

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE ESTATE OF NELL TOUSSAINT, deceased

Plaintiff

and

ATTORNEY GENERAL OF CANADA

Defendant

MOTION RECORD OF THE APPLICANT ANN TOUSSAINT

Andrew C. Dekany (LSO# 18383F)
5 Edenvale Cres., Toronto, ON M9A 4A5
Tel.: 416-888-8877
Email: andrewcdekany@gmail.com

Barbara Jackman (LSO# 17463T)
1-598 St. Clair Ave. W., Toronto, ON M6C 1A6
Tel.: 416-653-9964 Ext. 225, Fax: 416 653 1036
Email: barb@bjackman.com

James Yap (LSO# 61126H)
28 Brunswick Ave., Toronto, ON M5S 2L7
Tel.: 416-992-5266
Email: mail@jamesyap.ca

Lawyers for the Applicant Ann Toussaint

TO:

The Estate of Nell Toussaint

Plaintiff

TO:

Attorney General of Canada
Department of Justice
Ontario Regional Office
120 Adelaide Street West
Suite 400
Toronto, Ontario M5H 1T1
Fax: (416) 954-8982
Attention: David Tyndale
Tel: (647) 256-7309
Email: David.Tyndale@justice.gc.ca
LSO#: 28696K

Lawyers for the Defendant

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE ESTATE OF NELL TOUSSAINT, deceased

Plaintiff

and

ATTORNEY GENERAL OF CANADA

Defendant

TABLE OF CONTENTS

	PAGE
Notice of Motion dated June 9, 2023	1-4
Affidavit of Ann Toussaint sworn on June 6, 2023	5-10
Exhibit “A” Letter from Funeral Director dated January 10, 2022 (<i>sic</i>)	11-12
Exhibit “B” Letter from counsel for migrant farmworkers coalition	13-17
Exhibit “C” Email from counsel for counsel for CCPI Coalition	18-19
Exhibit “D” Email from counsel for Canadian Civil Liberties Association	20-22

CV-20-00649404-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE ESTATE OF NELL TOUSSAINT, deceased

Plaintiff

and

ATTORNEY GENERAL OF CANADA

Defendant

NOTICE OF MOTION

The applicant Ann Toussaint will make a motion to a judge on a date and at a time as may be directed by a judge at the case conference ordered by the Honourable Justice Centa on May 30, 2023 to be held herein, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard as may be directed by a judge at the aforesaid case conference, including one of the following ways:

☐ In writing under subrule 37.12.1 (1) because it is *(insert one of on consent, unopposed or made without notice)*;

☐ In writing as an opposed motion under subrule 37.12.1 (4);

☐ In person;

☐ By telephone conference;

X ☐ By video conference at

following location - on a

link to a video call as

provided by the Court.

THE MOTION IS FOR:

An order appointing the applicant as the personal representative of the estate of the late plaintiff herein, Nell Toussaint, for the purposes of this action.

THE GROUNDS FOR THE MOTION ARE:

1. The late Nell Toussaint, plaintiff herein, died intestate on January 9, 2023.
2. The applicant Ann Toussaint is the mother of the late Nell Toussaint.
3. The father of Nell Toussaint predeceased Nell Toussaint.
4. The late Nell Toussaint left no spouse or issue within the meaning of Parts I to IV of the *Succession Law Reform Act*.
5. Ann Toussaint is entitled to have distributed to her absolutely any property of the late Nell Toussaint pursuant to section 47(3) of the *Succession Law Reform Act*.
6. There is no property of the late Nell Toussaint to administer other than the claims asserted in this action.
7. The applicant Ann Toussaint is funded by the Court Challenges Program of Canada to continue this action and has authorized experienced counsel of record in this action to act for her if appointed as the personal representative of the estate of Nell Toussaint for the purposes of this action.
8. The applicant Ann Toussaint has no interest in this action adverse to that of the estate of Nell Toussaint.
9. Rule 10.02 of the Rules of Civil Procedure.

