A-95-23

FEDERAL COURT OF APPEAL

BETWEEN :

ATTORNEY GENERAL OF CANADA

Appellant

And

GILBERT DOMINIQUE (on behalf of the members of the Pekuakamiulnuatsh Takuhikan First Nation)
and
CANADIAN HUMAN RIGHTS COMMISSION

Respondents

MOTION RECORD OF THE ATTORNEY GENERAL OF CANADA
(In response to the Motion for Leave to Intervene of the First Nations Child and Family Caring Society of Canada)
(Rules 109, 365 and 369 of the *Federal Courts Rules*)

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CANADIAN HUMAN RIGHTS COMMISSION

Respondents

WRITTEN REPRESENTATIONS
OF THE ATTORNEY GENERAL OF CANADA
(In response to the Motion for Leave to Intervene of the First Nations Child and Family Caring Society of Canada)
(Rules 109, 365 and 369 of the *Federal Courts Rules*)

OVERVIEW

1. The First Nations Child and Family Caring Society of Canada ("Caring Society") does not meet the test for intervention under Rule 109 of the *Federal Courts Rules* ("Rules"). It is not « directly affected » by the outcome of this appeal and, while it may have an interest in the development of the caselaw on human rights principles, it does not have a « genuine interest » as defined by the jurisprudence of this Court. This Court has determined that such an interest is insufficient to justify an intervention.

2. Further, the Caring Society's proposed submissions overlap to a large extent with the arguments made by the Respondents. The Caring Society does not advance arguments and perspectives that are fundamentally unique and different from the

Respondents. As such, the Caring Society does not meet the test for intervention applied by this Court.

3. The Attorney General of Canada ("Canada") acknowledges the role of the Caring Society in human rights litigation relating to the funding of child and family services for First Nations children, youth and families, including before this Court.

4. However, granting a party intervener status to participate in a hearing to which they are not a party is exceptional. Given that the Caring Society cannot establish a "genuine interest" in the appeal beyond a jurisprudential interest, and that its proposed submissions will not further assist the Court with the determination of the issues in this proceeding, the proposed intervention should be dismissed.

5. However, should the Court be of the view that the intervention should be granted, Canada proposes that the intervention be subject to more limited terms with a view among others to avoiding any overlap in the arguments as between the proposed intervener and the Respondents.

PART I : STATEMENT OF FACTS

1. Context of the appeal

6. It is useful to set out the context of this appeal before addressing the merits of the Caring Society's motion.

7. This appeal stems from a complaint filed with the Commission by Chief Gilbert Dominique, on behalf of the members of the Pekuakamiulnuatsh Takuhikan First Nation ("First Nation"), regarding adverse treatment by Public Safety Canada in the provision of a service arising out of the implementation of the *First Nations Policing Policy* ("Policy") and the *First Nations and Inuit Policing Program* ("Program"), on the basis of race and national or ethnic origin under the *Canadian Human Rights Act* ("CHRA"), namely the funding of the First Nation's police service.[1]

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[1] *Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation) v. Public Safety Canada*, 2022 CHRT 4 [*Tribunal's decision*] at para 11 to 14.

8. The Policy was first established by the federal government in 1991 as the framework for the implementation of funding arrangements between the federal, provincial or territorial governments and First Nation and Inuit communities with the objective of supporting access to police services that are professional, effective, and culturally responsive to the First Nations and Inuit communities they serve across Canada.[2]

9. The Program is a funding vehicle by which the federal government implements the Policy. The Program's contributions are set out in tripartite (and occasionally quadripartite) arrangements among the federal government, provincial or territorial governments and First Nations and Inuit communities for the funding of police services. Financial contributions under Program agreements are shared with provinces and territories in accordance with a 52% federal and 48% provincial/territorial ratio.[3]

10. Indigenous police services across the country are constituted under powers contained in provincial legislation. To date, seven provinces, including Quebec, have adopted laws providing for the creation and maintenance of such Indigenous police forces on their territory.[4] In Quebec, the *Police Act* allows Indigenous communities to establish police forces by concluding agreements to this effect with the Quebec government.[5] In practice, the federal government is often a party to these agreements and contributes to the funding of Indigenous police forces, in accordance with the Policy and the Program.

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2 *Takuhikan c. Procureur général du Québec*, 2022 QCCA 1699, at para 10 and 11 [*Takuhikan*].

3 *Tribunal's decision, supra* note 1, at para 186.

