STATUTORY MANDATE OF RULE 62 AND THE PROHIBITION OF NULLITIES

57. It is systematically acknowledged that Rule 62(5) of the *Court of Appeal Rules* explicitly mandates that the date, time, and place for the hearing of an application under said Rule **must** be set by the Registrar. The public-facing guidance of the Court of Appeal further notes that such hearings are presumptively 30 minutes in duration.

58. The imposition of a strict thirty-minute temporal limitation unequivocally signifies the Legislature's contemplation and mandate of an **oral hearing**. Limiting the time for a hearing that is purely written is a logical impossibility and a procedural absurdity. A written-only process has no "hearing time" to limit. Consequently, the invocation of s. 26(1)(c) or s. 26(1)(d) of the *COAA* to limit or eliminate the hearing is strictly ***ultra vires*** the specific statutory architecture governing variance applications under Rule 62.
59. As dictated by the venerable maxim *generalibus specialia derogant* (special provisions derogate from general ones), the specific temporal and structural requirements formulated exclusively for variance applications in Rule 62(5) strictly override the generalized, discretionary parameters of s. 26 of the *COAA*. A failure to apply the governing statutory text to orchestrate the hearing constitutes a pure, extricable error of law.

PART 5(A): SECTION 19 OF THE COAA: IRREGULARITIES VS. NULLITIES

60. Section 19 of the *COAA* provides that an Appeal is not defeated by an "irregularity or procedural error" in the conduct of the appeal. Section 19(2) empowers a justice to validate an act, impose terms, or make any order necessary to address such irregularities or procedural errors.
61. However, the statutory protection afforded by s. 19 applies **only** to irregularities — not to **nullities**. A nullity is not an "irregularity" within the meaning of s. 19(1). A nullity is a legal non-event: an act done without jurisdiction, without authority, or contrary to an **Enactment**. A nullity cannot be validated, cured, or retroactively regularized under s. 19(2). It is void ab initio.
62. The acceptance for filing of a **"Joint Response Book [Sic]"** by the Registrar is not an irregularity; it is a **nullity**. The Registrar had no jurisdiction under any **Enactment** to accept a fabricated filing category not authorized by the *Court of Appeal Rules*. The document is not merely defective — it is legally impossible. It is a filing that the Rules do not permit to exist.
63. Because s. 19 cannot cure a nullity, the **"Joint Response Book [Sic]"** cannot be validated, cannot be regularized, and cannot be salvaged by judicial discretion. It must be struck. The **Applicant Party** is therefore mathematically required to bring this Rule 63 application to set aside the Registrar's acceptance of the nullity and to formally expunge the unauthorized document from the record.

PART 6: NOVELTY, THE PUBLIC INTEREST, AND THE OPEN COURT PRINCIPLE

64. The present opposition engages a novel and unresolved issue of law under the modernized *COAA 2021* and the contemporary *Court of Appeal Rules 2022*. The interaction between the mandatory hearing parameters of Rule 62 and the discretionary written-only mechanisms of s. 26 of the *COAA*, in the context

of an unauthorized request not properly predicated *de jure*, remains an undecided and critical frontier of appellate jurisprudence in British Columbia.

65. The procedural mechanism advanced by the **Purported Opposing Parties** fundamentally engages the open court principle, a constitutional pillar of the Canadian justice system protected under s. 2(b) of the *Canadian Charter of Rights and Freedoms*. As articulated by the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25, and *Vancouver Sun (Re)*, 2004 SCC 43, the public ventilation of judicial proceedings is essential to maintaining institutional legitimacy, democratic accountability, and public confidence in the administration of justice.

66. The present application does not concern routine interlocutory matters. It is tethered to allegations of serious state-action irregularities and the procedural consequences arising from those allegations. The public holds a legitimate interest in observing the appellate division address the statutory, procedural, and jurisdictional issues raised in open court. This matter engages the highest level of public interest in the proper functioning of the justice system.

67. By seeking to force this adjudication into a written-only process under s. 26 of the *COAA*, the **Purported Opposing Parties** attempt to bypass the mandatory oral hearing structure prescribed by Rule 62. Such an approach would improperly quarantine the adjudication of issues that, by their nature, require public ventilation and judicial transparency. The open court principle prohibits the displacement of an oral hearing where the governing **Enactment**s mandate one.

PART 7: THE INAPPLICABILITY OF THE SECTION 26 JURISPRUDENCE

68. Assuming arguendo that the **Applicant Party** was put to argue the same, he respectfully provides the following.

69. The jurisprudential authorities proffered by the **Purported Opposing Parties** to substantiate the dispensation of an oral hearing are categorically distinguishable, factually impoverished, and profoundly inapplicable to the present matrix. The discretionary authority encapsulated within section 26 is customarily reserved for matters devoid of substantive complexity or wherein the administration of justice is uncontrovertibly served by written submissions.

70. A rigorous legal deconstruction of the authorities relied upon demonstrates their absolute irrelevance to an application addressing a jurisdictional nullity, as elucidated within the comparative table below:

Authority	Procedural Context	Distinguishing Factor (Nullity vs. Irregularity)

Gonzalez v. British Columbia (Attorney General), 2023 BCCA 155	Vexatious litigant, obvious lack of merit in an application for review.	The appellate tribunal dispensed with an oral hearing strictly upon the foundation of a lack of merit involving an existing vexatious litigant. The present matter engages profound constitutional issues, novel interpretations of the 2021 *COAA*, and strict *ultra vires* actions by a chambers justice.
Vesuna v. Stillwater Waterworks District, 2023 BCCA 431	Consent disposition regarding an *ex parte* substituted-service order.	Engaged a scenario wherein an appeal was allowed by absolute consent. In the present circumstances, vigorous, unyielding opposition is registered against the circumvention of the open court principle.
Raju v. Red Door Housing Society, 2025 BCCA 340	Judicial review of a residential tenancy dispute involving voluminous materials.	Involved a standard administrative review concerning residential tenancies. Here, the underlying issue is fundamental procedural fairness, acts executed *coram non judice*, and the suppression of forensic evidence.
Portnov v. Alexander Holburn Beaudin + Lang LLP, 2026 BCCA 193	Adjournment request where comprehensive materials were already filed.	Involved an adjournment request on a pedestrian civil practice issue. The instant matter engages catastrophic jurisdictional usurpation demanding absolute transparency.

71. By attempting to rely upon the aforementioned jurisprudence, the **Purported Opposing Parties** have strategically endeavoured to conflate a catastrophic jurisdictional nullity with a mere procedural irregularity. The adjudication of a nullity requires the purifying sunlight of an oral hearing.

PART 8: THE EVIDENTIARY VOID AND THE ABUSE OF PROCESS

72. The tactical refusal of the institutional litigants to engage with the substantive forensic evidence—electing instead to file an unauthorized **"Joint Response Book [Sic]"** that labels an exhaustively cited fifty-seven-page legal argument detailing unconstitutional state-sponsored digital incursions as indecipherable—crystallizes the evidentiary void.

73. It is advanced that the attempt to utilize the section 26 mechanism operates as a transparent stratagem to shield the profound constitutional violations, the Deflate64 compression algorithms masking the true binary state of the extracted files, and the binding formal admissions from public ventilation. Such a maneuver is *ipso facto* an abuse of process.
74. The administration of justice is incontrovertibly prejudiced when severe jurisdictional defects are swept into an administrative vacuum. Section 26 cannot be weaponized by institutional litigants to insulate themselves from accountability regarding actions that were executed without the requisite jurisdiction and thus rendered absolute constitutional nullities.

PART 9: STRIKING THE "JOINT RESPONSE BOOK [SIC]"

75. Under this heading, the **Applicant Party** repeats and relies upon his argument contained in his filed Application Book of September 15, 2026.
76. In the absence of an explicit provision within the *Court of Appeal Rules* specifically governing the striking of unauthorized, incidental responsive documents, the adjudicative body is mandated by section 18(2) of the *COAA* to apply the *Supreme Court Civil Rules* by analogy. Consequently, Rule 9-5 of the *BCSC Civil Rules* is irrevocably engaged to adjudicate the expungement of the Appellants' **"Joint Response Book [Sic]"** and associated memoranda.
77. In *Walker v. John Doe*, 2014 BCSC 830, The Honourable Mr. Justice Butler definitively established that the jurisdiction granted by Rule 9-5(1) extends far beyond originating pleadings to encompass "other documents" filed within a proceeding. The deliberate insertion of cost-threats into boilerplate notices was struck as an abuse of process. By analogy, the deliberate insertion of a fabricated, procedurally non-existent **"Joint Response Book [Sic]"** into the appellate registry—explicitly designed to bypass the mandatory service matrix and consolidate adverse parties into an unlawful alliance—constitutes an analogous misuse of procedural mechanisms demanding expungement.
78. Applying the jurisprudence of Rule 9-5(1)(b) and (c), the impugned filings are demonstrably scandalous, frivolous, and inherently prejudicial (*Gill v. Canada*, 2013 BCSC 1703; *McNutt v. A.G. Canada*, 2004 BCSC 1113). They serve no useful purpose because they advance arguments predicated upon a defunct 2018 lower-court order, constituting a direct, impermissible collateral attack upon the Court of Appeal's own subsequent acceptance of jurisdiction in docket CA45786 (*Wilson v. The Queen*, 1983 CanLII 35 (SCC)).
79. Furthermore, applying Rule 9-5(1)(d), the filings constitute an absolute abuse of process. As definitively articulated by the Supreme Court of Canada in *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26, the failure of a party to challenge jurisdictional validity at the appropriate temporal juncture—opting instead

to deploy self-help remedies and subsequently mount a defense based upon those unaddressed historical grievances—constitutes a flagrant abuse. The Appellants deliberately slept on their rights during the 2019 appellate proceedings (*McLean v. British Columbia*, 2019 BCCA 133) and are now strictly estopped from manufacturing a retroactive standing objection. The analogous application of Rule 9-5 demands the immediate striking of the Joint Response Book and the offending memoranda.

PART 10: THE NON-IRREGULARITIES IN THE FORM OF THE NULLITIES AND CONSEQUENTIAL RELIEF

80. Rule 36 authorizes a Justice to do the following when there has been a "failure to comply:

36 A justice may do one or more of the following if a party fails to comply with this Act or the rules or an order or direction of the court, a justice or the registrar:

(a)refuse to hear the party;

(b)impose terms and conditions, including the payment or disallowance of costs;

(c)if the party is an appellant, dismiss the appeal as abandoned.

81. The former section , which read as follows, from 1996 to 2021:

> Non-compliance
> 28 If a party fails to comply with this Act or the rules, the court or a justice may
>
> (a)dismiss the appeal as abandoned if the party is the appellant,
>
> (b)refuse to hear the party, or
>
> (c)impose terms including terms respecting the payment or disallowance of costs or disbursements.

82. Both the current s. 36 and former s. 28 use the word "party," referring to a Statutory Party. The repealed section permitted either the Court or a justice to exercise the dismissal and refusal jurisdiction. Under the current s. 36, only a justice may do so.

JURISPRUDENCE UNDER CURRENT SECTION 36

83. Most jurisprudence under the current s. 36 concerns failures to pay security for costs or failures to file documents within prescribed timelines.

84. In *Momeni v. Percy*, 2023 BCCA 295, former tenants (appellants) attempted to serve an appeal record on their landlords (respondents) via registered mail. The respondents applied to dismiss the appeal as

abandoned under s. 36(c) because registered mail is not a permitted method of service under the *Court of Appeal Rules* unless explicitly authorized. Although the justice agreed the service was invalid, dismissal was considered too "draconian" for an early-stage misstep that was not egregious.

85. Here, by contrast, the Purported Opposing Parties did not merely choose an improper method of service. The *Joint Response Book* [sic] was and is a nullity on its face and in substance, incapable of being served at law. The numerous violations of the *COAA* and the *Court of Appeal Rules* are far more egregious than the conduct of self-represented tenants in *Momeni*.

86. Moreover, the Purported Opposing Parties' failure even to attempt service of the *Joint Response Book* [sic] on each Party under Rule 62(4), citing Rule 64(1)(b), supports the inference that they knew the *Joint Response Book* [sic] was a nullity at law. Their conduct is consistent with bad faith, dishonesty, and fraud on the Court.

87. By syllogism, granting relief dismissing the Appeals as abandoned is not too draconian when considering the numerous, intertwined violations of the *COAA* and the *Court of Appeal Rules*

JURISPRUDENCE UNDER THE FORMER SECTION 28 OF THE COAA

88. In *British Columbia v. Leyen*, 2006 BCCA 180, Justice Davies held that where Appeals are hopeless, this militates in favour of dismissing the Appeals as abandoned.

89. The Applicant Party repeats and relies upon the filed documents in the Application Book regarding the hopeless nature of the Appeals, including fraud on the Court, the law of admissions without any cross-appeal, and abuse of process (which has continued as a pattern by the LSBC).

PART 11: NATURE OF THE ORDERS REQUESTED

90. The **Applicant Party** respectfully requests the following relief on a preliminary basis and prior to the hearing of his Form 8 (September 9, 2026) supported by his filed Application Book (September 15, 2026) and his BOA (September 17, 2026):

Part 11(A): Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and
D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Part 11(B): Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings")

in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule

41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.
Dated at the City of Toronto, Province of Ontario, this 25th day of September 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party
68 Abell St. (Receptionist desk) Toronto, ON M6J 0B1
Email: mclean@searchandseizure.ca

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.
[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a "Court Form" and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a "Response Book" is not discretionary as it must be prepared in accordance with the "Completion Instructions". Part of the "Completion Instructions" required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page
Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of "filing parties" is not required for joint book like a "Joint Appeal Book" (see: Rule 26) or a "Joint Book of Authorities" (see: Court of Appeal Rules, rule 27)

APPENDIX “A”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535/CA51536 - Service of Response Book and Letter

5 messages

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 6:26 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Please find attached the Joint Response Book of the parties, filed today in response to your application to vary or cancel the order of Justice Horsman.

Also attached is a letter from the parties to the Registrar of the Court of Appeal, which we will be filing momentarily. We will provide you with a filed copy of the letter in due course.

Regards,

Jonathan

Jonathan Andrews | Associate
D 604.631.9270 | **E** jandrews@lawsonlundell.com
Lawson Lundell LLP 1600 - 925 West Georgia Street, Vancouver, BC V6C 3L2
Vancouver | Calgary | Yellowknife | Kelowna

Disclaimer - This email and any accompanying attachments contain confidential information that may be subject to solicitor-client privilege and are intended only for the named recipients. If you have received this email in error, please notify the sender and destroy the email. Our e-mail terms of use can be found at https://www.lawsonlundell.com/legal/terms

2 attachments

Joint Response Book - Vary Order of a Justice - F_ September 21, 2026.PDF
874K

2026-09-21 LT Court of Appeal (Registrar) re Kevin McLean Rule 62 Application.PDF
267K

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 7:03 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews

<wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Further to my email below, here is a filed copy of the letter.

Regards,

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

[Quoted text hidden]
[Quoted text hidden]

2026-09-21 LT Court of Appeal Registrar - F_ September 21, 2026.PDF
268K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 2:48 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Subject: CA51535 / CA51536 – Service of “Joint Response Book” [sic] – confirmation of receipt not service *per se*

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I thank Mr. Andrews for his two emails and confirm receipt of the same.

I also confirm receipt of your “Joint Response Book” [sic] purportedly filed today in response to my application to vary or cancel the order of Justice Horsman. As you are aware, the Court of Appeal Rules do **not** authorize a “joint” response book, and such a filing is a **nullity** under Rule 62.

Leaving that aside, Rule 62(4) requires that *each person* who wishes to respond must file and **serve** a response book on the applicant and on **each party** described in Rule 64(1)(b). Based on the recipients included in Mr. Andrews’ email, I will presume that this “Joint Response Book” [sic] was **not** served on all Rule 64(1)(b) parties.

If purported service was effected separately (i.e., by a separate email to the prescribed parties), please provide proof of service forthwith.

I will address the remainder of the issues involving the same separately but it was important to confirm that (as the email addresses based upon a cursory review do not appear to include all legal representatives of parties as passed by the LGIC in 2022 under the Court of Appeal Rules) some “Prescribed Parties” were not included and were not served within seven days of a receipt of my Application Book.

I reserve all of my rights in fact and at law.

Regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Appendix – Rule 62(4)

“A person who wishes to respond to an application book filed under subrule (2)(b) must file and serve, on the applicant and on each party not more than 7 days after being served the application book, a response book prepared in accordance with the completion instructions.”

[Quoted text hidden]

Jonathan Andrews <jandrews@lawsonlundell.com> Wed, Sep 23, 2026 at 3:31 PM
To: "Mr. Kevin Alexander McLean" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean, we acknowledge receipt of your email.

Regards,

Jonathan

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

From: Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>
Sent: Wednesday, September 23, 2026 11:49 AM
To: Jonathan Andrews (3270) - 14Flr <jandrews@lawsonlundell.com>
Cc: Lapper, Emily AG:EX <emily.lapper@gov.bc.ca>; Trevor.Bant <trevor.bant@gov.bc.ca>; Ortega, Sergio AG:EX <sergio.ortega@gov.bc.ca>; Karin.Kotliarsky <karin.kotliarsky@gov.bc.ca>; Gavin Cameron <gcameron@fasken.com>; tposyniak <tposyniak@fasken.com>; Laura Abrioux <labrioux@fasken.com>; Will

Andrews <wandrews@fasken.com>; Craig Ferris (3197) - 14Flr <cferris@lawsonlundell.com>; Laura Bevan (3106) - 14Flr <lbevan@lawsonlundell.com>; Nicole Welsh (3193) - 14Flr <nwelsh@lawsonlundell.com>; Lindy Grant (3258) - 14Flr <lgrant@lawsonlundell.com>; Nastasia Virvilis (3497) - 14Flr <nvirvilis@lawsonlundell.com>
Subject: Re: CA51535/CA51536 - Service of Response Book and Letter

EXTERNAL EMAIL - This email was sent by a person from outside your organization.

[Quoted text hidden]

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:37 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Thank you kindly Mr. Andrews and I hope you are all well. You will want to review my email to all of the Rule 64(1)(b) 'parties' (persons therein). I will be somewhat strict herein without being rude that all future correspondence regarding these issues shall be in that email thread. Please respond therein and I will respond in kind should any further correspondence be applicable or required.

[Quoted text hidden]

APPENDIX “B”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK" and non-service on ALL "Prescribed Parties" within seven days of September 15, 2026

1 message

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:31 PM
To: Chambers <Chambers@bccourts.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, lkt@tdslaw.com, Ian Knapp <iknapp@macfuj.com>, amackenzie@macfuj.com, "XT:Olthuis, Brent AG:IN" <bolthuis@ovcounsel.com>, dredman <dredman@arvayfinlay.ca>, David Wu <dwu@arvayfinlay.ca>, cbildfell@mccarthy.ca, "Frame, Lindsay" <lframe@mccarthy.ca>, roy.millen@blakes.com, nicholas.tollefson@blakes.com, joey@doyledefence.ca, ekirkpatrick@mcewanpartners.com, cdauvergne@litigationchambers.com, jmaclaren@accessprobono.ca, kyla@vancouvercriminallaw.com, rpeck@peckandcompany.ca, csenini@peckandcompany.ca, pmueller@peckandcompany.ca, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, cferris <cferris@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, mring@lawsonlundell.com, ccrane <ccrane@ovcounsel.com>, Chris Pang <cpang@ovcounsel.com>, mmiharija@ovcounsel.com, szarb@macfuj.com, "Lever, Vanessa AG:EX" <vanessa.lever@gov.bc.ca>, "KDOUMAKIS@mccarthy.ca" <KDOUMAKIS@mccarthy.ca>, kotto@lawsonlundell.com

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Reply via email: mclean@searchandseizure.ca

Date: September 23, 2026
Classification: Private and Confidential
Sending method: Via Email at first instance

To: Chambers@bccourts.ca; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; emily.lapper@gov.bc.ca; trevor.bant@gov.bc.ca; karin.kotliarsky@gov.bc.ca; sergio.ortega@gov.bc.ca; lkt@tdslaw.com; iknapp@macfuj.com; amackenzie@macfuj.com; bolthuis@ovcounsel.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; cbildfell@mccarthy.ca; lframe@mccarthy.ca; roy.millen@blakes.com; nicholas.tollefson@blakes.com; joey@doyledefence.ca; ekirkpatrick@mcewanpartners.com; cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; kyla@vancouvercriminallaw.com; rpeck@peckandcompany.ca; csenini@peckandcompany.ca; pmueller@peckandcompany.ca; lbevan@lawsonlundell.com; jandrews@lawsonlundell.com; nwelsh@lawsonlundell.com; cferris@lawsonlundell.com; lgrant@lawsonlundell.com; mring@lawsonlundell.com; ccrane@ovcounsel.com; cpang@ovcounsel.com; mmiharija@ovcounsel.com; szarb@macfuj.com; vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com

SUBJECT I: CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK"
SUBJECT II: FATAL NON-COMPLIANCE WITH MANDATORY SERVICE PROTOCOLS PURSUANT TO RULE 62(4) AND RULE 64(1)(B)
SUBJECT III: THE UNOPPOSED RECORD, THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION, AND ETHICAL APPREHENSIONS

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND IDENTIFICATION OF THE IMPUGNED ACTA

1. Correspondence is hereby effectuated to formally address the procedural ambuscade orchestrated by the Law Society of British Columbia, the Trial Lawyers Association of British Columbia, and the Attorney General of British Columbia (collectively, the "Purported **Purported Opposing Parties**"). It is strictly noted for the appellate record that the instrument transmitted by the **Purported Opposing Parties** on the late afternoon of September 21, 2026, styled extra-statutorily as a "Joint Response Book", alongside the accompanying informal correspondence directed to the Registrar (collectively, the "Impugned Instruments"), are recognized in law as absolute jurisdictional nullities.

2. The Impugned Instruments are definitively void *ab initio* and of no force or effect. By appending the historical email transmissions to this correspondence—whilst intentionally severing the attachments containing the Impugned Instruments—the inadvertent sanitization of an incurable jurisdictional defect is systematically precluded.

PART 2: THE STRUCTURAL INVALIDITY OF THE "JOINT RESPONSE BOOK" [SIC]

Subheading 2(A): Unauthorized Procedural Fabrication

3. A rigorous statutory deconstruction of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Court of Appeal Rules"), reveals the undeniable absence of any provision authorizing the amalgamation of adversarial entities into a singular, consolidated response mechanism. It is an immutable axiom of statutory interpretation, governed by the maxim *Expressio unius est exclusio alterius* (the explicit mention of one thing is the exclusion of another), that the explicit legislative authorization for a "joint appeal book" and a "joint book of authorities" definitively precludes the spontaneous fabrication of a "joint response book".

4. The **Purported Opposing Parties** have attempted to superimpose a procedural fiction upon the appellate registry. Inasmuch as the Registrar is fundamentally divested of the statutory jurisdiction to accept filing categories entirely absent from the governing enactments, the acceptance of said instrument was executed strictly *ultra vires* and *coram non judice*. A valid order or direction cannot be precipitated from an unauthorized mechanism; as the venerable maxim dictates, *Nemo dat quod non habet* (no one can give what they do not have).

PART 3: FATAL TRANSGRESSION OF MANDATORY SERVICE PROTOCOLS

Subheading 3(A): The Strictures of Rule 62(4) and Rule 64(1)(b)

5. Assuming, *arguendo*, that the fabricated instrument could miraculously transcend its status as an absolute nullity, the **Purported Opposing Parties** have catastrophically failed to execute the mandatory service protocols dictated by the *Court of Appeal Rules*. Pursuant to *rule 62(4)*, any "person" (as comprehensively defined under section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238) who wishes to respond to an Application Book is statutorily compelled to file and serve the response book on the applicant and on *each party*.

6. Concurrently, *rule 64(1)(b)* of the *Court of Appeal Rules* explicitly and unequivocally expands the definition of a "party", in relation to an application, to encompass any person who is served with a notice of application (the "Prescribed Parties"). It is empirically verifiable, upon a meticulous examination of the transmission matrix utilized by Mr. Jonathan Andrews on September 21, 2026, that the **Purported Opposing Parties** deliberately and exclusively restricted their service to themselves and the Applicant Party.

7. The broader constituency of counsel, interveners, and interested entities—who definitively obtained status as Prescribed Parties upon the antecedent service of the Applicant's Form 4 and Form 8 Notices of Application—were conspicuously and unlawfully excluded from the service matrix.

PART 4: THE EXPUNGEMENT AS A MERE ADMINISTRATIVE FORMALITY

8. It is advanced that the formal striking of the Impugned Instruments is not an adversarial contest necessitating substantive legal adjudication, but rather a mere administrative formality. Inasmuch as the "Joint Response Book" is a legal fiction entirely unrecognized by the *Court of Appeal Rules*, its removal from the registry ledger operates strictly as an exercise in fundamental procedural housekeeping.

9. Consequently, it is definitively confirmed that the **Purported Opposing Parties**, by deploying an unauthorized nullity and subsequently failing to execute service upon the Prescribed Parties, possess absolutely nothing before the Court of Appeal in response to the Form 8 Notice of Application.

PART 5: THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION AND ETHICAL APPREHENSIONS

Subheading 5(A): The Statutory Strictures of Section 32 and Rule 41

10. Should the **Purported Opposing Parties**, operating in their capacities as Prescribed Parties, seek to cure this fatal procedural entanglement, they are statutorily compelled to advance an application to dispense with the rules or extend the temporal limitations pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"), and *rule 41* of the *Court of Appeal Rules*.

11. A profound procedural paradox thereby arises: to retroactively legitimize the fabricated "Joint Response Book," these facially adversarial entities would be mathematically compelled to advance a joint Notice of Application. Such a unified, dependent posture betwixt supposed adversaries is posited to be a procedural impossibility and a direct affront to the structural integrity of the adversarial system.

12. The adjudication of the Form 8 Notice of Application is therefore left entirely unopposed. Given that the standard of review upon all issues, questions, and determinations before the Division panel is strictly that of correctness, the Applicant Party stands ready, willing, and able to present oral submissions the moment the Registrar mathematically complies with the mandatory scheduling dictates of *rule 62(5)*.

13. It is strictly confirmed that the Applicant Party shall not transmit, distribute, or forward the defective "Joint Response Book" to the unserved Prescribed Parties. Such transmission is unequivocally declined to systematically preclude any judicial or administrative inference that the Applicant Party has inadvertently waived the jurisdictional defect, cured a procedural irregularity, or sanitized an absolute nullity.

SUBHEADING 5(C): ETHICAL APPREHENSIONS AND THE ESCALATION OF NOTICE

14. It is hereby placed on the formal record that any prospective Notice of Application seeking an extension of time or dispensation of the rules to validate this nullity will be met with unyielding opposition. Furthermore, special costs will be vigorously sought against opposing counsel in their personal capacities, as seasoned appellate counsel are presumed to possess actual knowledge of these fundamental procedural architecture flaws.

15. The coordinated, extra-statutory maneuvering betwixt purported adversaries raises severe apprehensions regarding the nature of the communications occurring outside the purview of the Court. It is profoundly concerning that counsel for the Attorney General of British Columbia appears structurally uninvested in defending the rule of law or upholding the democratically enacted *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"). Consideration is presently being actively directed toward formally escalating these concerns to the attention of The Honourable Niki Sharma, Attorney General of British Columbia, regarding the posture adopted by Crown counsel. However, such determination will be considered in due course and be responsive to any potential NOA's by the now unit of the LSBC, TLABC (with Mr. Westell) and the AGBC (with LGIC). Bluntly speaking, so much for the notion that the LSBC and TLABC wanted independence from the BC government.

PART 6: CONCLUSION AND ANTICIPATED RELIEF

16. In my view, the Appellants have now also put into "legal play" for my submissions to cancel and very the purported Orders of Horsman J. and naturally have the relief sought in my Form 4 NOA (August 12, 2026), the section 36 of the COAA titled, "Failure to comply". I also note that in light of the nullities at issue, section 19 of the COAA is inapplicable to save the conduct of the Appellants.
17. The administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved, including but not limited to the pursuit of special costs awarded jointly and severally for intentional violations of the operative enactments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

/s/ Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party
Email: mclean@searchandseizure.ca

APPENDIX: STATUTORY AND REGULATORY EXTRACTS

Court of Appeal Act, S.B.C. 2021, c. 6

Definitions
1 In this Act:
"order" includes
(a) a judgment or decree, and
(b) an opinion, advice, direction, determination, decision or declaration that is specifically authorized or required under an enactment to be given or made;

Dispensing with rules and varying time limits
32 (1) A justice may dispense with a requirement of the rules.
(2) A justice may extend or shorten the time limit provided in this Act or the rules for doing an act.
(3) A justice may extend a time limit under subsection (2) even if the time limit for doing the act expired before the person applies for the extension.

Court of Appeal Rules, B.C. Reg. 120/2022

Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 [dispensing with
Edit directly or with Gemini
Click anywhere to type and edit directly, or select text to prompt Gemini for changes.

--
Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

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Appendix “C”

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4398900

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 25-Sep-2026 03:16

Submitted Through: Court Services Online

Filing Comments: Re: Filing of Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and Appendices Dear Registrar Outerbridge, Please accept this filing note confirming that the enclosed documents — including the Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and sequentially numbered Appendices — comply with the Court of Appeal Act and the Court of Appeal Rules, including Rule 38 and the Completion Instructions issued under COAA, s. 38. Each document tendered for filing is a Court Form or a document expressly authorized under the Court of Appeal Rules, prepared in accordance with the Completion Instructions, and served in accordance with Rule 4 and Rule 64(1)(a) and (b). As such, the documents meet all filing requirements under the Act and Rules. For clarity, and as confirmed in the Appendices, the LSBC, TLABC and Mr. Westell, and the AGBC and LGIC did not attempt to serve their Joint Response Book [sic] on each Party as required under Rule 62(4) and Rule 64(1)(b). This factual confirmation is one of several grounds supporting the Applicant Party's Form 4 Notice of Application and Written Argument, both of which are now submitted for immediate filing and will be served forthwith. I respectfully note R. v. Verma, 2005 BCCA 540, at para. 20, which confirms that where a document complies with the Rules and a party insists on filing it, the Registrar must accept the document for filing. The enclosed materials comply with all mandatory requirements. Kindly accept them for filing and issue the corresponding filing receipts. Thank you for your attention. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Print Submission Sheet

Print Receipt

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	Argument - Strike JRB et al - AP - Mr McLean - 25-09-26 - Filed.pdf	No	Submitted		Complete	View Withdraw
Application - Chambers - General	Form 4 - NOA - Strike JRB - s 36 et al - Applicant - Mr McLean - 25-09-26 - FILED.pdf	No	Submitted		Complete	View Withdraw

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4398900
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	25Sep2026
Filing Comments:	Re: Filing of Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and Appendices Dear Registrar Outerbridge, Please accept this filing note confirming that the enclosed documents — including the Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and sequentially numbered Appendices — comply with the Court of Appeal Act and the Court of Appeal Rules, including Rule 38 and the Completion Instructions issued under COAA, s. 38. Each document tendered for filing is a Court Form or a document expressly authorized under the Court of Appeal Rules, prepared in accordance with the Completion Instructions, and served in accordance with Rule 4 and Rule 64(1)(a) and (b). As such, the documents meet all filing requirements under the Act and Rules. For clarity, and as confirmed in the Appendices, the LSBC, TLABC and Mr. Westell, and the AGBC and LGIC did not attempt to serve their Joint Response Book [sic] on each Party as required under Rule 62(4) and Rule 64(1)(b). This factual confirmation is one of several grounds supporting the Applicant Party's Form 4 Notice of Application and Written Argument, both of which are now submitted for immediate filing and will be served forthwith. I respectfully note R. v. Verma, 2005 BCCA 540, at para. 20, which confirms that where a document complies with the Rules and a party insists on filing it, the Registrar must accept the document for filing. The enclosed materials comply with all mandatory requirements. Kindly accept them for filing and issue the corresponding filing receipts. Thank you for your attention.

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Chambers - General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4398900

Account ID:71252

Client ID:122957

Date: September 25, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	130131197	1515879582	Sep 25, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

Ministry of Attorney General
Court Services Online
Submission Sheet

1430

Court File #:	CA51536	**Submitted By:**	KEVIN MCLEAN
Cross Reference #:	Not Provided	**Client ID:**	122957
Package ID:	4398900	**Account ID:**	71252
Date Submitted:	25-SEP-2026 03:16 pm		KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Chambers - General	N	Submitted	25-SEP-2026	Not Processed	N	$ 80.00	
2	Argument - Other	N	Submitted	25-SEP-2026	Not Required	N	$ 0.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	130131197	25-SEP-2026 03:16 PM	1515879582	08402G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

Appendix “D”

VANCOUVER
21-Sep-26
COURT OF APPEAL
REGISTRY

Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British Columbia et al

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced April 29, 2026.

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT RESPONSE BOOK

APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

---

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nwelsh@lawsonlundell.com

COUNSEL FOR THE APPELLANT

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Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British Columbia et al

COURT OF APPEAL

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT MEMORANDUM OF ARGUMENT ON AN APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

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Part 1: Facts

1. These two appeals are from the order of Chief Justice Skolrood made on April 29, 2026, dismissing the appellants' constitutional challenges to the *Legal Professions Act*, S.B.C. 2024, c. 26.[1] The appeals are set to be heard over two days on November 16-17, 2026.

2. On August 12, 2026, Kevin McLean filed a Notice of Application seeking an order granting him leave to intervene in both appeals. His Notice of Application also sought orders for "precautionary and pre-emptive relief" under section 32 of the *Court of Appeal Act* (dispensing with rules and varying time limits) and orders for "relief relating to the applicant's proposed relief, if intervention status is granted, in relation to dismissal and/or quashing." The latter included orders that the Law Society of British Columbia (the **Law Society**) be "denied standing and/or the right to be heard based upon fraud, bad faith, dishonesty and/or perjury" and orders dismissing the appeals on a summary basis under section 21 of the *Court of Appeal Act*.

3. Mr. McLean's application was heard in writing under s. 26 of the *Court of Appeal Act*, further to a request by the Law Society with the consent of all parties, and dismissed by Justice Horsman in a ruling issued on September 9, 2026.[2]

4. Justice Horsman denied Mr. McLean's request for an order granting him leave to intervene on the basis that he has "no direct interest in the appeal in the sense that his own legal rights or obligations may be affected by the proceedings" and "[h]e does not purport to have a broad representative base and offers no unique and different perspective on the constitutional issues, so there is no basis for public interest intervener status."[3]

[1] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779.
[2] *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372 [**Chambers Decision**].
[3] Chambers Decision, para. 8.

5. Justice Horsman also concluded that "none of the other relief sought by Mr. McLean is grounded in the issues raised on the appeals or the rules of procedure that govern them."[4]

Part 2: Issues

6. The issue on this application is whether the Court should vary or cancel Justice Horsman's order dismissing Mr. McLean's application. The parties submit that it should not.

Part 3: Analysis

7. Under section 29 of the *Court of Appeal Act*, the court may vary or cancel any order made by a justice, subject to certain exceptions that are not applicable here.

8. The standard of review on an application of this nature is highly deferential. As this Court recently explained: "An application to vary under s. 29 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, is not a re-hearing of the original application. The reviewing court may not intervene unless the applicants show the judge was wrong in law, wrong in principle, or misconceived the facts."[5]

9. Mr. McLean has not established any basis for the reviewing court to intervene. His written argument is incoherent. It lists eight "paramount issues" to be determined, but his submissions on these issues are indecipherable and indicate a preoccupation with individual lawyers he has encountered in his various court proceedings. Mr. McLean continues to "view these appeals as a platform to revisit his historical grievances about the Law Society's regulatory actions against him."[6]

10. There is no error of law, principle, or fact in Justice Horsman's conclusions that Mr. McLean did not meet the test for intervener status and was not entitled to any of the

[4] Chambers Decision, para. 7.
[5] *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation*, 2026 BCCA 85, para. 12.
[6] Chambers Decision, para. 8.

other relief sought in his Notice of Application of August 12, 2026. This Court should dismiss this application, with costs to the parties.[7]

Part 4: Order Sought

11. An order dismissing Mr. McLean's application with costs to the parties.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of British Columbia, this 18th day of September, 2026.

Craig Ferris, K.C., Laura Bevan,
Jonathan Andrews, and Nicole Welsh
Counsel for the Law Society of British Columbia

Gavin Cameron, Tom Posyniak,
Laura Abrioux, and Will Andrews
Counsel for the Trial Lawyers Association
and Kevin Westell

emily Lapper

Emily Lapper, K.C., Trevor Bant,
Karin Kotliarsky, and Sergio Ortega,
Counsel for the Attorney General of British Columbia and
the Lieutenant Governor in Council of British Columbia

[7] With respect to costs, see *Este v. West Vancouver (District of)*, 2026 BCCA 366 at paras. 18-21.

PART 3 – TABLE OF AUTHORITIES

TAB CITATION

CASE LAW

1. *Este v. West Vancouver (District of)*, 2026 BCCA 366

2. *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779

3. *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation,* 2026 BCCA 85

4. *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372

LEGISLATION

5. *Court of Appeal Act*, s. 29

6. *Legal Professions Act*, S.B.C. 2024, c. 26

Appendix “E”

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4398900 **Submission Date: September 25, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 25-SEP-2026

25SEP2026
We are unable to accept the application and argument for filing. If you insist, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO.

Thank you,
sl

Please keep a copy of this report for your records.

Tab 3

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4399228
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	27Sep2026
Filing Comments:	Filing Note — Resubmission Pursuant to Unauthorized Rejection Notice from "SL" (Package ID 4398900), cross‑referencing the suggested letter filed to Registrar Outerbridge (Package ID 4399224) Court of Appeal for British Columbia File Nos. CA51536 / CA51535 Submitted via CSO — September 27, 2026 Dear Esteemed Registrar Outerbridge, This filing note confirms that the Applicant Party is resubmitting the same Form 4 Notice of Application and Written Argument, together with their appendices, pursuant to the Registry instruction contained in the unauthorized Rejection Notice for Package ID 4398900 (Reason 1: Other, dated September 25, 2026). The Applicant Party has already submitted, via CSO, a formal letter addressed exclusively to you under Package ID 4399224, in accordance with that instruction. This resubmission is made solely in the spirit of cooperation with the Registry's direction and is tendered exclusively for processing by the Registrar, as contemplated by section 37 of the Court of Appeal Act and section 37(3) of the Court of Appeal Rules, in that the Registrar must exercise powers only in accordance with the Rules. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party mclean@searchandseizure.ca

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Chambers - General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

Home Copyright Disclaimer Privacy Accessibility

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4399228

Account ID:71252

Client ID:122957

Date: September 27, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	130181246	1515887300	Sep 27, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

795 BRITISH COLUMBIA

Ministry of Attorney General
Court Services Online
Submission Sheet

1446

Court File #:	CA51536	**Submitted By:**	KEVIN MCLEAN
Cross Reference #:	Not Provided	**Client ID:**	122957
Package ID:	4399228	**Account ID:**	71252
Date Submitted:	27-SEP-2026 07:37 pm		KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Chambers - General	N	Submitted	27-SEP-2026	Not Processed	N	$ 80.00	
2	Argument - Other	N	Submitted	27-SEP-2026	Not Required	N	$ 0.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	130181246	27-SEP-2026 07:37 PM	1515887300	01677G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

Tab 4

COURT OF APPEAL

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

28 September 2026

Kevin McLean
mclean@searchandseizure.ca

Dear Mr. McLean:

RE: TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A)
vs.
THE ATTORNEY GENERAL OF BRITISH COLUMBIA
Court of Appeal File Nos: CA51535; CA51536

I have your recent letters.

I will place your unfiled application before the division set to hear your application to vary and you may address it before the Court then.

In the interim, the Court may give directions, including accepting your application for filing or asking the opposing parties to respond if they feel it is necessary.

Sincerely,

Timothy Outerbridge,
Registrar

cc: attached counsel list

COUNSEL LIST

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Counsel for the Law Society of British Columbia	C. Ferris, K.C. cferris@lawsonlundell.com L. Bevan lbevan@lawsonlundell.com J. Andrews jandrews@lawsonlundell.com N. Welsh nwelsh@lawsonlundell.com

Tab 5

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4399228 **Submission Date: September 27, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 29-SEP-2026

29SEP2026
The Registrar will place your unfiled application before the division set to hear your application to vary.

sl

Please keep a copy of this report for your records.

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4399228 **Submission Date: September 27, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 29-SEP-2026

29SEP2026
The Registrar will place your unfiled application before the division set to hear your application to vary.

sl

Please keep a copy of this report for your records.

Tab 6

You are logged on as KEVIN MCLEAN

Log Off

View Filing Packages

The table below shows all of the filing packages for which you have access. You can change this view using the *Status Quick Filter* or use *Search Packages* to find a specific package.

Status Quick Filter: All Go Search Packages

Packages You Can View

1 - 10 of 13 results

Page 1 2 >>

Date Submitted	Your File #	Court File #	Package #	Results	Document Upload State	Action
09/29/2026		CA51536	4400539	Action Required	Uploaded	View
09/27/2026		CA51536	4399228	Action Required	Uploaded	View
09/27/2026		CA51535	4399224	Complete	Uploaded	View
09/25/2026		CA51536	4398900	Action Required	Uploaded	View
09/22/2026		CA51536	4394410	Action Required	Uploaded	View
09/22/2026		CA51536	4394252	Action Required	Uploaded	View
09/17/2026		CA51535	4391194	Complete	Uploaded	View
09/16/2026		CA51535	4390243	Action Required	Uploaded	View
09/15/2026		CA51536	4388040	Complete	Uploaded	View
09/14/2026		CA51536	4386944	Action Required	Uploaded	View

TAB 7

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Reply via email: mclean@searchandseizure.ca

Date: October 1, 2026

Filing method: Via CSO Portal

To: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia

SUBJECT I: EXCLUSIVE DIRECTION OF RESUBMITTED FILINGS AND OBJECTION TO PROCEDURAL NULLITIES EFFECTUATED BY NON-REGISTRAR (SEE: COAA, DEFINITION THEREIN) REGISTRY PERSONNEL IN "SL"

SUBJECT II: DEMAND FOR MANDAMUS RELIEF PRESERVATION OF THE APPELLATE RECORD AND THE INHERENT CONSEQUENCES OF ADMINISTRATIVE NON-COMPLIANCE

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Part 1: Introduction

1. Correspondence is hereby submitted for filing, directed exclusively and without delegation to the attention of Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia.
2. The enclosed resubmitted filings (the "**Resubmitted Filings**") are tendered strictly for the individualized attention and administrative processing of the aforementioned Registrar, precluding the involvement of any subordinate registry personnel.

Part 2: Procedural Irregularities and Absolute Nullities

3. Antecedent submissions were similarly directed to the exclusive attention of the Registrar, yet were visibly intercepted and administratively manipulated by an individual identified merely by the initials "SL".
4. Upon an exhaustive review of the pertinent documentation, it is unequivocally deduced that "SL" operates as the designation for Shelley Lin. The aforementioned individual summarily rejected the initially submitted filings (the "**Submitted Filings**") on Friday, September 25, 2026. The documented rationale for said rejection was the purportedly improper act of addressing correspondence directly to the Registrar (Head), Mr. Outerbridge.
5. Compliance with this ostensibly arbitrary directive was effectuated on Sunday, September 27, 2026, culminating in the acceptance of the materials for filing on Monday, September 28, 2026.
6. Notwithstanding such acceptance, the resubmitted filings were subsequently and inexplicably rejected late in the day on Tuesday, September 29, 2026, by the identical individual, "SL".

7. The exact phraseology deployed to justify this secondary refusal was articulated as follows: "29SEP2026 The Registrar will place your unfiled application before the division set to hear your application to vary. sl".

Part 3: Jurisdictional Usurpation and the Absence of Statutory Authority

8. *In limine*, consent is absolutely and irrevocably withheld regarding the involvement of "SL" or "Shelley Lin" in the processing of any materials associated with this appellate proceeding. The aforementioned individual fails to satisfy the statutory definition of a registrar within the *Court of Appeal Act* (the "*COAA*"). *Ipso facto*, she is devoid of the statutory encapsulation required to function as an officer of the court (the "**Officer Of The Court**"). Furthermore, the demonstrably adversarial tone permeating antecedent communications from this individual establishes, *prima facie*, a conflict of interest or a formidable apprehension thereof.
9. It is conceptually incongruous and legally impermissible for an individual to reject a submission on the explicit grounds that it was directed to the Registrar (Head), Mr. Outerbridge, only to subsequently usurp the processing of those very materials under alternate, newly fabricated grounds. Such actions are fundamentally *ultra vires*.
10. Consent is definitively withheld for the Registrar (Head), Mr. Outerbridge, or any personnel situated within the registry of the Court of Appeal for British Columbia, to function as an agent—whether *de facto*, *de jure*, implied, or explicit—on behalf of the applicant party.

Part 4: The Doctrine of Nullity and the Preservation of the Record

11. The Registrar was statutorily mandated to reject the joint response book (the "**Joint Response Book**"), as such an amalgamated document is entirely unauthorized by the *Court of Appeal Rules* (the "*Rules*") and thus constitutes an absolute nullity rather than a curable irregularity. It remains procedurally incomprehensible how the Registrar might propose to present expressly rejected, unfiled documents before the judicial adjudicators convened to adjudicate the Form 8 application. The presentation of a nullity to a judicial panel represents a catastrophic departure from standard appellate procedure.
12. Furthermore, it is a virtual certainty that whichever litigant receives an unfavourable disposition will inevitably seek leave to appeal to the Supreme Court of Canada (the "*SCC*"); therefore, the record of proceeding (the "**Record Of Proceeding**") must flawlessly reflect the *acta* that were lawfully situated before the review division panel (the "**Review Division Panel**"). Consequently, the filings are herewith resubmitted to restore the *status quo ante*, as the current procedural convolution was orchestrated entirely by the registry's departure from statutory mandates. The adjudication of application hearings amongst prescribed parties (the "**Prescribed Parties**") must be governed strictly in accordance with the *COAA* and the *rules*. The legislative intent articulated by the Legislative Assembly and the Lieutenant Governor in Council since the enactments of 2021 and 2022 remains unequivocal. As articulated in the

jurisprudential doctrines surrounding jurisdictional overreach, notably in *Pong v. Quong, 1927 CanLII 2 (SCC)* (*"Pong"*), actions taken without strict statutory adherence are void ab initio. To this end, the foundational maxim *Actus curiae neminem gravabit* (an act of the court shall prejudice no man) is invoked; the administrative failures of the registry cannot operate to the detriment of a compliant litigant.

Part 5: Imminent Applications for Mandamus Relief and Costs

13. Should the resubmitted filings fail to be stamped as filed forthwith, an inexorable compulsion will materialize to elevate this matter directly to the Chief Justice of the Court of Appeal for British Columbia, as previously promised. This escalation will manifest through the formal introduction of a notice of application (the "**Notice Of Application**") seeking extraordinary *mandamus* relief. Such relief will be required to compel the proper placement of the resubmitted filings before the review division panel. A consequential necessity will likely arise to seek a brief adjournment to ensure the meticulous reconstruction of the record of proceeding, followed by exhaustive submissions regarding the entirety of the requested relief.
14. This correspondence serves as a final, determinative opportunity for the registry to align its conduct with the mandatory strictures of the *COAA* and the *rules*. Failing such immediate compliance, the aforementioned procedural steps shall be rigorously undertaken, and special costs will be aggressively sought directly against the Registrar (Head), Mr. Outerbridge.
15. If a legitimate legal foundation exists to justify the improper rejection of submitted filings based upon a litany of profoundly inconsistent grounds, while simultaneously representing that unfiled documents will be presented to a judicial review panel, receptivity is maintained regarding the citation of such authorities. However, an exhaustive analysis reveals that no such legal bases can be discovered within the governing source law, rendering the registry's actions entirely devoid of jurisprudential support.

Conclusion

16. It is formally noted that a copy of this document shall be provided to all of the parties governed by subrule *64(1)(b)* of the *Court of Appeal Rules* (collectively defined as the "**Application Responding Parties**" or "**Prescribed Parties**").
17. The underlying issue is that the Registrar is strictly prohibited from providing the joint response book (the "**Joint Response Book [sic]**") to the review division panel (the "**Review Division Panel**"). Consequently, this enclosed notice of application is in the nature of a preliminary notice of application (the "**Preliminary NOA**") that must be heard prior to the hearing of the Form 8 application. While accepting the same for filing was explicitly prohibited by law, any such providing of this instrument to the division review panel, comprised of three justices, is also prohibited.

18. The immediate processing and filing of the enclosed documents is anticipated and required by source law, including applicable statutes and regulations (collectively defined as the "**Enactments**" or "**Source Law**").
19. I reserve the right to rely on this letter for any lawful purpose.

Yours truly,

Mr. Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca

Enclosed:
1. Resubmitted Filings

Forwarded to:
1. All Prescribed Parties

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4402771
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	01Oct2026
Filing Comments:	Dear Registrar Outerbridge, I am resubmitting the Applicant's Form 4 Notice of Application (Application – Division General) and Memorandum of Argument (Argument – Other) for the third time, now using the newly available CSO category "Application – Division General," which appears to be the correct filing pathway for this type of application. I wish to respectfully note that the prior CSO Registry Notice (initials "sl") stated: "The Registrar will place your unfiled application before the division set to hear your application to vary." I may be mistaken, but this disposition does not appear to be one recognized under the Court of Appeal Rules. In addition, the CSO backend indicated "Action Needed," while the notice itself stated "Rejected," which seem to be incompatible statuses. As the notice appears to have been generated at the staff level, I am resubmitting the materials directly for your review and clarification. For certainty, I respectfully request that this resubmission be handled exclusively by the Registrar, rather than at the staff level, given the procedural nature of the application and the need for clarity regarding the correct filing category. The Applicant continues to rely on the case management judge's reference to the "existing written record", and the resubmitted materials are tendered solely to ensure the integrity of that record and to permit the Applicant to proceed in accordance with the Rules. No substantive changes have been made to the documents; they are resubmitted only to ensure proper routing and compliance with the Registry's requirements. Thank you for your attention to this matter. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party on multiple

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

occasions pursuant to Rule 64(1)(a)

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Division-General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
3	Letter General	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

Home Copyright Disclaimer Privacy Accessibility

TAB 9

Reply to: Mr. Kevin A. McLean (BA, JD, CIM) 1464
Email: mclean@searchandseizure.ca
Fax: 1 (416) 352-0055

Date: **October 4, 2026**

Filing method: via CSO Portal Service method

Further notification or delivery methods may follow by different methods

TO:

The Court of Appeal for British Columbia

800 Hornby Street Vancouver, BC V6Z 2C5

Attention: The Honourable Chief Justice Leonard Marchand, Chief Justice of British Columbia

With a copy to Registrar (Head) Mr. Outerbridge

CC:

Tom Posyniak tposyniak@fasken.com; Laura Abrioux labrioux@fasken.com; Will Andrews wandrews@fasken.com; Lapper, Emily AG:EX emily.lapper@gov.bc.ca; Bant, Trevor AG:EX trevor.bant@gov.bc.ca; Kotliarsky, Karin AG:EX karin.kotliarsky@gov.bc.ca; Ortega, Sergio AG:EX sergio.ortega@gov.bc.ca; lkt@tdslaw.com lkt@tdslaw.com; Ian Knapp iknapp@macfuj.com; amackenzie@macfuj.com amackenzie@macfuj.com; bolthuis bolthuis@ovcounsel.com; dredman dredman@arvayfinlay.ca; David Wu dwu@arvayfinlay.ca; cbildfell@mccarthy.ca cbildfell@mccarthy.ca; Frame, Lindsay lframe@mccarthy.ca; roy.millen roy.millen@blakes.com; nicholas.tollefson@blakes.com nicholas.tollefson@blakes.com; JoeyDoyle joey@doyledefence.ca; ekirkpatrick ekirkpatrick@mcewanpartners.com; CDauvergne@litigationchambers.com cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca jmaclaren@accessprobono.ca; kyla kyla@vancouvercriminallaw.com; rpeck rpeck@peckandcompany.ca; Caroline Senini csenini@peckandcompany.ca; pmueller@peckandcompany.ca pmueller@peckandcompany.ca; Laura Bevan lbevan@lawsonlundell.com; Jonathan Andrews (3270) - 14Flr jandrews@lawsonlundell.com; Nicole Welsh (3193) - 14Flr nwelsh@lawsonlundell.com; cferris cferris@lawsonlundell.com; lgrant@lawsonlundell.com lgrant@lawsonlundell.com; mring@lawsonlundell.com mring@lawsonlundell.com; ccrane@ovcounsel.com; Chris Pang cpang@ovcounsel.com; mmiharija@ovcounsel.com mmiharija@ovcounsel.com; szarb@macfuj.com szarb@macfuj.com; Lever, Vanessa AG:EX vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com kotto@lawsonlundell.com; Chambers@bccourts.ca

The "Subjects" including the following but not limited to:

SUBJECT I: COURT OF APPEAL FILE NUMBERS CA51536 / CA51535 – INCLUSION BY FILING OF THE FORMAL PRODUCTION OF THE APPELLANTS' FACTUMS IN THE DIFFERENT CASE CENTER CASE NUMBER (UNKNOWN), THE EVIDENTIARY LACUNA, AND THE VITIATION OF JUSTICIABILITY

SUBJECT II: FORMAL AND IMMEDIATE RESPONSE TO THE APPELLANTS' CASE CENTER FACTUMS

Subject III: INVOCATION OF RULE 60, ABUSE OF PROCESS PROVEN BEYOND A BALANCE OF PROBABILITIES, STATUTORY IMPOSSIBILITY UNDER SECTION 3(A) OF THE LPA 1998, AND THE IMPERATIVE TO ABANDON THE APPELLATE PROCEEDINGS

Subject IV: JURISDICTIONAL USURPATION, PURE ERRORS OF LAW BY HORSMAN J., AND DETERMINATION OF THE FORM 8 VARIANCE ISSUES

Subject V: the outstanding and delayed accepting for filing of the Applicant Party's NOA Form 4 (September 25, 2026) and written argument (September 25, 2026) pursuant to, inter alia, rule 54 et al

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CC: 1

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Subject II: Formal and Immediate Response to the Appellants' Case Center Factums 2

Subject III: INVOCATION OF RULE 60, ABUSE OF PROCESS PROVEN BEYOND A BALANCE OF PROBABILITIES, STATUTORY IMPOSSIBILITY UNDER SECTION 3(A) OF THE LPA 1998, AND THE IMPERATIVE TO ABANDON THE APPELLATE PROCEEDINGS 2

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Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION, CHAIN OF CUSTODY, AND FORMAL ACKNOWLEDGMENT OF PRODUCTION

1. The Applicant Party adopts and incorporates all definitions established within antecedent filings in these proceedings, each term bearing identical meaning herein.
2. Correspondence is formally directed to the Prescribed Parties (identified under Rule 64(1)(a) and (b) of the *Court of Appeal Rules*, B.C. Reg. 120/2022) and to the Court of Appeal for British Columbia (the "Court"), with special attention directed to the Chief Justice of British Columbia as *Primus Inter Pares*. The intervention of the Chief Justice is necessitated because the issues engage the integrity of the judicial branch, characterized by deep controversy, structural challenges, and profound public interest (*R. v. Baldovi et al.*, 2016 MBQB 90 at para. 72).

1. Correspondence is hereby formally directed to the respective Prescribed Parties (see: Rule 64(1)(a) and (b)) and to the British Columbia Court of Appeal (the "Court"), with attention to the Chief Justice of the BCCA due to the issues arising being those involve the integrity of the court is at issue along with may be defined by its challenges, its controversy and/or its high profile nature: *R. v. Baldovi et al,* 2016 MBQB 90 at paragraph 72 as per the Chief Justice of the MBQB regarding the aforementioned Appeals, as denoted in CSO and as recently learned by way of factums of the **Appellants** uploaded, but deemed filed, in Case Center as of August 5, 2026.
2. It is formally established and placed upon the record of proceedings that the substantive factums of the Law Society of British Columbia (the "LSBC") and the Trial Lawyers Association of British Columbia (the "TLABC") have now been formally received as a result of extensive demands and requests from the Records Department of the Court of Appeal.
3. The provision of these foundational appellate documents confirms unequivocally that said documents have resided within the institutional custody and under the direct, unassailable administrative control of the Court since **August 5, 2026**.
4. The necessity of administrative retrieval to secure these court highlights a systemic procedural obfuscation, wherein foundational appellate theories were structurally withheld from opposing and interested parties, thereby necessitating remedial action to ensure the preservation of procedural fairness.

Part 1(A): Immediate Relevance and Immediate Steps Taken

5. The immediate relevance of the **Appellants**' Factums to the "**EXISTING WRITTEN RECORD**" cannot be overstated. It is a matter of judicial record that The Honourable Madam Justice Horsman ("Horsman J.") explicitly Ordered[i] that that the Applicant's Form 4 NOA (see: Application Book, Tab 3(A)) along with the memorandum of argument (see: Rule 61(2)) be determined strictly upon the "**EXISTING WRITTEN RECORD**" as of August 31, 2026 (see: Form 8 Application Book, Tab 3(K), page 203).

5. With the finalized appellate theories of the **Appellants** now secured and forensically analyzed, these precise positions are immediately, lawfully, and irrevocably incorporated into the active record of proceedings for purposes of:
    a. The Applicant Party's Form 8 (September 9, 2026); and
    b. The Applicant Party NOA Form 4 (September 25, 2026).
7. The **Appellants** have committed their constitutional theories to paper; they are now strictly precluded from pivoting, altering their factual assertions, or subsequently claiming that their positions were misapprehended.
8. Litigation is inherently a truth-seeking function of the judicial branch of government; it cannot, and must not, be conducted in administrative darkness.

PART 2: THE CORE APPELLATE BATTLE LINES AND EVIDENTIARY DICHOTOMY

6. When measured against the **Application Book** of the **Applicant Party** dated September 15, 2026, the **Appellants**' factums reveal an acute, structural vulnerability that directly parallels the evidentiary lacuna identified in the record below:

Adjudicative Authority / Finding	**Law Society of British Columbia (CA51536)**	**Trial Lawyers Association of British Columbia (CA51535)**
Chief Justice Skolrood *(2026 BCSC 779 at para. 166)*: Concluded that there was *"nothing in the record to suggest that the LSBC in its current form has failed to govern lawyers in the public interest."*	**Appellate Strategy:** Relies entirely on an idealized 150-year historical narrative; attacks the 29% elected lawyer minority board structure (nota bene: although the lawyers under the *LPA* 2024 have a majority on the "New Board"); argues that no legislative justification was established on the record *(Factum, para. 69)*; and willfully ignores internal abuses and systemic regulatory overreach.	**Appellate Strategy:** Constructs an abstract threat analysis; advances hypothetical Section 8 *Charter* violations concerning warrantless searches under section 78; attacks competence and health provisions under Section 7; expressly adopts the LSBC's independence theories in full *(Factum, paras. 2, 26)*.

7. The **Appellants** have jointly constructed a cathedral of abstract constitutional theory built entirely upon the factual premise that the predecessor regulator operated as an unblemished, benevolent institution. Chief Justice Skolrood accepted that premise only because the evidentiary record before the court of first instance was critically sanitized.

PART 3: POINT-BY-POINT CONTRADICTION MATRIX OF APPELLANTS' FACTUMS

8. The following structural matrix isolates the specific assertions advanced within the **Appellants**' Factums and forensically cross-references them against the opposing statutory text, jurisprudential authorities, and suppressed evidentiary realities:

Appellant Factum Reference	Asserted Appellate Position	Statutory, Evidentiary, and Jurisprudential Refutation
LSBC Factum, Para. 69	Claims there is "no reason" for eliminating electoral self-governance and "no evidence" that the LSBC governed contrary to the public interest, relying exclusively on Skolrood C.J., para. 166.	**Evidentiary Suppression & Factual Vacuum:** The independent 2021 Cayton Report empirically established that the board was too large, ineffective, and prioritized the legal profession's interests over the paramount public interest. Furthermore, evidence of warrantless RAM dumps demonstrates severe regulatory overreach. Adjudicating without this evidence violates the Supreme Court's prohibition against deciding constitutional issues in a factual vacuum (*Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R. 1086; *MacKay v. Manitoba*, [1989] 2 S.C.R. 357; *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130).
LSBC Factum, Paras. 17(d) & 70(a)	Argues that reducing elected lawyers to a 29% minority (5 of 17) and mandating 9/17 lawyer representation destroys self-	**Binding Admission & Abuse of Process:** In November 2022, the LSBC formally admitted that self-regulation requires a "majority" of the board to be lawyers (9 of 17 constitutes a

	regulation and eviscerates institutional independence.	mathematical majority) and a "majority of the lawyer directors" to be elected (5 of 9 constitutes a mathematical majority). Attacking the exact formula previously endorsed as the standard for self-regulation violates the doctrine prohibiting inconsistent positions (*Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63).
TLABC Factum, Paras. 17, 34 & 109	Asserts that section 78 of Bill 21 authorizes unreasonable warrantless searches, and that the lack of absolute lawyer control over the regulator renders these searches an inevitable section 8 *Charter* breach.	**Statutory Modernization & Curing Overreach:** This position ignores the stringent new guardrails in Bill 21 that cure the severe deficiencies of the *Legal Profession Act, 1998*. Sections 78(2), 79(3), 80(1), and 80(6) mandate judicial warrants for private residences, establish a reasonable grounds threshold, require post-seizure reporting, and enforce strict 3-month detention limits. This constitutes an *intra vires* enhancement of privacy rights under sections 92(13) and 92(14) of the *Constitution Act, 1867*.
LSBC / TLABC Procedural Conduct (General)	Seeking equitable constitutional remedies to strike down provincial legislation while actively filtering the evidentiary record and filing non-compliant procedural nullities (e.g., the fabricated "Joint Response Book").	**Equitable Disentitlement (Unclean Hands):** The deliberate curation of a sanitized record to manufacture a factual vacuum, combined with procedural manipulations, engages the unclean hands doctrine (*Cock v. British Columbia (Labour Relations Board)*, 1960 CanLII 293 (BCCA); *Homex Realty & Development Co. v. Wyoming (Village)*, [1980] 2 S.C.R. 1011). The Court holds the inherent and statutory power to quash the appeals under *COAA* s. 21 and Rule 60 for abuse of

process, and to dismiss under *COAA* s. 36 for failure to comply.

PART 4: THE EVIDENTIARY LACUNA AND THE CONSTITUTIONAL PROHIBITION OF THE FACTUAL VACUUM

9. A rigorous forensic deconstruction of the **Appellants**' factums reveals a fatal dependency that renders their appellate architecture profoundly vulnerable. The entire constitutional challenge advanced by the LSBC collapses upon a single, highly assailable point: the reliance at paragraph 69 of the LSBC Factum upon the finding of The Honourable Chief Justice Skolrood at paragraph 166 of *Law Society of British Columbia v. British Columbia (Attorney General)*, 2026 BCSC 779, wherein it was concluded that there was "**nothing** in the record to suggest that the LSBC in its current form has **failed** to govern lawyers in the **public interest**". [emphasis is the Applicant Party's].
10. When reviewing the Applicant Party's August 28, 2026, written argument, in support of the relief outside of the intervention relief (see: Tab 3(C)), it is now telling why, as concerning as it was and is, that there was some motive to denote, unlawful as it was and is, said court document (not a "Court Form", s. 79)) as "received – not filed" along with Horsman J. engaging in the purported issuance of the Order that she did (see: Order #2 at Tab 2 of the Application Book).
11. Case and point is paragraph 1 of said Applicant Party August 28 Written Argument (see: Application Book, Tab 3(C)), without even having seen or known of the Appellants' Factums having been "deemed filed" under a new and undisclosed Case Center number,

> [1]. As expressly articulated at paragraph 166 of the summary trial decision below, The Honourable Chief Justice Skolrood—relying on an incomplete and artificially sanitized evidentiary record—concluded:
>
> > "[166] Neither argument is compelling. As I noted above (see para. 145), there is nothing in the record to suggest that the LSBC in its current form has failed to govern lawyers in the public interest."
> >
> > [Emphasis is the Applicant's]]

12. Now having the Appellants' Factums, this is an immediate and independent legal ground or basis for the cancellation of Horsman J.'s two orders.
13. For ease of reference, paragraphs two to four are reproduced from Tab 3(C) of the Application Book at page 73:

> [2]It is respectfully submitted that the evidentiary record now before this Court demonstrates far more than a mere suggestion of such failure. When properly contextualized through the concealed volatile-memory extraction, the subsequent remote interception of communications through a far more egregious unloading of system modules of the Applicant's CPU then stationed at his home on March 2, 2016, (see: *infra*) (defined as "**March 2, 2016, Warrantless Remote Wiretap & Kernel Module Dump**"), and the LSBC's multi-year suppression of these facts, the record reveals a sustained and systemic departure from the LSBC's statutory and constitutional obligations.
> [3]At all material times, the LSBC was, in addition to the Charter, subject to section 3 of the *Legal Profession Act*, S.B.C. 1998, c. 9 ("*LPA* 1998"), which requires the Society to uphold and protect the public interest in the administration of justice by, inter alia, preserving and protecting the rights and freedoms of all persons. The LSBC has failed miserably under three different CEO's during that time period.
> [4]The Applicant, and all persons whose personal information, private communications, and volatile memory were captured in the concealed RAM dump on June 4, 2014, and the remote (see Appendices 1 and 2 to the Applicant's Memorandum of Argument for the **Intervention Application**), were, are, and remain entitled to the preservation and protection of their rights and freedoms under both statute and the Charter. Those aforementioned persons (known and unknown, and perhaps increasing with the LSBC's penchant of warrantless wiretaps of individual's property inside their homes) represent a **broad representative base**.

14. Ergo, the Applicant Party was not only entitled to advance and seek the relief sought in his NOA Form 4 of August 12, 2026 (see: Orders #4 to #10) (see: Tab 3(A)) on a procedural relief, he was prophetically and substantively correct in what the issues were in the Appeals and how the Appellants leveraged the finding of the Honourable Chief Justice Skolrood to their advantage albeit predicated on fraud by omission.