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

Affidavit of Ann Toussaint sworn on June 6, 2023, the exhibits referred to therein, and such further and other material as counsel may advise and this Honourable Court permit

June 9, 2023

Andrew C. Dekany (LSO# 18383F)
5 Edenvale Cres., Toronto, ON M9A 4A5
Tel.: 416-888-8877
Email: andrewcdekany@gmail.com

Barbara Jackman (LSO# 17463T)
1-598 St. Clair Ave. W., Toronto, ON M6C 1A6
Tel.: 416-653-9964 Ext. 225, Fax: 416 653 1036
Email: barb@bjackman.com

James Yap (LSO# 61126H)
28 Brunswick Ave., Toronto, ON M5S 2L7
Tel.: 416-992-5266
Email: mail@jamesyap.ca

Lawyers for the Applicant

TO:

The Estate of Nell Toussaint

Plaintiff

TO:

Attorney General of Canada
Department of Justice
Ontario Regional Office
120 Adelaide Street West
Suite 400
Toronto, Ontario M5H 1T1
Fax: (416) 954-8982
Attention: David Tyndale
Tel: (647) 256-7309
Email: David.Tyndale@justice.gc.ca
LSO#: 28696K

Lawyers for the Defendant

Toussaint v. Attorney General of Canada

Court file no. CV-20-00649404-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

Notice of Motion made by

Ann Toussaint

Andrew C. Dekany (LSO# 18383F)
5 Edenvale Cres., Toronto, ON M9A 4A5
Tel.: 416-888-8877
Email: andrewcdekany@gmail.com

Barbara Jackman (LSO# 17463T)
1-598 St. Clair Ave. W., Toronto, ON M6C
Tel.: 416-653-9964 Ext. 225, Fax: 416 653
Email: barb@bjackman.com

James Yap (LSO# 61126H)
28 Brunswick Ave., Toronto, ON M5S 2L7
Tel.: 416-992-5266
Email: mail@jamesyap.ca

Lawyers for Ann Toussaint

Court File No.: CV-20-00649404-000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

NELL TOUSSAINT

Plaintiff

- and -

ATTORNEY GENERAL OF CANADA

Defendant

AFFIDAVIT OF ANN TOUSSAINT

I, Ann Toussaint, of the Borough of Brooklyn in the City of New York, in the State of New York, in the United States of America, MAKE OATH AND SAY:

1. I am the mother of the late Nell Toussaint, the plaintiff in this action. My daughter Nell died on January 9, 2023. Attached hereto and marked as **exhibit “A”** is a letter dated January 10, 2022 (sic) issued by Nicole Hicks, a funeral director at Scott Funeral Home, West Toronto Chapel confirming January 9, 2023 as Nell’s date of death.
2. My daughter Nell was born on July 14, 1969. She died resident in Toronto, Ontario on January 9, 2023. She had been married previously but was divorced from her husband.
3. Prior to her death Nell had a relationship with Anthony Cato. They were not married to each other. I understand that a person is not considered to be a spouse of another under the definition of “spouse” in section 1(1) of Ontario’s *Succession Law Reform Act* for the purposes of testate or intestate succession if they are not legally married to each other.
4. Nell never had any children or any dependants, and her father predeceased her.

5. Nell did not leave a will at the time of her death as far as I have been able to determine. I believe she died intestate.
6. Although Nell had approximately \$1,800 in her bank account at the date of her death, I understand that the City of Toronto has a claim against Nell's assets for the amount of any payments the City made towards her funeral expenses, and that the amount the City paid for Nell's funeral was greater than \$1,800. The only other asset Nell had was the burial plot where she is now buried. I am not aware of any other assets in my daughter Nell's estate and as far as I can tell there are no estate assets to be administered.
7. My daughter Nell commenced this action on October 14, 2020 against the defendant Attorney General of Canada following the Government of Canada's refusal to implement the July 24, 2018 decision of the United Nations Human Rights Committee. That decision found that Canada had violated Nell's rights to life and non-discrimination as recognized in the International Covenant on Civil and Political Rights when the federal government denied her access to Canada's Interim Federal Health Program in circumstances where such denial exposed her to a reasonably foreseeable risk of the loss of her life. Medical experts Drs. Gordon Guyatt and Stephen Hwang in their expert reports, which were accepted by the Federal Court of Canada and of which the Human Rights Committee took note, predicted that if Nell were denied such access she could suffer life threatening consequences including death.
8. The Human Rights Committee found that Canada was obliged under the aforesaid Covenant to pay Nell compensation and to take all steps necessary to ensure that irregular migrants have access to essential health care to prevent a reasonably foreseeable risk that can result in loss of life.

