

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ANN TOUSSAINT, APPOINTED REPRESENTATIVE OF THE ESTATE OF
NELL TOUSSAINT, DECEASED, FOR THE PURPOSES OF THIS
PROCEEDING

Plaintiff

- and -

ATTORNEY GENERAL OF CANADA

Defendant

**MOTION RECORD OF THE PROPOSED COALITION OF INTERVENERS, THE
CHARTER COMMITTEE ON POVERTY ISSUES, THE CANADIAN HEALTH
COALITION, THE FCJ REFUGEE CENTRE AND THE MADHU VERMA MIGRANT
JUSTICE CENTRE**

August 19, 2024

Professor Yin Yuan Chen
Faculty of Law, University of Ottawa
57 Louis Pasteur, Ottawa, ON K1N 6N5
(613) 562-5800 ext.2077
Email: yy.chen@uottawa.ca

Professor Martha Jackman
Faculty of Law, University of Ottawa
57 Louis Pasteur, Ottawa, ON K1N 6N5
(613) 562-5800 ext. 3299

Email: Martha.Jackman@uOttawa.ca

Lawyers for the Proposed Interveners
Charter Committee on Poverty Issues,
Canadian Health Coalition, FCJ Refugee
Centre, and Madhu Verma Migrant
Justice Centre

TO: **Andrew C. Dekany**
Barrister & Solicitor
5 Edenvale Crescent
Toronto, ON M9A 4A5
Tel: 416.888.8877
andrewcdekany@gmail.com

Barbara Jackman, LSO #17463T
Jackman & Associates
1 – 598 St. Clair Ave W Toronto,
ON M6C 1A6
Tel: (416) 653-9964 ext. 225
barb@bjackman.com

James Yap, LSO #61126H
310-25 Cecil St Toronto, ON M5T 1N1
Tel: (647) 874-4849
mail@jamesyap.ca

Veromi Arsiradam, LSO #85343W
1 Hunter St E, Ground Floor
Hamilton, ON L8N 3W1
Tel: (289) 212-7979
mail@veromiarsiradamlaw.com

Lawyers for the Plaintiff

AND TO: **Department of Justice**
Ontario Regional Office
National Litigation Sector
120 Adelaide Street West, Suite 400
Toronto, ON M5H 1T1
Fax: 416-952-4518

David Tyndale
Tel: 647.256.7309
david.tyndale@justice.gc.ca

Asha Gafar
Tel: 647.256.0720
asha.gafar@justice.gc.ca

Lawyers for the Defendant

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TAB 1

Court File No. CV-20-00649404-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

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Defendant

NOTICE OF MOTION

THE PROPOSED COALITION OF INTERVENERS, the Charter Committee on Poverty Issues, the Canadian Health Coalition, the FCJ Refugee Centre and the Madhu Verma Migrant Justice Centre, represented by a single legal team (“the CCPI Coalition”), will make a motion to the Case Management Judge, the Honourable Justice Papageorgiou, on September 9, 2024 at 10:00 a.m., or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard

- In writing under subrule 37.12.1(1) because it is on consent;
- In writing as an opposed motion under subrule 37.12.1(4);

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- In person;
- By telephone conference;
- By video conference.

THE MOTION IS FOR

- (a) Leave to intervene as a party in this action pursuant to Rule 13.01 to file a factum and make oral argument at trial and at any pre-trial motions that are relevant to the issues to be addressed by the CCPI Coalition, on terms to be determined by the presiding judge, to access documentary discovery produced by the immediate parties and to observe examinations for discovery; and
- (b) An order that the CCPI Coalition not be granted costs, nor costs be ordered against them as an intervening party in this action; or

In the alternative

- (c) Leave for the CCPI Coalition to intervene as a friend of the court pursuant to Rule 13.02 to file a factum and make oral argument at trial or at any pre-trial motions relevant to the issues to be addressed by the CCPI Coalition, on terms to be determined by the presiding judge;
- (d) An order that the CCPI Coalition be provided access to documents produced by the immediate parties in discovery and be authorized to observe examinations for discovery, with an order that it be then bound by Rule 30.1 concerning deemed undertaking; and

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- (e) An order that the CCPI Coalition not be granted costs, nor costs be ordered against them as a friend of the court in this action;

and
- (f) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE

- (a) The Fresh as Amended Statement of Claim, the Statement of Defense and the Plaintiff's Reply raise significant issues of public interest and extend beyond the interests of the immediate parties, regarding the scope of the rights to life and equality in the *Canadian Charter of Rights and Freedoms* (the "*Charter*") for vulnerable groups, the effect of Canada's international human rights commitments in domestic law, including the *Charter*, and whether irregular migrants will have access to essential health care when their lives are at risk;
- (b) The members of the CCPI Coalition have a real, substantial, identifiable interest in the subject matter of the proceeding and their work may be affected by a judgment in the proceeding;
- (c) The CCPI Coalition has an important perspective distinct from the immediate parties, including the perspective of irregular migrants affected by Canada's ongoing refusal to give effect to the Views of the UN Human Rights Committee by ensuring access to essential health care for irregular migrants;

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- (d) The CCPI Coalition is composed of well-recognized groups with special expertise in both the issues of law raised in the action and the program and policy issues related to access to health care for irregular migrants;
- (e) Members of the CCPI Coalition have been granted intervener status in many previous cases addressing similar issues, including before the Supreme Court of Canada, the Ontario Court of Appeal, and this Court;
- (f) Members of the CCPI Coalition were granted intervener status as a coalition in the Motion to Strike the claim in the present case;
- (g) The CCPI Coalition and its legal team have extensive experience and expertise in issues concerning the *Charter* and the implementation of international human rights that may be of assistance to the immediate parties in assessing the significance of information produced in documentary discovery and in examinations for discovery, and this in turn will assist the immediate parties to provide the court with a full record on which to assess the complex systemic issues in this case; and
- (h) By ensuring that those directly affected by and with significant expertise in the issues raised in the action are able to assist the individual Plaintiff advancing a systemic claim in the public interest, including in relation to the Plaintiff's assessment of documentary discovery relating to complex issues of international human rights implementation and *Charter* interpretation, the proposed role of the CCPI Coalition is supportive of the principle of access to justice and will ensure

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that the Court is able to play its proper role within our democratic system of government.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (i) The affidavit of Bonnie Morton, sworn August 5, 2024;
- (j) The affidavit of Diana Gallego sworn August 6, 2024;
- (k) The affidavit of Steven Staples sworn August 19, 2024
- (l) The affidavit of Aditya Rao sworn August 6, 2024;
- (m) Such further and other evidence as this Honourable Court may permit.

August 19, 2024

Professor Yin Yuan Chen
Faculty of Law, University of Ottawa
57 Louis Pasteur, Ottawa, ON K1N 6N5
(613) 562-5800 ext.2077
Email: yy.chen@uottawa.ca

Professor Martha Jackman
Faculty of Law, University of Ottawa
57 Louis Pasteur, Ottawa, ON K1N 6N5
(613) 562-5800 ext. 3299
Email: Martha.Jackman@uOttawa.ca

Lawyers for the Proposed Interveners Charter
Committee on Poverty Issues, Canadian Health
Coalition, FCJ Refugee Centre, and Madhu Verma
Migrant Justice Centre

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TO: **Andrew C. Dekany**
Barrister & Solicitor
5 Edenvale Crescent
Toronto, ON M9A 4A5
Tel: 416.888.8877
andrewcdekany@gmail.com

Barbara Jackman, LSO #17463T
Jackman & Associates
1 – 598 St. Clair Ave W Toronto,
ON M6C 1A6
Tel: (416) 653-9964 ext. 225
barb@bjackman.com

James Yap, LSO #61126H
310-25 Cecil St Toronto, ON M5T 1N1
Tel: (647) 874-4849
mail@jamesyap.ca

Veromi Arsiradam, LSO #85343W
1 Hunter St E, Ground Floor
Hamilton, ON L8N 3W1
Tel: (289) 212-7979
mail@veromiarsiradamlaw.com

Lawyers for the Plaintiff

AND TO: **Department of Justice**
Ontario Regional Office
National Litigation Sector
120 Adelaide Street West, Suite 400
Toronto, ON M5H 1T1
Fax: 416-952-4518

David Tyndale
Tel: 647.256.7309
david.tyndale@justice.gc.ca

Asha Gafar
Tel: 647.256.0720
asha.gafar@justice.gc.ca

Lawyers for the Defendant

Court File No. CV-20-00649404-0000

ANN TOUSSAINT, APPOINTED
REPRESENTATIVE OF THE
ESTATE OF NELL TOUSSAINT,
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PURPOSES OF THIS
PROCEEDING

v. ATTORNEY GENERAL OF CANADA

Plaintiff

Defendant

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at TORONTO

NOTICE OF MOTION

Professor Yin Yuan Chen (he/him)
Faculty of Law, University of Ottawa
(613) 562-5800 ext.2077
Email: yy.chen@uottawa.ca

Professor Martha Jackman
Faculty of Law, University of Ottawa
(613) 562-5800 ext. 3299
Email: Martha.Jackman@uOttawa.ca

Lawyers for the Intervenors

TAB 2

Court File No. CV-20-00649404-0000

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N:

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Plaintiff

- and -

ATTORNEY GENERAL OF CANADA

Defendant

AFFIDAVIT OF BONNIE MORTON
(sworn August 5, 2024)

I, Bonnie Morton, of the City of Regina in the Province of Saskatchewan, MAKE OATH AND SAY:

1. I am the Chairperson of the Charter Committee on Poverty Issues ("CCPI") and as such, I have knowledge of the matters contained in this affidavit.

2. As a child and a young adult, I experienced many years of poverty. From 1987 until my retirement in June 2022, I co-directed the Regina Anti-Poverty Ministry (previously the Downtown Chaplaincy), a social justice ministry of The United Church of Canada. I have been awarded an Honorary Doctor of Divinity by University of Saskatchewan's St. Andrew's College and I am an ordained Minister of the United Church of Canada. I have been a member of the Charter Committee on Poverty Issues since it was formed in 1989 and its Chairperson since 2005.