Part 4(A): Why the Appellants' Factums were obstructed from public viewing and requests

15. The only reason that the Appellants' Factums were obstructed from public viewing in the CSO was because of the request of Lawson Lundell LLP ("LL LLP") on June 25, 2026. However, the motivation behind the same can be inferred from the timing of the Applicant Party's FIPPA access request on Jun 5, 2026, some 20 days earlier (see: TAB 3(FF) of the Application Book).
16. With respect and for the Chief Justice of the BCCA's immediate attention and consideration on a general level, such an Order or direction (one that is not specifically authorized or required by an Enactment (see: IA, s. 1)) can never be lawful under the new scheme of the Act and Rules because it precludes "persons" from exercising legal rights and the Court and Justices (where only Justices can) under the following:
    a. *COAA*, ss. 20, ss. 24(3)(b), s. 30 et al; and
    b. Court of Appeal Rules, r. 60.

17. The reason for the same is trite in that if factums are not listed in the CSO but are deemed filed in Case Center when they are uploaded, then a "person", not a "Statutory Party", cannot know whether to exercise rights in relation to rule 60 "Quashing an appeal or raising a preliminary objection" with particular emphasis on rule 60(1)(a) (strike part of a factum). A "person" cannot apply to strike that which he, she, or it cannot view in the Record Of Proceeding(s).

18. This also raises the question, based the June 25, 2026, letter, (see: page 4 therein, "4. Use of Case Centre for the Appeals Appellants' Proposal:4.4. Factums must be uploaded into Case Centre on the date they are due. A factum uploaded into Case Centre shall be considered duly filed and served. To ensure factums have the appropriate references, parties may edit references only in their uploaded factums up until the date that is one week past when the joint appeal book and joint book of authorities are uploaded.") and the document (email) of Ms. Lin on behalf of Registrar (Head) Mr. Outerbridge (see: From: Chambers Sent: July 2, 2026 11:43 AM Subject: CA51535/CA51536 - Trial Lawyers Association of BC v. AGBC/ LSBC v. AGBC, Attachments: letter.pdf
Dear Counsel, Please see message below sent on behalf of Registrar Outerbridge: " Thank you for your recent letter concerning an omission from my memorandum of 29 Jun3 2026. I would clarify as follows: Intervener applications are to be filed and served by 14 August 2026, responses to those applications should be filed and served by 21 August 2026, and the applications themselves are to be heard no later than 11 September 2026." Thank you, Shelly Lin Manager/Chambers Scheduler" as to whether Registrar (Head) Mr. Outerbridge, who presumably conducted the case management conference as per his referenced but unproduced or undisclosed "memorandum" from the June 29, 2026, case management conference, as to whether such an Order or 'direction' can be granted. Rule 48 permits a wide range of powers for a Justice on case management but there are no prescribed powers for a Registrar (see: *COAA*, s. 10 for definition).

19. There is no prohibition per se under rule 47 and 48 but in light of my initial access request to the BCCA records division being met with, based upon requesting the factums from the CSO docket numbers, that they had not arrived yet (as per Mr. Ziants, Manager of Records for the BCCA), it seems that such a direction, particularly by a non Justice, was and is impermissible.

Part 4(B): Returning to the Appellants' reliance on Honourable Chief Justice Skolrood's finding, albeit based on fraudulently sanitized BCSC Record Of Proceeding, that the LSBC had not failed to govern lawyers in the public interest

20. This judicial finding was and is structurally defective, having been procured through the deliberate engineering of a factual vacuum.

21. It is trite that Canadian constitutional jurisprudence establishes a rigid, unyielding prohibition against adjudicating constitutional questions—particularly those seeking to strike down democratically enacted legislation—in the absence of an exhaustive and accurate factual matrix. In the seminal decisions of *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, *Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R. 1086, and *MacKay v. Manitoba*, [1989] 2 S.C.R. 357, the Supreme Court of Canada categorically decreed that constitutional decisions cannot be predicated upon unsupported hypotheses within a factual vacuum.
22. The evidentiary record before the court of first instance ("BCSC" herein, and "Inherent Jurisdiction Court") was critically sanitized.

Part 4(B)(I): Active Concealment by the Appellants' of the LSBC's failures

23. Furthermore, the active concealment of severe regulatory malfeasance—specifically, the execution of warrantless volatile-memory extractions (the "**Concealed RAM Dumps**"), the systemic non-disclosure to Independent Supervising Solicitors under the former *Law Society Rules* Rule 4-43, and the covert deployment of fileless surveillance protocols—completely distorts the judicial assessment of whether the Legislature possessed a rational, *intra vires* basis under sections 92(13) and 92(14) of the *Constitution Act, 1867* to enact the *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA* 2024").
24. To add to that, the LSBC engaging in disclosures of Personal Information and PHI to blockchains in Switzerland (not subject to PIPEDA or even GDPR), and then engaging in the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump, are far more severe than merely not regulating lawyers in the public interest but rather engaging in organizational criminal conduct.
25. For ease of reference, one of the seminal screenshots from the August 28, 2026, written argument, pursuant to, inter alia, rule 60(2)
26. It is submitted *prima facie* that the comprehensive filings tendered by the **Applicant Party** directly and empirically refute the factual assumption relied upon by Chief Justice Skolrood. The exposure of these suppressed facts reveals that the legislative intervention was not arbitrary, but rather a necessary, proportionate, and rational remedy to systemic investigatory overreach.

PART 5: ONGOING VIOLATIONS OF CITIZENS' RIGHTS AND THE STATUTORY IMPOSSIBILITY OF FULFILLING SECTION 3(A) OF THE LPA 1998

27. The foundational statutory mandate governing the predecessor regulator is codified within section 3 of the *Legal Profession Act*, S.B.C. 1998, c. 9 (the "*LPA* 1998"), which explicitly prescribes:

> "Object and duty of society
> 3 It is the object and duty of the society to uphold and protect the public interest in the administration of justice by

(a) preserving and protecting the rights and freedoms of all persons,
(b) ensuring the independence, integrity, honour and competence of lawyers,
(c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,
(d) regulating the practice of law, and
(e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.

28. It is a legal and factual impossibility for the LSBC to fulfill its core statutory object and duty under section 3(a) of the *LPA* 1998 while simultaneously engaging in, concealing, and perpetuating ongoing violations of citizens' fundamental rights and freedoms. The LSBC continues to engage in the same as of today's date absent even the attempt or façade of remedying the same.
29. The statutory command in *section 3(a)* is not restricted to the protection of lawyers; it mandates the active preservation and protection of the rights and freedoms of *all persons*. In direct, empirical contravention of this positive statutory obligation, the LSBC executed warrantless volatile-memory captures, deployed persistent Windows Management Instrumentation (WMI) monitoring triggers, and effected kernel-level system manipulation within a private residence without judicial authorization (see: Tab 3(B), Tab 3(C) ____; and Affidavits contained in the Application Book).
30. The sheer audacity of the Appellants to even breathe the words of protecting citizens' rights is shocking but not surprising.

Part 5(A): Section 184 of the Criminal Code

31. Such activities, which engaged the criminal prohibitions against the interception of private communications under section 184 of the *Criminal Code*, R.S.C. 1985, c. C-46, and violated section 8 of the *Canadian Charter of Rights and Freedoms*, constitute an ongoing assault upon the rights and freedoms of citizens. When unencrypted digital artifacts containing personal health information, private credentials, and third-party communications were subsequently exfiltrated onto decentralized public blockchains, the breach of section 3(a) crystallized into a permanent, irremediable statutory failure.
32. A statutory entity that systematically violates fundamental constitutional rights under the guise of administrative regulation is structurally and legally incapable of discharging its duty to protect the public interest. The legislative enactment of the *LPA* 2024 was therefore an imperative provincial intervention under sections 92(13) and 92(14) of the *Constitution Act, 1867* to terminate an operational regime that had become fundamentally antithetical to its own governing statute.

PART 6: BINDING INSTITUTIONAL ADMISSIONS AND THE EXTINCTION OF JUSTICIABILITY

33. The appellate posture adopted by the LSBC regarding the structural composition of the new regulatory board is fundamentally irreconcilable with its own formal, historical admissions of which the LSBC response (see: Tab 3(S)) to the AGBC's Intentions Paper (Tab 3(R)) which were expressly and explicitly adopted by formal pleading in the LSBC's NOCC (see: Tab 3(P)).

34. At **paragraphs 17(d)** and **70(a)** of the LSBC Factum, an attack is mounted against the board structure established under sections 8 and 17 of the *LPA* 2024, alleging that the reduction of elected lawyers to a 29% minority eviscerates institutional independence. Parenthetically, it is palpably clear from the "Joint Response Book [Sic]" that the LSBC does not want institutional independence from the BC government as per the ultra vires and unlawful creation, purported filing and non-service of the "Joint Response Book [Sic]" with its co-Appellants and the Respondents. In turn this goes to the relief in the Applicant Party's Form 4 NOA of September 25, 2026, which has been rejected twice on non-Enactment grounds and now remains binding. The Applicant Party kindly requests that you direct the Registrar to accept the filing so the rule 64(1)(b) "Parties" can be served with the same. This will avoid an additional NOA (Form 4) seeking mandamus in relation to the Registrar's failure to accept the filing and represent, while rejecting, that "unfiled copies would be provided to the Review Division Panel" in relation to the Applicant Party's Form 8 NOA.

35. This appellate grievance is fatally undermined by the doctrine of formal admissions. In its formal November 2022 response to the Ministry of Attorney General's Intentions Paper (see: Tab 3(S)), the LSBC explicitly declared its institutional standard for independence, stating unconditionally:

> *"self-regulation of the legal profession requires that a majority of the board that governs lawyers are themselves lawyers and a majority of the lawyer directors are elected."*

36. 9 of 17 is 52.94 (53) percent and not 29 percent. Parenthetically, since the LSBC lawyer licensees are able to work so well with government lawyers, who are also non-elected, the LSBC's apparent concern, which is non-justiciable in light of the law of admissions (see: Tab 3(C)), NTD____), about "elected vs. appointed" is rendered, as an additional legal ground, not justiciable by its conduct in relation to the "Joint Response Book [Sic]". Leaving all of that aside, the Appellants and Respondents have yet to serve "each party" as required by rule 62(4) of the Court of Appeal Rules (2022).

37. A rigorous mathematical application of the *LPA* 2024 to this admission reveals absolute statutory compliance. The legislation dictates a board of seventeen members, mandating that nine be lawyers (a mathematical majority), and that five of those nine lawyer directors must be elected (a mathematical majority of the lawyer directors). The Legislature enacted the exact mathematical formula demanded by the LSBC to preserve self-regulation.

38. It is a definitive jurisprudential axiom that formal admissions made in pleadings or official submissions are binding and conclusive, precluding the party from advancing contradictory positions (*Marchand*

(Litigation Guardian of) v. Public General Hospital Society of Chatham, 2000 CanLII 16946 (ON CA); *RPC Construction Ltd. v. Zhiyi Zhou*, 2017 ONSC 4044; *Canada Permanent Mortgage Corp. v. City of Toronto*, 1951 CanLII 121 (ON CA)).

39. To approbate and reprobate by inviting the Judicial branch to strike down legislation based on a formula previously endorsed to the Executive branch constitutes an abuse of process, violating the venerable legal maxim formulated by Herbert Broom: *Allegans contraria non est audiendus* (he is not to be heard who alleges things contradictory to each other). As established in *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63, the judicial process cannot be co-opted to litigate contradictory postures. Consequently, the LSBC is legally and syntactically precluded from litigating this issue, rendering the appeal functionally moot.

PART 7: THE JURISPRUDENTIAL MISAPPLICATION OF THE JUDICIAL INDEPENDENCE DOCTRINE

40. At **paragraphs 50 through 53** of the LSBC Factum, the Appellant attempts to import the three essential conditions of judicial independence—security of tenure, financial security, and administrative independence, as codified in the *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3 (the "*Judges Reference*")—directly into the self-governance of the legal profession.
41. This conceptual conflation represents an unsustainable jurisprudential overreach. The judiciary is constitutionally entrenched under Part VII (sections 96 to 101) of the *Constitution Act, 1867*, operating as a separate, co-equal branch of government. By contrast, the regulation of the legal profession has always resided within the exclusive provincial legislative competence over Property and Civil Rights in the Province (section 92(13)) and the Administration of Justice in the Province (section 92(14)).
42. As authoritatively determined by the Supreme Court of Canada in *Attorney General of Canada v. Law Society of British Columbia; Jabour v. Law Society of British Columbia*, [1982] 2 S.C.R. 307 (the "*Jabour*"), and reaffirmed in *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869, the authority of a provincial law society to govern its members is derived entirely from provincial statute. Self-regulation is an administrative model chosen by the Legislature; it is not a freestanding, unwritten constitutional right that insulates a regulatory body from democratic restructuring.
43. Chief Justice Skolrood correctly recognized at **paragraphs 140 through 167** of the trial judgment that while the independence of individual advocates is an unwritten constitutional norm, the specific institutional model of Bencher electoral self-governance is an act of ordinary provincial legislation, not an entrenched constitutional guarantee. The LSBC's attempt to elevate its historical governance model to the status of section 96 judicial independence was and is legally erroneous.

PART 8: STATUTORY EVOLUTION VERSUS THEORETICAL SEARCH AND SEIZURE APPREHENSIONS

44. The companion appeal advanced by the TLABC is similarly vitiated by a truncated, ahistorical analysis. At paragraphs 17, 34, and 109 of the TLABC Factum, it is alleged that section 78 of the *LPA* 2024 authorizes unreasonable warrantless searches, thereby violating section 8 of the *Charter*.
45. This argument relies upon a refusal to acknowledge the severe deficiencies of the predecessor regime and the substantive privacy enhancements codified within the modernized legislation. Evaluating the *LPA* 2024 against sections 36 and 37 of the *LPA* 1998 reveals that the new legislation operates as a definitive constraint on the very investigatory overreach historically perpetrated by the LSBC.
46. The following statutory comparison chart illuminates the constitutional enhancements effectuated by the *LPA* 2024:

Investigatory Parameter	***LPA* 1998 (ss. 36–37) (Status Quo Ante)**	***LPA* 2024 (ss. 78–80) (Modernized Regime)**	**Constitutional Impact**
Entry Into Private Residences	Statutory silence. Interpreted broadly by the regulator to permit warrantless digital access within private homes.	**Section 78(2):** Explicit prohibition on entering a private residence without express consent or a judicial warrant.	Permanently closes the residential loophole; directly fortifies s. 8 *Charter* protections.
Search & Seizure Standard	**Section 37:** Triggered upon mere speculation that a licensee "may have committed misconduct."	**Section 79(3):** Demands a rigorous evidentiary threshold of "reasonable grounds to believe."	Establishes a higher threshold, subordinating regulatory power to independent judicial scrutiny.
Detention of Seized Records	No statutory limits. Data and hard drives were held indefinitely without further judicial approval.	**Section 80(6):** Imposes a strict three-month maximum retention period for seized records.	Aligns the regulatory framework with fundamental criminal search and seizure principles; prevents indefinite data retention.

Oversight of Seizure Conduct	Statutory silence. No requirement to report the execution of a seizure back to the issuing judge.	**Section 80(1):** Imposes mandatory reporting of the seizure to the issuing judge "as soon as practicable."	Introduces post-seizure judicial accountability.
Production Orders	**Section 36(d):** Broad demands for cooperation with minimal procedural safeguards.	**Section 78(3):** Orders subject to explicit judicial review, modification, and written reasons.	Codifies administrative due process at the investigatory threshold.
Owner Access to Records	Statutory silence. No guaranteed right for the target to inspect or copy seized records.	**Section 80(5):** Guarantees the target's right to inspect seized materials and obtain one copy at the regulator's expense.	Restores transparency and equality of arms.

47. The empirical reality demonstrating why the Legislature enacted these rigorous safeguards is documented in the forensic record of the June 4, 2014 Concealed RAM Dump and the March 2, 2016 remote module extraction:

Category	**June 4, 2014 — Concealed RAM Dump (Local)**	**March 2, 2016 — Remote Wiretap & Kernel Module Dump (Remote)**	**Could Any Lawful Warrant Authorize It?**
Nature of Action	Local volatile memory extraction using DumpIt software.	Active remote intrusion, live interception of communications, and kernel-level driver manipulation.	**No.**
Intrusion Level	Extreme but non-interactive.	Beyond extreme: interactive, persistent, and manipulative.	**No.**

System Integrity	Live volatile memory altered during execution.	Altered: eight kernel modules sequentially unloaded over 25 minutes.	**No.**
Communication Interception	Capture of ephemeral memory and unsent drafts.	Live interception of communications contrary to s. 184 of the *Criminal Code*.	**Requires Part VI Authorization (None Obtained).**
Persistence Mechanism	Windows Management Instrumentation (WMI) event triggers seeded.	15 CommandLineEventConsumer instances firing; rootsubscription active.	**No.**
Judicial Disclosure	Concealed from Gerow J., Bowden J., Grauer J., MacIntosh J., Branch J., and Skolrood C.J.S.C.	Concealed from all courts and the Attorney General of British Columbia.	**No.**

48. Modernizing legislation explicitly designed to rein in a rogue regulator and impose strict judicial oversight represents a valid, proportional exercise of provincial authority under sections 92(13) and 92(14) of the *Constitution Act, 1867*. The TLABC's theoretical apprehensions are defeated by the empirical reality of the unconstitutional incursions perpetrated under the *status quo ante*.

PART 9: THE SECTION 7 CHARTER CHALLENGE: COMPASSION, COMPETENCE, AND ADMINISTRATIVE REMEDIATION

49. At paragraphs 56 through 94 and 100 through 105 of the TLABC Factum, an extensive challenge is mounted alleging that sections 68, 88, and 122 of the *LPA* 2024 violate section 7 of the *Charter* by associating competence with health conditions and authorizing orders for medical treatment or counselling.
50. This submission misapprehends the administrative and remedial purpose of professional regulation. The statutory focus of section 68 is not punitive; it is protective and restorative. Regulating competence where an individual's capacity to serve the public is impaired by a health condition is a standard, recognized

function of modern regulatory bodies designed to protect the public from professional harm while providing structured diversion pathways.

51. Chief Justice Skolrood correctly observed at paragraphs 216 through 222 of the trial judgment that the regime is grounded in administrative remediation rather than criminal sanction. Analogizing to established occupational health standards, non-compliance with a competence order under section 88 does not expose a practitioner to penal incarceration under sections 198 and 202, but rather engages administrative licensing controls under section 59.

52. It is contradictory for the **Appellants** to advance prospective, theoretical arguments regarding psychological stress and bodily autonomy under section 7 of the *Charter*, while simultaneously ignoring the documented, empirical psychological distress and privacy violations inflicted upon practitioners through years of concealed, warrantless surveillance executed under the *status quo ante*. Discretionary constitutional remedies cannot be invoked to perpetuate a regulatory regime that engaged in the very abuses the modernized statute eliminates.

PART 10: SUBSTANTIVE VULNERABILITIES OF APPELLANTS' RESPONSIVE POSTURE

53. The tactical vulnerability of the **Appellants**' position is illuminated by comparing their responses to the **Applicant Party**'s intervention within the active record of proceedings:

Litigant / Counsel	Procedural Posture in Application Book	Substantive Vulnerability & Forensic Refutation
Law Society of British Columbia *(Lawson Lundell LLP)*	Dismisses the **Applicant Party**'s submissions as "prolix and incoherent"; seeks refuge exclusively behind the 2018 vexatious litigant order of Branch J.	**Zero Denial of Substantive Misconduct:** The LSBC offers zero denial of the June 4, 2014 RAM dump, the October 25, 2021 ShareFile disclosure, the Kimm Otto metadata, or the March 2, 2016 remote intrusion. It attempts to wield a 2018 order as a shield against empirical evidence of technological spoliation and surveillance that was actively concealed until October 2021. Under the doctrine established in *Lazarus Estates Ltd. v. Beasley*, [1956] 1 Q.B. 702, and affirmed in *Landreville v. Town of Boucherville*, [1978] 2 S.C.R. 801, *"fraud unravels everything."*

175	1482	
Trial Lawyers Association of BC *(Fasken Martineau DuMoulin LLP)*	Characterizes the **Applicant Party**'s intervention as an attempt to "hijack the appeal with peripheral issues" and personal grievances.	**Ironic Vocabulary & Evidentiary Confirmation:** The TLABC's use of the term "hijack" is profoundly ironic: that exact term appears sixty-seven times throughout the LSBC's own extracted memory artifacts, describing hijacked threads, hijacked debugger calls, and hijacked CPU execution. The TLABC insists on an abstract record precisely because the empirical record demonstrates that self-regulation under the 1998 Act failed to protect the public.

PART 11: THE ESTABLISHED DOCTRINE OF ABUSE OF PROCESS: PROOF BEYOND A BALANCE OF PROBABILITIES

54. The procedural and substantive conduct of the **Appellants** engages the doctrine of abuse of process in its most acute manifestation. The jurisprudence of this Court and the Supreme Court of Canada establishes that advancing irreconcilable factual postures, maintaining litigation upon an artificially sanitized record, and orchestrating procedural ambuscades constitutes an abuse of process that the court is bound to suppress.

55. The binding jurisprudence establishes unequivocal principles governing this abuse of process which is now proven "intra" these Appellate Proceedings or Appeals albeit the "sectioning of the factums" into a non-public docket:

> In *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63, at paragraph 3, the Supreme Court of Canada decreed that advancing irreconcilable factual positions across different proceedings or distinct phases of litigation is impermissible, as it degrades the integrity of the judicial process.
> In *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5, at paragraph 22, this Court confirmed that maintaining inconsistent positions across prior and pending proceedings constitutes an actionable abuse of process.
> In *Mystar Holdings Ltd. v. 247037 Alberta Ltd.*, 2009 ABQB 480, the court established that a party is strictly prohibited from deliberately arguing diametrically inconsistent facts in various actions, thereby advancing mutually destructive positions not articulated as alternative claims.
> In *Glover v. Leakey*, 2016 BCSC 1624, Madam Justice Gropper affirmed that the doctrine of abuse of process extends to any circumstance in which the court's procedure is deployed for an improper, collateral purpose.
> In *Jensen v. Ross*, 2014 BCCA 173, this Court ruled that the doctrine of abuse of process applies with equal force whether the inconsistent positions arise before a superior court or an inferior administrative tribunal.

In *Pepper's Produce Ltd. v. Metallion Realty Ltd.*, 2012 BCCA 247, at paragraph 28, Madam Justice Levine held that contradictory positions cannot be permitted to stand together, and the court must find an abuse of process to preserve institutional integrity.
In *Halagan v. Reifel*, 1997 CarswellBC 4040 (BCCA), Madam Justice Satanove established that a litigant cannot approbate and reprobate, decreeing that court processes are not a game to be manipulated according to tactical advantage.
In *Canam Enterprises Inc. v. Coles*, 2000 O.J. No. 4930 (C.A.), the Ontario Court of Appeal confirmed the inherent jurisdiction of the courts to prevent abuses of process, explicitly including professional conduct engineered to manipulate, obscure, or mislead the adjudicative body.

56. Applying these binding authorities to the active record, it is established not merely on a balance of probabilities, but well beyond, that the LSBC and TLABC have committed a flagrant abuse of process. The **Appellants** have: a. Procured a judicial finding of "no regulatory failure" before Chief Justice Skolrood by deliberately suppressing the independent Cayton Governance Report and their own history of warrantless digital surveillance; b. Commenced appellate proceedings directly attacking a statutory board composition formula that identically mirrors their own formal institutional admissions of November 2022; c. Circumvented mandatory service protocols under Rule 62(4) and Rule 64(1)(b) by tendering a fabricated, collaborative "Joint Response Book [Sic]" between nominally adverse parties to stifle an oral hearing; and d. Attempted to wield a spent, lower-court 2018 vexatious litigant order to bar appellate scrutiny of spoliation and surveillance evidence that was actively concealed until October 25, 2021.
57. As this Court confirmed in *Yang v. Shi*, 2022 BCCA 317 (and reaffirmed in *Contreras v. Thomson*, 2024 BCCA 357; *Masjoody v. Trotignon*, 2023 BCCA 220; and *Wu v. Murray*, 2023 BCCA 270), the Court of Appeal possesses both a party-driven jurisdiction under Rule 60 and a summary determination jurisdiction under section 21 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*") to summarily dismiss or quash appeals that are frivolous, vexatious, or so devoid of substantive merit as to constitute an abuse of process. The empirical proof of continuous abuse on this record commands the immediate termination of these appeals.

PART 12: EQUITABLE MAXIMS, BROOM'S LEGAL PRINCIPLES, AND THE PROCEDURAL NULLITY OF THE "JOINT RESPONSE BOOK"

58. The **Appellants** seek extraordinary, discretionary public-law remedies. It is a foundational principle of Canadian appellate jurisprudence that a litigant seeking such relief must approach the adjudicative body with clean hands. The venerable maxim compiled by Herbert Broom, *Ex turpi causa non oritur actio* (no action arises from a dishonourable cause), dictates that equitable remedies must be categorically denied to applicants who engage in deception or procedural manipulation (*Cock v. British Columbia (Labour Relations Board)*, 1960 CanLII 293 (BCCA); *Homex Realty & Development Co. v. Wyoming (Village)*, [1980] 2 S.C.R. 1011).

59. The deliberate curation of a sanitized record, the advancement of theories that contradict binding institutional admissions, and the calculated suppression of the Cayton Governance Report engage the unclean hands doctrine in its most severe manifestation.

60. Concurrently, the procedural ambuscade orchestrated via the submission of the fabricated "Joint Response Book [Sic]"—accepted by the Registry on September 21, 2026, yet subsequently and retroactively marked "received – not filed" on September 25 and September 29, 2026—exposes a profound administrative contradiction. The Registry initially advised that the **Applicant Party**'s corresponding Notice of Application to strike the nullity could not be accepted without a formal letter invoking the *Verma* principle (*R. v. Verma*, 2016 BCCA 307), only to unilaterally decree days later that the unfiled application would be placed before the division panel.

61. This administrative gatekeeping operates strictly *ultra vires*. Under the *Verma* doctrine, the Registrar possesses no judicial authority to pre-judge standing or merit; if a document complies with the rules, it must be accepted for filing. Leaving an application in an "unfiled" limbo while transmitting it to an appellate panel denies the document official docketing and violates the statutory mandates of the *COAA*.

62. As dictated by Broom's legal maxims:

    a. *Nemo dat quod non habet* (no one can give what they do not have): The Registrar cannot confer legal validity upon a filing category unauthorized by the Rules;
    b. *Generalibus specialia derogant* (special provisions derogate from general ones): The specific service and filing protocols of Rule 62 strictly override generalized administrative conveniences;
    c. *Actus curiae neminem gravabit* (an act of the court shall prejudice no man): The administrative mishandling and unfiled status of compliant motion materials cannot operate to prejudice an active litigant's statutory standing; and
    d. *Fraus omnia corrumpit* (fraud vitiates all transactions): Deceitful omissions and sanitized records vitiate standing to seek equitable appellate relief.

63. The "Joint Response Book [Sic]" itself remains an absolute jurisdictional nullity. The *Court of Appeal Rules* strictly prohibit adverse statutory parties or any Prescribed Parties for that matter from consolidating adversarial responses to circumvent mandatory service protocols under Rule 62(4) and Rule 64(1)(b).

PART 13: IRRESPECTIVE OF THE APPELLANTS' BREACHES OF THE ACT AND RULES, ABUSES OF PROCESS ET AL., POINTS OF LAW MUST BE DECIDED IN RELATION TO HORSMAN J.'S ERRORS OF PRINCIPLE, JURISDICTION AND LAW

64. Irrespective of the **Appellants**' cascading procedural defaults, bad-faith contrivances, and systemic abuses of process, the pure points of law governing the Impugned Orders of Madam Justice Horsman dated September 8, 2026, command immediate and independent adjudication by the Division Review Panel. The threshold issue in navigating the **Applicant Party**'s relief under Rule 62 of the *Court of Appeal*

Rules, B.C. Reg. 120/2022, revolves entirely around the applicable standard of review concerning the orders pronounced by the chambers justice.

65. While section 29 of the *COAA* generally accords deference to the case-management and interlocutory decisions of a single justice, Canadian appellate jurisprudence unequivocally dictates that deference collapses entirely when the impugned findings are predicated upon extricable errors of law, the application of incorrect legal tests, or acts executed absent statutory jurisdiction (*Arvanitis v. Slater Vecchio LLP*, 2022 BCCA 326 at para. 14; *Housen v. Nikolaisen*, 2002 SCC 33). In such circumstances, the standard of review is strictly that of correctness. The September 8 orders are beset by a cascading series of profound jurisdictional and legal errors that mandate the application of the correctness standard.

13.1 The Misapplication of the Binding Definition of "Party" (Rule 64):

66. The chambers justice fundamentally erred in law by failing to apply the binding definition of a "party" as codified in Rule 64 of the *Court of Appeal Rules* (defined by the Applicant Party throughout as a "Prescribed Party"). The contemporary *COAA* and its accompanying Rules represent a massive legislative overhaul designed to modernize and clarify appellate procedure. Part 9 of the Rules strictly governs "Applications." Within this Part, Rule 64(1) provides an overriding, context-specific definition of a party: in relation to an application, a "party" means the person who brings the application in accordance with the rules, or a person served with the notice of application.

67. By ignoring this binding statutory parameter, the chambers justice impermissibly imported the archaic, repealed statutory text of the former *Court of Appeal Act*, R.S.B.C. 1996, c. 77, and the former 2001 Rules. Under the repealed 1996 regime, section 20 explicitly restricted the right to raise a preliminary objection strictly to a formalized "Respondent" to the main appeal. However, the modernized 2021 *COAA* deliberately excised this rigid restriction. Section 20(2) of the modern *COAA* expansively provides that "A justice may, on application, quash an appeal" without restricting standing to a formal Respondent.

68. By importing the page-limit constraints and procedural thresholds of Rule 61 (Intervention) into the adjudication of relief sought under entirely separate and distinct statutory tracks—namely Rule 60 (Quashing) and sections 20 and 21 (Summary Determination)—the chambers justice applied an incorrect statutory framework. Once the Applicant filed a compliant Form 4 Notice of Application, he automatically became a "Prescribed Party" to that application by operation of Rule 64(1)(a). Concluding that the Applicant was not entitled to invoke Rule 60 or section 20 based on repealed logic constitutes a pure, extricable error of law, directly contrary to the binding authority of *R. v. Verma*, 2016 BCCA 307, which established that if a notice complies with the rules, it must be accepted, and status flows from that compliant filing.

13.2 Ultra Vires Directives, Coram Non Judice, and Section 38(2) of the COAA:

69. The chambers justice acted *ultra vires* and *coram non judice* by purporting to direct the Registrar to retroactively reclassify the Applicant's fully compliant, processed August 28, 2026, written argument as "received – not filed."
70. The Court of Appeal is a statutory court, divested of the broad inherent jurisdiction possessed by section 96 superior courts. Any act executed outside the powers conferred by the *COAA* and the Rules is void. Section 38(2) of the *COAA* vests the exclusive statutory authority to refuse filings in the Registrar, and this power is highly circumscribed: the Registrar may only refuse a document for non-compliance with the Rules or a formal practice directive. The Applicant's August 28 filing complied with all formatting, transmission, and procedural prerequisites. The statutory condition precedent for rejection was never triggered.
71. A single justice possesses no statutory authority under the modern Enactments to unilaterally and retroactively manipulate the registry ledger to alter the filing status of a compliant document, particularly absent a formal Rule 63 application to review a Registrar's direction. As established in *Pong v. Quong*, 1927 CanLII 2 (SCC), when an adjudicator assumes jurisdiction over matters not conferred by statute, the entire proceeding is *coram non judice*. The retroactive "un-filing" of the document was an assumption of procedural power belonging exclusively to the Rules Committee and the Registrar, rendering the directive void *ab initio*.

13.3 Sua Sponte Reversals and the Violation of Functus Officio:

72. The chambers justice further erred in law and principle by acting *sua sponte* (on her own initiative), absent any formal application or notice from the parties, to revoke or contradict the procedural directives previously established in the August 31 Memorandum.
73. The August 31 Memorandum contained a clear, unequivocal directive that the application would proceed on the "**EXISTING WRITTEN RECORD**." The subsequent September 8 reversal—which retroactively rejected the compliant August 28 written argument—constituted a unilateral departure from that established directive. In Canadian appellate jurisprudence (*Chandler v. Alberta Association of Architects*, [1989] 2 S.C.R. 848; *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33), once a procedural or substantive determination is rendered, the adjudicator's jurisdiction is exhausted (*functus officio*), subject only to narrow statutory exceptions for clerical errors.
74. A justice cannot intervene *sua sponte* to alter substantive procedural rights previously determined without violating the fundamental doctrine of procedural fairness (*audi alteram partem*). Reversing the "**EXISTING WRITTEN RECORD**" directive without notice, without a formal application to vary under the

COAA, and without affording the Applicant an opportunity to respond constitutes a severe breach of natural justice, rendering the resulting orders legally invalid irrespective of their underlying merits.

13.4 Objective Reasonable Apprehension of Bias:

75. Finally, the adjudication of the application is irreparably tainted by an objective reasonable apprehension of bias. The legal test is not actual bias, but whether an informed person, viewing the matter realistically and practically, would conclude that the adjudicator could not decide the matter impartially (*Committee for Justice and Liberty v. National Energy Board*, [1978] 1 S.C.R. 369; *Marchand (Litigation Guardian of) v. Public General Hospital Society of Chatham*, 2000 CanLII 16946 (ON CA)).
76. The evidentiary record establishes that the presiding justice, during her tenure as senior counsel within the Attorney General of British Columbia (AGBC), acted as direct co-counsel with Ms. Sarah Bevan before the Supreme Court of Canada (SCC Docket 36495). Subsequently, the Applicant formally reported Ms. Bevan for professional misconduct arising from misleading the Court of Appeal in *McLean v. British Columbia*, 2019 BCCA 133. In the current proceedings, submissions opposing portions of the Applicant's relief were advanced by Ms. Laura Bevan of Lawson Lundell LLP, counsel for the LSBC.
77. Formal declarations of law must be made establishing that a Justice of the Court of Appeal must strictly recuse themselves and must not hear an application or appeal where opposing counsel is a family member of, or closely connected to, a former law colleague with whom the Justice practiced in close association. The appearance of overlapping professional relationships—where an adjudicator is ruling upon submissions advanced by counsel closely connected to the adjudicator's former co-counsel, whom an active litigant had previously reported for misconduct—firmly engages the objective test for a reasonable apprehension of bias under *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25. Where this apprehension is established, the resulting orders are void *ab initio* (*Wewaykum Indian Band v. Canada*, 2003 SCC 45).
78. The following matrix synthesizes the incurable jurisdictional defects invalidating the Impugned Orders:

Jurisdictional Defect	**Governing Authority / Statute**	**Consequence**
Misapplication of "Party" definition	Rule 64(1) of the *Court of Appeal Rules* (2022)	Vitiates standing analysis; requires correctness review.
Retroactive "un-filing" of document	Section 38(2) of the *Court of Appeal Act* (2021)	Act executed *coram non judice*; order is void *ab initio*.

Ex mera sponte reversal of directives	Doctrine of *Functus Officio* / *Audi Alteram Partem*	Breach of natural justice; renders disposition legally invalid.
Reasonable Apprehension of Bias	*Committee for Justice and Liberty v. National Energy Board*	Disqualifying conflict; all impugned orders are void *ab initio*.

PART 14: ANSWERS TO THE ISSUES IN THE FORM 8 NOTICE OF APPLICATION

79. The paramount issues raised for determination within the **Applicant Party**'s Form 8 Notice of Application under Rule 62 are answered conclusively as follows:

Form 8 Issue for Determination	**Adjudicative Analysis and Answer**
(a) Failure to apply the binding definition of "party" under Rule 64	**Affirmative Error of Law:** Madam Justice Horsman fundamentally erred in law by failing to apply Rule 64(1)(a), which statutorily defines "party" as any person who brings an application in accordance with the rules. The chambers justice imported repealed language from the 1996 Act, ignoring that the 2021 overhaul excised the "Respondent-only" restriction for quashing applications under section 20. Standing was possessed *ipso facto*.
(b) Importing Rule 61 constraints into Rule 60 and Sections 20/21 relief	**Affirmative Error of Law:** The chambers justice erred by collapsing independent statutory applications into a single intervention silo. Procedural page limits and criteria under Rule 61 cannot be imported to bar summary determination under section 21 or quashing under Rule 60. Under *R. v. Verma*, 2016 BCCA 307, compliant filings cannot be administratively truncated.
(c) Ultra vires and Coram Non Judice reclassification of compliant filings	**Affirmative Usurpation of Jurisdiction:** The direction to mark the August 28 filing as "received – not filed" was executed without statutory jurisdiction. Section 38(2) of the *COAA* vests document refusal authority exclusively in the Registrar for non-compliance with Rules. The document complied with all directives; the retroactive un-filing was an act *coram non judice* and void *ab initio*.

(d) Sua sponte revocation of the August 31 "EXISTING WRITTEN RECORD" directive	**Affirmative Error of Principle:** The chambers justice acted *sua sponte*, absent notice or application, violating the doctrine of *functus officio* (*Chandler*, [1989] 2 S.C.R. 848) and *audi alteram partem*. A justice cannot unilaterally dismantle an established procedural order without affording the affected litigant an opportunity to be heard.
(e) Failure to adjudicate Section 20 and Rule 60 relief	**Affirmative Denial of Natural Justice:** Once the Applicant became a party under Rule 64(1) and the hearing was ordered on the "**EXISTING WRITTEN RECORD**," the chambers justice possessed no statutory discretion to decline adjudication of the substantive preliminary objections and quashing relief properly before the Court.
(f) Failure to apply the mandatory correctness standard	**Affirmative Error of Law:** Pure questions of law, statutory interpretation, jurisdiction, and abuse of process attract a non-deferential correctness standard (*Housen v. Nikolaisen*, 2002 SCC 33; *Law Society of Saskatchewan v. Abrametz*, 2022 SCC 29). Deference under section 29 of the *COAA* collapses where extricable errors of law and jurisdiction are established.
(g) Objective reasonable apprehension of bias	**Affirmative Disqualification:** The prior professional co-counsel relationship between the chambers justice and Ms. Sarah Bevan before the Supreme Court of Canada, combined with the Applicant's prior misconduct report against Ms. Bevan, and the contemporaneous appearance of Ms. Laura Bevan, meets the objective test in *Yukon Francophone School Board*, 2015 SCC 25. The orders are void *ab initio*.
(h) Consequential relief to be granted	**Mandatory Appellate Orders:** The Division Review Panel must: (1) cancel and vary the September 8 orders; (2) direct the Registrar to formally mark the August 28 argument as filed *nunc pro tunc*; (3) strike the fabricated "Joint Response Book"; and (4) summarily dismiss or quash the **Appellants**' appeals under sections 21, 24, 25, and 36 of the *COAA* and Rule 60.

PART 15: ENCOURAGEMENT TO APPELLANTS TO ABANDON APPEALS FORMALLY AND NOT FILE ANY PAPER COPIES OF THE CASE CENTER FACTUMS, SECTION 36 COAA SANCTIONS, AND CLOSING PROCEDURAL WARNING

80. This correspondence serves as a formal encouragement and demand to the **Appellants** to immediately abandon their respective Appeals without costs by filing formal Notices of Abandonment in Form 6, and to strictly refrain from delivering or filing any physical paper counterpart copies of their Case Center factums on the scheduled October 19, 2026 deadline.
81. A failure to abandon these proceedings will precipitate the inevitable, public exposure of the undeniable conclusion that the LSBC has systematically abused the process of the courts from 2014 through 2026, while rendering it impossible to fulfill its statutory duty under section 3(a) of the *LPA* 1998.
82. The **Appellants** and the Registry are further placed on formal notice that an exhaustive Written Argument for the Honourable Review Division Panel is being finalized for immediate delivery. This comprehensive submission will mercilessly dissect the binding mathematical admissions, expose the deliberate mischaracterization of the modernized search and seizure safeguards, and firmly invoke the summary dismissal jurisdictions encapsulated within sections 20, 21, 24, 25, and 36 of the *COAA*, alongside Rule 60.
83. Pursuant to section 36 of the *COAA*, a justice possesses the explicit statutory authority to refuse to hear a party, impose punitive costs, or dismiss an appeal as abandoned where a party fails to comply with the Act, the Rules, or an order of the Court. The **Appellants**' cascading failures—culminating in the tender of procedural nullities, the evasion of mandatory service, and the maintenance of an appeal in a factual vacuum—trigger this summary dismissal jurisdiction.
84. As a final, critical point of law: It is respectfully submitted that an Order in case management must never be granted in such a fashion that an Appellant's factum is uploaded via an external portal (Case Center) and merely "deemed filed." Such an opaque administrative mechanism circumvents the public registry, operating to fundamentally disenfranchise the public and interested persons from their statutory right under Rule 60 to inspect adjudicative pleadings, raise preliminary objections *in limine*, or apply to quash the appeal before judicial resources are squandered.

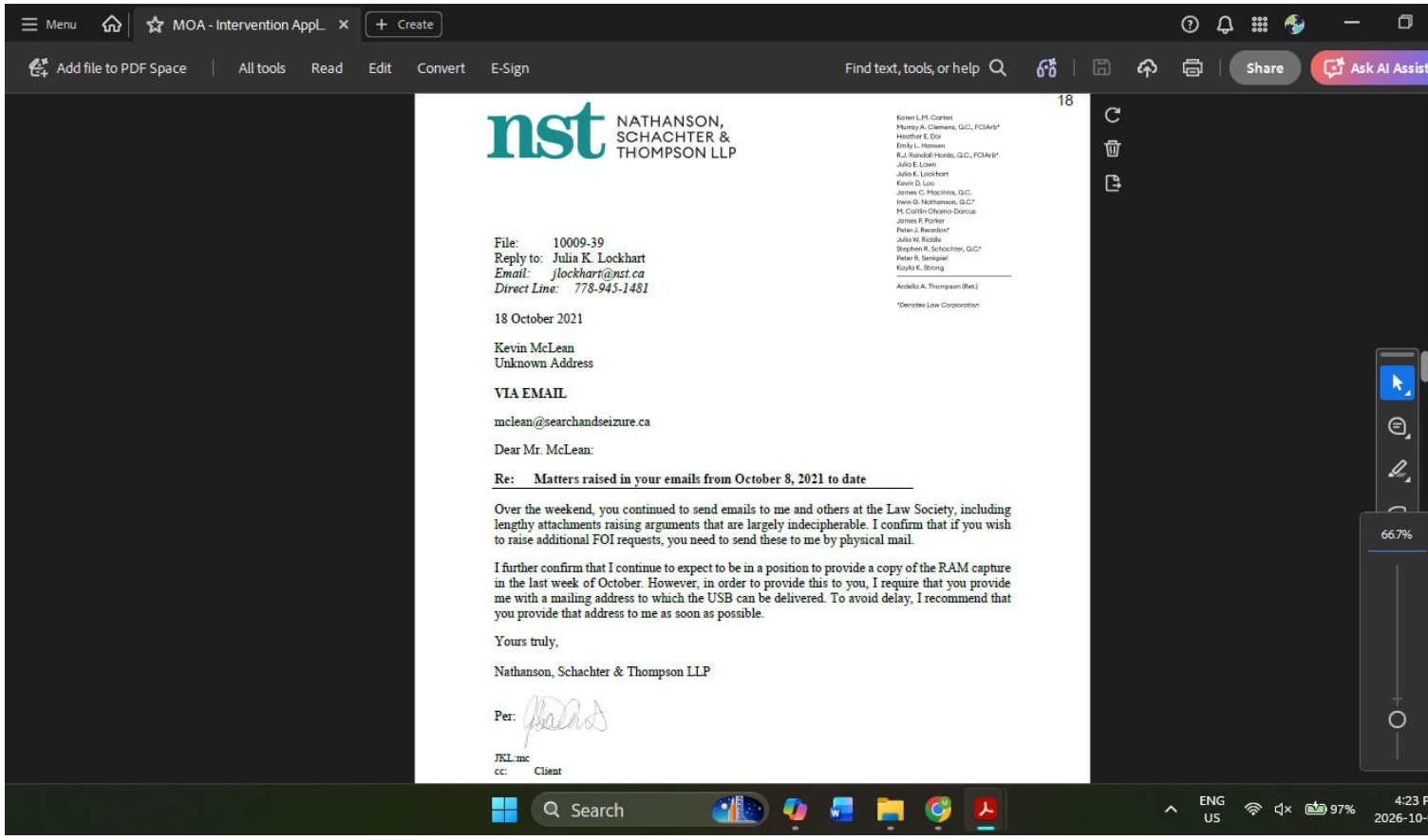
PART 16: WAS MR. KEVIN A. MCLEAN (BA, JD, CIM) THE ONLY LAWYER LICENSEE SUBJECT TO CONCEALED RAM CAPTURES? THE VENN DIAGRAM CONVERGENCE AND THE NOMENCLATURE OF "CAPTURE"

85. While it was initially presumed that the Applicant Party was the singular, idiosyncratic target of these unconstitutional incursions, a rigorous comparative analysis of the primary transcripts and official correspondence reveals a systemic regulatory practice. The intersection of language deployed by former

180 senior counsel for the LSBC, Mr. Gomery, Q.C. (as he then was), and subsequent correspondence authored by Ms. Julia Lockhart of Nathanson, Schachter & Thompson LLP ("NST LLP") establishes that the execution of volatile-memory extractions was not an isolated incident, but an institutionalized methodology.

86. The specific linguistic nexus is established by cross-referencing the official correspondence of NST LLP with the transcript of proceedings before The Honourable Madam Justice Gerow on May 29, 2015.

87. In the October 18 and October 25, 2021 correspondence from NST LLP (Application Book, Tab 3B, pp. 18–20), Ms. Lockhart formally utilized the term "RAM capture" to describe the extraction executed upon the Applicant's computer (not "forensic copying" of a 'hard drive'):



18

NATHANSON, SCHACHTER & THOMPSON LLP

File: 10009-39
Reply to: Julia K. Lockhart
Email: jlockhart@nst.ca
Direct Line: 778-945-1481

18 October 2021

Kevin McLean
Unknown Address

VIA EMAIL

mclean@searchandseizure.ca

Dear Mr. McLean:

Re: Matters raised in your emails from October 8, 2021 to date

Over the weekend, you continued to send emails to me and others at the Law Society, including lengthy attachments raising arguments that are largely indecipherable. I confirm that if you wish to raise additional FOI requests, you need to send these to me by physical mail.

I further confirm that I continue to expect to be in a position to provide a copy of the RAM capture in the last week of October. However, in order to provide this to you, I require that you provide me with a mailing address to which the USB can be delivered. To avoid delay, I recommend that you provide that address to me as soon as possible.

Yours truly,

Nathanson, Schachter & Thompson LLP

Per:

JKL:mc
cc: Client

Menu MOA - Intervention Appl. Create 1492
Add file to PDF Space All tools Read Edit Convert E-Sign Find text, tools, or help Share Ask AI Assist

Reply to: Julia R. Lockhart
Email: *jlockhart@nst.ca*
Direct Line: *778-945-1481*

25 October 2021

Kevin McLean
Unknown Address

VIA EMAIL

mclean@searchandseizure.ca

Dear Mr. McLean:

Re: Copy of RAM Capture

We are writing to respond to the request you confirmed on October 8, 2021 under the *Freedom of Information and Protection of Privacy Act* ("FIPPA") on the Law Society of British Columbia.

Further to that request for a copy of the RAM capture made from your computer in June 2014, I enclose a link to download that file.

Under section 52 of the FIPPA, you may apply to the Information and Privacy Commissioner for a review of the Law Society's response to your request. You have 30 business days to request a review by writing to the Office of the Information and Privacy Commissioner at the contact information provided below.

If you wish to request a review under section 52, please provide the Commissioner's office with the following information:

1. Your name, address and telephone number;
2. A copy of your request;
3. A copy of this letter; and
4. The specific reasons for requesting a review.

The Office of the Information and Privacy Commissioner can be reached at the contact information provided below:

Office of the Information and Privacy

750 - 900 Howe Street, Vancouver, BC V6Z 2M4 T: 604.662.8840 nst.ca

010009/039/00560192

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88. By way of context of previously cited portions from transcripts, the Applicant Party respectfully refers the BCCA, particularly the BCCA Chief Justice to the following (see: **Tab 3(C), pages 74 and 75**):

THE COURT: Which on a plain reading -- and if you're asking me to plainly read -- that allows a search and seizure of material in -- without consent or on request, presumably, and then you get your consent. But that's what the argument is, is that -- not that they -- I mean, if there was an investigation where they had permitted you to come in and permitted the investigation to go on, of course, you know, it makes sense that you could copy the documents in that context. What Mr. McLean is actually complaining of is that the rule that your client relied on, that took -- allowed them to go further than that. It allowed them to go in and search and seize without an order under section 37, and that's the issue, is whether or not that constitutionality of that rule is made out."

8. The next reproduction is from the hearing before Madam Justice Gerow on May 29, 2015, in *McLean v. LSBC et al.* (BCSC File No. S-1410056):

"**LSBC**: Now, in my submission there's nothing here to express a **legislative intent** that records means anything less than records as defined in the Interpretation Act. And

having regard to the purpose, the purpose is of course the investigation of books, records and accounts of a lawyer. It is necessary that the Law Society not be **stopped cold** in its investigation if the lawyer has decided to mix personal and business records on a **hard drive**, as lawyers do.

THE COURT: Well, **they wouldn't be stopped cold**. That's the point. They would make an application under section 37, which would allow them **if they had appropriate evidence** to then go in and --

...you can't say they would be stopped cold.

They would be not able to **seize** or to copy **the entirety of a hard drive** presumably if it was within the -- **if that didn't fall within the definition of records under section 36**, but that wouldn't preclude the Law Society from then saying well, we want the computer, the hard drive computer for this particular individual. **We need to make an application to court**. So that's -- section 37 allows that, so I don't understand that submission.

MR. GOMERY: It's -- **I think I overstated it.**

89. Crucially, during the May 29, 2015 hearing before Madam Justice Gerow in *McLean v. Law Society of British Columbia* (BCSC File No. **S-1410056;** transcript at page 40; Petitioner's Record in **S-175785,** Tab 4, Exhibit "D", p. 16), Mr. Gomery, Q.C., advancing general submissions regarding the operational scope of the predecessor regulatory regime, explicitly declared

> "**Mr. Gomery**:
>
> The whole process is one that's designed to **<u>CAPTURE</u>** professional records, recognizing that personal records may be caught where they're mixed up with professional records, and of course it includes a process for independent oversight for the exclusion of records that contain personal information not relevant to the investigation."
>
> [emphasis is the Applicant Party's]

90. It is trite and self-evident that the word "copy" is included with "forensic **copy[ing]**" and "capture" is included with "RAM capture".

91. The relevant definition of “capture” is: to take and hold (someone or something) as a captive or prisoner; also : to gain control of especially by force (see: Merriam-Webster Online Dictionary).
92. “Copying” and “capturing” are alien to each other.
93. In legal, grammatical, and forensic usage, the words “copy” and “capture” are mutually exclusive:
    a. “Copy” (*Forensic Copying*): Signifies a static, bit-stream duplication of persistent, magnetic storage utilizing hardware write-blockers that alter zero bytes of the underlying media (**NIST SP 800-86**);
    b. “Capture” (*RAM Capture / RAM Dump*): Denotes the physical and logical taking into custody of volatile system memory, requiring the active injection of specialized executable binaries (e.g., DumpIt) directly into the CPU's live execution space, an act defined lexicographically as *gaining control by force or taking captive* (Merriam-Webster).

94. The deliberate invocation of the word “capture” by former senior counsel for the regulator when describing the institutional design of Rule 4-43 investigations—viewed alongside the subsequent admission by NST LLP that a “RAM capture” was executed—generates the compelling and inescapable inference: the LSBC deployed warrantless volatile-memory extractions as a standard investigatory mechanism against legal practitioners across British Columbia.
95. During the operational tenure of former Rule 4-43, the LSBC executed an average of five to six investigation orders per year. Each order authorized multi-hour forensic attendances. Because legal workstations routinely process personal information, private communications, and third-party records, the widespread deployment of volatile-memory “captures” would mean that dozens of practitioners and hundreds of clients were exposed to surreptitious, unconstitutional digital extractions without their knowledge or consent.
96. The Applicant Party formally requests that the Chief Justice of British Columbia direct the LSBC to provide a definitive answer upon the record: Was Mr. Kevin A. McLean the sole practitioner subjected to a concealed volatile-memory “RAM capture,” or was this invasive extraction technique deployed against other members of the Bar under the guise of Rule 4-43?
97. This profound institutional question highlights why the appeals cannot proceed upon a sanitized factual record. The Review Division Panel possesses the statutory authority and the constitutional obligation under sections 20, 21, 24, 25, and 36 of the *COAA*, alongside Rule 60, to terminate these proceedings: a. Quashing the appeals pursuant to section 20(2)(a) of the *COAA* for lack of jurisdiction; b. Dismissing the appeals summarily pursuant to section 21 of the *COAA*; c. Quashing the appeals or striking portions of the Appellants' factums pursuant to Rule 60(1)(a) and (c); d. Refusing to hear the Appellants and

Respondents pursuant to section 36(a) of the *COAA* for persistent non-compliance; and e. Dismissing the appeals as abandoned pursuant to section 36(c) of the *COAA*.

98. This correspondence, incorporating the Appellants' factums into the active Record of Proceedings for the Applicant Party's Form 8 application, is provided to Registrar Timothy Outerbridge to ensure that the September 25, 2026 Notice of Application and accompanying Written Argument are formally docketed and served upon all Prescribed Parties under Rule 64(1)(b) forthwith.

99. The supervisory jurisdiction of the Chief Justice as *Primus Inter Pares*, established in *Ruffo v. Conseil de la magistrature*, [1995] 4 S.C.R. 267, and *Faber c. R.*, 2015 QCCS 12 (para. 111), encompasses the non-delegable responsibility to protect the administration of justice from administrative capture through the exercise of the Thirteen Chief Justice Duties:

    a. ultimate jurisdiction (the "**Ultimate Jurisdiction**"): The possession of the definitive and final authority over the adjudicative and administrative functions of the Court, ensuring that the judicial hierarchy remains intact and that the *status quo ante* is preserved against unauthorized deviation;
    b. constitutional trust stewards (the "**Constitutional Trust Stewards**"): The non-delegable responsibility to serve as the primary guardian of the constitutional trust bestowed upon the judicial branch by the sovereign and the citizenry, a trust that is predicated upon the absolute neutrality of the bench;
    c. imperviously influenced mandate (the "**Imperviously Influenced Mandate**"): The requirement to remain completely impervious to external influences, bearing the unique burden of ensuring the Court as a whole remains insulated from such pressures, whether they be political, executive, or administrative (see: *Faber c. R.*, 2015 QCCS 12 (the "**Faber**"), paragraph 111; BOA, *Tab #133*, pp. 3028–3030);
    d. master of the roster (the "**Master of the Roster**"): The absolute authority over the scheduling and distribution of judicial resources, preventing the emergence of "judicial silos" or the arbitrary and *ad hoc* assumption of jurisdiction by individual members of the bench;
    e. self-assignment power (the "**Self-Assignment Power**"): The inherent authority to *take over* or self-assign matters of profound institutional significance where high-quality justice or the reputation of the tribunal is at risk due to administrative capture;
    f. administrative steward (the "**Administrative Steward**"): The duty to oversee the clerical and registry functions as a necessary extension of judicial sovereignty, ensuring that the administrative arm of the court does not operate in a state of lawlessness or procedural stasis;
    g. institutional reputation guardian (the "**Institutional Reputation Guardian**"): The obligation to serve as the face of the Court and the protector of its standing in the public eye, rectifying any conduct that may cast a pall upon the perceived impartiality of the judiciary;

h. efficiency operation duty (the "**Efficiency Operation Duty**"): The responsibility to ensure the seamless and efficient operation of all Court functions, preventing the occurrence of administrative *lacunae* or the functional stagnation of the list;

i. ethical compliance guarantee (the "**Ethical Compliance Guarantee**"): The occupation of a preferred position to ensure and guarantee absolute compliance with judicial ethics within the tribunal, acting as the final arbiter of professional conduct;

j. complaint laying power (the "**Complaint Laying Power**"): The intrinsic authority to initiate formal complaints against colleagues where ethical breaches are identified, a power that is central to the self-regulating nature of the judicature;

k. puisne judge removal power (the "**Puisne Judge Removal Power**"): The authority to relieve or reassign a colleague from judicial duties during the pendency of ethical inquiries or complaints, thereby preserving the public's perception of institutional integrity;

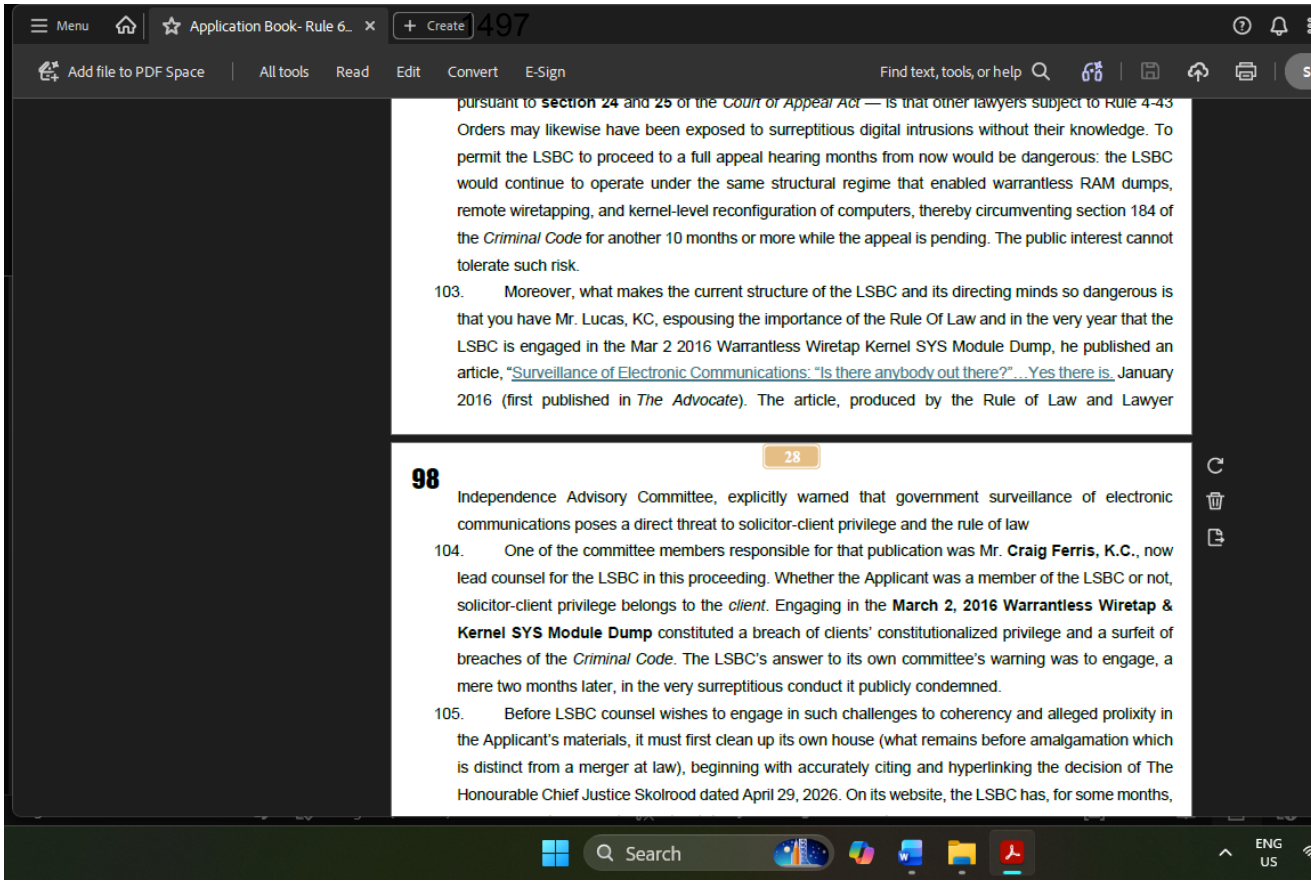
l. moral barometer (the "**Moral Barometer**"): The role of serving as the ethical and integrity barometer for the entire judicial institution, setting the standard for comportment and professionalism; and

m. moral authority (the "**Moral Authority**"): The power to impose judicial will upon other *puisne* judges through the exercise of moral authority regarding directives to which they may not be legally subject but are ethically bound to follow for the collective good.

100. The EXISTING WRITTEN RECORD upon which the NOA Form 4 was adjudicated by Horsman J. and by which the Form 8 NOA must be determined is now complete. The administration of justice cannot permit its formalized rules to be discarded, nor can it allow constitutional challenges to be prosecuted upon a fabricated factual foundation.

101. Further, the administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved.

102. If the Rule Of Law is to have any substance and teeth, then the Appeals must be dismissed or quashed under any or all of the above legal bases. Certainly, the LSBC' Rule of Law and Lawyer Independence Committee **must agree** and I quote from paragraphs 103 an 104 from Tab 3(C) of the Applicant Party' Application Book along with a screenshot of the same:



pursuant to **section 24** and **25** of the *Court of Appeal Act* — is that other lawyers subject to Rule 4-43 Orders may likewise have been exposed to surreptitious digital intrusions without their knowledge. To permit the LSBC to proceed to a full appeal hearing months from now would be dangerous: the LSBC would continue to operate under the same structural regime that enabled warrantless RAM dumps, remote wiretapping, and kernel-level reconfiguration of computers, thereby circumventing section 184 of the *Criminal Code* for another 10 months or more while the appeal is pending. The public interest cannot tolerate such risk.

103. Moreover, what makes the current structure of the LSBC and its directing minds so dangerous is that you have Mr. Lucas, KC, espousing the importance of the Rule Of Law and in the very year that the LSBC is engaged in the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump, he published an article, "Surveillance of Electronic Communications: "Is there anybody out there?"…Yes there is. January 2016 (first published in *The Advocate*). The article, produced by the Rule of Law and Lawyer

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Independence Advisory Committee, explicitly warned that government surveillance of electronic communications poses a direct threat to solicitor-client privilege and the rule of law

104. One of the committee members responsible for that publication was Mr. **Craig Ferris, K.C.**, now lead counsel for the LSBC in this proceeding. Whether the Applicant was a member of the LSBC or not, solicitor-client privilege belongs to the *client*. Engaging in the **March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump** constituted a breach of clients' constitutionalized privilege and a surfeit of breaches of the *Criminal Code*. The LSBC's answer to its own committee's warning was to engage, a mere two months later, in the very surreptitious conduct it publicly condemned.

105. Before LSBC counsel wishes to engage in such challenges to coherency and alleged prolixity in the Applicant's materials, it must first clean up its own house (what remains before amalgamation which is distinct from a merger at law), beginning with accurately citing and hyperlinking the decision of The Honourable Chief Justice Skolrood dated April 29, 2026. On its website, the LSBC has, for some months,

> "[103] Moreover, what makes the current structure of the LSBC and its directing minds so dangerous is that you have Mr. Lucas, KC, espousing the importance of the Rule Of Law and in the very year that the LSBC is engaged in the Mar 2 2016 Warrantless Wiretap Kernel SYS Module Dump, he published an article, "Surveillance of Electronic Communications: "Is there anybody out there?"…Yes there is. January 2016 (first published in *The Advocate*). The article, produced by the Rule of Law and Lawyer Independence Advisory Committee, explicitly warned that government surveillance of electronic communications poses a direct threat to solicitor-client privilege and the rule of law
> [103 One of the committee members responsible for that publication was Mr. **Craig Ferris, K.C.**, now lead counsel for the LSBC in this proceeding. Whether the Applicant was a member of the LSBC or not, solicitor-client privilege belongs to the *client*. Engaging in the **March 2, 2016 Warrantless Wiretap & Kernel SYS Module Dump** constituted a breach of clients' constitutionalized privilege and a surfeit of breaches of the *Criminal Code*. The LSBC's answer to its own committee's warning was to engage, a mere two months later, in the very surreptitious conduct it publicly condemned."

103. Has the LSBC become more or less compliant with the Rule Of Law since that time? The question answers itself.

104. The LSBC's own Rule of Law and Lawyer Independence Committee warned the profession in January 2016 that surveillance of electronic communications threatens solicitor-client privilege and the rule of law. Two months later, the LSBC engaged in the very conduct it publicly condemned. That contradiction is not merely hypocrisy — it is self-impeachment. It is admission by publication, admission

by conduct, and admission by timing. No constitutional challenge can proceed when its proponent stands on a factual foundation it has itself corrupted. The Rule of Law requires dismissal. The integrity of the administration of justice requires dismissal. The protection of solicitor-client privilege requires dismissal. Nothing less will suffice.

105. Vast and deep remedial work will required by the new regulator, the **LPBC**, and justice delayed is justice denied for that broad base of persons so affected by the LSBC's lawless admitted 'captures'."