4 *Police Act*, RSBC 1996, c 367, s 4.1 et 4.2 (British-Columbia); *Police Act*, RSA 2000, c P-17, s 33.1 à 33.3 (Alberta); *Police Act, 1990*, SS 1990-91, c P-15.01, s 24.1 (Saskatchewan); *The Police Services Act*, CCSM c P94.5, s 45 à 47 (Manitoba); *Police Services Act*, RSO 1990, c P.15, s 54 (Ontario); *Police Act*, CQLR c P-13.1, s 90-93 (Québec) [*Police Act*]; and *Police Act*, SNS 2004, c 31, s 5 (Nova-Scotia, at the moment there is no Indigenous Police in the province).

5 *Police Act*, s 90.

11. In 1996, the Quebec government authorized the establishment of an Indigenous police force on the territory of the First Nation. Since then, the government of Quebec, Canada and the First Nation have established and renewed agreements relating to the funding and the delivery of police services in the First Nation's community.[6] The complaint argues that Canada discriminated against the First Nation by failing to sufficiently fund the First Nation's operation of its police service through the tripartite agreements signed with the governments of Quebec and Canada since 1999.[7]

12. The Tribunal bifurcated the proceedings into two parts, considering first the merits of the discrimination complaint, and, if the claim is substantiated, addressing the remedies.[8]

13. On January 31, 2022, the Tribunal released its decision on the merits and upheld the discrimination complaint.[9]

14. The Tribunal held that the implementation of the Program had not entirely eliminated discrimination towards the First Nation and as such, did not achieve the objective of substantive equality.[10] The Tribunal was of the view that the Program did not allow for an assessment of the real needs of the community[11] and did not permit the First Nation to offer police coverage at a level equal to that offered by other non-Indigenous police forces in Quebec, namely level 1 as defined in the *Police Act*.[12] In its decision, the Tribunal notes that it does not matter whether a program was designed to confer a benefit – it must do so in a non-discriminatory manner.[13]

15. The Tribunal further stated that it is not necessary to carry out a comparative analysis in order to determine whether there is "substantive equality"; it must instead

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6 *Takuhikan*, *supra* note 2 at para 15; *Tribunal's decision, supra* note 1, at para 187 to 189.
7 *Tribunal's decision, supra* note 1, at para 12 to 14.
8 *Tribunal's decision, supra* note 1, at para 15.
9 *Tribunal's decision*, *supra* note 1, at para 390.
10 *Tribunal's decision, supra* note 1, at para 242, 326, 348-349 and 390-391.
11 *Tribunal's decision, supra* note 1, at para 341 and 348.
12 *Tribunal's decision, supra* note 1, at para 279 and 331.
13 *Tribunal's decision, supra* note 1, at para 310 and 349.

assess whether the impugned measure "makes the situation worse" for the target group.[14] However, the Tribunal goes on to say that the question is not, in fact, whether the situation of the community is worse today than it was before the implementation of the Program, but only "whether there is discrimination, period".[15] Although the Tribunal emphasized that "the foundations and broad principles [of the Program] are laudable and some of its elements are still favourable", it was of the view that "the [Program], in its application, does not fully correct the situation".[16]

16. On February 27, 2023, the Federal Court dismissed Canada's application for judicial review of the Tribunal's decision.[17] The First Nation and the Commission appeared as Respondents before the Federal Court.

17. On March 31, 2023, Canada filed an appeal of the Federal Court's decision as it appears from the Court's record and named Chief Gilbert Dominique (on behalf of the members of the First Nation) and the Commission as Respondents.

18. On July 17, 2023, Canada filed its memorandum of fact and law and argued, *inter alia*, that:

a. The Tribunal has adopted an erroneous approach to the concept of discrimination, which has the effect of imposing on the federal government a positive obligation to eliminate completely and without delay all the problems which the Policy is intended to address;[18]

b. The Tribunal ignored several important contextual factors going against its decision:

i. The Tribunal did not consider the First Nation's overall situation and the ameliorative effect of the measures adopted to date;[19]

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[14] *Tribunal's decision, supra* note 1, at para 315 to 321.
[15] *Tribunal's decision, supra* note 1, at para 326.
[16] *Tribunal's decision, supra* note 1, at para 348 and 349.
[17] *Canada (Attorney General) v. Pekuakamiulnuatsh First Nation*, 2023 FC 267.
[18] Canada's memorandum of fact and law, at para 67 to 77.
[19] Canada's memorandum of fact and law, at para 78 to 93.