3. CCPI is requesting leave to intervene in this action jointly with three other organizations, represented by a single legal team. The three other organizations are the Canadian Health Coalition (CHC), the FCJ Refugee Centre, and the Madhu Verma Migrant Justice Centre. I will refer to the four organizations acting jointly as the "CCPI Coalition."

4. CCPI proposes to intervene in the public interest in this case and relies on *pro bono* counsel. CCPI is unable to assume liability for an award of costs against it. CCPI would not seek any award of costs and seeks leave to intervene with an order providing that costs will not be sought by or awarded against it, as was granted by Justice Belobaba in the intervention in the Motion to Strike in this action.

5. The CCPI Coalition seeks leave to make joint written and oral submissions at trial or at any pre-trial motions which may be dispositive of the issues to be addressed by the CCPI Coalition and also seeks to have access to documentary discovery and authorization to observe, but not participate in, examinations for discovery. The CCPI Coalition will not file pleadings, introduce evidence, request production or participate in or ask questions during examinations for

discovery. The CCPI Coalition does not seek a right of appeal and agrees to accept the record as filed by the Plaintiff and the Defendant.

6. CCPI seeks leave to intervene in the action on the limited terms described above as a party under Rule 13.01 of the Rules of Civil Procedure (the Rules), as a member of the CCPI Coalition, together with an order that the members of the CCPI Coalition shall not be entitled to receive and shall not be liable for costs against any party or intervener in the action.

7. In the alternative, CCPI seeks leave to intervene as a Friend of the Court, pursuant to Rule 13.02 of the Rules, to make oral and written argument at trial or at any pre-trial motions impacting the issues to be addressed by the CCPI Coalition, together with an order granting the CCPI Coalition access to documentary discovery and authorization to observe examinations for discovery. Pursuant to such an order, Madhu Centre would agree to be bound by the deemed undertaking rule.

8. CCPI can assist the court by ensuring that the interests and perspectives of disadvantaged residents of Canada who are unable to afford private health care are fully considered in the court's review of whether Canada's refusal to implement the UN Human Rights Committee's Views violates the *Canadian Charter of Rights and Freedoms* [the *Charter*] and Canada's international human rights treaty obligations.

9. The issues raised in the Statement of Claim in relation to Canada's domestic, constitutional, and international human rights obligations are among the most critical unresolved questions in the *Charter* jurisprudence, affecting some of the most vulnerable and marginalized groups in Canada. CCPI has played an important role in previous cases and in research and advocacy in assisting courts and international human rights bodies to ensure that people living in

poverty are not deprived of the full benefit of *Charter* and human rights protections. As a member of the CCPI Coalition, CCPI can offer invaluable assistance to the court in examining those issues as they are raised in the present action.

Description of the Charter Committee on Poverty Issues

10. CCPI is a national committee founded in 1989 which brings together low-income representatives and experts in human rights, constitutional law and poverty law for the purpose of assisting disadvantaged groups in Canada to secure and assert their rights under international human rights law, the *Charter*, human rights legislation and other laws in Canada. CCPI has initiated and intervened in a significant number of cases at various levels of court to ensure that issues of socio-economic disadvantage and the perspectives of persons living in poverty are effectively presented before courts and tribunals, with high quality legal arguments and reliable evidence. CCPI and its members consult with people living in poverty and members of vulnerable groups as well as experts across Canada and internationally in developing its positions on particular issues:

11. The activities of CCPI include research and consultation with other organizations and members of marginalized and vulnerable groups, test case litigation, interventions in important cases, judicial education, public education, appearances before United Nations and other international bodies, and collaboration with non-governmental organizations and researchers in Canada and in other countries.

12. CCPI has received funding through the Court Challenges Program of Canada to engage in legal research and to consult with affected constituencies on a wide variety of subjects of concern to people living in poverty, including the extent to which sections 7 and 15 of the

Charter require positive measures by governments to ensure that vulnerable groups have access to adequate food, housing, health care and other necessities and the role of international human rights in interpreting the scope of *Charter* guarantees.

Previous Interventions

13. CCPI has been granted intervener status in 13 cases at the Supreme Court of Canada: *R. v. Caron*, 2011 SCC 5; *Chaoulli v. Quebec (Attorney General)* 2005 SCC 35; *R. v. Wu*, [2003] 3 S.C.R. 530; *Gosselin v. Québec (Attorney General)*, 2002 SCC 84; *Lovelace v. Ontario*, [2000] 1 S.C.R. 950; *New Brunswick (Minister of Health and Community Services) v. G. (J.)*, [1999] 3 S.C.R. 46; *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817; *Eldridge v. British Columbia (Attorney General)*, [1997] 3 S.C.R. 624; *Thibaudeau v. Canada*, [1995] 2 S.C.R. 627; *Walker v. Prince Edward Island*, [1995] 2 S.C.R. 407; *R. v. Prosper*, [1994] 3 S.C.R. 236; *R. v. Matheson* [1994] 3 SCR 328 and *Symes v. Canada*, [1993] 4 S.C.R. 695.

14. In all of these interventions, CCPI has emphasized the importance of interpreting *Charter* rights to provide at least the same level of protection as is afforded by international human rights treaties ratified by Canada, and in a manner that ensures the equal benefit of the *Charter* for those experiencing poverty or socio-economic disadvantage.

15. Of particular relevance to the present case is the case of *Chaoulli v. Quebec (Attorney General)*, [2005] 1 S.C.R. 791, in which the Supreme Court of Canada granted CCPI leave to intervene jointly with the Canadian Health Coalition (CHC) to address governments' obligations under section 7 of the *Charter* to ensure access to health care.

CCPI and CHC urged the Court in that case to recognize that denying access to essential health care may violate the rights to life and security of the person under section 7 of the *Charter*, referring the Court to its previous jurisprudence, to international human rights documents and to commentary from UN treaty bodies suggesting that the *Charter* should be interpreted to include access to health care as a component of the right to life and security of the person in section 7 of the *Charter*. CCPI argued that disadvantaged groups living in poverty and who must rely on access to publicly funded health are equally entitled to equal protection of section 7 in the health care context.

16. Also, of particular relevant to this case is CCPI's intervention in *Eldridge v. British Columbia (Attorney General)*, [1997] 3 S.C.R. 624, in which CCPI argued that section 15 of the *Charter* should be interpreted to ensure equal access to publicly funded health care in accordance with international human rights law that reflects the values and principles that underlie the *Charter* and that the right to substantive equality may impose positive obligations on governments to address the particular needs of historically disadvantaged groups.

17. Other CCPI interventions before the Supreme Court of Canada of relevance to this case include:

- i) *Gosselin v. Québec (Attorney General)*, [2002] 4 S.C.R. 429, in which CCPI was granted standing to argue that section 7 of the *Charter* should be interpreted in light of international human rights to include positive obligations on governments to protect physical and mental health;

- ii) *Lovelace et al. v. Ontario*, [2000] 1 S.C.R. 950, in which CCPI was granted leave to intervene to argue that section 15(2) of the *Charter* should be interpreted consistently with the obligation to ensure substantive equality and in accordance with international human rights norms;
- iii) *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 S.C.R. 817, in which CCPI was granted leave to intervene to argue that courts must ensure access to effective remedies for violations of international human rights law through *Charter* interpretation and by ensuring that any exercise of governmental discretion is consistent with international human rights obligations.
- iv) *New Brunswick (Minister of Health and Social Services) v. G.(J.)*, [1999] 3 S.C.R. 46, in which CCPI referred to Canada's obligations under the *International Covenant on Civil and Political Rights (ICCPR)* and other international human rights instruments to assist the court in considering the scope of section 7 of the *Charter*, and section 7 of the *Charter* may require positive measures to ensure access to justice, including through the provision of legal aid.

18. Through these interventions and other work, CCPI has played a critical role in ensuring that courts have remained open to interpretations of the *Charter* informed by international human rights so as to provide effective remedies for those who may be deprived of basic necessities. In *Gosselin v. Quebec*, for example, in which the majority of the Supreme Court found that that the Appellant's rights under section 7 had not been violated by a regulation establishing lower welfare rates for young people, the Court was

careful to leave the question open of whether section 7 might require positive measures to ensure access to necessities in future cases.

19. Similarly, in *Chaoulli v. Quebec*, while CCPI and CHC opposed the remedy sought by the Appellants, which was restricted to those who could afford private health care, CCPI and CHC urged the Court to recognize that section 7 may be violated by a failure to ensure access to essential publicly funded health care. The Court's finding that failing to ensure timely access to health care within the publicly funded health care system in that case engaged section 7 left the door open to a different approach in present case, where a person found to be at risk of life and health was unable to afford private care.

20. In *Tanudjaja v. Canada (Attorney General)* 2013 ONSC 1878, this Court granted CCPI's joint application to intervene in a motion to strike brought by the Attorney General of Canada and the Attorney General of Ontario. The motion to strike raised issues similar to those in the present case, about the scope of positive obligations under sections 7 and 15 of the *Charter*, as well as the relationship between rights protection under the *Charter* and international human rights law. CCPI was again granted leave to intervene in the appeal to the Ontario Court of Appeal in that case (*Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852). In her decision on the CCPI Coalition's motion for leave to intervene at the Ontario Court of Appeal, Justice Feldman recognized that the CCPI Coalition and other interveners "are comprised of long-standing and respected

organizations with valuable expertise in the areas of human rights, equality rights, constitutional law and poverty law as well as homelessness.” Justice Feldman was “satisfied that each intervener will make a useful contribution to the appeal by framing the argument from the perspective of their constituencies, and by including submissions on the potential effects on those constituencies of the different orders that the court may make.” (*Tanudjaja v. Canada (Attorney General)*, March 31, 2014, Feldman, JA in chambers 20140331 Docket: M43540, M43549, M43525, M43545, M43551, M43534, M43547 (C57714)).

