



Appeal Court File No. A-31-23

Federal Court File No. T-1324-20

FEDERAL COURT OF APPEAL

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DEMOCRACY WATCH AND DUFF CONACHER

FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE	
FILED	08-feb-2023
	Appellant (Applicant)
TORONTO, ON	1

and

ATTORNEY GENERAL OF CANADA

Respondent
(Respondent)

NOTICE OF APPEAL

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant 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 directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at (*place where Federal Court of Appeal (or Federal Court) ordinarily sits*).

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 appellant's solicitor or, if the appellant is self-represented, on the appellant, 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.

Date: February 8, 2023

Issued by: 'Jacqueline Smith'

Address of local office:

Registries of the Federal Courts
180 Queen Street West
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Toronto, ON M5V 3L6

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APPEAL

THE APPELLANTS, Democracy Watch and Duff Conacher, appeal to the Federal Court of Appeal from the Order of the Honourable Mr. Justice Southcott dated January 9, 2023, by which he dismissed the Appellants' judicial review.

THE APPELLANTS ASK that:

1. The appeal be allowed;
2. This Court order that the Appointments System and Promotions System are unconstitutional; and
3. Such further and other relief as this Honourable Court deems just.

THE GROUNDS OF APPEAL are as follows:

1. Southcott J. erred in holding that:
 - a. Exhibits D, E, F, G, H, I, J, N, O, S, T, U, V, Z, and BB of the First Conacher Affidavit;
 - b. Exhibit A, B, and F of the Second Conacher Affidavit;
 - c. Paragraphs 14, 15, 16, 17, 18, 19, 20, 21 (first clause of first sentence), 23, 26, 30 and the last sentence of paragraph 31 of the First Conacher Affidavit; and
 - d. Paragraph 2 of the Second Conacher Affidavit

should not be admitted under the principled exception to the hearsay rule. All of the impugned evidence is both reliable and necessary, and should have been admitted;

2. Southcott J. erred in holding that evidence of efforts to obtain direct evidence was required to show that the impugned hearsay evidence was necessary;
3. Southcott J. erred in holding that:
 - a. Exhibits P, Q, R, W, Y and AA of the First Conacher Affidavit

b. Paragraphs 24, 25, 27, 29 and the last sentence of paragraph 31, and

c. the first two sentences of paragraph 28

were inadmissible opinion evidence.

4. Southcott J. erred in holding that the judicial Appointments System and Promotions System are constitutional and do not violate:

a. the principles of judicial independence and/or the rule of law;

b. Section 96 of the Constitution Act, 1867 (the “Constitution”);

c. Section 7 of the Constitution Act, 1982 and the Canadian Charter of Rights and Freedoms (collectively the “Charter”);

d. Subsection 11(d) of the Charter; and/or

e. Subsection 24(1) of the Charter,

despite finding that the Minister of Justice and Governor in Council (GIC’s) exercise essentially unrestricted discretion in the systems without the public having access to any record of the Minister’s and GIC’s decisions.

5. *Judges Act*, R.S.C., 1985, c. J-1;

6. *Constitution Act*, 1867;

7. *Constitution Act*, 1982;

8. *Federal Courts Act*, R.S.C., 1985, c. F-7;

9. *Federal Court Rules*, 1998, SORJ98-106; and

10. Such further and other grounds as counsel may advise and this Honourable Court may permit.

February 7, 2023



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Lawyers for the Appellants

DEMOCRACY WATCH and DUFF CONACHER
Applicant

vs

ATTORNEY GENERAL OF CANADA
Respondent

Court File No.

FEDERAL COURT OF APPEAL
PROCEEDING COMMENCED AT
TORONTO

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