9. Nell successfully resisted a motion by the defendant to have her action dismissed. On August 17, 2022 Justice Perell gave lengthy reasons dismissing the defendant's motion. His decision is reported at 2022 ONSC 4747 (CanLII). On that motion a total of ten organizations were granted intervener status as friends of the Court by Justice Belobaba. Justice Perell described my daughter's case as raising a multitude of novel and important questions of public interest relating to the *Canadian Charter of Rights and Freedoms* and international human rights law.
10. The defendant appealed on only two aspects of Justice Perell's order. One was his declaration that the Ontario Superior Court of Justice has jurisdiction. The Court of Appeal for Ontario upheld Justice Perell and dismissed this ground of appeal in its February 23, 2023 decision, reported at 2023 ONCA 117 (CanLII). The other ground of appeal was that Justice Perell should have permitted the defendant to plead in its statement of defence a limitations defence. The Court of Appeal allowed this ground of appeal. To date the defendant has not delivered any statement of defence.
11. Nell has been represented by a team of experienced lawyers consisting of Barbara Jackman, James Yap, and Andrew C. Dekany. A summary of Barbara Jackman's curriculum vitae, found at <https://www.jackmanandassociates.com/team/barbara-jackman-ba-llb>, describes how she is a leading Canadian lawyer specializing in immigration and refugee law, with particular emphasis on appeals and judicial review applications, complex cases concerning security, medical and criminality, domestic and international human rights issues, rights and protections afforded by the *Canadian Charter of Rights and Freedoms*, and Canada's responsibilities under international treaties. Ms Jackman has acted on behalf of parties or intervenors at all levels of Courts

in Canada, including before the Supreme Court of Canada and has argued a number of precedent setting cases concerning the *Charter of Rights and Freedoms*, immigration, refugee and administrative law.

12. I am informed by James Yap and believe that he was called to the Bar of Ontario in 2011, that he clerked for the Honourable Justice Binnie of the Supreme Court of Canada from 2010 to 2011, and that he is the president of Canadian Lawyers for International Human Rights (CLAIHR). Mr. Yap appeared before the Supreme Court of Canada as co-counsel in *Nevsun Resources Ltd. v. Araya* acting for the successful respondent.
13. I am informed by Andrew C. Dekany and believe that he was called to the Bar of Ontario in 1979 and has been acting as counsel for Nell since 2009 in all her proceedings before the Federal Court, in her application for leave to appeal to the Supreme Court of Canada, and in her successful complaint against Canada before the United Nations Human Rights Committee.
14. I consent to act as the personal representative of my daughter Nell Toussaint's estate for the purposes of this action if this Honourable Court appoints me in that capacity. If so appointed I authorize Barbara Jackman, James Yap and Andrew C. Dekany to continue to act as the lawyers for the plaintiff in this action. I am not aware of anyone else having been appointed as the estate trustee of my daughter's estate nor have I been given notice of any application to be so appointed.
15. Nell had funding from the Court Challenges Program of Canada to bring her action. Since her death I also have been granted funding by the Court Challenges Program of Canada to continue her action, having met the Program's requirements that the case be of national importance and in the public interest.