21. CCPI was also granted intervener status in the Motion to Strike the claim in the present case jointly with CHC and the FCJ Refugee Centre. In granting intervener status, Justice Belobaba found that CCPI along with other interveners could “usefully assist the court with the nuanced constitutional and international human rights issues that arise here.” [*Toussaint v. Attorney General of Canada* CV-20-649404. Unreported decision of Justice Belobaba (January 14, 2022)].

22. In his decision to dismiss the Attorney General’s Motion to Strike in this case, Justice Perell summarized the submissions of the CCPI Coalition in response to the Motion to Strike as follows :

- i) that Canada has mischaracterized Ms. Toussaint's human-rights claim as being a matter of freestanding socio-economic rights when her claim is indivisibly connected to the right to life and about non-discrimination;
- ii) that Canada has misstated the current state of *Charter* law about access to essential health care, which is in flux and not settled;
- iii) that Ms. Toussaint's current claim is different from Ms. Toussaint's previous proceedings before the Federal Court, which argument addresses Canada's submissions that Ms. Toussaint is relitigating a settled matter;
- iv) that although the United Nation Human Rights Committee's Views are not binding, the Ontario court has jurisdiction to review Canada's decision not to implement those Views and the jurisdiction to determine Ms. Toussaint's *Charter* claims; and
- v) that given the UN Human Rights Committee's Views and Supreme Court of Canada jurisprudence, sections 7 and 15 of the *Charter* should be interpreted to prevent irregular immigrants from being denied access to essential health care necessary for life. (*Toussaint v. Canada (Attorney General)*, 2022 ONSC 5851 at paras 79 – 82).

23. It was clear from Justice Perell's reasons that these submissions were of considerable assistance to the court.

Research and Public Legal Education

24. CCPI's role in advancing interpretations and applications of the *Charter* that properly consider the perspective and rights of those living in poverty and are informed by the values of international human rights law has been widely recognized both in Canada and internationally. The National Judicial Institute has made use of CCPI's expertise in this area on several occasions in providing social context education to judges from six different provinces. Internationally, CCPI's expertise has been relied upon by the International Commission of Jurists, Forum Asia, the Constitutional Assembly of South Africa and the Committee for the Administration of Justice in Northern Ireland, among others.

25. CCPI has made frequent submissions to governmental and other bodies in Canada with respect to the protection of the rights of particularly low-income people and people lacking access to adequate housing under domestic and international law. CCPI was invited by the Canadian Human Rights Act Review Panel, chaired by retired Supreme Court of Canada Justice Gérard La Forest, to prepare submissions and participate in consultations on improving the protection of social and economic rights and addressing discrimination on the grounds of "social condition" of poverty or homelessness under the *Canadian Human Rights Act*.

26. CCPI was a research partner in two multi-year research projects with five universities and four non-governmental organizations on “Social Rights Accountability” and “Social Rights Practice” in Canada, funded through the Social Science and Humanities Research Council’s Community-University Research Alliance program. Important components of this research included research into the *Charter* and access to health care, international human rights and the *Charter*, and the use of international human rights procedures and mechanisms to ensure accountability of Canadian governments to international human rights norms.

Representations in International Fora

27. CCPI has played an important role, in Canada and internationally, in promoting a better integration of international human rights norms in domestic law and in promoting the implementation of views and recommendations from United Nations human rights bodies.

28. CCPI made submissions at each of Canada’s four Universal Periodic Reviews in 2009, 2013, 2018 and 2023, including submissions related to access to health care for irregular migrants and the implications of the case of Nell Toussaint for access to effective remedies for violations of international human rights in Canada. After Canada received recommendations at its most recent Universal Period Review in 2023 to ensure access to publicly funded health care for all, including those lacking formal immigration

status and for all children regardless of immigration status, CCPI supported efforts by civil society organizations and human rights experts to encourage Canada to accept and implement these recommendations and to implement the Human Rights Committee's Views in the case of *Nell Toussaint v Canada*.

29. CCPI has also attended periodic reviews of Canada by UN human rights bodies and in this context has made submissions regarding access to essential health care for irregular migrants and access to effective remedies under the *Canadian Charter* when the denial of access to health care violates rights under ratified international human rights treaties.

30. CCPI has made written and oral submissions to the UN Committee on Economic, Social and Cultural Rights at every review of Canada since 1993, (1993, 1998, 2006 and 2016) regarding Canada's compliance with rights in the *International Covenant on Economic, Social and Cultural Rights*. CCPI's submissions focused on the need for improved implementation of treaty body recommendations, the importance of ensuring access to justice by interpreting the *Charter* and other law consistently with ratified international human rights treaties, and the importance of ensuring access to effective remedies for violations of international human rights law under relevant domestic law. At its most recent review by the UN Committee on Economic, Social and Cultural Rights, CCPI made submissions to the Committee regarding Canada's failure to ensure access to essential health care to irregular migrants and the denial of access to effective

remedies and referred to Nell Toussaint's attempts to secure effective remedies under the *Canadian Charter*.

31. In 1999, 2006 and 2015, CCPI made oral and written submissions to members of the UN Human Rights Committee with respect to Canada's fourth, fifth and sixth periodic reviews for compliance with the *International Covenant on Civil and Political Rights (ICCPR)*. CCPI raised concerns regarding the inadequate implementation of treaty body recommendations in Canada and the need to ensure equal protection of the rights to life and equality under the *Charter* for disadvantaged groups. At the most recent review of Canada by the UN Human Rights Committee in 2015, CCPI submitted a brief jointly with the International Network on Economic, Social and Cultural Rights (ESCR-Net) and the Social Rights Advocacy Centre on "Violations of the Right to Life and to Non-discrimination of those who are Homeless and Migrants in Need of Health Care in Canada." These submissions included information regarding Nell Toussaint's circumstances and her efforts to secure access to effective remedies in Canadian courts and expressing concern regarding the implications of the Federal Court of Appeal's decision in *Toussaint v. Canada (Attorney General)*, 2011 FCA 213 for Canada's compliance with its obligations under the *ICCPR*.

32. In 2008, 2012, 2017 and 2023 CCPI made submissions to the UN Human Rights Council, through the Office of the High Commissioner on Human Rights, with respect to the first, second, third and fourth Universal Periodic Reviews of Canada's compliance

with international human rights. CCPI focused its submissions in all of these reviews on access to effective remedies under domestic law in Canada and the need to interpret and apply the *Charter* and other law consistently with international human rights law, including with respect to access to essential health care under the Interim Federal Health Program. CCPI's submissions at Canada's Universal Periodic Review in 2023 addressed concerns regarding access to essential health care for irregular migrants and Canada's refusal to implement the Views of the UN Human Rights Committee in the case of *Toussaint v. Canada*.

33. In all of these submissions to UN human rights bodies, CCPI has focused on the importance of the *Charter*, and particularly sections 7 and 15, in implementing the obligation to provide effective legal remedies to violations of the rights of disadvantaged Canadians.

CCPI's interest and unique perspective and expertise in the issues in this case

34. As an organization advocating for the *Charter* rights of those living in poverty, CCPI is committed to ensuring the equal benefit of the right to life guaranteed under section 7 for those who cannot afford access to private health care. CCPI's perspective and expertise in promoting interpretations of the *Charter* that do not exclude or devalue the rights of those living in poverty and whose rights depend on access to publicly funded, rather than privately funded health care, will be of assistance to the Court in this

case. CCPI's intervention in the Motion to Strike the claim in this assisted the Court in recognizing that characterizing the Plaintiff's claims as a demand for "free health care" perpetuates discriminatory stereotypes about migrants for whom access to publicly funded health care may be necessary for the protection of life.

35. As an organization committed to ensuring access to effective remedies through consistent interpretations of sections 7 and 15 of the *Charter*, and to calling Canada to account when it fails to live up to its international human rights obligations, CCPI has a significant interest in the outcome of this action. The claim raises in a unique and unprecedented fashion the question of the proper scope of the right to life when it is interdependent with economic, social and cultural rights such as the right to health. The claim also raises the important question of the effect of a UN human rights body's decision, made under a petition procedure ratified by Canada to recognize the competence of the Committee to consider individual cases in which effective remedies have been denied under domestic law, on the proper interpretation of the scope and application of *Charter* rights. In his decision to dismiss the Attorney General's Motion to Strike in this case, Justice Perell summarized the submissions of the CCPI Coalition in response to the Motion to Strike as follows:

- (i) that Canada has mischaracterized Ms. Toussaint's human-rights claim as being a matter of freestanding socio-economic rights when her claim is indivisibly connected to the right to life and about non-discrimination;

- (ii) that Canada has misstated the current state of *Charter* law about access to essential health care, which is in flux and not settled;
- (iii) that Ms. Toussaint's current claim is different from Ms. Toussaint's previous proceedings before the Federal Court, which argument addresses Canada's submissions that Ms. Toussaint is relitigating a settled matter;
- (iv) that although the United Nation Human Rights Committee's Views are not binding, the Ontario court has jurisdiction to review Canada's decision not to implement those Views and the jurisdiction to determine Ms. Toussaint's *Charter* claims; and
- (v) that given the UN Human Rights Committee's Views and Supreme Court of Canada jurisprudence, sections 7 and 15 of the *Charter* should be interpreted to prevent irregular immigrants from being denied access to essential health care necessary for life. (*Toussaint v. Canada (Attorney General)*, 2022 ONSC 5851 at paras 79 – 82).

36. Justice Perell's reasons in dismissing the Motion to Strike make it clear that the submissions of the CCPI Coalition were helpful to the court.

37. CCPI has a real and substantial interest in the outcome of this case, as can be seen from the organization's work and focus on ensuring access to justice for violations of international human rights under the Charter, on holding Canada accountable to international human rights norms and on ensuring that those who rely on publicly funded health care enjoy the same protections of their right to life as those who can afford privately funded health care. CCPI's work would be significantly advanced or set back by Court's consideration of these issues in the present case.

