

**COURT OF APPEAL OF ALBERTA**

**Form 49**  
[Rule 13.19]

COURT OF APPEAL FILE NUMBER: 2501-0254AC  
TRIAL COURT FILE NUMBER: 2410-01231  
REGISTRY OFFICE: Calgary  
PLAINTIFF/APPLICANT: Aaron Brown  
STATUS ON APPEAL: Appellant  
DEFENDANT/RESPONDENT: His Majesty the King in Right  
of Alberta and Recovery  
Alberta: Mental Health and  
Addiction Services  
STATUS ON APPEAL: Respondent



DOCUMENT: **AFFIDAVIT IN SUPPORT OF AN  
APPLICATION FOR LEAVE TO INTERVENE**

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**AFFIDAVIT OF BRUCE PORTER**

**Affirmed on March 6th, 2026**

I, Bruce Porter, of the Township of Lake of Bays, Ontario AFFIRM AND SAY THAT:

1. I am the Co-ordinator of the Charter Committee on Poverty Issues (CCPI) and I am authorized to make this Affidavit in support of CCPI's application for leave to intervene in this appeal.
2. I have personal knowledge of the matters set out in this Affidavit, except where stated to be based on information and belief, in which case I believe those matters to be true.
3. CCPI applies to intervene jointly in this appeal with the Friends of Medicare and the Canadian Health Coalition (CHC) to advance one set of submissions as summarized in the joint Memorandum of Argument filed in support of this application.

#### **Background and mandate**

4. CCPI is a national committee founded in 1988 that brings together low-income representatives and experts in human rights, constitutional law, and poverty law to advance the rights of disadvantaged groups under the *Canadian Charter of Rights and Freedoms* (the *Charter*), human rights legislation, and international human rights law.
5. CCPI has engaged in sustained, research, advocacy and litigation with a focus on the interpretation and application of ss. 7 and 15 of the *Charter* in relation to access to basic necessities, including health care, and obligations of governments to address the needs of the most disadvantaged groups.
6. CCPI was a research partner in two multi-year national research collaborations funded through the Social Sciences and Humanities Research Council of Canada

(SSHRC) under the Community-University Research Alliance program. Research projects involved partnerships among multiple universities, community organizations, and legal experts across Canada.

7. CCPI research and consultation have included examination of:
  - i) the relationship between ss. 7 and 15 of the *Charter* and access to health care, housing, and other basic necessities in evolving *Charter* jurisprudence;
  - ii) the legal effect of s. 36(1)(c) of *the Constitution Act, 1982*;
  - iii) social condition, homelessness, receipt of social assistance and immigration status as grounds of discrimination under human rights legislation and s. 15 of the *Charter*;
  - iv) the implications of the Supreme Court decisions in the [\*Eldridge v British Columbia \(Attorney General\)\*](#), [1997] 3 SCR 624, 151 DLR (4th) 577 and [\*Vriend v Alberta\*](#), [1998] 1 SCR 493 for the interpretation of s. 15;
  - v) the integration of international human rights norms into domestic *Charter* interpretation;
  - vi) good faith implementation of treaty obligations (*pacta sunt servanda*) as a principle of fundamental justice; and
  - vii) the history of the *Charter* and expectations of how it would be interpreted.

8. Through this work, CCPI maintains active collaboration with academic researchers, community advocates, and international human rights experts, ensuring that its positions reflect current jurisprudential developments and emerging standards, including those relevant to the issues raised in this appeal.
9. CCPI has appeared before United Nations treaty monitoring bodies, parliamentary committees and has provided social context education on poverty issues and to judges in a number of provinces through the National Judicial Institute.
10. CCPI has been granted leave to intervene in a number of appeals before the Supreme Court of Canada to address issues of *Charter* interpretation of importance to disadvantaged groups and persons living in poverty. These include: CCPI has been granted intervener status in 14 cases at the Supreme Court of Canada. These include:
  - [Symes v. Canada](#), [1993] 4 S.C.R. 695;
  - [R. v. Prosper](#), [1994] 3 S.C.R. 236;
  - [R. v. Matheson](#) [1994] 3 S.C.R. 328;
  - [Walker v. Prince Edward Island](#), [1995] 2 S.C.R. 407;
  - [Thibaudeau v. Canada](#), [1995] 2 S.C.R. 627;
  - [Eldridge v. British Columbia \(Attorney General\)](#), [1997] 3 S.C.R. 624  
(*Eldridge*);

- [\*Baker v. Canada \(Minister of Citizenship and Immigration\)\*](#), [1999] 2 S.C.R. 817;
- [\*New Brunswick \(Minister of Health and Community Services\) v. G. \(J.\)\*](#), [1999] 3 S.C.R. 46;
- [\*Lovelace v. Ontario\*](#), [2000] 1 S.C.R. 950;
- [\*Gosselin v. Québec \(Attorney General\)\*](#), [2002] 4 S.C.R. 429;
- [\*R. v. Wu\*](#), [2003] 3 S.C.R. 530;
- [\*Chaoulli v. Quebec \(Attorney General\)\*](#), [2005] 1 S.C.R. 791 (*Chaoulli*);
- [\*R. v. Caron\*](#), [2011] 1 S.C.R. 78, and
- [\*Attorney General of Quebec v. Bijou Cibuabua Kanyinda\*](#), 2026 SCC 7 (*Kanyinda*).