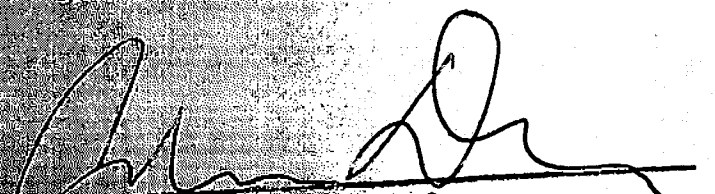
16. My daughter Nell Toussaint was dedicated to protecting the dignity, security, equality and the safety of the lives of irregular migrants. By pursuing this action in the Ontario Superior Court of Justice she was determined to ensure that what happened to her would not happen to others in similar circumstances.
17. I am applying to be appointed as the representative of my daughter Nell's estate for the purposes of this action to pursue her claims herein, as she did, in the public interest to ensure that Canada protects the rights to life and equality of those who find themselves in the circumstances my daughter faced when she sought and was denied access to essential health care.
18. I have a personal understanding of the ways in which the denial of access to essential health care affected my daughter Nell and how it deprived her of her inherent dignity. I am confident that, if I am appointed as the legal representative of her estate for the purposes of this action, my legal team of Ms Jackman, Mr. Yap and Mr. Dekany will ensure that all necessary evidence is adduced to provide an evidentiary foundation for the court to consider my late daughter's claims. They have been in touch with human rights and health care organizations that intervened in the above-mentioned motion brought by the defendant to dismiss Nell's action and who put forward arguments to advance the interests of irregular migrants and other disadvantaged groups. As recently as May 12, 2023 counsel for a coalition of three organizations representing migrant farm workers wrote to Mr. Dekany and to counsel for the defendant indicating their clients' intention to seek leave to intervene in the action. Attached hereto and marked as **exhibit "B"** is a true copy of that letter. Subsequently, on May 29, 2023 counsel for a coalition of three organizations who had been granted intervener status before Justice Perell, namely

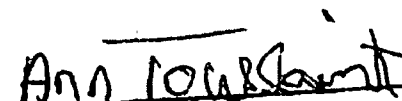
Charter Committee on Poverty Issues, Canadian Health Coalition, and FCJ Refugee Centre, wrote by email to Mr. Dekany and to counsel for the defendant stating these organizations collectively intend to seek leave to intervene in this action in the public interest. A copy of their May 29, 2023 email is attached hereto and marked as exhibit "C". On June 1, 2023 counsel for the Canadian Civil Liberties Association emailed Mr. Dekany and counsel for the defendant stating that their client intended to seek leave to intervene in this action as a friend of the court. A copy of that June 1, 2023 email is attached hereto and marked as exhibit "D".

19. I have no interest in this action adverse to that of the estate of Nell Toussaint.

Sworn before me by video conference)
 by Ann Toussaint of the Borough of Brooklyn)
 in the City of New York, in the State of New York,)
 in the United States of America, before me at the)
 City of Toronto in the Province of Ontario,)
 on June 6th, 2023 in accordance with O. Reg. 431/20,)
 Administering Oath or Declaration Remotely.)

Andrew C. Dekany, Barrister & Solicitor, and)
 Commissioner for Taking Affidavits)


 Signature of Andrew C. Dekany


 Signature of Ann Toussaint

THIS IS EXHIBIT "A"
TO THE AFFIDAVIT OF ANN TOUSSAINT
SWORN BEFORE ME
BY VIDEOCONFERENCE ON JUNE 6, 2023



.....
ANDREW C. DEKANY
BARRISTER & SOLICITOR



Scott Funeral Home
West Toronto Chapel
by Arbor Memorial

12

January 10, 2022

To Whom It May Concern,

Funeral details confirmation

Date of Death: January 9, 2023

This is to confirm that the funeral arrangements for late Ms. Nell Toussaint have been entrusted to the Scott Funeral Home West Toronto Chapel. Visitation and Funeral Services have been tentatively scheduled for Thursday, January 19, 2023.

If you have further questions, please do not hesitate to call.

Best Regards,

Nicole Hicks
Funeral Director
Scott Funeral Home - West Toronto Chapel
Toronto, Ontario M6M 4R2
Tel: 416-243-0202
Fax: 416-245-9934
Email: nhicks@arbormemorial.com

THIS IS EXHIBIT "B"
TO THE AFFIDAVIT OF ANN TOUSSAINT
SWORN BEFORE ME
BY VIDEOCONFERENCE ON JUNE 6, 2023



.....
ANDREW C. DEKANY
BARRISTER & SOLICITOR

Taneeta Doma

J4MW-Windsor Law Migrant Farmworker
Clinic (MFWC) and
Justicia/Justice for Migrant Workers (J4MW)
PO Box 34001, Rosedale Post Office
Toronto, ON M4S 0C4
Tel: (519) 903-7376
Email: domat@uwindsor.ca

Maryth Yachnin

Industrial Accident Victims Group of Ontario
(IAVGO)
55 University Ave, Unit 1500
Toronto, ON M5J 2H7
Tel: (416) 924-6477 Ext. 4531
Email: maryth.yachnin@iavgo.clcj.ca