Proposed Submissions of the CCPI Coalition

38. The CCPI Coalition seeks to assist the Court with the following issues:

- i) Whether section 7 of the *Charter* imposes a positive obligation to ensure access to essential health care where the denial of such care may result in the loss of life;
- ii) Whether it is correct that because the Views of the UN Human Rights Committee are not legally binding on Canada, domestic courts lack the jurisdiction to review Canada's refusal to implement the Committee's Views for compliance with the *Charter* or other domestic law, interpreted in light of the Views;
- iii) Whether Canada's refusal to implement the Human Rights Committee's Views is in accordance with principles of fundamental justice under section 7 of the *Charter*, including the peremptory norm of good faith under

international law, the requirement that the government decision not be arbitrary, namely that it be necessary and compatible with the objectives of ratifying the *International Covenant on Civil and Political Rights* and its *Optional Protocol* and that the violation of the right to life not be grossly disproportionate to Canada's objectives in refusing to implement the Views; and

- iv) Whether, in light of the Human Rights Committee's Views and other factors, immigration status should be recognized as an analogous ground of discrimination under section 15 of the *Charter*.

39. This Court's approach and answer to these questions will have immense implications not only for irregular migrants requiring access to essential health care for the protection of their lives, but also for the constitutional rights of many of the most disadvantaged individuals and groups in Canadian society, whose perspective CCPI represents.

40. CCPI has a real, substantial and identifiable interest in these issues and will be directly affected by the outcome of Court's decision. It has an important perspective distinct from the immediate parties and it is a well-recognized group with relevant policy and legal expertise.

41. Drawing on the expertise and interests of all four members of the CCPI Coalition, and consulting with other interveners and the Plaintiff to avoid duplication, the CCPI Coalition proposes to assist the court by expanding on the following four key points.

- i) Domestic courts have the jurisdiction to review whether Canada's refusal to implement the UN Human Rights Committee's Views is compliant with the *Charter* and to judicially review whether that decision was reasonable or consistent with international human rights norms of good faith.
- ii) Recent jurisprudence under section 7 of the *Charter*, considered in light of the UN Human Rights Committee's Views in this case and of other developments in international human rights law, supports a finding that Canada's refusal to ensure that irregular migrants have access to essential health care when their lives are at risk violates the right to life under section 7;
- iii) Canada's refusal to implement the Human Rights Committee's Views is contrary to principles of fundamental justice, including the universally recognized principle of good faith under international law and the requirement that the decision be necessary to or compatible with and not grossly disproportionate to the objectives of ratifying the *International Covenant on Civil and Political Rights* (ICCPR) and its Optional Protocol; and
- iv) Immigration status should be recognized as an analogous ground of discrimination under section 15 of the *Charter*. The CCPI Coalition will argue

that this ground meets the criteria for analogous grounds applied by the Supreme Court of Canada and that the protections from such discrimination under section 15 should be presumed to conform with the protection accorded by the ICCPR and other international human rights treaties ratified by Canada.

22. This affidavit is made in support of a motion by the Charter Committee on Poverty Issues for leave to intervene jointly with the FCJ Refugee Centre, the Canadian Health Coalition and the Madhu Verma Migrant Justice Centre.

Affirmed by video conference by Bonnie Morton located at the time in the Town of Gananoque in the Province of Ontario, before me in the Municipality of Duhamel in the Province of Quebec on August 5, 2024 in accordance with O. Reg. 431/20 Administering Oath or Declaration Remotely.



Bonnie Morton



Yin Yuan Chen (LSO#: 60947P)
Commissioner for Taking Affidavits
(or as may be)

TAB 3

Court File No. CV-20-00649404-0000

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N:

ANN TOUSSAINT, APPOINTED REPRESENTATIVE OF THE ESTATE OF NELL
TOUSSAINT, DECEASED, FOR THE PURPOSES OF THIS PROCEEDING

Plaintiff

- and -

ATTORNEY GENERAL OF CANADA

Defendant

AFFIDAVIT OF DIANA GALLEGO

(Sworn August 6, 2024)

I, Diana Gallego, of the City of Toronto in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Co-Executive Director of the FCJ Refugee Centre and as such, I have knowledge of the matters contained in this affidavit. I am a Colombian-trained lawyer, with experience in advocacy, human rights and social justice.
2. The FCJ Refugee Centre is requesting leave to intervene in this action jointly with three other organizations, represented by a single legal team. The three other organizations are the Charter Coalition on Poverty Issues (“CCPI”), the Canadian Health

Coalition and the Madhu Verma Migrant Justice Centre. I will refer to the four organizations acting jointly as the “CCPI Coalition.”

3. The FCJ Refugee Centre (the Centre) proposes to intervene in the public interest in this case and relies on *pro bono* counsel. The Centre is unable to assume liability for an award of costs against it. The Centre would not seek any award of costs and seeks leave to intervene with an order providing that costs will not be sought by or awarded against it, as was granted by Justice Belobaba in the intervention in the Motion to Strike in this action.

4. The CCPI Coalition seeks leave to make written and oral submissions at trial or at any pre-trial motions relevant to any of the issues to be addressed by the CCPI Coalition and also seeks to have access to documentary discovery and authorization to observe, but not participate in, examinations for discovery. The CCPI Coalition will not file pleadings, introduce evidence, request production or participate in or ask questions during examinations for discovery. The CCPI Coalition does not seek a right of appeal and agrees to accept the record as it is filed by the parties.

5. The FCJ Refugee Centre seeks leave to intervene in the action as a party under Rule 13.01 of the Rules of Civil Procedure (the Rules), as a member of the CCPI Coalition subject to the restricted participatory rights described above, together with an

order that the members of the CCPI Coalition shall not be entitled to receive and shall not be liable for costs against any party or intervener in the action.

6. In the alternative, the FCJ Refugee Centre seeks leave to intervene as a Friend of the Court, pursuant to Rule 13.02 of the Rules, together with an order granting the CCPI Coalition access to documentary discovery and authorization to observe examinations for discovery, with the CCPI Coalition being subject to the deemed undertaking rule.

7. As a member of the CCPI Coalition, the FCJ Refugee Centre will assist in providing clarification of the factual and legal issues in this case in light of the organization's extensive experience in addressing discrimination and other human rights violations affecting irregular migrants in Canada, ensuring access to essential health care and providing health care for irregular migrants, researching issues and providing reports on issues affecting migrants, working with governments to address the needs and rights of migrants and assisting migrants in asserting and promoting their human rights.

The FCJ Refugee Centre

8. The FCJ Refugee Centre is a non-profit, grass-roots organization in Toronto and a registered charity. The Centre's membership and clients include irregular migrants. For more than 30 years, the Centre has served refugees and other migrant populations at risk due to their immigration status, and welcomes anyone asking for advice, counsel and support regarding their refugee or immigration claim process. The Centre addresses

systemic issues that migrants face in Canada, including lack of resources, marginalization, discrimination and lack of access to education, health care and other critical services.

9. The Centre recognizes that all uprooted people have strengths and capacities to contribute to the host country, including where their migration status is irregular. It understands and empathizes with the experiences of irregular migrants (i.e. those that hold some form of uncertain migration status) and strives to offer holistic support and find ways and means to help people regularize their status where possible. The Centre has supported thousands of individuals and families, many in precarious situations, in regularizing their status.

10. The Centre recognizes that irregular migrants face prejudice, stigma and systemic discrimination based on immigration status, which is intersectional with other characteristics including race, sexual orientation, age, religion, creed, disability, gender and socio-economic status.

11. By utilizing a human rights perspective, the Centre provides supports and services to migrants in diverse circumstances, and works in a number of different areas, such as immigration and refugee protection, supporting migrant youth, reducing barriers to accessing education, supporting survivors of human trafficking, and supporting women and children who have fled violence and abuse.

12. The Centre shares information with people with irregular status about their rights, access to services and possibilities for regularizing their immigration status. It offers an integrated model of protection; settlement services and education, including shelter for women and their children; timely counselling and support, including interpretation, referral to legal assistance, programs on Canadian culture and life; and other educational workshops. It also provides primary health care for uninsured individuals, as described below.

Addressing Barriers to Access to Health Care

13. For the marginalized communities supported by the Centre, access to health care is often a critical need, particularly for those who are uninsured. Many of the Centre's clients are denied access to provincial or federal health care due to their immigration status and are unable to secure privately funded health care because of financial barriers. These communities often experience food insecurity and face difficulties in accessing employment and safe and secure housing. These social determinants of health create additional risks and make access to health care even more essential.

14. The Centre has partnered with many other organizations in campaigning for equal access to publicly funded health care for uninsured migrants. Through this work, the Centre has advocated for changes to the Interim Federal Health Program to ensure access to health care for irregular migrants.

15. In 2012, after drastic cuts were implemented to the Interim Federal Health Program (IFHP) that affected many of the Centre's clients, the Centre created a Primary Health Care Clinic to assist uninsured individuals to access health care, relying on the outstanding generosity and volunteerism of clinic support staff. The Centre now operates, with the support of the Inner-City Health Association, a fully equipped examination room which is open two days per week, with health care support provided to uninsured patients by a roster of five (5) physicians and one Psychiatrist. From January to August 2023, the Centre's primary health clinic has scheduled a total of 527 appointments and 117 appointments were facilitated by the Psychiatrist. The Centre was able to welcome 120 new patients, including 24 children who were connected with a pediatrician in another clinic.

16. The Centre has been actively engaged in various research endeavours. In 2023 collaborative research with St. Michael's Hospital explored the healthcare needs of the uninsured and undocumented communities, while partnerships with Women's College have examined the significance of virtual care for uninsured individuals.

17. The Centre's primary health care clinic is only able to provide assistance to a small fraction of the number of irregular migrants in Toronto, many of whom remain hidden and who are unaware of the clinic or afraid to reveal their identity. The clinic's capacity is also severely limited, and the wait time to see a doctor is often weeks.