ii. The Tribunal's abstract approach led it to refuse to consider relevant available evidence that could have allowed it to conduct a genuine comparative analysis for the purpose of determining whether the First Nation had been discriminated against;[20]

iii. The Tribunal failed to consider the essential nature of the Program as a voluntary contribution program that aims to strengthen and enhance the existing services provided by the province with respect to policing services for Indigenous communities, and not to replace them.[21]

19. The Respondents filed their memoranda of fact and law on August 30 and 31, 2023.

20. In its memorandum, the First Nation notably argued that[22]:

a. Canada misapplies the legal principles relating to discrimination complaints under section 5 of the CHRA which are distinct from those developed under section 15 of the *Charter*. The test for a discrimination complaint under section 5 of the CHRA follows a two-step analysis as established by the Supreme Court of Canada, which the Tribunal followed.

b. Canada is attempting to improvise an *ad hoc* defence based on principles relating to ameliorative programs that are not applicable here. The Program is not an ameliorative program and section 16 of the CHRA is not applicable. Moreover, Canada's arguments that the government can take gradual steps to address social inequalities should be dismissed as it would absolve Canada of discrimination as long as its conduct provides any positive effect.

c. Canada missates the CHRT's findings of fact and seeks a new assessment of the evidence. Canada incorrectly argues that the Program is only intended

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[20] Canada's memorandum of fact and law, at para 94 to 102.
[21] Canada's memorandum of fact and law, at para 103 to 109.
[22] First Nation's memorandum of fact and law, p. 23 to 33 at para 49 to 79.

to enhance policing services in Indigenous communities and not to replace the services offered by provincial police, which is contrary to expert opinion that it is preferable for a First Nation to have its own police service. Also, Canada's suggestion that the Court should consider the total amount of financial contributions made to the First Nation and the Program's recent annual funding increase is irrelevant to the determination of whether the funding met the First Nation's needs or the objectives of the Program.

21. For its part, the Commission submits in particular that[23]:

a. Canada in essence argues for a new test to establish *prima facie* evidence of discrimination. Canada is incorrectly conflating the analysis under the *Charter* with that under the CHRA and that the two legal frameworks have distinct analytical approaches for assessing discrimination. This Court should follow the traditional test established by the Supreme Court of Canada when assessing discrimination under human rights statutes.

b. The Program is not an ameliorative program as claimed by Canada. Rather, it serves as a means for Canada to fulfill its constitutional duties.

c. The focus of the case before the Tribunal was whether the Policy discriminates against the First Nation under the CHRA. This case is not about whether Canada needs to eliminate all social inequality but rather its obligation to provide a non-discriminatory service.

d. The Tribunal extensively examined the relationship between the constitutional and legal powers of the federal and provincial governments and reasonably concluded that the federal government has the freedom to define its role in providing police services on reserve. However, the federal government has chosen to delegate this responsibility to the provinces and

[23] Commission's memorandum of fact and law, p. 15 to 30, at para 51 to 91.

prioritize financial contributions to Indigenous police services rather than legislating in this matter.

e. There is no requirement for a comparator group to establish discrimination under the CHRA.

2. The proposed intervention by the Caring Society

22. If granted leave, the Caring Society intends to make submissions on Canada's "suggested approach to assessing the concept of discrimination perpetuated by a government respondent".[24] The Caring Society submits that the legal principles and analytical framework of section 15 of the *Charter* should be avoided when analyzing federal and provincial human rights legislation (and vice versa), where the principles in question are inconsistent with the purpose of human rights legislation. According to the Caring Society, "human rights legislation such as the CHRA imposes a high threshold of eradicating discrimination, and the goal of promoting equal opportunities". The Caring Society aims to highlight the difference between the two schemes.

23. Second, the Caring Society intends to argue that Canada erroneously relies on the separation of powers "as a means to evade the federal government's obligations to eliminate discrimination pursuant to the CHRA".[25] According to the Caring Society, the principle of separation of powers "does not preclude the Tribunal from recognizing the federal government's positive obligations" and Canada "cannot delegate responsibility for discrimination to another party such as a province or territory".

PART II : POINTS IN ISSUE

24. Should the Caring Society be granted leave to intervene in the appeal and, if so, on what terms?

25. Canada submits that the Caring Society does not meet the test for intervention under Rule 109 of the *Federal Courts Rules* as applied by this Court.

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[24] Caring Society's motion record, p. 99-101, Written Representations, at para 30-31.
[25] Caring Society's motion record, p. 101-102, Written Representations, at para 31.

