



Case no.: ~~23-112~~
T-551-23

FEDERAL COURT

JOHN GREGORY, MARCIA CUNNINGHAM

Applicants

and

CANADA REVENUE AGENCY

Respondent *ID 7*

NOTICE OF APPLICATION

FEDERAL COURT COUR FÉDÉRALE		D É P O S É
F I L E D	MAR 20 2023 IAIN MCCANN	
TORONTO, ON		<i>7</i>

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicants. The relief claimed by the applicants 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 applicants. The applicants request that this application be heard at the Federal Court in Toronto.

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 applicants' solicitor, or where the applicants are self-represented, on the applicants, 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: MAR 20 2023

JACQUELINE SMITH
REGISTRY OFFICER

Issued by: _____

Address of local office: _____
180 Queen Street West 180, rue Queen Ouest
Suite 200 bureau 200
Toronto, Ontario Toronto, Ontario
M5V 3L6 M5V 3L6

TO:

Attorney General of Canada,
Department of Justice,
Ontario Regional Office,
120 Adelaide Street West,
Suite 400,
Toronto, Ontario M5H 1T1

APPLICATION

This is an application for judicial review in respect of:

- a decision made by the Canada Revenue Agency on July 22, 2021, denying the applicants' tax fairness application affecting the personal and business tax accounts of John Gregory and Marcia Cunningham, who operate a business partnership and are husband and wife.

The decision was communicated to the applicants on: August 3, 2021

The applicants make application for:

1. waiving interest and penalties for account number 710 305 368 from January 1, 2011 to the present
2. waiving interest and penalties for account number 620 154 708 for January 1, 2011 to the present
3. waiving interest and penalties for account number R123690802 for January 1, 2013 to the present

The grounds for the application are:

- the Canada Revenue Agency failed to implement the terms of the Minutes of Settlement, dated July 31, 2019, specifically section 4, which states, "in conducting the Independent Review, the Agency will consider any interdependent relationship between the Applicants that are asserted by the Applicants."
- the Court had already ruled in Case No. T-105-19 that all three of the applicants' accounts shall be viewed in one sitting.
- the CRA erred in its decision-making by not considering its own tax fairness directives regarding the extreme financial hardship of the applicants, specifically the applicants' inability to pay for accommodation over a protracted period.

- the actions of the CRA against the applicants constitute cruel and unusual treatment or punishment, seeing as the penalties and interest imposed by CRA over the past 20 years are “grossly disproportionate” to the actual amount of taxes owing by the Applicants
- the applicants’ financial hardship continues to the current day. The applicants are seniors whose combined income in 2021 was below the threshold of \$27,552 to allow for Guaranteed Income Support.

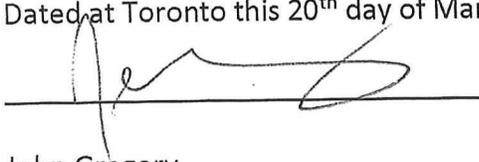
This application will be supported by the following material:

- the Minutes of Settlement, dated July 31, 2019, between the applicants and CRA
- financial statements indicating extreme financial hardship over a protracted period
- mortgage statements indicating inability to pay for accommodation
- a letter sent to the Minister of National Revenue and the Assistant Commissioner’s reply
- a response to the issues raised in the July 22, 2021 notice

The applicant requests the Taxpayer Relief Centre of Excellence to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the Appeals Branch to the applicant and to the Registry:

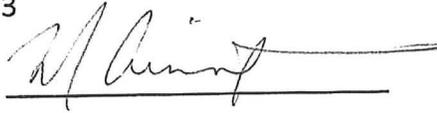
- notes or considerations that apply to the 3rd review decision
- a financial statement of actual tax owed versus the added interest and penalties on all the applicants’ accounts since January 1, 2001
- a statement indicating when the balance of the account of Delia Patiten – account number 920-337-557 - was added to the applicants’ accounts and a financial statement indicating the actual tax owing versus the additional interest and penalties
- a statement indicating when or whether the applicants’ business account balance was added to their personal account balances

Dated at Toronto this 20th day of March 2023



Handwritten signature of John Gregory over a horizontal line.

John Gregory



Handwritten signature of Marcia Cunningham over a horizontal line.

Marcia Cunningham

The Applicants' names and address are:

John Gregory, Marcia Cunningham

57 Castle Frank Road, Toronto, Ontario M4W 2Z5

Cell no: (647) 272-7531

sgregory@cgced.com



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**DUPLICATE
DUPLICATA**

MAR 20 2023

TORONTO

I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the _____
day of _____ A.D. 20 _____
Dated this _____ day of _____ 20 _____

MAR 20 2023

MAR 20 2023