18. In 2021, the Centre partnered with the City of Toronto in the Toronto for a campaign to advocate for the rights of migrants in Toronto. After the Mayor of Toronto proclaimed August 24th the Day of Undocumented Residents in Toronto, a proclamation was issued stating that “Undocumented residents lack access to safe and secure housing, health care, and education for themselves and their children. The COVID-19 pandemic intensified the vast challenges they continue to face. Although the City of Toronto’s Access to City Services for Undocumented Torontonians policy strives to ensure access to all City services regardless of immigration status, the reality is that undocumented residents continue to face barriers in their communities.” In support of the proclamation the Centre stated that “We are proud to continue working alongside the City to invite all Torontonians to increase awareness, engage in discussion, and embrace Toronto as a true Sanctuary City, where everyone is welcome and treated with dignity.” We have worked with the Toronto Newcomer Office to promote the idea of making this an annual event.

19. The Centre also provides one-on-one advocacy support when families – particularly those who are a part of mixed status households – face barriers in accessing health care they are legally entitled to. For example, the Centre has worked to advocate for children born in Canada to receive OHIP coverage previously denied to them, due to their parents’ irregular immigration status. We provide advice to families about which

Service Ontario offices are more receptive and informed about the rights of these children to be provided with health care coverage.

Addressing Discrimination Against Irregular Migrants

20. The Centre also works through public education and advocacy to combat stigmatization, prejudice, and systemic discrimination faced by migrants in Canada because of their immigration status. The Centre's collaborative projects with the City of Toronto have included work to address these forms of discrimination and to encourage equal treatment and respect for the human rights of irregular migrants, many of whom are in the process of seeking to regularize their immigration status.

21. The Centre has participated in Policing Reform through the City of Toronto's Youth Advisory Roundtable. Youth and staff from our community participated in roundtable discussions to provide recommendations on appropriate police and community interventions for racialized and irregular migrant populations. This resulted in a pilot program based on collaboration between the Toronto Police Service (TPS) and Gerstein Crisis Centre that allows TPS call-takers to evaluate calls for potential diversion to mental health crisis workers. The FCJ Refugee Centre provided training to the crisis workers on engaging effectively with refugee claimants and irregular migrants in crisis situations in 2022 and to the new cohort of mental health crisis workers in June 2024.

22. The Centre has also provided training to City of Toronto staff to help them better understand how to ensure equal rights and dignity for irregular migrants, in accordance with the City's declaration that it is a sanctuary city.

The FCJ Refugee Centre's Interest, Unique Perspective and Expertise Relating to the Issues in this Case

23. The FCJ Refugee Centre, its members and its clients have a direct interest in the systemic issues raised in this action related to access to health care for irregular migrants. In particular, as an organization committed to ensuring access to essential health care for migrants and to combatting discrimination and stigmatization against irregular migrants, the Centre has a direct interest in:

- whether Canada's refusal to implement the Human Rights Committee's Views in this case, which required it to review its laws and policies to ensure access to essential health care for irregular migrants is upheld;
 - whether immigration status is found to be an analogous ground of discrimination under section 15 of the *Charter*;
- and

- whether denying access to essential health care, including life-saving publicly funded health care, violates section 7 of the *Charter*, once due consideration has been given to the Views of the Human Rights Committee in this case.

24. As a member of the CCPI Coalition in its intervention in the Motion to Strike, the FCJ Centre made an important contribution to the court's consideration of the above issues in the context of the Motion to Strike. In his decision to dismiss the Attorney General's Motion to Strike, in *Toussaint v. Canada (Attorney General)*, 2022 ONSC 5851 at paras 79 – 82, Justice Perell summarized the submissions of the CCPI Coalition in response to the Motion to Strike as follows:

- (i) that Canada has mischaracterized Ms. Toussaint's human-rights claim as being a matter of freestanding socio-economic rights when her claim is indivisibly connected to the right to life and about non-discrimination;
- (ii) that Canada has misstated the current state of *Charter* law about access to essential health care, which is in flux and not settled;
- (iii) that Ms. Toussaint's current claim is different from Ms. Toussaint's previous proceedings before the Federal Court, which argument addresses Canada's submissions that Ms. Toussaint is relitigating a settled matter;
- (iv) that although the United Nation Human Rights Committee's Views are not binding, the Ontario court has jurisdiction to review Canada's decision not to

implement those Views and the jurisdiction to determine Ms.

Toussaint's *Charter* claims; and

(v) that given the UN Human Rights Committee's Views and Supreme Court of Canada jurisprudence, sections 7 and 15 of the *Charter* should be interpreted to prevent irregular immigrants from being denied access to essential health care necessary for life.

Proposed Submissions of the CCPI Coalition

25. The CCPI Coalition has filed a Motion for Leave to Intervene seeking to assist the Court with the following issues:

- i) Whether section 7 of the *Charter* imposes a positive obligation to ensure access to essential health care where the denial of such care may result in the loss of life;
- ii) Whether it is correct that because the Views of the UN Human Rights Committee are not legally binding on Canada, domestic courts lack the jurisdiction to review Canada's refusal to implement the Committee's Views for compliance with the *Charter* or other domestic law, interpreted in light of the Views;
- iii) Whether Canada's refusal to implement the Human Rights Committee's Views is in accordance with principles of fundamental justice under section 7 of the

Charter, including the peremptory norm of good faith, the requirement that the government decision not be arbitrary, namely that it be necessary and compatible with the objectives of ratifying the *International Covenant on Civil and Political Rights* and its *Optional Protocol* and that the violation of the right to life not be grossly disproportionate to Canada's objectives in refusing to implement the Views; and

- iv) Whether, in light of the Human Rights Committee's Views and other factors, immigration status should be recognized as an analogous ground of discrimination under section 15 of the *Charter*.

26. The FCJ Refugee Centre has a real, substantial and identifiable interest in these issues and will be directly affected by the outcome of Court's decision. It has an important perspective distinct from the immediate parties, including the perspective of those directly affected by the ongoing denial of access to essential health care because of irregular immigration status. It is a well-recognized group with relevant policy and legal expertise.

27. Drawing on the expertise and interests of all four members of the CCPI Coalition, and consulting with other interveners and the Plaintiff to avoid duplication, the CCPI Coalition proposes to assist the court by expanding on the following four key points.

i) Domestic courts have the jurisdiction to review whether Canada's refusal to implement the Committee's Views is compliant with the *Charter* and to judicially review whether that decision was reasonable or consistent with international human rights norms of good faith.

ii) Recent jurisprudence under section 7 of the *Charter*, considered in light of the UN Human Rights Committee's Views in this case and of other developments in international human rights law, supports a finding that Canada's refusal to ensure that irregular migrants have access to essential health care when their lives are at risk violates the right to life under section 7;

iii) Canada's refusal to implement the Human Rights Committee's Views is contrary to principles of fundamental justice, including the universally recognized principle of good faith under international law and the requirement that the decision be necessary to or compatible with and not grossly disproportionate to the objectives of ratifying the ICCPR and its Optional Protocol; and

iv) Immigration status should be recognized as an analogous ground of discrimination under section 15 of the *Charter*. The CCPI Coalition will argue that this ground meets the criteria for analogous grounds applied by the Supreme Court of Canada and that the protections from such discrimination under section

15 should be presumed to conform with the protection accorded by the ICCPR and other international human rights treaties ratified by Canada.

28. This affidavit is made in support of a motion by the FCJ Refugee Centre for leave to intervene jointly with the Charter Committee on Poverty Issues, the Canadian Health Coalition and the Madhu Verma Migrant Justice Centre in this action.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, this 6th day of August, 2024.



Joshua Eisen
LSO #854340
A Commissioner etc.



Diana Gallego

TAB 4

Court File No. CV-20-00649404-0000

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N:

**ANN TOUSSAINT, APPOINTED REPRESENTATIVE OF THE ESTATE OF
NELL TOUSSAINT, DECEASED, FOR THE PURPOSES OF THIS
PROCEEDING**

Plaintiff

- and -

Attorney General of Canada.

Defendant

AFFIDAVIT OF STEVEN STAPLES

(AFFIRMED August 19, 2024)

I, Steven Staples, of the City of Toronto in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Director of Policy and Advocacy for the Canadian Health Coalition (CHC).

2. I hold a Bachelor of Education from the University of New Brunswick and a Master of Leadership and Community Engagement from York University. I am a writer and a committed advocate for peace and social issues. In 2012, I received the Queen's Diamond Jubilee Medal from Ottawa Centre Member of Parliament Paul Dewar.

3. The Canadian Health Coalition (CHC) is dedicated to preserving and enhancing Canada's public health care system for the benefit of all residents of Canada, regardless of economic, social, citizenship or other status. Founded in 1979, CHC includes organizations representing seniors, women, faith groups, students, consumers, labour unions, recent immigrants, and health care professionals from across Canada. CHC is dedicated to promoting informed discussion and assessment of public policy and legislation linked to access to health care based on reliable evidence and full consideration of the interests and needs of disadvantaged groups. One of CHC's five key strategic priorities is ending systemic racism in health care.

4. CHC believes that access to health care is of fundamental importance to the rights of every resident of Canada and that the administration and operation of Canada's health care and publicly funded health insurance system must be thoroughly transparent, accountable, and subject to rigorous scrutiny for compliance with rights guaranteed by the *Canadian Charter of Rights and Freedoms* [the *Charter*] and international human rights law.

5. CHC is requesting leave to intervene in this action jointly with three other organizations, represented by a single legal team. The three other organizations are the Charter Coalition on Poverty Issues, the FCJ Refugee Centre, and the Madhu Verma Migrant Justice Centre. I will refer to the four organizations acting jointly as the “CCPI Coalition.”

6. The CHC proposes to intervene in the public interest in this case and relies on *pro bono* counsel. The Centre is unable to assume liability for an award of costs against it. The Centre would not seek any award of costs and seeks leave to intervene with an order providing that costs will not be sought by or awarded against it, as was granted by Justice Belobaba in the intervention in the Motion to Strike in this action.