May 12, 2023

VIA E-MAIL

TO: **Andrew C. Dekany**
5 Edenvale Crescent
Toronto, ON M9A 4A5
Tel: (416) 888-8877
Email: andrewcdekany@gmail.com
Lawyer for the Plaintiff

AND TO: **Department of Justice**
Ontario Regional Office
120 Adelaide Street West, Suite 400
Toronto, ON M5H 1T1
David Tyndale/ Asha Gafar
Tel: (647) 256-7309/ (647) 256-0720
Fax: (416) 954-8982
Email: david.tyndale@justice.gc.ca
asha.gafar@justice.gc.ca
Lawyers for the Defendant

Dear Mr. Dekany, Mr. Tyndale and Ms. Gafar:

RE: PROPOSED INTERVENTION
TOUSSAINT v CANADA (ATTORNEY GENERAL)
Court File No: CV-20-00649404-0000

We are writing on behalf of our clients, Justicia/Justice for Migrant Workers (J4MW), the Industrial Accident Victims Group of Ontario (IAVGO) legal clinic and the J4MW-Windsor Law Migrant Farmworker Clinic (MFWC) to inform you that we intend to seek leave to

intervene in the above-noted matter as a friend of the court. We are requesting your clients' consent to our proposed intervention.

If granted status to intervene, J4MW, IAVGO and the MFWC intend to bring to the Court's attention the impact of the case on a particular class of precarious migrants – migrant workers, with whom J4MW, IAVGO and the MFWC have worked for many years. We have a history of community outreach, law reform and legal advocacy alongside migrant workers in Canada.

In our experience, migrant workers' changing and precarious (irregularized) immigration status often excludes them from accessing health care even when their injuries and disabilities are a direct outcome of working in hazardous jobs, such as farm work, for which they were sought to work in Canada through the temporary foreign worker system. In the face of the unique vulnerabilities and exploitation faced by this marginalized group, which have been recognized by numerous tribunals and courts, the tying of health care to specific immigration status endangers their lives and impacts their livelihoods. We have advocated alongside migrant workers in seeking to advance their constitutional and other legal rights for several years. Our experience will allow us to provide a unique perspective on the critical issues the Superior Court will consider in this matter. We have a genuine and substantial interest in this case because its outcome will have serious implications for our constituents.

We intend to seek leave to intervene as our own coalition, separate from those proposed to the Court in the previous Motion to Strike and the Plaintiff's matters before the Federal Court. The perspectives we can bring to the Court differ from those of our proposed co-intervenors, and will not delay these proceedings or expand their scope.

J4MW is a non-profit, grassroots collective based in Toronto, Ontario, whose primary purpose is to work towards the fair and just treatment of migrant agricultural workers in Ontario and throughout Canada. J4MW creates inclusive spaces for marginalized agricultural workers and community labour advocates to engage in anti-oppressive social, political and legal learning and action. J4MW works closely with migrant workers who face both precarious immigration and employment status in Canada, and who often have to work in hazardous workplaces and suffer serious injuries, illness, or death. The majority of J4MW members are also racialized persons.

The MFWC was established in 2020 by a joint collaboration between J4MW and the University of Windsor, Faculty of Law, with funding from the Law Foundation of Ontario. The MFWC has represented and given summary advice and public legal education to hundreds of migrant farmworkers in Southern Ontario since then. The clinic is administered by a dedicated staff lawyer, Windsor Law academics, J4MW organisers, and other lawyers and legal professionals on a pro bono basis. It is also supported by the Transnational Law and Racial Justice Centre at Windsor Law. The clinic provided extensive legal and other support during the COVID-19

pandemic in the Windsor-Essex region and is especially attuned to the racialized risk of facing death, disease, and disability due to the absence of universal healthcare access.

IAVGO is a specialty community legal aid clinic founded in 1975 and funded by Legal Aid Ontario with a mandate to provide injured workers with free advice, representation and public legal education about their rights. Most of IAVGO's clients are marginalized and racialized workers who were injured in the course of precarious employment. Many have precarious immigration status that limits their access to healthcare as workers with disabilities. IAVGO became involved with the migrant worker community in November 2005. Because of these workers' exceptional vulnerability, IAVGO prioritizes the issues facing migrant workers and their families when they are injured or killed on the job.