11. Three of the above interventions are particularly relevant to the present appeal. In [\*Eldridge\*](#) and [\*Kanyinda\*](#) the Supreme Court of Canada elaborated on the rights of disadvantaged groups to protection from discrimination in the context of government provided social services, namely healthcare and childcare. [\*Chaoulli\*](#) required the Court to distinguish between a claim to the rights to life and security of the person in the context of health care and a claim to a freestanding right to publicly funded health care.

12. In [Eldridge](#), CCPI intervened to argue that s. 15 imposes obligations on governments to address needs of disadvantaged groups, and thus governments have a positive duty to fund interpreter services needed by the deaf and hard of hearing for access to health care. The unanimous Supreme Court agreed with CCPI on this point.
13. Most recently, in CCPI's intervention in [Kanyinda](#), CCPI addressed the question of whether s. 15 requires government to undertake positive measures to ensure women's equality in access to work, including access to subsidized child care. The Supreme Court of Canada, in a decision released March 6, 2026, held that failure to provide subsidized child care to the claimant amounts to an unjustifiable infringement of s. 15.
14. In [Chaoulli](#), CCPI was granted leave to intervene jointly with CHC to address governments' obligations under ss. 7 in relation to access to health care. CCPI and CHC urged the Court to recognize that denial of timely access to essential health care may engage the rights to life and security of the person and that s. 7 of the *Canadian Charter* must be interpreted consistently with ratified international human rights law on access to health care.
15. CCPI's intervention before the Ontario Superior Court in a Motion to Strike the claim in the case of [Toussaint v. Attorney General of Canada](#), 2024 ONSC 6974 and the decision in that case is also relevant to this appeal. The Attorney General of Canada argued in that case that the a challenge to the denial of access to publicly funded health care alleged to have placed the applicant's life and long term health at

risk should not be characterized as a claim to a right to life but as a claim to a right to “free health care” or to a socio-economic right that is not contained in the *Charter*.

CCPI argued that this was a mischaracterization of the claim in that case, noting that the UN Human Rights Committee had held that Ms. Toussaint alleged that “the State party failed to fulfil its positive obligation to protect her right to life which, in her particular circumstances, required provision of emergency and essential health care.”

Justice Perell of the Ontario Superior Court agreed with CCPI’s submissions and found Canada’s mischaracterization of the claim under section 7 of the Charter as a claim to “free health care” to be prejudicial.

16. Similar issues arise in the present case regarding the distinction between a claim to the right to life and security of the person in the context of health care and a claim to a freestanding right to publicly funded health care which CCPI, through the proposed joint intervention, can assist the court with its unique perspective and expertise.

### **Proposed intervention**

17. CCPI seeks leave to intervene jointly with the Friend of Medicare and the CHC to provide a public-interest perspective, informed by the organization’s extensive experience and expertise in the interpretation and application of ss. 7 and 15 of the *Charter* to access to essential health care and the positive duty to accommodate of the needs of persons with disabilities in the health care context. The submissions to be

advanced jointly with Friends of Medicare and the CHC are outlined in the Memorandum of Argument.

18. CCPI's joint intervention will not seek to expand the evidentiary record. It will rely on the record as it stands, focusing on the issues of *Charter* interpretation that arise in this case.

19. The submissions proposed by CCPI, CHC and Friends of Medicare will not duplicate those of the parties or other interveners. Rather, these submissions will offer a distinct perspective on the specific legal questions at issue regarding the scope of *Charter* protections, grounded in CCPI's many years of research, consultation and litigation, including on access to health care for vulnerable and marginalized persons.

20. CCPI has no direct pecuniary interest in the outcome of this appeal. Its interest is the public importance of the issues raised and the potential consequences for equitable access to medically necessary health services, including mental health and addictions services. CCPI will not seek costs and requests an order that no costs will be awarded against it.

21. I make this Affidavit in support of CCPI's application for leave to intervene jointly with the Friends of Medicare and the CHC.

Affirmed by video conference by )  
Bruce Porter located at the time in )  
Township of Lake of Bays in the )  
Province of Ontario, before me in the )  
City of Ottawa in the Province of )  
Ottawa on March 6<sup>th</sup>, 2026 in )  
accordance with O. Reg. 431/20 )  
Administering Oath or Declaration )  
Remotely )



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Martha Jackman  
LAWYER  
Notary Public in and for Ontario

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Bruce Porter