7. The CCPI Coalition seeks leave to make joint written and oral submissions at trial or at any pre-trial motions which may be dispositive of the issues to be addressed by the CCPI Coalition and also seeks to have access to documentary discovery and authorization to observe, but not participate in, examinations for discovery. The CCPI Coalition will not file pleadings, introduce evidence, request production or participate in or ask questions during examinations for discovery. The CCPI Coalition does not seek a right of appeal and agrees to accept the record as filed by the Plaintiff and the Defendant.

8. CHC seeks leave to intervene in the action on the limited terms described above as a party under Rule 13.01 of the Rules of Civil Procedure (the Rules), as a member of the CCPI Coalition, together with an order that the members of the CCPI Coalition shall

not be entitled to receive and shall not be liable for costs against any party or intervener in the action.

9. In the alternative, the CHC seeks leave to intervene as a Friend of the Court, pursuant to Rule 13.02 of the Rules, to make oral and written argument at trial or at any pre-trial motions impacting the issues to be addressed by the CCPI Coalition, together with an order granting the CCPI Coalition access to documentary discovery and authorization to observe examinations for discovery. Pursuant to such an order, CHC would agree to be bound by the deemed undertaking rule.

CHC's Unique Work and Expertise in Access to Health Care: Research, Public Education and Advocacy

10. CHC provides extensive information on access to publicly funded health care through its website, which is the repository for a substantial library of archival material and is widely recognized as one of the best sources of up-to-date and topical information about Canada's health care system. CHC has provided information on eligibility for the Interim Federal Health Program (IFHP), and updates and analysis regarding issues of access to health care. These have included updates on the impact of Ontario's directive to provide OHIP coverage to all people without coverage and analysis of barriers to accessing health care based on immigration status.

11. CHC's National Director of Operations and Projects, Tracy Glynn, PhD, is a researcher of migrant health care in Atlantic Canada and has knowledge and experience

representing the interests of people with precarious immigrant status in Canada needing health care. As the New Brunswick researcher on a research and knowledge dissemination platform funded by the Social Sciences and Humanities Research Council (SSHRC) entitled “Migrant Workers in the Canadian Maritimes,” she has been examining the health and safety of temporary foreign workers since 2020.

12. CHC has organized national and regional conferences, hosted roundtable discussions and webinars, circulated petitions, organized public services announcements, led both traditional and social media campaigns and responded to hundreds of public speaking requests about health and access to health care. CHC is frequently called upon to provide national and regional media with analysis and commentary concerning Canada’s health care system. CHC has also made numerous presentations to parliamentary and legislative committees, met with provincial and federal politicians as well as First Nations’ leaders, organized teach-ins and lobby sessions on Parliament Hill and otherwise engaged in public advocacy intended to promote the maintenance and enhancement of the public health care and health insurance system and ensure universal access to health care.

13. CHC appeared before the Standing Committee on Finance to provide input on federal health care on September 26, 2018 in advance of the 2019 federal budget and subsequently participated in pre-budget consultations on September 22 and October 5, 2022 and on May 17, 2023. CHC appeared before the Standing Committee on Health (HESA) on May 11, 2020, to provide its views on the Canadian response to the outbreak

of COVID-19, emphasizing the need to ensure access to health care for vulnerable, marginalized, and low-income groups.

14. CHC has conducted extensive research and advocacy over many years on the issue of access to health care and medications by disadvantaged groups and the need for a universal pharmacare plan, advocating for universal access to pharmaceuticals based on need rather than ability to pay consistent with the principles of the medicare system. CHC was invited to appear before the HESA on May 16, 2016, to provide its views on the development of a national pharmacare program. On May 23, 2024, CHC was invited to appear before HESA to provide input on Bill C-64, the *Pharmacare Act*.

15. CHC assesses changes to law or policy for their effects on access to publicly funded health care and disseminates the results of its research to the public as well as to policy makers and governments. On December 7, 2022, CHC hosted a webinar launch of a report by Citizens for Public Justice on the barriers to accessing health care based on immigration status. The report, co-authored by the CHC's National Director of Operations and Projects, made several recommendations to the federal government and provincial governments aimed at enhancing health care access of temporary foreign workers, refugees, international students and others with precarious or stateless status in Canada.

16. On June 20, 2024, CHC and the University of Ottawa's Centre for Health Law, Policy and Ethics organized the *Canada Health Act at 40 Research Roundtable* at the

University of Ottawa with 75 researchers. One of the subjects addressed by experts at the roundtable was the relationship between the *Canada Health Act* and international law with regards to migrants' health care in Canada.

17. In January 2024, CHC organized the sending of a letter signed by a number of human rights and health care experts and 500 supporting letters to federal ministers calling on Canada to accept recommendations made at the UN Human Rights Council that it ensure access to health care without discrimination on the ground of irregular immigration status and that it implement the UN Human Rights Committee's decision in *Toussaint v. Canada*.

18. CHC organized a lobby day on health care held on February 13, 2024, involving meetings between 100 health care workers and advocates and 85 parliamentarians. At the end of the day, Members of Parliament, Senators, human rights advocates and health care advocates attended a reception co-hosted by the Speaker of the House and all four political parties, during which Nell Toussaint was honoured as a Black champion for human rights and universal health care, in honour of Black History Month.

19. In 2023 and 2024, CHC published several blog posts regarding migrant health care and the effects of Canada's refusal to provide access to health care for irregular migrants to implement recommendations by United Nations human rights bodies. CHC also provided information about a Nova Scotia migrant worker who faced hefty bills for

cancer treatment and eventually won access to public health care after a campaign by her advocates.

20. In March 2024 a report on migrant agricultural workers, co-authored by the CHC National Director of Operations and Projects was published. The report was entitled “Falling Short: Troubles with the Seasonal Agricultural Worker Program in Nova Scotia,” and documented access to health care as a key concern for migrant workers. The report recommended that public health care be provided to all temporary foreign workers upon arrival in Canada. The study reported on the concerns of several migrant workers that their private insurance did not cover all illnesses, treatments, and medications, and that they were not given adequate information about their health care coverage.

Participation in Court Cases

21. CHC has also engaged in litigation to promote the maintenance and enhancement of the public health care system and protect universal access to health care based on need. For example, in light of criticisms from Auditors General of Canada of the performance of the Federal Minister of Health in regard to transparency and accountability requirements under the *Canada Health Act*, and in response to CHC members’ own observations and concerns, CHC sought and was granted standing jointly with several other non-governmental organizations to bring an action in the Federal Court – Trial Division for declaratory and other relief under the *Canada Health Act* in *Canadian Union of Public Employees v. Canada (Minister of Health)*, 2004 FC 1334.

22. CHC was granted intervener status jointly with the Charter Committee on Poverty Issues (CCPI) before the Supreme Court of Canada in the case of *Chaoulli v. Quebec (Attorney General)*, [2005] 1 S.C.R. 791. CCPI and CHC argued that access to health care is a component of the rights to life and security of the person protected under section 7 of the *Charter* and that section 7 should be interpreted in light of Canada's international human rights obligations to guarantee access to health care based on need, and not ability to pay. CCPI and CHC emphasized that the *Charter* should ensure equal protection of the right to life and security of the person of those who, unlike the claimants in that case, lack the means to access private health care.

23. CHC was also granted intervener status in the case of *CanWest Media Works Inc. v. Canada (Attorney General)*, [2006] ONSC 37258. CHC provided assistance to the Court in considering a *Charter* challenge to the statutory prohibition on direct-to-consumer advertising of prescribed drugs by clarifying public policy and health care interests at stake in the regulation of pharmaceutical products.

24. CHC was also granted intervener status in the Motion to Strike the claim in the present case jointly with the Charter Committee on Poverty Issues and the FCJ Refugee Centre. In granting intervener status, Justice Belobaba found that CHC along with other interveners could “usefully assist the court with the nuanced constitutional and international human rights issues that arise here.” [*Toussaint v. Attorney General of Canada* CV-20-649404. Unreported decision of Justice Belobaba (January 14, 2022)].

25. In his decision to dismiss the Attorney General's Motion to Strike in this case, Justice Perell summarized the submissions of the CCPI Coalition in response to the Motion to Strike as follows:

- i) that Canada has mischaracterized Ms. Toussaint's human-rights claim as being a matter of freestanding socio-economic rights when her claim is indivisibly connected to the right to life and about non-discrimination;
- ii) that Canada has misstated the current state of *Charter* law about access to essential health care, which is in flux and not settled;
- iii) that Ms. Toussaint's current claim is different from Ms. Toussaint's previous proceedings before the Federal Court, which argument addresses Canada's submissions that Ms. Toussaint is relitigating a settled matter;
- iv) that although the United Nation Human Rights Committee's Views are not binding, the Ontario court has jurisdiction to review Canada's decision not to implement those Views and the jurisdiction to determine Ms. Toussaint's *Charter* claims; and
- v) that given the UN Human Rights Committee's Views and Supreme Court of Canada jurisprudence, sections 7 and 15 of the *Charter* should be interpreted to prevent irregular immigrants from being denied access to essential health care

necessary for life. (*Toussaint v. Canada (Attorney General)*, 2022 ONSC 5851 at paras 79 – 82).

26. It was clear from Justice Perell’s reasons that these submissions were of considerable assistance to the court.

CHC’s Interest, Unique Perspective and Expertise in the Issues in This Case

27. The issues raised in this case directly engage CHC’s core mandate – to ensure access to publicly funded health care based on need and to ensure that the *Charter* is interpreted and applied in a manner that affords full recognition to, and equal protection of, the right of access to publicly funded health care, including for the most vulnerable groups in Canadian society. CHC is committed to ensuring that Canada lives up to its obligations under international human rights law and that access to effective remedies be available to those denied access to health care under sections 7 and 15 of the *Charter*, and thus, CHC has a significant interest in the outcome of this case.