26. Alternatively, should the Court be of the view that the intervention should be granted, Canada proposes that the intervention be subject to more limited terms with a view among others to avoiding any overlap in the arguments as between the proposed intervener and the Respondents.

PART III : STATEMENT OF SUBMISSIONS

1. The test for intervention as applied by this Court

27. The Court retains the authority and discretion to grant leave to any person to intervene in a proceeding if it demonstrates its participation "will assist in the determination of a factual or legal issue related to the proceeding".[26]

28. In *Rothmans*[27], this Court articulated six important factors to consider before granting leave to a party to intervene in a matter to which they are not a party: a) Is the proposed intervenor directly affected by the outcome? b) Does there exist a justiciable issue and a veritable public interest? c) Is there an apparent lack of other reasonable or efficient means to submit the question to the Court? d) Is the position of the proposed intervener adequately defended by one of the parties to the case? e) Are the interests of justice better served by the intervention of the proposed third party? And f) Can the Court hear and decide the case on its merits without the proposed intervener?

29. More recently, the Court has focused on three of those elements: the usefulness of the proposed intervention; the Applicant's interest; and, the interests of justice. In *Canadian Council for Refugees*, the test was stated as follows:

> a. The proposed intervener will make different and useful submissions, insights and perspectives that will further the Court's determination of the legal issues raised by the parties to the proceeding, not new issues. To determine usefulness, four questions need to be asked:
>
> i. What issues have the parties raised?

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[26] *Federal Courts Rules*, SOR-98/106, r. 109(2)(b).

[27] *Rothmans, Benson & Hedges Inc. v. Canada (Attorney General)(C.A)*, 1989 CanLII 9432 (FCA), [1990] 1 F.C. 90.

ii. What does the proposed intervener intend to submit concerning those issues?

iii. Are the proposed intervener's submissions doomed to fail?

iv. Will the proposed intervener's arguable submissions assist the determination of the actual, real issues in the proceeding?

b. The proposed intervener must have a genuine interest in the matter before the Court such that the Court can be assured that the proposed intervener has the necessary knowledge, skills and resources and will dedicate them to the matter before the Court;

c. It is in the interests of justice that intervention be permitted. [28]

30. This test must be applied with flexibility as different cases will highlight different criteria based on their unique circumstances.[29] However, at its core, an intervener must bring different submissions, insights and perspectives that will further inform the Court's determination of the legal issues raised by the parties to the proceeding.[30]

31. The Federal Court test for granting leave to intervene is restrictive. This Court very recently confirmed that it rarely grants leave to intervene as the test for granting an intervention is more restrictive before this Court than before other Courts, including the Supreme Court of Canada.[31]

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[28] *Canada (Citizenship and Immigration) v. Canadian Council for Refugees*, 2021 FCA 13, at para 6 [*Canadian Council for Refugees*]. See also *Rothmans, Benson & Hedges Inc. v. Canada (Attorney General)(C.A)*, 1989 CanLII 9432 (FCA), [1990] 1 F.C. 90; *Métis National Council and Manitoba Metis Federation Inc. v. Varley*, 2022 FCA 110; *Gordillo v. Canada (Attorney General)*, 2022 FCA 23; *Whapmagoostui First Nation v. McLean*, 2019 FCA 187; and *Sport Maska Inc. v. Bauer Hockey Corp.*, 2016 FCA 44, [2016] 4 F.C.R. 3 [*Sport Maska*].

[29] *Sport Maska*, supra note 28, at para 42. See also *Alliance for Equality of Blind Canadians v. Canada (Attorney General)*, 2022 FCA 131, at para 16.

[30] *Macciacchera (Smoothstreams.tv) v. Bell Media Inc.*, 2023 FCA 180, at para 20.

[31] *Municipalité de Chelsea c. Procureur général du Canada*, 2023 CAF 179, at para 4.

2. The proposed intervention does not meet the test for intervention

a) The interest criteria

32. First, addressing the applicable criteria in the order in which they are dealt with by the applicant, the Caring Society has not demonstrated that it has the required interest in this case. It is not "directly affected" by the matter and does not have a "genuine interest" in these proceedings that is sufficient to justify that the intervention be granted.