ALL OF WHICH IS RESPECTFULLY SUBMITTED ON October 4, 2026

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[i]See: COAA, ss. 1(1)

Appendix “A”

COURT OF APPEAL FILE NO. CA51536
Law Society of British Columbia v. Attorney General of British Columbia
Appellant's Factum

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on April 29, 2026

BETWEEN:

Law Society of British Columbia

APPELLANT
(Plaintiff)

AND:

Attorney General of British Columbia and
Lieutenant Governor in Council of British Columbia

RESPONDENTS
(Defendants)

APPELLANT'S FACTUM
Law Society of British Columbia

Law Society of British Columbia

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CHRONOLOGY

Date	Event	Reference
March 1, 2022	The Attorney General of British Columbia announces that the government will impose a new regulatory model to govern lawyers, notaries and paralegals in British Columbia.	Affidavit #1 of Brook Greenberg, K.C., made May 24, 2024 [**Greenberg #1],** Ex. 23, (Joint Appeal Book (**JAB**) Tab ●, p. ●).
September 14, 2022	The Ministry of Attorney General (**MAG**) releases an Intentions Paper on Legal Professions Regulatory Modernization. Details of the proposed governance structure are not included in the Intentions Paper.	Greenberg #1, Ex. 24 (JAB Tab ●, p. ●).
May 2023	MAG issues a "What We Heard" report detailing some of the results of MAG's public engagement and public survey related to the proposed regulatory changes.	Greenberg #1, Ex. 31 (JAB Tab ●, p. ●).
January – March 2024	The Federation of Law Societies of Canada, Canadian Bar Association (BC Branch), Trial Lawyers Association of British Columbia and 10 other professional lawyers' associations issue letters asking the government to share draft legislation with lawyers.	Greenberg #1, Exs. 43-44 (JAB Tab ●, p ●).
March 2024	MAG releases a public update about the proposed single legal regulator legislation. The public update contains limited information about the regulatory framework in the proposed legislation.	Greenberg #1, Ex. 33 (JAB Tab ●, p. ●).
April 10, 2024	Bill 21 – *Legal Professions Act* is introduced in the Legislature for first reading. This is the first time a draft of the proposed legislation is made available to the public.	Greenberg #1, Ex. 35 (JAB Tab ●, p. ●).
April 10, 2024	The Law Society of British Columbia (**LSBC**) issues a statement opposing Bill 21.	Greenberg #1, Ex. 37 (JAB Tab ●, p. ●).

April 19, 2024	The CBABC asks the AG not to proceed with Bill 21 without meaningful engagement to resolve concerns raised by lawyers through a collaborative process.	Greenberg #1, Ex. 45 (JAB Tab ●, p. ●).
April 26, 2024	The Benchers of the LSBC write to the Attorney General to urge the government to reconsider proceeding with Bill 21 without significant amendment.	Greenberg #1, Ex. 38 (JAB Tab ●, p. ●).
May 15, 2024	The government closes debate in the Legislature and enacts Bill 21 as the *Legal Professions Act*, S.B.C. 2024, c. 26 (**Bill 21**). Certain provisions of Bill 21 come into force on enactment.	
May 17, 2024	The LSBC files a Notice of Civil Claim in Supreme Court of British Columbia Action No. S-243258 alleging that Bill 21 is unconstitutional.	Notice of Civil Claim filed May 17, 2024 (Joint Appeal Record (**JAR**) Tab 1).
October 2025	LSBC's claim is heard by way of summary trial before the Hon. Chief Justice Skolrood.	
April 29, 2025	LSBC's claim is dismissed.	Order of the Honourable Chief Justice Skolrood (JAR Tab 19)

OPENING STATEMENT

An independent Bar stands between the government and the citizen to ensure the public's access to legal rights and independent courts. If independence of the Bar is compromised, then the foundations of our constitutional democracy are left vulnerable to the will of the government of the day.

The Chief Justice correctly found that independence of the Bar is an unwritten constitutional principle that is one of the basic tenets of our constitutional arrangements, and which is closely related to and maintains judicial independence and the rule of law in Canada. The Chief Justice also correctly defined the general principle of independence of the Bar and concluded that the principle is properly applied as an interpretive aid to the scope of the Legislature's authority under s. 92(13) and (14) of the *Constitution Act, 1867*. This Court should adopt and endorse the Chief Justice's findings in this regard.

But the Chief Justice applied the wrong test in his determination of whether Bill 21 was *ultra vires* ss. 92(13) and (14) of the *Constitution Act, 1867*. The correct test is whether a reasonable person, informed of the relevant statutory provisions in their historical and traditional context, viewing the matter realistically and practically, would conclude that Bill 21 maintains an independent Bar. The answer to this correct test is 'no'. Bill 21, viewed holistically and in its proper context, is objectively inconsistent with the maintenance of an independent Bar in British Columbia. It is therefore inconsistent with the Constitution and must be struck down.

PART 1 - STATEMENT OF FACTS

1. The facts set out below are not in dispute. The parties disagree as to their relevance to the constitutional question before this Court.

A. The Law Society of British Columbia

2. The appellant Law Society of British Columbia (the **Law Society**) is an independent, self-governing non-profit society continued by s. 2(1) of the *Legal Profession Act,* S.B.C. 1998, c. 9 (the ***LPA***).[1] The Law Society ensures robust, visible and independent professional regulation of lawyers in the public interest[2] under the *LPA,* the Law Society Rules (the **Rules**), and the *Code of Professional Conduct* (the ***Code***). Through the enabling provisions of the *LPA* (including ss. 3, 4 and 11), the public is assured of access to a trustworthy and competent Bar, whose admission, competence and discipline is regulated by lawyers who are accountable to the public interest, and not to government policy or outside influence.

3. The Law Society is governed by 32 Benchers, consisting of 25 lawyer Benchers elected by the lawyers of British Columbia from nine electoral districts across the province, six lay Benchers appointed by the Lieutenant Governor in Council (**LGIC**), and the Attorney General (an *ex officio* bencher, who does not vote at the Bencher table[3]).[4] The *LPA* does not prescribe the number of Benchers, or the manner of their election.[5] The Benchers have a duty to abide by the *LPA*, the Rules and the *Code*, and to uphold

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[1] *Legal Profession Act*, S.B.C. 1998, c. 9 [*LPA*], Book of Enactments (**BE**) Tab ●.

[2] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779 at paras. 1, 9 [Reasons for Judgment] (JAR Tab 21, pp. 268, 270).

[3] Examination for Discovery of Katharine Armitage by Craig Ferris, K.C., March 14, 2025 [**Armitage XFD**] (JAB Tab ●, p. ●, q. 124).

[4] *LPA* at paras. 4, 7 (BE Tab ●, p. ●).

[5] Affidavit #3 of Brook Greenberg, K.C., made April 3, 2025 [**Greenberg #3**], Ex. 42, Rules 1-19 to 1-44 (JAB Tab ●, p. ●).

the objects of the Law Society and ensure they are guided by the public interest in the performance of their duties.[6]

4. One of the core self-regulatory functions of the Benchers is rule-making.[7] The Rules made by Benchers govern membership and admission into the Law Society; the authority to practice law; processes for protection of the public through the investigation of complaints, promotion of the mental and physical health of lawyers, maintenance of practice standards, and continuing education of lawyers; discipline of lawyers who are alleged to have breached the Rules; and all aspects of the day-to-day practice of law.[8] The Rules, rather than the *LPA*, also provide for the manner of election of Benchers.[9]

5. The Benchers also maintain the *Code*.[10] The Code is an expression of the Benchers' views on the special ethical responsibility of lawyers, and articulates lawyers' duties to the state, to courts, to clients, and to each other.[11] The maintenance of the *Code* forms an integral part of independent self-regulation of lawyers in the public interest. The Code is significantly related to the Federation of Law Societies' Model Code of Professional Conduct, which ensures pan-Canadian standards for the practice of law.[12]

6. The Rules and the *Code* are not subject to the influence of any body or group and do not require the approval of government.

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[6] Greenberg #3, Ex. 41 (JAB Tab ●, p. ●).

[7] Greenberg #1, Ex. 6 (JAB Tab ●, p. ●); *Reasons for Judgment* at para. 8 (JAR Tab 21, p. 269). See for example: *LPA* ss. 6(1),7(1), 8, 11-15, 36 (BE Tab ●).

[8] Greenberg #1, para. 23 (JAB Tab ●, p. ●).

[9] Greenberg #3, Ex. 42, Rules 1-19 to 1-44 (JAB Tab ●, pp. ●).

[10] Greenberg #3, Ex. 44 (JAB Tab ●, p. ●).

[11] Greenberg #3, Ex. 44, C-2.1 (JAB Tab ●, p. ●).

[12] Greenberg #1, para. 25 (JAB Tab ●, p. ●); Greenberg #3, Ex. 44 (Tab ●, p. ●); *Reasons for Judgment* at para. 8 (JAR Tab 21, p. 269).

B. The Legislature unilaterally reforms legal regulation through Bill 21

7. On March 1, 2022, the government announced it would impose a new regulatory model to govern lawyers, notaries and paralegals in British Columbia.[13]

8. On September 14, 2022, the Ministry of Attorney General released an Intentions Paper on Legal Professions Regulatory Modernization (the **Intentions Paper**).[14] The Intentions Paper was the first public communication of the government's policy intention behind Bill 21. It did not contain specific details of any proposed legislation.

9. The theory of lawyer independence underlying Bill 21 was explained in the Intentions Paper as "the ability of a lawyer (or other legal service provider) to fearlessly advocate for their client and provide independent legal advice to their client, even, and especially, when their client is at odds with the government."[15] The Intentions Paper describes self-regulation as a "policy decision to assign a professional regulator the primary responsibility for the development of structures, processes and policies for regulation."[16]

10. The Law Society responded to the Intentions Paper on November 16, 2022.[17] While the Law Society agreed with the Ministry's emphasis on access to justice and other issues (such as licensing paralegals), the Law Society was concerned that the Intentions Paper did not make clear how the government intended to preserve independence of the Bar within this new regulatory framework.

11. The fact that the specific details of the legislation to be imposed on a self-regulating and self-governing profession were not shared with members of the profession was a matter of significant concern among the Bar. Multiple professional associations wrote

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[13] Greenberg #1, Ex. 23 (JAB Tab ●, p. ●).
[14] Greenberg #1, Ex. 24 JAB Tab ●, p. ●).
[15] Greenberg #1, Ex. 24 (JAB Tab ●, p. ●).
[16] Greenberg #1, Ex. 24 (JAB Tab ●, p. ●).
[17] Greenberg #1, Ex. 25 (JAB Tab ●, p. ●).

private and public letters requesting further consultation with lawyers in order to ensure independence of the Bar was preserved in the proposed legislation.[18]

12. One month before the introduction of Bill 21 in the Legislature, the Ministry released a public update about the proposed single legal regulator legislation.[19] The public update provided limited details about the regulatory model the government intended to impose.

13. The Law Society responded to the public update on March 18, 2024 expressing concern regarding the lack of recognition and protection of the necessary independence of a new legal regulator from government. The Law Society encouraged the government to address its concerns about the degree of mandated direction and prescription the proposed legislation was expected to contain.[20]

i. *Bill 21 is enacted into law*

14. Bill 21 was introduced in the Legislature on April 10, 2024.[21] The introduction of Bill 21 at first reading was the first public disclosure of the text of the proposed legislation, in "stark contrast" to the process for every past revision to legal regulation since 1955.[22]

15. The Law Society issued a public response to Bill 21 on the same day. It asserted that the public interest required the public's trust that the legal regulator is independent of government influence.[23] The Benchers of the Law Society also wrote to the Attorney General to urge the government to reconsider proceeding with Bill 21 absent significant

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[18] Greenberg #1, para. 82, Exs. 32, 43-44 (JAB Tab ●, pp. ●).

[19] Greenberg #1, Ex. 33 (JAB Tab ●, p. ●).

[20] Greenberg #1, Ex. 34 (JAB Tab ●, p. ●).

[21] Greenberg #1, Ex. 35 (JAB Tab ●, p. ●).

[22] *Reasons for Judgment* at paras. 58-60 (JAR Tab 21, p. 285).

[23] Greenberg #1, Ex. 37 (JAB Tab ●. p. ●).

amendment.[24] Bar associations also requested that the enactment of the legislation be paused to permit meaningful engagement on the draft Bill.[25]

16. Notwithstanding these concerns, the government invoked closure to end the debate in the House on Bill 21 on May 15, 2024. The Bill passed third reading that evening and received Royal Assent on May 16, 2024. Certain transitional provisions of Bill 21 came into force on Royal Assent, and the remainder will be brought into force by regulation of the LGIC.

17. The key provisions of Bill 21 include the following:

a. Bill 21 eliminates the Law Society. On the amalgamation date, each Bencher of the Law Society, whether elected or appointed, ceases to hold office as a Bencher (s. 230(1)), and the assets of the Law Society will be combined with the Society of Notaries Public of British Columbia to become Legal Professions British Columbia (**LPBC**).

b. The Rules are not continued. The board of LPBC may make rules that are binding on licensees.[26] The *Code* is also not continued. The board of LPBC must establish a new code of professional conduct "for licensees" that is binding on all licensees, and which must accommodate definitions for "conduct unbecoming a professional", "incompetently", "professional conduct violation" and "professional misconduct" prescribed by the legislature.[27]

c. Bill 21 establishes a transitional board and a transitional Indigenous council who must collaborate to develop the first rules of the board.[28] The first rules of

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[24] Greenberg #1, Exs. 38 (JAB Tab ●, pp. ●).

[25] Greenberg #1, Exs. 45-47 (JAB Tab ●, p. ●).

[26] Bill 21, ss. 25-27 (BE Tab ●, p. ●).

[27] Bill 21, ss. 68, 70, 71 (BE Tab ●, p. ●).

[28] Bill 21, ss. 224, 225, 226 (BE Tab ●, p. ●).

the board "may not be made unless they are first approved, before the amalgamation date, by the transitional Indigenous council."[29]

d. The board of LPBC, once constituted in accordance with the process set out in ss. 230, reduces the role of elected lawyers in governance from a minimum of 78% majority to a 29% minority. Combined with appointments, lawyers must comprise 9 of 17 board members, where quorum of the board is 12.[30] Lawyers do not form the majority of the executive committee.[31]

e. Bill 21 creates an Indigenous council, which must work in collaboration with the board on certain matters, participate in the regulator's strategic planning processes, advise the board on certain matters, and exercise approval powers conferred by the Act. There is no requirement that any of the 6-9 members of the Indigenous council be lawyers.[32]

f. Bill 21 does not continue the object and duty of the Law Society. Instead it imposes duties of the regulator and "guiding principles" to which the regulator must have regard.[33]

g. Under ss. 3, 4 and 211-214 of Bill 21, the LGIC has various regulation-making powers, including the power to create and regulate a new class of "profession" that has the authority to practise law, and which may be exempted from licensing requirements under ss. 38 and 212. The LGIC may designate a new legal profession based on, among other things, the Attorney General's

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[29] Bill 21, s. 226 (BE Tab ●, p. ●).

[30] Bill 21, ss. 8 and 17 (BE Tab ●, p. ●).

[31] Bill 21, s. 10 (BE Tab ●, p. ●).

[32] Bill 21, s. 29, 30 (BE Tab ●, p. ●).

[33] Bill 21, ss. 6, 7(BE Tab ●, p. ●).

consideration of whether the designation "would have an undue impact on the independence of licensees under [the] Act."[34]

C. The Law Society's constitutional challenge of Bill 21

18. Immediately following the enactment of Bill 21, on May 17, 2024, the Law Society filed a Notice of Civil Claim seeking declarations that Bill 21 is *ultra vires* the Legislature's authority under ss. 92(13) and (14) of the *Constitution Act, 1867*, and therefore of no force or effect. The Law Society's claims were heard by way of summary trial before Chief Justice Skolrood in October 2025.

i. *The Court held that Independence of the Bar is an unwritten constitutional principle*

19. The Chief Justice found that independence of the Bar is an unwritten constitutional principle that is implicit in the written constitutional text, including in the judicature provisions of the *Constitution Act, 1867* (ss. 96-101) and in the fundamental rights and freedoms guaranteed under ss. 7, 10(b) and 11(d) of the *Charter*.[35] Sections 97 and 98 of the *Constitution Act, 1867*, which provide for the appointment of judges from among the Bar, "specifically acknowledge the existence of the Bars" of the provinces, and in doing so "the Constitution implicitly contemplates the continuance of independent Bars."[36]

20. The Chief Justice concluded that the principle of independence of the Bar informs the scope of ss. 92(13) and (14) and functions to limit the Legislature's authority under those sections: "the idea that the legislature could use its plenary authority under ss. 92(13) and (14) to regulate lawyers in such a manner as to eviscerate an independent Bar is simply unthinkable."[37]

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[34] Bill 21, s. 4(2)(b)(v) (BE Tab ●, p. ●).

[35] *Reasons for Judgment* at para. 88 (JAR Tab 21, p. 292).

[36] *Reasons for Judgment* at para. 90 (JAR Tab 21, p. 292.

[37] *Reasons for Judgment* at para. 137 (JAR Tab 21, p. 302).

21. The Court concluded that in order to protect the public's access to legal advice that is free from undue outside influence,[38] lawyers must be, and must be seen to be, independent from outside influences, including in particular the influence of the state.[39] The principle of independence has both individual and institutional dimensions, which reflect lawyers duties not only to their clients, but to the administration of justice more generally.[40]

ii. *The Court held that Bill 21 was not unconstitutional*

22. The Chief Justice concluded that both the substance of Bill 21 and the process leading to its enactment represent a "significant departure" from the long-established approach to the regulation of lawyers in British Columbia.[41] He described the government's "inability, or failure, to justify overturning 150 years of self-regulation, in the face of widespread opposition from the Bar" as "notable".[42] But he concluded that the process leading to the enactment of Bill 21 was a "political, rather than a legal or constitutional" issue, and therefore did not consider any evidence of the history of legal regulation in British Columbia or Bill 21's enactment in his analysis.[43]

23. The Court agreed that Bill 21 eliminates electoral self-governance and self-regulation of lawyers in British Columbia.[44] Based on his review of existing jurisprudence, the Court found that "[n]o authority has gone so far as to hold that the model of self-governance advanced by the LSBC is constitutionally guaranteed and that ss. 92(13) and (14) must be interpreted in a way that precludes a provincial legislature imposing a

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[38] *Reasons for Judgment* at para. 107 (JAR Tab 21, p. 295).
[39] *Reasons for Judgment* at para. 106 (JAR Tab 21, p. 295).
[40] *Reasons for Judgment* at paras. 109-110 (JAR Tab 21, p. 296).
[41] *Reasons for Judgment* at para. 58 (JAR Tab 21, p. 285).
[42] *Reasons for Judgment* at para. 79 (JAR Tab 21, p. 289).
[43] *Reasons for Judgment* at para. 66 (JAR Tab 21, p. 286).
[44] *Reasons for Judgment* at para. 140 (JAR Tab 21, p. 303).

different model."[45] He held that the legislature has the authority to determine how lawyers should be regulated and, while the legislature has historically chosen a self-governance model, that model is not constitutionally mandated as a requirement for maintaining an independent Bar.[46]

24. The Chief Justice examined the provisions in Bill 21 and determined that none of them interfere with independence of the Bar.[47] Although he acknowledged that Bill 21 represented a "dramatic change" in lawyer regulation, the Chief Justice was not satisfied, based on the test he applied, that the new regulatory structure is unconstitutional.[48]

PART 2 - ERRORS IN JUDGMENT

25. The Chief Justice erred by applying the wrong test to determine whether Bill 21 complies with the Constitution. This was an error of law.[49]

26. As a result of this legal error, the Chief Justice incorrectly concluded that Bill 21 is not *ultra vires* the Legislature's authority in ss. 92(13) and (14) of the *Constitution Act, 1867*.

PART 3 – ARGUMENT

A. An independent Bar is part of the structure of Canada's Constitution

27. The Law Society submits that this Court should endorse the Chief Justice's conclusion that the Canadian constitution requires an independent Bar, for the following reasons.

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[45] *Reasons for Judgment* at para. 147 (JAR Tab 21, p. 305).

[46] *Reasons for Judgment* at para. 167 (JAR Tab 21, p. 310).

[47] *Reasons for Judgment* at para. 201 (JAR Tab 21. p. 318).

[48] *Reasons for Judgment* at para. 205 (JAR Tab 21, p. 319).

[49] *Kitsilano Coalition for Children & Family Safety Society v. British Columbia (Attorney General)*, 2024 BCCA 423 at paras. 50-51

28. The existence of an independent Bar is essential to the structural coherence and integrity of the constitution of Canada.

29. Canada's constitution is partly written and partly unwritten.[50] The written Constitution includes the *Constitution Acts 1867-1982*, and the instruments listed in the Schedule to the *Constitution Act, 1982*.[51] The unwritten constitution includes underlying constitutional principles (such as federalism, democracy, the rule of law,[52] and judicial independence[53]) and encompasses the norms necessary for Canada's system of governance to function.[54] The unwritten constitution predates Confederation, continues to operate after Confederation, and forms an essential part of our constitutional structure.[55]

30. The underlying principles that form part of the unwritten constitution are the "'basic principles inherent in a given form of governance' from which concrete rules can be derived 'to make the system work in a coherent fashion.'"[56] They arise from Canada's constitutional history and the text of the Constitution. Underlying principles "inform and sustain the constitutional text: they are the vital unstated assumptions upon which the text

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[50] The Hon. Justice Rowe and Manish Oza, "Structural Analysis and the Canadian Constitution" (2023) 101 Can Bar Rev. 205 [**Rowe and Oza, "Structural Analysis"**] at 206; *Reference re Secession of Quebec*, [1998] 2 SCR 217 at para. 32 (SCC) [*Secession Reference*] (Joint Book of Authorities (**JBOA**) Tab ●, p. ●).

[51] The Constitution Acts, 1867-1982 (BE Tab ●, p. ●).

[52] *Secession Reference* at para. 32 (SCC) (JBOA Tab ●, p. ●).

[53] *Ref re Remuneration of Judges of the Prov. Court of P.E.I.; Ref re Independence and Impartiality of Judges of the Prov. Court of P.E.I.* (1997), [1997] 3 SCR 3 at para. 105 (Nfld & PEIR) [*Judges Reference*] (JBOA Tab ●, p. ●).

[54] Rowe and Oza, "Structural Analysis" at 207 (JBOA Tab ●, p. ●).

[55] Rowe and Oza, "Structural Analysis" at 211 (JBOA Tab ●, p. ●).

[56] Rowe and Oza, "Structural Analysis" at 231 (JBOA Tab ●, p. ●).

is based."[57] By their nature, underlying principles are expressed at a "high level of generality", but more specific rules can be derived from them.[58]

31. Unwritten constitutional principles can "give rise to substantive legal obligations… which constitute substantive limitations upon government action."[59] These legal obligations are identified and elaborated through an interpretive process that discerns (and protects) "the structure of government that [the Constitution] seeks to implement".[60]

32. An independent Bar composed of lawyers who are free of influence by public authorities (or any other source) is a fundamental component of our free society.[61] The principle of independence of the Bar is a fundamental public right that lawyers may provide legal assistance for or on behalf of a client without fear of interference or sanction by the government, subject only to the lawyer's professional responsibilities as prescribed by the Law Society, and the lawyer's general duty as a citizen to obey the law.[62] This principle has a "fundamentally constitutional character"[63] because it is a condition

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[57] *Secession Reference* at para. 49 (SCC) (JBOA Tab ●, p. ●).

[58] Rowe and Oza, "Structural Analysis", at 232 (JBOA Tab ●, p. ●); *Secession Reference* at para. 54 (SCC) (JBOA Tab ●, p. ●).

[59] *Secession Reference* at para. 54 (SCC) (JBOA Tab ●, p. ●).

[60] *Reference re Senate Reform*, 2014 SCC 32 at para. 26 (JBOA Tab ●, p. ●). See also Rowe and Oza, "Structural Analysis" (JBOA Tab ●, p. ●); Kate Glover Berger, "The Structural and Administrative Demands of Unwritten Constitutional Principles" (2019) 65:2 McGill LJ 305 at paras. 311-312 [Glover Berger] (JBOA Tab ●, p. ●).

[61] *Finney v. Barreau du Québec*, 2004 SCC 36 [*Finney*] (JBOA Tab ●, p. ●). See also *A.G. Can. v. Law Society of B.C.*, 1982 CanLII 29 (SCC) at 335-336 (JBOA Tab ●, p. ●); *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32 at para. 37 [*TWU*] (JBOA Tab ●, p. ●).

[62] Greenberg #3, Ex. 56 (JAB Tab ●, p. ●). See also *Federation of Law Societies of Canada v. Canada (Attorney General)*, 2013 BCCA 147 at paras. 105-114 (JBOA Tab ●, p. ●); *Reasons for Judgment* at para. 96 (JAR Tab 21, p. 294).

[63] Greenberg #3, Ex. 69 (JAB Tab ●, p. ●).

precedent to access to the rights and freedoms that are guaranteed in a "free and democratic society".[64]

33. The principle of independence of the Bar is also deeply connected to other foundational unwritten principles: including judicial independence,[65] the rule of law, and access to justice.[66] An independent Bar is essential to maintaining the rule of law and judicial independence: "[w]ithout the dignity, independence and integrity of the Bar, impartial justice and the maintenance of the rule of law are impossible."[67] Together with the rule of law and judicial independence, an independent Bar gives meaning to the rights and freedoms the Constitution protects, and to the values and principles from which the rights and freedoms entrenched in the *Charter* arise.[68]

i. The written text of the Constitution implies the existence of an independent Bar

34. The judicature provisions (ss. 96-101) of the *Constitution Act, 1867*, and the remedial provisions of the *Constitution Act, 1982* (ss. 24 and 52) establish a network of textual provisions that contemplate an independent and impartial court system that has "special and inalienable status",[69] and which includes both an independent judiciary and an independent Bar.

35. An independent Bar is essential to the public's access to independent courts (protected by ss. 96-101 of the *Constitution Act, 1867*) in two ways. First, the public and the judiciary rely on lawyers to present facts and argue the law in accordance with their

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[64] *R. v. Oakes*, [1986] 1 SCR 103 at p. 136 (SCC) (JBOA Tab ●, p. ●).

[65] See, for example, *Judges Reference* (1997) at paras. 83-84 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[66] *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General),* 2014 SCC 59 , 2014 SCC 59 [*TLABC*] (JBOA Tab ●, p. ●).

[67] Roy Millen, The Independence of the Bar: An Unwritten Constitutional Principle, (2005) 84 Can. Bar Rev. 107 at p. 113 [Millen] (JBOA Tab ●, p. ●).

[68] *Millen* (JBOA Tab ●, p. ●). See also Greenberg #3, Ex. 56 (JAB Tab ●, p. ●).

[69] *TLABC* at para. 29 (JBOA Tab ●, p. ●).

duties to clients and the administration of justice so that judges may exercise their jurisdiction to independently resolve disputes and the public may access their legal rights.[70]

36. Second, the members of the judiciary are "selected from the respective Bars" of the provinces, under ss. 97 and 98 of the *Constitution Act, 1867*.[71] These provisions recognize the Bars of each province and territory as basic institutions of our constitutional structure. The reason judges are selected from the Bars of the provinces and territories is that "the Bar" represents a collection of individuals who (in addition to being educated in the law) have a shared commitment to our constitutional democracy, as evidenced, for example, by solemn oaths to uphold the Constitution of Canada, the rule of law, and the administration of justice sworn as a condition of membership in the Bar.[72]

37. Legal regulation legislation enacted by a province under s. 92(13) and (14) of the *Constitution Act, 1867* does not create the Bar; the Bar exists as an institution because the Constitution requires it to exist for our system of governance to function as designed. It is therefore impossible to conceive that a provincial legislature could by ordinary

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[70] *Reasons for Judgment* at para. 92 (JAR Tab 21, p. 293).

[71] *Supreme Court Act, RSC 1985*, c S-26, ss. 5-6 (BE Tab ●); *Reference re Supreme Court Act, ss. 5 and 6*, 2014 SCC 21 (JBOA Tab ●, p. ●).

[72] Greenberg #1, Ex. 17 (JAB Tab ●, p. ●); Affidavit #1 of Alan D. Macleod, K.C., made April 1, 2025, Ex. T (JAB Tab ●, p. ●); Affidavit #3 of Leah Kosokowsky, made April 2, 2025, Ex. F (JAB Tab ●, p. ●); Affidavit #1 of Dwight Gordon Newman, K.C., made March 28, 2025, Ex. EE (JAB Tab ●, p. ●); Affidavit #1 of Peter Kryworuk, made April 2, 2025, Ex. C (JAB Tab ●, p. ●); Affidavit #1 of Michel Jolin, F.A.C.T.L. Ad.E., made April 4, 2025, Ex. I (JAB Tab ●, p. ●); Affidavit #1 of Philip Aaron Bull, made May 16, 2025, Ex. A (JAB Tab ●, p. ●); Affidavit #1 of Marc L. Richard, K.C., made March 27, 2025, Ex. E (JAB Tab ●, p. ●); Affidavit #1 of Joe Thorne, made April 3, 2025, Ex. B (JAB Tab ●, p. ●); Affidavit #1 of Cheryl Hodder, K.C., made March 25, 2025, Ex. E (JAB Tab ●, p. ●); Affidavit #1 of James Travers, K.C., made April 3, 2025, Ex. D (JAB Tab ●, p. ●); Affidavit #1 of Grant Macdonald, K.C., made April 2, 2025, Ex. D (JAB Tab ●, p. ●); Affidavit #1 of Jessica Copple, made March 24, 2025, Ex. A (JAB Tab ●, p. ●); Affidavit #1 of Nalini Vaddapalli, made March 31, 2025, Ex. B (JAB Tab ●, p. ●); *Wirring v Law Society of Alberta*, 2023 ABKB 580 (JBOA Tab ●, p. ●).

legislation abolish the Bar.[73] While it is certainly appropriate for the Legislature to make laws in relation to the regulation of lawyers, it must do so in a manner that complies with the system of government contemplated by the Constitution.

38. The existence of an independent Bar is also assumed by the *Charter*, which gives rise to more specific rules arising from the freedoms and guarantees in that part of the Constitution, including under:

a. s. 7, which gives rise to a right to state-funded counsel in certain circumstances.[74] The lawyer's duty of commitment to the client's cause[75] and the right of effective assistance of counsel[76] are principles of fundamental justice which can limit the exercise of state power;

b. s. 10(b), which guarantees a detainee the right to an opportunity to obtain legal advice (and the right to be advised of that right), including in support of the right under s. 7 to remain silent in the face of interrogation;[77] and

c. s. 11(d), which guarantees the right to a fair and public hearing by an independent and impartial tribunal when charged with an offence.[78]

39. The judicature provisions and the *Charter* imply not just the existence of a Bar, but of an independent Bar. Public confidence in the administration of justice (e.g. in the effectiveness of the courts and the independence of the judiciary, and in the meaning of

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[73] *Reasons for Judgment* at paras. 90, 137 (JAR Tab 21, pp. 292, 302).

[74] *New Brunswick (Minister of Health and Community Services) v. G. (J.)*, 1999 CanLII 653 (SCC), [1999] 3 SCR 46 (JBOA Tab ●, p. ●).

[75] *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7 [*FLSC*] (JBOA Tab ●, p. ●).

[76] *Millen* at 115 (JBOA Tab ●, p. ●).

[77] *R v Sinclair*, 2010 SCC 35, [2010] 2 SCR 310 at paras 24, 32 (JBOA Tab ●, p. ●); *R. v. Manninen*, [1987] 1 SCR 1233 at pp. 1242-1243 (JBOA Tab ●, p. ●).

[78] *Valente v. The Queen*, [1985] 2 SCR 673 [*Valente*] (JBOA Tab ●, p. ●); *R. v. Kahsai*, 2023 SCC 20 (JBOA Tab ●, p. ●).

the specific rights enshrined in the *Charter*) depends on both the perception and the reality that lawyers may provide legal assistance for or on behalf of a client without fear of interference or sanction by the government or other outside influence.

40. A province's power to legislate under ss. 92(13) or 92(14) is not unlimited: "[u]nder the rule of law, all public powers must be legal, and all legal powers have limits."[79] The exercise of that power is constrained by and must be consistent with the other provisions of the Constitution,[80] interpreted purposively and as a coherent whole,[81] by reference to the written text, informed by unwritten principles.[82]

ii. Independence of the Bar has both individual and institutional dimensions

41. The Chief Justice agreed that the principle of independence of the Bar has both individual and institutional dimensions. But, as further set out below, the test he applied to Bill 21 did not properly accommodate that institutional dimension. The basis for the appropriate articulation of institutional independence is set out below.

42. Individual independence refers to the performance of lawyers' duties in their individual client mandates. Institutional independence relates to the status of the Bar as an institution that maintains the conditions in which the public can access a trustworthy and competent lawyer.[83] These dual dimensions of independence of the Bar arise from the dual private and public nature of lawyers' duties. As the Chief Justice held, "[t]he need for institutional independence acknowledges the fact that in addition to the duties

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[79] *Democracy Watch v. Canada (Attorney General)*, 2026 SCC 28 at para. 1 [*Democracy Watch*], (JBOA Tab ●, p. ●).

[80] *Conférence des juges de paix magistrats du Québec v. Quebec (Attorney General)*, 2016 SCC 39 at para. 39 [*Conference des juges*] (JBOA Tab ●, p. ●).

[81] Rowe and Oza, "Structural Analysis" at 218 (JBOA Tab ●, p. ●).

[82] *Toronto (City) v. Ontario (Attorney General)*, 2021 SCC 34 at para. 55 [*Toronto City*] (JBOA Tab ●, p. ●).

[83] *Mackin v. New Brunswick (Minister of Finance); Rice v. New Brunswick*, 2002 SCC 13 at para. 39 [*Mackin*] (JBOA Tab ●, p. ●).

owed to clients, lawyers owe broader duties to the courts and to the administration of justice more generally."[84]

43. Lawyers are the "guardians of our legal system and the rule of law."[85] A lawyer is a "minister of justice, an officer of the courts, a client's advocate and a member of an ancient, honourable and learned profession."[86] These sometime competing duties have both a private or individual quality in the provision of legal advice and services within a particular client mandate, and a public or institutional quality in support of public confidence in the administration of justice:

a. A lawyer owes a fiduciary duty to a client, from which springs the duty of loyalty and its sub-duties of commitment to the client's cause (which includes the duty of resolute advocacy[87]) and the duty to avoid conflicting interests.[88] The fiduciary relationship that grounds all of these specific duties serves the private purpose of ensuring a lawyer acts in the best interests of their client, and it serves the public purpose of ensuring public confidence in the administration of justice.[89]

b. Lawyers also owe duties of candour, fairness, integrity, and respect to the court, as officers of the court and ministers of justice. A lawyers' duty to the

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[84] *Reasons for Judgment* at para. 109 (JAR Tab 21, p. 296).

[85] The Right Hon. Beverley McLachlin, P.C., Chief Justice of Canada, "Professional Independence and the Rule of Law" (2007) 23 W.R.L.S.I. 3, at p. 5 (JBOA Tab ●, p. ●).

[86] Greenberg #3, Ex. 44, c. 2.1 (JBOA Tab ●, p. ●). See also *Fortin v. Chrétien,* , 2001 SCC 45 at paras. 49-53 (JBOA Tab ●, p. ●).

[87] *Groia v. Law Society of Upper Canada*, 2018 SCC 27 at para. 72 [*Groia*] (JBOA Tab ●, p. ●).

[88] See, for example, *R. v. Neil*, 2002 SCC 70 at para. 19 [*Neil*] (JBOA Tab ●, p. ●); *Canadian National Railway Co v McKercher LLP*, 2013 SCC 39, [2013] 2 SCR 649 at paras. 19-47 (JBOA Tab ●, p. ●); *FLSC* SCC at para. 99 (JBOA Tab ●, p. ●).

[89] See, for example, *Neil* at para. 24, citing D. W. M. Waters, M. R. Gillen and L. D. Smith, eds., *Waters' Law of Trusts in Canada* (4th ed. 2012), at p. 968 (JBOA Tab ● , p. ●); *FLSC* at para. 96 (JBOA Tab ●, p. ●); *Groia* at para. 73 (JBOA Tab ●, p. ●);

court is "time-tested and vital to the legal profession's role in the administration of justice."[90] As the Chief Justice put it, "the courts can only function by having lawyers present evidence and arguments in accordance with their duties owed to their clients and to the administration of justice more generally."[91]

c. Lawyers have a duty to encourage public respect for and try to improve the administration of justice.[92] This obligation is "not restricted to the lawyer's professional activities but is a general responsibility resulting from the lawyer's position in the community."[93] By training, opportunity, and experience, lawyers are in a position to observe the workings and discover the strengths and weaknesses of laws, legal institutions and public authorities, and must act accordingly.

44. The institutional dimension of independence recognizes that the Bar "participates along with other institutions in shaping the life" of our shared community.[94] Lawyers are not only individual actors within our legal system, but also part of a functioning collective that is essential to the administration of justice.[95]

45. Institutional independence requires the court to consider the relationship of the Bar to external actors, such as the executive and legislative branches of government. As the Chief Justice concluded, institutional independence means that "lawyers cannot be said

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Alice Woolley, Richard Devlin, Brent Cotter, & John M. Law, Lawyers' Ethics and Professional Regulation, 4th ed. (Markham: LexisNexis Canada Inc., 2021), c. 3.1 (JBOA Tab ●, p. ●).

[90] *May v. Law Society of British Columbia*, 2023 BCCA 218 at paras. 4-10 (JBOA Tab ● , p. ●).

[91] *Reasons for Judgment* at para. 92 (JAR Tab 21, p. 293).

[92] Greenberg #3, Ex. 44, c. 5.6 (JAB Tab ●, p. ●).

[93] Greenberg #3, Ex. 44, c. 5.6-1 (JAB Tab ●, p. ●).

[94] *The Queen v. Beauregard*, [1986] 2 SCR 56 at pp. 69-70 (DLR) [*Beauregard*] (JBOA Tab ●, p. ●).

[95] *Andrews v. Law Society of British Columbia*, [1989] 1 SCR 143 at pp. 187-188 (JBOA Tab ●, p. ●); *Beauregard* at p. 24 (DLR) (JBOA Tab ●, p. ●).

to be truly independent if they are subject to regulation by a body which is itself controlled, or unduly influenced, by outside forces, particularly those exerted by the state".[96]

B. The Chief Justice applied the wrong test to assess Bill 21's constitutionality

46. The test applied to the Law Society's central *vires* argument is set out at paragraph 110 of the Reasons for Judgment:

> [110] Accordingly, the determination of the plaintiffs' *vires* arguments turns on whether Bill 21 violates this concept of an independent Bar, by interfering with or unduly influencing the duties owed by lawyers, both to their clients and to the administration of justice more broadly, either through its direct application to lawyers and their clients or by way of the regulatory structure it creates.

47. The central flaw in this test is that it does not properly take account of the institutional dimension of the principle of independence of the Bar. Instead, the Chief Justice asks whether the provisions of Bill 21 (read in the four corners of the statute, without reference to their history and context) interfere with the *individual* independence of lawyers (i.e. the lawyers' duties and functions) directly or through the regulator.

48. Protection of the institutional dimension of independence of the Bar requires more than this functional analysis. Protection of the Bar as an institution also requires consideration of public perception of the independence of the Bar.[97]

49. The correct test is whether a reasonable person informed of the relevant statutory provisions, their historical background and the traditions surrounding them, after viewing the matter realistically and practically would conclude that Bill 21 maintains an

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[96] *Reasons for Judgment* at para. 108 (JAR Tab 21, p. 296).

[97] *FLSC* at para. 97 (JBOA Tab ●, p. ●); *Judges Reference* (1997) at para. 112 (Nfld & PEIR) (JBOA Tab ●, p. ●).

independent Bar.[98] The application of this test requires the Court to identify the legal guarantees that ensure a reasonable perception of independence.[99]

i. *The characteristics of an independent Bar*

50. By implication, the Chief Justice accepted that certain characteristics define the relationship of an independent Bar to other entities: "[i]ndependence of the Bar is a fundamental public right that lawyers may provide legal assistance for or on behalf of a client without fear of interference or sanction by the government, subject only to the lawyer's professional responsibilities as prescribed by the Law Society, and the lawyer's general duty as a citizen to obey the law."[100] But because he did not apply the correct test, the Chief Justice did not further articulate those characteristics, or how they maintain the reality and the perception of an independent Bar.

51. The SCC's jurisprudence on the principle of judicial independence (which is inextricably tied to independence of the Bar[101]) illustrates the need to identify characteristics that create a relationship of independence. The SCC identified the unwritten constitutional principle of judicial independence through "the reading together of s. 11(d) of the *Charter*, and the preamble and ss. 96 to 100 of the *Constitution Act*, *1867*."[102] And the Court held that this principle protects all courts, not just the

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[98] *Judges Reference* (1997) at para. 113 (Nfld & PEIR) (JBOA Tab ●, p. ●). See also *Mackin* at para. 38 (JBOA Tab ●, p. ●); *Ell v. Alberta*, 2003 SCC 35 at para. 32 [*Ell*] (JBOA Tab ●, p. ●); *Conference des juges* at para. 33 (JBOA Tab ●, p. ●); *R. v. Edwards*, 2024 SCC 15 at paras. 84-85 [*Edwards*] (JBOA Tab ●, p. ●); *Glover Berger* at paras. 329-330 (JBOA Tab ●, p. ●).

[99] *Valente* at p. 685 (JBOA Tab ●, p. ●). See also *Beauregard* at p. 73 (DLR) (JBOA Tab ●, p. ●); *Judges Reference* (1997) at paras. 111-112, 123-130 (Nfld & PEIR) (JBOA Tab ●, p. ●); *Mackin* at paras. 37-40 (JBOA Tab ●, p. ●); *Ell* at para. 28 (JBOA Tab ●, p. ●); *Conference des juges* at para. 33 (JBOA Tab ●, p. ●); *Edwards* at paras. 84-85 (JBOA Tab ●, p. ●); *FLSC* at para. 97 (JBOA Tab ●, p. ●); *Glover Berger* at paras. 329-330 (JBOA Tab ●, p. ●).

[100] *Reasons for Judgment* at para. 96 (JAR Tab 21, p. 294).

[101] *Reasons for Judgment* at para. 92 (JAR Tab 21, p. 293).

[102] *Toronto City* at para. 64 (JBOA Tab ●, p. ●), citing *Judges Reference* (1997) at para. 124 (Nfld & PEIR) (JBOA Tab ●, p. ●). See also *Judges Reference* (1997) at paras.

superior courts identified in s. 96, in recognition of the "central place that courts hold within the Canadian system of government" and to give effect to the "constitutional imperative" of preserving the "basic structure of our Constitution.[103] The result of the Court's structural analysis is that "the jurisdiction of the provinces over 'courts', as that term is used in s. 92(14) of the *Constitution Act, 1867*, contains within it an implied limitation that the independence of those courts cannot be undermined."[104]

52. The SCC articulated three characteristics of judicial independence that are necessary to ensure the reasonable perception of independence as a matter of preserving and upholding the Constitution: security of tenure;[105] financial security (which mandates an independent, effective, and objective judicial remuneration process, depoliticizes salary negotiations, and requires that judicial salaries not fall below a minimum level necessary to protect the judiciary from economic manipulation);[106] and administrative independence, which requires judicial control over the administrative decisions that bear directly and immediately on the exercise of the judicial function.[107]

53. These essential conditions are specific to the constitutional role of the judiciary and serve as constitutional guardrails (or minimum standards) for government action in respect of the judiciary. The SCC has held that each of these conditions must be "institutionalized through appropriate legal mechanisms"[108] though the exact details of the

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83, 108 (Nfld & PEIR) (JBOA Tab ●, p. ●); *Beauregard* at pp. 70-74 (DLR) (JBOA Tab ●, p. ●).

[103] *Judges Reference* (1997) at para. 108 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[104] *Judges Reference* (1997) at para. 108 (Nfld & PEIR) (JBOA Tab ●, p. ●). See also Rowe and Oza, "Structural Analysis" at paras. 218-219 (JBOA Tab ●, p. ●).

[105] See *Valente* at p. 698 (JBOA Tab ●, p. ●). See also *Ell* at paras. 32-37 (JBOA Tab ● , p. ●).

[106] See *Judges Reference* (1997) at paras. 131-137 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[107] See *Valente* at pp. 711-712 (JBOA Tab ●, p. ●); see also *Edwards* at paras. 116-117 (JBOA Tab ●, p. ●); Greenberg #3, Ex. 60 (JAB Tab ●, p. ●). See also Canadian Judicial Council, "Why Judicial Independence Matters" (2026) (JBOA Tab ●, p. ●).

[108] *Mackin* at para. 40 (JBOA Tab ●, p. ●).

institutional design need not be specified, leaving room for policy discretion within constitutional limits.[109] In this way, unwritten constitutional principles give rise to concrete legal rules that constrain government action in order to preserve our basic constitutional structure, while accommodating the variability and evolution that is central to the Canadian legal context.

ii. *Two essential characteristics of independence of the Bar are self-governance and self-regulation*

54. The systems and structures that best ensure the Bar's independent status, "thereby assuring the public of lawyers' independence and freedom from conflicts with the state" [110] include (i) self-regulation and (ii) self-governance. Self-regulation as a characteristic of independence of the Bar refers to the Bar's ability to set and enforce standards (i.e. through the Rules or the *Code*) that apply to the admission, practice of law, competence and discipline of lawyers in the province. Self-governance as a characteristic of independence of the Bar refers to a collective governance structure through which lawyers maintain and advance the rules and programs necessary to uphold the public's access to trustworthy and competent lawyers.

55. Without self-governance and self-regulation, it is open to the government or other interests to dictate the individuals or groups that may regulate lawyers (or the government or outside groups may regulate them directly), the manner in which lawyers are regulated, and ultimately the manner in which lawyers carry out their duties to clients, courts, and the administration of justice. When that occurs, the public is not assured of access to independent courts facilitated by an independent Bar. It follows then that self-governance

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[109] See, for example, *Valente* at pp. 692-694 (JBOA Tab ●, p. ●); *R. v. Généreux*, [1992] 1 SCR 259 at paras. 284-285 (JBOA Tab ●, p. ●); *Judges Reference* (1997) at paras. 167, 185 (Nfld & PEIR) (JBOA Tab ●, p. ●); *Therrien (Re), 2001 SCC 35 (CanLII)*, 2001 SCC 35 at paras. 65-71 (JBOA Tab ●, p. ●); *Ell* at paras. 30-32 (JBOA Tab ●, p. ●); *Conference des juges* at paras. 33, 39, 50, 55 (JBOA Tab ●, p. ●); *Glover Berger* at paras. 120, 130 (JBOA Tab ●, p. ●).

[110] Greenberg #1, para. 69, Ex. 20 (JAB Tab ●, pp. ●); Greenberg #3, Ex. 56 (JAB Tab ●, p. ●).

and self-regulation are essential characteristics of independence of the Bar, without which it cannot exist.

56. Identifying the characteristics of independence of the Bar as self-governance and self-regulation does not imply that any particular *mode* of self-governance (such as electoral self-governance) is constitutionally required in all circumstances, just as identifying financial security as a characteristic of judicial independence does not set a constitutionally-required salary. These characteristics do not dictate a "particular legislative or constitutional formula"[111] or entrench a "particular institutional framework in constitutional stone," [112] and there is "scope for local choice."[113] The provincial and territorial schemes for legal regulation may reflect the diversity in legal context across Canada. As set out below, the tradition of self-governance that has developed in British Columbia is governance by a strong majority of elected Benchers.[114] Considering that tradition in the context of Bill 21's elimination of electoral self-governance is central to a proper understanding of whether the independence of the Bar in British Columbia is compromised by Bill 21.

57. Identifying self-governance and self-regulation as characteristics of an independent Bar as also does not imply that lawyers are not subject to other means of regulation. Legislatures, the judiciary, and the public all play important roles in modern legal regulation.[115] However, in order to main the status of the Bar as an independent institution, these other sources of regulation must be optimally balanced to enhance, rather than erode, the public's access to independent legal advice, the public's access to

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[111] *Valente* at p. 675 (JBOA Tab ●, p. ●).

[112] *Judges Reference* (1997) at para. 185 (Nfld & PEIR)(JBOA Tab ●, p. ●).

[113] *Judges Reference* (1997) at para. 167 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[114] Greenberg #3, Exs. 3, 9, 12-17, 37 (JAB Tab ●, pp. ●).

[115] Amy Salzyn, "The Judicial Regulation of Lawyers in Canada" (2014) 37:2 Dal LJ 481 (JBOA Tab ●, p. ●).

independent courts, and the rule of law.[116] Self-governance and self-regulation ensure this essential balance.

iii. *Self-governance and self-regulation are not indulgences to be dispensed by the state*

58. Rather than considering the objective effect on an independent Bar if its essential characteristics of self-governance and self-regulation are revoked unilaterally by government, the Chief Justice considered whether there was authority for the proposition that *electoral* self-governance is a constitutional requirement.[117] Relying on *Jabour*, he found that it was not.[118]

59. *Jabour* cannot stand for the proposition that the government may eliminate self-governance and self-regulation by ordinary legislation, which is subordinate to the supreme law of Canada in the Constitution. *Jabour* did not involve reform to governance structure of the legal profession, which requires a holistic assessment of the changes to the conditions that impact the constitutional principle (independence of the Bar).[119] By the Chief Justice's own reasoning, the constitutional landscape should be understood differently than at the time of *Jabour*.[120] And in any event the specific question of institutional design in constitutional context was considered open by the SCC in *FLSC*,[121] not determined by *Jabour*.

60. Similarly, *Pearlman* did not decide that self-governance is a policy choice that can be revoked by the Legislature at its will. *Pearlman* endorsed the "particular importance

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[116] Law Society of Upper Canada, "Protecting the Public through an Independent Bar: The Task Force Report", in In the Public Interest: The Report and Research Papers of the Law Society of Upper Canada's Task Force on the Rule of Law and the Independence of the Bar (Toronto: Irwin Law, 2007) at pp. 8-9 (JBOA Tab ●, p. ●).

[117] *Reasons for Judgment* at para. 140 (JAR Tab 21, p. 303).

[118] *Reasons for Judgment* at para. 158 (JAR Tab 21, p. 309).

[119] *Conference des juges* at paras. 36, 70 (JBOA Tab ●, p. ●).

[120] *Reasons for Judgment* at para. 95 (JAR Tab 21, p. 293).

[121] *FLSC* at para. 86 (emphasis added) (JBOA Tab ●, p. ●).

of an autonomous legal profession to a free and democratic society",[122] and connected the self-governing status of the profession to the public interest. The SCC recognized that the Manitoba Law Society *is* self-governing,[123] not that it is a valid exercise of the legislature's authority to impose a new structure on a law society.

61. Self-regulation is a privilege and a duty; it is not an indulgence to be dispensed by the state. If the concepts of self-governance and self-regulation – not just their modes – are "policy choices", as the Attorney General contends, then independence of the Bar and the rights it protects are meaningless.[124]

C. Bill 21 does not maintain an independent Bar

62. The correct analysis is the examination of Bill 21 holistically, considering the independent Bar as part of our basic constitutional structure, and the context in which Bill 21 is enacted. The correct question is whether Bill 21, which eliminates the Law Society and removes the Benchers from office, and creates a new and different regulatory regime in which lawyers, including elected lawyers, have a more limited role in their governance, interferes with the essential characteristics of self-governance and self-regulation and thereby violates the principle of an independent Bar.

i. Evidence of the history and context of legal regulation and of Bill 21 is legally relevant to a constitutional analysis

63. The Court's conclusion that the government's "significant departure" from established practice in the enactment of Bill 21 was a "political issue", not a legal issue, and that the history or context of legal regulation in British Columbia is irrelevant to the Court's constitutional analysis, is an error of law. The history and context of the enactment of legislation is legally relevant in a constitutional analysis if it affects the

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[122] *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 SCR 869 at p. 887 [*Pearlman*] (JBOA Tab ●, p. ●).

[123] *Pearlman* at p. 888 (JBOA Tab ●, p. ●).

[124] Greenberg #1, Ex. 22 (JAB Tab ●, p. ●).

government's compliance with the constitutional principle at issue,[125] and is essential to understanding the effect of legal reform.[126] An understanding of the historical background and traditions surrounding the impugned provisions is central to the objective test that must be applied to questions of interference with independence.[127]

An abbreviated history of legal regulation in BC

64. The first provision for a court of record and for the practice of law in the colonies that became British Columbia was made by order-in-council proclaimed by Queen Victoria on April 4, 1856.[128] This order represents the origin of the justice system in British Columbia, directly imports the principles of the Westminster system into British Columbia, and confirms the fundamental connection between lawyers and the courts within that system.

65. The first *Legal Professions Act* was enacted in the Colony of British Columbia (and extended to the Colony of Vancouver's Island) in 1863.[129] In 1869, thirteen members of the Bar formed a self-governing association to be known as the Law Society of British Columbia. That Society was formally incorporated by the *Legal Professions Act, 1874*,[130] and re-established by the *Legal Professions Act 1884*.[131] These Acts both provided for a self-governing structure composed of elected Benchers with the power to enact rules to govern the members of the Society. This basic structure of electoral self-governance and self-regulation was maintained in each iteration of the enabling legislation for 150 years

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[125] *British Columbia Teachers' Federation v. British Columbia*, 2015 BCCA 184 at paras. 283-303, Donald JA, (dissenting) (JBOA Tab ●, p. ●); appeal allowed, *British Columbia Teachers' Federation v. British Columbia*, 2016 SCC 49 (JBOA Tab ●, p. ●); *Mikisew Cree First Nation v. Canada (Governor General in Council)*, 2018 SCC 40 at para. 48 (JBOA Tab ●, p. ●).

[126] *Mackin* at paras. 65-67 (JBOA Tab ●, p. ●).

[127] *Judges Reference* (1997) at para. 113 (Nfld & PEIR) (JBOA Tab ●, p. ●).

[128] Greenberg #3, Ex. 3 (JAB Tab ●, p. ●).

[129] Greenberg #3, Ex. 5 (JAB Tab ●, p. ●).

[130] Greenberg #3, Ex. 12 (JAB Tab ●, p. ●).

[131] Greenberg #3, Ex. 16 (JAB Tab ●, p. ●).

until the enactment of Bill 21 in 2024,[132] and has evolved to mean the election of 25 Benchers from nine geographical regions, together with six appointed lay Benchers.

66. Further, at past major reiterations of the enabling legislation in 1987 and 1998, the Benchers worked to develop consensus among the Bar about the principles and provisions of the governing legislation, with the Legislature's encouragement and at its request.[133]

67. The history and tradition of electoral self-governance and self-regulation of lawyers, founded on careful negotiation and collaboration between the Bar and the executive in British Columbia, is how the independent status of the Bar is maintained in British Columbia, and how that status is communicated to the public. This history and context provides the baseline against which the reforms the government seeks to introduce through Bill 21 must be considered. The Chief Justice ought to have considered the evidence of the unilateral enactment of Bill 21 in stark contrast to the history and tradition of legal regulation in the province as evidence that informs the objective inquiry of whether Bill 21 is *ultra vires* the Constitution.

ii. Bill 21 violates the independence of the Bar and is therefore ultra vires the Legislature

68. By ss. 5 and 230 of Bill 21, when brought into force, the Law Society is eliminated as the body through which the independent Bar governs itself. The Benchers – elected by lawyers to carry out the regulatory task in concert with lay Benchers – are dismissed from office.[134] The Rules and the *Code*, carefully crafted by the Bar over more than 150 years, and which guide and inform lawyers individually and collectively, are not continued. The legislation was drafted by the executive and enacted by the legislature over the public opposition of the Bar, including as expressed by the Benchers[135] and numerous

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[132] Greenberg #3, Exs. 3, 9, 12-17, 37 (JAB Tab ●, pp. ●).

[133] Greenberg #3, Exs. 19-22, 24, 27, 30-31, 34-35 (JAB Tab ●, pp. ●).

[134] Bill 21, s. 230(1) (BE Tab ●, p. ●).

[135] Greenberg #1, Ex. 38 (JAB Tab ●, p. ●).

significant lawyer associations.[136] There has not been a more stark interference with the governance of the Bar in the history of Canada. The enactment of Bill 21 in this context objectively interferes with the self-governance and self-regulation of lawyers, and so does not maintain the independent Bar.

69. There is no reason for the elimination of the Law Society or electoral self-governance of lawyers in British Columbia.[137] There is no evidence that the Law Society has governed lawyers in a manner that is contrary to the public interest.[138] In the debate over Bill 21, the Attorney General told the Legislative Assembly that "[t]here's no doubt that I have that the benches [*sic*] and the members of the Law Society act honourably, and they do their best to protect the public interest."[139] The absence of any justification for the wholesale replacement of electoral self-governance of lawyers in British Columbia suggests the interference is arbitrary and not consistent with maintenance of independence of the Bar.

70. The regulatory structure created by Bill 21, in reality and in perception, vests control over the role and conduct of lawyers in outside parties:

a. ss. 6 (Duties of Regulator) and 8 (Board of Directors): The members of the Bar will not have control over the body responsible for regulating the practice of law and establishing standards and programs for the education, training, competence, practice and conduct of lawyers and law firms (section 6(1)). Once the transition is complete,[140] the Bar will be governed by a board consisting of 17 directors, only five of whom will be elected by lawyers – 29% of the board, compared with 78% under the existing *LPA* and Rules.[141] The five

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[136] Greenberg #1, Ex. 44 (JAB Tab ●, p. ●).

[137] *Reasons for Judgment* at para. 79 (JAR Tab 21, p. 289).

[138] *Reasons for Judgment* at para. 145 (JAR Tab 21, p. 304).

[139] Affidavit #1 of Patti Lewis made May 24, 2024, Ex. G (JAB Tab ●, p. ●).

[140] Bill 21, s. 230(4)-(6) (BE Tab ●, p. ●).

[141] Armitage XFD (JAB Tab ●, p. ●, q. 348).

elected lawyers do not determine the additional four lawyers who must be appointed as directors, with the result that Bill 21's provision for a board with a minimum of nine out of 17 lawyers does not enable electoral self-governance. Lawyers can never form a majority of the executive committee of the regulator, and the government's appointment to the Board is ensured a seat on the executive committee.[142] As a result, Bill 21 does not include a key mechanism for ensuring institutional independence,[143] which is significant generally and as a departure from the history of legal regulation in this province.[144]

b. s. 7 (Guiding Principles): The Board must govern the Bar with regard to governing principles chosen by the government, rather than the Bar. These guiding principles include a direction to support "the implementation of the United Nations Declaration on the Rights of Indigenous Peoples", an international instrument that is currently only partially implemented in this province[145] and the implementation of which is the subject of extensive and divisive public debate. Governance of the Bar, and individual lawyers, has always been subject to the law; the introduction of "guiding principles" is intended to direct the Board in its consideration of the law, and therefore encroaches on self-regulation.

c. ss. 26 (Rules – consultation) and 226 (Transition – first rules): The first rules of the new regulator, which govern admission, practice of law, competence and discipline "may not be made unless they are first approved…by the transitional Indigenous council" (s. 226), and the Indigenous council also holds more

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[142] Bill 21, s. 10 (BE Tab ●, p. ●).

[143] See, for example, *TWU* at paras. 37-38 (JBOA Tab ●, p. ●); *Finney* at para. 1 (JBOA Tab ●, p. ●).

[144] *Reasons for Judgment* at para. 140 (JAR Tab 21, p. 303).

[145] *Gitxaala v. British Columbia (Chief Gold Commissioner)*, 2025 BCCA 430 at para. 145 (JBOA Tab ●, p. ●).

specific rule approval powers set out in s. 30.[146] The transitional bodies are also co-developing the professional code of conduct,[147] which is now made binding on lawyers by Bill 21. The Chief Justice concluded that rule-approval power does not undermine independence because it "does not equate to rule-making authority".[148] However, there can be no dispute that s. 226 gives an entity external to the Bar significant influence over all rules governing lawyers, in process and substance, and as a matter of fact and perception. The Chief Justice's conclusion fails to appreciate the impact of this external influence on institutional independence, and it is inconsistent with his acknowledgement that "lawyers cannot be said to be truly independent if they are subject to regulation by a body which is itself controlled, or unduly influenced, by outside forces."[149]

d. Section 211 (General regulation-making authority): This provision gives Cabinet the power to "make regulations respecting any matter for which regulations are contemplated by this Act" (section 211(1)). The Chief Justice concluded that this power only applies where Bill 21 expressly provides for Cabinet regulations.[150] With respect, this interpretation disregards section 211(2), which states that "the authority to make regulations under another provision of this Act does not limit subsection (1)". Thus, the authority granted by section 211(1) is distinct from and not limited by the express grants of authority elsewhere in the statute. It is a vague power that creates the potential, and the perception, of Cabinet regulation of lawyers.

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[146] Bill 21, ss. 26 and 226 (BE Tab ●, p. ●).

[147] See, for example, Affidavit #1 of Lindy Grant filed September 24, 2025, Ex. A (JAB Tab ●, p. ●).

[148] *Reasons for Judgment* at para. 190 (JAR Tab 21, p. 315).

[149] *Reasons for Judgment* at para. 108 (JAR Tab 21, p. 296).

[150] *Reasons for Judgment* at para. 198 (JAR Tab 21, p. 317).

e. Part 6: Bill 21 prescribes and proscribes certain conduct[151] by lawyers that has long been the subject of careful protection by the Benchers through the Rules and the *Code*.

71. It is not possible to read constitutionally compliant meaning into these provisions. Bill 21 is based on a concept of "lawyer independence" that does not recognize the institutional dimension of independence of the Bar, and it is fundamentally incompatible with the Constitution.[152]

72. The Law Society does not suggest that a legislature can never make changes to a legal regulation statute under s. 92(13) or (14) of the *Constitution Act, 1867*, or even introduce reforms. Modernization of legal regulation has been and will continue to be the subject of legislation. But those reforms will always be subject to constitutional guardrails required to maintain the independence of the Bar. Bill 21 fails that test.

PART 4 - NATURE OF ORDER SOUGHT

73. The appellant seeks an order that the appeal be allowed, and seeks the following declarations:

a. Bill 21, save and except sections 311-314, or alternatively that Parts 1-6, 15, 17 and 18 (excepting ss. 311-314) of Bill 21 are *ultra vires* provincial authority to legislate under ss. 92(13) and 92(14) of the *Constitution Act, 1867*, and are therefore of no force or effect.

74. The appellant seeks an order for costs of this proceeding in favour of the Law Society, or alternatively, if the appeal is not allowed, that the parties bear their own costs.

All of which is respectfully submitted.

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[151] Bill 21, Part 6 (BE Tab ●, p. ●).

[152] *Democracy Watch* at para. 83 (JBOA Tab ●, p. ●).

Dated at the City of Vancouver, Province of British Columbia, August 5, 2026.

Craig A.B. Ferris, K.C., Laura L. Bevan,
Jonathan Andrews, Nicole Welsh

Counsel for the Appellant
Law Society of British Columbia

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Appendix “B”

COURT OF APPEAL FILE NO. CA51535
Trial Lawyers Association of British Columbia v. Attorney General of British Columbia
APPELLANTS' FACTUM

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on April 29, 2026.

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

APPELLANTS
(PLAINTIFFS)

AND:

The Attorney General of British Columbia and the Lieutenant Governor in Council

RESPONDENTS
(DEFENDANTS)

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CHRONOLOGY

Date	Event	Reference
March 1, 2022	The Attorney General announces the Province's intention to combine the regulation of lawyers, notaries public, and licensed paralegals under a single regulator.	Joint Appeal Book, p. [●] ("**JAB**"), Affidavit #1 of Brook Greenberg, K.C., made May 24, 2024 (LSBC Action), at paras. 33, 76 ("**Greenberg #1**"), Ex. 23.
September 14, 2022	The Attorney General releases an "Intentions Paper on Legal Professions Regulatory Modernization", in which it outlines its plans to "modernize the regulatory framework for legal service providers in British Columbia to help make it easier for the public to access legal services and advice".	JAB, p. [●], Greenberg #1 at para. 77, Ex. 24.
November 2022	The Law Society of British Columbia ("**LSBC**") issues a response to the announcement of Bill 21, the *Legal Professions Act*, S.B.C. 2024, c. 26 ("**Bill 21**") and the Intentions Paper, expressing concern that the proposed model did not directly disclose an intention to protect the institutional dimension of the independence of the Bar.	JAB, p. [●], Greenberg #1 at para. 78, Ex. 25.
January 2024	The Federation of Law Societies of Canada writes to the Attorney General seeking an opportunity to review and comment on the draft legislation that would become Bill 21. The Attorney General ignores the request.	JAB, p. [●], Greenberg #1 at para. 82, Ex. 32.
March 2024	The Attorney General releases an update on the proposed legislation. The LSBC responds again, encouraging the	JAB, p. [●], Greenberg #1 at

Date	Event	Reference
	government to recognize and address its concerns that the legislation did not adequately protect the independence of the Bar. The Trial Lawyers Association of British Columbia ("**TLABC**") and other bar associations throughout the province similarly call on the Attorney General to consult with lawyers and the public. The government refuses.	paras. 83–84, Exs. 33–34.
April 10, 2024	Bill 21 is introduced in the Legislature, marking the first time the text of Bill 21 was made publicly available.	JAB, p. [•], Greenberg #1 at para. 85.
April 10, 2024	TLABC issues a statement stating that Bill 21 constitutes an assault on the principle of lawyer independence and an enormous departure from the norms governing legal regulation in liberal, democratic societies.	JAB, p. [•], Affidavit #1 of Kevin Gourlay, made May 27, 2024 (TLABC Action), at para. 27 ("**Gourlay #1**"), Ex. B.
May 15, 2024	The Province moves to close the debate on Bill 21, and Bill 21 receives third reading.	JAB, p. [•], Greenberg #1 at paras. 93–94.
May 16, 2024	Bill 21 receives Royal Assent.	JAB, p. [•], Greenberg #1 at para. 94.
May 17, 2024	LSBC files a constitutional challenge to Bill 21.	Joint Appeal Record, p. 1 ("**JAR**"), Notice of Civil Claim (LSBC Action), dated May 17, 2024.
May 21, 2024	TLABC files a constitutional challenge to Bill 21.	JAR, p. 32, Second Amended Notice of Civil Claim (TLABC Action), dated

Date	Event	Reference
		December 19, 2024.
June 17–19, 2024	Hearing of TLABC and LSBC's applications for injunctive relief before the Honourable Justice Gropper.	JAB, p. [•], *Law Society of British Columbia v. British Columbia*, 2024 BCSC 1292 ("**Injunction Reasons**").
July 17, 2024	Justice Gropper dismisses LSBC and TLABC's applications for injunctive relief.	JAB, p. [•], Injunction Reasons at para. 6.
October 14–17, 20–24, 27–28, 2025	Hearing of the summary trial of TLABC and LSBC's constitutional challenge to Bill 21 before the Honourable Chief Justice Skolrood.	JAR, p. 265, Reasons of Chief Justice Skolrood ("**Reasons**").
April 29, 2026	Chief Justice Skolrood dismisses TLABC and LSBC's actions in reasons indexed as 2026 BCSC 779.	JAR, p. 326, Reasons, at para. 234.
May 5, 2026	TLABC and LSBC file notices of appeal.	JAR, p. 327, Notice of Appeal (CA51535) (TLABC), dated May 5, 2026; JAR, p. 333, Notice of Appeal (CA51536) (LSBC), dated May 5, 2026.