28. Although access to publicly funded health care is not explicitly recognized as a free-standing right in the *Charter*, CHC believes that access to health care based on need is understood as a fundamental right in Canada and emphasizes that such an understanding is consistent with international human rights treaties ratified by Canada. In light of this, CHC believes that access to publicly funded health care based on need should be recognized as an essential component of rights under the *Charter*, particularly

the rights to life, to security of the person and to equality, when denial of access to publicly funded health care engages interests protected by those rights.

29. CHC has a direct interest in the court's determination in this case of whether the *Charter* is to be interpreted as providing the same level of protection of the right to life and non-discrimination in access to publicly funded health care as in privately funded health care, and in whether the protections accorded by these rights under the *Charter* provide the same level of protection as similar protections in the *International Covenant on Civil and Political Rights*.

30. CHC wishes to ensure that where policies or decisions of governments deny access to publicly funded health, those affected by such decisions will have access to effective remedies before domestic courts in Canada. Where those affected by such decisions seek recourse to international human rights bodies, CHC wishes to ensure that they are not precluded from seeking effective remedies and relying on the decisions of UN human rights bodies as a basis for interpreting their rights under the *Charter*.

31. CHC also believes that it is important for courts to ensure that Canada's response to the Views of authoritative UN human rights bodies under ratified individual complaints procedures be reasonable and made in good faith. If Canada were free to disregard such Views simply because it disagrees with them, CHC is concerned that ratified complaints procedures would be rendered meaningless and illusory for those who rely on them for access to justice and effective remedies.

32. A critical issue in the present case is the impact of the Supreme Court of Canada's decision in *Chaoulli v. Quebec (Attorney General)* 2005 SCC 35, in which CHC intervened jointly with the Charter Committee on Poverty Issues. The Attorney General of Canada has relied on that decision in the present case to argue that section 7 of the *Charter* only protects the rights to life and security of the person of those seeking access to privately funded health care and does not apply to those in need of publicly funded health care. In CHC's view, such a conclusion is based on a misunderstanding of the implications of the Supreme Court of Canada's decision in the *Chaoulli* case and would be at odds with the core values underlying the publicly funded health care system in Canada and the *Charter* values which CHC is dedicated to promoting.

33. The longstanding engagement of CHC in research and advocacy on the issue of access to publicly funded health care will be of significant benefit to the Court. CHC's perspective and expertise in addressing barriers in access to publicly funded health care faced by irregular migrants will be of assistance to the Court to ensure that the perspective of those who are most directly affected by Canada's refusal to implement the Human Rights Committee's Views in this case, and the effect of this decision on their equal dignity and rights, is fully considered.

Proposed Submissions of the CCPI Coalition

34. The CCPI Coalition seeks to assist the Court with the following issues:

- i) Whether section 7 of the *Charter* imposes a positive obligation to ensure access to essential health care where the denial of such care may result in the loss of life;
- ii) Whether it is correct that because the Views of the UN Human Rights Committee are not legally binding on Canada, domestic courts lack the jurisdiction to review Canada's refusal to implement the Committee's Views for compliance with the *Charter* or other domestic law, interpreted in light of the Views;
- iii) Whether Canada's refusal to implement the Human Rights Committee's Views is in accordance with principles of fundamental justice under section 7 of the *Charter*, including the peremptory norm of good faith, the requirement that the government decision not be arbitrary, namely that it be necessary and compatible with the objectives of ratifying the *International Covenant on Civil and Political Rights* and its *Optional Protocol* and that the violation of the right to life not be grossly disproportionate to Canada's objectives in refusing to implement the Views; and
- iv) Whether, in light of the Human Rights Committee's Views and other factors, immigration status should be recognized as an analogous ground of discrimination under section 15 of the *Charter*.

35. These issues are among the most critical unresolved questions in existing *Charter* jurisprudence, and they lie at the heart of our Constitution's promise of equal protection and benefit of its most fundamental guarantees. This Court's approach and answer to these questions will have immense implications not only for irregular migrants requiring access to essential health care for the protection of their lives, but also for the constitutional rights of many of the most disadvantaged individuals and groups in Canadian society, whose perspective the CCPI Coalition represents.

36. CHC has a real, substantial and identifiable interest in these issues and will be directly affected by the outcome of Court's decision. It has an important perspective distinct from the immediate parties, including the perspective of those directly affected by the ongoing denial of access to essential health care because of irregular immigration status. It is a well-recognized group with relevant policy and legal expertise.

37. Drawing on the expertise and interests of all four members of the CCPI Coalition, and consulting with other interveners and the Plaintiff to avoid duplication, the CCPI Coalition proposes to assist the court by expanding on the following four key points.

i) Domestic courts have the jurisdiction to review whether Canada's refusal to implement the Committee's Views is compliant with the *Charter* and to judicially review whether that decision was reasonable or consistent with international human rights norms of good faith.

ii) Recent jurisprudence under section 7 of the *Charter*, considered in light of the UN Human Rights Committee's Views in this case and of other developments in

international human rights law, supports a finding that Canada's refusal to ensure that irregular migrants have access to essential health care when their lives are at risk violates the right to life under section 7;

iii) Canada's refusal to implement the Human Rights Committee's Views is contrary to principles of fundamental justice, including the universally recognized principle of good faith under international law and the requirement that the decision be necessary to or compatible with and not grossly disproportionate to the objectives of ratifying the ICCPR and its Optional Protocol; and

iv) Immigration status should be recognized as an analogous ground of discrimination under section 15 of the *Charter*. The CCPI Coalition will argue that this ground meets the criteria for analogous grounds applied by the Supreme Court of Canada and that the protections from such discrimination under section 15 should be presumed to conform with the protection accorded by the ICCPR and other international human rights treaties ratified by Canada.

38. This affidavit is made in support of a motion by the Canadian Health Coalition for leave to intervene jointly with the Charter Committee on Poverty Issues, the FCJ Refugee Centre and the Madhu Verma Migrant Justice Centre.

Affirmed by video conference by Steven Staples located at the time in the City of Toronto in the Province of Ontario, before me in the City of Ottawa in the Province of Ontario on August 19, 2024 in accordance with O. Reg. 431/20 Administering Oath or Declaration Remotely.



Steven Staples



Yin-Yuan Chen (LSO#: 60947P)
Commissioner for Taking Affidavits
(or as may be)

TAB 5

Court File No. CV-20-00649404-0000

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N:

ANN TOUSSAINT, APPOINTED REPRESENTATIVE OF THE ESTATE OF NELL
TOUSSAINT, DECEASED, FOR THE PURPOSES OF THIS PROCEEDING

Plaintiff

- and -

ATTORNEY GENERAL OF CANADA

Defendant

AFFIDAVIT OF ADITYA RAO

(AFFIRMED August 6, 2024)

I, Aditya Rao, of the City of Ottawa in the Province of Ontario, AFFIRM:

1. I am a founding member of the board of directors of the Madhu Verma Migrant Justice Centre (“Madhu Centre”). As a director of the Madhu Centre, I am responsible for overseeing our casework, acting as a spokesperson, offering our organization’s expertise to decision-making bodies, and working in coalition with other organizations interested in advancing the cause of migrant justice.

2. I hold a Juris Doctor from the University of Ottawa Faculty of Law received in 2018, and a Master of Arts in International Affairs from Carleton University. I practiced as a refugee lawyer and have been a member of the Law Society of Ontario in good standing since 2019. I have been involved in community groups supporting migrants in Canada since 2007. I lived in New Brunswick from 2020 to 2022. I currently reside in Ottawa, Ontario.

3. The Madhu Centre was founded in May 2022 by myself, Dr. Tracy Glynn and Jeremias Tecu, both of the city of Fredericton. The Madhu Centre is an organization dedicated to advancing migrant justice and supporting the struggles of migrants with precarious status in New Brunswick, including migrant workers, underserved migrants, refugee claimants, international students and people with undocumented or irregular immigration status. The Madhu Centre is a small, registered non-profit with limited financial resources. It is not a registered charity.

4. The Madhu Centre is requesting leave to intervene in this action jointly with three other organizations, represented by a single legal team. The three other organizations are the Charter Coalition on Poverty Issues, the Canadian Health Coalition and the FCJ Refugee Centre. I will refer to the four organizations acting jointly as the “CCPI Coalition.”

5. The Madhu Centre proposes to intervene in the public interest in this case and relies on *pro bono* counsel. The Madhu Centre is unable to assume liability for an award

of costs against it. The Madhu Centre would not seek any award of costs and seeks leave to intervene with an order providing that costs will not be sought by or awarded against it, as was granted by Justice Belobaba in the intervention in the Motion to Strike in this action.

6. The CCPI Coalition seeks leave to make joint written and oral submissions at trial or at any pre-trial motions which may be dispositive of the issues to be addressed by the CCPI Coalition and also seeks to have access to documentary discovery and authorization to observe, but not participate in, examinations for discovery. The CCPI Coalition will not file pleadings, introduce evidence, request production or participate in or ask questions during examinations for discovery. The CCPI Coalition does not seek a right of appeal and agrees to accept the record as filed by the Plaintiff and the Defendant.

7. The Madhu Centre seeks leave to intervene in the action on the limited terms described above as a party under Rule 13.01 of the Rules of Civil Procedure (the Rules), as a member of the CCPI Coalition, together with an order that the members of the CCPI Coalition shall not be entitled to receive and shall not be liable for costs against any party or intervener in the action.

8. In the alternative, the Madhu Centre seeks leave to intervene as a Friend of the Court, pursuant to Rule 13.02 of the Rules, to make oral and written argument at trial or at any pre-trial motions impacting the issues to be addressed by the CCPI Coalition, together with an order granting the CCPI Coalition access to documentary discovery and

authorization to observe examinations for discovery. Pursuant to such an order, the Madhu Centre would agree to be bound by the deemed undertaking rule.

