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F I L E D	FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE November 29, 2023 29 novembre 2023 Federal Court of Appeal File No.: Federal Court File No.: T-905-20 Samantha Chojnacki
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Federal Court of Appeal File No.:
Federal Court File No.: T-905-20

FEDERAL COURT OF APPEAL

BETWEEN:

**JENNIFER EICHENBERG, DAVID BOT, LEONARD WALKER,
BURLINGTON RIFLE AND REVOLVER CLUB, MONTREAL FIREARMS
RECREATION CENTRE, INC., O'DELL ENGINEERING LTD.**

Appellants

and

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPEAL

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Appellants. The relief claimed by the Appellants appear 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 Appellants request that this appeal be heard at Ottawa, Ontario.

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 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: November 29, 2023

Issued by:

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AND COPIES TO: Counsel in related matters T-569-20, T-577-20, T-581-20, T-677-20, T-735-20

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Self-Represented Parties

Applicants in T-735-20

APPEAL

THE APPELLANTS, Jennifer Eichenberg, David Bot, Leonard Walker, Burlington Rifle and Revolver Club, Montreal Firearms Recreation Centre, Inc., and O'Dell Engineering Ltd., APPEAL to the Federal Court of Appeal from the Judgment of Justice Kane dated October 30, 2023 in Federal Court No. T-905-20 by which the Judge rendered a judgment that:

- 1) The Applications are dismissed.
- 2) The Attorney General of Canada did not seek costs and no costs are ordered.

THE APPELLANTS ASK that:

1. The part of the judgment dismissing the Applications be set aside and that the Appellants' Application for Judicial Review be granted;
2. Costs of the within appeal be awarded to the Appellants; and
3. Such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS OF APPEAL are as follows:

1. The learned Judge erred in finding that the May 1, 2020 *Regulations Amending the Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited, Restricted, or Non-Restricted*, SOR/2020-96 ("Regulations") are not *ultra vires* the *Criminal Code* and that the Governor in Council's opinion and decision was reasonable.
2. The learned Judge erred in finding that the Governor in Council did not unlawfully sub-delegate its authority to prescribe firearms as prohibited.
3. The learned Judge erred in refusing to draw an adverse inference from the Attorney General of Canada's assertion of Cabinet confidence and failure to produce the record before the Governor in Council.
4. Such further and other grounds as counsel may advise and this Honourable Court deems just.

THE APPELLANTS INTEND TO RELY on the following statutory provisions and rules, together with such further and other statutory provisions and rules as counsel may advise and this Honourable Court permit:

1. *Federal Courts Act*, RSC 1985, c F-7, s. 27
2. *Federal Courts Rules*, SOR/98-106
3. *Criminal Code*, RSC 1985, c C-46, ss. 84, 117.15
4. *Firearms Act*, SC 1995, c 39
5. *Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited, Restricted or Non-Restricted*, SOR/98-462
6. *Regulations Amending the Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited, Restricted, or Non-Restricted*, SOR/2020-96
7. *Canada Evidence Act*, RSC 1985, c C-5, s. 39

Date: November 29, 2023

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