OPENING STATEMENT

The appellants are a lawyer and an organization which consists, in the main, of lawyers. This litigation concerns them, but also concerns every person in this Province, whether they know it or not—their rights are at stake. The legislation in question is of paramount importance to every citizen, but is likely not on their radar, when things like rent and dinner are the daily questions. So, we must take on the challenge presented by this legislation, to ensure that our fellow citizens are protected from legislation which will remove the bulwarks they have against government excess—an independent Bar, and an independent judiciary. One cannot exist without the other.

The Legislature cannot provide a rationale for what it is doing. As the Chief Justice noted, "[t]hroughout their submissions, both written and oral, the defendants offered no clear rationale for the significant changes brought about to the regulation of lawyers under Bill 21 or to the jettisoning of the long-established practice of consultation and collaboration with the legal profession about changes to their governing legislation."

The "why" cannot be answered. The "what" is a root and branch attack not only on lawyers and their clients, but this Court as an institution. If there is no why, and the what is the destruction of fundamental rights and freedoms, how can we say yes?

The sole question to be decided on this appeal is whether our courts, upon which every member of the public relies no matter how ignorant of their rights they might be, will take up the invitation these appellants make to preserve their clients' rights and to ensure this Court has an independent Bar who will represent those clients before it.

This is not a case about lawyers trying to preserve some special privilege. It is about those whom they represent, and those who they have the privilege of appearing before. Will lawyers continue to be able to perform those functions without fetters imposed by the Legislature, which the executive of our government has not deigned to even explain? Or will they be subject to governance by those whom their clients have grievances with, setting the playing field ever so slightly, or perhaps substantially, in their favour?

PART 1 - STATEMENT OF FACTS

1. This case is about the regulation and independence of lawyers in British Columbia. The appellants in this appeal, TLABC and Kevin Westell (collectively, the "**appellants**"), and the companion appeal (CA51536), the LSBC, challenge the constitutionality of Bill 21 on the basis that it undermines the independence of the Bar and violates lawyers' and the public's constitutional rights. The Chief Justice found that Bill 21 does not improperly undermine the independence of the Bar or violate the *Charter*.

2. Both the appellants and LSBC appeal those conclusions. The appellants adopt and rely upon LSBC's factum and arguments regarding the independence of the Bar. There is no challenge to the Chief Justice's findings of fact. Accordingly, the following summary is taken largely from his reasons.

A. <u>Background</u>

3. For over 150 years, since its creation in 1874, the LSBC has been an independent, self-governing society charged with regulating lawyers in the public interest.[1]

4. In 2024, the Legislature of British Columbia enacted Bill 21, which provides for the amalgamation of the LSBC with the Society of Notaries Public of British Columbia in order to create a new regulator (the "**new regulator**") with regulatory jurisdiction over lawyers, notaries public, and paralegals as well as, potentially, new legal professions. A central element of Bill 21 is the elimination of self-governance and self-regulation of lawyers by a board comprised of a majority of elected lawyers.[2]

(a) The current regulatory model: Legal Profession Act

5. At present, the LSBC is continued pursuant to the *Legal Profession Act*, S.B.C. 1998, c. 9, as amended (the "***LPA***"), which creates the self-governing and self-regulating model governing the legal profession in British Columbia.[3]

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[1] JAR, p. 268, Reasons, at para. 1.
[2] JAR, p. 268, Reasons, at para. 2.
[3] JAR, p. 271, Reasons, at para. 9.

6. Importantly, s. 11 empowers the LSBC to make rules for the governing of the society, lawyers, law firms, articled students, and applicants and for carrying out the *LPA*. The rules do not require government approval, although certain rules must be approved by a vote of members at a general meeting. As part of its rule-making function under s. 11, the LSBC has established a *Code of Professional Conduct*, which is based in large part on the Federation of Law Societies' Model Code of Professional Conduct.[4]

(b) **The new regulatory model: Bill 21**

7. In March 2022, the government announced its intention to combine the regulation of lawyers, notaries public, and licensed paralegals under a single regulator.[5] The Attorney General did not open meaningful consultation on Bill 21 to lawyers or the public subsequent to the announcement and prior to the tabling of Bill 21.[6]

8. Bill 21 was not made publicly available until it was introduced to the Legislature on April 10, 2024.[7] The Government closed debate on Bill 21 on May 15, 2024.[8] Bill 21 received third reading that day, and Royal Assent on May 16, 2024.

9. As the Chief Justice found, if brought into force, Bill 21 will significantly alter the regulation of lawyers in British Columbia, including by eliminating self-governance and self-regulation of lawyers by a board comprised of a majority of elected lawyers.[9] The changes relevant to the issues on this appeal are set out below.

(i) <u>The Indigenous Council and Transitional Indigenous Council</u>

10. Section 29 establishes an Indigenous Council comprised of a majority of members appointed from persons nominated by the BC First Nations Justice Council ("**BCFNJC**") and persons nominated by Métis peoples or entities representing Métis peoples. Section 30 sets out the role of the Indigenous Council, which includes: (a) advising and working in collaboration with the regulator on any matter relating to the implementation of UNDRIP in the context of the regulation of the practice of law in British Columbia, including in

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[4] JAR, pp. 270–271, Reasons, at para. 8.
[5] JAB, p. [●], Injunction Reasons at para. 19.
[6] JAB, p. [●], Gourlay #1 at para. 26.
[7] JAB, p. [●], Injunction Reasons at para. 24; JAB, p. [●], Greenberg #1 at para. 85.
[8] JAB, p. [●], Injunction Reasons at para. 27.
[9] JAR, pp. 268, 270, Reasons, at paras. 2, 10.

respect of the incorporation of Indigenous legal traditions and Indigenous practices and the systemic challenges faced by Indigenous persons that require investigation and action by the regulator; (b) advising on matters that under the Act require consultation with the Indigenous Council; (c) participating in the regulator's strategic planning processes; and (d) exercising certain approval powers as conferred by the Act.[10]

11. Section 224 establishes a Transitional Indigenous Council comprised of a majority of members appointed by the BCFNJC and the Métis Nation British Columbia. Section 226 provides that the Transitional Indigenous Council is required to collaborate with the transitional board of the new regulator to develop the first rules of the new regulator. Under s. 226(2)(b), any such new rules may not be made unless first approved by the Transitional Indigenous Council.[11] This is a veto power.

(ii) Professional conduct and competence

12. Section 68 sets out a number of definitions relating to professional conduct and competence. It defines "incompetently", in relation to the practice of law, as meaning in a manner that demonstrates either: (a) certain specified deficiencies that give rise to a reasonable apprehension that the quality of service to clients of a licensee or law firm may be significant adversely affected; or (b) a "health condition" preventing a licensee from practising law with reasonable skill and competence.[12]

13. Section 88 empowers the chief executive officer, upon determining that someone has practised law incompetently, to require a licensee or trainee to receive counselling or medical treatment, including treatment for a substance use disorder.[13]

14. Section 122 permits the Legal Professions Tribunal, upon determining in a discipline hearing that a licensee has practiced law incompetently,[14] to require a licensee

[10] JAR, pp. 272–273, Reasons, at para. 10(h).
[11] JAR, p. 273, Reasons, at para. 10(i).
[12] Book of Enactments, p. [●] ("**BE**"), Bill 21, s. 68; JAR, p. 274, Reasons, at para. 11(b).
[13] JAR, p. 274, Reasons, at para. 11(c).
[14] BE, p. [●], Bill 21, s. 122(2)(b)(ii). The chief executive officer submits citations to the discipline committee, which determines if the citation should be approved and a discipline hearing before the Legal Professions Tribunal be set: BE, p. [●], Bill 21, s. 90.

to receive counselling or medical treatment, including treatment for a substance use problem or disorder.[15]

15. Section 198 provides that a person commits an offence if the person wilfully interferes with or obstructs another person in the exercise of a power or performance of a duty under Bill 21, or in carrying out an order under Bill 21.

16. Section 202 provides that an individual who commits an offence under Bill 21 is liable on conviction to a fine not exceeding $200,000 or to imprisonment for a term not exceeding two years, or to both.[16]

(iii) Search and seizure

17. Section 78 authorizes the chief executive officer of the new regulator to enter the office of a lawyer or law firm and examine records relating to the practice of law and further, for the purposes of an investigation, to order a licensee or law firm to produce records and attend for an examination under oath.[17]

B. Reasons of the Chief Justice

18. The Chief Justice dismissed the appellants' and LSBC's actions. In doing so he addressed six issues: (a) Is the independence of the Bar an unwritten constitutional principle? (b) If so, what is the content of or meaning to be given to that principle? (c) Does Bill 21, in whole or in part, infringe the principle of an independent Bar? (d) Does Bill 21 infringe the *Charter*? (e) If so, can the infringement(s) be justified in a free and democratic society pursuant to s. 1? (f) If some or all of Bill 21 is found to be unconstitutional, what is the appropriate remedy?[18]

(a) The Chief Justice found that the independence of the Bar is a constraint on Legislative action

19. The Chief Justice found that the independence of the Bar is an unwritten constitutional principle. He found that it is an essential underpinning of Canada's constitutional order and necessary for maintaining an independent judiciary and the

[15] BE, p. [•], Bill 21, s. 122(3)(c)(ii).
[16] BE, p. [•], Bill 21, ss. 198, 202.
[17] JAR, p. 273, Reasons, at para. 11(a).
[18] JAR, pp. 286–287, Reasons, at para. 67.

proper administration of justice. He concluded that, while unwritten, the independence of the Bar is a principle that is implicit in the written constitutional text, specifically in the judicature provisions of the *Constitution Act, 1867* (ss. 96–101) and in the fundamental rights and freedoms guaranteed under ss. 7, 10(b), and 11(d) of the *Charter.*[19]

20. The Chief Justice concluded that the importance and fundamental constitutional character of independence of the Bar stems from the fact that, where it is interfered with, all other constitutional rights, including the rule of law, are placed in jeopardy. In his view, as expressed by Jack Giles K.C., it is "simply inconceivable that a constitution which guarantees fundamental human rights and freedoms should not first protect that which makes it possible to benefit from such guarantees, namely every citizen's constitutional right to effective, meaningful, unimpeded access to a court of law through the aegis of an independent bar".[20]

21. The Chief Justice correctly found that the Legislature cannot use its plenary authority under ss. 92(13) and (14) to regulate lawyers in such a manner as to eviscerate an independent Bar.[21]

(b) **The Chief Justice found independence of the Bar prohibits legal regulation by a body which is controlled or unduly influenced by outside forces**

22. The Chief Justice found the principle of the independence of the Bar prohibits legal regulation by a body which is "controlled, or unduly influenced, by outside forces".[22] He found that the independence of the Bar must be examined through the lens of lawyers' duties to their clients, the courts, and the administration of justice.[23]

23. The Chief Justice found that it was "axiomatic" that in carrying out their advisory and advocacy roles, lawyers must be—and seen to be—independent from outside influences, including, in particular, the influence of the state. This, he concluded, reflects the fact that the right to impartial advice free from undue outside influence is a right that

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[19] JAR, pp. 290–293, Reasons, at paras. 80–94.
[20] JAR, pp. 293–294, Reasons, at para. 95.
[21] JAR, pp. 302–303, Reasons, at paras. 136–137.
[22] JAR, p. 296, Reasons, at para. 108.
[23] JAR, pp. 295–296, Reasons, at paras. 106–110.

belongs to clients.[24] The Chief Justice found that the need for institutional independence also acknowledges the fact that in addition to the duties owed to clients, lawyers owe broader duties to the courts and to the administration of justice generally. He concluded the powers and duties exercised by lawyers are vital to the maintenance of order in our society and the due administration of the law in the interest of the whole community.[25]

24. Legislation is *ultra vires* where it interferes with or unduly influences the duties owed by lawyers to their clients and the administration of justice, either through its direct application to lawyers and their clients or by way of the regulatory structure it creates.[26]

25. The appellants accept this statement of the law, but do not accept that it was applied to the facts of this case and the language of Bill 21 as it has been drafted.

(c) **The Chief Justice found that Bill 21 does not infringe the principle of an independent Bar**

26. The Chief Justice found that Bill 21 does not infringe the principle of an independent Bar. The appellants appeal this determination and, to avoid duplication, adopt and rely upon LSBC's factum and arguments on why the Chief Justice erred in that principal conclusion. The appellants' argument here focuses specifically on why the Chief Justice erred in law in finding that the independence of the Bar was not undermined by the role of the Indigenous Council and Transitional Indigenous Council in relation to the rules governing lawyers.

27. The Chief Justice found that the role of the Indigenous Council and Transitional Indigenous Council do not undermine the independence of the Bar because they do not have "independent rule making authority" or a power to "unilaterally impose rules".[27]

28. The Chief Justice found the Indigenous Council has an important but carefully circumscribed role in the new regulator. He found this role is purely advisory with the exception of approval powers in respect of two sets of rules: (a) rules respecting the use of alternative resolution processes in discipline and competence matters that reflect or

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[24] JAR, p. 295, Reasons, at paras. 106–107.
[25] JAR, p. 296, Reasons, at para. 109.
[26] JAR, p. 296, Reasons, at para. 110.
[27] JAR, pp. 313–316, Reasons, at paras. 181–193.

are influenced by Indigenous practices (s. 94(3)); and (b) rules that are designed to meet the specific needs of Indigenous persons who are parties to, or witnesses in, a proceeding before the tribunal (s. 131(6)). He concluded that this role does not undermine the independence of the bar because, even where the Indigenous Council has approval powers, such powers do not enable the "unilateral imposition of rules".[28] Given this conclusion, he also found that the fact that the members of the Transitional Indigenous Council and Indigenous Council need not be lawyers in no way threatens independence.[29]

29. The Chief Justice reached the same conclusion with respect to the Transitional Indigenous Council. He found that, as set out in s. 226 of Bill 21, the Transitional Indigenous Council must: (a) collaborate with the transitional board to develop the board's first set of rules; and (b) approve these rules. He found that this does not undermine independence because it does not equate to rule-making authority. He further noted that the transitional board has the duty to ensure the independence of licensees such that any rules that the Indigenous Council might consider for approval "should not pose any threat to independence in the first place".[30]

(d) **The Chief Justice found that Bill 21 does not violate the public's rights under ss. 7, 10(b), and 11(d) of the Charter**

30. The Chief Justice found that Bill 21 does not violate the public's rights under ss. 7, 10(b), and 11(d) of the *Charter* because it does not deprive the public of independent lawyers or infringe the independence of the Bar.[31]

(e) **The Chief Justice found that Bill 21 does not infringe lawyers' s. 7 rights to life, liberty, and security of the person**

31. The Chief Justice found that Bill 21 does not infringe lawyers' s. 7 rights because:

A. the definition of "incompetently" in s. 68 focuses on conduct, that is, whether a health condition is affecting a licensee's ability to practice with reasonable skill and competence.[32] The Chief Justice accepted the

[28] JAR, pp. 313–314, Reasons at paras. 182–184.
[29] JAR, pp. 314–315, Reasons at para. 186.
[30] JAR, pp. 315–316, Reasons at paras. 187–190.
[31] JAR, p. 325, Reasons, at para. 233.
[32] JAR, p. 321, Reasons, at para. 216.

government's proposition that the regime is based on "compassion, not stigmatization";[33]

B. the new regulator cannot compel lawyers to receive treatment they do not want. Analogizing to COVID-19 vaccine requirements for health care workers, the Chief Justice affirmed that s. 7 does not protect the right to work in a profession, particularly when the job loss arises from non-compliance with its governing rules and regulations;[34] and

C. declining to comply with an order for medical treatment under s. 198 would not constitute an offence under Bill 21.[35]

32. On this basis, the Chief Justice concluded Bill 21 does not engage lawyers' s. 7 rights and declined to address the balance of the analysis under s. 7.[36] As a result, the Chief Justice did not acknowledge—much less contend with—the evidence on mental health in the legal profession or the expert opinion on the stigmatizing impact of Bill 21. The Chief Justice did not acknowledge the mental health crisis in the legal profession, where women, professionals living with a disability, and professionals identifying as LGBTQ2S+ experience particularly high rates of mental health issues.[37]

33. Absent from his reasons was reference to the fact that lawyers delay seeking help for mental health and substance use, including for fear of regulatory repercussions.[38] The Chief Justice did not acknowledge the parties' experts agreed compelled treatment is

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[33] JAR, p. 321, Reasons, at paras. 217–218.
[34] JAR, p. 322, Reasons, at para. 220.
[35] JAR, p. 322, Reasons, at para. 221.
[36] JAR, p. 322, Reasons, at para. 222.
[37] JAB, p. [●], Affidavit #3 of Brook Greenberg, K.C., made April 3, 2025 (LSBC Action), at paras. 92–94, 168–171, 211 ("**Greenberg #3**"), Ex. 105, at pp. 27, 34, 35, 40, 47, 53, 83, 185–188, 219–221, 233–234, 246–253, 258–262 ("**National Study, Phase 1 Report**"); Expert Report of Dr. Michael Colleton, dated June 27, 2025, at paras. 14–16 ("**Colleton Report**").
[38] JAB, p. [●], National Study, Phase 1 Report, at pp. 54–60, 283–285, 337; JAB, p. [●], Greenberg #3, Ex. 106, at pp. 7, 10, 17 ("**National Study, Executive Summary**"); JAB, [●], p. [●], Greenberg #3, Ex. 107, at pp. 2756, 2779 ("**National Study, Targeted Recommendations**"); JAB, p. [●], Affidavit #1 of Doron J. Gold, made March 3, 2025 (TLABC Action), Ex. A, at pp. 5, 7–9, 11 ("**Gold Report**"); JAB, p. [●], Cross-Examination of Dr. Michael Colleton, dated October 7, 2025, at Q237–241 ("**Colleton Cross-Examination**"); JAB, p. [●], Greenberg #3 at paras. 93, 107, 119–126, 250, 170–172.

generally less effective than voluntary treatment,[39] nor the appellants' evidence that compelled treatment heightens stigma and discourages self-help.[40] There is no consideration in the Chief Justice's reasons of the consequences of delayed help or stigma, including greater risk of suicide, self-harm, or deterioration of other conditions.[41]

(f) The Chief Justice found that Bill 21 does not infringe the s. 8 right to be secure against unreasonable search or seizure

34. The Chief Justice found that, because s. 78 of Bill 21 authorizes a warrantless search which is presumptively unreasonable, and because there is no specific search or seizure in issue, whether or not Bill 21 infringes lawyers' rights under s. 8 turns on the reasonableness of s. 78. The Chief Justice relied on previous decisions in which courts "upheld similar search provisions in the current *LPA*" and found that the protections for solicitor-client privilege in s. 209 of Bill 21, which largely replicate the protections in the *LPA*, "are clear and unambiguous in their protection of privilege". He concluded those protections are not undermined by the fact that the new regulator is not a body controlled by lawyers because, in his view, the new regulatory model does not undermine the independence of the regulator.[42]

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[39] JAB, p. [●], Gold Report at pp. 12–14; JAB, p. [●], Gold Cross-Examination at Q113; JAB, p. [●], Affidavit #1 of Dr. Soma Ganesan, made March 29, 2025, Ex. A, at pp. 4–8 ("**Ganesan Report**"); JAB, p. [●], Colleton Cross-Examination at Q203–205.

[40] JAB, p. [●], Ganesan Report at p. 5; JAB, p. [●], Cross-Examination of Dr. Soma Ganesan, dated September 17, 2025, at Q147 ("**Ganesan Cross-Examination**"); JAB, p. [●], Gold Report at pp. 12–13; JAB, p. [●], Cross-Examination of Doron Gold, dated September 16, 2025, at Q38, 69–109 ("**Gold Cross-Examination**"); JAB, p. [●], Greenberg #1 at paras. 117–118, 120; JAB, p. [●], Greenberg #3 at para. 204.

[41] JAB, p. [●], National Study, Phase 1 Report, at pp. 283–284; JAB, p. [●], Greenberg #3 at para. 209; JAB, p. [●], Gold Report at pp. 6, 8–9; JAB, p. [●], Ganesan Report at p. 8.

[42] JAR, pp. 324–325, Reasons, at paras. 227–232.

PART 2 - ISSUES ON APPEAL

35. The Chief Justice erred in law by concluding Bill 21:

A. does not undermine independence of the Bar, despite the Transitional Indigenous Council and Indigenous Council's effective veto over rules governing the conduct and duties of lawyers;

B. does not violate the public's fair trial rights under ss. 7, 10(b), and 11(d) of the *Charter*, which cannot stand if Bill 21 is found to undermine the independence of the Bar;

C. does not engage lawyers' rights under s. 7 of the *Charter*, despite the text, legislative evolution, and context supporting the conclusion that Bill 21 associates competence and health conditions to the detriment of lawyers' s. 7 rights; and

D. does not violate s. 8 of the *Charter*, which cannot stand if Bill 21 is found to undermine the independence of the Bar.

PART 3 - ARGUMENT

A. Standard of Review

36. The issues raised on this appeal concern statutory interpretation and determinations of constitutional validity, both of which are questions of law reviewable on the correctness standard.[43]

B. The Chief Justice erred in law in concluding that the Transitional Indigenous Council and Indigenous Council's veto over rules governing the conduct and duties of lawyers does not undermine the independence of the Bar

37. The Chief Justice erred in law in concluding that the Transitional Indigenous Council and Indigenous Council's veto over rules governing the conduct and duties of lawyers does not undermine the independence of the Bar.

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[43] Joint Book of Authorities, p. [●] ("**JBOA**"), *Brar v. British Columbia*, 2024 BCCA 265 at para. 38.

38. The LSBC argues that the Chief Justice's test for independence is flawed because it does not properly take account of the institutional dimension of the principle of independence of the Bar and thereby fails to apply the correct structural limits to the scope of ss. 92(13) and (14) of the *Constitution Act, 1867*. As above, the appellants adopt and rely upon LSBC's factum and arguments in this respect. In the alternative, however, the appellants argue that even if the Chief Justice did not err in law by applying the incorrect test, he did so by concluding that Bill 21 does not undermine his own narrower conception of the constitutional requirements of independence.

39. The Chief Justice found that the role of the Indigenous Council and Transitional Indigenous Council does not undermine the independence of the Bar because their approval powers do not equate to "independent rule making authority" or a power to "unilaterally impose rules".[44]

40. This is an error of law because it fails to apply the Chief Justice's own interpretation of the principle and standard of independence of the Bar. The Chief Justice found that lawyers cannot be said to be truly independent if they are subject to regulation by a body which is itself controlled, or unduly influenced, by outside forces.[45] He concluded that legislation is *ultra vires* where it interferes with or unduly influences the duties owed by lawyers to their clients and to the administration of justice, either through its direct application to lawyers and their clients or by way of the regulatory structure it creates.[46]

41. Bill 21 violates this principle because the regulatory structure it creates subjects lawyers to regulation by a body that is controlled, or unduly influenced, by outside forces.

42. With respect to control or undue influence, Bill 21 provides the Transitional Indigenous Council and Indigenous Council with a statutory veto over rules governing the conduct and duties of lawyers to their clients and to the administration of justice. Under Bill 21, the Transitional Indigenous Council and Indigenous Council have a statutory right (and obligation) to consult on and approve rules governing the professional conduct of lawyers.[47] As the Chief Justice found, the first rules and certain rules thereafter cannot be

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[44] JAR, pp. 313–316, Reasons, at paras. 181–193.
[45] JAR, p. 296, Reasons at para. 108.
[46] JAR, p. 296, Reasons, at para. 110.
[47] BE, p. [●], Bill 21, ss. 94(3), 131(6), 226.

enacted without their approval.[48] Further, while not specifically contemplated in Bill 21, the Transitional Indigenous Council will also approve the replacement code of conduct applicable to lawyers.[49]

43. The point is this: the veto deprives the regulator, *i.e.*, the transitional board and board, of "independent" or "unilateral" rule-making authority. This undermines independence in two critical ways.

44. First, the veto deprives the transitional board and board of the authority to independently or unilaterally enact rules including, for example, those which they consider necessary to promote or maintain the independence of licensees. It destroys lawyers' freedom to choose and adopt, as a profession, the rules that govern them. In finding that this does not undermine independence, the Chief Justice reasoned that: (a) "there is no basis for believing that the inclusion of another set of perspectives, through the vehicle of the Indigenous Council, will in any way threaten the independence of the Bar";[50] and (b) "the transitional board has the duty to ensure the independence of licensees such that any rules that the Indigenous Council might consider for approval should not pose any threat to independence in the first place".[51] Both conclusions are divorced from the text of Bill 21. In any event, neither address the fundamental constitutional issue.

45. For one thing, the regulatory structure of Bill 21 does not merely contemplate the "inclusion of another set of perspectives"; it privileges the bodies advancing those perspectives with a statutory power to block the regulatory body from making rules. Further, the Chief Justice's statement that the "transitional board has the duty to ensure the independence of licensees" is an error of law as it is at odds with the text of Bill 21.[52] Bill 21 does not impose on the transitional board or the Transitional Indigenous Council a duty to ensure the independence of licensees. This duty applies only to <u>the regulator</u>,[53] after the amalgamation date and thus after the first rules have been made and the

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[48] JAR, pp. 272–273, 313–315, Reasons, at paras. 10(h), 10(i), 182, 187.
[49] JAB, p. [●], Affidavit #1 of Thomas L. Spraggs, K.C., made April 3, 2025 (LSBC Action) ("**Spraggs #1**"), Ex. U, at p. 446.
[50] JAR, p. 315, Reasons at para. 186.
[51] JAR, p. 315, Reasons, at para. 190.
[52] JBOA, p. [●], *Manns v. Vancouver Island Health Authority*, 2024 BCCA 110 at para. 15 ("***Manns***").
[53] BE, p. [●], Bill 21, s. 6(1)(c).

transitional board and Transitional Indigenous Council have been dissolved.[54] In any event, the concern is not that the Transitional Indigenous Council and Indigenous Council have the power to approve rules that threaten lawyer independence; it is that they have the power to veto rules that are necessary to protect it. By limiting his analysis to "the inclusion of perspectives" and approval of rules that pose "threats to independence", the Chief Justice failed to grapple with the true nature and consequence of the statutory veto.

46. Second, the veto provides the Transitional Indigenous Council and Indigenous Council with *de jure* and *de facto* control over aspects of the rule making process including, most importantly, the development of the first rules. A veto necessarily changes decision-making dynamics and process. It narrows the range of rules that will be approved and, as a result, drives the investigation, development, and assessment of rules toward those more likely to receive approval. In this sense, the veto not only impacts the outcome, but the rule-making process itself. It functionally amounts to regulatory power. Under Bill 21, this effect is not just a logical and practical consequence of the veto power, it is a statutory requirement. Section 226, for example, provides that the transitional board and Transitional Indigenous Council must "collaborate to develop the first rules of the board."[55] This is joint decision making by a joint board on the rules governing lawyers' conduct and duties to their clients and to the administration of justice. The statute can be interpreted no other way. The fact that this is precisely how the rule-making process has played out in practice only confirms this.[56]

47. This control and undue influence is clearly exerted by an "outside force". There is no statutory requirement that any member of the Transitional Indigenous Council or Indigenous Council be a lawyer. Bill 21 provides that they be comprised of Indigenous appointees of the BCFNJC, the Métis Nation British Columbia, and the transitional board or board.[57] The result is that a subset of the non-lawyer population have direct control over the rules governing the conduct of counsel charged with advocating for or against their interests. First Nations are regularly, and increasingly, involved as parties to litigation. Members of TLABC, and the legal profession generally, are regularly involved

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[54] BE, p. [●], Bill 21, ss. 223(8), 224(5), 226(2)(b).
[55] BE, p. [●], Bill 21, s. 226.
[56] JAB, p. [●], Spraggs #1 at paras. 17–23, Exs. O–S.
[57] BE, p. [●], Bill 21, ss. 29, 224.

in advocating for or against First Nations.[58] Lawyers are also called upon to negotiate, conclude, and interpret agreements with governments and First Nations.[59] That the structural inclusion of Indigenous perspectives is a benefit, that the members of the Transitional Indigenous Council or Indigenous Council are not "representing" their nations, or that their involvement furthers reconciliation is beside the point. A statutory veto over rules governing the conduct and duties of lawyers violates the independence of the Bar regardless of which subset of the non-lawyer population holds it.

48. A veto is by nature preclusive of true and meaningful independence. It cannot be read into constitutional compliance.[60] A correct application of the Chief Justice's own test demonstrates that Bill 21 is *ultra vires* as it creates a regulatory structure that interferes with and unduly influences the duties owed by lawyers to their clients and to the administration of justice, and thereby undermines the independence of the Bar.

C. The Chief Justice erred in finding that Bill 21 does not violate the public's fair trial rights under ss. 7, 10(b), and 11(d) of the *Charter* on the basis that it does not infringe the independence of the Bar

49. The Chief Justice's finding that Bill 21 does not violate the public's fair trial rights under ss. 7, 10(b), and 11(d) of the *Charter* rests entirely on his erroneous conclusion that Bill 21 does not undermine the independence of the Bar.[61]

50. If Bill 21 undermines independence of the Bar, it necessarily infringes the public's fair trial rights. The Chief Justice found "an independent Bar is necessary to ensure that the fundamental rights enshrined by ss. 7, 10(b) and 11(d) are properly acknowledged and protected".[62] This is so because the absence of an independent lawyer:

A. prevents a fair trial absent abuse of process, guaranteed under s. 7, because a fair trial depends on the integrity of the administration of justice, which is guaranteed by an independent Bar and judiciary;[63]

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[58] JAB, p. [●], Gourlay #1 at paras. 33–35.
[59] JAB, p. [●], Affidavit #1 of Rajiv Gandhi, made May 27, 2024 (TLABC Action), at para. 13.
[60] JBOA, p. [●], *Democracy Watch v. Canada (Attorney General)*, 2026 SCC 28 at para. 83.
[61] JAR, p. 325, Reasons, at para. 233.
[62] JAR, p. 293, Reasons, at para. 94.
[63] JBOA, p. [●], *Charkaoui v. Canada (Citizenship and Immigration)*, 2007 SCC 9 at paras. 20–22, 28, 32; JBOA, p. [●], *R. v. Rose*, [1998] 3 S.C.R. 262 at para. 96.

B. prevents individuals from instructing counsel effectively, guaranteed under s. 10(b), because an independent lawyer is required to effectively protect the rights of accused in the criminal justice system;[64] and

C. prevents a fair and public hearing before an independent judiciary, guaranteed by s. 11(d), because an independent judiciary can only be achieved by an independent Bar.[65]

51. The Chief Justice's interpretation of independence of the Bar confirms this. He found that: (a) lawyers owe broader duties to the administration of justice and exercise powers and duties which are vital to the maintenance of order in our society and the due administration of the law in the interest of the whole community;[66] (b) the essential role of lawyers is perhaps best reflected in the area of criminal law where lawyers act to protect the liberty of their clients in criminal prosecutions backed by the weight and resources of the state;[67] and (c) the independence of the courts is "inextricably tied" to the independence of the Bar, because judges are selected from the independent Bar and the courts can only function by having lawyers present evidence and arguments in accordance with their duties owed to their clients and to the administration of justice.[68]

52. If the Chief Justice erred in finding that Bill 21 does not undermine the independence of the Bar, he erred in finding that it does not infringe the public's fair trial rights under ss. 7, 10(b), and 11(d) of the *Charter*.

D. <u>The Chief Justice erred in concluding Bill 21 does not violate lawyers' s. 7 rights to life, liberty, and security of the person</u>

53. The Chief Justice erred in concluding Bill 21 does not engage lawyers' s. 7 rights because his interpretation was not anchored in the text and contradicts the legislative and factual context. The Chief Justice's conclusions cannot stand when the text of ss. 68, 88, 198, and 202 are properly interpreted in their immediate, legislative, and factual context.

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[64] JBOA, p. [●], *R v. Sinclair*, 2010 SCC 35 at para. 26; JBOA, p. [●], *R v. Sanclemente*, 2021 ONCA 906 at para. 132.
[65] JBOA, p. [●], *Valente v. The Queen*, [1985] 2 S.C.R. 673 at paras. 22–25.
[66] JAR, p. 296, Reasons, at para. 109.
[67] JAR, p. 295, Reasons, at paras. 104–105.
[68] JAR, p. 293, Reasons, at para. 92.

54. The Chief Justice's reasons evince three legal errors:

A. He erred in concluding s. 68 focused on conduct, not health conditions, by ignoring the provision's text and context.

B. He erred in concluding s. 88(1)(c) did not permit the new regulator to compel treatment by incorrectly analogizing to the COVID-19 cases.

C. He erred in concluding non-compliance with a competence order would not result in prosecution and associated penalties, as contemplated in ss. 198 and 202.

55. These errors establish that, contrary to the Chief Justice's conclusion, Bill 21 cultivates a fear of help-seeking, heightened anxiety of potential investigation, and risk of exacerbating existing conditions. These consequences are sufficient to engage and infringe lawyers' s. 7 rights.

(a) The Chief Justice erred in interpreting s. 68 to focus on conduct, not health conditions

56. The Chief Justice erred in interpreting s. 68 by disregarding the text, legislative context, and factual context. His conclusion that s. 68 focuses on conduct, not condition,[69] is the product of an analysis contrary to the rules of statutory interpretation: that the legislative text must be interpreted harmoniously in light of the statutory context and legislative purpose.[70]

57. When interpreted with proper regard to the text and context, Bill 21 associates incompetence with health conditions in a manner that pushes lawyers farther from help, engaging their s. 7 interests. Contrary to the Chief Justice's conclusion, s. 68 does not focus on conduct. It targets health conditions. It signals to lawyers and the public that health conditions are a legislatively recognized reason of and for incompetence and presumed cause for regulatory intervention.

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[69] JAR, p. 321, Reasons, at para. 216.
[70] JBOA, p. [●], *Chisholm v. Valemount Forest Products Ltd.*, 2025 BCCA 48 at para. 16 ("***Chisholm***"), citing JBOA, p. [●], *Wang v. British Columbia (Securities Commission)*, 2023 BCCA 101 at paras. 39–41.

(i) The Chief Justice erred by disregarding the text of s. 68 itself

58. The Chief Justice's interpretation fails to come to grips with s. 68's plain and obvious textual association between competence and health conditions. Contrary to the Chief Justice's assertion at paragraph 216 of his reasons, the text of s. 68 itself creates an apparent and unwarranted link between lawyers' conditions (their mental health or substance use) and their ability to practice law competently.

59. The Chief Justice's analysis accepts the government's interpretation that conduct is the exclusive focus under Bill 21. But there are three problems with this position.

60. First, the Chief Justice does not grapple with the fact that the legislation itself makes the normative association between health conditions, including mental health conditions, and competency. In other words, on its face, the legislation makes a judgment about the connections between competency and health.

61. Second, the Chief Justice fails to ask the obvious question raised by the text of s. 68: if the purpose of the provision is to target incompetent conduct and conduct alone,[71] as the government says, and the Chief Justice found, then what is the point of even mentioning a health condition in the same section and making the obvious association between the two? Why bother mentioning the "why" of a lawyer's incompetence at all? The Chief Justice and the government's "conduct only" interpretation does not provide an answer, and ignores that language, contrary to the basic principles of statutory interpretation that all the words of the legislation must be given effect.[72]

62. Third, the Chief Justice's finding that Bill 21 focuses on conduct not condition is contradicted by his finding that s. 68's aim is to allow the regulator to probe into the health-related causes of incompetence and "understand why issues are arising in a lawyer's practice, so that the appropriate steps can be taken to get them back on track."[73] On this view, s. 68 is not "focused" on conduct; it is focused on identifying and associating causes of incompetence, which legislatively include a person's mental health and substance use.

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[71] JAR, p. 321, Reasons, at para. 216.
[72] JBOA, p. [●], *Manns* at para. 15; JBOA, p. [●], *Chisholm* at para. 19.
[73] JAR, p. 321, Reasons, at para. 217 [emphasis in original].

63. In any event of these errors of statutory interpretation, the Chief Justice also fell into error by failing to appreciate that the text of Bill 21 itself is an unmistakeable signal to each and every lawyer and applicant that the legislature and the new regulator presumptively associate competence with health conditions. This is the ordinary meaning that arises when the text is read in its immediate context.[74] Bill 21 makes this association rather than stating a content-neutral floor of competence.

64. The Chief Justice's interpretation of the text s. 68 masks its actual function. It is formal and textual cover for the new regulator to make unfounded assumptions and investigate conditions as a presumptive cause of a competency issue.

65. Put simply, s. 68, and Bill 21 more generally, tells its readers that health conditions, including one's mental health, are a valid reason to suspect and assume incompetence. The Chief Justice erred in ignoring s. 68's ordinary textual meaning in this regard.

(ii) <u>The Chief Justice erred in allowing the legislative purpose to overwhelm the text</u>

66. The Chief Justice erred by placing undue reliance on the government's purported legislative purpose when that purpose conflicts with the words of s. 68. In doing so, the Chief Justice committed a "purpose error" by allowing the legislation's alleged purpose to overwhelm the text.[75] While it is proper—and, here, necessary—to turn to context to interpret the legislation,[76] the court cannot adopt an interpretation that is contrary to the actual words used.[77]

67. The Chief Justice accepted the government's submission that competence provisions are "based on compassion, not stigmatization".[78] This is an error because there is no textual anchor supporting that conclusion. Nothing in the text of s. 68 "conveys" that "there is nothing fundamentally wrong" with a licensee when their ability to practice is impaired by a health condition.[79] Nothing in the text of s. 68 expresses "compassion, not

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[74] JBOA, p. [●], R. Sullivan, *The Construction of Statutes* (Toronto: LexisNexis Canada Inc., 2022), ch. 3 at s. 3.02 ("**Sullivan**").
[75] JBOA, p. [●], *Manns* at paras. 32–35.
[76] JBOA, p. [●], *Chisholm* at paras. 19, 37.
[77] JBOA, p. [●], *Manns* at para. 15.
[78] JAR, p. 321, Reasons, at para. 218.
[79] JAR, p. 321, Reasons, at para. 218.

stigmatization".[80] To the contrary, the only actual message in s. 68 is that lawyers with health conditions are presumptively suspect in their capacity.

68. The Chief Justice in effect assumed, without any textual support, that lawyers will read and interpret Bill 21 in a certain manner (*i.e.*, that the government and the new regulator is intervening out of compassion). However, in the absence of a textual anchor, it is equally plausible to interpret Bill 21 as the appellants do—that is, as creating an association between incompetence and health conditions in a way that heightens stigma and deters help-seeking behaviour. One person's so-called "compassion" is another person's regulatory nightmare.

69. Absent words to anchor the legislative purpose, the Chief Justice commits a purpose error: his conclusion assigns too much weight to an abstract purpose that has little, if any, representation in the text. The Chief Justice's conclusion that s. 68 focuses on conduct, not condition, is unsupportable on the text.

(iii) The Chief Justice erred in ignoring Bill 21's legislative development

70. The Chief Justice erred in the interpretation of s. 68 by ignoring the legislative evolution of lawyer competence provisions. The evolution and history of competence regulation is relevant context to the interpretation of Bill 21.[81] Legislative evolution is presumed to be purposeful.[82] Yet, the Chief Justice ignores this critical interpretative aid and therefore fails to appreciate the legislature's intent in upending the history of competence regulation.

71. For many reasons, Bill 21 is a departure from historical models of legal regulation. Bill 21 introduces an association between competence and health conditions. In striking contrast, Rule 3.1-1 of the *Code of Professional Conduct* does not define competence with reference to any health conditions—or any causes of incompetence.[83]

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[80] JAR, p. 321, Reasons, at para. 218.
[81] JBOA, p. [●], *Chisholm* at paras. 17, 27–31; JBOA, p. [●], *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53 at para. 43 ("***Mowat***").
[82] JBOA, p. [●], *Mowat* at paras. 43–52; JBOA, p. [●], Sullivan at s. 23.02[2].
[83] JAB, p. [●], British Columbia Code of Professional Conduct, s. 3.1-1.

72. In line with the actual focus on conduct, the pre-Bill 21 regulatory model employs suspensions, among other powers, to regulate competence. It is undisputed that suspensions are effective in protecting the public from incompetent practice.[84] In fact, suspensions are the only regulatory tool that immediately and fulsomely achieve this goal. A suspension responds to conduct and conduct only.

73. In this context, Bill 21's inclusion of ss. 68 and 88(1)(c) are notable and unexplained additions. The legislative evolution signals to lawyers and the public that the target of competence regulation has shifted. It signals that suspensions are no longer a complete answer to the problem, and that the legislation is targeting something broader: health conditions. This context is missing in the Chief Justice's analysis.

74. The Chief Justice failed to take this evolution into account in assessing what s. 68 actually is and does. The inference from the evolution in competence regulation is that health conditions now presumptively matter to competence. That is how the new regulator will operate, and that is how members of the legal profession, and those seeking to join it, can assume it operates.

(iv) The Chief Justice erred in ignoring the context in which lawyers would interpret s. 68

75. The Chief Justice accepted what the legislation "conveys" to the legal profession matters to the interpretative analysis.[85] The reality in which s. 68 operates and is received is relevant to the interpretative exercise as factual context.[86] The Chief Justice ignored the obvious reality that lawyers, who as a population are experiencing an ongoing mental health crisis, will read the text of s. 68 and make the natural association between competence and health.[87]

76. Indeed, before the Chief Justice, it was accepted by all parties that the legal profession is experiencing a mental health crisis, where lawyers experience health

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[84] JAB, p. [●], Gold Cross-Examination at Q96; JAB, p. [●], Colleton Cross-Examination at Q224, see also generally Q209–223, 262–264; JAB, p. [●], Greenberg #1 at para. 117.
[85] JAR, p. 321, Reasons, at para. 218.
[86] JBOA, p. [●], *West Fraser Mills Ltd. v. British Columbia (Workers' Compensation Appeal Tribunal)*, 2018 SCC 22 at para. 41; JBOA, p. [●], Sullivan at s. 22.01[2].
[87] JAB, p. [●], Gold Cross-Examination, at Q56–57.

conditions and substance use disorders beyond the general population.[88] There is also no dispute that lawyers as a population delay or avoid seeking help for mental health and substance use, out of fear of reputational and regulatory repercussions.[89]

77. In this context, s. 68's association between health condition and incompetent practice cannot be interpreted neutrally, as the Chief Justice found. Nor does it serve—as the Chief Justice appeared to conclude—the purpose of "compassion" by conveying that lawyers "are simply experiencing a health issue for which they need health care".[90] That conclusion fails to appreciate that lawyers see the association and assume their condition is in and of itself a cause for regulatory intervention.

78. The government's only evidence on this point was from the Attorney General's representative, who stated that the policy was to "ensure that a member of the public who may have a concern about a regulated individual has a clear understanding of the types of issues or concerns that the regulator has the power to investigate".[91] In other words, the legislature wished the public to know that lawyers might practice incompetently on account of a health condition and that the public could make complaints on that basis.

79. If the government's purpose was to advertise that the public could make complaints because of a link between competence and health conditions, it is not unreasonable for the appellants and lawyers generally to make that association as well.

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[88] JAB, p. [●], Greenberg #3 at paras. 92–94, 168–171, 211; JAB, p. [●], National Study, Phase 1 Report, at pp. 27, 34, 35, 40, 47, 53, 83, 185–188, 219–221, 233–234, 246–253, 258–262; JAB, p. [●], National Study, Executive Summary, at pp. 3–6, 14–16; JAB, p. [●], Greenberg #3, Ex. 99; JAB, p. [●], Gold Report at pp. 5–9; JAB, p. [●], Colleton Report at paras. 14–16; JAB, p. [●], Colleton Cross-Examination at Q57–59, 251–257; JAB, p. [●], Colleton Report at paras. 14–16.

[89] JAB, p. [●], National Study, Phase 1 Report, at pp. 54–60, 283–285, 337; JAB, p. [●], National Study, Executive Summary, at pp. 7, 10, 17; JAB, p. [●], National Study, Targeted Recommendations, at pp. 2756, 2779; JAB, p. [●], Gold Report at pp. 5, 7–9, 11; JAB, p. [●], Colleton Cross-Examination at Q237–241; JAB, p. [●], Greenberg #3 at paras. 93, 107, 119–126, 140, 170–172.

[90] JAR, p. 321, Reasons, at para. 218.

[91] JAB, p. [●], Examination for Discovery of Katharine Armitage, dated March 17, 2025, at Q115. A member of the public may make a complaint to the chief executive officer if they believe a licensee may have practiced incompetently. Unless the complaint is dismissed, the chief executive officer must commence an investigation: BE, p. [●], Bill 21, ss. 76, 77. As part of an investigation, the chief executive officer may require a licensee to undergo examination by a medical practitioner: BE, p. [●], Bill 21, s. 85(1)(g).

80. Put simply, the Chief Justice failed to interpret s. 68 in light of the undisputed and practical reality in which it will be read by lawyers and the public. In the result, the Chief Justice's interpretation of s. 68 as only facially focusing on conduct not condition cannot be supported in context. Bill 21 and s. 68 do associate, in an unwarranted way, mental health and competence in a way that engages lawyers' s. 7 rights.

(b) **The Chief Justice erred in interpreting ss. 88(1)(c) and 122(3)(c)(ii) by analogizing to the COVID-19 cases**

81. The Chief Justice erred in concluding the new regulator could not compel counselling or medical treatment by improperly relying on the COVID-19 cases. His interpretation of ss. 88(1)(c) and 122(3)(c)(ii) oversimplifies the constitutional choice presented to lawyers.

82. The Chief Justice erred in analogizing to the COVID-19 cases because:

A. he ignored Bill 21's broader infringement of the interests of lawyers' not subject to regulatory intervention; and

B. he incorrectly equated the constitutional choices presented to lawyers and health professionals by competence orders and the COVID-19 vaccine, respectively.

83. In the result, the Chief Justice's analogy to the COVID-19 cases produced an incomplete and flawed assessment of Bill 21's infringement of s. 7 interests.

(i) <u>The Chief Justice erred in failing to appreciate Bill 21's unconstitutional effects on lawyers not subject to regulatory intervention</u>

84. The Chief Justice erred in analogizing to the COVID-19 cases because he failed to appreciate Bill 21's unconstitutional effects on lawyers not subject to regulatory intervention. The COVID-19 cases could only be relevant to the s. 7 interests of lawyers subject to regulatory intervention. The COVID-19 cases do not grapple with the broader infringement caused by Bill 21: the heightened fear and stigma—and attendant reluctance to seek help—among lawyers not subject to regulatory intervention or investigation.[92] By

[92] JAB, p. [●], National Study, Phase 1 Report, at p. 58; JAB, p. [●], Gold Report at pp. 4–9.

equating the appellants' challenge to the COVID-19 cases, the Chief Justice disregarded the broader infringement caused by Bill 21.

85. For lawyers not subject to regulatory intervention, they are not presented with any choice between: (a) accepting treatment; or (b) leaving the profession. Rather, their s. 7 interests are infringed by mere practice of their profession in the regulatory scheme created by Bill 21. If you are a lawyer, you are at risk of being forced (by someone with zero medical qualifications) to take the blue pill, or the red pill.

(ii) The Chief Justice erred in equating COVID-19 vaccines with the interventions contemplated by Bill 21

86. The Chief Justice also erred in analogizing to the COVID-19 cases in respect of lawyers who are subject to regulatory intervention. The choice presented to lawyers subject to Bill 21 and health professionals subject to a COVID-19 vaccine is materially different such that Bill 21 cannot pass constitutional muster.

87. What underlies the Chief Justice's analogy to the COVID-19 cases is the assumption that Bill 21 and public health orders present individuals with the same choice: (a) accept what is universally regarded as safe and effective medical treatment; or (b) leave the profession. Indeed, in *Hoogerbrug v. British Columbia*, Justice Coval concluded vaccines were an effective preventative measure against transmission.[93]

88. However, the medical interventions contemplated by Bill 21 cannot be equated to the COVID-19 vaccine. There is no basis to say that a COVID-19 vaccine is inherently harmful.[94] The same cannot be said for an imposed medical treatment aimed at a lawyer's mental health or substance use. The vagueness of ss. 88(1)(c) and 122(3)(c)(ii) permits the chief executive officer or hearing panel of the new regulator to impose wide range of interventions on lawyers, with a degree of uncertainty of whether they will resolve the competency issue at all or on what timeline.[95] It authorizes such orders for forced

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[93] JBOA, p. [●], *Hoogerbrug v. British Columbia*, 2024 BCSC 794 at paras. 124, 145 ("***Hoogerbrug***"), appeal dismissed as moot, JBOA, p. [●], *Tatlock v. British Columbia (Attorney General)*, 2025 BCCA 181.

[94] JBOA, p. [●], *Hoogerbrug* at para. 124. Courts have taken judicial notice of the safety of vaccines, and the COVID-19 vaccine in particular: JBOA, p. [●], *Parmar v. Tribe Management Inc.*, 2022 BCSC 1675 at paras. 108–110, 153.

[95] JAB, p. [●], Colleton Cross-Examination at Q207–208, 212, 215–222.

treatment without requirement that the chief executive officer obtain medical advice before making such an order.[96] It authorizes such forced treatment without any guarantee of confidentiality for the lawyer.[97] The scheme also fails to grapple with the undisputed fact and truth that voluntary treatment is generally more effective than compelled interventions.[98] As a result, the choice that Bill 21 foists on lawyers subject to regulatory intervention is: (a) accept invasive interventions of uncertain effectiveness ordered by a non-health professional, without confidentiality; or (b) leave the profession.

89. Our constitution does not permit a government-dominated regulator (without any medical professionals providing input) to impose treatment on persons simply because the other option is to abandon professions, jobs, livelihoods, and one of the most important things about a person's identity. If the law accepts such an impossible choice, then it has failed indeed.

90. The Chief Justice's analogy to the COVID-19 cases does not account for these distinguishing characteristics. Put simply, the COVID-19 cases are not apposite, and the Chief Justice erred in relying on them.

(c) **The Chief Justice erred in finding that the failure to comply with a competence order could not result in prosecution**

91. The Chief Justice concluded that a failure to comply with a competence order would not amount to an offence under Bill 21.[99] The Chief Justice appeared to conclude that the government's interpretation was an unequivocal representation that the government would not prosecute for non-compliance with a competence order.[100]

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[96] BE, p. [●], Bill 21, s. 88(1)(c). Before the chief executive officer makes an order under s. 88(1), they must give the licensee notice and a reasonable opportunity to make submissions: BE, p. [●], Bill 21, s. 88(3). There is no requirement to obtain a medical consultation or seek other expert opinion. This is contrary to the evidence that treatment for mental health and substance use should have a solid evidentiary foundation: JAB, p. [●], Colleton Cross-Examination at Q205; see also JBOA, p. [●], *Grewal (Re)*, 2022 LSBC 22 at paras. 93–94.
[97] JAB, p. [●], Gold Report at p. 12; JAB, p. [●], Colleton Report at para. 57; JAB, p. [●], Greenberg #1 at para. 117.
[98] JAB, p. [●], Gold Report at pp. 12–14; JAB, p. [●], Ganesan Report at pp. 6–8; JAB, p. [●], Colleton Cross-Examination at Q176.
[99] JAR, p. 321, Reasons, at para. 221.
[100] JAB, p. [●], Written Submissions of the Attorney General of British Columbia, dated September 15, 2025, at para. 670: "Declining to comply with a competence order is not an offence."

92. In the absence of a Legislative amendment confirming that the definition of an offence does not capture non-compliance with a competence order, the Chief Justice erred. His conclusion is contrary to the text of s. 198.

93. On the face of s. 198, a lawyer that fails to comply with a competence order "willfully interferes with or obstructs another person [the chief executive officer] in the exercise of a power [the power to impose competence orders under s. 88]". Per the text, that lawyer is committing an offence and is thus exposed to the penalties prescribed in s. 202: a fine of up to $200,000 or imprisonment up to two years.

94. Nothing in the text of Bill 21 clarifies that non-compliance with competence orders are exempt from ss. 198 and 202, or that the powers in s. 59 are the only possible consequences of failing to comply with a competence order.[101] The text says imprisonment or a fine is available. The Chief Justice erred in adopting an interpretation of s. 198 that is contrary to the words enacted.

(d) The Court can decide Bill 21's consistency with s. 7 on the available record

95. The evidentiary record is sufficient for this Court to decide Bill 21's consistency with s. 7 of the *Charter*. Remitting the action to the Supreme Court is unnecessary.

96. The Chief Justice's errors arise from a flawed interpretation of Bill 21. As a result, the Chief Justice did not grapple with the appellants' evidence on Bill 21's unconstitutional effects on lawyers' s. 7 rights. The appellants' evidence remains unchallenged or aligned with that of the government.

97. On this record, Bill 21 engages and infringes the life, liberty, and security interests of lawyers in a manner that is not in accordance with the principles of fundamental justice.

98. Bill 21 signals to the profession that mental health and substance use are proper targets of professional regulation and can be remedied with compelled treatment by the new regulator. This signal creates an atmosphere of anxiety and suspicion among

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[101] BE, p. [●], Bill 21, s. 59 permits the chief executive officer to impose limits or conditions on a license.

lawyers that leads to delayed treatment and decreased trust in seeking help for mental health and substance use.

99. The record below supports the following findings.

(i) Bill 21 engages and infringes lawyers' s. 7 rights

100. Bill 21 infringes liberty interests because it constrains lawyers' agency to make fundamentally personal decisions: decisions about their mental health and the integrity of their bodies. The right to personal autonomy is "so entrenched in the traditions of our law as to be ranked as fundamental and deserving of the highest order of protection."[102] Sections 88(1)(c) and 122(3)(c)(ii) empower the chief executive officer and a hearing panel to interfere with lawyers' medical self-determination by imposing particular counselling or treatment, with the threat of imprisonment or substantial fine.[103] The effects of these powers are to heighten stigma, and to discourage lawyers from choosing whether to self-report and seek help.[104] Bill 21 narrows lawyers' choices to seek help, from whom to seek help, and how to treat their condition, thus engaging their liberty interest.[105] The evidence is aligned that the legal profession experiences mental health and substance use disorders beyond the general population[106] and lawyers are already discouraged from seeking help.[107] In context, Bill 21's effects engage and infringe lawyers' liberty interests.

101. Bill 21 infringes security of the person because it discourages help-seeking and delays treatment, which exacerbates existing health conditions or causes new psychological stress.[108] Bill 21 creates this harm by (a) associating mental health and substance use with incompetent practice; and (b) enforcing that unwarranted association

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[102] JBOA, p. [●], *Council of Canadians with Disabilities v. British Columbia (Attorney General)*, 2026 BCSC 1416 at para. 739 ("***CCD***"), quoting JBOA, p. [●], *Fleming v. Reid*, [1991] O.J. No. 1083 at para. 39 (C.A.).
[103] BE, p. [●], Bill 21, ss. 88, 122(3)(c)(ii), 198, 202.
[104] JAB, p. [●], Greenberg #1 at paras. 117–118, 120; JAB, p. [●], Greenberg #3 at para. 204; JAB, p. [●], Gold Report at pp. 12–13; JAB, p. [●], Gold Cross-Examination at Q38, 69–109; JAB, p. [●], Ganesan Cross-Examination at Q147.
[105] JBOA, p. [●], *CCD* at paras. 778–782.
[106] See footnote 88.
[107] See footnote 89.
[108] JBOA, p. [●], *R v. Morgentaler*, [1988] 1 S.C.R. 30 at p. 59; JBOA, p. [●], *Chaoulli v. Quebec (Attorney General)*, 2005 SCC 35 at para. 119; JAB, p. [●], Ganesan Report at p. 8; JAB, p. [●], National Study, Phase 1 Report, at pp. 283–284; JAB, p. [●], Gold Report at pp. 6, 8–9.

with threat of treatment, which is imposed by a chief executive officer with no guaranteed medical expertise or assurance of confidentiality.[109] Where a regulatory system, like Bill 21, exacerbates an atmosphere of stigma, it leads to more avoidance of help-seeking behaviour, which only compounds lawyers' already heightened disinclination to self-report or seek treatment.[110] These lawyers are subject to state-induced psychological harm beyond ordinary stress and anxiety or deterioration of existing conditions.

102. Bill 21 infringes lawyers' life interests for the same reasons it engages lawyers' security of the person. Considering the legal profession experiences suicidal ideation beyond the general population, Bill 21 creates a real risk that lawyers may engage in self-harm or suicide.[111] That risk is sufficient to engage their life interests.[112]

(ii) Bill 21's infringement of lawyers' s. 7 interests is not in accordance with the principles of fundamental justice

103. Bill 21 is arbitrary because associating competence with health conditions has no connection with the government's alleged purpose of protecting the public from incompetent practice. Bill 21 is counterproductive because it risks worsening lawyers' conditions by delaying treatment and heightening stigma. Lawyers delaying treatment and avoiding help-seeking behaviours out of fear of the regulator harms the lawyer and the public.[113] Bill 21 harms lawyers (exacting an unconstitutional price) and does not serve its own theory of the public good. In so doing, it limits lawyers' rights arbitrarily.[114]

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[109] JAB, p. [●], Gold Report at p. 12; JAB, p. [●], Greenberg #1 at para. 117. The government's expert, Dr. Colleton, agrees confidentiality is an important concern and that Bill 21 does not protect against the risk of exposing lawyers' intimate personal health information to the public: JAB, p. [●], Colleton Report at para. 57. While Dr. Colleton opines lawyers' confidentiality interests must be balanced against the public interest in confidence in the legal profession, that is no answer in the s. 7 analysis: JBOA, p. [●], *Canada (Attorney General) v. Bedford*, 2013 SCC 72 at para. 125; JBOA, p. [●], *R. v. Brown*, 2022 SCC 18 at paras. 71–72; JBOA, p. [●], *CCD* at para. 889.

[110] JAB, p. [●], National Study, Phase 1 Report, at pp. 56–58, 281, 283–284; JAB, p. [●], National Study, Executive Summary, at pp. 7, 10; JAB, p. [●], National Study, Targeted Recommendations, at pp. 2756, 2779–2781; JAB, p. [●], Greenberg #3, Ex. 108, at pp. 20–21; JAB, p. [●], Gold Report at pp. 5–9.

[111] JAB, p. [●], National Study, Phase 1 Report, at pp. 40–42, 53, 55; JAB, p. [●], Greenberg #3 at para. 209; JAB, p. [●], Gold Report at p. 6.

[112] JBOA, p. [●], *CCD* at paras. 735, 772, 776.

[113] JAB, p. [●], Greenberg #3 at paras. 141, 214; JAB, p. [●], Gold Report at pp. 8–12.

[114] JBOA, p. [●], *Carter v. Canada (Attorney General),* 2015 SCC 5 at para. 83; JBOA, p. [●], *CCD* at paras. 747, 811.

104. If Bill 21 has some connection with the government's purported purpose, it remains overbroad. The statutory association between competence and health, backed by the power to compel treatment, is unnecessary when (a) the evidence is aligned that suspensions are a complete answer to incompetent practice;[115] and (b) the LSBC's model illustrates competency can be assessed without reference to health conditions.[116]

105. If Bill 21 has some connection with the government's purported purpose, Bill 21 is nevertheless grossly disproportionate. For lawyers subject to regulatory intervention, they may be compelled to counselling or medical treatment contrary to their right to medical self-determination. Compelled treatment is generally much less effective and should be relied upon as a last resort.[117] Yet, Bill 21 provides no such safeguard. As a result, Bill 21 interferes with lawyers' fundamentally personal choices to impose treatment that is ineffective in achieving the government's purpose. For lawyers not subject to regulatory intervention, Bill 21 still has grossly disproportionate effects. The fear arising from the possibility of compelled treatment disincentivizes help-seeking and self-reporting. This fear arises despite the evidence that not all mental health and substance use disorders impair practice.[118] The harsh effect on lawyers' s. 7 interests is out of sync with Bill 21's purpose. It is unconstitutional to impose these harms on lawyers when suspensions are sufficient to achieve the goal of protecting the public from incompetent practice.

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[115] JAB, p. [●], Gold Cross-Examination at Q96; JAB, p. [●], Colleton Cross-Examination at Q224, see generally Q209–223, 262–264; JAB, p. [●], Greenberg #1 at para. 117.

[116] The LSBC's Mental Health Task Force undertook substantial research on how to address mental health and substance use among lawyers without perpetuating stigma. This led to the removal of stigmatizing language from the *Code of Professional Conduct* and the alternative disciplinary process: JAB, p. [●], Greenberg #1 at paras. 110–123, Exs. 49–54; JAB, p. [●], Greenberg #3 at paras. 85–163, Exs. 98–110.

[117] The government's expert, Dr. Colleton, conceded on cross-examination that compelled treatment is not always effective, not least immediately effective, and should be used as a last resort: JAB, p. [●], Colleton Cross-Examination at Q207–208, 212, 215–222. See also JAB, p. [●], Colleton Cross-Examination at Q176; JAB, p. [●], Gold Report at pp. 12–14; JAB, p. [●], Gold Cross-Examination at Q113; JAB, p. [●], Greenberg #3 at paras. 136–140; JAB, p. [●], Ganesan Report at pp. 4–8.

[118] JAB, p. [●], Colleton Report at para. 21; JAB, p. [●], Gold Report at p. 10; JAB, p. [●], Greenberg #3 at paras. 99, 210; JAB, p. [●], National Study, Targeted Recommendations, at p. 2780; JAB, p. [●], Colleton Cross-Examination at Q228–231.

(iii) Bill 21's violation of s. 7 cannot be justified in a free and democratic society

106. In the court below, the government properly conceded that any violation of s. 7 could not be justified under s. 1.[119]

107. In the result, the evidentiary record is sufficient for this Court to assess whether Bill 21 violates lawyers' s. 7 rights. The appellants' evidence was largely unchallenged and effectively conceded by the Respondents' own expert. In substance, if this Court concludes the Chief Justice erred in the interpretation of Bill 21, the evidence supports a finding that Bill 21 violates s. 7 of the *Charter*.

(e) **Alternatively, the Court should remit the s. 7 issue with directions on the correct interpretation and legal principles**

108. If the Court finds the Chief Justice erred in the s. 7 analysis and concludes it cannot decide the issues, the appropriate remedy is to remit the s. 7 analysis with directions on the correct interpretation of Bill 21.

E. The Chief Justice erred in finding that Bill 21 does not violate the s. 8 right to be free from unreasonable search and seizure on the basis that it does not undermine the independence of the Bar

109. The Chief Justice's finding that Bill 21 does not violate s. 8 is bound up with his erroneous conclusion that Bill 21 does not undermine the independence of the Bar. In particular, the Chief Justice's (a) reliance on the s. 8 cases decided under the *LPA*; and (b) finding that the statutory protections for solicitor-client privilege in Bill 21, are not significantly undermined by the fact that the new regulator is not a body controlled by lawyers, are dependent on his conclusion that the new regulatory model does not undermine the independence of the new regulator.[120] As a result, if the appellants and LSBC are correct that Bill 21 undermines the independence of the Bar and, by extension, the new regulator, the Chief Justice's analysis cannot stand. Put simply, the search and seizure power in s. 78 is not reasonable, and the protections for solicitor-client privilege

[119] JAR, p. 246, Application Response of AGBC, filed May 23, 2025 (TLABC Action), at para. 42.
[120] JAR, p. 325, Reasons, at paras. 230–231.

in s. 209 are not sufficient, if the regulator exercising that power and receiving the privileged information is not independent.

PART 4 - NATURE OF ORDER SOUGHT

110. The appellants seek orders:

A. allowing the appeal;

B. setting aside the order made at paragraph 234 of the judgment dismissing the action of the appellants;

C. declaring that Bill 21: (a) is *ultra vires* the Legislative Assembly of British Columbia under ss. 92(13) and (14) of the *Constitution Act, 1867*; (b) violates ss. 7, 8, 10(b), and 11(d) of the *Charter* in a manner that cannot be justified in a free and democratic society under s. 1 of the *Charter*; and (c) is of no force or effect under s. 52 of the *Constitution Act, 1982*; in the alternative, declaring that ss. 68, 76–78, 85, 88, 122(3)(c)(ii), 198, 202, and 209 of Bill 21 violate ss. 7 and 8 of the *Charter* in a manner that cannot be justified in a free and democratic society under s. 1 of the *Charter*; (e) those portions of Bill 21 are of no force and effect to the extent of any inconsistency with the Constitution of Canada under s. 52 of the *Constitution Act, 1982*; in the further alternative, remitting the action to the Supreme Court of British Columbia for a new trial; and

D. awarding the appellants costs of the appeal and in the Supreme Court of British Columbia on a solicitor-and-own client indemnity basis.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of B.C., this 5th day of August, 2026.

Signed by:
Gavin Cameron
AC3B07833A6B4D9...

