

FEDERAL COURT OF APPEAL

BETWEEN:

**THE HONOURABLE A. BRIAN PECKFORD, LEESHA NIKKANEN, KEN BAIGENT,
DREW BELOBABA, NATALIE GRCIC, AND AEDAN MACDONALD**

Appellants

and

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPEAL

FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE	
F I L E D	21-NOV-2022
	Kathleen Harrill
CALGARY, AB	
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Allison Kindle Pejovic and Eva Chipiuk

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*Counsel for the Appellants,
The Honourable A. Brian Peckford et al*

NOTICE OF APPEAL

TO THE RESPONDENT:

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

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Appellants. The Appellants request that this appeal be heard at Ottawa.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the Appellants' solicitors WITHIN 10 DAYS after being served with this Notice of Appeal.

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

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

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

November 21, 2022

Issued by: _____
(Registry Officer)

ORIGINAL SIGNED BY
KATHLEEN HARRILL
A SIGNÉ L'ORIGINAL

Address of Local office:
Canadian Occidental Tower
635 Eighth Avenue SW
3rd Floor, P.O. Box 14
Calgary, Alberta T2P 3M3

<p>I HEREBY CERTIFY that the above document is a true copy of the original filed in the Court on / and dated</p> <p>KATHLEEN HARRILL / REGISTRY OFFICER</p>

TO: ATTORNEY GENERAL OF CANADA
Deputy Attorney General of Canada
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Tel: 613-957-4998
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Counsel for the Respondent

APPEAL

THE APPELLANTS APPEAL to the Federal Court of Appeal from the order of Associate Chief Justice Jocelyne Gagné dated October 20, 2022, Federal Court File Numbers T-145-22, T-247-22, T-168-22, and T-1991-21, by which she granted the Respondent's motion to strike the Appellants' Application for judicial review.

THE APPELLANTS ASK that this Honourable Court:

- a) Order that the decision of Associate Chief Justice Gagné dated October 20, 2022, be set aside;
- b) Order that the Application proceed to a hearing on the merits; and
- c) Make any other Order that this Honourable Court considers fair and appropriate.

THE GROUNDS OF APPEAL are as follows:

- 1. The Learned Application Judge erred in failing to exercise her discretion to hear the merits of the judicial review application.
- 2. The Learned Application judge erred in her determination that judicial economy considerations outweighed the important public interest and uncertainty in the law:
 - a. The Learned Application Judge erred in failing to recognize the appropriateness of devoting judicial resources to adjudicating inherently temporary matters such as the Ministerial Orders/Interim Orders;
 - b. The Learned Application Judge erred in failing to find that the Minister's threat to re-implement the mandatory vaccine requirement weighed heavily in favour of hearing the application as a matter of public interest; and
 - c. The Learned Application Judge erred in failing to find that there was a significant public interest in determining the constitutionality of prohibiting millions of Canadians from travelling overseas or across Canada in any practical manner.
- 3. The Learned Application judge erred in her finding that the Ministerial Orders/Interim Orders are not evasive of judicial review.
- 4. *Federal Courts Act*, R.S.C., 1985, c. F-7, Sections 27(1), 57.
- 5. *Federal Court Rules*, SOR/98-106, Part 6.

6. Such further and other grounds as the Appellants may advise and this Honourable Court may permit.
7. The Appellants propose that this Appeal be heard in the City of Ottawa, in the Province of Ontario.



November 21, 2022

Allison Kindle Pejovic and Eva Chipiuk
Counsel for the Appellants,
The Honourable A. Brian Peckford et al.

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