

**COURT OF APPEAL FOR ONTARIO**

BETWEEN:

**CANADA WITHOUT POVERTY**

Applicant  
(Respondent in appeal)

and

**ATTORNEY GENERAL OF CANADA**

Respondent  
(Appellant in appeal)

**NOTICE OF APPEAL**

**THE ATTORNEY GENERAL OF CANADA APPEALS** to the Court of Appeal from the judgment of the Honourable Mr. Justice E.M. Morgan of the Superior Court of Justice, dated July 16, 2018, made at Toronto, Ontario.

**THE APPELLANT ASKS** that the judgment be set aside and that a judgment be granted dismissing Canada Without Poverty's application for a declaration that s. 149.1(6.2) of the *Income Tax Act* violates freedom of expression under s. 2(b) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*").

**THE GROUNDS FOR APPEAL** are as follows:

1. The Court erred in law and fact in finding that ss. 149.1(6.2)(a) and (b) of the *Income Tax Act* impose restrictions on expressive activity by the Respondent.
2. The Court erred in law and fact in finding that a potential revocation of charitable

status under the provisions of the *Income Tax Act* and the common law amounts to a violation of s. 2(b) of the *Charter*.

3. The Court erred in law and fact in determining that ss. 149.1(6.2)(a) and (b) of the *Income Tax Act* violated s. 2(b) of the *Charter*.

4. The Court erred in law by not applying the correct legal criteria for determining a violation of s. 2(b) of the *Charter*.

5. The Court erred in law and fact by not taking proper account of the statutory context and the common law definition of a charity:

(a) by failing to properly interpret s. 149.1(6.2) and other relevant provisions of the *Income Tax Act*; and

(b) in finding that an entity could maintain an exclusively charitable purpose even if substantially all of its activities are political in nature.

6. The Court erred by misapprehending evidence, considering irrelevant facts, and failing to consider relevant facts.

7. The Court erred in law and fact in finding that a breach of s. 2(b) is not justified by s. 1 of the *Charter*.

8. In determining the remedy, the Court erred in law by failing to properly consider the respective roles of Parliament and the courts, and went beyond the remedy requested by Canada Without Poverty who asked for a 12 month suspension of the declaration.

The Court erred by making a declaration with immediate effect, by striking down ss. 149.1(6.2)(a) and (b), and by reading in expansive wording to re-define the meaning

of the phrases “substantially all” and “charitable activities”, all of which interferes with the objective of the legislation.

9. Such further and other grounds as counsel may advise and this Honourable Court permit.

**THE BASIS OF THE APPELLATE COURT’S JURISDICTION IS:**

1. S. 6(1)(b) of the *Courts of Justice Act*, R.S.O. as amended.
2. The judgment and order appealed from is final.
3. Leave to appeal is not required.

Dated at Ottawa, Ontario, this 15<sup>th</sup> day of August, 2018.

ATTORNEY GENERAL OF CANADA

Department of Justice Canada  
Civil Litigation Section  
50 O’Connor Street, Suite 500  
Ottawa ON K1A 0H8

Per: Robert MacKinnon [LSUC# 31403D]  
Joanna Hill [LSUC# 46326F]

Tel: (613) 670-6288  
Fax: (613) 954-1920

Counsel for the Respondent,  
Attorney General of Canada  
(Appellant on appeal)

TO: McCarthy Tétrault LLP  
Suite 5300, PO box 48  
Toronto Dominion Bank Tower  
Toronto ON M5K 1E6

Per: David M. Porter [LSUC# 23199Q]  
Geoff R. Hall [LSUC# 34071O]  
Anu Koshal [LSUC# 66338F]

Tel: (416) 601-7870  
Fax: (416) 868-0673

Counsel for the Applicant,  
Canada with Poverty  
(Respondent on appeal)

CANADA WITHOUT POVERTY  
Applicant (Respondent on appeal)

AND

Court File No.:  
ATTORNEY GENERAL OF CANADA  
Respondent (Appellant on appeal)

**COURT OF APPEAL FOR ONTARIO**

Proceeding Commenced at Toronto

**NOTICE OF APPEAL**

**ATTORNEY GENERAL OF CANADA**

Department of Justice Canada  
Civil Litigation Section  
50 O'Connor Street, Suite 500  
Ottawa, Ontario  
K1A 0H8

**Per: Robert MacKinnon [LSUC# 31403]  
Joanna Hill [LSUC# 46326F]**

Tel: (613) 670-6288  
Fax: (613) 954-1920

Counsel for the Attorney General of Canada,  
Respondent (Appellant on appeal)