Gavin Cameron, Tom Posyniak, Laura Abrioux, and Will Andrews
Counsel for the Appellants, Trial Lawyers Association of British Columbia and Kevin Westell

APPENDICES: LIST OF AUTHORITIES

Authorities	Page # in factum	Para # in factum
Cases		
Brar v. British Columbia, 2024 BCCA 265	10	36
Canada (Attorney General) v. Bedford, 2013 SCC 72	27	101
Canada (Canadian Human Rights Commission) v. Canada (Attorney General), 2011 SCC 53	19	70
Carter v. Canada (Attorney General), 2015 SCC 5	27	103
Chaoulli v. Quebec (Attorney General), 2005 SCC 35	26	101
Charkaoui v. Canada (Citizenship and Immigration), 2007 SCC 9	14	50
Chisholm v. Valemount Forest Products Ltd., 2025 BCCA 48	16, 17, 18, 19	56, 61, 66, 70
Council of Canadians with Disabilities v. British Columbia (Attorney General), 2026 BCSC 1416	26, 27	100, 101 102, 103
Democracy Watch v. Canada (Attorney General), 2026 SCC 28	14	48
Fleming v. Reid, [1991] O.J. No. 1083 (C.A.)	26	100
Grewal (Re), 2022 LSBC 22	24	88
Hoogerbrug v. British Columbia, 2024 BCSC 794	23	87, 88
Manns v. Vancouver Island Health Authority, 2024 BCCA 110	12, 17, 18	45, 61, 66

Parmar v. Tribe Management Inc., 2022 BCSC 1675	23	88
R. v. Brown, 2022 SCC 18	27	101
R. v. Morgentaler, [1988] 1 S.C.R. 30	26	101
R. v. Rose, [1998] 3 S.C.R. 262	14	50
R. v. Sanclemente, 2021 ONCA 906	15	50
R. v. Sinclair, 2010 SCC 35	15	50
Tatlock v. British Columbia (Attorney General), 2025 BCCA 181	23	87
Valente v. The Queen, [1985] 2 S.C.R. 673	15	50
Wang v. British Columbia (Securities Commission), 2023 BCCA 101	16	56
West Fraser Mills Ltd. British Columbia (Workers' Compensation Appeal Tribunal), 2018 SCC 22	20	75
Secondary Authorities		
R. Sullivan, *The Construction of Statutes* (Toronto: LexisNexis Canada Inc., 2022)	18, 19, 20	63, 70, 75

APPENDICES: ENACTMENTS

[See Appellants' Book of Enactments.]

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4404905 **Submission Date: October 04, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

TAB 10

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION ***(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))***

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application	Mr. Kevin A. McLean (BA, JD, CIM) (he/him)
Name(s) of responding person(s) to be served with the application	The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)
Location where the application will be heard *Enter the address of the courthouse.*	800 Smithe Street Vancouver, BC V6Z 2E1
Date the application will be heard	TBD based hearing date for AP's Form 8 NOA (heard at same time) *Chambers applications begin at 9:30 a.m.*
The applicant anticipates that this application will be… *Check only one.*	☒ Contested ☐ Uncontested
Enter the section(s) or rule(s) that you are relying on for your application *E.g., If you are applying for leave to appeal, enter "Section 31 of the* Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."	*Court of Appeal Act,* S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 10, 11, 12, 18, 24, 25, 28, 32, 36, 37, 38, 44-46 *Court of Appeal Rules,* B.C. Reg. 120/2022 (the "*COR*", "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 2, 3, 4, 5, 26-27 (by implication as there is no legal entitlement of Prescribed Parties, particularly different and adversarial "Statutory Parties" and distinct Prescribed Parties to purport to file a "Joint Response Book [Sic]"), 41, 52-56, 64, 69-78, 79 (citing Schedule 3), 80-84 *Law and Equity Act*, R.S.B.C. 1996, c. 253, Section 8. *Interpretation Act*, R.S.B,C 1996, c 238

All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following orders which are contained in his written argument in support of the same:

Order #1: An Order abridging (shortening) all time periods within the COAA an Court of Appeal Rules to file and serve documents, and have this NOA heard on the day of the Applicant Party's NOA Form 8 (September 9, 2026) (inclusive of Application Book (September 15, 2026) and BOA (September 17, 2026);

Order #2: A Declaration that the Registrar of the British Columbia Court of Appeal is not permitted and prohibited from neither accepting nor rejecting a submitted filing; A Declaration that the BCCA Registrar is not permitted and prohibited from representing to a filing person that unfiled copies of paid for and submitted filings will be brought to the attention of a Justice or Justices as that, inter alia, would deprive rule 64(1)(b) "Parties" (herein, "Prescribed Parties") of the legal entitlement to respond to the NOA;

Order #3: A Declaration that the BCCA Registrar is not permitted and prohibited from dispensing with the requirements of the Rules sua sponte, otherwise and particularly on behalf of filing persons;

Order #4: A Declaration that the rejections by "SL" on September 25 and 29, 2026, were contrary to the Act and rules;

Order #5: A Declaration that since "SL" (Ms. Shelly Lin) is not a registrar, associate registrar, or deputy registrar(s) defined under s.1 and pursuant to COAA, s. 10 (collectively, the "PSA Appointed Registrars"), but rather a "Manager/Chambers Scheduler", Ms. Lin could not be delegated the powers and duties of any of the PSA Appointed Registrars, and could not exercise powers more than they had and less duties than they had;

Order #6: A Declaration that to the extent that Ms. Lin was delegated any such powers and/or duties that were on behalf of the PSA Appointed Registrars to rejected the submitted filings on September 25 and 29, 2026, such delegation was impermissible, void ab initio and of no force and effect;

Order #7: An Order in the nature of mandamus compelling the BCCA Registrar to accept the filings particularized and appended at Appendices A and B, and supported by receipt at Appendix C;

Order #8: An Order returning the filing fees to the Applicant Party's CSO account that were incurred unnecessarily and without legal bases;

Order #9: Costs against the BCCA Registrar; and

Order #19: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;

b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this **October 5, 2026, Form 4 Notice of Application.**

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

05/10/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

Appendix “A”

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application	Mr. Kevin A. McLean (BA, JD, CIM) (he/him)
Name(s) of responding person(s) to be served with the application	The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)
Location where the application will be heard *Enter the address of the courthouse.*	800 Smithe Street Vancouver, BC V6Z 2E1
Date the application will be heard	TBD based hearing date for AP's Form 8 NOA (heard at same time) *Chambers applications begin at 9:30 a.m.*
The applicant anticipates that this application will be… *Check only one.*	☒ Contested ☐ Uncontested
Enter the section(s) or rule(s) that you are relying on for your application *E.g., If you are applying for leave to appeal, enter "Section 31 of the* Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."	*Court of Appeal Act,* S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, **36**, 44-46, *Court of Appeal Rules,* B.C. Reg. 120/2022 (the "*COR*", "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75 *Law and Equity Act*, R.S.B.C. 1996, c. 253, Section 8. *Interpretation Act*, R.S.B,C 1996, c 238 All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following orders which are contained in his written argument in support of the same (wherein the following statutory parties ("Statutory Parties") in the: 1. the LSBC; and 2. TLABC and Mr. Westell (said three persons collectively defined as well as the "Appellants"); and 3. The AGBC and LGIC (together defined as the "Respondents") but also sad persons were some of many prescribed parties ("Prescribed Parties") under sub-rule 64(1)(b) (the five "Statutory Parties" defined in this NOA (Form 4) as the "**Purported Opposing Parties**"):

Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and

D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings") in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the

LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule 41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The filed affidavits in the Applicant Party Application Book of September 15, 2026 which are particularized again herein:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this September 22, 2026, Form 4 NOA.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

25/09/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.

[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a “Court Form” and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a “Response Book” is not discretionary as it must be prepared in accordance with the “Completion Instructions”. Part of the “Completion Instructions” required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page

Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of “filing parties” is not

required for joint book like a “Joint Appeal Book” (see: Rule 26) or a “Joint Book of Authorities” (see: Court of Appeal Rules, rule 27)

Appendix “B”

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS
(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS
(Defendants)

APPLICANT PARTY'S WRITTEN ARGUMENT CONCERNING AN APPLICATION TO:

I. Declare the **"Joint Response Book [Sic]"** void, void ab initio, and of no force and effect;
II. Strike and expunge the **"Joint Response Book [Sic]"** from the BCCA record under the above noted file numbers;
III. Declare the Registrar's acceptance of the **"Joint Response Book [Sic]"** to be without jurisdiction, void ab initio, and of no force and effect;
IV. Declare that the **"Joint Response Book [Sic]"** could not be lawfully served on the other "parties" under *Court of Appeal Rules*, rule 64(1)(b).
V. A Declaration that the LSBC, TLABC, and AGBC failed to comply with rule 62(4) and an Order that the aforementioned persons **"Joint Response Book [Sic]"** is not before the Court;
VI. Special costs against counsel for the LSBC, TLABC, and AGBC jointly and severally for intentional violations of the law; and
VII. Residual relief.

Hearing date: on the date of the **Applicant Party**'s Form 8 NOA to cancel the purported Orders of Horsman J.

Written argument dated and signed on: Friday, September 25, 2026
Written argument submitted for filing on: Friday, September 25, 2026

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PART 1: INTRODUCTION, PROCEDURAL VEHICLE, AND THE JURISDICTIONAL IMPERATIVE

1. The **Applicant Party** repeats and relies upon his evidence in the filed Application Book, and his argument and authorities contained therein and in his Book of Authorities, both for his Form 8 NOA to be heard and decided on a date, time and place as required by Rule 62(5) of the *Court of Appeal Rules*.
2. The **Applicant Party** adopts the definitions from the aforementioned filed documents and they have the same meaning herein as they do therein.
3. The present Written Argument is meticulously formulated and formally submitted to support a Notice of Application in Form 4, brought pursuant to the cited sections in the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*" or "*COAA 2021*"), and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*" or "*Court of Appeal Rules 2022*").
4. The **Applicant Party** seeks the relief particularized in his Form 4 Notice of Application ("NOA"), as denoted supra in summary form.
5. Concurrently, this Written Argument registers the **Applicant Party**'s formal opposition, supplementary to the Applicant Party's objection without taking a fresh step after notice of the irregularity in the failure to serve or be able to serve the "Joint Response Book [Sic]" of which the latter is a nullity at law and the former is an irregularity, to the unlawful steps taken and advanced by the Law Society of British Columbia ("LSBC"), the Trial Lawyers Association of British Columbia ("TLABC") and Mr. Westell, and the Attorney General of British Columbia ("AGBC") and LGIC (collectively, the "**Purported Opposing Parties**").
6. The **Purported Opposing Parties** seek to relegate the impending application to vary or cancel an order of a justice (the "Rule 62 Application") to a written-only adjudication pursuant to s. 26 of the *COAA*. However, the document they have styled as a **"Joint Response Book [Sic]"** is a nullity, void ab initio, and of no force and effect. As a matter of law, an unauthorized filing category cannot be placed "on top of" a mandatory procedural structure that does not permit it. The filing of a **"Joint Response Book [Sic]"** by adversarial statutory parties also raises structural concerns regarding whether any one Purported Opposing Party could purport to file a response on behalf of another.
7. It is formally articulated that the procedural mechanism invoked by the **Purported Opposing Parties** to bypass an oral hearing is misaligned with the mandatory statutory and rule-based architecture governing variance applications under Rule 62 and s. 35(2) of the *COAA*. Even if such a request could be made in that regard, wherein the 'hearing' itself was reduced to written or the time limit for 'hearing' was truncated (see: *COAA*, clauses 26(1)(a), (c) and (d) but not 26(1)(b) as the Form 8 NOA requires a 'hearing' and it is not merely a 'matter' per se wherein the Civil Rules Committee, blessed by the LGIC, used the language of 'hearing under Rule 62(5)).

8. The Legislature deliberately distinguishes between a "matter" and a "hearing" in *Court of Appeal Act* (the *COAA*), s. 26. A "matter" is the underlying proceeding; a "hearing" is the adjudicative event. Section 26(1)(a) empowers the Court to modify the conduct of a hearing, whereas s. 26(1)(b) empowers the Court — and only the Court — to decide a matter without a hearing.
9. The Registrar's administrative authority to "receive any matter," as referenced in the *Registrar's Powers Practice Directive* (3 May 2024), cannot override the Legislature's distinction. A Form 8 Notice of Application under Rule 63(2) and *COAA*, s. 35(2) requires a hearing. It is not a "matter" capable of being decided without a hearing unless the Court so orders under *COAA*, s. 26(1)(b).
10. Accordingly, the Registrar cannot treat the Applicant Party's Form 8 Notice of Application as a "matter," cannot block filings based on standing, and cannot exercise judicial discretion under *COAA*, s. 26. The Registrar's role is purely administrative: filings must be accepted or rejected under Rule 38 and the Completion Instructions. Any attempt to convert a hearing-required application into a "matter" is ultra vires.
11. This distinction is reinforced by the structure of the *COAA*. Section 26(1)(a) presupposes that a hearing date exists and that the matter is properly before the Court. Section 26(1)(b) presupposes that only the Court may eliminate a hearing. The Registrar cannot exercise judicial powers under s. 26, nor can the Registrar determine whether a hearing is required. The Applicant Party's Form 8 Notice of Application is a hearing-required application under Rule 63(2), and the Registrar must accept or reject filings under Rule 38 only.
12. The *Registrar's Powers Practice Directive* authorizes the Registrar to "receive and determine other matters related to the management of the conduct of an appeal," but this authority is expressly limited by *COAA*, s. 37(3): if there is any inconsistency between the rules and a practice directive, the rules prevail. The rules require acceptance or rejection of filings under Rule 38, and do not authorize the Registrar to determine standing, party status, or whether a hearing is required.
13. Therefore, the Clerk's refusal to accept the Applicant Party's Form 8 Notice of Application was ultra vires. The Form 8 Notice of Application must be accepted for filing, and the Applicant Party is entitled to a hearing under Rule 63(2) and *COAA*, s. 35(2).
14. The adjudication of acts executed without authority cannot, as a matter of law, be relegated to an administrative process that circumvents the mandatory hearing structure prescribed by the *Court of Appeal Rules*. When an adjudicative body is confronted with allegations of an absolute nullity arising from acts executed by a Justice, by title but that did not belong to her judicial office (Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est) (see: McLean v. Bradley, 1878 CanLII 22 (SCC) as per Sir William Buell Richards, Knt., C.J,, et al) and in part were manifestly absent jurisdiction (see: *coram non judice* (see also: Pong v. Quong, 1927 CanLII 2 (SCC) as per Anglin C.J.C.), the remedy

cannot be administered through a written-only process that eliminates the procedural safeguards inherent in an oral hearing.

15. The definition of an "Order" in s. 1 of the *COAA* expressly includes "a direction or determination specifically authorized or required under an **Enactment**."

16. The purported "Orders" issued by The Honourable Madam Justice Horsman, having been executed outside the boundaries of the governing **Enactment**s and devoid of statutory jurisdiction, fail to meet this threshold definition. They are jurisdictional nullities. To shield the review of such nullities through a written-only process would constitute a denial of natural justice.

17. The declarations and Orders sought—some specifically authorized and some specifically required by an **Enactment** (see: *Interpretation Act*, s. 1)—are determined pursuant to Rule 62 on a standard of review ("SOR") that is not contingent upon filed documents from any of the prescribed "parties" (the "Prescribed Parties"), as the review is conducted by a division panel of Honourable Justices.

PART 1(A): COMPLETION INSTRUCTIONS AND THE MANDATORY HEARING FRAMEWORK

18. "Completion Instructions" are defined as those issued by the Registrar for the proper completion, formatting, and submission of documents under the *Court of Appeal Rules*. These instructions form part of the mandatory procedural architecture and must be complied with by each responding person.

19. While the word "hearing" is not expressly defined under the *COAA* or the *Court of Appeal Rules*, the terms "Hearing Date" and "Obtain a Hearing Date" are defined and governed by the Rules. Critically, Rule 62(5) provides that the Registrar **must** set the date, time, and place for the hearing of an application. The word "must" is imperative (see: *Interpretation Act*, RSBC 1996, c. 238, s. 29), and imposes a statutory duty and obligation.

20. By tying the **Applicant Party**'s Form 4 NOA to the date on which the Registrar sets the hearing of the **Applicant Party**'s Form 8, the **Applicant Party** accomplishes: (a) the avoidance of multiplicity of hearings and/or proceedings; and (b) the avoidance of inconsistent fact-finding.

21. This is permissible as a variation of a "Court Form" pursuant to Rule 79(3), which allows a Court Form to be prepared with variations as the circumstances or the proceedings require.

22. Under s. 29 of the *Interpretation Act*, the words "shall" and "must" are to be construed as imperative. Under s. 29, "obligation" includes a duty and a liability. The imperative nature of "must" falls squarely upon each of the Appellants and Respondents to comply with Rule 62, including the mandatory filing and service of individual Response Books.

PART 1(B): MANDATORY ATTENDANCE AND COUNSEL OF RECORD

23. Rule 64(4) of the *Court of Appeal Rules* states that each party to an application **must** attend the hearing of the application:
    a. (a) in person, or
    b. (b) if permitted under Rule 42, by telephone, video conference, or other means of telecommunication.
24. The LSBC is represented by Lawson Lundell LLP. The TLABC and Mr. Westell are represented by Fasken LLP. The AGBC and LGIC are represented by government counsel.
25. Rule 64(5) provides that a person's lawyer may attend on behalf of that person. Accordingly, Lawson Lundell LLP cannot attend on behalf of the TLABC, Mr. Westell, the AGBC, or the LGIC, as it is not counsel of record for those persons. Each counsel of record must attend on behalf of their respective clients and the Prescribed Parties.

PART 1(C): STATEMENT OF ISSUES AND BRIEF ANSWERS TO ISSUES

26. The **Applicant Party** identifies the following issues for determination, sequenced chronologically the procedural defects leading to substantive defects, void ab initio documents (non "Court Forms") which were incapable of being accept for filing:
    a. Issue #1 Leaving aside that the Purported Opposing Parties did not submit for filing a Response Book, the first issue is whether the Purported Opposing Parties attempted to serve a filed copy of the *Joint Response Book* [sic] within seven days of being served with the Applicant Party's Application Book.
        1. Answer: As demonstrated in the Applicant Party's appendicised emails at Appendix #1 and Appendix #2, the Purported Opposing Parties failed to attempt service of the *Joint Response Book* [sic] on each Party under the *Court of Appeal Rules* within seven days of service of the Applicant Party's Application Book.
    b. Issue #2: Whether the Purported Opposing Parties' failure to file and serve a Response Book not more than seven days after being served with the Applicant Party's Application Book confirms, by their conduct, that they did not wish to respond to the Applicant Party's Application Book.
        1. Answer: By clear Enactment language and unassailable corollary and syllogism, the Purported Opposing Parties—leaving aside their failure to submit a compliant

Response Book in accordance with the Completion Instructions—confirmed by their conduct that they did not wish to respond to the Applicant Party's Application Book.

c. Issue #3: (a) Leaving aside that the Purported Opposing Parties did not submit a document capable of being filed, whether they could de jure serve the *Joint Response Book* [sic] on the Prescribed Parties under Rule 64(1)(a) (the Applicant Party) and Rule 64(1)(b) (the other Prescribed Parties served with the Applicant Party's Form 8, Application Book (September 15), and Book of Authorities (September 18, 2026)). (b) Whether the Purported Opposing Parties, through Mr. Andrews of Lawson Lundell LLP on Monday, September 21, 2026, purported service of what Mr. Andrews described as a "Response Book," thereby serving the Applicant Party with the *Joint Response Book* [sic].
    1. Answer: The germane subrule requires service of a Response Book, not a *Joint Response Book* [sic]. The only joint books permitted are Joint Appeal Books and Joint Books of Authorities (see *COAA*, ss. 26–27). As such, the Purported Opposing Parties could not serve any Prescribed Party de jure. Their purported service on the Applicant Party was not service de jure. As they did not attempt service on the other Prescribed Parties, the issue is simply non-compliance.

d. Issue #4: Whether the Purported Opposing Parties had authority to prepare, submit for filing, or purport to serve the Applicant Party with the *Joint Response Book* [sic] and its accompanying letter.
    1. Answer: Rule 62(4) imposes mandatory obligations (see *Interpretation Act*, s. 29) on "a person" who wishes to respond to an Application Book: to file and serve a Response Book on each Rule 64(1)(a) and (b) Party not more than seven days after being served, and in accordance with the Completion Instructions. Each Responding Prescribed Party failed to: (i) file; (ii) serve; (iii) a Response Book; (iv) on each Rule 64(1)(a) and (b) Party; (v) within seven days or at all; and (vi) in accordance with the Completion Instructions.
    2. The *Joint Response Book* [sic] is a nullity at law. The accompanying letter is likewise a nullity. A Response Book is not a "Court Form" but is a document subject to Completion Instructions. The *Joint Response Book* [sic] did not comply with any mandatory requirement.

e. Issue #5: Whether the Registrar had jurisdiction to accept the *Joint Response Book* [sic] for filing. More specifically, whether acceptance of a filing category not authorized by any Enactment constitutes an ultra vires act, and whether such acceptance is a "direction"

within the meaning of *COAA*, s. 1, thereby engaging the Applicant Party's right to seek cancellation under *COAA*, s. 35(2) and Rule 63.

1. Answer: The Registrar is a creature of statute, with no powers outside the four corners of the *COAA* and the *Court of Appeal Rules*. Any act outside those limits is ultra vires, void ab initio, and of no force and effect. Under *R. v. Verma*, para. 20, if a document complies with the rules and a person insists on filing it, the Registrar must accept it. Conversely, where a document does not comply with: (i) its required name; (ii) the requirement that each Prescribed Party file its own Response Book; (iii) the non-variability of documents outside Schedule 3; and (iv) the Completion Instructions, the Registrar cannot accept it.
2. The Registrar, Associate Registrar, and Deputy Registrar (see *COAA*, s. 1) are officers of the Court (see *COAA*, s. 10) and must conduct Appeals in accordance with the Act and Rules (see *COAA*, s. 18). Rule 62(4) and Rule 64(1)(a) and (b) squarely govern the requirements. The Registrar may only exercise powers conferred by the Rules or by the Chief Justice. Any inconsistency between a Chief Justice authorization and the Rules is resolved in favour of the Rules (see *COAA*, s. 37(3)).
3. The Completion Instructions required a cover page that prohibited filing of a *Joint Response Book* [sic]. On that ground alone, the Registrar could not accept it.

f. Issue #9: Whether the Court should strike and expunge the *Joint Response Book* [sic] as void ab initio, a nullity, void, and of no force and effect. More specifically, whether the fabricated filing category, adversarial consolidation, service defects, and structural non-compliance justify striking the document under Rule 53, Rule 54, *COAA*, s. 18(2), and *Supreme Court Civil Rules*, Rule 95.

1. Answer: The issue answers itself. The experienced counsel for the LSBC, TLABC and Mr. Westell, and AGBC and LGIC must have known their actions were prohibited by the *COAA*, the *Court of Appeal Rules*, other Enactments, and their professional obligations. As the public may review filed documents in the Record of Proceedings, the *Joint Response Book* [sic] must be expunged to prevent reliance on an unlawful filing.

g. Issue #10: In light of the independent, concurrent, and intertwined non-compliance with the Act and Rules by the Purported Opposing Parties, must the review division panel exercise its authority to decline to hear from the Purported Opposing Parties in relation to the Form 8 Notice of Application?

1. Answer: The Purported Opposing Parties' conduct contains numerous egregious violations of the Act and Rules. They must not be heard. To hear them would require one counsel to speak for all five Prescribed Parties, further undermining the Act and Rules.

h. Issue #11: Whether the review division panel, being required to conduct Appeals in accordance with the Act and Rules, must exercise its authority to declare the LSBC and TLABC/Mr. Westell's Appeals abandoned.

1. Answer: Jurisprudential principles confirm that where breaches are numerous and not merely irregularities, dismissal as abandoned is not Draconian. The misconduct here—carried out by experienced counsel for all five Prescribed Parties, without seeking leave to dispense with the Rules, and in the face of a validly filed and served Form 8, Application Book, and Book of Authorities—requires dismissal of the Appeals as abandoned. The remaining issues in the Form 8, confined to questions of law, should be argued by the Applicant Party.

PART 2: THE ATTEMPTED PROCEDURAL TRAP, PROVISION (NOT SERVICE) OF LEGAL FICTION DOCUMENTS, AND THE DEFINITION OF "PARTY" UNDER THE *COURT OF APPEAL RULES*

27. The **Applicant Party** formally notifies this Honourable Court of the procedural mechanism deployed by the **Purported Opposing Parties** through premature, extra-statutory correspondence. The transmission of letters and documents prior to the crystallization of statutory deadlines operates as an attempted procedural trap designed to compel the **Applicant Party** into an informal exchange outside the mandatory framework of the *Court of Appeal Rules*.

28. The architecture of this attempted trap is straightforward: by communicating through informal correspondence and seeking extra-**Enactment** consensus or acquiescence and/or taking a fresh step with knowledge of what it would inevitably claim was an irregularity but *de jure* a nullity, the **Purported Opposing Parties** endeavour to induce the **Applicant Party** into implicitly accepting their flawed premise—namely, that only the formalized Appellants and Respondents constitute "Parties" to these proceedings.

29. Simply put, the Appellants and Respondents are appellate "Statutory Parties," but they were and are not the only "Prescribed Parties" under the *Court of Appeal Rules*. The mandatory service matrix under Rule 62(4) and Rule 64(1)(b) extends beyond the narrow subset of Appellants and Respondents.

30. The **Applicant Party** expressly declines to validate this exclusionary posture and formally refuses to respond to extra-statutory correspondence that is not transmitted in accordance with the *Court of Appeal Rules*.

31. Furthermore, the mechanics of service under the modernized regime are mathematically precise and cannot be bypassed through the tactical provision of documents to only some of the Prescribed Parties. Rule 4(3) of the *Court of Appeal Rules* governs deemed service by email or fax and provides:

> "A document transmitted for service by email or fax is deemed to be served as follows: (b) if the document is transmitted at either of the following times, the document is deemed to be served on the next business day: (i) after 4 p.m. on a business day."

32. This deeming provision is mandatory and cannot be circumvented by informal correspondence.

33. While it would have been open to the **Applicant Party** to wait until 4:01 p.m. on September 22, 2026, such a step would have played into the **Purported Opposing Parties**' attempted procedural manoeuvre. More critically, it would not matter, *de jure*, whether the **"Joint Response Book [Sic]"** was transmitted before or after 4:00 p.m., as the document is a legal fiction per se. A "Court Form" may be varied under Rule 79(3)(a), but a Response Book is not a Court Form and must be completed in accordance with the Completion Instructions, filed, and then served on *each* Rule 64(1)(a) and (b) "Party" (see: Rule 62(4)).

34. If the **Purported Opposing Parties**' extra-**Enactment** correspondence and defectively provided documents were transmitted after the 4:00 p.m. threshold, they are strictly deemed served on the next business day. The **Applicant Party** relies absolutely upon the precision of the *Court of Appeal Rules* and rejects any attempt to manipulate timelines or construct artificial urgency through non-compliant, late-afternoon transmissions.

PART 3: THE EXCLUSIVITY OF SECTION 32 DISPENSATION POWERS AND RULE 41

35. The **Purported Opposing Parties**' attempt to dispense with the mandatory oral hearing requirement of Rule 62 through an informal letter to the Registrar constitutes a clear error of law and a circumvention of the *COAA*. The statutory architecture governing the dispensation of Rules and the extension or abridgment of timelines is rigid, exclusive, and strictly reserved for the judiciary.

36. Section 32(1) of the *COAA* explicitly and unequivocally delineates the jurisdictional boundary: **"A justice may dispense with a requirement of the Rules."** This extraordinary power is conferred solely upon a justice. The statute does not authorize the Registrar to dispense with any requirement of the *Court of Appeal Rules*, nor does it permit litigants to dispense with mandatory Rules through consensus, correspondence, or informal communication. The Registrar is statutorily barred from entertaining any informal request to abandon an oral hearing mandated by Rule 62.

37. Furthermore, should the **Purported Opposing Parties** attempt to characterize their request as involving an extension or abridgment of time limits, s. 32(3) of the *COAA* dictates that a justice may extend a time limit even if it has expired. However, such an extension is subject to strict procedural prerequisites. Section 32 is inextricably tethered to Rule 41 of the *Court of Appeal Rules* (General Applications), which governs applications to vary timelines or dispense with procedural requirements.
38. To successfully invoke the dispensation or extension powers under s. 32, the defaulting or moving party must apply formally. Under the *Court of Appeal Rules*, an application to a justice to dispense with a Rule or vary a timeline requires a specific evidentiary and procedural matrix, including: (a) the filing of a formal Notice of Application in Form 4; (b) the filing of supporting Affidavits containing the requisite evidentiary foundation; and (c) the submission of a Written Argument.
39. The **Purported Opposing Parties** have filed none of these mandatory instruments. They have submitted: (a) no Form 4; (b) no sworn evidence justifying dispensation of the requirements of the *Court of Appeal Rules* to: (i) file a Response Book; (ii) serve a filed Response Book; (iii) file and serve a Response Book on each Party; and (c) no materials addressing any other mandatory requirements under the *Court of Appeal Rules*.
40. By attempting to secure a s. 26 written-only hearing—transmitted only to the **Applicant Party**—via a letter sent solely through the LSBC, the **Purported Opposing Parties** have engaged in a procedural approach that is incompatible with the *COAA* and the *Court of Appeal Rules*.
41. Simply put, they have engaged in obstructionist conduct which can only be inferred to be, with such experienced legal counsel, to be intentional violations of law.
42. Their failure to comply with the mandatory statutory and rule-based requirements is complete, and their attempt to bypass Rule 62 through informal correspondence is without legal foundation. Such acts were not merely voidable but void ab initio, void, and of no force and effect. Parties, statutory and/or prescribed, cannot even waive by consent, requirements of the *COAA* and the *Court of Appeal Rules* as only a Justice may do so.

PART 4: THE PROCEDURAL INVALIDITY OF THE "JOINT RESPONSE BOOK [SIC]", ADVERSARIAL ALIGNMENT, AND RULE 63

43. The **Applicant Party** brings this Form 4 Notice of Application to strictly enforce the pure, rule-based appellate geometry of the *Court of Appeal Rules*.
44. The instrument accepted as filed by the Registrar—submitted presumably by the LSBC on behalf of the **Purported Opposing Parties** and styled as a **"Joint Response Book [Sic]"**—is a procedural phantom.

The *Court Services Online* ("CSO") portal does not permit the filing of any joint adversarial "document" (see: Rule 1(1)). The only joint filing categories authorized under the *Court of Appeal Rules* are: (a) joint appeal books; and (b) joint books of authorities.

45. The *Court of Appeal Rules* simply do not authorize a **"Joint Response Book [Sic]"**. The Registrar possessed no jurisdiction under any **Enactment** to accept such a legal-fiction document. It is a fabricated filing category entirely absent from the governing statutory and regulatory framework.

46. Rule 62(4) explicitly dictates the mandatory obligations for responding to an application to vary: **"A person who wishes to respond to an application book… must file and serve… a response book."** The Rule imposes a singular, individual obligation on **"a person"** to file **"a response book."** Not joint. Not combined. Not consolidated. A response book. Singular.

47. It is axiomatic that the LSBC is a singular Appellant under the file number assigned to its Appeal, and the TLABC and Mr. Westell are singular Appellants under the file number assigned to their Appeal. The AGBC is a singular Respondent. Each is required to file and serve their own individual Response Book.

48. The word "joint" is entirely absent from the *COAA 2021*. However, the word "joint" appears exactly fourteen times within the modernized *Court of Appeal Rules 2022*. A rigorous statutory construction reveals that the Legislature specifically and exclusively authorized "joint" filings **only** in the context of: (a) a "joint appeal book" (Rule 26(1), (4), and (5)); (b) a "joint book of authorities" (Rule 28(3) and (4)); and (c) a "joint appeal book on cross appeal" (Rule 30(1) and (2)).

49. There is a fundamental structural reason why the Rules allow "joint" filings strictly for appeal books and books of authorities: these are neutral, administrative compilations of shared evidentiary materials. A joint appeal book is prepared jointly by all parties to organize the record. It is an administrative efficiency.

50. Conversely, a Response Book under Rule 62 is not a neutral compilation; it is an adversarial submission. It contains argument, procedural posturing, and sworn affidavits. The Rules deliberately do **not** permit joint adversarial filings. The Registrar cannot spontaneously create such a category, nor can the Registrar consolidate adverse parties into a single "unit" with a single **"Joint Response Book [Sic]"**.

51. This structural defect is fatal given the specific adversarial alignment of the parties in CA51535 and CA51536. The LSBC is an Appellant under its designated file number. The TLABC and Mr. Westell are joint Appellants under the designated BCCA file number. The AGBC is a Respondent. While the LSBC, and TLABC and Mr. Westell, could not file a **"Joint Response Book [Sic]"**, adding the AGBC and LGIC are purported joint completers under a singular filer, through counsel to the LSBC's CSO filing account, was particularly egregious when the AGBC and LGIC are adverse parties in the underlying litigation to the LSBC, TLABC and Mr. Westell and adverse statutory parties under the *COAA*. The Rules do not permit adverse parties to file a joint, consolidated adversarial response. This is a categorical defect of procedural alignment.

52. Furthermore, any attempt by the **Purported Opposing Parties** to justify the fabrication of a **"Joint Response Book [Sic]"** by relying on the variation allowance under Rule 79 is fundamentally doomed by strict statutory definitions. Rule 79(1) defines a "Court Form" precisely as "a document that is required under these Rules to be filed using a specified form [set out in Schedule 3]." While Rule 79(3)(a) allows a Court Form to be prepared "with variations as the circumstances or the proceedings require," a Response Book is **not** a Court Form.
53. A Response Book is a substantive document governed exclusively by Rule 62 and the Completion Instructions. However, it is **not** a "Court Form" and cannot be varied as It is entirely absent from the forms codified in Schedule 3. Ergo, the statutory allowance for "variations" is categorically inapplicable. The title page submitted by the institutional litigants—boldly declaring itself a **"Joint Response Book [Sic]"** on behalf of both Appellants and Respondents—is an unauthorized fabrication that cannot be saved by Rule 79. Because it is not a Court Form, it cannot be varied. It is an illicit document that must be summarily struck.
54. As established above, only a justice may dispense with compliance with the Rules pursuant to s. 32(1) of the *COAA*. The Registrar cannot modify Rule 62 or accept filings not authorized by the Rules. Therefore, the Registrar could not accept a **"Joint Response Book [Sic]"** unless a justice explicitly ordered it. No such dispensation order exists. The filing is *ultra vires*, irregular on its face, and improperly before the Court.
55. Furthermore, the lack of service is not merely cosmetic; it is a profound substantive defect. Rule 62(4) requires service of the Response Book "on each party." The **Purported Opposing Parties** failed to serve the broader matrix of counsel and interveners. This defect affects the validity of the **Joint Response Book** [sic], the ability of the Court to rely upon it, and the fundamental fairness of the Rule 62 process.
56. Because the Registrar's acceptance of this fabricated instrument constituted a "direction", but not an Order, under the *COAA*, the **Applicant Party** is mathematically required to bring this Rule 63 application to set aside that direction and formally strike the unauthorized document from the record. However, the end result is the same relating to the invalidity of the **"Joint Response Book [Sic]"** albeit the consequential relief of striking and expunging is distinct.

PART 5: THE STATUTORY MANDATE OF RULE 62 AND THE PROHIBITION OF NULLITIES

57. It is systematically acknowledged that Rule 62(5) of the *Court of Appeal Rules* explicitly mandates that the date, time, and place for the hearing of an application under said Rule **must** be set by the Registrar. The public-facing guidance of the Court of Appeal further notes that such hearings are presumptively 30 minutes in duration.

58. The imposition of a strict thirty-minute temporal limitation unequivocally signifies the Legislature's contemplation and mandate of an **oral hearing**. Limiting the time for a hearing that is purely written is a logical impossibility and a procedural absurdity. A written-only process has no "hearing time" to limit. Consequently, the invocation of s. 26(1)(c) or s. 26(1)(d) of the *COAA* to limit or eliminate the hearing is strictly ***ultra vires*** the specific statutory architecture governing variance applications under Rule 62.
59. As dictated by the venerable maxim *generalibus specialia derogant* (special provisions derogate from general ones), the specific temporal and structural requirements formulated exclusively for variance applications in Rule 62(5) strictly override the generalized, discretionary parameters of s. 26 of the *COAA*. A failure to apply the governing statutory text to orchestrate the hearing constitutes a pure, extricable error of law.

PART 5(A): SECTION 19 OF THE COAA: IRREGULARITIES VS. NULLITIES

60. Section 19 of the *COAA* provides that an Appeal is not defeated by an "irregularity or procedural error" in the conduct of the appeal. Section 19(2) empowers a justice to validate an act, impose terms, or make any order necessary to address such irregularities or procedural errors.
61. However, the statutory protection afforded by s. 19 applies **only** to irregularities — not to **nullities**. A nullity is not an "irregularity" within the meaning of s. 19(1). A nullity is a legal non-event: an act done without jurisdiction, without authority, or contrary to an **Enactment**. A nullity cannot be validated, cured, or retroactively regularized under s. 19(2). It is void ab initio.
62. The acceptance for filing of a **"Joint Response Book [Sic]"** by the Registrar is not an irregularity; it is a **nullity**. The Registrar had no jurisdiction under any **Enactment** to accept a fabricated filing category not authorized by the *Court of Appeal Rules*. The document is not merely defective — it is legally impossible. It is a filing that the Rules do not permit to exist.
63. Because s. 19 cannot cure a nullity, the **"Joint Response Book [Sic]"** cannot be validated, cannot be regularized, and cannot be salvaged by judicial discretion. It must be struck. The **Applicant Party** is therefore mathematically required to bring this Rule 63 application to set aside the Registrar's acceptance of the nullity and to formally expunge the unauthorized document from the record.

PART 6: NOVELTY, THE PUBLIC INTEREST, AND THE OPEN COURT PRINCIPLE

64. The present opposition engages a novel and unresolved issue of law under the modernized *COAA 2021* and the contemporary *Court of Appeal Rules 2022*. The interaction between the mandatory hearing parameters of Rule 62 and the discretionary written-only mechanisms of s. 26 of the *COAA*, in the context

of an unauthorized request not properly predicated *de jure*, remains an undecided and critical frontier of appellate jurisprudence in British Columbia.

65. The procedural mechanism advanced by the **Purported Opposing Parties** fundamentally engages the open court principle, a constitutional pillar of the Canadian justice system protected under s. 2(b) of the *Canadian Charter of Rights and Freedoms*. As articulated by the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25, and *Vancouver Sun (Re)*, 2004 SCC 43, the public ventilation of judicial proceedings is essential to maintaining institutional legitimacy, democratic accountability, and public confidence in the administration of justice.

66. The present application does not concern routine interlocutory matters. It is tethered to allegations of serious state-action irregularities and the procedural consequences arising from those allegations. The public holds a legitimate interest in observing the appellate division address the statutory, procedural, and jurisdictional issues raised in open court. This matter engages the highest level of public interest in the proper functioning of the justice system.

67. By seeking to force this adjudication into a written-only process under s. 26 of the *COAA*, the **Purported Opposing Parties** attempt to bypass the mandatory oral hearing structure prescribed by Rule 62. Such an approach would improperly quarantine the adjudication of issues that, by their nature, require public ventilation and judicial transparency. The open court principle prohibits the displacement of an oral hearing where the governing **Enactment**s mandate one.

PART 7: THE INAPPLICABILITY OF THE SECTION 26 JURISPRUDENCE

68. Assuming arguendo that the **Applicant Party** was put to argue the same, he respectfully provides the following.

69. The jurisprudential authorities proffered by the **Purported Opposing Parties** to substantiate the dispensation of an oral hearing are categorically distinguishable, factually impoverished, and profoundly inapplicable to the present matrix. The discretionary authority encapsulated within section 26 is customarily reserved for matters devoid of substantive complexity or wherein the administration of justice is uncontrovertibly served by written submissions.

70. A rigorous legal deconstruction of the authorities relied upon demonstrates their absolute irrelevance to an application addressing a jurisdictional nullity, as elucidated within the comparative table below:

Authority	Procedural Context	Distinguishing Factor (Nullity vs. Irregularity)

Gonzalez v. British Columbia (Attorney General), 2023 BCCA 155	Vexatious litigant, obvious lack of merit in an application for review.	The appellate tribunal dispensed with an oral hearing strictly upon the foundation of a lack of merit involving an existing vexatious litigant. The present matter engages profound constitutional issues, novel interpretations of the 2021 *COAA*, and strict *ultra vires* actions by a chambers justice.
Vesuna v. Stillwater Waterworks District, 2023 BCCA 431	Consent disposition regarding an *ex parte* substituted-service order.	Engaged a scenario wherein an appeal was allowed by absolute consent. In the present circumstances, vigorous, unyielding opposition is registered against the circumvention of the open court principle.
Raju v. Red Door Housing Society, 2025 BCCA 340	Judicial review of a residential tenancy dispute involving voluminous materials.	Involved a standard administrative review concerning residential tenancies. Here, the underlying issue is fundamental procedural fairness, acts executed *coram non judice*, and the suppression of forensic evidence.
Portnov v. Alexander Holburn Beaudin + Lang LLP, 2026 BCCA 193	Adjournment request where comprehensive materials were already filed.	Involved an adjournment request on a pedestrian civil practice issue. The instant matter engages catastrophic jurisdictional usurpation demanding absolute transparency.

71. By attempting to rely upon the aforementioned jurisprudence, the **Purported Opposing Parties** have strategically endeavoured to conflate a catastrophic jurisdictional nullity with a mere procedural irregularity. The adjudication of a nullity requires the purifying sunlight of an oral hearing.

PART 8: THE EVIDENTIARY VOID AND THE ABUSE OF PROCESS

72. The tactical refusal of the institutional litigants to engage with the substantive forensic evidence—electing instead to file an unauthorized **"Joint Response Book [Sic]"** that labels an exhaustively cited fifty-seven-page legal argument detailing unconstitutional state-sponsored digital incursions as indecipherable—crystallizes the evidentiary void.

73. It is advanced that the attempt to utilize the section 26 mechanism operates as a transparent stratagem to shield the profound constitutional violations, the Deflate64 compression algorithms masking the true binary state of the extracted files, and the binding formal admissions from public ventilation. Such a maneuver is *ipso facto* an abuse of process.
74. The administration of justice is incontrovertibly prejudiced when severe jurisdictional defects are swept into an administrative vacuum. Section 26 cannot be weaponized by institutional litigants to insulate themselves from accountability regarding actions that were executed without the requisite jurisdiction and thus rendered absolute constitutional nullities.

PART 9: STRIKING THE "JOINT RESPONSE BOOK [SIC]"

75. Under this heading, the **Applicant Party** repeats and relies upon his argument contained in his filed Application Book of September 15, 2026.
76. In the absence of an explicit provision within the *Court of Appeal Rules* specifically governing the striking of unauthorized, incidental responsive documents, the adjudicative body is mandated by section 18(2) of the *COAA* to apply the *Supreme Court Civil Rules* by analogy. Consequently, Rule 9-5 of the *BCSC Civil Rules* is irrevocably engaged to adjudicate the expungement of the Appellants' **"Joint Response Book [Sic]"** and associated memoranda.
77. In *Walker v. John Doe*, 2014 BCSC 830, The Honourable Mr. Justice Butler definitively established that the jurisdiction granted by Rule 9-5(1) extends far beyond originating pleadings to encompass "other documents" filed within a proceeding. The deliberate insertion of cost-threats into boilerplate notices was struck as an abuse of process. By analogy, the deliberate insertion of a fabricated, procedurally non-existent **"Joint Response Book [Sic]"** into the appellate registry—explicitly designed to bypass the mandatory service matrix and consolidate adverse parties into an unlawful alliance—constitutes an analogous misuse of procedural mechanisms demanding expungement.
78. Applying the jurisprudence of Rule 9-5(1)(b) and (c), the impugned filings are demonstrably scandalous, frivolous, and inherently prejudicial (*Gill v. Canada*, 2013 BCSC 1703; *McNutt v. A.G. Canada*, 2004 BCSC 1113). They serve no useful purpose because they advance arguments predicated upon a defunct 2018 lower-court order, constituting a direct, impermissible collateral attack upon the Court of Appeal's own subsequent acceptance of jurisdiction in docket CA45786 (*Wilson v. The Queen*, 1983 CanLII 35 (SCC)).
79. Furthermore, applying Rule 9-5(1)(d), the filings constitute an absolute abuse of process. As definitively articulated by the Supreme Court of Canada in *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26, the failure of a party to challenge jurisdictional validity at the appropriate temporal juncture—opting instead

to deploy self-help remedies and subsequently mount a defense based upon those unaddressed historical grievances—constitutes a flagrant abuse. The Appellants deliberately slept on their rights during the 2019 appellate proceedings (*McLean v. British Columbia*, 2019 BCCA 133) and are now strictly estopped from manufacturing a retroactive standing objection. The analogous application of Rule 9-5 demands the immediate striking of the Joint Response Book and the offending memoranda.

PART 10: THE NON-IRREGULARITIES IN THE FORM OF THE NULLITIES AND CONSEQUENTIAL RELIEF

80. Rule 36 authorizes a Justice to do the following when there has been a "failure to comply:

36 A justice may do one or more of the following if a party fails to comply with this Act or the rules or an order or direction of the court, a justice or the registrar:

(a)refuse to hear the party;

(b)impose terms and conditions, including the payment or disallowance of costs;

(c)if the party is an appellant, dismiss the appeal as abandoned.

81. The former section , which read as follows, from 1996 to 2021:

> Non-compliance
> 28 If a party fails to comply with this Act or the rules, the court or a justice may
>
> (a)dismiss the appeal as abandoned if the party is the appellant,
>
> (b)refuse to hear the party, or
>
> (c)impose terms including terms respecting the payment or disallowance of costs or disbursements.

82. Both the current s. 36 and former s. 28 use the word "party," referring to a Statutory Party. The repealed section permitted either the Court or a justice to exercise the dismissal and refusal jurisdiction. Under the current s. 36, only a justice may do so.

JURISPRUDENCE UNDER CURRENT SECTION 36

83. Most jurisprudence under the current s. 36 concerns failures to pay security for costs or failures to file documents within prescribed timelines.

84. In *Momeni v. Percy*, 2023 BCCA 295, former tenants (appellants) attempted to serve an appeal record on their landlords (respondents) via registered mail. The respondents applied to dismiss the appeal as

abandoned under s. 36(c) because registered mail is not a permitted method of service under the *Court of Appeal Rules* unless explicitly authorized. Although the justice agreed the service was invalid, dismissal was considered too "draconian" for an early-stage misstep that was not egregious.

85. Here, by contrast, the Purported Opposing Parties did not merely choose an improper method of service. The *Joint Response Book* [sic] was and is a nullity on its face and in substance, incapable of being served at law. The numerous violations of the *COAA* and the *Court of Appeal Rules* are far more egregious than the conduct of self-represented tenants in *Momeni*.

86. Moreover, the Purported Opposing Parties' failure even to attempt service of the *Joint Response Book* [sic] on each Party under Rule 62(4), citing Rule 64(1)(b), supports the inference that they knew the *Joint Response Book* [sic] was a nullity at law. Their conduct is consistent with bad faith, dishonesty, and fraud on the Court.

87. By syllogism, granting relief dismissing the Appeals as abandoned is not too draconian when considering the numerous, intertwined violations of the *COAA* and the *Court of Appeal Rules*

JURISPRUDENCE UNDER THE FORMER SECTION 28 OF THE COAA

88. In *British Columbia v. Leyen*, 2006 BCCA 180, Justice Davies held that where Appeals are hopeless, this militates in favour of dismissing the Appeals as abandoned.

89. The Applicant Party repeats and relies upon the filed documents in the Application Book regarding the hopeless nature of the Appeals, including fraud on the Court, the law of admissions without any cross-appeal, and abuse of process (which has continued as a pattern by the LSBC).

PART 11: NATURE OF THE ORDERS REQUESTED

90. The **Applicant Party** respectfully requests the following relief on a preliminary basis and prior to the hearing of his Form 8 (September 9, 2026) supported by his filed Application Book (September 15, 2026) and his BOA (September 17, 2026):

Part 11(A): Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and
D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Part 11(B): Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings")

in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule

41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.
Dated at the City of Toronto, Province of Ontario, this 25th day of September 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party
68 Abell St. (Receptionist desk) Toronto, ON M6J 0B1
Email: mclean@searchandseizure.ca

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.
[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a "Court Form" and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a "Response Book" is not discretionary as it must be prepared in accordance with the "Completion Instructions". Part of the "Completion Instructions" required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page
Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of "filing parties" is not required for joint book like a "Joint Appeal Book" (see: Rule 26) or a "Joint Book of Authorities" (see: Court of Appeal Rules, rule 27)

APPENDIX “A”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535/CA51536 - Service of Response Book and Letter

5 messages

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 6:26 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Please find attached the Joint Response Book of the parties, filed today in response to your application to vary or cancel the order of Justice Horsman.

Also attached is a letter from the parties to the Registrar of the Court of Appeal, which we will be filing momentarily. We will provide you with a filed copy of the letter in due course.

Regards,

Jonathan

Jonathan Andrews | Associate
D 604.631.9270 | **E** jandrews@lawsonlundell.com
Lawson Lundell LLP 1600 - 925 West Georgia Street, Vancouver, BC V6C 3L2
Vancouver | Calgary | Yellowknife | Kelowna

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2 attachments

Joint Response Book - Vary Order of a Justice - F_ September 21, 2026.PDF
874K

2026-09-21 LT Court of Appeal (Registrar) re Kevin McLean Rule 62 Application.PDF
267K

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 7:03 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews

wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Further to my email below, here is a filed copy of the letter.

Regards,

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

[Quoted text hidden]
[Quoted text hidden]

2026-09-21 LT Court of Appeal Registrar - F_ September 21, 2026.PDF
268K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 2:48 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Subject: CA51535 / CA51536 – Service of “Joint Response Book” [sic] – confirmation of receipt not service *per se*

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I thank Mr. Andrews for his two emails and confirm receipt of the same.

I also confirm receipt of your “Joint Response Book” [sic] purportedly filed today in response to my application to vary or cancel the order of Justice Horsman. As you are aware, the Court of Appeal Rules do **not** authorize a “joint” response book, and such a filing is a **nullity** under Rule 62.

Leaving that aside, Rule 62(4) requires that *each person* who wishes to respond must file and **serve** a response book on the applicant and on **each party** described in Rule 64(1)(b). Based on the recipients included in Mr. Andrews’ email, I will presume that this “Joint Response Book” [sic] was **not** served on all Rule 64(1)(b) parties.

If purported service was effected separately (i.e., by a separate email to the prescribed parties), please provide proof of service forthwith.

I will address the remainder of the issues involving the same separately but it was important to confirm that (as the email addresses based upon a cursory review do not appear to include all legal representatives of parties as passed by the LGIC in 2022 under the Court of Appeal Rules) some “Prescribed Parties” were not included and were not served within seven days of a receipt of my Application Book.

I reserve all of my rights in fact and at law.

Regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Appendix – Rule 62(4)

“A person who wishes to respond to an application book filed under subrule (2)(b) must file and serve, on the applicant and on each party not more than 7 days after being served the application book, a response book prepared in accordance with the completion instructions.”

[Quoted text hidden]

Jonathan Andrews <jandrews@lawsonlundell.com> Wed, Sep 23, 2026 at 3:31 PM
To: "Mr. Kevin Alexander McLean" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean, we acknowledge receipt of your email.

Regards,

Jonathan

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

From: Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>
Sent: Wednesday, September 23, 2026 11:49 AM
To: Jonathan Andrews (3270) - 14Flr <jandrews@lawsonlundell.com>
Cc: Lapper, Emily AG:EX <emily.lapper@gov.bc.ca>; Trevor.Bant <trevor.bant@gov.bc.ca>; Ortega, Sergio AG:EX <sergio.ortega@gov.bc.ca>; Karin.Kotliarsky <karin.kotliarsky@gov.bc.ca>; Gavin Cameron <gcameron@fasken.com>; tposyniak <tposyniak@fasken.com>; Laura Abrioux <labrioux@fasken.com>; Will

Andrews <wandrews@fasken.com>; Craig Ferris (3197) - 14Flr <cferris@lawsonlundell.com>; Laura Bevan (3106) - 14Flr <lbevan@lawsonlundell.com>; Nicole Welsh (3193) - 14Flr <nwelsh@lawsonlundell.com>; Lindy Grant (3258) - 14Flr <lgrant@lawsonlundell.com>; Nastasia Virvilis (3497) - 14Flr <nvirvilis@lawsonlundell.com>
Subject: Re: CA51535/CA51536 - Service of Response Book and Letter

> EXTERNAL EMAIL - This email was sent by a person from outside your organization.

[Quoted text hidden]

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:37 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Thank you kindly Mr. Andrews and I hope you are all well. You will want to review my email to all of the Rule 64(1)(b) ‘parties’ (persons therein). I will be somewhat strict herein without being rude that all future correspondence regarding these issues shall be in that email thread. Please respond therein and I will respond in kind should any further correspondence be applicable or required.

[Quoted text hidden]

APPENDIX “B”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK" and non-service on ALL "Prescribed Parties" within seven days of September 15, 2026

1 message

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:31 PM
To: Chambers <Chambers@bccourts.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, lkt@tdslaw.com, Ian Knapp <iknapp@macfuj.com>, amackenzie@macfuj.com, "XT:Olthuis, Brent AG:IN" <bolthuis@ovcounsel.com>, dredman <dredman@arvayfinlay.ca>, David Wu <dwu@arvayfinlay.ca>, cbildfell@mccarthy.ca, "Frame, Lindsay" <lframe@mccarthy.ca>, roy.millen@blakes.com, nicholas.tollefson@blakes.com, joey@doyledefence.ca, ekirkpatrick@mcewanpartners.com, cdauvergne@litigationchambers.com, jmaclaren@accessprobono.ca, kyla@vancouvercriminallaw.com, rpeck@peckandcompany.ca, csenini@peckandcompany.ca, pmueller@peckandcompany.ca, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, cferris <cferris@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, mring@lawsonlundell.com, ccrane <ccrane@ovcounsel.com>, Chris Pang <cpang@ovcounsel.com>, mmiharija@ovcounsel.com, szarb@macfuj.com, "Lever, Vanessa AG:EX" <vanessa.lever@gov.bc.ca>, "KDOUMAKIS@mccarthy.ca" <KDOUMAKIS@mccarthy.ca>, kotto@lawsonlundell.com

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Reply via email: mclean@searchandseizure.ca

Date: September 23, 2026
Classification: Private and Confidential
Sending method: Via Email at first instance

To: Chambers@bccourts.ca; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; emily.lapper@gov.bc.ca; trevor.bant@gov.bc.ca; karin.kotliarsky@gov.bc.ca; sergio.ortega@gov.bc.ca; lkt@tdslaw.com; iknapp@macfuj.com; amackenzie@macfuj.com; bolthuis@ovcounsel.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; cbildfell@mccarthy.ca; lframe@mccarthy.ca; roy.millen@blakes.com; nicholas.tollefson@blakes.com; joey@doyledefence.ca; ekirkpatrick@mcewanpartners.com; cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; kyla@vancouvercriminallaw.com; rpeck@peckandcompany.ca; csenini@peckandcompany.ca; pmueller@peckandcompany.ca; lbevan@lawsonlundell.com; jandrews@lawsonlundell.com; nwelsh@lawsonlundell.com; cferris@lawsonlundell.com; lgrant@lawsonlundell.com; mring@lawsonlundell.com; ccrane@ovcounsel.com; cpang@ovcounsel.com; mmiharija@ovcounsel.com; szarb@macfuj.com; vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com

SUBJECT I: CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK"
SUBJECT II: FATAL NON-COMPLIANCE WITH MANDATORY SERVICE PROTOCOLS PURSUANT TO RULE 62(4) AND RULE 64(1)(B)
SUBJECT III: THE UNOPPOSED RECORD, THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION, AND ETHICAL APPREHENSIONS

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND IDENTIFICATION OF THE IMPUGNED ACTA

1. Correspondence is hereby effectuated to formally address the procedural ambuscade orchestrated by the Law Society of British Columbia, the Trial Lawyers Association of British Columbia, and the Attorney General of British Columbia (collectively, the "Purported **Purported Opposing Parties**"). It is strictly noted for the appellate record that the instrument transmitted by the **Purported Opposing Parties** on the late afternoon of September 21, 2026, styled extra-statutorily as a "Joint Response Book", alongside the accompanying informal correspondence directed to the Registrar (collectively, the "Impugned Instruments"), are recognized in law as absolute jurisdictional nullities.

2. The Impugned Instruments are definitively void *ab initio* and of no force or effect. By appending the historical email transmissions to this correspondence—whilst intentionally severing the attachments containing the Impugned Instruments—the inadvertent sanitization of an incurable jurisdictional defect is systematically precluded.

PART 2: THE STRUCTURAL INVALIDITY OF THE "JOINT RESPONSE BOOK" [SIC]

Subheading 2(A): Unauthorized Procedural Fabrication

3. A rigorous statutory deconstruction of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Court of Appeal Rules"), reveals the undeniable absence of any provision authorizing the amalgamation of adversarial entities into a singular, consolidated response mechanism. It is an immutable axiom of statutory interpretation, governed by the maxim *Expressio unius est exclusio alterius* (the explicit mention of one thing is the exclusion of another), that the explicit legislative authorization for a "joint appeal book" and a "joint book of authorities" definitively precludes the spontaneous fabrication of a "joint response book".

4. The **Purported Opposing Parties** have attempted to superimpose a procedural fiction upon the appellate registry. Inasmuch as the Registrar is fundamentally divested of the statutory jurisdiction to accept filing categories entirely absent from the governing enactments, the acceptance of said instrument was executed strictly *ultra vires* and *coram non judice*. A valid order or direction cannot be precipitated from an unauthorized mechanism; as the venerable maxim dictates, *Nemo dat quod non habet* (no one can give what they do not have).

PART 3: FATAL TRANSGRESSION OF MANDATORY SERVICE PROTOCOLS

Subheading 3(A): The Strictures of Rule 62(4) and Rule 64(1)(b)

5. Assuming, *arguendo*, that the fabricated instrument could miraculously transcend its status as an absolute nullity, the **Purported Opposing Parties** have catastrophically failed to execute the mandatory service protocols dictated by the *Court of Appeal Rules*. Pursuant to *rule 62(4)*, any "person" (as comprehensively defined under section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238) who wishes to respond to an Application Book is statutorily compelled to file and serve the response book on the applicant and on *each party*.

6. Concurrently, *rule 64(1)(b)* of the *Court of Appeal Rules* explicitly and unequivocally expands the definition of a "party", in relation to an application, to encompass any person who is served with a notice of application (the "Prescribed Parties"). It is empirically verifiable, upon a meticulous examination of the transmission matrix utilized by Mr. Jonathan Andrews on September 21, 2026, that the **Purported Opposing Parties** deliberately and exclusively restricted their service to themselves and the Applicant Party.

7. The broader constituency of counsel, interveners, and interested entities—who definitively obtained status as Prescribed Parties upon the antecedent service of the Applicant's Form 4 and Form 8 Notices of Application—were conspicuously and unlawfully excluded from the service matrix.

PART 4: THE EXPUNGEMENT AS A MERE ADMINISTRATIVE FORMALITY

8. It is advanced that the formal striking of the Impugned Instruments is not an adversarial contest necessitating substantive legal adjudication, but rather a mere administrative formality. Inasmuch as the "Joint Response Book" is a legal fiction entirely unrecognized by the *Court of Appeal Rules*, its removal from the registry ledger operates strictly as an exercise in fundamental procedural housekeeping.

9. Consequently, it is definitively confirmed that the **Purported Opposing Parties**, by deploying an unauthorized nullity and subsequently failing to execute service upon the Prescribed Parties, possess absolutely nothing before the Court of Appeal in response to the Form 8 Notice of Application.

PART 5: THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION AND ETHICAL APPREHENSIONS

Subheading 5(A): The Statutory Strictures of Section 32 and Rule 41

10. Should the **Purported Opposing Parties**, operating in their capacities as Prescribed Parties, seek to cure this fatal procedural entanglement, they are statutorily compelled to advance an application to dispense with the rules or extend the temporal limitations pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"), and *rule 41* of the *Court of Appeal Rules*.

11. A profound procedural paradox thereby arises: to retroactively legitimize the fabricated "Joint Response Book," these facially adversarial entities would be mathematically compelled to advance a joint Notice of Application. Such a unified, dependent posture betwixt supposed adversaries is posited to be a procedural impossibility and a direct affront to the structural integrity of the adversarial system.

12. The adjudication of the Form 8 Notice of Application is therefore left entirely unopposed. Given that the standard of review upon all issues, questions, and determinations before the Division panel is strictly that of correctness, the Applicant Party stands ready, willing, and able to present oral submissions the moment the Registrar mathematically complies with the mandatory scheduling dictates of *rule 62(5)*.

13. It is strictly confirmed that the Applicant Party shall not transmit, distribute, or forward the defective "Joint Response Book" to the unserved Prescribed Parties. Such transmission is unequivocally declined to systematically preclude any judicial or administrative inference that the Applicant Party has inadvertently waived the jurisdictional defect, cured a procedural irregularity, or sanitized an absolute nullity.

SUBHEADING 5(C): ETHICAL APPREHENSIONS AND THE ESCALATION OF NOTICE

14. It is hereby placed on the formal record that any prospective Notice of Application seeking an extension of time or dispensation of the rules to validate this nullity will be met with unyielding opposition. Furthermore, special costs will be vigorously sought against opposing counsel in their personal capacities, as seasoned appellate counsel are presumed to possess actual knowledge of these fundamental procedural architecture flaws.

15. The coordinated, extra-statutory maneuvering betwixt purported adversaries raises severe apprehensions regarding the nature of the communications occurring outside the purview of the Court. It is profoundly concerning that counsel for the Attorney General of British Columbia appears structurally uninvested in defending the rule of law or upholding the democratically enacted *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"). Consideration is presently being actively directed toward formally escalating these concerns to the attention of The Honourable Niki Sharma, Attorney General of British Columbia, regarding the posture adopted by Crown counsel. However, such determination will be considered in due course and be responsive to any potential NOA's by the now unit of the LSBC, TLABC (with Mr. Westell) and the AGBC (with LGIC). Bluntly speaking, so much for the notion that the LSBC and TLABC wanted independence from the BC government.

PART 6: CONCLUSION AND ANTICIPATED RELIEF

16. In my view, the Appellants have now also put into "legal play" for my submissions to cancel and very the purported Orders of Horsman J. and naturally have the relief sought in my Form 4 NOA (August 12, 2026), the section 36 of the COAA titled, "Failure to comply". I also note that in light of the nullities at issue, section 19 of the COAA is inapplicable to save the conduct of the Appellants.
17. The administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved, including but not limited to the pursuit of special costs awarded jointly and severally for intentional violations of the operative enactments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

/s/ Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party
Email: mclean@searchandseizure.ca

APPENDIX: STATUTORY AND REGULATORY EXTRACTS

Court of Appeal Act, S.B.C. 2021, c. 6

Definitions
1 In this Act:
"order" includes
(a) a judgment or decree, and
(b) an opinion, advice, direction, determination, decision or declaration that is specifically authorized or required under an enactment to be given or made;

Dispensing with rules and varying time limits
32 (1) A justice may dispense with a requirement of the rules.
(2) A justice may extend or shorten the time limit provided in this Act or the rules for doing an act.
(3) A justice may extend a time limit under subsection (2) even if the time limit for doing the act expired before the person applies for the extension.

Court of Appeal Rules, B.C. Reg. 120/2022

Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 [dispensing with
Edit directly or with Gemini
Click anywhere to type and edit directly, or select text to prompt Gemini for changes.

--
Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

NOTA BENE: This email is for dispute resolution and litigation purposes only. Without prejudice communication so denoted invokes settlement privilege.

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186K

Appendix “C”

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4402771
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	01Oct2026
Filing Comments:	Dear Registrar Outerbridge, I am resubmitting the Applicant's Form 4 Notice of Application (Application – Division General) and Memorandum of Argument (Argument – Other) for the third time, now using the newly available CSO category "Application – Division General," which appears to be the correct filing pathway for this type of application. I wish to respectfully note that the prior CSO Registry Notice (initials "sl") stated: "The Registrar will place your unfiled application before the division set to hear your application to vary." I may be mistaken, but this disposition does not appear to be one recognized under the Court of Appeal Rules. In addition, the CSO backend indicated "Action Needed," while the notice itself stated "Rejected," which seem to be incompatible statuses. As the notice appears to have been generated at the staff level, I am resubmitting the materials directly for your review and clarification. For certainty, I respectfully request that this resubmission be handled exclusively by the Registrar, rather than at the staff level, given the procedural nature of the application and the need for clarity regarding the correct filing category. The Applicant continues to rely on the case management judge's reference to the "existing written record", and the resubmitted materials are tendered solely to ensure the integrity of that record and to permit the Applicant to proceed in accordance with the Rules. No substantive changes have been made to the documents; they are resubmitted only to ensure proper routing and compliance with the Registry's requirements. Thank you for your attention to this matter. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party on multiple

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

occasions pursuant to Rule 64(1)(a)

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Division-General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
3	Letter General	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

Home Copyright Disclaimer Privacy Accessibility

TAB 11

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS

(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS

(Defendants)

APPLICANT PARTY'S WRITTEN ARGUMENT SEEKING MANDAMUS RELIEF IN RELATION TO IMPROPERLY REJECTED FILINGS AND NOW FILINGS THAT REMAIN IN "PENDING STATUS"

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PART 1: OVERVIEW

1. The Applicant Party seeks the issuance of orders (the "**Orders**"), as statutorily defined by the Legislature within the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*"), *s. 1*, which inherently encompasses the declarations articulated within the *Form 4 Notice of Application* dated October 5, 2026. In addition to declarations of law and declarations of mixed fact and law, relief in the nature of *mandamus* is sought, strictly compelling the Registrar to accept the Thursday, October 1, 2026, submitted filings (the "**Submitted Filings**"), which comprised:
    a. The *Form 4 Notice of Application* that seeks to, *inter alia*, strike the "Joint Response Book [Sic]" as it being legally a jurisdictional and absolute nullity, alongside relief pursuant to *section 36* of the *COAA*; and
    b. The written argument promulgated in support of the same.
2. While those Submitted Filings were in absolute compliance with the *COAA* and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Rules*"), the Applicant Party initially submitted said documents—one constituting a prescribed court form (the "**Court Form**") (see: *Court of Appeal Rules, r. 79*) and one being a permissible document under the *Rules*.
3. The Applicant Party was procedurally compelled to bring the *Form 4 Notice of Application* because receipt had occurred, albeit not *de jure* served, in response to the *Form 8 Notice of Application* and application book (the "**Application Book**") (September 15, 2026), of a "Joint Response Book [Sic]" from the Law Society of British Columbia, Trial Lawyers Association of British Columbia, Kevin Westell, Attorney General of British Columbia, and Lieutenant Governor in Council of British Columbia (the "**Purported Opposing Parties**") on Monday, September 21, 2026. The aforementioned transmission was executed by Mr. Andrews, legal counsel at Lawson Lundell LLP, who represents the Appellant, the Law Society of British Columbia. The pertinent electronic correspondence is appendicized at Appendix #1 to this written argument.