The Madhu Centre’s work and expertise regarding barriers faced by migrants in accessing healthcare

9. The Madhu Centre provides services to people in New Brunswick who have irregular or undocumented immigration status. The Centre has assisted over 100 individuals since its founding with needs that include applying for an open work permit for vulnerable workers, humanitarian and compassionate grounds applications, applications for temporary resident permits, pre-removal risk assessments and judicial reviews.

10. The Madhu Centre operates a Migrant Worker Legal Clinic (“Clinic”), funded by the New Brunswick Law Foundation. Launched in November 2023, the Clinic supports migrant workers and underserved migrants with legal assistance, filling a significant gap in access to justice in the province.

11. Besides assisting with emergency immigration applications, and labour and human rights complaints, the Clinic assists clients attempting to secure access to health care and supports clients to apply for Medicare coverage. New Brunswick requires applicants to show proof of residency for 12 months in order to access public Medicare coverage. As a result, seasonal migrant workers, whose permits are between 6 to 8 months, are frequently excluded from public health care coverage. In these cases, the Clinic makes efforts to

secure essential health care from health care providers on a voluntary basis, without pay, and to raise funds to cover necessary medical expenses. The Madhu Centre is also establishing the New Brunswick Sanctuary Network (“Sanctuary Network”), funded by the Canadian Race Relations Foundation. The Sanctuary Network is a confidential network with the aim to ensure that people with precarious immigration status in New Brunswick have safe access to doctors, dentists, housing programs, social workers, counselors, and other essential service providers.

12. The Clinic also aids seasonal migrant workers who leave their workplaces due to abuse, illness or other reasons. Employers of temporary foreign workers are obligated to provide private health insurance coverage to the workers who do not have public health care coverage but workers who leave their workplaces frequently find themselves without any health care coverage or delays in health care coverage and turn to the Clinic for assistance.

13. In addition to service provision, the Madhu Centre also produces and collaborates on research into the circumstances faced by migrants. The Madhu Centre was a community partner on the “TFW Maritimes” research project with Dalhousie University and St. Thomas University for a report released in 2023 on Migrant Workers in the Seafood Industry. This research documented the unique challenges facing migrant workers in New Brunswick in accessing health care, including lack of knowledge about the difference between public and private health care, and information about how to access private health plans. Migrant workers often do not have the money to pay up-front for health care as is

required in many private health plans. Some face employer retaliation for accessing health care, particularly where the need for health care results from a work place accident that the employer has not reported to WorkSafe New Brunswick.

14. The Madhu Centre's expertise in issues affecting migrants has been recognized by parliament and United Nations bodies. The Madhu Centre was invited to appear before the Standing Senate Committee on Social Affairs, Science and Technology in June 2023 to provide testimony on the ways in which migrant workers face abuse and discrimination in their workplaces. The Madhu Centre participated in and helped convene a special visit by the committee to New Brunswick in September 2023 to meet with migrant workers in order to learn more about their experiences.

15. The Madhu Centre contributed to the UN Special Rapporteur on Modern-day Slavery's study of the situation with respect to closed work permits in Canada in June 2023, including by convening a symposium for the Rapporteur to meet migrant workers.

16. The Madhu Centre also works through public education and advocacy to combat stigmatization, prejudice, and systemic discrimination faced by migrants in New Brunswick because of their immigration status. The Madhu Centre has launched a "Medicare For All" campaign, which calls on the Government of New Brunswick to: (1) Provide Medicare coverage to all temporary foreign workers upon arrival in the province, (2) Provide accessible information about what Medicare covers, including in Spanish and

other languages of temporary foreign workers, and (3) Provide community-based health services that are responsive to migrant workers' needs.

The Madhu Centre's distinct expertise, perspective and interest as an intervener

17. Together with the other members of the CCPI Coalition, and through its expert legal team, the Madhu Centre can make a unique and valuable contribution to the issues before the court in this action.

18. The Madhu Centre works with individuals with precarious immigration status in an underserved jurisdiction where such individuals have nowhere else to turn to. The Madhu Centre will be able to ensure that the perspective of irregular migrants directly impacted by the issues before the court in this case is fully considered by the Court. The Madhu Centre is also uniquely positioned, as a member of the CCPI Coalition, to assist the Court in assessing the impact of the denial of access to health care to irregular migrants in remote and rural communities.

19. The Madhu Centre's expertise in addressing the stigma, stereotype and differential treatment experienced by migrants, and by undocumented migrants will be of assistance to the court in considering whether irregular immigration status should be considered an analogous ground under section 15 of the *Charter*. As Justice Perell noted in his decision on the Motion to Strike, these stereotypes have been inappropriately invoked in the present case to mischaracterize the Plaintiff's claim as a demand for "free health care" or "a purely

socio-economic right which is outside the guarantees of the *Canadian Charter of Rights and Freedoms*.” The Madhu Centre will provide valuable assistance in ensuring that the claim is assessed in a manner that is free of such prejudices.

20. The Madhu Centre has a real and substantial interest in the outcome of this case, as can be seen from the organization’s work and focus on the well-being of migrants in New Brunswick. The Madhu Centre is frequently called upon to allocate time and resources to assist migrants with problems related to the denial of access to publicly funded health care. The work of the organization would be significantly advanced if the systemic remedy required by the UN Human Rights Committee’s Views, and sought by the Plaintiff, in this case is implemented.

Proposed Submissions of the CCPI Coalition

21. The CCPI Coalition seeks to assist the Court with the following issues:
- i) Whether section 7 of the *Charter* imposes a positive obligation to ensure access to essential health care where the denial of such care may result in the loss of life;
 - ii) Whether it is correct that because the Views of the UN Human Rights Committee are not legally binding on Canada, domestic courts lack the jurisdiction to review Canada’s refusal to implement the Committee’s Views for compliance with the *Charter* or other domestic law, interpreted in light of the Views;

- iii) Whether Canada's refusal to implement the Human Rights Committee's Views is in accordance with principles of fundamental justice under section 7 of the *Charter*, including the peremptory norm of good faith under international law, the requirement that the government decision not be arbitrary, namely that it be necessary and compatible with the objectives of ratifying the *International Covenant on Civil and Political Rights* and its *Optional Protocol* and that the violation of the right to life not be grossly disproportionate to Canada's objectives in refusing to implement the Views; and
- iv) Whether, in light of the Human Rights Committee's Views and other factors, immigration status should be recognized as an analogous ground of discrimination under section 15 of the *Charter*.

22. These issues are among the most critical unresolved questions in existing *Charter* jurisprudence, and they lie at the heart of our Constitution's promise of equal protection and benefit of its most fundamental guarantees. This Court's approach and answer to these questions will have immense implications not only for irregular migrants requiring access to essential health care for the protection of their lives, but also for the constitutional rights of many of the most disadvantaged individuals and groups in Canadian society, whose perspective the CCPI Coalition represents.

23. The Madhu Centre has a real, substantial and identifiable interest in these issues and will be directly affected by the outcome of Court's decision. It has an important

perspective distinct from the immediate parties, including the perspective of those directly affected by the ongoing denial of access to essential health care because of irregular immigration status. It is a well-recognized group with relevant policy and legal expertise.

24. Drawing on the expertise and interests of all four members of the CCPI Coalition, and consulting with other interveners and the Plaintiff to avoid duplication, the CCPI Coalition proposes to assist the court by expanding on the following four key points.

- i) Domestic courts have the jurisdiction to review whether Canada's refusal to implement the UN Human Rights Committee's Views is compliant with the *Charter* and to judicially review whether that decision was reasonable or consistent with international human rights norms of good faith.
- ii) Recent jurisprudence under section 7 of the *Charter*, considered in light of the UN Human Rights Committee's Views in this case and of other developments in international human rights law, supports a finding that Canada's refusal to ensure that irregular migrants have access to essential health care when their lives are at risk violates the right to life under section 7;
- iii) Canada's refusal to implement the Human Rights Committee's Views is contrary to principles of fundamental justice, including the universally recognized principle of good faith under international law and the requirement that the decision be necessary to or compatible with and not grossly disproportionate to

the objectives of ratifying the *International Covenant on Civil and Political*

Rights (ICCPR) and its Optional Protocol; and

iv) Immigration status should be recognized as an analogous ground of

discrimination under section 15 of the *Charter*. The CCPI Coalition will argue that this ground meets the criteria for analogous grounds applied by the Supreme Court of Canada and that the protections from such discrimination under section 15 should be presumed to conform with the protection accorded by the ICCPR and other international human rights treaties ratified by Canada.

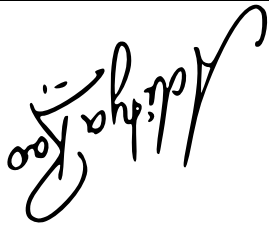
22. This affidavit is made in support of a motion by the Madhu Verma Migrant Justice Centre for leave to intervene jointly with the Charter Committee on Poverty Issues, the FCJ Refugee Centre, and the Canadian Health Coalition.

Affirmed by video conference by Aditya Rao located at the time in the City of Ottawa in the Province of Ontario, before me in the Municipality of Duhamel in the Province of Quebec on August 6, 2024 in accordance with O. Reg. 431/20 Administering Oath or Declaration Remotely.



Yin Yuan Chen (LSO#: 60947P)
Commissioner for Taking Affidavits
(or as may be)

Aditya Rao



ANN TOUSSAINT, APPOINTED
REPRESENTATIVE OF THE ESTATE
OF NELL TOUSSAINT, DECEASED,
FOR THE PURPOSES OF THIS
PROCEEDING

v. ATTORNEY GENERAL OF CANADA

Court File No. CV-20-00649404-0000

Plaintiff

Defendant

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO

MOTION RECORD

Professor Yin Yuan Chen (he/him)
Faculty of Law, University of Ottawa
(613) 562-5800 ext.2077
Email: yy.chen@uottawa.ca

Professor Martha Jackman
Faculty of Law, University of Ottawa
(613) 562-5800 ext. 3299
Email: Martha.Jackman@uOttawa.ca

Lawyers for the Intervenors