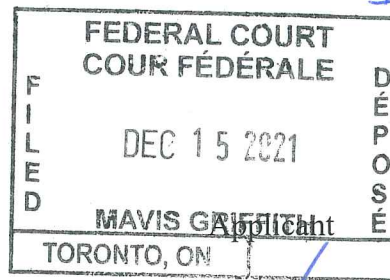


FEDERAL COURT

BETWEEN:

BAYER INC.



- and -

THE MINISTER OF HEALTH and
THE ATTORNEY GENERAL OF CANADA

Respondents

NOTICE OF APPLICATION

TO THE RESPONDENTS

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

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

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

Mavis Griffith
Senior Registry Officer
Agent principal du greffe

Date December 15, 2021

Issued by

(Registry Officer)

Address of

local office: 180 Queen Street West, Suite 200
Toronto, Ontario
M5V 3L6

TO: THE ADMINISTRATOR
Federal Court
Suite 200, 180 Queen Street West
Toronto, Ontario
M5V 3L6

AND TO: THE MINISTER OF HEALTH
1620 Scott Street
Holland Cross Mall, Unit 14
Ottawa, ON
K1A 0L2

(service to be effected by filing duplicate
copies in the Registry pursuant to Rule 133
and Section 48 of the Federal Courts Act)

Respondent

AND TO: THE MINISTER OF HEALTH
c/o Access to Information and Privacy Division
7th Floor, Suite 700, Holland Cross - Tower B
1600 Scott Street, (Mail Stop: 3107A)
Ottawa, Ontario K1A OK9

AND TO: THE ATTORNEY GENERAL OF CANADA
Ontario Regional Office
Department of Justice Canada
120 Adelaide Street West, Suite 400
Toronto, ON M5H 1T1

(service to be effected by filing duplicate
copies in the Registry pursuant to Rule 133
and Section 48 of the Federal Courts Act)

Respondent

AND TO: THE INFORMATION COMMISSIONER OF CANADA
30 Victoria Street
Gatineau, Québec K1A 1H3

APPLICATION

TAKE NOTICE THAT the applicant, Bayer Inc., will make an application for judicial review under section 44 of the *Access to Information Act* (the “Act”) in respect of the decision of the Minister of Health, by his delegate, dated November 25, 2021 and bearing file number A-2018-001052 / MR1, to disclose third party information belonging to the applicant (the “Confidential Information”) contained in a particular record, pursuant to a request under the Act, in Toronto on a day and time to be set by the Court.

THE APPLICANT MAKES APPLICATION FOR:

- (a) a declaration that the Minister of Health erred and/or acted contrary to law by deciding to disclose the Confidential Information;
- (b) an order pursuant to section 51 of the Act prohibiting the Minister from disclosing the Confidential Information;
- (c) an interim order under s. 18.2 of the *Federal Courts Act* and Rule 151 of the *Federal Courts Rules* preserving the confidentiality of the Confidential Information in this proceeding;
- (d) an order granting the applicant its costs of this application; and
- (e) such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE APPLICATION ARE:

1. The Minister committed a reviewable error in deciding to disclose the Confidential Information even though it contains financial, commercial, scientific or technical information that is confidential information supplied to the Minister by the applicant and is treated consistently in a confidential manner by the applicant.

2. The Minister committed a reviewable error in deciding to disclose the Confidential Information even though it contains information the disclosure of which could reasonably be expected to result in material financial loss or gain to, or could reasonably be expected to prejudice, the competitive position of the applicant.
3. Sections 2, 3, 6, 20, 24, 25, 27, 28, 41 to 51, 53 and 62 of the *Act*.
4. *The Federal Courts Act* and *Federal Courts Rules*, including rules 151 and 152.
5. Such other grounds as counsel may advise and this Honourable Court may permit.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- (a) The decision of the Minister of Health, by his delegate, dated November 25, 2021 and bearing file number A-2018-001052 / MR1;
- (b) The confidential affidavits of one or more individuals; and
- (c) Such further and other materials as counsel may advise and this Honourable Court permit.



December 15, 2021

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