IAVGO, J4MW, and the MFWC have participated in legislative and other government reviews providing submissions about the experience of injured migrant workers, appeared before Parliamentary and United Nations Committees, and worked with academics and researchers specialised in migrant work from all over the world.

Collectively, the MFWC, IAVGO and J4MW have extensive experience addressing workers' rights, health care rights, migrant rights, and their intersections, including issues of racial equality and anti-discrimination at both individual and institutional levels. IAVGO and J4MW have been granted intervenor status by various levels of courts (including the Supreme Court of Canada) and tribunals, in recognition of their expertise in issues affecting members of racialized and/or migrant communities and workers, including but not limited to [*Ontario \(Attorney General\) v. Fraser*](#), [2011] 2 SCR 3; [*R v Peart*](#), 2017 ONSC 782 (CanLII); [*Schuyler Farms Limited v. Dr. Nesathurai*](#), 2020 ONSC 4711 (CanLII); [*O.P.T. v. Presteve Foods Ltd.*](#), 2015 HRTO 675 (CanLII); [*Maxwell v. Cooper-Standard Automotive Canada Limited*](#), 2013 HRTO 1482 (CanLII); [*Quebec \(Commission des normes, de l'équité, de la santé et de la sécurité du travail\) v. Caron*](#), 2018 SCC 3 (CanLII), [2018] 1 SCR 35.

J4MW and IAVGO's joint intervention in *Ontario (AG) v Fraser* was, to the best of our knowledge, the first time that the voice of migrant workers was heard meaningfully before the Supreme Court of Canada. Our intervention assisted the Court to understand how its decision about agricultural workers' ability to unionise would affect racialized migrant agricultural workers. We focused on the need for *Charter* rights, and especially s. 15 rights, to be interpreted and contextualised based on the experience of racialized migrant agricultural workers, other temporary foreign workers, and undocumented workers.

IAVGO and J4MW have developed a specific focus on advocacy for migrant workers' health care rights where they intersect with their precarious immigration status. For example, in [*OHIP v. Clarke & Williams*](#), 2014 ONSC 2009 (CanLII), IAVGO advocated for two migrant workers

who were denied health care coverage because their work permits had expired.¹ IAVGO and J4MW, with the research support of the MFWC, intervened in the Divisional Court in *Schuyler Farms Limited v. Dr. Nesathurai*, 2020 ONSC 4711 dealing with a Health Unit order to limit migrant workers in a bunkhouse to reduce their risk of getting infected with COVID-19. In its decision, the Court underscored the vulnerability and health inequities experienced by migrant farmworkers.

J4MW, IAVGO, and the MFWC are well-placed to assist the Court in its determination of whether the decision not to give effect to the UN Human Rights Committee's views was a violation of the Plaintiff's *Charter* rights. Our proposed intervention will focus on the impact of inadequate health care and health care access on migrant workers' rights to non-discriminatory treatment under the *Charter*.

We will argue that the Plaintiff's status as a racialized migrant worker, one who worked in traditional low-wage labour sectors dominated by Black and racialized women with precarious immigration status, is of critical importance in understanding that precarious immigration status is racially structured. The denial of healthcare on the basis of immigration status is discrimination on the basis of race and country of origin, and disparately impacts migrant workers, particularly migrant farmworkers, who form the largest category of temporary foreign workers from the Global South in hazardous, low-wage sectors.

Thank you very much for your consideration and we look forward to your response.

Sincerely,

Taneeta Doma and Maryth Yachnin
Counsel for the J4MW-IAVGO-MFWC Coalition

¹ While the workers were unsuccessful in having their health coverage continued, Justice Nordheimer, as he then was, opined that "if there is a gap in the parameters of the SAWP that do not ensure health care coverage for seasonal workers who are required to remain in Ontario for legitimate medical reasons after the expiration of their work permit, then that gap should be filled either by requiring the employers to obtain supplemental health insurance or through an agreement negotiated between the federal and provincial governments."