33. The Caring Society contends that the ramifications of this Court's decision are not limited to the present appeal and that it, along with other larger groups, "will be affected by how the Tribunal analyzes complaints and interprets the CHRA", including in the advocacy role that it will be able to play in the future.[32]

34. That is true of all legal cases. The Caring Society's interest in the matter amounts to a jurisprudential interest in the development of the caselaw. Such an interest has been found to be insufficient to allow organizations to intervene before this Court.[33]

35. Most of the appeals before this Court will have legal ramifications that go beyond the immediate interests of the involved parties. Granting an intervention on this basis would confer an interest to intervene to a vast multitude of parties. For example, in *Right to Life Association of Toronto and Area*, this Court refused to authorize three moving parties to intervene as they were no different than "hundreds of other organizations" who might be affected by the Court's decision.[34]

b) The usefulness criteria

36. Second, the Caring Society's arguments will not be useful to this Court's determinations.

37. The Caring Society will not advance arguments, nor bring a perspective to this appeal, fundamentally unique and different from the Respondents' arguments; the submissions are aligned and largely echo the arguments that the Respondents advance on their own. This does not meet the necessary threshold of usefulness.

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[32] Caring Society's motion record, p. 103, Written Representations, at para 33.
[33] *Right to Life Association of Toronto and Area v. Canada (Employment, Workforce and Labour)*, 2022 FCA 67, at para 24 [*Right to Life*].
[34] *Right to Life*, *supra* note 33, at para 24.

38. Regarding the Caring Society first proposed ground for intervention concerning the differences in the analytical framework between section 15 of the *Charter* and section 5 of the CHRA, these arguments are extensively covered by both Respondents. They closely ressemble arguments made by the Commission at paragraphs 56, 70 and 77 of its memorandum and by the First Nation at paragraphs 49 to 54 of its memorandum.

39. Regarding the Caring Society's second ground for intervention on the separation of powers and the division of responsibilities between Canada and the provinces, the First Nation expresses this line of reasoning at paragraph 11 of its memorandum. Likewise, the Commission echoes the Caring Society's position at paragraphs 86 to 88 of its memorandum. Therefore, the usefulness of having additional submissions by the Caring Society on this argument has not been demonstrated.

40. While the Caring Society has extensive knowledge of the facts and the resulting 2016 Tribunal's decision on its discrimination complaints against Canada regarding the funding of child and family services for First Nations children, youth and families, this Court already benefits from submissions from the Respondents on this decision and can therefore rely on both Respondents to raise all relevant arguments in relation to this caselaw.

41. In response to the Caring Society's point that it wishes to present "information and argument regarding the impact of the [Court's] decision on other First Nations claimants, including families, youth and children […]",[35], the evidentiary record of this case – which an intervener must accept – is based first and foremost on the reality of the First Nation and its participation in the Program.[36] The Tribunal itself specifically noted and restricted the evidence to only the documents relevant to the Program but limited to the First Nation.[37]

42. Therefore, the First Nation is best placed to speak to this factual reality and the legal issues arising from it - and indeed does so in its memorandum of fact and law.

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[35] Caring Society's motion record, p. 97, Written Representations, at para 22.
[36] Appeal Book, p. 73 to 11391, vol. 1, 2 and 3, Tab 4, Exhibit DD-B, DD-C and DD-D
[37] *Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation) v. Public Safety Canada*, 2019 CHRT 21, at para 21 to 41.

Moreover, the Commission is able to fill any gaps in the legal and factual issues left uncovered by the First Nation, as the case may be.

43. The Commission is a public institution created by the CHRA. Under the CHRA, the Commission "[i]n appearing at a hearing, presenting evidence and making representations, […] shall adopt such position as, in its opinion, is in the public interest having regard to the nature of the complaint".[38]

44. Moreover, the two Respondents in this case are highly sophisticated parties represented by a team of experienced and skilled counsel. The parties already present in these proceedings are more than capable to cover the field and raise high-quality arguments.[39] To the extent that nuances exist between the proposed submissions of the Caring Society and the written submissions already made by the Respondents, such differences can be further fleshed out by the parties in oral arguments.

45. Canada acknowledges the role of the Caring Society in human rights litigation relating to the funding of child and family services for First Nations children, youth and families, including before this Court. However, in the specific context of the present appeal, the Caring Society's proposed arguments do not differ significantly from the arguments already made by the Respondents. The proposed intervention will not "bring further, different and valuable insights and perspective that will assist the Court in determining the matter".[40]

c) The interests of justice criteria

46. Considering that the motion does not meet the applicable interest and usefulness criteria, it follows that the interests of justice would not be served by permitting the Caring Society to intervene in this matter.

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38 CHRA, s 51

39 *Canadian Council for Refugees*, supra note 28, at para 33.