4. This written argument is directed exclusively to the review division panel constituted under, *inter alia*, *section 29* of the *COAA* and *rule 62* because the inclusion of the Submitted Filings is strictly required to determine whether the Purported Opposing Parties' "Joint Response Book [Sic]" constituted, and continues to constitute, an absolute nullity rather than a mere irregularity. If categorized as the latter, the Purported Opposing Parties have *ipso facto* failed to take any valid procedural steps recognized at law.

PART 2: STATEMENT OF ISSUES

5. The issues are as follows:

   a. Issue #1: Whether the abridgment of statutorily prescribed or required temporal periods is demonstrably in the interests of justice and ought to be granted?

   b. Issue #2: Whether the Registrar is strictly prohibited at law from neither accepting nor rejecting a submitted filing *in limine*? Concurrently, whether the Registrar is vested with the requisite legal authority to represent to a filing litigant that unfiled copies shall merely be brought to the attention of the presiding Justice or Review Division Panel?

   c. Issue #3: Whether a Registrar is cloaked with the jurisdiction to dispense with mandatory requirements explicitly delineated within the *Court of Appeal Rules*?

   d. Issue #4: Whether "SL" is identifiable as Ms. Shelly Lin? If affirmed, whether an unappointed individual, employed by or contracted to the British Columbia government (Court Services Division), such as Ms. Lin, possessed the legal authority to reject the September 25, 2026, filings on the ambiguous ground of "other" whilst inviting correspondence to the Registrar? Furthermore, whether Ms. Lin acted *ultra vires* on September 29, 2026, by rejecting the resubmitted filings on the premise that the Registrar would advance unfiled copies to the attention of the Review Division Panel, subsequent to the Applicant Party submitting the suggested correspondence which was accepted for filing and to which the September 25, 2026, *Notice of Application* and written argument were appended?

   e. Issue #5: What are the requisite duties of an officer of the court, specifically a Registrar as defined pursuant to the *COAA* (see: *s. 1* and *s. 10*)? How do such solemn duties contrast with those of a "manager/chambers scheduler," and what is the consequent legal effect of said distinction?

   f. Issue #6: What are the governing legal doctrines concerning the delegation of powers and duties, and is a Registrar empowered to delegate such authority to a non-Registrar (i.e., an individual who is neither a Registrar, Associate Registrar, nor a Deputy Registrar)? Was Ms. Shelly Lin formally delegated such purported powers and duties to substantiate her representations of September 29, 2026, or did she act unilaterally and devoid of any lawful delegation?

   g. Issue #7: Whether the rigorous legal test for *mandamus* has been wholly satisfied by the Applicant Party?

   h. Issue #8: Whether the Registrar is legally compelled to return the nominal filing fees remitted for the twice-resubmitted filings?

   i. Issue #9: Whether costs ought to be awarded against the Registrar for these compounding, continuous failures executed over a ten-day period without any curative remediation?

PART 3: ARGUMENT

ISSUE #1: SHORTENING OF TIME PERIODS

Legal Bases

COAA *and* Court of Appeal Rules

6. *Sections 32(2)* and *(3)* articulate:

    a. (2) A justice may extend or shorten a time limit, provided in this Act or the rules, for doing an act, including the time limit for commencing an appeal or application for leave to appeal.
    b. (3) Subsection (2) applies to an extension of a time limit even if the time limit for doing an act expires before
        i. (a) a person applies for the extension, or
        ii. (b) the justice orders the extension.

Application of the Law to the Facts

7. The Applicant Party duly submitted the *Form 4 Notice of Application* and accompanying written argument within mere days of the receipt of the "Joint Response Book [Sic]", actively registering a formal objection *in limine* while permitting the expiration of the statutorily mandated seven-day period under *rule 62(4)* for each *rule 64(1)(b)* party (the "**Prescribed Responding Party**"), which crystallized on Tuesday, September 22, 2026.
8. Pursuant to *R. v. Verma, 2016 BCCA 307* (*Verma*), the Registrar is fundamentally bereft of any statutory power or inherent jurisdiction to reject compliantly submitted filings. Consequently, the abridgment of time must necessarily be granted to facilitate procedural equity. Order #1 must follow sequentially.

ISSUE #2: NEITHER ACCEPTING NOR REJECTING

Legal Bases

9. In *Verma*, the appellate panel explicitly found: "While it is entirely appropriate for the Registrar or a member of his staff to advise a prospective appellant that this Court lacks jurisdiction to deal with a proposed appeal or application for leave to appeal, if the notice that person seeks to file to initiate proceedings in this Court complies with this Court's rules and that person insists on filing that notice, then the notice must be accepted for filing."
10. The Applicant Party also relies on *Yassin* which is cited and brief *infra.*

"Filed Version" of the Document

11. *Court of Appeal Rules, r. 3* unequivocally commands:

> Unless a contrary intention appears, if a rule in these rules requires a person to file and serve a document that relates to an appeal, the person must
> (a) file the document, and
> (b) serve on each party to the appeal a copy of the filed version of the document.

Application of the Law to the Facts

12. As Ms. Shelly Lin utilized the precise vernacular of "insist" within her impermissible September 25, 2026, rejection of the Submitted Filings, the Applicant Party meticulously filed the suggested correspondence on Monday, September 28, 2026, and subsequently resubmitted the filings on September 29, 2026. The ensuing rejection on Monday, September 29, 2026, was predicated upon the legally fictitious premise that the Applicant Party's unfiled documents would merely be brought to the attention of the Review Division Panel.

13. Such an administrative posture, profoundly untethered from statutory authority, constitutes an absolute nullity. The Applicant Party is statutorily bound to serve the filed version of the documents (see: *rule 3(b)*) upon the *rule 64(1)(b)* parties. It is a fundamental precept of administrative law that a statutory delegate cannot sit in abeyance; a decision to neither accept nor reject is legally non-existent.

14. Ergo, the declarations sought under Order #2 must strictly follow: A Declaration that the Registrar of the British Columbia Court of Appeal is structurally prohibited from neither accepting nor rejecting a submitted filing; A Declaration that the BCCA Registrar is prohibited from representing to a filing person that unfiled copies of paid and submitted filings will be placed before a Justice or Justices, as such an *ultra vires* act would irreparably deprive the *rule 64(1)(b)* parties (the "**Prescribed Parties**") of their strict legal entitlement to formally respond to the *Notice of Application*.

ISSUE #3: WHETHER A REGISTRAR IS PERMITTED TO DISPENSE WITH THE REQUIREMENTS UNDER THE COURT OF APPEAL RULES?

Legal Bases

15. Jurisdiction to dispense with a requirement under the *Rules* is the exclusive province of a Justice: *COAA, s. 32* and *Court of Appeal Rules, r. 41*.

16. The Registrar may solely exercise powers explicitly conferred by: (a) the *Rules*; or (b) the Chief Justice under *s. 37* (see: *s. 37(1)*). However, it is an immutable principle of statutory interpretation that even where authorization is ostensibly delegated by the Chief Justice to the Registrar, such authorization is strictly subordinate to the *Court of Appeal Rules* in the event of any inconsistency: *COAA, s. 37(3)*. Furthermore, while an authorization that operates in addition to the *Rules* is not inconsistent for that reason alone, the gravamen herein is not whether an authorization was granted—as none is in evidence—but rather the execution of conduct not conferred by the *Rules*. To the extent any authorization was presumed, it operated in direct contravention and derogation of the *Rules* (i.e., subtraction, not addition), rendering the resultant acta a nullity.
17. The Registrar is permitted to issue directives concerning submitted filings strictly pursuant to *section 38* of the *COAA*.

Application of the Law to the Facts

18. As the Registrar does not possess the constitutional or statutory standing of a Justice, the Registrar is wholly incapable of varying any requirement under the *Court of Appeal Rules*. The fundamental maxim *actus inceptus cujus perfectio pendet ex voluntate partium, revocari potest* highlights that procedural structures must be strictly adhered to by the respective statutory authorities.
19. Neither the Registrar nor Ms. Shelly Lin proffered that any of the Submitted Filings tendered on September 25 or 29, 2026, contravened the *Court of Appeal Rules* or any Registrar-issued directive.
20. Order #3 must unconditionally follow: A Declaration that the BCCA Registrar is fundamentally prohibited from dispensing with the mandatory requirements of the *Rules sua sponte*, or purportedly on behalf of filing persons.

ISSUE #4: AUTHORITY OF "SL" (MS. SHELLY LIN) AND THE ULTRA VIRES REJECTIONS

Legal Bases

21. The Applicant Party incorporates and strictly relies upon the aforementioned legal doctrines and bases.

Application of the Law to the Facts

22. It is a trite extrapolation of the governing legal principles to the empirical facts that Ms. Shelly Lin lacked the requisite jurisdiction to reject the September 25 and 29, 2026, filings upon the arbitrary grounds

presented. An act executed outside the parameters of statutory authority is not a mere irregularity; it is a nullity *void ab initio*.

23. Order #4 must follow: A Declaration that the successive rejections by "SL" on September 25 and 29, 2026, were executed in absolute contravention of the *COAA* and the *Rules*.

ISSUE #5: DUTIES OF AN OFFICER OF THE COURT VERSUS A "MANAGER/CHAMBERS SCHEDULER"

Legal Bases

24. Officers of the court are burdened with an elevated fiduciary obligation to provide an honest, forthright, and administratively neutral execution of their duties. This necessitates the absolute preservation of administrative neutrality, ensuring the unassailable integrity, completeness, and public accessibility of the appellate record.

Application of the Law to the Facts

25. As the Head Registrar, Mr. Outerbridge is statutorily bound to discharge duties that transcend the standard obligations of a common employee, such as Ms. Shelly Lin.

26. The seminal conclusion drawn herein reveals the precise rationale as to why Ms. Shelly Lin represented to the Applicant Party on September 25, 2026, that correspondence could be directed to the Registrar; she recognized the boundaries of her own limited administrative capacity.

27. Order #5 must follow: A Declaration that since "SL" (Ms. Shelly Lin) is not a registrar, associate registrar, or deputy registrar as strictly defined under *s. 1* and pursuant to *COAA, s. 10* (collectively, the "**PSA Appointed Registrars**"), but rather operates as a "Manager/Chambers Scheduler," Ms. Lin was legally incapable of being delegated the sovereign powers and duties of any PSA Appointed Registrar. Consequently, she could not lawfully exercise powers exceeding her station, nor circumvent the duties inherent thereto.

ISSUE #6: THE LAW OF DELEGATION OF POWERS AND DUTIES

Legal Bases

28. In stark contrast to administrative statutes such as the *Freedom of Information and Protection of Privacy Act* (*FIPPA*), which explicitly permit the "Head" of a "Public Body" to delegate authority, the *COAA*

contains no explicit provision authorizing the Registrars to delegate their quasi-judicial or statutory powers to non-Registrars. *Section 10* meticulously delineates how these officers of the court function hierarchically during periods of absenteeism. This legislative architecture embodies sound public policy, ensuring that the three formally designated Registrars (Head, Associate, and Deputy) cannot unlawfully delegate across the procedural chasm separating "officers of the court" from "non-officers of the court."

29. It is a bedrock principle of administrative law, encapsulated by the maxim *delegata potestas non potest delegari* (a delegated power cannot be further delegated), that a statutory delegate cannot sub-delegate without explicit legislative authority. Concurrently, the maxim *nemo dat quod non habet* (no one can give what they do not have) decisively prevents the Registrar from imparting powers to Ms. Lin that the statute strictly reserves.

Application of the Law to the Facts

30. It remains forensically undetermined under what purported authority Ms. Shelly Lin was operating; nonetheless, she was unequivocally prohibited at law from rejecting the Submitted Filings of September 25 and 29, 2026.

ISSUE #7: THE SATISFACTION OF THE LEGAL TEST FOR MANDAMUS

Legal Bases

31. A writ of *mandamus* is, by definition, an extraordinary prerogative command issued by a Superior Court judge directing the absolute consummation of a statutory or public obligation to which an applicant possesses a strict, vested legal right. As articulated by Herbert Broom, *Ubi jus, ibi remedium* (where there is a right, there is a remedy).
32. The court is continued as a superior court of record vested with both civil and criminal jurisdiction: *COAA, s. 2(1)*.
33. The formidable and binding eight-part legal framework governing *mandamus* is comprehensively solidified in *Apotex*. The Federal Court of Appeal, in *Apotex Inc. v. Canada (A.G.), 1993 CanLII 3004 (FCA)* (*Apotex*), aff'd *1994 CanLII 47 (SCC)*, articulated the mandatory preconditions that must be strictly satisfied before an order of *mandamus* shall issue:
    a. (1) There must be a public legal duty (as opposed to a mere discretionary power) to act;
    b. (2) The duty must be owed directly to the Applicant;
    c. (3) There must be a clear, unambiguous right to expect the performance of the duty, and all conditions precedent giving rise to the duty must be completely satisfied, including a formal demand that the duty be exercised and a corresponding refusal to do so;
    d. (4) Where the duty sought to be enforced is discretionary, the following strictures apply:

i. (a) The decision-maker must not act in a manner characterized as “unfair”, “oppressive”, or demonstrating “flagrant impropriety” or “bad faith”;
ii. (b) *Mandamus* is unavailable if the decision-maker's discretion is characterized as being “unqualified”, “absolute”, “permissive”, or “unfettered”;
iii. (c) In the exercise of a “fettered” discretion, the decision-maker must act solely upon “relevant”, as opposed to “irrelevant”, considerations;
iv. (d) *Mandamus* is unavailable to compel the exercise of a “fettered discretion” in a particularized manner; and
v. (e) *Mandamus* is solely available when the decision-maker's discretion is “spent” (i.e., the claimant holds a vested right to the performance of the duty).

e. (5) The applicant must possess no other adequate remedy or alternative recourse;
f. (6) The order sought must possess practical value or effect;
g. (7) There must be no equitable bar to the court granting *mandamus*; and
h. (8) The balance of convenience must decisively favour the granting of *mandamus*.

34. Subsequent jurisprudence irrevocably fortifies the Applicant Party’s strict entitlement to *mandamus*:

a. *Steiner v. Canada, 1981 CanLII 4581 (FC)* (*Steiner*), wherein the Court affirmed that defendants possess a mandatory public duty to accept for delivery all mail complying with the relevant Act and regulations. This prerogative writ constitutes an equitable instrument of the judiciary, the fundamental essence of which is to provide a comprehensive remedy where a substantive legal right exists and has suffered impairment, yet for which no alternative adequate legal recourse is available.

b. In *Mundulai v. Law Society of Ontario, 2018 ONSC 6965* (*Mundulai*), at para. 26, the Court noted that *mandamus* remains a discretionary remedy, primarily invoked when a repository of public power is formally requested to exercise a mandatory authority.

35. Furthermore, where a statutory delegate refuses the exercise of a power which they are legally compelled to manifest but perversely declines to do so, *mandamus* is the sole corrective vehicle: *Zaki v. Director, 2017 ONSC 1324* (*Zaki*), at para. 45.

36. Additional authorities substantiating the Applicant Party’s absolute entitlement include *Sunrise North Senior Living Ltd. v. The Sheriff (Regional Municipality of York), 2020 ONSC 469 (Div. Ct.)* (*Sunrise*), and *New Blue Ontario Fund v. Ontario (Chief Electoral Officer), 2024 ONSC 1048 (Div. Ct.)* (*New Blue*), at para. 29.

37. A Registrar cannot lawfully sit in abeyance. *Mandamus* was appropriately ordered to compel the rendering of a decision where a statutory duty existed: *Yassin v. Canada (Public Safety and Emergency Preparedness), 2018 FC 423* (*Yassin*).

Application of the Law to the Facts

38. The Applicant Party surpasses the rigorous eight-part threshold with mathematical certainty. The Applicant Party approaches the Court with immaculate hands, and the balance of convenience heavily anchors in favour of granting the extraordinary relief.
39. Order #7 must unequivocally follow.

ISSUE #8: RETURN OF FILING FEES

40. Predicated upon the aforementioned legal foundations, the Applicant Party is strictly entitled to the restitution of the procedural fees unlawfully extracted for the resubmission of filings ($7.00 per iteration), necessitated entirely by the registry's *ultra vires* rejections.

ISSUE #9: COSTS

41. Subject to the Registrar forthwith formally stamping and accepting the resubmitted documents (now tendered for the third occasion), the Applicant Party is strictly entitled to an award of costs to remedy the egregious and repetitive procedural prejudice suffered.

PART 4: ORDERS SOUGHT

42. The Applicant Party is strictly entitled to the totality of the Orders sought within the Form 4 NOA.

All of which is respectfully submitted on October 6, 2026:

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party

Appendix “A”

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Reply via email: mclean@searchandseizure.ca

URGENT

Date: Sunday, September 27, 2026

Filing method: Via CSO Portal

Sending method (at first instance): via CSO Portal

TO:

The British Columbia Court of Appeal
800 Smithe Street
Vancouver, BC

Attention of the Registrar (Head): Mr. Timothy Outerbridge

FURTHER PARTICULARS OF ASSISTANCE TO THE RECIPIENT

File numbers at the BCCA: CA51536 / CA51535 (defined herein as the "Appeals")
Sender: Mr. Kevin A. McLean (BA, JD, CIM)
Status: Applicant Party in relation to Form 4's and Form 8
Date: *supra*

SUBJECT I: TENDERED LETTER AS PER THE SUGGESTION OF "SL" IN RELATION TO THE UNLAWFUL REJECTION (BY "SL") OF COMPLIANT FILINGS BY THE APPLICANT PARTY (MR. KEVIN A. MCLEAN (BA, JD, CIM) ON FRIDAY, SEPTEMBER 25, 2026

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND PROCEDURAL POSTURE

1. The Applicant Party repeats and relies upon the definitions contained in the documents he has filed in the Appeals and they have the same meaning herein as they do therein. The Applicant Party, at times, refers to himself in third person for ease of reference and delineation purposes.
2. The Applicant Party writes regarding the above with particular reference to the unlawful or unauthorized rejection (by "SL") of the Applicant Party's submitted filings by way of the Applicant Party's Form 4 Notice of Application ("NOA") and written argument ("Written Argument") (collectively, the "Unlawfully Rejected Filings") relating to, *inter alia*, the nullity filing by the LSBC, TLABC, Mr. Westell, AGBC and LGIC (the "Purported Opposing Parties") named as the "Joint Response Book [Sic]" (September 21, 2026) in relation to my filed and served Application Book (September 15, 2026) and the failure of the Purported

Opposing Parties to serve "Response Books" to each "Party" (as defined under Rule 64(1)(b) of the *Court of Appeal Rules*) within seven days of being served with the Applicant Party's Application Book. The latter may be considered at an irregularity at first instance but as the Purported Opposing Parties have not evinced any intention to attempt to rectify said potential, which is not admitted, irregularity, it is veering into the real of nullity. There is also jurisprudence that a direct contravention of rules of procedure enters the realm of nullity (see for example: *König v. Hobza*, 2015 ONCA 885 ("*Konig*").

3. the crystallization of these filings irrevocably engages section 36 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"). The unyielding failure of the Purported Opposing Parties to comply with the governing enactments—specifically their failure to lawfully serve the prescribed parties—establishes a formidable statutory foundation for the adjudicative body to refuse to hear said parties and to definitively dismiss the Appeals as abandoned.
4. Concurrently, an administrative anomaly has manifested within the Court Services Online (the "CSO") portal. An unlawful and procedurally defective rejection notice was issued by a registry employee identified merely as **"SL"** (the "**Unlawful Rejection**"). While lacking legal merit, the **Unlawful Rejection** is recognized as highly advantageous, as it explicitly instructs:

> "We are unable to accept the application and argument for filing. If you **INSIST**, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO. Thank you, sl"
>
> [emphasis is the Applicant Party's]

4. It is evident that bizarre and legally insupportable conduct is being effectuated by an employee of the registry who definitively fails to meet the statutory definition of a Registrar. Pursuant to section 1 of the *COAA*, the definition of a registrar strictly encompasses the Registrar, an associate registrar, and a deputy registrar. It is posited that the Registrar does not actively manage the ground-level processing within the CSO, an administrative reality that necessitates this precise and highly formalized intervention.
5. The aforementioned administrative blockade is systematically deconstructed herein. The precision of this legal analysis is engineered to compel the registry—being both statutorily able and unconditionally required—to stamp the resubmitted filings forthwith, thereby permitting the effectuation of lawful service upon the prescribed parties.

*PART 2: DECONSTRUCTION OF THE **"SL" UNLAWFUL REJECTION** AND STATUTORY DEFINITIONS*

6. The **Unlawful Rejection** is definitively established as not merely ultra vires, but falsely premised. It is a foundational axiom of logical reasoning that a conclusion predicated upon a false premise constitutes a mere sophism.

7. The rejection notice relies upon the term "unable." Lexicographically, "unable" is defined as lacking the necessary skill, power, competence, time, or opportunity to accomplish a specified act. Consequently, the assertion of being "unable" is intrinsically tethered to the possession or absence of jurisdictional power.
8. Pursuant to section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238 (the "*Interpretation Act*"), the term "may" is strictly construed as permissive, whereas the terms "must" and "shall" are construed as imperative. While extensive jurisprudence distinguishes these terms, the statutory obligation in the present matrix is unambiguous on its face.
9. The Applicant Party has financially remitted the requisite fees, submitted for filing, and successfully served the following foundational documents in relation to the impugned orders and directions pronounced by The Honourable Madam Justice Horsman, noting strictly that a "direction" cannot be elevated to an "order" under the statutory definition: a. The Form 8 Notice of Application, dated September 9, 2026; b. The Application Book, prepared in strict accordance with the Completion Instructions (as defined under section 1 of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*")), submitted on September 15, 2026; and c. The supporting Book of Authorities, submitted and served on September 17, 2026.
10. The individual identified as **"SL"** does not satisfy the statutory definition of a Registrar under the *COAA*. This distinction carries profound legal import, as those who satisfy the statutory definition are strictly recognized as officers of the court. An officer of the court is bound by an immutable legal and ethical obligation to promote justice, uphold the rule of law, and ensure [guaranteeing as required by law] the effective, unbiased operation of the judicial system.
11. It is a striking procedural paradox that an administrative clerk would assert the jurisdictional authority to reject a mathematically and procedurally compliant Form 4 Notice of Application, whilst the registry concurrently accepted a **"Joint Response Book" [sic]**—a fabricated filing category entirely unrecognized by the *Court of Appeal Rules* (attached hereto as Appendix "D"). The acceptance of a nullity, paired with the rejection of a compliant instrument, fundamentally offends the venerable maxim of Herbert Broom, *Actus curiae neminem gravabit* (an act of the court shall prejudice no man).

PART 3: THE MANDAMUS THRESHOLD AND THE PUBLIC LEGAL DUTY

12. I provide the facts and law herein to ensure that we are all respectful of the public purse, and finite resources along with the resources that will be required for the hearing of my Form 8 NOA et al.
13. The legal test for the issuance of an order of mandamus is thoroughly entrenched within Canadian administrative jurisprudence. It is delineated herein to ensure [guaranteeing as required by law] the

administrative record formally reflects the absolute lack of discretion possessed by the registry regarding compliant filings.

14. The foundational premise establishes that the registry is not merely "able," but statutorily "required" to accept compliant filings. This strict administrative duty is unequivocally confirmed by the British Columbia Court of Appeal in *R. v. Verma*, 2016 BCCA 307 (the "**Verma Decision**"), a precedent that operates with magnified force under the modernized architecture of the *COAA* and the *Court of Appeal Rules*.
15. The mandatory conditions precedent for the issuance of mandamus were exhaustively codified by the Federal Court of Appeal in *Apotex Inc. v. Canada (A.G.)*, 1993 CanLII 3004 (FCA), aff'd 1994 CanLII 47 (SCC) (the "Apotex Decision"). The eight requisite conditions are enumerated as follows: (1) There must be a public legal duty (as opposed to a mere power) to act; (2) The duty must be owed to the Applicant; (3) There must be a clear right to expect performance of the duty, and all conditions precedent giving rise to the duty must be satisfied, including the demand that the duty be exercised and a refusal to do so; (4) Where the duty sought to be enforced is discretionary, specific ancillary rules apply; (5) The applicant must have no other remedy or recourse available; (6) The order sought must be of some practical value or effect; (7) There must be no equitable bar to the court granting mandamus; and (8) The balance of convenience must favour the granting of mandamus.
16. The application of the aforementioned jurisprudential test to the present factual matrix yields an unequivocal result: a. The registry, and the Head Registrar specifically, bears a clear, non-discretionary public legal duty to accept submitted filings that comply with the *Court of Appeal Rules*; b. Said duty is definitively owed to the Applicant Party; c. No unfulfilled conditions precedent exist, and a clear right to expect performance is established, as the submitted filings are flawlessly compliant with all formatting and structural rules; d. The Registrar is a creature of statute; the acceptance of compliant filings is purely administrative and entirely devoid of discretion (which renders the antecedent acceptance of the unstatutory **"Joint Response Book" [sic]** all the more jurisdictionally defective); e. While alternative remedies are theoretically available, this correspondence is transmitted in the spirit of judicial economy and administrative cooperation; f. The performance of the duty possesses profound practical effect, directly preserving the Applicant Party's obligation to avoid taking a fresh step with knowledge of the Purported Opposing Parties' irregularities—specifically, their failure to serve EACH party pursuant to Rule 64(1)(b) and Rule 62(4)—whilst seeking declarations regarding the void ab initio nature of the **"Joint Response Book" [sic]**; g. Absolutely no equitable bars exist to preclude the seeking of mandamus; and h. The balance of convenience tips enormously and indisputably in favour of the Applicant Party.

PART 4: THE SCHEDULING MANDATE, RULE 55, AND THE ABSOLUTE NULLITY OF PURPORTED SERVICE

16. It is further articulated that the **"Joint Response Book" [sic]** was not merely defectively served, but rather characterized by a complete failure of lawful service. Specifically, purported service of said nullity upon the Applicant Party was impossible at law, as the instrument itself is an unauthorized procedural fiction entirely devoid of legal force. Concurrently, in relation to all other "parties" as defined under rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Prescribed Parties" or "Application Responding Parties"), the instrument was definitively not served at all.
17. In relation to the Form 4 Notice of Application (submitted September 25, 2026) being heard, it is structurally mandated that said application be adjudicated contemporaneously with the antecedent Form 8 Notice of Application. It is rigorously noted that rule 55 of the *Court of Appeal Rules* strictly compels all entities who have been lawfully served with the Form 4 Notice of Application and accompanying written argument to file any responsive written arguments and/or affidavits at least two business days prior to the Application Hearing Date.
18. Consequently, to facilitate compliance with the strictures of rule 62(5), which imposes a mandatory scheduling obligation upon the Registrar, it is advanced that the allocation of two discrete thirty-minute intervals will be mathematically required to assist the registry and properly ventilate the bifurcated applications before the Division panel.

PART 5: THE JURISPRUDENTIAL IMPERATIVE OF VERMA, THE LEXICOGRAPHICAL IMPORT OF "INSIST," AND REMEDIAL ADJUDICATIVE TRAINING

19. The specific lexicographical choices utilized within the **Unlawful Rejection** necessitate rigorous doctrinal scrutiny. The individual identified as **"SL"** explicitly articulated: "If you **insist**, you may write to the Registrar..." The deployment of the term "**insist**" is recognized as a profound, albeit perhaps inadvertent, invocation of binding appellate jurisprudence.
20. To "**insist**" is lexicographically defined as to state something very firmly or to demand something forcefully, specifically in circumstances characterized by disagreement or opposition.
21. It is a matter of established appellate record that paragraph 20 of the *Verma Decision* (*R. v. Verma*, 2016 BCCA 307) explicitly dictates the mandatory protocol for registry clerks when confronted with compliant filings. As unequivocally articulated by the Division panel, while it is appropriate for a clerk to advise a prospective appellant regarding perceived jurisdictional defects,

> "if the notice that person seeks to file to initiate proceedings in this Court complies with this Court's rules and that person **INSISTS** on filing that notice, then the notice **MUST** be accepted for filing."
> [emphasis is the Applicant Party's]

22. Consequently, by the very language employed in the **Unlawful Rejection**, the registry has acknowledged the operative trigger. The Applicant Party is hereby formally and forcefully **insisting** upon the filing of the mathematically and structurally compliant Form 4 Notice of Application and the accompanying Written Argument. Ergo, pursuant to the binding authority of the *Verma Decision*, the submitted documents (one a "Court Form" and the other a required document in support of such an NOA) **must** be accepted for filing forthwith; the Registrar is entirely divested of any residual discretion to refuse.
23. Concurrently, profound respect is maintained for the livelihood and employment security of registry personnel. It is formally acknowledged that the preservation of professional livelihood for administrative staff is of intrinsic value. It is respectfully requested that this severe administrative overreach be utilized strictly as a confidential, remedial registry/administrative processing training opportunity for the individual identified as **"SL"** or **"SL"** (or any other gender-neutral pronoun so adopted). This magnanimous posture is advanced to ensure [guaranteeing as required by law] that the proper boundaries of administrative authority are definitively understood, thereby shielding future participants in the justice system from analogous ultra vires blockades.

PART 6: CONCLUSION AND REQUISITE ADMINISTRATIVE PROCESSING RECTIFICATION

24. In conclusion, while no Enactment (see: s. 1 of the Interpretation Act) condition precedent necessitates the filing of an introductory letter prior to the acceptance of compliant documents, this comprehensive correspondence has been prepared and filed in strict accordance with the **Unlawful Rejection**. This step is executed in the spirit of cooperation, with profound respect for the public purse and the preservation of finite judicial resources.
25. It is further articulated that sections 37 and 38 of the *COAA* strictly circumscribe the registry's authority. The unassailable upshot of these statutory provisions is that while a Registrar may refuse to accept a document if it is filed contrary to a formally issued practice directive, the Registrar cannot, as a matter of statute and regulation (the "Source Laws"), refuse to accept documents that comply with the established filing requirements.
26. Most crucially, the stated rationale for the **Unlawful Rejection** was categorized as "other" and "unable." The administrative clerk was definitively not "unable," but rather statutorily "required" to execute the filing. Consequently, subsequent to the submission of this letter as expressly suggested by the registry, the

Form 4 Notice of Application and the Written Argument shall be resubmitted exactly as they were originally transmitted.

27. Should filed and stamped copies of the Form 4 Notice of Application and the Written Argument (originally submitted on Friday, September 25, 2026) not be provided forthwith, a subsequent escalation will be regretfully compelled. A direct correspondence will be transmitted to the Primus Inter Pares, the Chief Justice of the British Columbia Court of Appeal. The preservation of an independent judiciary intrinsically demands that the administration of the court directs its staff to strictly comply with the duties assigned to them by law.
28. Furthermore, in the event of continued administrative obstruction, the filing of a Form 4 Notice of Application in the nature of mandamus will be precipitated. Such an action would inevitably result in a multiplicity of proceedings, requiring an additional Notice of Application to be heard contemporaneously with the Form 8 hearing.
29. Inasmuch as justice is mandated to be administered in an expeditious, just, and cost-effective manner, the failure to comply with the statutory duties of the Registrar is fundamentally antithetical to the administration of justice. It is presumed that the Head Registrar was entirely unaware of this administrative overreach until the transmission of this correspondence
30. I reserve the right to rely on this correspondence for any lawful purpose, explicitly inclusive of the adjudication of costs, the affirmation that the **"Joint Response Book" [sic]** was a nullity on its face, and the incontrovertible fact that ALL of the "Prescribed Parties" were not served in accordance with Rule 62(4).
31. Thank you kindly for ensuring [guaranteeing as required by law] that the Form 4 Notice of Application and the Written Argument are stamped as filed. I will then provide a copy of the filed Form 4 and written argument to the Rule 64(1)(b) "Parties" so that they are served and are able to exercise their rights at least two days before the "Application Hearing Date" of my Form 8 and said Form 4 NOA (see: Appendix "A"). Trusting that this was an innocent oversight by **"SL"**, I trust my approach in this regard was appreciated although very time consuming and exhaustive, albeit unnecessary, to do so.
32. I await the filed (stamped as such with the notation of September 28, 2026) by your earliest opportunity tomorrow and in turn there will be no requirement for me to draw this issue to the attention of the Chief Justice of the BCCA and bring an additional NOA seeking, *inter alia*, mandamus relief.
33. Thank you kindly.

Yours truly,

Mr. Kevin A. McLean (BA, JD, CIM) 1658

Email: mclean@searchandseizure.ca

Appendix “A”: Form 4 Notice of Application Appendix “B”: Written Argument Appendix “C”: Receipts of Filing Appendix “D”: The **“Joint Response Book” [sic]** (A nullity on its face, purported to have been served on the Applicant Party which was impossible at law, and in relation to all other “parties” under rule 64(1)(b) (the “Prescribed Parties” or “Application Responding Parties”), not served at all) Appendix “E”: The “SL” **Unlawful Rejection** Notice

APPENDICES

Appendix “A”

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☐ The Court (3 Justices) ☒ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application	Mr. Kevin A. McLean (BA, JD, CIM) (he/him)
Name(s) of responding person(s) to be served with the application	The above Appellants, Respondents and any other interveners, interested persons and/or persons entitled to service (known or unknown at this time)
Location where the application will be heard *Enter the address of the courthouse.*	800 Smithe Street Vancouver, BC V6Z 2E1
Date the application will be heard	TBD based hearing date for AP's Form 8 NOA (heard at same time) *Chambers applications begin at 9:30 a.m.*
The applicant anticipates that this application will be… *Check only one.*	☒ Contested ☐ Uncontested
Enter the section(s) or rule(s) that you are relying on for your application *E.g., If you are applying for leave to appeal, enter "Section 31 of the* Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."	*Court of Appeal Act,* S.B.C. 2021 (the "*COAA*"), c. 6, including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, **36**, 44-46, *Court of Appeal Rules,* B.C. Reg. 120/2022 (the "*COR*", "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 52-61, 62-75 *Law and Equity Act*, R.S.B.C. 1996, c. 253, Section 8. *Interpretation Act*, R.S.B,C 1996, c 238 All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant's Applicant Book of September 15, 2026 and Book of Authorities of September 17, 2026

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following orders which are contained in his written argument in support of the same (wherein the following statutory parties ("Statutory Parties") in the: 1. the LSBC; and 2. TLABC and Mr. Westell (said three persons collectively defined as well as the "Appellants"); and 3. The AGBC and LGIC (together defined as the "Respondents") but also sad persons were some of many prescribed parties ("Prescribed Parties") under sub-rule 64(1)(b) (the five "Statutory Parties" defined in this NOA (Form 4) as the "**Purported Opposing Parties**"):

Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and

D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings") in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the

LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule 41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

The filed affidavits in the Applicant Party Application Book of September 15, 2026 which are particularized again herein:

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;
b. Affidavit #4, sworn on October 24, 2021: (nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to this September 22, 2026, Form 4 NOA.

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

25/09/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.

[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a “Court Form” and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a “Response Book” is not discretionary as it must be prepared in accordance with the “Completion Instructions”. Part of the “Completion Instructions” required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page

Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of “filing parties” is not

required for joint book like a “Joint Appeal Book” (see: Rule 26) or a “Joint Book of Authorities” (see: Court of Appeal Rules, rule 27)

Appendix “B”

FILE NOS. CA51536 / CA51535

COURT OF APPEAL

ON APPEAL FROM the order of The Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on the 17th day of April 2026.

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

APPELLANTS
(Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS
(Defendants)

APPLICANT PARTY'S WRITTEN ARGUMENT CONCERNING AN APPLICATION TO:

I. Declare the **"Joint Response Book [Sic]"** void, void ab initio, and of no force and effect;
II. Strike and expunge the **"Joint Response Book [Sic]"** from the BCCA record under the above noted file numbers;
III. Declare the Registrar's acceptance of the **"Joint Response Book [Sic]"** to be without jurisdiction, void ab initio, and of no force and effect;
IV. Declare that the **"Joint Response Book [Sic]"** could not be lawfully served on the other "parties" under *Court of Appeal Rules*, rule 64(1)(b).
V. A Declaration that the LSBC, TLABC, and AGBC failed to comply with rule 62(4) and an Order that the aforementioned persons **"Joint Response Book [Sic]"** is not before the Court;
VI. Special costs against counsel for the LSBC, TLABC, and AGBC jointly and severally for intentional violations of the law; and
VII. Residual relief.

Hearing date: on the date of the **Applicant Party**'s Form 8 NOA to cancel the purported Orders of Horsman J.

Written argument dated and signed on: Friday, September 25, 2026
Written argument submitted for filing on: Friday, September 25, 2026

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PART 1: INTRODUCTION, PROCEDURAL VEHICLE, AND THE JURISDICTIONAL IMPERATIVE

1. The **Applicant Party** repeats and relies upon his evidence in the filed Application Book, and his argument and authorities contained therein and in his Book of Authorities, both for his Form 8 NOA to be heard and decided on a date, time and place as required by Rule 62(5) of the *Court of Appeal Rules*.
2. The **Applicant Party** adopts the definitions from the aforementioned filed documents and they have the same meaning herein as they do therein.
3. The present Written Argument is meticulously formulated and formally submitted to support a Notice of Application in Form 4, brought pursuant to the cited sections in the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "*COAA*" or "*COAA 2021*"), and the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "*Court of Appeal Rules*" or "*Court of Appeal Rules 2022*").
4. The **Applicant Party** seeks the relief particularized in his Form 4 Notice of Application ("NOA"), as denoted supra in summary form.
5. Concurrently, this Written Argument registers the **Applicant Party**'s formal opposition, supplementary to the Applicant Party's objection without taking a fresh step after notice of the irregularity in the failure to serve or be able to serve the "Joint Response Book [Sic]" of which the latter is a nullity at law and the former is an irregularity, to the unlawful steps taken and advanced by the Law Society of British Columbia ("LSBC"), the Trial Lawyers Association of British Columbia ("TLABC") and Mr. Westell, and the Attorney General of British Columbia ("AGBC") and LGIC (collectively, the "**Purported Opposing Parties**").
6. The **Purported Opposing Parties** seek to relegate the impending application to vary or cancel an order of a justice (the "Rule 62 Application") to a written-only adjudication pursuant to s. 26 of the *COAA*. However, the document they have styled as a **"Joint Response Book [Sic]"** is a nullity, void ab initio, and of no force and effect. As a matter of law, an unauthorized filing category cannot be placed "on top of" a mandatory procedural structure that does not permit it. The filing of a **"Joint Response Book [Sic]"** by adversarial statutory parties also raises structural concerns regarding whether any one Purported Opposing Party could purport to file a response on behalf of another.
7. It is formally articulated that the procedural mechanism invoked by the **Purported Opposing Parties** to bypass an oral hearing is misaligned with the mandatory statutory and rule-based architecture governing variance applications under Rule 62 and s. 35(2) of the *COAA*. Even if such a request could be made in that regard, wherein the 'hearing' itself was reduced to written or the time limit for 'hearing' was truncated (see: *COAA*, clauses 26(1)(a), (c) and (d) but not 26(1)(b) as the Form 8 NOA requires a 'hearing' and it is not merely a 'matter' per se wherein the Civil Rules Committee, blessed by the LGIC, used the language of 'hearing under Rule 62(5)).

8. The Legislature deliberately distinguishes between a "matter" and a "hearing" in *Court of Appeal Act* (the *COAA*), s. 26. A "matter" is the underlying proceeding; a "hearing" is the adjudicative event. Section 26(1)(a) empowers the Court to modify the conduct of a hearing, whereas s. 26(1)(b) empowers the Court — and only the Court — to decide a matter without a hearing.
9. The Registrar's administrative authority to "receive any matter," as referenced in the *Registrar's Powers Practice Directive* (3 May 2024), cannot override the Legislature's distinction. A Form 8 Notice of Application under Rule 63(2) and *COAA*, s. 35(2) requires a hearing. It is not a "matter" capable of being decided without a hearing unless the Court so orders under *COAA*, s. 26(1)(b).
10. Accordingly, the Registrar cannot treat the Applicant Party's Form 8 Notice of Application as a "matter," cannot block filings based on standing, and cannot exercise judicial discretion under *COAA*, s. 26. The Registrar's role is purely administrative: filings must be accepted or rejected under Rule 38 and the Completion Instructions. Any attempt to convert a hearing-required application into a "matter" is ultra vires.
11. This distinction is reinforced by the structure of the *COAA*. Section 26(1)(a) presupposes that a hearing date exists and that the matter is properly before the Court. Section 26(1)(b) presupposes that only the Court may eliminate a hearing. The Registrar cannot exercise judicial powers under s. 26, nor can the Registrar determine whether a hearing is required. The Applicant Party's Form 8 Notice of Application is a hearing-required application under Rule 63(2), and the Registrar must accept or reject filings under Rule 38 only.
12. The *Registrar's Powers Practice Directive* authorizes the Registrar to "receive and determine other matters related to the management of the conduct of an appeal," but this authority is expressly limited by *COAA*, s. 37(3): if there is any inconsistency between the rules and a practice directive, the rules prevail. The rules require acceptance or rejection of filings under Rule 38, and do not authorize the Registrar to determine standing, party status, or whether a hearing is required.
13. Therefore, the Clerk's refusal to accept the Applicant Party's Form 8 Notice of Application was ultra vires. The Form 8 Notice of Application must be accepted for filing, and the Applicant Party is entitled to a hearing under Rule 63(2) and *COAA*, s. 35(2).
14. The adjudication of acts executed without authority cannot, as a matter of law, be relegated to an administrative process that circumvents the mandatory hearing structure prescribed by the *Court of Appeal Rules*. When an adjudicative body is confronted with allegations of an absolute nullity arising from acts executed by a Justice, by title but that did not belong to her judicial office (Factum A Judice, Quod Ad Officium Jure Non Pertinet, Ratum Non Est) (see: McLean v. Bradley, 1878 CanLII 22 (SCC) as per Sir William Buell Richards, Knt., C.J,, et al) and in part were manifestly absent jurisdiction (see: *coram non judice* (see also: Pong v. Quong, 1927 CanLII 2 (SCC) as per Anglin C.J.C.), the remedy

cannot be administered through a written-only process that eliminates the procedural safeguards inherent in an oral hearing.

15. The definition of an "Order" in s. 1 of the *COAA* expressly includes "a direction or determination specifically authorized or required under an **Enactment**."

16. The purported "Orders" issued by The Honourable Madam Justice Horsman, having been executed outside the boundaries of the governing **Enactment**s and devoid of statutory jurisdiction, fail to meet this threshold definition. They are jurisdictional nullities. To shield the review of such nullities through a written-only process would constitute a denial of natural justice.

17. The declarations and Orders sought—some specifically authorized and some specifically required by an **Enactment** (see: *Interpretation Act*, s. 1)—are determined pursuant to Rule 62 on a standard of review ("SOR") that is not contingent upon filed documents from any of the prescribed "parties" (the "Prescribed Parties"), as the review is conducted by a division panel of Honourable Justices.

PART 1(A): COMPLETION INSTRUCTIONS AND THE MANDATORY HEARING FRAMEWORK

18. "Completion Instructions" are defined as those issued by the Registrar for the proper completion, formatting, and submission of documents under the *Court of Appeal Rules*. These instructions form part of the mandatory procedural architecture and must be complied with by each responding person.

19. While the word "hearing" is not expressly defined under the *COAA* or the *Court of Appeal Rules*, the terms "Hearing Date" and "Obtain a Hearing Date" are defined and governed by the Rules. Critically, Rule 62(5) provides that the Registrar **must** set the date, time, and place for the hearing of an application. The word "must" is imperative (see: *Interpretation Act*, RSBC 1996, c. 238, s. 29), and imposes a statutory duty and obligation.

20. By tying the **Applicant Party**'s Form 4 NOA to the date on which the Registrar sets the hearing of the **Applicant Party**'s Form 8, the **Applicant Party** accomplishes: (a) the avoidance of multiplicity of hearings and/or proceedings; and (b) the avoidance of inconsistent fact-finding.

21. This is permissible as a variation of a "Court Form" pursuant to Rule 79(3), which allows a Court Form to be prepared with variations as the circumstances or the proceedings require.

22. Under s. 29 of the *Interpretation Act*, the words "shall" and "must" are to be construed as imperative. Under s. 29, "obligation" includes a duty and a liability. The imperative nature of "must" falls squarely upon each of the Appellants and Respondents to comply with Rule 62, including the mandatory filing and service of individual Response Books.

PART 1(B): MANDATORY ATTENDANCE AND COUNSEL OF RECORD

23. Rule 64(4) of the *Court of Appeal Rules* states that each party to an application **must** attend the hearing of the application:
    a. (a) in person, or
    b. (b) if permitted under Rule 42, by telephone, video conference, or other means of telecommunication.
24. The LSBC is represented by Lawson Lundell LLP. The TLABC and Mr. Westell are represented by Fasken LLP. The AGBC and LGIC are represented by government counsel.
25. Rule 64(5) provides that a person's lawyer may attend on behalf of that person. Accordingly, Lawson Lundell LLP cannot attend on behalf of the TLABC, Mr. Westell, the AGBC, or the LGIC, as it is not counsel of record for those persons. Each counsel of record must attend on behalf of their respective clients and the Prescribed Parties.

PART 1(C): STATEMENT OF ISSUES AND BRIEF ANSWERS TO ISSUES

26. The **Applicant Party** identifies the following issues for determination, sequenced chronologically the procedural defects leading to substantive defects, void ab initio documents (non "Court Forms") which were incapable of being accept for filing:
    a. Issue #1 Leaving aside that the Purported Opposing Parties did not submit for filing a Response Book, the first issue is whether the Purported Opposing Parties attempted to serve a filed copy of the *Joint Response Book* [sic] within seven days of being served with the Applicant Party's Application Book.
        1. Answer: As demonstrated in the Applicant Party's appendicised emails at Appendix #1 and Appendix #2, the Purported Opposing Parties failed to attempt service of the *Joint Response Book* [sic] on each Party under the *Court of Appeal Rules* within seven days of service of the Applicant Party's Application Book.
    b. Issue #2: Whether the Purported Opposing Parties' failure to file and serve a Response Book not more than seven days after being served with the Applicant Party's Application Book confirms, by their conduct, that they did not wish to respond to the Applicant Party's Application Book.
        1. Answer: By clear Enactment language and unassailable corollary and syllogism, the Purported Opposing Parties—leaving aside their failure to submit a compliant

Response Book in accordance with the Completion Instructions—confirmed by their conduct that they did not wish to respond to the Applicant Party's Application Book.

c. Issue #3: (a) Leaving aside that the Purported Opposing Parties did not submit a document capable of being filed, whether they could de jure serve the *Joint Response Book* [sic] on the Prescribed Parties under Rule 64(1)(a) (the Applicant Party) and Rule 64(1)(b) (the other Prescribed Parties served with the Applicant Party's Form 8, Application Book (September 15), and Book of Authorities (September 18, 2026)). (b) Whether the Purported Opposing Parties, through Mr. Andrews of Lawson Lundell LLP on Monday, September 21, 2026, purported service of what Mr. Andrews described as a "Response Book," thereby serving the Applicant Party with the *Joint Response Book* [sic].
    1. Answer: The germane subrule requires service of a Response Book, not a *Joint Response Book* [sic]. The only joint books permitted are Joint Appeal Books and Joint Books of Authorities (see *COAA*, ss. 26–27). As such, the Purported Opposing Parties could not serve any Prescribed Party de jure. Their purported service on the Applicant Party was not service de jure. As they did not attempt service on the other Prescribed Parties, the issue is simply non-compliance.

d. Issue #4: Whether the Purported Opposing Parties had authority to prepare, submit for filing, or purport to serve the Applicant Party with the *Joint Response Book* [sic] and its accompanying letter.
    1. Answer: Rule 62(4) imposes mandatory obligations (see *Interpretation Act*, s. 29) on "a person" who wishes to respond to an Application Book: to file and serve a Response Book on each Rule 64(1)(a) and (b) Party not more than seven days after being served, and in accordance with the Completion Instructions. Each Responding Prescribed Party failed to: (i) file; (ii) serve; (iii) a Response Book; (iv) on each Rule 64(1)(a) and (b) Party; (v) within seven days or at all; and (vi) in accordance with the Completion Instructions.
    2. The *Joint Response Book* [sic] is a nullity at law. The accompanying letter is likewise a nullity. A Response Book is not a "Court Form" but is a document subject to Completion Instructions. The *Joint Response Book* [sic] did not comply with any mandatory requirement.

e. Issue #5: Whether the Registrar had jurisdiction to accept the *Joint Response Book* [sic] for filing. More specifically, whether acceptance of a filing category not authorized by any Enactment constitutes an ultra vires act, and whether such acceptance is a "direction"

within the meaning of *COAA*, s. 1, thereby engaging the Applicant Party's right to seek cancellation under *COAA*, s. 35(2) and Rule 63.

1. Answer: The Registrar is a creature of statute, with no powers outside the four corners of the *COAA* and the *Court of Appeal Rules*. Any act outside those limits is ultra vires, void ab initio, and of no force and effect. Under *R. v. Verma*, para. 20, if a document complies with the rules and a person insists on filing it, the Registrar must accept it. Conversely, where a document does not comply with: (i) its required name; (ii) the requirement that each Prescribed Party file its own Response Book; (iii) the non-variability of documents outside Schedule 3; and (iv) the Completion Instructions, the Registrar cannot accept it.
2. The Registrar, Associate Registrar, and Deputy Registrar (see *COAA*, s. 1) are officers of the Court (see *COAA*, s. 10) and must conduct Appeals in accordance with the Act and Rules (see *COAA*, s. 18). Rule 62(4) and Rule 64(1)(a) and (b) squarely govern the requirements. The Registrar may only exercise powers conferred by the Rules or by the Chief Justice. Any inconsistency between a Chief Justice authorization and the Rules is resolved in favour of the Rules (see *COAA*, s. 37(3)).
3. The Completion Instructions required a cover page that prohibited filing of a *Joint Response Book* [sic]. On that ground alone, the Registrar could not accept it.

f. Issue #9: Whether the Court should strike and expunge the *Joint Response Book* [sic] as void ab initio, a nullity, void, and of no force and effect. More specifically, whether the fabricated filing category, adversarial consolidation, service defects, and structural non-compliance justify striking the document under Rule 53, Rule 54, *COAA*, s. 18(2), and *Supreme Court Civil Rules*, Rule 95.

1. Answer: The issue answers itself. The experienced counsel for the LSBC, TLABC and Mr. Westell, and AGBC and LGIC must have known their actions were prohibited by the *COAA*, the *Court of Appeal Rules*, other Enactments, and their professional obligations. As the public may review filed documents in the Record of Proceedings, the *Joint Response Book* [sic] must be expunged to prevent reliance on an unlawful filing.

g. Issue #10: In light of the independent, concurrent, and intertwined non-compliance with the Act and Rules by the Purported Opposing Parties, must the review division panel exercise its authority to decline to hear from the Purported Opposing Parties in relation to the Form 8 Notice of Application?

1. Answer: The Purported Opposing Parties' conduct contains numerous egregious violations of the Act and Rules. They must not be heard. To hear them would require one counsel to speak for all five Prescribed Parties, further undermining the Act and Rules.

h. Issue #11: Whether the review division panel, being required to conduct Appeals in accordance with the Act and Rules, must exercise its authority to declare the LSBC and TLABC/Mr. Westell's Appeals abandoned.

1. Answer: Jurisprudential principles confirm that where breaches are numerous and not merely irregularities, dismissal as abandoned is not Draconian. The misconduct here—carried out by experienced counsel for all five Prescribed Parties, without seeking leave to dispense with the Rules, and in the face of a validly filed and served Form 8, Application Book, and Book of Authorities—requires dismissal of the Appeals as abandoned. The remaining issues in the Form 8, confined to questions of law, should be argued by the Applicant Party.

PART 2: THE ATTEMPTED PROCEDURAL TRAP, PROVISION (NOT SERVICE) OF LEGAL FICTION DOCUMENTS, AND THE DEFINITION OF "PARTY" UNDER THE *COURT OF APPEAL RULES*

27. The **Applicant Party** formally notifies this Honourable Court of the procedural mechanism deployed by the **Purported Opposing Parties** through premature, extra-statutory correspondence. The transmission of letters and documents prior to the crystallization of statutory deadlines operates as an attempted procedural trap designed to compel the **Applicant Party** into an informal exchange outside the mandatory framework of the *Court of Appeal Rules*.

28. The architecture of this attempted trap is straightforward: by communicating through informal correspondence and seeking extra-**Enactment** consensus or acquiescence and/or taking a fresh step with knowledge of what it would inevitably claim was an irregularity but *de jure* a nullity, the **Purported Opposing Parties** endeavour to induce the **Applicant Party** into implicitly accepting their flawed premise—namely, that only the formalized Appellants and Respondents constitute "Parties" to these proceedings.

29. Simply put, the Appellants and Respondents are appellate "Statutory Parties," but they were and are not the only "Prescribed Parties" under the *Court of Appeal Rules*. The mandatory service matrix under Rule 62(4) and Rule 64(1)(b) extends beyond the narrow subset of Appellants and Respondents.

30. The **Applicant Party** expressly declines to validate this exclusionary posture and formally refuses to respond to extra-statutory correspondence that is not transmitted in accordance with the *Court of Appeal Rules*.

31. Furthermore, the mechanics of service under the modernized regime are mathematically precise and cannot be bypassed through the tactical provision of documents to only some of the Prescribed Parties. Rule 4(3) of the *Court of Appeal Rules* governs deemed service by email or fax and provides:

> "A document transmitted for service by email or fax is deemed to be served as follows: (b) if the document is transmitted at either of the following times, the document is deemed to be served on the next business day: (i) after 4 p.m. on a business day."

32. This deeming provision is mandatory and cannot be circumvented by informal correspondence.

33. While it would have been open to the **Applicant Party** to wait until 4:01 p.m. on September 22, 2026, such a step would have played into the **Purported Opposing Parties**' attempted procedural manoeuvre. More critically, it would not matter, *de jure*, whether the **"Joint Response Book [Sic]"** was transmitted before or after 4:00 p.m., as the document is a legal fiction per se. A "Court Form" may be varied under Rule 79(3)(a), but a Response Book is not a Court Form and must be completed in accordance with the Completion Instructions, filed, and then served on *each* Rule 64(1)(a) and (b) "Party" (see: Rule 62(4)).

34. If the **Purported Opposing Parties**' extra-**Enactment** correspondence and defectively provided documents were transmitted after the 4:00 p.m. threshold, they are strictly deemed served on the next business day. The **Applicant Party** relies absolutely upon the precision of the *Court of Appeal Rules* and rejects any attempt to manipulate timelines or construct artificial urgency through non-compliant, late-afternoon transmissions.

PART 3: THE EXCLUSIVITY OF SECTION 32 DISPENSATION POWERS AND RULE 41

35. The **Purported Opposing Parties**' attempt to dispense with the mandatory oral hearing requirement of Rule 62 through an informal letter to the Registrar constitutes a clear error of law and a circumvention of the *COAA*. The statutory architecture governing the dispensation of Rules and the extension or abridgment of timelines is rigid, exclusive, and strictly reserved for the judiciary.

36. Section 32(1) of the *COAA* explicitly and unequivocally delineates the jurisdictional boundary: **"A justice may dispense with a requirement of the Rules."** This extraordinary power is conferred solely upon a justice. The statute does not authorize the Registrar to dispense with any requirement of the *Court of Appeal Rules*, nor does it permit litigants to dispense with mandatory Rules through consensus, correspondence, or informal communication. The Registrar is statutorily barred from entertaining any informal request to abandon an oral hearing mandated by Rule 62.

37. Furthermore, should the **Purported Opposing Parties** attempt to characterize their request as involving an extension or abridgment of time limits, s. 32(3) of the *COAA* dictates that a justice may extend a time limit even if it has expired. However, such an extension is subject to strict procedural prerequisites. Section 32 is inextricably tethered to Rule 41 of the *Court of Appeal Rules* (General Applications), which governs applications to vary timelines or dispense with procedural requirements.
38. To successfully invoke the dispensation or extension powers under s. 32, the defaulting or moving party must apply formally. Under the *Court of Appeal Rules*, an application to a justice to dispense with a Rule or vary a timeline requires a specific evidentiary and procedural matrix, including: (a) the filing of a formal Notice of Application in Form 4; (b) the filing of supporting Affidavits containing the requisite evidentiary foundation; and (c) the submission of a Written Argument.
39. The **Purported Opposing Parties** have filed none of these mandatory instruments. They have submitted: (a) no Form 4; (b) no sworn evidence justifying dispensation of the requirements of the *Court of Appeal Rules* to: (i) file a Response Book; (ii) serve a filed Response Book; (iii) file and serve a Response Book on each Party; and (c) no materials addressing any other mandatory requirements under the *Court of Appeal Rules*.
40. By attempting to secure a s. 26 written-only hearing—transmitted only to the **Applicant Party**—via a letter sent solely through the LSBC, the **Purported Opposing Parties** have engaged in a procedural approach that is incompatible with the *COAA* and the *Court of Appeal Rules*.
41. Simply put, they have engaged in obstructionist conduct which can only be inferred to be, with such experienced legal counsel, to be intentional violations of law.
42. Their failure to comply with the mandatory statutory and rule-based requirements is complete, and their attempt to bypass Rule 62 through informal correspondence is without legal foundation. Such acts were not merely voidable but void ab initio, void, and of no force and effect. Parties, statutory and/or prescribed, cannot even waive by consent, requirements of the *COAA* and the *Court of Appeal Rules* as only a Justice may do so.

PART 4: THE PROCEDURAL INVALIDITY OF THE "JOINT RESPONSE BOOK [SIC]", ADVERSARIAL ALIGNMENT, AND RULE 63

43. The **Applicant Party** brings this Form 4 Notice of Application to strictly enforce the pure, rule-based appellate geometry of the *Court of Appeal Rules*.
44. The instrument accepted as filed by the Registrar—submitted presumably by the LSBC on behalf of the **Purported Opposing Parties** and styled as a **"Joint Response Book [Sic]"**—is a procedural phantom.

The *Court Services Online* ("CSO") portal does not permit the filing of any joint adversarial "document" (see: Rule 1(1)). The only joint filing categories authorized under the *Court of Appeal Rules* are: (a) joint appeal books; and (b) joint books of authorities.

45. The *Court of Appeal Rules* simply do not authorize a **"Joint Response Book [Sic]"**. The Registrar possessed no jurisdiction under any **Enactment** to accept such a legal-fiction document. It is a fabricated filing category entirely absent from the governing statutory and regulatory framework.

46. Rule 62(4) explicitly dictates the mandatory obligations for responding to an application to vary: **"A person who wishes to respond to an application book… must file and serve… a response book."** The Rule imposes a singular, individual obligation on **"a person"** to file **"a response book."** Not joint. Not combined. Not consolidated. A response book. Singular.

47. It is axiomatic that the LSBC is a singular Appellant under the file number assigned to its Appeal, and the TLABC and Mr. Westell are singular Appellants under the file number assigned to their Appeal. The AGBC is a singular Respondent. Each is required to file and serve their own individual Response Book.

48. The word "joint" is entirely absent from the *COAA 2021*. However, the word "joint" appears exactly fourteen times within the modernized *Court of Appeal Rules 2022*. A rigorous statutory construction reveals that the Legislature specifically and exclusively authorized "joint" filings **only** in the context of: (a) a "joint appeal book" (Rule 26(1), (4), and (5)); (b) a "joint book of authorities" (Rule 28(3) and (4)); and (c) a "joint appeal book on cross appeal" (Rule 30(1) and (2)).

49. There is a fundamental structural reason why the Rules allow "joint" filings strictly for appeal books and books of authorities: these are neutral, administrative compilations of shared evidentiary materials. A joint appeal book is prepared jointly by all parties to organize the record. It is an administrative efficiency.

50. Conversely, a Response Book under Rule 62 is not a neutral compilation; it is an adversarial submission. It contains argument, procedural posturing, and sworn affidavits. The Rules deliberately do **not** permit joint adversarial filings. The Registrar cannot spontaneously create such a category, nor can the Registrar consolidate adverse parties into a single "unit" with a single **"Joint Response Book [Sic]"**.

51. This structural defect is fatal given the specific adversarial alignment of the parties in CA51535 and CA51536. The LSBC is an Appellant under its designated file number. The TLABC and Mr. Westell are joint Appellants under the designated BCCA file number. The AGBC is a Respondent. While the LSBC, and TLABC and Mr. Westell, could not file a **"Joint Response Book [Sic]"**, adding the AGBC and LGIC are purported joint completers under a singular filer, through counsel to the LSBC's CSO filing account, was particularly egregious when the AGBC and LGIC are adverse parties in the underlying litigation to the LSBC, TLABC and Mr. Westell and adverse statutory parties under the *COAA*. The Rules do not permit adverse parties to file a joint, consolidated adversarial response. This is a categorical defect of procedural alignment.

52. Furthermore, any attempt by the **Purported Opposing Parties** to justify the fabrication of a **"Joint Response Book [Sic]"** by relying on the variation allowance under Rule 79 is fundamentally doomed by strict statutory definitions. Rule 79(1) defines a "Court Form" precisely as "a document that is required under these Rules to be filed using a specified form [set out in Schedule 3]." While Rule 79(3)(a) allows a Court Form to be prepared "with variations as the circumstances or the proceedings require," a Response Book is **not** a Court Form.
53. A Response Book is a substantive document governed exclusively by Rule 62 and the Completion Instructions. However, it is **not** a "Court Form" and cannot be varied as It is entirely absent from the forms codified in Schedule 3. Ergo, the statutory allowance for "variations" is categorically inapplicable. The title page submitted by the institutional litigants—boldly declaring itself a **"Joint Response Book [Sic]"** on behalf of both Appellants and Respondents—is an unauthorized fabrication that cannot be saved by Rule 79. Because it is not a Court Form, it cannot be varied. It is an illicit document that must be summarily struck.
54. As established above, only a justice may dispense with compliance with the Rules pursuant to s. 32(1) of the *COAA*. The Registrar cannot modify Rule 62 or accept filings not authorized by the Rules. Therefore, the Registrar could not accept a **"Joint Response Book [Sic]"** unless a justice explicitly ordered it. No such dispensation order exists. The filing is *ultra vires*, irregular on its face, and improperly before the Court.
55. Furthermore, the lack of service is not merely cosmetic; it is a profound substantive defect. Rule 62(4) requires service of the Response Book "on each party." The **Purported Opposing Parties** failed to serve the broader matrix of counsel and interveners. This defect affects the validity of the **Joint Response Book** [sic], the ability of the Court to rely upon it, and the fundamental fairness of the Rule 62 process.
56. Because the Registrar's acceptance of this fabricated instrument constituted a "direction", but not an Order, under the *COAA*, the **Applicant Party** is mathematically required to bring this Rule 63 application to set aside that direction and formally strike the unauthorized document from the record. However, the end result is the same relating to the invalidity of the **"Joint Response Book [Sic]"** albeit the consequential relief of striking and expunging is distinct.

PART 5: THE STATUTORY MANDATE OF RULE 62 AND THE PROHIBITION OF NULLITIES

57. It is systematically acknowledged that Rule 62(5) of the *Court of Appeal Rules* explicitly mandates that the date, time, and place for the hearing of an application under said Rule **must** be set by the Registrar. The public-facing guidance of the Court of Appeal further notes that such hearings are presumptively 30 minutes in duration.

58. The imposition of a strict thirty-minute temporal limitation unequivocally signifies the Legislature's contemplation and mandate of an **oral hearing**. Limiting the time for a hearing that is purely written is a logical impossibility and a procedural absurdity. A written-only process has no "hearing time" to limit. Consequently, the invocation of s. 26(1)(c) or s. 26(1)(d) of the *COAA* to limit or eliminate the hearing is strictly ***ultra vires*** the specific statutory architecture governing variance applications under Rule 62.
59. As dictated by the venerable maxim *generalibus specialia derogant* (special provisions derogate from general ones), the specific temporal and structural requirements formulated exclusively for variance applications in Rule 62(5) strictly override the generalized, discretionary parameters of s. 26 of the *COAA*. A failure to apply the governing statutory text to orchestrate the hearing constitutes a pure, extricable error of law.

PART 5(A): SECTION 19 OF THE COAA: IRREGULARITIES VS. NULLITIES

60. Section 19 of the *COAA* provides that an Appeal is not defeated by an "irregularity or procedural error" in the conduct of the appeal. Section 19(2) empowers a justice to validate an act, impose terms, or make any order necessary to address such irregularities or procedural errors.
61. However, the statutory protection afforded by s. 19 applies **only** to irregularities — not to **nullities**. A nullity is not an "irregularity" within the meaning of s. 19(1). A nullity is a legal non-event: an act done without jurisdiction, without authority, or contrary to an **Enactment**. A nullity cannot be validated, cured, or retroactively regularized under s. 19(2). It is void ab initio.
62. The acceptance for filing of a **"Joint Response Book [Sic]"** by the Registrar is not an irregularity; it is a **nullity**. The Registrar had no jurisdiction under any **Enactment** to accept a fabricated filing category not authorized by the *Court of Appeal Rules*. The document is not merely defective — it is legally impossible. It is a filing that the Rules do not permit to exist.
63. Because s. 19 cannot cure a nullity, the **"Joint Response Book [Sic]"** cannot be validated, cannot be regularized, and cannot be salvaged by judicial discretion. It must be struck. The **Applicant Party** is therefore mathematically required to bring this Rule 63 application to set aside the Registrar's acceptance of the nullity and to formally expunge the unauthorized document from the record.