THIS IS EXHIBIT "C"
TO THE AFFIDAVIT OF ANN TOUSSAINT
SWORN BEFORE ME
BY VIDEOCONFERENCE ON JUNE 6, 2023



.....
ANDREW C. DEKANY
BARRISTER & SOLICITOR



andrew dekany <andrewcdekany@gmail.com>

PROPOSED INTERVENTION TOUSSAINT v CANADA (ATTORNEY GENERAL)
Court File No: CV-20-00649404-0000

Yin Yuan Chen <yy.chen@uottawa.ca>

Mon, May 29, 2023 at 2:51 PM

To: "David.Tyndale@justice.gc.ca" <David.Tyndale@justice.gc.ca>, "andrewcdekany@gmail.com"

<andrewcdekany@gmail.com>

Cc: "barb@bjackman.com" <barb@bjackman.com>, "james.yap@gmail.com" <james.yap@gmail.com>, "Asha.Gafar@justice.gc.ca" <Asha.Gafar@justice.gc.ca>, "Charlene.Cho@justice.gc.ca" <Charlene.Cho@justice.gc.ca>, Martha Jackman <Martha.Jackman@uottawa.ca>, Vanessa Gruben <Vanessa.Gruben@uottawa.ca>, "ranand@weirfoulds.com" <ranand@weirfoulds.com>, "mmah@weirfoulds.com" <mmah@weirfoulds.com>, "iris.fischer@blakes.com" <iris.fischer@blakes.com>, "kaley.pulfer@blakes.com" <kaley.pulfer@blakes.com>, "Li, Alysha" <alysha.li@blakes.com>, "abogach@torys.com" <abogach@torys.com>, "rsaab@torys.com" <rsaab@torys.com>

Dear Mr. Dekany and Mr. Tyndale:

RE: PROPOSED INTERVENTION TOUSSAINT v CANADA (ATTORNEY GENERAL) Court File No: CV-20-00649404-0000

We are writing on behalf of the Charter Committee on Poverty Issues, the Canadian Health Coalition, and the FCJ Refugee Centre – collectively referred to as the “CCPI Coalition” in *Toussaint v. Canada (Attorney General)* 2022 ONSC 4747 – to inform you that these three organizations intend to seek leave to intervene collectively in the above noted action, as a party, under Rule 13.01. Since their proposed intervention as a party would be solely in the public interest, and they would not intend to seek any award of costs, their request for leave to intervene will be conditional on an assurance that no costs will be awarded against them. Should that condition not be secured, the members of the CCPI Coalition intend to seek leave to intervene collectively as a friend of the court, under Rule 13.02.

We would appreciate being informed of any scheduling of motions in this matter and request to be included in any case conference.

Thank you for your consideration.

Martha Jackman
Y.Y. Chen
Vanessa Gruben

Counsel for the CCPI Coalition

THIS IS EXHIBIT "D"
TO THE AFFIDAVIT OF ANN TOUSSAINT
SWORN BEFORE ME
BY VIDEOCONFERENCE ON JUNE 6, 2023



.....
ANDREW C. DEKANY
BARRISTER & SOLICITOR



andrew depany <andrewcdepany@gmail.com>

file CV-20-00649404-000 Requisition to schedule case conference and short motion before a judge

Li, Alysha <alysha.li@blakes.com>

Thu, Jun 1, 2023 at 8:24 AM

To: "Tyndale, David (he; him | il; lui)" <David.Tyndale@justice.gc.ca>, andrew depany <andrewcdepany@gmail.com>
Cc: "Gafar, Asha" <Asha.Gafar@justice.gc.ca>, James Yap <james.yap@gmail.com>, Barbara Jackman <barb@bjackman.com>, Yin Yuan Chen <yy.chen@uottawa.ca>, Vanessa Gruben <Vanessa.Gruben@uottawa.ca>, Martha Jackman <Martha.Jackman@uottawa.ca>, Taneeta Doma <dtaneeta@gmail.com>, "Maryth Yachnin (IAVGO)" <maryth.yachnin@iavgo.clcj.ca>, "Fischer, Iris" <iris.fischer@blakes.com>, "Saab, Rachael" <rsaab@torys.com>, "Bogach, Alex" <abogach@torys.com>, "Amoah, Rebecca" <ramoah@torys.com>, Raj Anand <RANAND@weirfoulds.com>, Megan Mah <MMAH@weirfoulds.com>, "Cho, Charlene" <Charlene.Cho@justice.gc.ca>

RE: Toussaint v Canada (Attorney General) Court File No: CV-20-00649404-0000

Dear all,

We write on behalf of the Canadian Civil Liberties Association (CCLA) to inform you that CCLA intends to seek leave to intervene as a friend of the court in the above noted matter, pursuant to Rule 13.02.