40 *Pictou Landing First Nation v. Canada (Attorney General)*, 2014 FCA 21, at para 9. See also *Sports Maska*, supra note 28, at para 40; *Canadian Council for Refugees*, supra note 28, at para 33.

3. Conclusion

47. The Caring Society's motion for leave to intervene should therefore be dismissed.

48. Alternatively, if this Court permits the Caring Society to intervene in this appeal, the Appelant requests, in the interests of fairness, that more limited terms be imposed with a view among others to avoiding any duplication in the arguments as between the Caring Society and the Respondents.

49. First, the Court's order should limit the Intervener to filing a memorandum of fact and law of no more than 10 pages in length (instead of 20 pages). The Caring Society's submissions largely overlap with the Respondents' submissions, both of which have filed memorandum of fact and law of 30 pages, for a total of 60 pages in response to the Appelant's 30-pages memorandum of fact and law. Canada also asks that the Intervener's memorandum of fact and law be filed within 30 days of this Court's order.

50. Second, for the same reasons, Canada also asks that the Intervener be entitled to make oral submissions of no more than 15 minutes.

51. Third, Canada asks that the Intervener not be permitted to file any evidence or raise new issues and that no order be made regarding costs.

52. Fourth, Canada asks that it be permitted to file a reply memorandum of fact and law of 8 pages, or such other length at this Court may direct, within 30 days of the Intervener's factum being filed.

53. Lastly, should this Court authorize the intervention and the filing of further memoranda, the time for filing the requisition for hearing (Rule 347 of the *Federal Courts Rules*) and the Book of Authorities (Rule 348 of the *Federal Courts Rules*) should be extended and be filed within 30 days of the Appelant's reply memorandum of fact and law.

PART IV : ORDER SOUGHT

FOR THESE REASONS, THE ATTORNEY GENERAL OF CANADA RESPECTFULLY REQUESTS THIS HONORABLE COURT TO:

DISMISS the motion for leave to intervene;

OR, ALTERNATIVELY,

GRANT the motion for leave to intervene subject to the following terms :

- The Caring Society should not be allowed to file any evidence or raise new issues;

- The Caring Society be entitled to file a memorandum of fact and law of no more than 10 pages within 30 days of this Court's order;

- The Attorney General of Canada be entitled to file a memorandum of fact and law of no more than 8 pages in reply, within 30 days of the Intervener's factum being filed.

- The Caring Society be entitled to make oral submissions of no more than 15 minutes.

- That the requisition for hearing (Rule 347 of the *Federal Courts Rules*) and the Book of Authorities (Rule 348 of the *Federal Courts Rules*) be filed within 30 days of the Attorney General of Canada's reply memorandum of fact and law.

OTTAWA, September 5, 2023

Per :

Me François Joyal
Me Marie-Eve Robillard
Me Pavol Janura

PART V: LIST OF LEGISLATION AND AUTHORITIES

Legislation and Regulation:

Police Act, RSBC 1996, c 367, s 4.1 et 4.2

Police Act, RSA 2000, c P-17, s 33.1 à 33.3

Police Act, 1990, SS 1990-91, c P-15.01, s 24.1

The Police Services Act, CCSM c P94.5, s 45 à 47

Police Services Act, RSO 1990, c P.15, s 54

Police Act, CQLR c P-13.1, s 90-93

Police Act, SNS 2004, c 31, s 5

Federal Courts Rules, SOR-98/106, r. 109(2)(b).

Canadian Human Rights Act, RSC 1985, c H-6, s 51

Authorities:

Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation) v. Public Safety Canada, 2022 CHRT 4

Takuhikan c. Procureur général du Québec, 2022 QCCA 1699

Canada (Attorney General) v. Pekuakamiulnuatsh First Nation, 2023 FC 267

Rothmans, Benson & Hedges Inc. v. Canada (Attorney General)(C.A), 1989 CanLII 9432 (FCA), [1990] 1 F.C. 90

Canada (Citizenship and Immigration) v. Canadian Council for Refugees, 2021 FCA 13

Métis National Council and Manitoba Metis Federation Inc. v. Varley, 2022 FCA 110

Gordillo v. Canada (Attorney General), 2022 FCA 23

Whapmagoostui First Nation v. McLean, 2019 FCA 187

Sport Maska Inc. v. Bauer Hockey Corp., 2016 FCA 44, [2016] 4 F.C.R. 3

Alliance for Equality of Blind Canadians v. Canada (Attorney General), 2022 FCA 131

Macciacchera (Smoothstreams.tv) v. Bell Media Inc., 2023 FCA 180

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