PART 6: NOVELTY, THE PUBLIC INTEREST, AND THE OPEN COURT PRINCIPLE

64. The present opposition engages a novel and unresolved issue of law under the modernized *COAA 2021* and the contemporary *Court of Appeal Rules 2022*. The interaction between the mandatory hearing parameters of Rule 62 and the discretionary written-only mechanisms of s. 26 of the *COAA*, in the context

of an unauthorized request not properly predicated *de jure*, remains an undecided and critical frontier of appellate jurisprudence in British Columbia.

65. The procedural mechanism advanced by the **Purported Opposing Parties** fundamentally engages the open court principle, a constitutional pillar of the Canadian justice system protected under s. 2(b) of the *Canadian Charter of Rights and Freedoms*. As articulated by the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25, and *Vancouver Sun (Re)*, 2004 SCC 43, the public ventilation of judicial proceedings is essential to maintaining institutional legitimacy, democratic accountability, and public confidence in the administration of justice.

66. The present application does not concern routine interlocutory matters. It is tethered to allegations of serious state-action irregularities and the procedural consequences arising from those allegations. The public holds a legitimate interest in observing the appellate division address the statutory, procedural, and jurisdictional issues raised in open court. This matter engages the highest level of public interest in the proper functioning of the justice system.

67. By seeking to force this adjudication into a written-only process under s. 26 of the *COAA*, the **Purported Opposing Parties** attempt to bypass the mandatory oral hearing structure prescribed by Rule 62. Such an approach would improperly quarantine the adjudication of issues that, by their nature, require public ventilation and judicial transparency. The open court principle prohibits the displacement of an oral hearing where the governing **Enactment**s mandate one.

PART 7: THE INAPPLICABILITY OF THE SECTION 26 JURISPRUDENCE

68. Assuming arguendo that the **Applicant Party** was put to argue the same, he respectfully provides the following.

69. The jurisprudential authorities proffered by the **Purported Opposing Parties** to substantiate the dispensation of an oral hearing are categorically distinguishable, factually impoverished, and profoundly inapplicable to the present matrix. The discretionary authority encapsulated within section 26 is customarily reserved for matters devoid of substantive complexity or wherein the administration of justice is uncontrovertibly served by written submissions.

70. A rigorous legal deconstruction of the authorities relied upon demonstrates their absolute irrelevance to an application addressing a jurisdictional nullity, as elucidated within the comparative table below:

Authority	Procedural Context	Distinguishing Factor (Nullity vs. Irregularity)

Gonzalez v. British Columbia (Attorney General), 2023 BCCA 155	Vexatious litigant, obvious lack of merit in an application for review.	The appellate tribunal dispensed with an oral hearing strictly upon the foundation of a lack of merit involving an existing vexatious litigant. The present matter engages profound constitutional issues, novel interpretations of the 2021 *COAA*, and strict *ultra vires* actions by a chambers justice.
Vesuna v. Stillwater Waterworks District, 2023 BCCA 431	Consent disposition regarding an *ex parte* substituted-service order.	Engaged a scenario wherein an appeal was allowed by absolute consent. In the present circumstances, vigorous, unyielding opposition is registered against the circumvention of the open court principle.
Raju v. Red Door Housing Society, 2025 BCCA 340	Judicial review of a residential tenancy dispute involving voluminous materials.	Involved a standard administrative review concerning residential tenancies. Here, the underlying issue is fundamental procedural fairness, acts executed *coram non judice*, and the suppression of forensic evidence.
Portnov v. Alexander Holburn Beaudin + Lang LLP, 2026 BCCA 193	Adjournment request where comprehensive materials were already filed.	Involved an adjournment request on a pedestrian civil practice issue. The instant matter engages catastrophic jurisdictional usurpation demanding absolute transparency.

71. By attempting to rely upon the aforementioned jurisprudence, the **Purported Opposing Parties** have strategically endeavoured to conflate a catastrophic jurisdictional nullity with a mere procedural irregularity. The adjudication of a nullity requires the purifying sunlight of an oral hearing.

PART 8: THE EVIDENTIARY VOID AND THE ABUSE OF PROCESS

72. The tactical refusal of the institutional litigants to engage with the substantive forensic evidence—electing instead to file an unauthorized **"Joint Response Book [Sic]"** that labels an exhaustively cited fifty-seven-page legal argument detailing unconstitutional state-sponsored digital incursions as indecipherable—crystallizes the evidentiary void.

73. It is advanced that the attempt to utilize the section 26 mechanism operates as a transparent stratagem to shield the profound constitutional violations, the Deflate64 compression algorithms masking the true binary state of the extracted files, and the binding formal admissions from public ventilation. Such a maneuver is *ipso facto* an abuse of process.
74. The administration of justice is incontrovertibly prejudiced when severe jurisdictional defects are swept into an administrative vacuum. Section 26 cannot be weaponized by institutional litigants to insulate themselves from accountability regarding actions that were executed without the requisite jurisdiction and thus rendered absolute constitutional nullities.

PART 9: STRIKING THE "JOINT RESPONSE BOOK [SIC]"

75. Under this heading, the **Applicant Party** repeats and relies upon his argument contained in his filed Application Book of September 15, 2026.
76. In the absence of an explicit provision within the *Court of Appeal Rules* specifically governing the striking of unauthorized, incidental responsive documents, the adjudicative body is mandated by section 18(2) of the *COAA* to apply the *Supreme Court Civil Rules* by analogy. Consequently, Rule 9-5 of the *BCSC Civil Rules* is irrevocably engaged to adjudicate the expungement of the Appellants' **"Joint Response Book [Sic]"** and associated memoranda.
77. In *Walker v. John Doe*, 2014 BCSC 830, The Honourable Mr. Justice Butler definitively established that the jurisdiction granted by Rule 9-5(1) extends far beyond originating pleadings to encompass "other documents" filed within a proceeding. The deliberate insertion of cost-threats into boilerplate notices was struck as an abuse of process. By analogy, the deliberate insertion of a fabricated, procedurally non-existent **"Joint Response Book [Sic]"** into the appellate registry—explicitly designed to bypass the mandatory service matrix and consolidate adverse parties into an unlawful alliance—constitutes an analogous misuse of procedural mechanisms demanding expungement.
78. Applying the jurisprudence of Rule 9-5(1)(b) and (c), the impugned filings are demonstrably scandalous, frivolous, and inherently prejudicial (*Gill v. Canada*, 2013 BCSC 1703; *McNutt v. A.G. Canada*, 2004 BCSC 1113). They serve no useful purpose because they advance arguments predicated upon a defunct 2018 lower-court order, constituting a direct, impermissible collateral attack upon the Court of Appeal's own subsequent acceptance of jurisdiction in docket CA45786 (*Wilson v. The Queen*, 1983 CanLII 35 (SCC)).
79. Furthermore, applying Rule 9-5(1)(d), the filings constitute an absolute abuse of process. As definitively articulated by the Supreme Court of Canada in *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26, the failure of a party to challenge jurisdictional validity at the appropriate temporal juncture—opting instead

to deploy self-help remedies and subsequently mount a defense based upon those unaddressed historical grievances—constitutes a flagrant abuse. The Appellants deliberately slept on their rights during the 2019 appellate proceedings (*McLean v. British Columbia*, 2019 BCCA 133) and are now strictly estopped from manufacturing a retroactive standing objection. The analogous application of Rule 9-5 demands the immediate striking of the Joint Response Book and the offending memoranda.

PART 10: THE NON-IRREGULARITIES IN THE FORM OF THE NULLITIES AND CONSEQUENTIAL RELIEF

80. Rule 36 authorizes a Justice to do the following when there has been a "failure to comply:

36 A justice may do one or more of the following if a party fails to comply with this Act or the rules or an order or direction of the court, a justice or the registrar:

(a)refuse to hear the party;

(b)impose terms and conditions, including the payment or disallowance of costs;

(c)if the party is an appellant, dismiss the appeal as abandoned.

81. The former section , which read as follows, from 1996 to 2021:

> Non-compliance
> 28 If a party fails to comply with this Act or the rules, the court or a justice may
>
> (a)dismiss the appeal as abandoned if the party is the appellant,
>
> (b)refuse to hear the party, or
>
> (c)impose terms including terms respecting the payment or disallowance of costs or disbursements.

82. Both the current s. 36 and former s. 28 use the word "party," referring to a Statutory Party. The repealed section permitted either the Court or a justice to exercise the dismissal and refusal jurisdiction. Under the current s. 36, only a justice may do so.

JURISPRUDENCE UNDER CURRENT SECTION 36

83. Most jurisprudence under the current s. 36 concerns failures to pay security for costs or failures to file documents within prescribed timelines.

84. In *Momeni v. Percy*, 2023 BCCA 295, former tenants (appellants) attempted to serve an appeal record on their landlords (respondents) via registered mail. The respondents applied to dismiss the appeal as

abandoned under s. 36(c) because registered mail is not a permitted method of service under the *Court of Appeal Rules* unless explicitly authorized. Although the justice agreed the service was invalid, dismissal was considered too "draconian" for an early-stage misstep that was not egregious.

85. Here, by contrast, the Purported Opposing Parties did not merely choose an improper method of service. The *Joint Response Book* [sic] was and is a nullity on its face and in substance, incapable of being served at law. The numerous violations of the *COAA* and the *Court of Appeal Rules* are far more egregious than the conduct of self-represented tenants in *Momeni*.

86. Moreover, the Purported Opposing Parties' failure even to attempt service of the *Joint Response Book* [sic] on each Party under Rule 62(4), citing Rule 64(1)(b), supports the inference that they knew the *Joint Response Book* [sic] was a nullity at law. Their conduct is consistent with bad faith, dishonesty, and fraud on the Court.

87. By syllogism, granting relief dismissing the Appeals as abandoned is not too draconian when considering the numerous, intertwined violations of the *COAA* and the *Court of Appeal Rules*

JURISPRUDENCE UNDER THE FORMER SECTION 28 OF THE COAA

88. In *British Columbia v. Leyen*, 2006 BCCA 180, Justice Davies held that where Appeals are hopeless, this militates in favour of dismissing the Appeals as abandoned.

89. The Applicant Party repeats and relies upon the filed documents in the Application Book regarding the hopeless nature of the Appeals, including fraud on the Court, the law of admissions without any cross-appeal, and abuse of process (which has continued as a pattern by the LSBC).

PART 11: NATURE OF THE ORDERS REQUESTED

90. The **Applicant Party** respectfully requests the following relief on a preliminary basis and prior to the hearing of his Form 8 (September 9, 2026) supported by his filed Application Book (September 15, 2026) and his BOA (September 17, 2026):

Part 11(A): Preliminary Orders

Order #0[i]:

A. An Order varying any requirement under the Court of Appeal Rules, if applicable, including abridging time so that this Form 4 Notice of Application is heard on the same day with the Applicant Party's Form 8 Notice of Application, pursuant to, inter alia, any relevant sections, subsections, clauses, subclauses, paragraphs or subparagraphs of the COAA and/or the Court of Appeal Rules.
B. A further Order granted nunc pro tunc to the date of the submitted for filing Form 4 NOA of the Applicant Party, that the Applicant Party Form 4 NOA is heard on the same day as his Form 8 NOA and said relief in his Form 4 NOA is decided prior to the commencement of submissions and argument involving the Applicant Party Form 8 NOA.
C. A further Order that the Applicant Party is entitled to one hour, if he wishes, to review the decision and make any amendments to his oral submission document and submit the same to the Registrar via email for the division review panel's consideration and convenience; and
D. Any other dispensation or procedural relief including any nunc pro tunc relief abridging any time for filing and service of this Form 4 NOA and any supporting affidavits (if applicable) and written argument (if applicable)

Part 11(B): Substantive Orders

Order #1: A Declaration that the Joint Response Book of Monday, September 21, 2026, of the Purported Opposing Partes (defined as the **"Joint Response Book [sic]"** tendered for filing and accepted by the Registrar was and is void, void *ab initio*, and of no force and effect. A further Declaration Of Law that Rule 64(1)(b) Parties are prohibited from filing a "Response Book" together however stylized;

Order #2: A Declaration that the Registrar's acceptance of the **"Joint Response Book" [sic]** for **filing** was executed without jurisdiction, is void *ab initio*, and is of no force and effect;

Order #3: An Order striking and expunging the **"Joint Response Book" [sic]** from the record of the Appeals' proceedings (the "Record Of Proceedings" or "Appeal Proceedings")

in the Court of Appeal for British Columbia under whichever docket or file number it was submitted for filing and accepted for filing;

Order #4: A Declaration that the **"Joint Response Book" [sic]** could not be lawfully served on the other "parties" under subrule 64(1)(a) (herein defined as the "Applicant Party") and/or Rule 64(1)(b) of the *Court of Appeal Rules* (herein defined as the "Responding Parties" or "NOA Served Parties");

Order #5: A Declaration of fact that as of September 23, 2026, the Purported Opposing Parties did not provide a copy of the filed "Joint Response Book" [sic] and/or the LSBC's filed letter of Monday, September 21, 2026, to any of the Rule 64(1)(b) Parties;

Order #6: A Declaration that the LSBC, TLABC, Mr. Westell, AGBC and LGIC failed to comply with Rule 62(4) and require leave to file and serve "Response Books" on the Applicant Party (see: Rule 64(1)(a)) and the Rule 64(1)(b) Parties inclusive of all persons who are Prescribed Parties other than themselves or himself (Mr. Westell);

Order #7: A Declaration that the Applicant Party objected to the irregularity[ii] of failing to serve the Responding Parties without taking a fresh step in the Appeals;

Order #8: A Declaration and Order that the Applicant Party Form 8 is decided on the basis of his Application Book absent any Response Books or the "Joint Response Book [Sic]" from any of the Rule 64(1)(b) Parties;

Order #9: An Order that as a consequence of the Purported Opposing Parties (all Statutory Parties) violation of a variety of sections of the Act and rules, the division review panel refuses to hear said Purported Opposing Parties on the Applicant Party Form 8 NOA;

Order #10: An Order that as a consequence of the Appellants failing to comply with the Act and rules amongst other violations of law, which amount to nullities, including but not limited to: (i) prepare a nullity document in the form of the "Joint Response Book" [sic]; (ii) not complying with the Registrar's issued Completion Instructions; (iii) not providing a copy of the "Joint Response Book" [sic] and the LSBC's September 21, 2026, letter to the other Rule 64(1)(b) Partes; (iv) failing to seek permission by an NOA under section 32 and rule

41 of a Justice to dispense with requirements of the Court of Appeal Rules to even tender the "Joint Response Book" [sic] for filing; and (v); other particulars contained in the Applicant Party Application Book and written argument in support of his Form 4 NOA, the Appellants' Appeals are dismissed as **abandoned** with such relief being independent of the Applicant Party's relief in his Form 8 NOA.

Order #11: A Declaration that the Applicant's Form 8 relief can be spoken confined to issues or questions of law;

Order #12: An Order that as the Applicant Party has voluntarily consented to waiving any entitlement to costs and disbursements, costs and disbursements are not awarded in the interests of justice and to ensure that the LSBC is focused on its obligations under the LPA 2024; and

Order #13: Any relief that is just and equitable, compliance with the law, and in the interests of justice.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.
Dated at the City of Toronto, Province of Ontario, this 25th day of September 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party
68 Abell St. (Receptionist desk) Toronto, ON M6J 0B1
Email: mclean@searchandseizure.ca

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[i]See: COAA, s. 30(e) and (g) amongst other statutory and prescribed powers.
[ii]NOTA BENE: the "Joint Response Book [sic]" itself is a nullity (not an irregularity) as it is not a "Court Form" and not subject to variance as circumstances require. Moreover, pursuant to rule 62(4), the requirement of a "Response Book" is not discretionary as it must be prepared in accordance with the "Completion Instructions". Part of the "Completion Instructions" required the following: Requirement; Instructions Cover Page Required; You may use this Word template to create your cover page
Include Sealing Order, Publication Ban, or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and precise terms. (further nota bene: name of "filing parties" is not required for joint book like a "Joint Appeal Book" (see: Rule 26) or a "Joint Book of Authorities" (see: Court of Appeal Rules, rule 27)

APPENDIX “A”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535/CA51536 - Service of Response Book and Letter

5 messages

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 6:26 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Please find attached the Joint Response Book of the parties, filed today in response to your application to vary or cancel the order of Justice Horsman.

Also attached is a letter from the parties to the Registrar of the Court of Appeal, which we will be filing momentarily. We will provide you with a filed copy of the letter in due course.

Regards,

Jonathan

Jonathan Andrews | Associate
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Vancouver | Calgary | Yellowknife | Kelowna

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2 attachments

Joint Response Book - Vary Order of a Justice - F_ September 21, 2026.PDF
874K

2026-09-21 LT Court of Appeal (Registrar) re Kevin McLean Rule 62 Application.PDF
267K

Jonathan Andrews <jandrews@lawsonlundell.com> Mon, Sep 21, 2026 at 7:03 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews

wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean,

Further to my email below, here is a filed copy of the letter.

Regards,

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

[Quoted text hidden]
[Quoted text hidden]

2026-09-21 LT Court of Appeal Registrar - F_ September 21, 2026.PDF
268K

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 2:48 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Subject: CA51535 / CA51536 – Service of “Joint Response Book” [sic] – confirmation of receipt not service *per se*

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

I thank Mr. Andrews for his two emails and confirm receipt of the same.

I also confirm receipt of your “Joint Response Book” [sic] purportedly filed today in response to my application to vary or cancel the order of Justice Horsman. As you are aware, the Court of Appeal Rules do **not** authorize a “joint” response book, and such a filing is a **nullity** under Rule 62.

Leaving that aside, Rule 62(4) requires that *each person* who wishes to respond must file and **serve** a response book on the applicant and on **each party** described in Rule 64(1)(b). Based on the recipients included in Mr. Andrews’ email, I will presume that this “Joint Response Book” [sic] was **not** served on all Rule 64(1)(b) parties.

If purported service was effected separately (i.e., by a separate email to the prescribed parties), please provide proof of service forthwith.

I will address the remainder of the issues involving the same separately but it was important to confirm that (as the email addresses based upon a cursory review do not appear to include all legal representatives of parties as passed by the LGIC in 2022 under the Court of Appeal Rules) some “Prescribed Parties” were not included and were not served within seven days of a receipt of my Application Book.

I reserve all of my rights in fact and at law.

Regards,

Mr. Kevin A. McLean (BA, JD, CIM)

Appendix – Rule 62(4)

“A person who wishes to respond to an application book filed under subrule (2)(b) must file and serve, on the applicant and on each party not more than 7 days after being served the application book, a response book prepared in accordance with the completion instructions.”

[Quoted text hidden]

Jonathan Andrews <jandrews@lawsonlundell.com> Wed, Sep 23, 2026 at 3:31 PM
To: "Mr. Kevin Alexander McLean" <mclean@searchandseizure.ca>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Mr. McLean, we acknowledge receipt of your email.

Regards,

Jonathan

Jonathan Andrews | Associate
Lawson Lundell LLP
D 604.631.9270

From: Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>
Sent: Wednesday, September 23, 2026 11:49 AM
To: Jonathan Andrews (3270) - 14Flr <jandrews@lawsonlundell.com>
Cc: Lapper, Emily AG:EX <emily.lapper@gov.bc.ca>; Trevor.Bant <trevor.bant@gov.bc.ca>; Ortega, Sergio AG:EX <sergio.ortega@gov.bc.ca>; Karin.Kotliarsky <karin.kotliarsky@gov.bc.ca>; Gavin Cameron <gcameron@fasken.com>; tposyniak <tposyniak@fasken.com>; Laura Abrioux <labrioux@fasken.com>; Will

Andrews <wandrews@fasken.com>; Craig Ferris (3197) - 14Flr <cferris@lawsonlundell.com>; Laura Bevan (3106) - 14Flr <lbevan@lawsonlundell.com>; Nicole Welsh (3193) - 14Flr <nwelsh@lawsonlundell.com>; Lindy Grant (3258) - 14Flr <lgrant@lawsonlundell.com>; Nastasia Virvilis (3497) - 14Flr <nvirvilis@lawsonlundell.com>
Subject: Re: CA51535/CA51536 - Service of Response Book and Letter

> EXTERNAL EMAIL - This email was sent by a person from outside your organization.

[Quoted text hidden]

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:37 PM
To: Jonathan Andrews <jandrews@lawsonlundell.com>
Cc: "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Trevor.Bant" <trevor.bant@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "Karin.Kotliarsky" <karin.kotliarsky@gov.bc.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, Nastasia Virvilis <nvirvilis@lawsonlundell.com>

Thank you kindly Mr. Andrews and I hope you are all well. You will want to review my email to all of the Rule 64(1)(b) ‘parties’ (persons therein). I will be somewhat strict herein without being rude that all future correspondence regarding these issues shall be in that email thread. Please respond therein and I will respond in kind should any further correspondence be applicable or required.

[Quoted text hidden]

APPENDIX “B”

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK" and non-service on ALL "Prescribed Parties" within seven days of September 15, 2026

1 message

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Sep 23, 2026 at 3:31 PM
To: Chambers <Chambers@bccourts.ca>, Gavin Cameron <gcameron@fasken.com>, "tposyniak@fasken.com" <tposyniak@fasken.com>, Laura Abrioux <labrioux@fasken.com>, Will Andrews <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, lkt@tdslaw.com, Ian Knapp <iknapp@macfuj.com>, amackenzie@macfuj.com, "XT:Olthuis, Brent AG:IN" <bolthuis@ovcounsel.com>, dredman <dredman@arvayfinlay.ca>, David Wu <dwu@arvayfinlay.ca>, cbildfell@mccarthy.ca, "Frame, Lindsay" <lframe@mccarthy.ca>, roy.millen@blakes.com, nicholas.tollefson@blakes.com, joey@doyledefence.ca, ekirkpatrick@mcewanpartners.com, cdauvergne@litigationchambers.com, jmaclaren@accessprobono.ca, kyla@vancouvercriminallaw.com, rpeck@peckandcompany.ca, csenini@peckandcompany.ca, pmueller@peckandcompany.ca, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>, cferris <cferris@lawsonlundell.com>, Lindy Grant <lgrant@lawsonlundell.com>, mring@lawsonlundell.com, ccrane <ccrane@ovcounsel.com>, Chris Pang <cpang@ovcounsel.com>, mmiharija@ovcounsel.com, szarb@macfuj.com, "Lever, Vanessa AG:EX" <vanessa.lever@gov.bc.ca>, "KDOUMAKIS@mccarthy.ca" <KDOUMAKIS@mccarthy.ca>, kotto@lawsonlundell.com

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Reply via email: mclean@searchandseizure.ca

Date: September 23, 2026
Classification: Private and Confidential
Sending method: Via Email at first instance

To: Chambers@bccourts.ca; gcameron@fasken.com; tposyniak@fasken.com; labrioux@fasken.com; wandrews@fasken.com; emily.lapper@gov.bc.ca; trevor.bant@gov.bc.ca; karin.kotliarsky@gov.bc.ca; sergio.ortega@gov.bc.ca; lkt@tdslaw.com; iknapp@macfuj.com; amackenzie@macfuj.com; bolthuis@ovcounsel.com; dredman@arvayfinlay.ca; dwu@arvayfinlay.ca; cbildfell@mccarthy.ca; lframe@mccarthy.ca; roy.millen@blakes.com; nicholas.tollefson@blakes.com; joey@doyledefence.ca; ekirkpatrick@mcewanpartners.com; cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca; kyla@vancouvercriminallaw.com; rpeck@peckandcompany.ca; csenini@peckandcompany.ca; pmueller@peckandcompany.ca; lbevan@lawsonlundell.com; jandrews@lawsonlundell.com; nwelsh@lawsonlundell.com; cferris@lawsonlundell.com; lgrant@lawsonlundell.com; mring@lawsonlundell.com; ccrane@ovcounsel.com; cpang@ovcounsel.com; mmiharija@ovcounsel.com; szarb@macfuj.com; vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com

SUBJECT I: CA51535 / CA51536 — NOTICE OF ABSOLUTE JURISDICTIONAL NULLITY REGARDING THE FABRICATED "JOINT RESPONSE BOOK"
SUBJECT II: FATAL NON-COMPLIANCE WITH MANDATORY SERVICE PROTOCOLS PURSUANT TO RULE 62(4) AND RULE 64(1)(B)
SUBJECT III: THE UNOPPOSED RECORD, THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION, AND ETHICAL APPREHENSIONS

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND IDENTIFICATION OF THE IMPUGNED ACTA

1. Correspondence is hereby effectuated to formally address the procedural ambuscade orchestrated by the Law Society of British Columbia, the Trial Lawyers Association of British Columbia, and the Attorney General of British Columbia (collectively, the "Purported **Purported Opposing Parties**"). It is strictly noted for the appellate record that the instrument transmitted by the **Purported Opposing Parties** on the late afternoon of September 21, 2026, styled extra-statutorily as a "Joint Response Book", alongside the accompanying informal correspondence directed to the Registrar (collectively, the "Impugned Instruments"), are recognized in law as absolute jurisdictional nullities.

2. The Impugned Instruments are definitively void *ab initio* and of no force or effect. By appending the historical email transmissions to this correspondence—whilst intentionally severing the attachments containing the Impugned Instruments—the inadvertent sanitization of an incurable jurisdictional defect is systematically precluded.

PART 2: THE STRUCTURAL INVALIDITY OF THE "JOINT RESPONSE BOOK" [SIC]

Subheading 2(A): Unauthorized Procedural Fabrication

3. A rigorous statutory deconstruction of the *Court of Appeal Rules*, B.C. Reg. 120/2022 (the "Court of Appeal Rules"), reveals the undeniable absence of any provision authorizing the amalgamation of adversarial entities into a singular, consolidated response mechanism. It is an immutable axiom of statutory interpretation, governed by the maxim *Expressio unius est exclusio alterius* (the explicit mention of one thing is the exclusion of another), that the explicit legislative authorization for a "joint appeal book" and a "joint book of authorities" definitively precludes the spontaneous fabrication of a "joint response book".

4. The **Purported Opposing Parties** have attempted to superimpose a procedural fiction upon the appellate registry. Inasmuch as the Registrar is fundamentally divested of the statutory jurisdiction to accept filing categories entirely absent from the governing enactments, the acceptance of said instrument was executed strictly *ultra vires* and *coram non judice*. A valid order or direction cannot be precipitated from an unauthorized mechanism; as the venerable maxim dictates, *Nemo dat quod non habet* (no one can give what they do not have).

PART 3: FATAL TRANSGRESSION OF MANDATORY SERVICE PROTOCOLS

Subheading 3(A): The Strictures of Rule 62(4) and Rule 64(1)(b)

5. Assuming, *arguendo*, that the fabricated instrument could miraculously transcend its status as an absolute nullity, the **Purported Opposing Parties** have catastrophically failed to execute the mandatory service protocols dictated by the *Court of Appeal Rules*. Pursuant to *rule 62(4)*, any "person" (as comprehensively defined under section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238) who wishes to respond to an Application Book is statutorily compelled to file and serve the response book on the applicant and on *each party*.

6. Concurrently, *rule 64(1)(b)* of the *Court of Appeal Rules* explicitly and unequivocally expands the definition of a "party", in relation to an application, to encompass any person who is served with a notice of application (the "Prescribed Parties"). It is empirically verifiable, upon a meticulous examination of the transmission matrix utilized by Mr. Jonathan Andrews on September 21, 2026, that the **Purported Opposing Parties** deliberately and exclusively restricted their service to themselves and the Applicant Party.

7. The broader constituency of counsel, interveners, and interested entities—who definitively obtained status as Prescribed Parties upon the antecedent service of the Applicant's Form 4 and Form 8 Notices of Application—were conspicuously and unlawfully excluded from the service matrix.

PART 4: THE EXPUNGEMENT AS A MERE ADMINISTRATIVE FORMALITY

8. It is advanced that the formal striking of the Impugned Instruments is not an adversarial contest necessitating substantive legal adjudication, but rather a mere administrative formality. Inasmuch as the "Joint Response Book" is a legal fiction entirely unrecognized by the *Court of Appeal Rules*, its removal from the registry ledger operates strictly as an exercise in fundamental procedural housekeeping.

9. Consequently, it is definitively confirmed that the **Purported Opposing Parties**, by deploying an unauthorized nullity and subsequently failing to execute service upon the Prescribed Parties, possess absolutely nothing before the Court of Appeal in response to the Form 8 Notice of Application.

PART 5: THE PROCEDURAL IMPOSSIBILITY OF REMEDIATION AND ETHICAL APPREHENSIONS

Subheading 5(A): The Statutory Strictures of Section 32 and Rule 41

10. Should the **Purported Opposing Parties**, operating in their capacities as Prescribed Parties, seek to cure this fatal procedural entanglement, they are statutorily compelled to advance an application to dispense with the rules or extend the temporal limitations pursuant to section 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA"), and *rule 41* of the *Court of Appeal Rules*.

11. A profound procedural paradox thereby arises: to retroactively legitimize the fabricated "Joint Response Book," these facially adversarial entities would be mathematically compelled to advance a joint Notice of Application. Such a unified, dependent posture betwixt supposed adversaries is posited to be a procedural impossibility and a direct affront to the structural integrity of the adversarial system.

12. The adjudication of the Form 8 Notice of Application is therefore left entirely unopposed. Given that the standard of review upon all issues, questions, and determinations before the Division panel is strictly that of correctness, the Applicant Party stands ready, willing, and able to present oral submissions the moment the Registrar mathematically complies with the mandatory scheduling dictates of *rule 62(5)*.

13. It is strictly confirmed that the Applicant Party shall not transmit, distribute, or forward the defective "Joint Response Book" to the unserved Prescribed Parties. Such transmission is unequivocally declined to systematically preclude any judicial or administrative inference that the Applicant Party has inadvertently waived the jurisdictional defect, cured a procedural irregularity, or sanitized an absolute nullity.

SUBHEADING 5(C): ETHICAL APPREHENSIONS AND THE ESCALATION OF NOTICE

14. It is hereby placed on the formal record that any prospective Notice of Application seeking an extension of time or dispensation of the rules to validate this nullity will be met with unyielding opposition. Furthermore, special costs will be vigorously sought against opposing counsel in their personal capacities, as seasoned appellate counsel are presumed to possess actual knowledge of these fundamental procedural architecture flaws.

15. The coordinated, extra-statutory maneuvering betwixt purported adversaries raises severe apprehensions regarding the nature of the communications occurring outside the purview of the Court. It is profoundly concerning that counsel for the Attorney General of British Columbia appears structurally uninvested in defending the rule of law or upholding the democratically enacted *Legal Professions Act*, S.B.C. 2024, c. 26 (the "*LPA 2024*"). Consideration is presently being actively directed toward formally escalating these concerns to the attention of The Honourable Niki Sharma, Attorney General of British Columbia, regarding the posture adopted by Crown counsel. However, such determination will be considered in due course and be responsive to any potential NOA's by the now unit of the LSBC, TLABC (with Mr. Westell) and the AGBC (with LGIC). Bluntly speaking, so much for the notion that the LSBC and TLABC wanted independence from the BC government.

PART 6: CONCLUSION AND ANTICIPATED RELIEF

16. In my view, the Appellants have now also put into "legal play" for my submissions to cancel and very the purported Orders of Horsman J. and naturally have the relief sought in my Form 4 NOA (August 12, 2026), the section 36 of the COAA titled, "Failure to comply". I also note that in light of the nullities at issue, section 19 of the COAA is inapplicable to save the conduct of the Appellants.
17. The administration of justice cannot permit its formalized rules to be unilaterally discarded by institutional litigants seeking preferential administrative accommodation. All rights, remedies, and privileges, both in fact and at law, are strictly and unequivocally reserved, including but not limited to the pursuit of special costs awarded jointly and severally for intentional violations of the operative enactments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

/s/ Mr. Kevin A. McLean (BA, JD, CIM)

Mr. Kevin A. McLean (BA, JD, CIM)

Applicant Party
Email: mclean@searchandseizure.ca

APPENDIX: STATUTORY AND REGULATORY EXTRACTS

Court of Appeal Act, S.B.C. 2021, c. 6

Definitions
1 In this Act:
"order" includes
(a) a judgment or decree, and
(b) an opinion, advice, direction, determination, decision or declaration that is specifically authorized or required under an enactment to be given or made;

Dispensing with rules and varying time limits
32 (1) A justice may dispense with a requirement of the rules.
(2) A justice may extend or shorten the time limit provided in this Act or the rules for doing an act.
(3) A justice may extend a time limit under subsection (2) even if the time limit for doing the act expired before the person applies for the extension.

Court of Appeal Rules, B.C. Reg. 120/2022

Dispensing with a rule or extending a time limit
41 A person may apply to a justice to do one or more of the following under section 32 [dispensing with
Edit directly or with Gemini
Click anywhere to type and edit directly, or select text to prompt Gemini for changes.

--
Best regards,

Mr. Kevin A. McLean (BA (MCL), JD, CIM)

Email: mclean@searchandseizure.ca
Phone: 647.370.9354
Fax: upon request

NOTA BENE: This email is for dispute resolution and litigation purposes only. Without prejudice communication so denoted invokes settlement privilege.

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EMAILS~1.PDF
186K

Appendix “C”

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4398900

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 25-Sep-2026 03:16

Submitted Through: Court Services Online

Filing Comments: Re: Filing of Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and Appendices Dear Registrar Outerbridge, Please accept this filing note confirming that the enclosed documents — including the Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and sequentially numbered Appendices — comply with the Court of Appeal Act and the Court of Appeal Rules, including Rule 38 and the Completion Instructions issued under COAA, s. 38. Each document tendered for filing is a Court Form or a document expressly authorized under the Court of Appeal Rules, prepared in accordance with the Completion Instructions, and served in accordance with Rule 4 and Rule 64(1)(a) and (b). As such, the documents meet all filing requirements under the Act and Rules. For clarity, and as confirmed in the Appendices, the LSBC, TLABC and Mr. Westell, and the AGBC and LGIC did not attempt to serve their Joint Response Book [sic] on each Party as required under Rule 62(4) and Rule 64(1)(b). This factual confirmation is one of several grounds supporting the Applicant Party's Form 4 Notice of Application and Written Argument, both of which are now submitted for immediate filing and will be served forthwith. I respectfully note R. v. Verma, 2005 BCCA 540, at para. 20, which confirms that where a document complies with the Rules and a party insists on filing it, the Registrar must accept the document for filing. The enclosed materials comply with all mandatory requirements. Kindly accept them for filing and issue the corresponding filing receipts. Thank you for your attention. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Print Submission Sheet

Print Receipt

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Argument - Other	Argument - Strike JRB et al - AP - Mr McLean - 25-09-26 - Filed.pdf	No	Submitted		Complete	View Withdraw
Application - Chambers - General	Form 4 - NOA - Strike JRB - s 36 et al - Applicant - Mr McLean - 25-09-26 - FILED.pdf	No	Submitted		Complete	View Withdraw

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4398900
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	25Sep2026
Filing Comments:	Re: Filing of Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and Appendices Dear Registrar Outerbridge, Please accept this filing note confirming that the enclosed documents — including the Applicant Party's Form 4 Notice of Application, Form 8 Notice of Application, Written Argument, Application Book, Book of Authorities, and sequentially numbered Appendices — comply with the Court of Appeal Act and the Court of Appeal Rules, including Rule 38 and the Completion Instructions issued under COAA, s. 38. Each document tendered for filing is a Court Form or a document expressly authorized under the Court of Appeal Rules, prepared in accordance with the Completion Instructions, and served in accordance with Rule 4 and Rule 64(1)(a) and (b). As such, the documents meet all filing requirements under the Act and Rules. For clarity, and as confirmed in the Appendices, the LSBC, TLABC and Mr. Westell, and the AGBC and LGIC did not attempt to serve their Joint Response Book [sic] on each Party as required under Rule 62(4) and Rule 64(1)(b). This factual confirmation is one of several grounds supporting the Applicant Party's Form 4 Notice of Application and Written Argument, both of which are now submitted for immediate filing and will be served forthwith. I respectfully note R. v. Verma, 2005 BCCA 540, at para. 20, which confirms that where a document complies with the Rules and a party insists on filing it, the Registrar must accept the document for filing. The enclosed materials comply with all mandatory requirements. Kindly accept them for filing and issue the corresponding filing receipts. Thank you for your attention.

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Chambers - General	No	Complete	$80.00
2	Argument - Other	No	Complete	$0.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4398900

Account ID:71252

Client ID:122957

Date: September 25, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	130131197	1515879582	Sep 25, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

Ministry of Attorney General
Court Services Online
Submission Sheet

1710

Court File #:	CA51536	**Submitted By:**	KEVIN MCLEAN
Cross Reference #:	Not Provided	**Client ID:**	122957
Package ID:	4398900	**Account ID:**	71252
Date Submitted:	25-SEP-2026 03:16 pm		KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Chambers - General	N	Submitted	25-SEP-2026	Not Processed	N	$ 80.00	
2	Argument - Other	N	Submitted	25-SEP-2026	Not Required	N	$ 0.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	130131197	25-SEP-2026 03:16 PM	1515879582	08402G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

Appendix “D”

585
VANCOUVER
21-Sep-26
COURT OF APPEAL
REGISTRY

Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British Columbia et al

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced April 29, 2026.

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT RESPONSE BOOK

APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

---

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COUNSEL FOR THE APPELLANT

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Court of Appeal File No. CA51535
Trial Lawyers Association of British Columbia et al v. Attorney General of British Columbia et al

COURT OF APPEAL

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

Appellants
(Plaintiffs)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

- AND -

Court of Appeal File No. CA51536
Law Society of British Columbia v. Attorney General of British Columbia et al

BETWEEN:

Law Society of British Columbia

Appellant
(Plaintiff)

AND:

Attorney General of British Columbia and Lieutenant Governor in Council of British Columbia

Respondents
(Defendants)

JOINT MEMORANDUM OF ARGUMENT ON AN APPLICATION TO VARY OR CANCEL THE ORDER OF A JUSTICE

Law Society of British Columbia

Trial Lawyers Association of British Columbia and Kevin Westell

Attorney General of British Columbia and Governor in Council of British Columbia

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Part 1: Facts

1. These two appeals are from the order of Chief Justice Skolrood made on April 29, 2026, dismissing the appellants' constitutional challenges to the *Legal Professions Act*, S.B.C. 2024, c. 26.[1] The appeals are set to be heard over two days on November 16-17, 2026.

2. On August 12, 2026, Kevin McLean filed a Notice of Application seeking an order granting him leave to intervene in both appeals. His Notice of Application also sought orders for "precautionary and pre-emptive relief" under section 32 of the *Court of Appeal Act* (dispensing with rules and varying time limits) and orders for "relief relating to the applicant's proposed relief, if intervention status is granted, in relation to dismissal and/or quashing." The latter included orders that the Law Society of British Columbia (the **Law Society**) be "denied standing and/or the right to be heard based upon fraud, bad faith, dishonesty and/or perjury" and orders dismissing the appeals on a summary basis under section 21 of the *Court of Appeal Act*.

3. Mr. McLean's application was heard in writing under s. 26 of the *Court of Appeal Act*, further to a request by the Law Society with the consent of all parties, and dismissed by Justice Horsman in a ruling issued on September 9, 2026.[2]

4. Justice Horsman denied Mr. McLean's request for an order granting him leave to intervene on the basis that he has "no direct interest in the appeal in the sense that his own legal rights or obligations may be affected by the proceedings" and "[h]e does not purport to have a broad representative base and offers no unique and different perspective on the constitutional issues, so there is no basis for public interest intervener status."[3]

[1] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779.
[2] *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372 [**Chambers Decision**].
[3] Chambers Decision, para. 8.

5. Justice Horsman also concluded that "none of the other relief sought by Mr. McLean is grounded in the issues raised on the appeals or the rules of procedure that govern them."[4]

Part 2: Issues

6. The issue on this application is whether the Court should vary or cancel Justice Horsman's order dismissing Mr. McLean's application. The parties submit that it should not.

Part 3: Analysis

7. Under section 29 of the *Court of Appeal Act*, the court may vary or cancel any order made by a justice, subject to certain exceptions that are not applicable here.

8. The standard of review on an application of this nature is highly deferential. As this Court recently explained: "An application to vary under s. 29 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, is not a re-hearing of the original application. The reviewing court may not intervene unless the applicants show the judge was wrong in law, wrong in principle, or misconceived the facts."[5]

9. Mr. McLean has not established any basis for the reviewing court to intervene. His written argument is incoherent. It lists eight "paramount issues" to be determined, but his submissions on these issues are indecipherable and indicate a preoccupation with individual lawyers he has encountered in his various court proceedings. Mr. McLean continues to "view these appeals as a platform to revisit his historical grievances about the Law Society's regulatory actions against him."[6]

10. There is no error of law, principle, or fact in Justice Horsman's conclusions that Mr. McLean did not meet the test for intervener status and was not entitled to any of the

[4] Chambers Decision, para. 7.
[5] *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation*, 2026 BCCA 85, para. 12.
[6] Chambers Decision, para. 8.

other relief sought in his Notice of Application of August 12, 2026. This Court should dismiss this application, with costs to the parties.[7]

Part 4: Order Sought

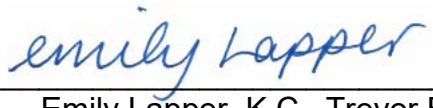
11. An order dismissing Mr. McLean's application with costs to the parties.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of British Columbia, this 18th day of September, 2026.

Craig Ferris, K.C., Laura Bevan,
Jonathan Andrews, and Nicole Welsh
Counsel for the Law Society of British Columbia

Gavin Cameron, Tom Posyniak,
Laura Abrioux, and Will Andrews
Counsel for the Trial Lawyers Association
and Kevin Westell



Emily Lapper, K.C., Trevor Bant,
Karin Kotliarsky, and Sergio Ortega,
Counsel for the Attorney General of British Columbia and
the Lieutenant Governor in Council of British Columbia

[7] With respect to costs, see *Este v. West Vancouver (District of)*, 2026 BCCA 366 at paras. 18-21.

PART 3 – TABLE OF AUTHORITIES

TAB CITATION

CASE LAW

1. *Este v. West Vancouver (District of)*, 2026 BCCA 366

2. *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779

3. *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation,* 2026 BCCA 85

4. *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2026 BCCA 372

LEGISLATION

5. *Court of Appeal Act*, s. 29

6. *Legal Professions Act*, S.B.C. 2024, c. 26

Appendix “E”

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4398900 **Submission Date: September 25, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Chambers - Ge	Rejected
2	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 25-SEP-2026

25SEP2026
We are unable to accept the application and argument for filing. If you insist, you may write to the Registrar by way of a letter (not external comment in CSO). The letter to the Registrar can be submitted as a filing on CSO.

Thank you,
sl

Please keep a copy of this report for your records.

Tab 12

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

Re: CA51535-CA51536 - TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA(A) v. THE ATTORNEY GENERAL OF BRITISH COLUMBIA

Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Tue, Oct 6, 2026 at 1:13 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Mr. McLean,

Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.

Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

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THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

COURT OF APPEAL

6 October 2026

Kevin McLean
mclean@searchandseizure.ca

Dear Mr. McLean:

RE: TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA (A) vs. THE ATTORNEY GENERAL OF BRITISH COLUMBIA
Court of Appeal File Nos: CA51535; CA51536

I am writing to advise you of the following:

1. Your application to vary or cancel the order of Justice Horsman made on 18 September 2026 has been referred to a division comprised of Justices Groberman, Fenlon, and Riley;

2. As mentioned in my letter of 28 September 2026, that division also has your previously submitted and presently unfiled application;

3. That division has directed:

   a) these applications be dealt with in writing; and

   b) the registry is not to file any further material on these applications, including material presently submitted for filing.

If you continue to submit further lengthy filings to the Court, I can advise you they will likely not result in a response from me in accordance with my letter of 2 October 2026.

Sincerely,

Timothy Outerbridge,
Registrar

cc: attached counsel list

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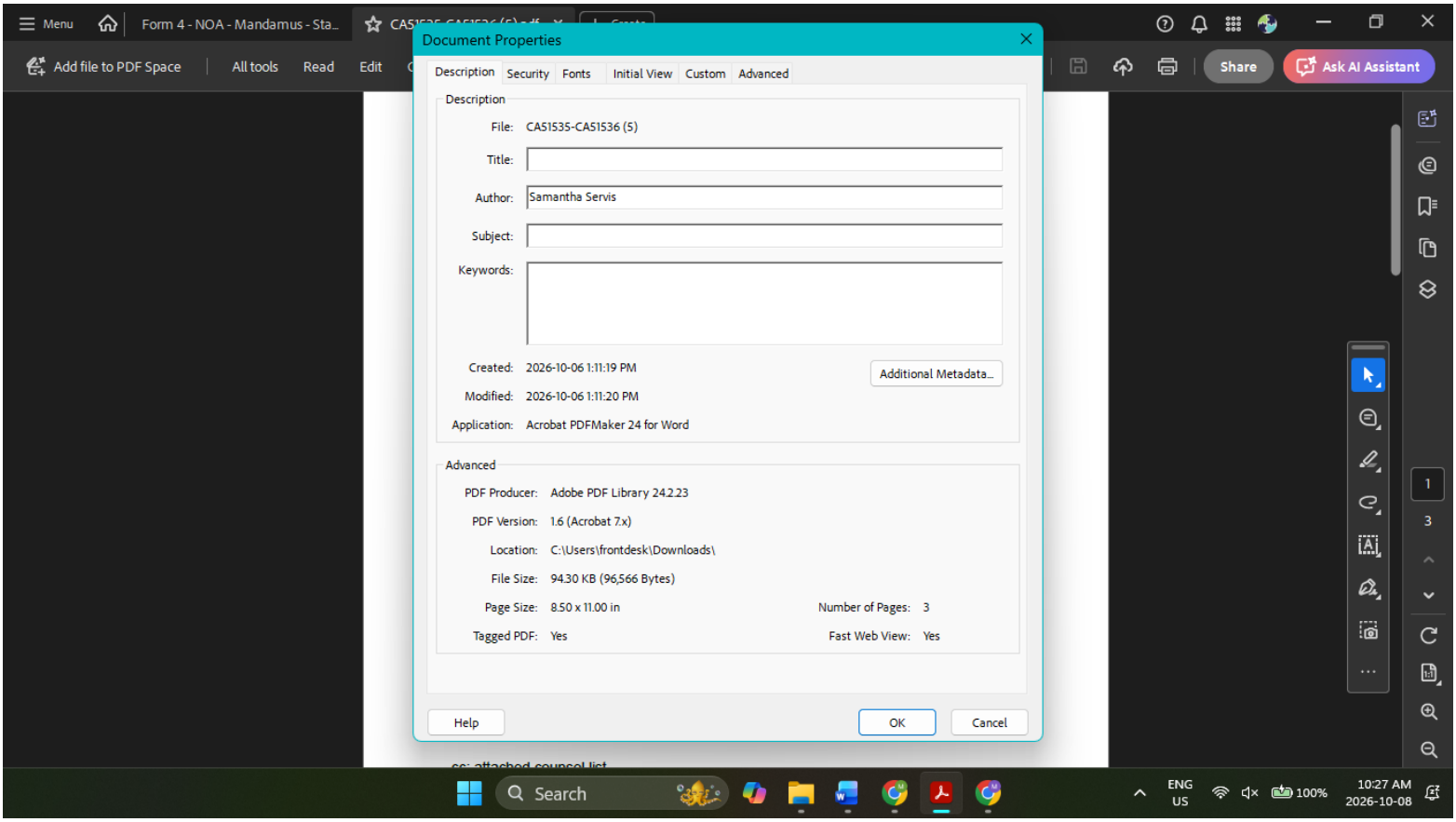
TAB 13

Metadata for the Registrar (Head) Mr. Outerbridge October 6, 2026, memorandum, created at 10:11:19 by Ms. Samantha Servis



Nothing Past this Line

TAB 14

Gmail

Mr. Kevin Alexander McLean <mclean@searchandseizure.ca>

Re: CA51535-CA51536 - TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA(A) v. THE ATTORNEY GENERAL OF BRITISH COLUMBIA

3 messages

Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Mon, Sep 28, 2026 at 5:47 PM
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Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

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Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

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Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> Tue, Oct 6, 2026 at 1:13 PM
To: "mclean@searchandseizure.ca" <mclean@searchandseizure.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Mr. McLean,

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Kindly confirm receipt of this email.

Thank you,

Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

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Mr. Kevin Alexander McLean <mclean@searchandseizure.ca> Wed, Oct 7, 2026 at 11:04 AM
To: "Dhamrait, Kristine" <Kristine.Dhamrait@bccourts.ca>
Cc: Gavin Cameron <gcameron@fasken.com>, Tom Posyniak <tposyniak@fasken.com>, "labrioux@fasken.com" <labrioux@fasken.com>, "wandrews@fasken.com" <wandrews@fasken.com>, "Lapper, Emily AG:EX" <emily.lapper@gov.bc.ca>, "Bant, Trevor AG:EX" <trevor.bant@gov.bc.ca>, "Kotliarsky, Karin AG:EX" <karin.kotliarsky@gov.bc.ca>, "Ortega, Sergio AG:EX" <sergio.ortega@gov.bc.ca>, "dauvergne@allard.ubc.ca" <dauvergne@allard.ubc.ca>, "CDauvergne@litigationchambers.com" <CDauvergne@litigationchambers.com>, "jmaclaren@accessprobono.ca" <jmaclaren@accessprobono.ca>, "Bildfell, Connor" <cbildfell@mccarthy.ca>, "dsiracusa@mccarthy.ca" <dsiracusa@mccarthy.ca>, "rpeck@peckandcompany.ca" <rpeck@peckandcompany.ca>, Caroline Senini <csenini@peckandcompany.ca>, "pmueller@peckandcompany.ca" <pmueller@peckandcompany.ca>, Brent Olthuis KC <bolthuis@ovcounsel.com>, "ccrane@ovcounsel.com" <ccrane@ovcounsel.com>, "lkt@tdslaw.com" <lkt@tdslaw.com>, "joey@doyledefence.ca" <joey@doyledefence.ca>, "iknapp@macfuj.com" <iknapp@macfuj.com>, "szarb@macfuj.com" <szarb@macfuj.com>, "amackenzie@macfuj.com" <amackenzie@macfuj.com>, "J. Kenneth McEwan" <kmcewan@mcewanpartners.com>, Emily Kirkpatrick <ekirkpatrick@mcewanpartners.com>, "mhergert@mcewanpartners.com" <mhergert@mcewanpartners.com>, "roy.millen@blakes.com" <roy.millen@blakes.com>, "vancouver.service@blakes.com" <vancouver.service@blakes.com>, "nicholas.tollefson@blakes.com" <nicholas.tollefson@blakes.com>, "dredman@arvayfinlay.ca" <dredman@arvayfinlay.ca>, "dwu@arvayfinlay.ca" <dwu@arvayfinlay.ca>, "kyla@vancouvercriminallaw.com" <kyla@vancouvercriminallaw.com>, Craig Ferris <cferris@lawsonlundell.com>, Laura Bevan <lbevan@lawsonlundell.com>, Jonathan Andrews <jandrews@lawsonlundell.com>, Nicole Welsh <nwelsh@lawsonlundell.com>

Dear Sirs/Mesdames/Other Gender-Neutral Pronouns:

Please find below and attached the same letter along with the attachments particularized addressing the below. I hope all are well and I look forward to hearing from the relevant persons where applicable. I thank Ms. Dhamrait for a copy of the same and confirm receipt. Thank you kindly. Warm regards, Mr. Kevin A. McLean (BA, JD, CIM)

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)
Email: mclean@searchandseizure.ca
Fax: 1 (416) 352-0055

Date: October 7, 2026
Service method: via email
Filing method: to be determined or exercised based upon response or lack thereof

TO:

The Court of Appeal for British Columbia
The Law Courts, 400 - 800 Hornby Street
Vancouver, BC V6Z 2C5

Attention: Ms. S. Dhamrait, Registry Officer / Chambers Scheduler
For the Immediate Attention of: The Honourable Division Panel (The Honourable Justices Groberman, Fenlon, and Riley)
With a copy to: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia
CC (Prescribed Parties' Counsel List):
Tom Posyniak tposyniak@fasken.com; Laura Abrioux labrioux@fasken.com; Will Andrews wandrews@fasken.com; Gavin Cameron gcameron@fasken.com; Lapper, Emily AG:EX emily.lapper@gov.bc.ca; Bant, Trevor AG:EX trevor.bant@gov.bc.ca; Kotliarsky, Karin AG:EX karin.kotliarsky@gov.bc.ca; Ortega, Sergio AG:EX sergio.ortega@gov.bc.ca; lkt@tdslaw.com lkt@tdslaw.com; Ian Knapp iknapp@macfuj.com; amackenzie@macfuj.com amackenzie@macfuj.com; bolthuis bolthuis@ovcounsel.com; dredman dredman@arvayfinlay.ca; David Wu dwu@arvayfinlay.ca; cbildfell@mccarthy.ca cbildfell@mccarthy.ca; Frame, Lindsay lframe@mccarthy.ca; roy.millen roy.millen@blakes.com; nicholas.tollefson@blakes.com nicholas.tollefson@blakes.com; JoeyDoyle joey@doyledefence.ca; ekirkpatrick ekirkpatrick@mcewanpartners.com; CDauvergne@litigationchambers.com cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca jmaclaren@accessprobono.ca; kyla kyla@vancouvercriminallaw.com; rpeck rpeck@peckandcompany.ca; Caroline Senini csenini@peckandcompany.ca; pmueller@peckandcompany.ca pmueller@peckandcompany.ca; Laura Bevan lbevan@lawsonlundell.com; Jonathan Andrews jandrews@lawsonlundell.com; Nicole Welsh nwelsh@lawsonlundell.com; cferris cferris@lawsonlundell.com; lgrant@lawsonlundell.com lgrant@lawsonlundell.com; mring@lawsonlundell.com mring@lawsonlundell.com; ccrane@ovcounsel.com; Chris Pang cpang@ovcounsel.com; mmiharija@ovcounsel.com mmiharija@ovcounsel.com; szarb@macfuj.com szarb@macfuj.com; Lever, Vanessa AG:EX vanessa.lever@gov.bc.ca; KDOUMAKIS@mccarthy.ca KDOUMAKIS@mccarthy.ca; kotto@lawsonlundell.com kotto@lawsonlundell.com; Chambers@bccourts.ca

SUBJECTS:

SUBJECT I: CONFIRMATION OF RECEIPT OF ELECTRONIC CORRESPONDENCE AND ATTACHED DIRECTION FROM MS. DHAMRAIT ON BEHALF OF REGISTRAR TIMOTHY OUTERBRIDGE
SUBJECT II: IMMEDIATE FACTUAL AND CLERICAL CORRECTION REGARDING THE NON-EXISTENT ORDER DATE OF "18 SEPTEMBER 2026"
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THESE APPLICATIONS, INCLUDING MATERIAL PRESENTLY SUBMITTED FOR FILING") ON A PRE-EMPTIVE AND EX ABUNDANTI CAUTELA BASIS
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SUBJECT VII: FORMAL REQUEST UNDER RULE 82(1) FOR PERMISSION OF THE DIVISION PANEL TO AMEND THE APPLICATION BOOK TO INCLUDE THE OCTOBER 4, 2026 TRANSMITTAL AND THE APPELLANTS' FACTUMS; AND CONTEMPORANEOUS REQUEST FOR CONSENT FROM ALL PRESCRIBED PARTIES
SUBJECT VIII: CONFIRMATION OF THE "EXISTING WRITTEN RECORD" AND RESIDUAL PROCEDURAL DIRECTIONS

Dear Ms. Dhamrait, Registrar Outerbridge, and Sirs/Mesdames/Other Gender-Neutral Pronouns:

PART 1: INTRODUCTION AND PRELIMINARY CLERICAL CORRECTION

1. The Applicant Party, Mr. Kevin A. McLean (BA, JD, CIM), acknowledges receipt of the electronic correspondence transmitted by Ms. S. Dhamrait on October 6, 2026, enclosing the formal administrative letter authored by Registrar Timothy Outerbridge on behalf of the Division comprised of The Honourable Mr. Justice Groberman, The Honourable Madam Justice Fenlon, and The Honourable Mr. Justice Riley (the "Division Panel").
2. As an immediate threshold matter of procedural accuracy, a critical clerical error on the face of the Registrar's letter requires rectification. Paragraph 1 of the letter references an application to vary or cancel an order of Madam Justice Horsman *"made on 18 September 2026"*.
3. The formal record of proceedings confirms that no order or decision was pronounced by Madam Justice Horsman on September 18, 2026. The reasons for decision (*2026 BCCA 372*) were pronounced in chambers on **September 8, 2026**, and the formal order was entered on **September 14, 2026** (Application Book, Tabs 1 and 2). To prevent clerical confusion within the permanent records of the Court, this chronological slip must be corrected upon the registry ledger.
4. A secondary, substantive clarification is urgently necessitated by the operational language formulated within Direction No. 3(b): *"the registry is not to file any further material on these applications, including material presently submitted for filing"*. The analysis set out below addresses this **direction**, establishing why it is legally uncertain, contrary to the governing statutory architecture, and irreconcilable with the natural justice guarantees governing written hearings under section 26 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA").

PART 2: CONFIRMATION OF PLURAL APPLICATIONS YET CLARIFICATION REQUIRED IN RELATION TO THE LANGUAGE OF DIRECTION NO. 3(B)

5. The Applicant Party takes formal note of the Registrar's explicit use of the plural noun phrase **"these applications"** across paragraphs 2 and 3 of the October 6, 2026 letter:
   - Paragraph 2 records: *"that division also has your previously submitted and presently unfiled application"*; and
   - Paragraph 3 directs: *"these applications be dealt with in writing..."*
6. This formulation constitutes a definitive judicial and administrative admission that the Division Panel has been formally constituted and seized of **two distinct applications**:

   a. The Applicant Party's Form 8 Notice of Application to Vary or Cancel the Order of a Justice (*September 9, 2026*); and

   b. The Applicant Party's Form 4 Notice of Application and Written Argument (*September 25, 2026*) seeking, *inter alia*, declarations of nullity regarding the fabricated "Joint Response Book [Sic]", striking relief under *Rule 9-5* by analogy, and summary sanctions under section 36 of the COAA.
7. Having judicially acknowledged that the Division Panel possesses both applications and has directed that both be adjudicated together in writing, the Registry cannot logically or lawfully maintain the administrative fiction that the September 25, 2026 application remains "unfiled" or non-existent upon the public docket. The Court cannot purport to adjudicate an application that its administrative arm refuses to docket.
8. Concurrently, the exact syntax of Direction No. 3(b)—stating that the *"registry is not to file any further material on these applications"*—is ambiguous and devoid of precise legal effect. Is this **direction** intended to state that:

   a. "the registry is not to <u>accept any further</u> file<u>ings</u> any further material on these applications";

   b. "the registry is not to <u>accept any further documents submitted for filing</u> on these applications"; or

   c. something to that effect?
9. While I appreciate that the Legislature intended that an Order is valid from the time it is pronounced (see: COAA, ss. 39(2)), the language of "direction" was utilized. While appreciating the definition of Order being inclusive of the word "direction", statutory interpretation in this regard requires that the direction, in order to be subsumed under that statutory definition must be "SPECIFICALLY" authorized or required under an **Enactment** (see: supra). In this regard, that would require particularized reasons for why each of the submitted documents were subject to a blunt "direction". Leaving that aside and awaiting the erudite and Honourable Division or "Division Panel's" clarification in these multiple and independent regards, I note that if the "direction", which need not be specifically authorized or required by an **Enactment** to be lawful or intra vires per se but if not specifically authorized or required by an **Enactment**, then it does not fall within the statutory definition of Order. Ergo, such a "direction" does not fall within ss. 39(2) of the COAA. Consequently,

the validity from the time of pronouncement, statutorily, does not apply which lends itself to further grounds for clarification and an absence, at least statutorily, of the functus officio doctrine.

PART 3: APPELLANTS' FACTUMS: CONFIRMATION AS PART OF THE RECORD BEFORE THE DIVISION PANEL

10. Direction No. 3(a) orders that these applications be determined strictly in writing. This **direction** reinforces the primary question formally placed before the Court in the Applicant Party's transmittal of October 4, 2026: **Are the Appellants' Factums recognized as part of the active record of proceedings before the Division Panel?**
11. Madam Justice Horsman explicitly ordered in her August 31, 2026 memorandum that the Applicant Party's applications would proceed strictly upon the **"existing written record"** (Application Book, Tab 3K, p. 203). Her Ladyship did not qualify that foundation as the "docketed CSO record."
12. Pursuant to the case management determinations of June 29, 2026 (confirmed by Registrar Outerbridge and Chambers Scheduler Shelly Lin on July 2, 2026), the substantive factums of the Law Society of British Columbia (CA51536) and the Trial Lawyers Association of British Columbia (CA51535) were uploaded to the Court's Case Center repository on August 5, 2026, and were expressly **deemed filed** on that date.
13. The Chief Executive Officer of the LSBC publicly confirmed at the September 25, 2026 Bencher meeting that its factum had been filed on August 5, 2026. Those pleadings have resided within the institutional custody and administrative control of the Court since August 5, 2026. They constituted the foundational pillars of the "existing written record" as of August 31, 2026.
14. The Division Panel is respectfully requested to confirm upon the record that the Appellants' Factums form part of the written evidentiary and argumentative matrix to be considered on these applications, ensuring that adjudication does not take place in an artificial factual vacuum.

PART 4: WERE SUBMITTED MATERIALS BROUGHT BEFORE THE DIVISION PANEL? JURISPRUDENCE AND RECONSIDERATION BEFORE ORDER ENTRY

15. It is a critical procedural inquiry whether the specific, individual documents submitted for filing by the Applicant Party on September 25, September 27, and October 4, 2026, were placed physically and electronically before Justices Groberman, Fenlon, and Riley for judicial evaluation, or whether Direction No. 3(b) was formulated upon a generalized administrative summary.
16. If the Division Panel was not provided with each discrete document—specifically including the Form 4 Notice of Application to strike the "Joint Response Book [Sic]" and the October 4 transmittal incorporating the Appellants' Factums—the Applicant Party formally seeks reconsideration of Direction No. 3(b) prior to the entry of any formal order.

Part 4(A): The Doctrine of Functus Officio is Inapplicable to Direction No. 3(b)

17. The doctrine of *functus officio* does not bar the Division Panel from reconsidering, clarifying, or rescinding Direction No. 3(b). In *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 (*"CBC v. Manitoba"*), the Supreme Court of Canada authoritatively reaffirmed at paragraphs 33 and 34 that *functus officio* applies strictly to **final** decisions after formal judgment has been entered:

> "According to the rule of functus officio, a final decision of a court that is susceptible of appeal cannot, as a general rule, be reconsidered by the court that rendered that decision. A court loses jurisdiction once the formal judgment has been entered."

18. Direction No. 3(b) is an interlocutory administrative **direction**; it is not a final judgment under section 40(1) of the *Supreme Court Act*, R.S.C. 1985, c. S-26, as it determines no substantive rights. Furthermore, no formal order in Form 11 or Form 12 has been drawn up, approved, or entered under Rule 66.
19. As established by the Ontario Court of Appeal in *Meridian Credit Union Limited v. Baig*, 2016 ONCA 150 (paras. 33–37), a superior appellate court retains inherent and statutory jurisdiction to reconsider an interlocutory decision before an order is formally entered.
20. Similarly, in *Smith Bus Lines Ltd. v. Bank of Montreal*, 1987 CanLII 4190 (ON SC), Sutherland J. held that an adjudicator acts judicially when withdrawing or varying an order prior to formal entry to avoid procedural unfairness:

> "There is abundant authority... for the proposition that a judgment can be reconsidered and varied or withdrawn before it is entered... Such a jurisdiction is quite independent of the rules, and of the fact that once entered an order takes effect from the time of its pronouncement."

21. Where an administrative **direction** is issued without reasons, upon an unparticularized bundle of materials, and creates an operational barrier to natural justice, the Court possesses jurisdiction to recall the **direction** *ex debito justitiae*.

Part 4(A)(i): Demonstrable Legal Oversight and the Per Incuriam Principle

22. In *Menzies v. Harlos*, 1989 CanLII 2760 (BC CA), Esson J.A., writing for this Court, confirmed the established power to reconsider interlocutory rulings where there is a demonstrable oversight in a particular aspect:

> "It is not unusual for an application to vary to be made and granted where the basis of the application is a demonstrable oversight or error in a particular aspect. An example in the area of fact is an error in calculation... An example in the area of law is reliance on a statute which has been repealed."

23. This principle was reaffirmed in *Grace Estate (Re)*, 2022 BCSC 1283 (para. 10), citing *Signcorp v. Vancouver (City)* (1986), 9 B.C.L.R. (2d) 238 (S.C.), confirming that a court may reverse itself when a decision is predicated upon a legal point or statutory parameter that was not properly argued or considered.
24. Direction No. 3(b) was pronounced without the benefit of adversarial argument and without identifying any statutory provision authorizing a blanket preclusion on filings. It constitutes an

administrative oversight that falls within the *Menzies v. Harlos* framework for immediate reconsideration.

