

10#5

FEDERAL COURT

|            |                                |        |
|------------|--------------------------------|--------|
| FILED      | FEDERAL COURT<br>COUR FÉDÉRALE | DEPOSE |
|            | MAY 08 2024                    |        |
|            | C. MARTIN                      |        |
| OTTAWA, ON |                                | 3      |

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

~~RESPONDENT(S) TO BE NAMED BY THE COURT PURSUANT TO SECTION 38.04(5) OF THE CANADA EVIDENCE ACT~~

A.B., C.D., E.F., G.H., and K.L.

Respondents

APPLICATION UNDER SUBSECTION 38.04(1) OF THE CANADA EVIDENCE ACT

AMENDED NOTICE OF APPLICATION

TO THE RESPONDENT(S):

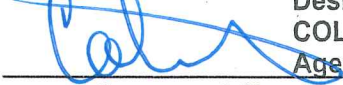
A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears below.

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 the hearing will be as requested by the Applicant. The Applicant requests that this Application be heard at Ottawa.

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 prepare 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, JUDGEMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

Date:                     MAY 08 2024                     Issued by:                                          Designated Registry Officer  
COLINNE MARTIN  
Agente du greffe désignée  
                    MAY 08 2024                      
(Registry Officer)  
Amended:                     ,2024                    

**TO:**            A.B., C.D., E.F., G.H., and K.L.  
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## APPLICATION

**THIS IS AN APPLICATION** under ss. 38.04(1) of the *Canada Evidence Act*, RSC 1985, c C-5 (CEA), for an order regarding disclosure of information referred to in notices under ss. 38.01(1) of the CEA that were provided to the Attorney General of Canada (AGC) on February 7, 2024 and March 28, 2024. In the notices, counsel in the National Litigation Sector of the Department of Justice advised that they are required to disclose sensitive or potentially injurious information in a judicial review commenced under s. 72(1) of the *Immigration and Refugee Protection Act* against the Minister of Citizenship and Immigration and the Minister of Foreign Affairs before the Federal Court in Court File No.: IMM-8945-22 (the Underlying Proceeding).

### THE APPLICANT MAKES APPLICATION FOR:

- (a) An order under ss. 38.06(3) of the CEA confirming the prohibition of disclosure of the information referred to in the notices, except as previously authorized by the AGC under ss. 38.03(1) of the CEA; and
- (b) Such further and other relief as the Applicant may request and the Court deems just.

### THE GROUNDS FOR THE APPLICATION ARE:

- (a) On September 8, 2023, an Application for Leave and Judicial Review was commenced with respect to the alleged failure to issue temporary resident permits under s. 24(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA) to the applicants in that proceeding.

- (b) On February 7, 2024, counsel in the National Litigation Sector of the Department of Justice provided notice to the AGC under subsection 38.01(1) of the CEA, stating that he believed that sensitive or potentially injurious information may be disclosed in connection with the Underlying Proceeding;
- (c) March 28, 2024, counsel in the National Litigation Sector of the Department of Justice sent a second notice under subsection 38.01(1) of the CEA, stating that he believed that sensitive or potentially injurious information may be disclosed in one additional document that was required to be disclosed in the Underlying Proceeding;
- (d) The AGC, through his delegate, did not authorize the disclosure of information contained in the documents that were the subject of both of the notices;
- (e) Disclosure of the information in question would be injurious to national security or international relations;
- (f) The public interest in non-disclosure outweighs the public interest in disclosure;
- (g) The AGC may receive future notices pursuant to s. 38 of the CEA covering additional documents in connection with the Underlying Proceeding that will become part of this application; and
- (h) Further and other grounds as the Applicant may advise and this Honourable Court may permit.

**THE ATTORNEY GENERAL MAKES THE FOLLOWING REPRESENTATIONS  
UNDER SUBSECTION 38.04(5) OF THE CEA:**

- (a) A.B., C.D., E.F., G.H., and K.L. are parties whose interests are affected by the information contained in the documents subject to these proceedings and must be named as Respondents;
- (b) A.B., C.D., E.F., G.H., and K.L. benefit from an anonymization order in the Underlying Proceeding and cannot be identified by their names;
- (c) A copy of the Notice of Application, amended to include A.B., C.D., E.F., G.H., and K.L. as Respondents, should be served on A.B., C.D., E.F., G.H., and K.L. or their counsel in the Underlying Proceeding;
- (d) The Notice of Application must remain confidential until it is amended to name A.B., C.D., E.F., G.H., and K.L. as the Respondents;
- (e) A hearing under paragraphs 38.04(5)(a) or (a.2) of the CEA is not required;
- (f) A public hearing may be necessary;
- (g) An *ex parte, in camera* hearing will be necessary;
- (h) This application should be conducted as a specially managed proceeding; and
- (i) Further and other grounds as the Applicant may advise and this Honourable Court may permit.

**THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:**

- (a) Amended Notice of Application; and
- (b) Affidavits and other material as counsel may advise and this Honourable Court may permit.

Date: May 8, 2024



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**ATTORNEY GENERAL OF CANADA**

Department of Justice Canada

National Security Group

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**Per: Michelle Lutfy**

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Counsel for the Attorney General of Canada