With respect to the case conference, we are NOT available for a case conference on the following dates:

- June 1 and 2, weeks of June 5, June 19, June 26
- July 4, 6, 10

We are available the week of June 12, July 3, 5, 7, 11-14.

Regards,

Iris and Alysha

Alysha Li (she, her, hers)

Associate

alysha.li@blakes.com

T. +1-416-863-2506

Blake, Cassels & Graydon LLP[199 Bay Street, Suite 4000, Toronto ON M5L 1A9 \(Map\)](#)[blakes.com](https://www.blakes.com) | [LinkedIn](#)



Blakes Means Business

This email communication is CONFIDENTIAL AND LEGALLY PRIVILEGED. If you are not the intended recipient, please notify me at the telephone number shown above or by return email and delete this communication and any copy immediately. Thank you. L'information paraissant dans ce message électronique est CONFIDENTIELLE. Si ce message vous est parvenu par erreur, veuillez immédiatement m'en aviser par téléphone ou par courriel et en détruire toute copie. Merci.

From: Tyndale, David (he; him | il; lui) <David.Tyndale@justice.gc.ca>

Sent: Wednesday, May 31, 2023 3:03 PM

To: 'andrew dekanay' <andrewcdekany@gmail.com>

Cc: Gafar, Asha <Asha.Gafar@justice.gc.ca>; James Yap <james.yap@gmail.com>; Barbara Jackman <barb@bjackman.com>; Yin Yuan Chen <yy.chen@uottawa.ca>; Vanessa Gruben <Vanessa.Gruben@uottawa.ca>; Martha Jackman <Martha.Jackman@uottawa.ca>; Taneeta Doma <dtaneeta@gmail.com>; Maryth Yachnin (IAVGO) <maryth.yachnin@iavgo.clcj.ca>; Fischer, Iris <iris.fischer@blakes.com>; Pulfer, Kaley <kaley.pulfer@blakes.com>; Li, Alysha <alysha.li@blakes.com>; Saab, Rachael <rsaab@torys.com>; Bogach, Alex <abogach@torys.com>; Amoah, Rebecca <ramoah@torys.com>; Raj Anand <RANAND@weirfoulds.com>; Megan Mah <MMAH@weirfoulds.com>; Cho, Charlene <Charlene.Cho@justice.gc.ca>

Subject: RE: file CV-20-00649404-000 Requisition to schedule case conference and short motion before a judge

External Email | Courriel électronique externe

[Quoted text hidden]

Toussaint v. Attorney General of Canada

Court file no. CV-20-00649404-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

Affidavit of Ann Toussaint

Sworn on June 6, 2023

Andrew C. Dekany (LSO# 18383F)
5 Edenvale Cres., Toronto, ON M9A 4A5
Tel.: 416-888-8877
Email: andrewcdekany@gmail.com

Barbara Jackman (LSO# 17463T)
1-598 St. Clair Ave. W., Toronto, ON M6C
Tel.: 416-653-9964 Ext. 225, Fax: 416 653
Email: barb@bjackman.com

James Yap (LSO# 61126H)
28 Brunswick Ave., Toronto, ON M5S 2L7
Tel.: 416-992-5266
Email: mail@jamesyap.ca

Lawyers for Ann Toussaint

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

Motion Record of the
Applicant Ann Toussaint

Andrew C. Dekany (LSO# 18383F)
5 Edenvale Cres., Toronto, ON M9A 4A5
Tel.: 416-888-8877
Email: andrewcdekany@gmail.com

Barbara Jackman (LSO# 17463T)
1-598 St. Clair Ave. W., Toronto, ON M6C
Tel.: 416-653-9964 Ext. 225, Fax: 416 653
Email: barb@bjackman.com

James Yap (LSO# 61126H)
28 Brunswick Ave., Toronto, ON M5S 2L7
Tel.: 416-992-5266
Email: mail@jamesyap.ca

Lawyers for Ann Toussaint