

CITATION:		
ONTARIO SUPERIOR COURT OF JUSTICE (TORONTO REGION) CIVIL ENDORSEMENT FORM <i>(Rule 59.02(2)(c)(i))</i>		
BEFORE	Judge Vermette J.	Court File Number: CV-20-00649404-0000
Title of Proceeding: <div style="text-align: center; margin-top: 20px;"> NELL TOUSSAINT </div> <div style="text-align: right; margin-top: 5px;">Plaintiff</div> <div style="text-align: center; margin-top: 10px;">-V-</div> <div style="text-align: center; margin-top: 20px;"> ATTORNEY GENERAL OF CANADA </div> <div style="text-align: right; margin-top: 5px;">Defendant</div>		

Case Management: <input type="checkbox"/> Yes If so, by whom:	X No
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Participants and Non-Participants: *(Rule 59.02(2)(vii))*

Party	Counsel	E-mail Address	Phone #	Participant (Y/N)
1) Plaintiff	James Yap Barbara Jackman	mail@jamesyap.ca barb@bjackman.com		Y
2) Defendant	David Tyndale Asha Gafar	david.tyndale@justice.gc.ca asha.gafar@justice.gc.ca		Y
3) Proposed interveners Charter Committee on Poverty Issues, Canadian Health Coalition and FCJ Refugee Centre	Yin Yuan Chen	yy.chen@uottawa.ca		Y
4) Proposed interveners Canadian Civil Liberties Association	Iris Fisher Alysha Li	iris.fisher@blakes.com alysha.li@blakes.com		Y
5) Proposed interveners Amnesty International Canadian Sector (English Speaking) and ESCRNet – International Network for Economic, Social and Cultural Rights	Alex Bogach	abogach@torys.com		Y
6) Proposed interveners 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)	Maryth Yachnin Taneeta Doma	maryth.yachnin@iavgo.clcj.ca domat@uwindsor.ca		Y
7) Proposed interveners Colour of Poverty/Colour of Change Network, the Black Legal Action Centre, the South Asian Legal Clinic of Ontario, and the Chinese and Southeast Asian Legal Clinic	Anchal Bhatia	anchal.bhatia@salco.clcj.ca		Y

Date Heard: (Rule 59.02(2)(c)(iii)) **October 6, 2023**

Nature of Hearing (mark with an "X"): (Rule 59.02(2)(c)(iv))

☐ Motion ☐ Appeal ☒ Case Conference ☐ Pre-Trial Conference ☐ Application

Format of Hearing (mark with an "X"): (Rule 59.02(2)(c)(iv))

☐ In Writing ☐ Telephone ☒ Videoconference ☐ In Person

If in person, indicate courthouse address:

Relief Requested: (Rule 59.02(2)(c)(v))

1. Order that Ann Toussaint be appointed as the representative of the Estate of the late Plaintiff, Nell Toussaint, for the purposes of this proceeding.
2. Scheduling of motions to intervene.

Disposition made at hearing or conference (operative terms ordered): (Rule 59.02(2)(c)(vi))

The motion to appoint Ann Toussaint as the representative of the Estate of the late Plaintiff, Nell Toussaint, for the purposes of this proceeding is granted. I have signed the draft Order provided by the Plaintiff's counsel.

Another case conference will be held before me on December 14, 2023 at 9:00 a.m. to discuss the next steps in this action, including the potential scheduling of motions to intervene.

Costs: On a **N/A** indemnity basis, fixed at \$ are payable
by to [when]

Brief Reasons, if any: (Rule 59.02(2)(b))

The Defendant does not object to the wording of the Plaintiff's draft order with respect to the appointment of Ann Toussaint as the representative of the Estate of the late Plaintiff, Nell Toussaint, for the purposes of this proceeding. Based on the materials before me, including the Plaintiff's Motion Record, I am satisfied that it is appropriate to make the requested order.

The Plaintiff intends to amend her Statement of Claim. This will be done shortly. The Defendant has agreed to serve a Statement of Defence within 30 days of the service of the Amended Statement of Claim.

I strongly encourage the parties to make a request for assignment to case management under Rule 77.05 of the *Rules of Civil Procedure*. The request form can be found on this Court's website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/toronto/>. The completed form should be sent to the office of the Regional Senior Judge. Given the nature of this case, the complexity of the issues and the number of proposed interveners, among other factors, I am of the view that case management would be beneficial to the parties and the Court.

In my view, it is premature to schedule motions to intervene at this stage. The pleadings are not closed and, as a result, the scope of the dispute has not been defined. In addition, it is unlikely that all proposed interveners would be in a position to file a Notice of Motion within 10 business days, as required by the *Consolidated Practice Direction for Civil Actions, Applications, Motions and Procedural Matters in the Toronto Region* dated September 4, 2023 (see Part I, section B.4). Further, if the parties make a request for assignment to case management and the request is granted, the Case Management Judge will be able to deal with the requests for intervention in due course.

I also note that this proceeding is an action, not an application or a motion. As a result, the proposed interveners who wish to intervene as friends of the court under Rule 13.02 will have to consider, among other things: the role that they will be asking the Court to play throughout the various stages of this action (which include documentary discovery, examinations for discovery, etc.); what useful contribution, if any, they can make to the various stages of the proceeding; and how they can render "assistance to the court by way of argument" (see Rule 13.02) throughout the action. This action is at a very early stage, and if the proposed interveners' contribution will only be at the time of closing arguments at trial, query whether motions to intervene should be scheduled and heard at this stage of the action, before the issues are refined through the process of discovery. It will take significant time for this action to proceed to trial – potentially, a number of years, and it may also take some time for the Court to be in a position to determine what kind of contributions will be useful to the resolution of the dispute.

Another case conference will be held before me on December 14, 2023 at 9:00 a.m., which should be after the close of pleadings. At that time, we will discuss the next steps in this action, including the potential scheduling of motions to intervene. The parties and proposed interveners should consider the points raised above before the case conference. If a Case Management Judge is appointed, counsel are to advise my assistant so that the December 14, 2023 case conference is cancelled.

Additional pages attached: ☐ Yes ☒ No

October 6

, 20 23

Date of Endorsement (Rule 59.02(2)(c)(ii))



Signature of Judge (Rule 59.02(2)(c)(i))