

Court File No.: DES- 5 -24

FEDERAL COURT

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

**RESPONDENT(S) TO BE NAMED BY THE COURT PURUANT TO
SUBSECTION 38.04(5) OF THE CANADA EVIDENCE ACT**

104

WILLIAM ROBERT MAJCHER

and

THE DIRECTOR OF PUBLIC PROSECUTIONS

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| F I L E D | FEDERAL COURT COUR FÉDÉRALE | | D É P O S É |
| | MAY 06 2024 Carla Kessard Victoria Bell | | |
| OTTAWA, ON | | - 3 - | |

Respondents

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

AMENDED NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU 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 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 file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor **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.

Date: _____ *Issued*
by: _____
(Registry Officer)

Amended: _____, 2024

TO: **Louis Belleau**
1940-500 Place d'Armes
Montreal, Quebec
H2Y 2W2
Counsel for William Rober Majcher

AND TO: **THE DIRECTOR OF PUBLIC PROSECUTIONS**
160 Elgin Street- 12th Floor
Ottawa, Ontario
K1A 0H8

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 a notice under ss. 38.01(1) of the *CEA* that was provided to the Attorney General of Canada (AGC) on February 14, 2024. In the notice, counsel for the Public Prosecution Service of Canada advised that they are required to disclose sensitive or potentially injurious information in criminal proceedings against William Robert Majcher before the Court of Quebec (Court File: 505-73-000628-235) (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 notice, 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 July 20, 2023, charges were laid against Mr. William Robert Majcher pursuant to ss. 22 (1)b, 22(2) and 23 of the *Security of Information Act*, RCS 1985 c O-5;
- b) On February 14, 2024, counsel for the Public Prosecution Service of Canada provided notice to the AGC under subsection 38.01(1) of the *CEA*, stating that she believed that sensitive or potentially injurious information may be disclosed in connection with the criminal proceedings against Mr. Majcher. The notice is with respect to 46 documents;
- c) On February 15, 2024, the AGC authorized disclosure of the fact that notice had been given;
- d) On February 20, 2024, the AGC, through his delegate, did not authorize the disclosure of information contained in all 46 documents that were the subject of the notice;
- e) Disclosure of the information in question would be injurious to national security;

- f) The public interest in non-disclosure outweighs the public interest in disclosure;
- g) The charges against Mr. Majcher are set for trial for nine days commencing October 15, 2024. The next case management date in the Underlying Proceeding is set for June 6, 2024;
- h) 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
- i) Further and other grounds as the Applicant may advise and this Honourable Court may permit.

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

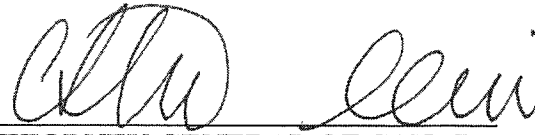
- a) Mr. William Robert Majcher and the Director of Public Prosecutions are parties whose interests are affected by the information contained in the documents subject to these proceedings and must be named as Respondents;
- b) A copy of the Notice of Application, amended to include Mr. Majcher and the Director of Public Prosecutions as Respondents, should be served on Mr. Majcher and the Director of Public Prosecutions;
- c) The Notice of Application must remain confidential until it is amended to name Mr. Majcher and the Director of Public Prosecutions as the Respondents, and is served on Mr. Majcher or his counsel and on the Director of Public Prosecutions;
- d) A hearing under paragraphs 38.04(5)(a) or (a.2) of the CEA is not required;
- e) A public hearing may be necessary;
- f) An *ex parte in camera* hearing will be necessary; and
- g) Further and other grounds as the Applicant may advise and this Honourable Court may permit.

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

- a) The Amended Notice of Application; and

- b) Affidavits and other material as counsel may advise and this Honourable Court may permit.

Date: May 03, 2024



ATTORNEY GENERAL OF CANADA

Department of Justice Canada

National Security Group

284 Wellington Street, Ottawa, ON, K1A 0H8

Fax: 613-941-4063

Per: Christine Arcari

Tel: 613-952-5034

E-mail: christine.arcari@justice.gc.ca

Per: Andre Seguin

Tel: 613-957-3487

E-mail: andre.seguin@justice.gc.ca

Counsel for the Applicant