PART 5: THE UNLAWFUL DUE PROCESS CATCH-22: WRITTEN HEARINGS UNDER SECTION 26 DEMAND ACCESS TO WRITTEN PLEADINGS

25. The core legal contradiction in Direction No. 3 is acute:
    - Direction No. 3(a) orders that the applications be dealt with **in writing**; yet
    - Direction No. 3(b) orders that the Registry **not file any further material on these applications, including material presently submitted for filing**.
26. This creates an unconstitutional procedural Catch-22: the Court orders a litigant to proceed strictly in writing, while simultaneously directing its registry to refuse the very written materials submitted to advance and support the applications.
27. In *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, the Supreme Court of Canada established at paragraphs 28 through 33 that while oral hearings are not required in every context, the chosen procedural format must afford the affected party a meaningful opportunity to present their case fully and fairly.
28. In *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, the Supreme Court held at paragraph 115 that when an adjudicative body elects to determine an issue on written submissions, procedural fairness demands that the party be entitled to know the case to be met and have their written materials received, docketed, and considered by the decision-maker.
29. To direct that an application to strike a void "Joint Response Book [Sic]" be decided in writing, while directing the clerk to reject the Form 4 and Written Argument submitted to explain *why* the document is a nullity, is a denial of natural justice (*audi alteram partem*). The Division Panel cannot lawfully adjudicate the validity of the September 25 application while maintaining its moving papers in an unfiled administrative void.

PART 6: THE STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COAA

30. The Registrar's closing warning—stating that further submissions *"will likely not result in a response from me"*—operates outside the statutory framework of the *Court of Appeal Act*.
31. Neither a single justice, nor a Division Panel via administrative letter, nor the Registrar possesses the statutory authority to construct an informal, extra-statutory filing embargo Section 38(2) of the COAA confines the Registrar's power to refuse documents strictly to non-compliance with the Rules or an entered practice **direction** (*R. v. Verma*, 2016 BCCA 307 at para. 20).
32. If the Court seeks to restrict a litigant's statutory right to submit filings, it must comply with the mandatory prescribed or statutory conditions along with procedural fairness. It cannot achieve that

result through administrative **direction**s that bypass the statutory safeguards enacted by the Legislature.

PART 7: THE BCCA IS A STATUTORY COURT DIVESTED OF INHERENT JURISDICTION TO OVERRIDE ENACTMENT INTENT

35. The Court of Appeal is a statutory court created by enactment. Unlike the Supreme Court of British Columbia, it possesses no broad inherent jurisdiction. Any power exercised by the Court must find its source within the four corners of the COAA and the *Court of Appeal Rules*.
36. Section 18(1) of the COAA commands: *"An appeal or application for leave to appeal must be brought and conducted in accordance with this Act and the rules."* Section 28 further specifies that the Court may exercise a power given to a justice by the Act or the Rules. If a power is not conferred by statute, it does not exist.
37. As authoritatively decreed by the Supreme Court of Canada in *Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 S.C.R. 475 at page 480, even inherent jurisdiction cannot be invoked to override or bypass explicit statutory mandates.
38. While section 26(1)(a)(i) of the COAA authorizes the Court to order that a hearing be conducted in writing, no provision in the COAA or the Rules authorizes the Court to direct a registry not to accept compliant documents submitted by a Prescribed Party in any circumstance and certainly not these circumstances.

PART 8: PROCEDURAL FAIRNESS AND THE IMPORTANCE OF CLARITY IN COURT ORDERS

39. In *Petro-Canada v. British Columbia (Workers' Compensation Board)*, 2009 BCCA 396, this Court emphasized at paragraph 65 that procedural fairness requirements are not technical, but functional:

> "The question is whether, in the circumstances of a given case, the party that contends it was denied procedural fairness was given an adequate opportunity to know the case against it and to respond to it."

40. In *Gurtins v. Goyert*, 2008 BCCA 196, this Court stressed the imperative of precision in judicial **direction**s, ruling at paragraph 15:

> "The rule of law requires that court orders be obeyed. Accordingly, it is of paramount importance that persons who are subject to court orders be able to readily determine their obligations and responsibilities. They do this by having regard to what is on the face of the formal order... An order should be clear in its terms and should not require the person to whom it is addressed to cross-refer to other material in order to ascertain his precise obligation."

41. Direction No. 3(b) fails the *Gurtins v. Goyert* standard. It purports to direct the Registry not to "file" materials, leaving active litigants in complete uncertainty as to whether compliant motion materials previously delivered to the Registry are legally before the Court, whether they have been received, or whether they have been discarded without adjudication.

PART 9: FORMAL REQUEST UNDER RULE 82(1) TO AMEND APPLICATION BOOK AND SEEKING OF CONSENT

42. To resolve part of this unfortunate procedural impasse, eliminate any asserted prejudice, and ensure that the Division Panel is furnished with the complete record without violating Direction No. 3(b), the Applicant Party hereby invokes **Rule 82(1) of the Court of Appeal Rules**.
43. Rule 82(1) provides:

> "Subject to subrules (2), (3) and (4), a document that has been filed with the court may be amended by a person only with the consent of all the parties or the permission of the court, a justice or the registrar."

44. Pursuant to Rule 82(1), the Applicant Party formally makes two requests:

a. **Seeking Permission of the Division Panel:** The Applicant Party formally applies to the Division Panel (Justices Groberman, Fenlon, and Riley) for permission to amend the filed Application Book of September 15, 2026, by inserting a Supplemental Volume containing:

i. The Applicant Party's transmittal letter of October 4, 2026 which enclosed or attached the below:

ii. The Appellant's Factum of the Law Society of British Columbia (CA51536), deemed filed August 5, 2026; and

iii. The Appellant's Factum of the Trial Lawyers Association of British Columbia (CA51535), deemed filed August 5, 2026.

b. **Seeking Consent of All Prescribed Parties:** The Applicant Party contemporaneously requests that counsel for each of the Prescribed Parties identified in the caption of this correspondence provide their written consent under Rule 82(1) to amend the Application Book to include their own deemed-filed factums.

45. The inclusion of the Appellants' Factums causes zero prejudice: the factums were authored by the Appellants themselves, were deemed filed on August 5, 2026, and are already within Case Center. Granting permission under Rule 82(1) ensures equality of arms and provides the Division Panel with the exact written Factum "deemed filed" upon which the Appellants' constitutional theories rest.

PART 10: CONCLUSION AND REQUESTED DISPOSITION

46. In conclusion, the Applicant Party respectfully requests that the Division Panel:

a. Note and correct the clerical error in paragraph 1 of the Registrar's letter (correcting "18 September 2026" to "September 8, 2026 / entered September 14, 2026");

b. Confirm that the Division Panel is seized of both the Form 8 Application to Vary and the September 25 Application to Strike the "Joint Response Book [Sic]";

c. Clarify and recall Direction No. 3(b) to ensure that the moving papers and written arguments supporting the September 25 application are formally stamped and docketed nunc pro tunc; and

d. Grant permission pursuant to Rule 82(1) to amend the Application Book to include the Appellants' Factums and the October 4, 2026 transmittal letter.

47. Counsel for the Prescribed Parties are requested to advise in writing forthwith whether they consent to the Rule 82(1) amendment.
48. The Applicant Party confirms that the composition of the Division Panel (Justices Groberman, Fenlon, and Riley) is noted and accepted without objection, and confirms his readiness to proceed with the determination of these applications in writing upon the complete, unredacted record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 7th day of October, 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party (Court of Appeal File Nos.: CA51535 / CA51536) and by reference to the undisclosed and non-public Case Center file number
Email: mclean@searchandseizure.ca
Telephone: 647.370.9354
Facsimile: 1 (416) 352-0055

ENCLOSURES TRANSMITTED HEREWITH:

1. True copy of the Applicant Party's formal transmittal letter dated October 4, 2026, incorporating the deemed-filed Appellants' Factums in CA51535 and CA51536.
2. Official Court Services Online (CSO) Registry Notice dated September 29, 2026 (Package ID 4399228), confirming the Registrar's formal decision: *"The Registrar will place your unfiled application before the division set to hear your application to vary."*

On Tue, Oct 6, 2026 at 1:13 PM Dhamrait, Kristine <Kristine.Dhamrait@bccourts.ca> wrote:

> Dear Mr. McLean,
>
> Please see attached letter sent on behalf of Registrar Outerbridge regarding the above-noted matters.
>
> Kindly confirm receipt of this email.
>
> Thank you,
>
> Kristine

Kristine Dhamrait
Registrar's Assistant |

Court of Appeal for British Columbia

604 660 2729 (Office) | 604 660 1951 (Fax) |
kristine.dhamrait@bccourts.ca
400 - 800 Hornby St | Vancouver, BC | V6Z 2C5 |

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3 attachments

Rejection from CSO - BCCA - regaading NOA Form 4 and MOA -Sept 29 2026 wherein the Registrar said unfiled APP before Division Panel.pdf
239K

Letter (App) - Immediate to Appellants' Factums - AP - Mr McLean - 4-10-26 - F S.pdf
1736K

Final Ltr - Clarification - Recon - Amend AB - LSCB et al v TLABC et al - AP - KAM - 7-Oct-26 - PDF Signed.pdf
302K

Reply to: Mr. Kevin A. McLean (BA, JD, CIM)

Email: mclean@searchandseizure.ca

Fax: 1 (416) 352-0055

Date: October 7, 2026

Service method: via email

Filing method: to be determined or exercised based upon response or lack thereof

TO:

The Court of Appeal for British Columbia

The Law Courts, 400 - 800 Hornby Street

Vancouver, BC V6Z 2C5

Attention: Ms. S. Dhamrait, Registry Officer / Chambers Scheduler

For the Immediate Attention of: The Honourable Division Panel (The Honourable Justices Groberman, Fenlon, and Riley)

With a copy to: Mr. Timothy Outerbridge, Registrar of the Court of Appeal for British Columbia

CC (Prescribed Parties' Counsel List):

Tom Posyniak tposyniak@fasken.com; Laura Abrioux labrioux@fasken.com; Will Andrews wandrews@fasken.com; Gavin Cameron gcameron@fasken.com; Lapper, Emily AG:EX emily.lapper@gov.bc.ca; Bant, Trevor AG:EX trevor.bant@gov.bc.ca; Kotliarsky, Karin AG:EX karin.kotliarsky@gov.bc.ca; Ortega, Sergio AG:EX sergio.ortega@gov.bc.ca; lkt@tdslaw.com lkt@tdslaw.com; Ian Knapp iknapp@macfuj.com; amackenzie@macfuj.com amackenzie@macfuj.com; bolthuis bolthuis@ovcounsel.com; dredman dredman@arvayfinlay.ca; David Wu dwu@arvayfinlay.ca; cbildfell@mccarthy.ca cbildfell@mccarthy.ca; Frame, Lindsay lframe@mccarthy.ca; roy.millen roy.millen@blakes.com; nicholas.tollefson@blakes.com nicholas.tollefson@blakes.com; JoeyDoyle joey@doyledefence.ca; ekirkpatrick ekirkpatrick@mcewanpartners.com; CDauvergne@litigationchambers.com cdauvergne@litigationchambers.com; jmaclaren@accessprobono.ca jmaclaren@accessprobono.ca; kyla kyla@vancouvercriminallaw.com; rpeck rpeck@peckandcompany.ca; Caroline Senini csenini@peckandcompany.ca; pmueller@peckandcompany.ca pmueller@peckandcompany.ca; Laura Bevan lbevan@lawsonlundell.com; Jonathan Andrews jandrews@lawsonlundell.com; Nicole Welsh nwelsh@lawsonlundell.com; cferris cferris@lawsonlundell.com; lgrant@lawsonlundell.com lgrant@lawsonlundell.com; mring@lawsonlundell.com mring@lawsonlundell.com; ccrane@ovcounsel.com; Chris Pang cpang@ovcounsel.com; mmiharija@ovcounsel.com mmiharija@ovcounsel.com;

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SUBJECTS:

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PART 1: INTRODUCTION AND PRELIMINARY CLERICAL CORRECTION

1. The Applicant Party, Mr. Kevin A. McLean (BA, JD, CIM), acknowledges receipt of the electronic correspondence transmitted by Ms. S. Dhamrait on October 6, 2026, enclosing the formal administrative letter authored by Registrar Timothy Outerbridge on behalf of the Division comprised of The Honourable Mr. Justice Groberman, The Honourable Madam Justice Fenlon, and The Honourable Mr. Justice Riley (the "Division Panel").
2. As an immediate threshold matter of procedural accuracy, a critical clerical error on the face of the Registrar's letter requires rectification. Paragraph 1 of the letter references an application to vary or cancel an order of Madam Justice Horsman *"made on 18 September 2026"*.
3. The formal record of proceedings confirms that no order or decision was pronounced by Madam Justice Horsman on September 18, 2026. The reasons for decision (*2026 BCCA 372*) were pronounced in chambers on **September 8, 2026**, and the formal order was entered on **September 14, 2026** (Application Book, Tabs 1 and 2). To prevent clerical confusion within the permanent records of the Court, this chronological slip must be corrected upon the registry ledger.
4. A secondary, substantive clarification is urgently necessitated by the operational language formulated within Direction No. 3(b): *"the registry is not to file any further material on these applications, including material presently submitted for filing"*. The analysis set out below addresses this **direction**, establishing why it is legally uncertain, contrary to the governing statutory architecture, and irreconcilable with the natural justice guarantees governing written hearings under section 26 of the *Court of Appeal Act*, S.B.C. 2021, c. 6 (the "COAA").

PART 2: CONFIRMATION OF PLURAL APPLICATIONS YET CLARIFICATION REQUIRED IN RELATION TO THE LANGUAGE OF DIRECTION NO. 3(B)

5. The Applicant Party takes formal note of the Registrar's explicit use of the plural noun phrase **"these applications"** across paragraphs 2 and 3 of the October 6, 2026 letter:
   - Paragraph 2 records: *"that division also has your previously submitted and presently unfiled application"*; and
   - Paragraph 3 directs: *"these applications be dealt with in writing..."*
6. This formulation constitutes a definitive judicial and administrative admission that the Division Panel has been formally constituted and seized of **two distinct applications**:
   a. The Applicant Party's Form 8 Notice of Application to Vary or Cancel the Order of a Justice (*September 9, 2026*); and

b. The Applicant Party's Form 4 Notice of Application and Written Argument (*September 25, 2026*) seeking, *inter alia*, declarations of nullity regarding the fabricated "Joint Response Book [Sic]", striking relief under *Rule 9-5* by analogy, and summary sanctions under section 36 of the COAA.

7. Having judicially acknowledged that the Division Panel possesses both applications and has directed that both be adjudicated together in writing, the Registry cannot logically or lawfully maintain the administrative fiction that the September 25, 2026 application remains "unfiled" or non-existent upon the public docket. The Court cannot purport to adjudicate an application that its administrative arm refuses to docket.
8. Concurrently, the exact syntax of Direction No. 3(b)—stating that the *"registry is not to file any further material on these applications"*—is ambiguous and devoid of precise legal effect. Is this **direction** intended to state that:
   a. "the registry is not to accept any further fil~~e~~ings any further material on these applications";
   b. "the registry is not to accept any further documents submitted for filing on these applications"; or
   c. something to that effect?
9. While I appreciate that the Legislature intended that an Order is valid from the time it is pronounced (see: COAA, ss. 39(2)), the language of "direction" was utilized. While appreciating the definition of Order being inclusive of the word "direction", statutory interpretation in this regard requires that the direction, in order to be subsumed under that statutory definition must be "SPECIFICALLY" authorized or required under an **Enactment** (see: supra). In this regard, that would require particularized reasons for why each of the submitted documents were subject to a blunt "direction". Leaving that aside and awaiting the erudite and Honourable Division or "Division Panel's" clarification in these multiple and independent regards, I note that if the "direction", which need not be specifically authorized or required by an **Enactment** to be lawful or intra vires per se but if not specifically authorized or required by an **Enactment**, then it does not fall within the statutory definition of Order. Ergo, such a "direction" does not fall within ss. 39(2) of the COAA. Consequently, the validity from the time of pronouncement, statutorily, does not apply which lends itself to further grounds for clarification and an absence, at least statutorily, of the functus officio doctrine.

PART 3: APPELLANTS' FACTUMS: CONFIRMATION AS PART OF THE RECORD BEFORE THE DIVISION PANEL

10. Direction No. 3(a) orders that these applications be determined strictly in writing. This **direction** reinforces the primary question formally placed before the Court in the Applicant Party's transmittal of October 4, 2026: **Are the Appellants' Factums recognized as part of the active record of proceedings before the Division Panel?**

11. Madam Justice Horsman explicitly ordered in her August 31, 2026 memorandum that the Applicant Party's applications would proceed strictly upon the **"existing written record"** (Application Book, Tab 3K, p. 203). Her Ladyship did not qualify that foundation as the "docketed CSO record."
12. Pursuant to the case management determinations of June 29, 2026 (confirmed by Registrar Outerbridge and Chambers Scheduler Shelly Lin on July 2, 2026), the substantive factums of the Law Society of British Columbia (CA51536) and the Trial Lawyers Association of British Columbia (CA51535) were uploaded to the Court's Case Center repository on August 5, 2026, and were expressly **deemed filed** on that date.
13. The Chief Executive Officer of the LSBC publicly confirmed at the September 25, 2026 Bencher meeting that its factum had been filed on August 5, 2026. Those pleadings have resided within the institutional custody and administrative control of the Court since August 5, 2026. They constituted the foundational pillars of the "existing written record" as of August 31, 2026.
14. The Division Panel is respectfully requested to confirm upon the record that the Appellants' Factums form part of the written evidentiary and argumentative matrix to be considered on these applications, ensuring that adjudication does not take place in an artificial factual vacuum.

PART 4: WERE SUBMITTED MATERIALS BROUGHT BEFORE THE DIVISION PANEL? JURISPRUDENCE AND RECONSIDERATION BEFORE ORDER ENTRY

15. It is a critical procedural inquiry whether the specific, individual documents submitted for filing by the Applicant Party on September 25, September 27, and October 4, 2026, were placed physically and electronically before Justices Groberman, Fenlon, and Riley for judicial evaluation, or whether Direction No. 3(b) was formulated upon a generalized administrative summary.
16. If the Division Panel was not provided with each discrete document—specifically including the Form 4 Notice of Application to strike the "Joint Response Book [Sic]" and the October 4 transmittal incorporating the Appellants' Factums—the Applicant Party formally seeks reconsideration of Direction No. 3(b) prior to the entry of any formal order.

Part 4(A): The Doctrine of Functus Officio is Inapplicable to Direction No. 3(b)

17. The doctrine of *functus officio* does not bar the Division Panel from reconsidering, clarifying, or rescinding Direction No. 3(b). In *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 (*"CBC v. Manitoba"*), the Supreme Court of Canada authoritatively reaffirmed at paragraphs 33 and 34 that *functus officio* applies strictly to **final** decisions after formal judgment has been entered:

> "According to the rule of functus officio, a final decision of a court that is susceptible of appeal cannot, as a general rule, be reconsidered by the court that rendered that decision. A court loses jurisdiction once the formal judgment has been entered."

18. Direction No. 3(b) is an interlocutory administrative **direction**; it is not a final judgment under section 40(1) of the *Supreme Court Act*, R.S.C. 1985, c. S-26, as it determines no substantive rights. Furthermore, no formal order in Form 11 or Form 12 has been drawn up, approved, or entered under Rule 66.
19. As established by the Ontario Court of Appeal in *Meridian Credit Union Limited v. Baig*, 2016 ONCA 150 (paras. 33–37), a superior appellate court retains inherent and statutory jurisdiction to reconsider an interlocutory decision before an order is formally entered.
20. Similarly, in *Smith Bus Lines Ltd. v. Bank of Montreal*, 1987 CanLII 4190 (ON SC), Sutherland J. held that an adjudicator acts judicially when withdrawing or varying an order prior to formal entry to avoid procedural unfairness:

> "There is abundant authority... for the proposition that a judgment can be reconsidered and varied or withdrawn before it is entered... Such a jurisdiction is quite independent of the rules, and of the fact that once entered an order takes effect from the time of its pronouncement."

21. Where an administrative **direction** is issued without reasons, upon an unparticularized bundle of materials, and creates an operational barrier to natural justice, the Court possesses jurisdiction to recall the **direction** *ex debito justitiae*.

Part 4(A)(i): Demonstrable Legal Oversight and the Per Incuriam Principle

22. In *Menzies v. Harlos*, 1989 CanLII 2760 (BC CA), Esson J.A., writing for this Court, confirmed the established power to reconsider interlocutory rulings where there is a demonstrable oversight in a particular aspect:

> "It is not unusual for an application to vary to be made and granted where the basis of the application is a demonstrable oversight or error in a particular aspect. An example in the area of fact is an error in calculation... An example in the area of law is reliance on a statute which has been repealed."

23. This principle was reaffirmed in *Grace Estate (Re)*, 2022 BCSC 1283 (para. 10), citing *Signcorp v. Vancouver (City)* (1986), 9 B.C.L.R. (2d) 238 (S.C.), confirming that a court may reverse itself when a decision is predicated upon a legal point or statutory parameter that was not properly argued or considered.
24. Direction No. 3(b) was pronounced without the benefit of adversarial argument and without identifying any statutory provision authorizing a blanket preclusion on filings. It constitutes an administrative oversight that falls within the *Menzies v. Harlos* framework for immediate reconsideration.

PART 5: THE UNLAWFUL DUE PROCESS CATCH-22: WRITTEN HEARINGS UNDER SECTION 26 DEMAND ACCESS TO WRITTEN PLEADINGS

25. The core legal contradiction in Direction No. 3 is acute:
    - Direction No. 3(a) orders that the applications be dealt with **in writing**; yet
    - Direction No. 3(b) orders that the Registry **not file any further material on these applications, including material presently submitted for filing**.
26. This creates an unconstitutional procedural Catch-22: the Court orders a litigant to proceed strictly in writing, while simultaneously directing its registry to refuse the very written materials submitted to advance and support the applications.
27. In *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, the Supreme Court of Canada established at paragraphs 28 through 33 that while oral hearings are not required in every context, the chosen procedural format must afford the affected party a meaningful opportunity to present their case fully and fairly.
28. In *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, the Supreme Court held at paragraph 115 that when an adjudicative body elects to determine an issue on written submissions, procedural fairness demands that the party be entitled to know the case to be met and have their written materials received, docketed, and considered by the decision-maker.
29. To direct that an application to strike a void "Joint Response Book [Sic]" be decided in writing, while directing the clerk to reject the Form 4 and Written Argument submitted to explain *why* the document is a nullity, is a denial of natural justice (*audi alteram partem*). The Division Panel cannot lawfully adjudicate the validity of the September 25 application while maintaining its moving papers in an unfiled administrative void.

PART 6: THE STATUTORY IMPOSSIBILITY OF EXTRA-JUDICIAL FILING EMBARGOES OUTSIDE SECTION 22 OF THE COAA

30. The Registrar's closing warning—stating that further submissions *"will likely not result in a response from me"*—operates outside the statutory framework of the *Court of Appeal Act*.
31. Neither a single justice, nor a Division Panel via administrative letter, nor the Registrar possesses the statutory authority to construct an informal, extra-statutory filing embargo Section 38(2) of the COAA confines the Registrar's power to refuse documents strictly to non-compliance with the Rules or an entered practice **direction** (*R. v. Verma*, 2016 BCCA 307 at para. 20).

32. If the Court seeks to restrict a litigant's statutory right to submit filings, it must comply with the mandatory prescribed or statutory conditions along with procedural fairness. It cannot achieve that result through administrative **direction**s that bypass the statutory safeguards enacted by the Legislature.

PART 7: THE BCCA IS A STATUTORY COURT DIVESTED OF INHERENT JURISDICTION TO OVERRIDE ENACTMENT INTENT

35. The Court of Appeal is a statutory court created by enactment. Unlike the Supreme Court of British Columbia, it possesses no broad inherent jurisdiction. Any power exercised by the Court must find its source within the four corners of the COAA and the *Court of Appeal Rules*.
36. Section 18(1) of the COAA commands: *"An appeal or application for leave to appeal must be brought and conducted in accordance with this Act and the rules."* Section 28 further specifies that the Court may exercise a power given to a justice by the Act or the Rules. If a power is not conferred by statute, it does not exist.
37. As authoritatively decreed by the Supreme Court of Canada in *Baxter Student Housing Ltd. v. College Housing Co-operative Ltd.*, [1976] 2 S.C.R. 475 at page 480, even inherent jurisdiction cannot be invoked to override or bypass explicit statutory mandates.
38. While section 26(1)(a)(i) of the COAA authorizes the Court to order that a hearing be conducted in writing, no provision in the COAA or the Rules authorizes the Court to direct a registry not to accept compliant documents submitted by a Prescribed Party in any circumstance and certainly not these circumstances.

PART 8: PROCEDURAL FAIRNESS AND THE IMPORTANCE OF CLARITY IN COURT ORDERS

39. In *Petro-Canada v. British Columbia (Workers' Compensation Board)*, 2009 BCCA 396, this Court emphasized at paragraph 65 that procedural fairness requirements are not technical, but functional:

> "The question is whether, in the circumstances of a given case, the party that contends it was denied procedural fairness was given an adequate opportunity to know the case against it and to respond to it."

40. In *Gurtins v. Goyert*, 2008 BCCA 196, this Court stressed the imperative of precision in judicial **direction**s, ruling at paragraph 15:

> "The rule of law requires that court orders be obeyed. Accordingly, it is of paramount importance that persons who are subject to court orders be able to readily determine their obligations and responsibilities. They do this by having regard to what is on the face of the formal order... An order should be clear in its terms and should not require the person to whom it is addressed to cross-refer to other material in order to ascertain his precise obligation."

41. Direction No. 3(b) fails the *Gurtins v. Goyert* standard. It purports to direct the Registry not to "file" materials, leaving active litigants in complete uncertainty as to whether compliant motion materials previously delivered to

the Registry are legally before the Court, whether they have been received, or whether they have been discarded without adjudication.

PART 9: FORMAL REQUEST UNDER RULE 82(1) TO AMEND APPLICATION BOOK AND SEEKING OF CONSENT

42. To resolve part of this unfortunate procedural impasse, eliminate any asserted prejudice, and ensure that the Division Panel is furnished with the complete record without violating Direction No. 3(b), the Applicant Party hereby invokes **Rule 82(1) of the Court of Appeal Rules**.
43. Rule 82(1) provides:

> "Subject to subrules (2), (3) and (4), a document that has been filed with the court may be amended by a person only with the consent of all the parties or the permission of the court, a justice or the registrar."

44. Pursuant to Rule 82(1), the Applicant Party formally makes two requests:

    a. **Seeking Permission of the Division Panel:** The Applicant Party formally applies to the Division Panel (Justices Groberman, Fenlon, and Riley) for permission to amend the filed Application Book of September 15, 2026, by inserting a Supplemental Volume containing:
    i. The Applicant Party's transmittal letter of October 4, 2026 which enclosed or attached the below:

        ii. The Appellant's Factum of the Law Society of British Columbia (CA51536), deemed filed August 5, 2026; and
        iii. The Appellant's Factum of the Trial Lawyers Association of British Columbia (CA51535), deemed filed August 5, 2026.

    b. **Seeking Consent of All Prescribed Parties:** The Applicant Party contemporaneously requests that counsel for each of the Prescribed Parties identified in the caption of this correspondence provide their written consent under Rule 82(1) to amend the Application Book to include their own deemed-filed factums.
45. The inclusion of the Appellants' Factums causes zero prejudice: the factums were authored by the Appellants themselves, were deemed filed on August 5, 2026, and are already within Case Center. Granting permission under Rule 82(1) ensures equality of arms and provides the Division Panel with the exact written Factum "deemed filed" upon which the Appellants' constitutional theories rest.

PART 10: CONCLUSION AND REQUESTED DISPOSITION

46. In conclusion, the Applicant Party respectfully requests that the Division Panel:

    a. Note and correct the clerical error in paragraph 1 of the Registrar's letter (correcting "18 September 2026" to "September 8, 2026 / entered September 14, 2026");

    b. Confirm that the Division Panel is seized of both the Form 8 Application to Vary and the September 25 Application to Strike the "Joint Response Book [Sic]";

    c. Clarify and recall Direction No. 3(b) to ensure that the moving papers and written arguments supporting the September 25 application are formally stamped and docketed nunc pro tunc; and

    d. Grant permission pursuant to Rule 82(1) to amend the Application Book to include the Appellants' Factums and the October 4, 2026 transmittal letter.

47. Counsel for the Prescribed Parties are requested to advise in writing forthwith whether they consent to the Rule 82(1) amendment.

48. The Applicant Party confirms that the composition of the Division Panel (Justices Groberman, Fenlon, and Riley) is noted and accepted without objection, and confirms his readiness to proceed with the determination of these applications in writing upon the complete, unredacted record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 7th day of October, 2026.

Mr. Kevin A. McLean (BA, JD, CIM)
Applicant Party (Court of Appeal File Nos.: CA51535 / CA51536) and by reference to the undisclosed and non-public Case Center file number
Email: mclean@searchandseizure.ca
Telephone: 647.370.9354
Facsimile: 1 (416) 352-0055

ENCLOSURES TRANSMITTED HEREWITH:

1. True copy of the Applicant Party's formal transmittal letter dated October 4, 2026, incorporating the deemed-filed Appellants' Factums in CA51535 and CA51536.
2. Official Court Services Online (CSO) Registry Notice dated September 29, 2026 (Package ID 4399228), confirming the Registrar's formal decision: *"The Registrar will place your unfiled application before the division set to hear your application to vary."*

TAB 15

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1 - 10 of 16 results

Page 1 2 >>

Date Submitted	Your File #	Court File #	Package #	Results	Document Upload State	Action
10/06/2026		CA51536	4406357	Pending	Uploaded	View
10/05/2026		CA51536	4405302	Pending	Uploaded	View
10/04/2026		CA51535	4404905	Pending	Uploaded	View
10/01/2026		CA51535	4402771	Pending	Uploaded	View
09/29/2026		CA51536	4400539	Action Required	Uploaded	View
09/27/2026		CA51536	4399228	Action Required	Uploaded	View
09/27/2026		CA51535	4399224	Complete	Uploaded	View
09/25/2026		CA51536	4398900	Action Required	Uploaded	View
09/22/2026		CA51536	4394410	Action Required	Uploaded	View
09/22/2026		CA51536	4394252	Action Required	Uploaded	View

TAB 16

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Rejected CA51535

4 messages

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:09 PM
To: MCLEANSETTLEMENT@gmail.com, mclean@searchandseizure.ca

Your electronic filing has been processed and the results are shown below

Court File Number: CA51535
Style of Cause:
Document Type: Application - Division - General
Status: Rejected
Package Id: 4402771
Link: https://justice.gov.bc.ca/cso/accounts/bceidNotification.do?packageNo=4402771

You can view the record and the document by clicking on the link above.

If there are any problems with your filing, please do not hesitate to contact the support team via email at Courts.CSO@gov.bc.ca.

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:09 PM
To: MCLEANSETTLEMENT@gmail.com, mclean@searchandseizure.ca

Your electronic filing has been processed and the results are shown below

Court File Number: CA51535
Style of Cause:
Document Type: Memorandum of Other
[Quoted text hidden]

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:09 PM
To: MCLEANSETTLEMENT@gmail.com, mclean@searchandseizure.ca

Your electronic filing has been processed and the results are shown below

Court File Number: CA51535
Style of Cause:
Document Type: Letter General
[Quoted text hidden]

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:10 PM
To: MCLEANSETTLEMENT@gmail.com, mclean@searchandseizure.ca

Your electronic filing has been processed and the results are shown below

Court File Number: CA51535
Style of Cause:
Document Type: Memorandum of Other
Status: Rejected
Package Id: 4404905
Link: https://justice.gov.bc.ca/cso/accounts/bceidNotification.do?packageNo=4404905
[Quoted text hidden]

Gmail

Mr. Kevin McLean <mcleansettlement@gmail.com>

Rejected CA51536

2 messages

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:10 PM
To: MCLEANSETTLEMENT@gmail.com

Your electronic filing has been processed and the results are shown below

Court File Number: CA51536
Style of Cause:
Document Type: Memorandum of Other
Status: Rejected
Package Id: 4406357
Link: https://justice.gov.bc.ca/cso/accounts/bceidNotification.do?packageNo=4406357

You can view the record and the document by clicking on the link above.

If there are any problems with your filing, please do not hesitate to contact the support team via email at Courts.CSO@gov.bc.ca.

CSO.Enotifications@gov.bc.ca <CSO.Enotifications@gov.bc.ca> Tue, Oct 6, 2026 at 7:10 PM
To: MCLEANSETTLEMENT@gmail.com

Your electronic filing has been processed and the results are shown below

Court File Number: CA51536
Style of Cause:
Document Type: Application - Division - General
Status: Rejected
Package Id: 4405302
Link: https://justice.gov.bc.ca/cso/accounts/bceidNotification.do?packageNo=4405302
[Quoted text hidden]

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4402771 **Submission Date: October 01, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Application - Division- Gener	Rejected
2	Argument - Other	Rejected
3	Letter General	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4402771 **Submission Date: October 01, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Application - Division- Gener	Rejected
2	Argument - Other	Rejected
3	Letter General	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

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Court Services Online

Registry Notice

Package ID: 4402771 **Submission Date: October 01, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Application - Division- Gener	Rejected
2	Argument - Other	Rejected
3	Letter General	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

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Court Services Online

Registry Notice

Package ID: 4404905 **Submission Date: October 04, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51535 Client File #:

Documents:

1	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

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BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4406357 **Submission Date: October 06, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

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BRITISH COLUMBIA

Court Services Online

Registry Notice

Package ID: 4405302 **Submission Date: October 05, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Division- Gener	Rejected

Registry Reasons:

Reason 1: Other 06-OCT-2026

The division has directed the registry not to file any further materials on these applications, including material presently submitted for filing.

vn

Please keep a copy of this report for your records.

TAB 17

BRITISH COLUMBIA

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View Filing Packages

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Packages You Can View

11 - 16 of 16 results

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Date Submitted	Your File #	Court File #	Package #	Results	Document Upload State	Action
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09/16/2026		CA51535	4390243	Action Required	Uploaded	View
09/15/2026		CA51536	4388040	Complete	Uploaded	View
09/14/2026		CA51536	4386944	Action Required	Uploaded	View
09/11/2026		CA51536	4386050	Action Required	Uploaded	View
09/09/2026		CA51535	4382779	Complete	Uploaded	View

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Packages You Can View

1 - 10 of 16 results

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Date Submitted	Your File #	Court File #	Package #	Results	Document Upload State	Action
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10/05/2026		CA51536	4405302	Action Required	Uploaded	View
10/04/2026		CA51535	4404905	Action Required	Uploaded	View
10/01/2026		CA51535	4402771	Action Required	Uploaded	View
09/29/2026		CA51536	4400539	Action Required	Uploaded	View
09/27/2026		CA51536	4399228	Action Required	Uploaded	View
09/27/2026		CA51535	4399224	Complete	Uploaded	View
09/25/2026		CA51536	4398900	Action Required	Uploaded	View
09/22/2026		CA51536	4394410	Action Required	Uploaded	View
09/22/2026		CA51536	4394252	Action Required	Uploaded	View

TAB 18

1. Single Legal Regulator Update

Bill 21 Litigation

The Law Society's appeal of the British Columbia Supreme Court decision, regarding the constitutionality of Bill 21 (*Legal Professions Act*), is scheduled to be heard on November 16 and 17, 2026.

Thirteen applications for leave to intervene were filed, including applications submitted by the Federation of Law Societies of Canada and the Law Society of Manitoba. One applicant, a twice disbarred lawyer, was denied leave to intervene solely on the basis of written materials. All other applicants were granted leave to intervene.

The Law Society's factum was filed on August 5, 2026. The Respondent's factum must be submitted by October 5, 2026. The intervenor factums are due on October 5, 2026. The reply factums to the intervenor factums must be filed by October 19, 2026.

Transitional Board and Transitional Indigenous Council

The most recent meetings of the transitional board and the transitional Indigenous council were held on July 20, 2026 and August 17, 2026.

At the July meeting, the transitional board and the transitional Indigenous council considered rules related to the licensing and registration of legal professionals under the Legal Professions Act. Lesley Small, Senior Director, Credentials, Professional Development and Practice Support, was permitted to attend the meeting to provide advice and assistance on the content of these rules. A revised set of rules reflecting the discussion will come back to the transitional board and the transitional Indigenous council for further consideration.

At the August meeting, the transitional board and the transitional Indigenous council considered the trust accounting and client identification and verification (CIV) rules and proposed provisions for the Code of Professional Conduct relating to withdrawal from representation, making legal services available and licensees as advocates.

The draft trust accounting and CIV rules presented for consideration, which were largely based on the Law Society's current proposed rules, received considerable attention and discussion. There was a focus on the impact of the draft rules on licensees and the express desire for less prescriptive rules. Senior staff from the Law Society observed the meeting deliberations and subsequently prepared a memorandum which was provided to the transitional board chair. The memorandum contains additional information about the rationale behind the Law Society's current proposed trust accounting and CIV rules (including protection of the public, strong measures to combat money laundering, maintaining public confidence, and consistency with Federation guidelines and other

You are logged on as KEVIN MCLEAN

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Filing Package Details

Package Number: 4413258

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 13-Oct-2026 10:54

Submitted Through: Court Services Online

Filing Comments: ATTENTION: BCCA REGISTRY / REGISTRAR TIMOTHY OUTERBRIDGE CC: THE HONOURABLE CHIEF JUSTICE LEONARD MARCHAND Please forthwith accept for immediate filing the enclosed Form 4 Notice of Application, submitted strictly within the 7-day limitation period prescribed by Rule 63(2) of the Court of Appeal Rules. This submission is explicitly categorized as an "Application - Division - General" and is directed exclusively to the jurisdiction of The Court (3 Justices)—specifically the Honourable Division Panel (Justices Groberman, Fenlon, and Riley). The Registry is required to docket this and place it directly before the Division Panel, as it challenges the jurisdictional validity, provenance, and constitutionality of Directions 3(a) and 3(b) contained in the October 6, 2026 memorandum. Kindly note for the record that an unfiled courtesy copy of this Application is being transmitted simultaneously via email to all Prescribed Parties and to the Chief Justice of British Columbia to ensure immediate transparency. Formal service under the Rules will be executed immediately upon the Registry's return of the stamped and docketed copy. Pursuant to the binding authority of R. v. Verma, 2016 BCCA 307 (at para. 20), the Registry possesses no residual discretion to embargo or reject this compliant filing. Kindly process, stamp, and docket forthwith. Thank you in advance for your anticipated compliance. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Print Submission Sheet

Print Receipt

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Application - Division-General	NOA F4 - Set Aside Reg O - Oct 6 Directions - AP - KAM - 13-Oct-26.pdf	No	Submitted		Complete	View Withdraw

Return

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4413258
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	13Oct2026
Filing Comments:	ATTENTION: BCCA REGISTRY / REGISTRAR TIMOTHY OUTERBRIDGE CC: THE HONOURABLE CHIEF JUSTICE LEONARD MARCHAND Please forthwith accept for immediate filing the enclosed Form 4 Notice of Application, submitted strictly within the 7-day limitation period prescribed by Rule 63(2) of the Court of Appeal Rules. This submission is explicitly categorized as an "Application - Division - General" and is directed exclusively to the jurisdiction of The Court (3 Justices)—specifically the Honourable Division Panel (Justices Groberman, Fenlon, and Riley). The Registry is required to docket this and place it directly before the Division Panel, as it challenges the jurisdictional validity, provenance, and constitutionality of Directions 3(a) and 3(b) contained in the October 6, 2026 memorandum. Kindly note for the record that an unfiled courtesy copy of this Application is being transmitted simultaneously via email to all Prescribed Parties and to the Chief Justice of British Columbia to ensure immediate transparency. Formal service under the Rules will be executed immediately upon the Registry's return of the stamped and docketed copy. Pursuant to the binding authority of R. v. Verma, 2016 BCCA 307 (at para. 20), the Registry possesses no residual discretion to embargo or reject this compliant filing. Kindly process, stamp, and docket forthwith. Thank you in advance for your anticipated compliance. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Fees

#	Document Description	Translation	Upload State	Statutory Fee
1	Application - Division-General	No	Complete	$80.00

Subtotal:	$80.00
CSO Fee:	$7.00
Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4413258

Account ID:71252

Client ID:122957

Date: October 13, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	130722093	1515955371	Oct 13, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

Ministry of Attorney General
Court Services Online
Submission Sheet

1776

Court File #:	CA51536	**Submitted By:**	KEVIN MCLEAN
Cross Reference #:	Not Provided	**Client ID:**	122957
Package ID:	4413258	**Account ID:**	71252
Date Submitted:	13-OCT-2026 10:54 am		KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Division-General	N	Submitted	13-OCT-2026	Not Processed	N	$ 80.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	130722093	13-OCT-2026 10:54 AM	1515955371	02109G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

TAB 25

BRITISH COLUMBIA

Court Services Online **Registry Notice**

Package ID: 4413838 **Submission Date: October 13, 2026**

Account ID: 71252 KEVIN MCLEAN

Client ID: 122957 ,

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Argument - Other	Rejected

Registry Reasons:

Reason 1: Other 13-OCT-2026

The division has directed the registry not to file any further materials on these applications.

sl

Please keep a copy of this report for your records.

TAB 26

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 4

NOTICE OF APPLICATION *(RULES 13(a), 18(4), 20(3) and (4), 54(a), 58(1), 59(1), 60(2), 61(2), 63(2))*

[STAMP]

Court of Appeal File No. CA51536 / CA51535

The file number can be found on the upper right corner of the Notice of Appeal.

PARTIES TO THE APPEAL

Appellant(s)
List the name(s) of the appellant(s) named on Form 1: Notice of Appeal.

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

Respondent(s)
List the name(s) of the respondent(s) named on Form 1: Notice of Appeal.

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

This application is in the jurisdiction of:

☒ The Court (3 Justices) ☐ A Chambers Justice ☐ The Registrar

To the person(s) filing the application (the *applicant*):

If your application is before a chambers justice, check the **available chambers dates** on the court website and the timelines for bringing your application under the rules.

If your application is before the court or the registrar, contact the appropriate scheduler before completing this form.

Communicate with the other person(s) to ensure they are available on the requested date. Chambers applications are to be no more than 30 minutes.

Name(s) of person(s) bringing the application

Mr. Kevin A. McLean (BA, JD, CIM) (he/him) (defined herein also as "Applicant Party")

Name(s) of responding person(s) to be served with the application

The above Appellants and Respondents (collectively, the "Statutory Parties"); and
The Registrar (as defined under the COAA, s. 1 and s. 10), other interveners, interested persons and/or persons entitled to service or served with the Applicant Party application and supporting documents (whether or already served or not) (prescribed by definition as "Parties" pursuant to rule 64(1)(b) (defined herein as "Prescribed Parties" or "Prescribed Responding Parties")

Location where the application will be heard
Enter the address of the courthouse.

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date the application will be heard

TBD before the Honourable Division Panel (Groberman, Riley and Fenlon)

Chambers applications begin at 9:30 a.m.

The applicant anticipates that this application will be…
Check only one.

☒ Contested ☐ Uncontested

Enter the section(s) or rule(s) that you are relying on for your application
E.g., If you are applying for leave to appeal, enter "Section 31 of the Court of Appeal Act." *If you are applying for a stay of proceedings, enter "Section 33 of the* Court of Appeal Act."

Court of Appeal Act, S.B.C. 2021 (the "*COAA*"), c. 6, with a particular emphasis on s. 43 but also including but not limited to, sections 1, 2, 7, 18, 20, 21, 24-26, 28-29, 30, 32, 35, 44-46,

Court of Appeal Rules, B.C. Reg. 120/2022 (the "*COR*", "*Court of Appeal Rules*" or "*Rules*"), including but not limited to limited to, rules 1, 4, 18, 36, 38-40, 41, 42, 47-48, 52-61, 62-75

Law and Equity Act, R.S.B.C. 1996, c. 253, Section 8.

Interpretation Act, R.S.B,C 1996, c 238

Supreme Court Act, R.S.C. 1985, c. S-26, Sections 2(1) and 40(1);

Constitution Act, 1867, Sections 96 through 101;

Canadian Charter of Rights and Freedoms, Sections 1, 2(b), 7, 11(d), 15, and 24(1);

All other statutes and regulations (collectively, "**Enactments**") cited in the Applicant Party's Application Book of September 15, 2026 and Book of Authorities of September 17, 2026 along with his submitted documents for filing including but not limited to:

a. The NOA Form 4 of September 25, 2026, and written argument to, inter alia, strike the "Joint Response Book [Sic]", declare the failure of the Purported Opposing Parties to serve all other prescribed Parties was a nullity because it was a direct contravention of the Court of Appeal Rules, and consequential relief in relation to section 36 of the COAA;
b. The Applicant Party's October 4, 2026, letter enclosing the Appellants' Factums obtained under demands and requests from the same under the undisclosed and non-public Case Center file number (albeit represented by the CEO of the LSBC| that the LSBC had filed its factum on August 5, 2026);
c. The Applicant Party's NOA Form 4 (October 5, 2026) and written argument (October 6, 2026) seeking, inter alia, mandamus from the Registrar to accept those improperly and falsely premised rejected documents submitted for filing; and
d. Other documents so particularized.

Enter the order(s) that you are seeking
E.g., "stay of proceedings" or "extension of time to file an appeal book" and any request with respect to costs. If you are seeking leave to appeal, enter "leave to appeal the order of_____."

The Applicant Party seeks the following Orders, opinions, decisions, declarations, determinations, findings, directions and/or relief, whether authorized by a specific Enactment or otherwise, particularized *infra*:

VOLUME #1: PRELIMINARY PROCEDURAL & TIMING RELIEF

Order #1(A) (Dispensation & Concurrency): An Order pursuant to section 32(1) of the *COAA* and Rule 41 dispensing with any and all formal procedural requirements of the Rules to

permit this Notice of Application to be heard concurrently with, or immediately prior to, any formal settlement, entry, internal filing, or consummation of the Division's disposition of the Applicant Party's Form 8 Notice of Application;

Order #1(B) (Scheduling Dispensation): A further Order dispensing with the administrative requirement of "Obtaining a Hearing Date" from the Chambers Scheduler, directing that this Reconsideration Application be heard on **Friday, October 23, 2026**;

Order #1(C) (Written Argument Timeline - Nunc Pro Tunc): An Order granting the Applicant Party leave to file his written argument in support of this Reconsideration Application by **Friday, October 16, 2026**, *nunc pro tunc*;

Order #1(D) (Prescribed Parties' Response Timeline): An Order directing that any "parties" under Rule 64(1)(b) must submit their responsive documents for filing by no later than **Wednesday, October 21, 2026**;

Order #2(A) (Time Abridgment): An Order pursuant to section 32(2) of the *COAA* abridging the time required to file and serve this Notice of Application and its accompanying Written Argument, directing that all responsive materials be provided on a forthwith basis;

Order #2(B) (Nunc Pro Tunc Relief): An Order granting all relief sought herein *nunc pro tunc* to the date and time of electronic transmission via the Court Services Online portal (or email transmission to the Registry and Prescribed Parties);

VOLUME #2: JURISDICTIONAL DECLARATIONS REGARDING DIRECTION 3(b) & *COAA* SECTION 28

Order #3(A) (Declaration of Lack of Divisional Provenance): A formal Declaration that the tripartite judicial composition comprising the Division Panel (Justices Groberman, Fenlon, and Riley) did not, as a collegiate body, formally convene, deliberate

upon, or pronounce Directions 3(a) and 3(b) as encapsulated within the administrative memorandum of Registrar (Head) Mr. Timothy Outerbridge dated October 6, 2026;

Order #3(B) (Declaration Regarding Section 28 Asymmetry): A formal Declaration of law that pursuant to Section 28 of the *COAA*, while the Court (a Division) may exercise any power conferred upon a single justice, a single justice is statutorily prohibited from exercising the plenary, supervisory, or adjudicative powers conferred exclusively upon the Court. Consequently, no single justice possessed the lawful jurisdiction to unilaterally pronounce Direction 3(b) under the guise of an order or direction of the "division";

Order #3(C) (Declaration of Nullity - Unilateral Single Justice Action): A formal Declaration that to the extent that a single justice purported to author, issue, or endorse Direction 3(b) without the formal convening and consensus of all three constituent members of the Division Panel, such direction was executed *coram non judice*, constitutes an administrative misrepresentation, is *ultra vires*, void *ab initio*, and an absolute nullity, and is not subject to any statutory or prescribed correction under Section 43(3);

Order #3(D) (Declaration of Non-Order Status): A formal Declaration that Direction 3(b) fails the statutory definition of an "order" under Section 1 of the *COAA* because it was not specifically authorized or required under any Enactment;

Order #3(E) (Syntactical Bar & Nullity of Registrar "Filings"): A formal Declaration that, adhering to the mandatory standard of facial precision, Direction 3(b) by its explicit syntax applies *exclusively* to the internal administrative conduct of the Registrar and Registry personnel—not to a person other than the Registrar, such as a Statutory Party or a Prescribed Party. Consequently:

- (a) Direction 3(b) does not operate, directly or indirectly, to estop, enjoin, or extinguish the independent statutory and prescribed rights of the Applicant Party to submit documents to the Court; and
- (b) Any act of "filing" executed by the Registrar or Registry personnel (including the internal filing of reasons for judgment, draft orders, or entered orders into the record on "these applications") is effected in direct breach of the literal terms of Direction 3(b), and is therefore null and void, void *ab initio*, and of no force and effect unless and until Direction 3(b) of the October 6, 2026 memorandum is lawfully amended or lifted;

Order #3(F) (Order Lifting Direction 3(b) for Entry of the Instant Order): An Order formally lifting and vacating Direction 3(b) of the October 6, 2026 memorandum of Registrar (Head) Mr. Timothy Outerbridge for the specific purpose of permitting the Registrar to file and enter the formal Order resulting from this Form 4 Notice of Application on the "applications" (specifically encompassing both the Applicant Party's Form 8 Notice of Application and the "unfiled" [unlawfully rejected] Form 4 Notice of Application of the Applicant Party dated September 25, 2026);

VOLUME #3: SUBSTANTIVE REOPENING, NEW DIVISION AMENDMENT, & RELIEF SOUGHT

Order #4 (The Section 43(1) Amendment Weapon & New Division Mandate): An Order pursuant to **Section 43(1) of the Court of Appeal Act**—invoking the statutory distinction that **"A"** division of the court may amend an order made by **"THE"** division—declaring that to the extent a single justice of the original Division Panel pronounced Direction 3(b), or to the extent that the original Division Panel was tainted by single-justice intervention, any disposition or order of the former Division is void *ab initio*. A further Order declaring that to the extent the current or presiding division was subject to a single justice issuing Direction 3(b), the entire Honourable Division Panel was subject to a reasonable

apprehension of bias, conflict of interest, lack of independence, lack of impartiality, and pre-judgment of the merits of the Applicant Party's Form 8, rendering their decisions and orders void *ab initio* and/or nullities. A further Order directing that **a newly constituted Division**—expressly including The Honourable Chief Justice Leonard Marchand under his inherent and statutory powers to self-assign—shall amend any and all orders made by the former Division (Justices Groberman, Fenlon, and Riley) to provide for, adjudicate, and incorporate all substantive matters that should have been, but were not, adjudicated by reason of the Registry's physical and administrative embargo of the appellate record, specifically including:

- (a) **The Timely Rule 63 Application:** The Applicant Party's Form 4 Notice of Application and Written Argument submitted October 13, 2026 (CSO Package ID: 4413838), brought within the strict 7-day statutory window under Rule 63(2) to review, vary, and cancel Directions 3(a) and 3(b);
- (b) **The Strike Application & Section 36 Sanctions:** The Applicant Party's Form 4 Notice of Application and Written Argument (submitted September 25, 2026, and resubmitted October 1, 5, and 9, 2026) seeking declarations of absolute nullity against the unauthorized "Joint Response Book [Sic]" and summary sanctions under *COAA* s. 36;
- (c) **The Appellants' Case Center Factums:** The Applicant Party's formal transmittal of October 4, 2026, incorporating the deemed-filed Appellants' Factums into the active evidentiary record; and
- (d) **The Mandamus Relief:** The Applicant Party's application to compel the Registry to perform its non-discretionary public statutory duty under *R. v. Verma*;

Order #5 (Granting Relief in Substantially the Same Form): An Order that all substantive relief sought within the Applicant Party's rejected and embargoed documents (whether a Court Form under Rule 79 or otherwise properly submitted for filing) is granted in substantially the same form;

Order #6 (Alternative Single Justice Reopening): In the alternative, if the disposition of any matter is determined to have been rendered by a single justice in chambers, an Order pursuant to **Section 43(2) of the *COAA*** amending said order to provide for the unadjudicated matters particularized in Order #4 *supra*;

VOLUME #4: ORDER ENTRY EMBARGO UNDER RULE 66 & SUPERVISORY RELIEF

Order #7(A) (Rule 66 Entry & Filing Stay / Prohibition): An Order directing that the Registrar and Registry personnel are strictly prohibited under Rule 66(1), (4), and (5)—and by the literal terms of Direction 3(b) itself—from dating, signing, sealing, formally entering, or internally **filing** into the court record any draft order in Form 10, Form 11, or Form 12 purporting to consummate the Division's disposition on the "applications" until:

- (a) Direction 3(b) of the October 6, 2026 memorandum is formally lifted or amended pursuant to Order #3(E) and Order #3(F) *supra*;
- (b) The moving party has provided formal written approval pursuant to Rule 66(1)(c); and
- (c) This application under *COAA* Section 43(1) has been fully heard and adjudicated by a newly constituted Division upon a complete and unredacted record;

Order #7(B) (Declaration Regarding Functus Officio): A formal Declaration that, pursuant to the binding authority of the Supreme Court of Canada in *Canadian Broadcasting Corp. v. Manitoba*, 2021 SCC 33 (at paras. 33–34), the Court retains continuing, untrammeled jurisdiction to vary, recall, or amend its disposition, and is not *functus officio* until a formal order has been completed, approved, signed, sealed, and entered/filed upon the permanent record;

Order #8 (Mandamus to Docket *Nunc Pro Tunc*): An Order in the nature of *mandamus* directing the Registrar to immediately stamp, accept, and docket/file upon the public register all submitted filings

(including but not limited to: Package IDs: 4398900, 4399228, 4402771, 4404905, 4405302, 4406357, 4412400, and 4413838) *nunc pro tunc* to their respective dates of transmission;

Order #9 (New Division Ruling Deadline & Appeals Adjournment): An Order directing that the New Division must issue a bottom-line ruling, with reasons for judgment to follow by no later than **Monday, November 2, 2026**, at a time in its discretion, subject to the vacating of the hearing dates for the Appeals in November 2026; and in the alternative, an Order adjourning the hearing dates of the Appeals pending the disposition of this Reconsideration Application;

VOLUME #5: TRANSCRIPTS, CASE CENTER DEEMING, & OPEN COURT DECLARATIONS

Order #10(A) (Production of June 29 CMC Transcript): An immediate Order of production of the transcript from the June 29, 2026 Case Management Conference to the Prescribed Parties, with leave granted to the Prescribed Parties to make further submissions involving anything so arising from the same within 24 hours of receipt thereof;

Order #10(B) (Charter Declaration - Transcript Non-Production): A formal Declaration that any non-production—by inability, refusal, and/or unwillingness—of the transcript from the June 29, 2026 Case Management Conference constitutes an unconstitutional violation of Section 2(b) of the *Charter*, which cannot be saved under Section 1 of the *Charter*;

Order #11(A) (Declaration Regarding Deemed Filing Orders): A formal Declaration that to the extent Registrar (Head) Mr. Outerbridge made, issued, pronounced, or otherwise granted an order or direction permitting the Appellants to upload their factums by August 5, 2026, and deeming them filed, said order was not authorized by any Enactment or rule, without prejudice to the

Applicant Party relying upon the LSBC's September 25, 2026 public representation that it filed its factum on August 5, 2026;

Order #11(B) (Declaration of Law - Case Center Uploads vs. Rule 25/48): A further Declaration of Law that no Justice could issue an order or direction arising from case management that authorized the Appellants, any appellant generally, or Statutory Parties to utilize Case Center *at all* in lieu of filing in the Court Services Online (CSO) portal, as doing so directly contravenes the *COAA* and particularly the *Court of Appeal Rules*, Rule 25(1) and Rule 48 governing the "Powers of a Justice on case management";

Order #11(C) (Declaration of Charter Breach - Non-Public Case Center Files): A further Order declaring that any such deemed filing orders or directions executed by uploading documents to Case Center—including but not limited to the creation of a non-public Case Center file—are contrary to the *Charter*, including Section 2(b), constitute a severe breach of the open court principle (which protects listeners and the public right of inspection), and cannot be saved under Section 1 of the *Charter*;

Order #12 (Production and Briefing on October 13 Filings): An Order that the Applicant Party is entitled to, and the Court shall provide him with, all necessary documents along with copies for the Prescribed Parties relating to the relief sought in his October 13, 2026 Notice of Application, and that he and the Prescribed Parties must submit any further supplemental written arguments regarding the same within 24 hours of receipt thereof;

Order #13: An Order granting the relief in the Applicant Party's Form 8 and all other associated relief in his rejected NOA's;

Order #14: (Prohibition of Unauthorized Joint Submissions akin to the "Joint Response Book [Sic]"): An Order declaring that no Statutory Party, Prescribed Party, or counsel of record may file, tender, or otherwise submit unauthorized joint written arguments, consolidated responsive books or argument with another counsel

of record to any other Statutory Party, or non-statutory or non-sanctioned hybrid instruments (including but not limited to the fabricated "Joint Response Book [Sic]") in circumvention of the mandatory service, filing, and formatting provisions of the Court of Appeal Rules; and a further Order striking and expunging any such joint instruments from the Record of Proceedings *nunc pro tunc* to the date of their initial improper tender;

Order #15 (Costs): Costs of this application, assessed as special costs against the Purported Opposing Parties, jointly and severally, and those costs shall be paid to the Societies Notaries Public of BC payable forthwith; and

Order #16 (Residual Relief): Any further or consequential relief, not captured above whether particularized or not in the Applicant Party's written argument in support of this Reconsideration Application, that this Honourable Court deems just, equitable, and necessary in the interests of justice pursuant to section 24(3)(b) of the *COAA*.

Is an application book required?
See Rule 13 for leave applications and Division 2 of Part 9 of the Rules for other applications.

☐ Yes ☒ No

If you are not required to file an application book, list the affidavit(s) in support of this application
Enter the name of each person whose affidavit is being filed and the date each affidavit was sworn.

a. Affidavit #3 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 9, 2021;

b. Affidavit #4, sworn on October 24, 2021;[i]

c. Affidavit #5 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on October 24, 2021;

d. Affidavit #6 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

e. Affidavit #7 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

f. Affidavit #8 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on November 7, 2021;

g. Affidavit #9 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021;

h. Affidavit #10 of Mr. Kevin A. McLean (BA, JD, CIM) sworn on December 8, 2021; and

n. Such other affidavit material, evidence or documents that meet the requirements of dispensing with affidavit material under the BC *Evidence Act*, that are relevant to the Applicant Party's Form 8 NOA at first instance or arising from the circumstances, facts, procedural and substantive issues since his filing and service of his NOA Form 8 (**Sept 9, 2026).**

Email address(es) for service of applicant(s)
If you provide an email address, you consent to have documents served on you by email.

mclean@searchandseizure.ca

Date form completed

14/10/2026

DD/MM/YYYY

Name of lawyer or applicant authorizing filing of this form

Mr. Kevin A. McLean

[i](nota bene: Receipt of letter from NST LLP on October 25, 2021 with Unrequested Improper Decoded Record via hyperlink from NST (not LSBC) account with ShareFile and Citrix located and accessed outside of Canada;

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Filing Package Details

Package Number: 4414413

Submitted by: KEVIN MCLEAN

Your file number:

Court File Number: CA51536

Submitted To: BC Court of Appeal

Submitted Date: 14-Oct-2026 10:10

Submitted Through: Court Services Online

Filing Comments: Please accept this formal filing note accompanying the transmission of the Applicant Party's Form 4 Notice of Application, promulgated pursuant to Section 43(1) of the Court of Appeal Act (COAA) following the release of 2026 BCCA 406. This instrument invokes the explicit statutory jurisdiction of "A" division of the court to amend an order made by "THE" division to provide for matters that should have been, but were not, adjudicated—specifically encompassing the unadjudicated strike application against the unauthorized "Joint Response Book [Sic]," the timely Rule 63 review, and the constitutional invalidity of extra-statutory filing embargoes. As detailed within the pleadings, the closing administrative language of 2026 BCCA 406 cannot extinguish an express statutory reopening mechanism under Section 43(1). Furthermore, because this filing is procedurally compliant and the Applicant Party formally and forcefully INSISTS upon its docketing, the Registry is strictly bound by R. v. Verma, 2016 BCCA 307 at para. 20. The Registry possesses zero discretion to reject, discard, or embargo this filing. Continued refusal operates as a breach of the open court principle, ss. 2(b), 7, and 15 of the Charter, and the Constitution Act, 1867, while crystalizing a final judgment under the Supreme Court Act. Kindly process, stamp, and docket this instrument immediately to preserve the acta curiae and permit mandatory service upon all Prescribed Parties. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Print Submission Sheet

Print Receipt

Documents | **Payment Status**

Document Type	File Name	Translation	Status	Scheduling	Document Upload State	Actions
Application - Division-General	NOA Form 4 - Recon - s 43 COAA KAMBAJDCIM - 14-Oct-26 - Filed.pdf	No	Submitted		Complete	View Withdraw

Return

BRITISH COLUMBIA

You are logged on as KEVIN MCLEAN

Log Off

Receipt

You have successfully submitted your filing package to the registry.

Package Number:	4414413
Submitted By:	MCLEAN, KEVIN A.
Your file number:	
Court File Number:	CA51536
Submitted to:	BC Court of Appeal
Submitted Date:	14Oct2026
Filing Comments:	Please accept this formal filing note accompanying the transmission of the Applicant Party's Form 4 Notice of Application, promulgated pursuant to Section 43(1) of the Court of Appeal Act (COAA) following the release of 2026 BCCA 406. This instrument invokes the explicit statutory jurisdiction of "A" division of the court to amend an order made by "THE" division to provide for matters that should have been, but were not, adjudicated—specifically encompassing the unadjudicated strike application against the unauthorized "Joint Response Book [Sic]," the timely Rule 63 review, and the constitutional invalidity of extra-statutory filing embargoes. As detailed within the pleadings, the closing administrative language of 2026 BCCA 406 cannot extinguish an express statutory reopening mechanism under Section 43(1). Furthermore, because this filing is procedurally compliant and the Applicant Party formally and forcefully INSISTS upon its docketing, the Registry is strictly bound by R. v. Verma, 2016 BCCA 307 at para. 20. The Registry possesses zero discretion to reject, discard, or embargo this filing. Continued refusal operates as a breach of the open court principle, ss. 2(b), 7, and 15 of the Charter, and the Constitution Act, 1867, while crystalizing a final judgment under the Supreme Court Act. Kindly process, stamp, and docket this instrument immediately to preserve the acta curiae and permit mandatory service upon all Prescribed Parties. Respectfully submitted, Mr. Kevin A. McLean (BA, JD, CIM) Applicant Party

Progress

- Step 1: Identification
- Step 2: Access
- Step 3: Documents
- Step 4: Parties
- Step 5: Request Access (for Restricted Files)
- Step 6: Review Package
- Submitted

Fees

#	Document Description	Translation	Upload State	Statutory Fee

1	Application - Division-General	No	Complete	$80.00
			Subtotal:	$80.00
			CSO Fee:	$7.00
			Total Fees:	**$87.00**

Print Submission Sheet Print Receipt View Filing Package

Done

BRITISH COLUMBIA

Court Services Online

RECEIPT

Package ID:4414413

Account ID:71252

Client ID:122957

Date: October 14, 2026

KEVIN MCLEAN

,

Transaction Summary

Court Case File #: COA-A-O-CA51536

Client File #:

Transaction		Submitted Amount	Processed Amount	Transaction ID	Invoice Number	Transaction/ Initiated Date
Package Submission Fee	Payment	$ 7.00	$ 7.00	130767218	1515961236	Oct 14, 2026
		Total:	$ 7.00			

This is your official receipt. Please keep a copy for your records.

Ministry of Attorney General
Court Services Online
Submission Sheet

Court File #: CA51536
Cross Reference #: Not Provided
Package ID: 4414413
Date Submitted: 14-OCT-2026 10:10 am

Submitted By: KEVIN MCLEAN
Client ID: 122957
Account ID: 71252
KEVIN MCLEAN

Document Summary

#	Document Description	Doc Init	Filing Status	Status Date	Payment Status	Fee Exempt	Fee Submitted	Fee Collected
1	Application - Division-General	N	Submitted	14-OCT-2026	Not Processed	N	$ 80.00	

Transaction Summary

Transaction		Submitted Amount	Processed Amount	ID	Date	Invoice #	Approval Code
Package Submission Fee	Payment	$ 0.00	$ 7.00	130767218	14-OCT-2026 10:10 AM	1515961236	00540G
		Total:	$ 7.00				

Parties

Surname/Organization	Given 1	Given 2	Given 3	Case Role

TAB 27

BRITISH COLUMBIA

Court Services Online **Registry Notice**

Package ID:	**4414413**	**Submission Date:**	**October 14, 2026**
Account ID:	71252		KEVIN MCLEAN
Client ID:	122957		'

Court Case File #: COA-A-O-CA51536 Client File #:

Documents:

1	Application - Division- Gener	Rejected

Registry Reasons:

Reason 1: Other 14-OCT-2026

Reasons were released this morning on 14OCT2026. See 2026 BCCA 406. Any further recourse can be brought to the Supreme Court of Canada.

vn

Please keep a copy of this report for your records.

TAB 28

VANCOUVER
17-Sep-26
COURT OF APPEAL
REGISTRY

IN THE COURT OF APPEAL FOR BRITISH COLUMBIA

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA, TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA, and KEVIN WESTELL

(Appellants / Plaintiffs)

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, and LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

(Respondents / Defendants)

BOOK OF AUTHORITIES OF APPLICANT PARTY FOR APPLICANT PARTY'S FORM 8 AND APPLICATION BOOK

Appellants (LSBC & TLABC)	Respondents (AGBC & LGIC)
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Party pursuant to Rule 64 of the *Court of Appeal Rules* (defined herein as “Applicant Party”)

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