Court File Nos.: COA-26-CV-0836 / COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant (Applicant/Cross-Respondent)
Respondent on Motion

THE ATTORNEY GENERAL OF ONTARIO

Appellant (Intervener)
Respondent on Motion

-and-

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE, JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS, JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND PERSONS UNKNOWN

Respondents (Respondents/Cross-Applicants)
Respondents on Motion

MOTION RECORD OF THE PROPOSED INTERVENER

CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS (CLAIHR) AND THE CANADIAN CIVIL LIBERTIES ASSOCIATION (CCLA)

October 21, 2026

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Court File Nos.: COA-26-CV-0836 / COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant (Applicant/Cross-Respondent)
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Respondents (Respondents/Cross-Applicants)
Respondents on Motion

MOTION RECORD
OF THE PROPOSED INTERVENER

CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS (CLAIHR) AND THE CANADIAN CIVIL LIBERTIES ASSOCIATION

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TAB 1

FORM 61M

Courts of Justice Act

NOTICE OF MOTION BEFORE A SINGLE JUDGE – COURT OF APPEAL

Court File Nos.: COA-26-CV-0836 / COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant (Applicant/Cross-Respondent)
Respondent on Motion

THE ATTORNEY GENERAL OF ONTARIO

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JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE, JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS, JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND PERSONS UNKNOWN

Respondents (Respondents/Cross-Applicants)
Respondents on Motion

NOTICE OF MOTION BEFORE A SINGLE JUDGE

October 21, 2026

THE PROPOSED INTERVENER, Canadian Lawyers for International Human Rights (CLAIHR) and the Canadian Civil Liberties Association (CCLA), will make a motion to a judge of the Court of Appeal for Ontario on a date to be fixed by the Court, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard (choose appropriate option)

[X] In writing under subrule 37.12.1(1) because it is on consent;

[X] In writing

[ ] In person;

[ ] By telephone conference;

[ ] By video conference.

THE MOTION IS FOR

(a) Leave to intervene as a friend of the court in this appeal pursuant to Rule 13.02, to:

(i) file a factum of up to 10 pages, or such other length as the Court may permit; and

(ii) make oral submissions at the hearing of the appeal, of a length to be determined by the Court;

(b) An order that there be no costs of this motion and no costs in the appeal as they relate to CLAIHR and CCLA;

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

THE GROUNDS FOR THE MOTION ARE:

(a) Under Rules 13.02 and 13.03(2) of the *Rules of Civil Procedure*, CLAIHR and CCLA seek leave to intervene as a friend of the court to assist by argument on the international human rights issues engaged by this appeal;

(b) The relevant considerations are the nature of the case, the issues, the likelihood of a useful and distinct contribution not otherwise offered by the parties, and whether intervention will cause injustice or undue delay: *Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada Ltd.* (1990), 1990 CanLII 6886 (ON CA), 74 O.R. (2d) 164 at p. 167. This constitutional appeal raises issues of public importance beyond the immediate parties;

(c) The appeal concerns the domestic legal effect and interpretive relevance of international human rights law (IHRL); the relevance of Canada's commitment to the progressive realization of adequate housing to ss. 7 and 15 of the *Canadian Charter of Rights and Freedoms* (the *Charter*); and the significance of legislation, strategies and plans that adopt that commitment;

(d) CLAIHR is a federally incorporated registered charity founded in 1992 to promote international human rights through education, research and advocacy. Its leadership, membership and Advisory Board include experts in international human rights law. Courts have repeatedly granted it leave to intervene and recognized its expertise and distinct perspective: *Schuyler Farms Limited v. Nesathurai*, 2020 ONSC 4711 at para. 4; *Montejo Gordillo v. Canada (Attorney General)*, 2020 FCA 198 at paras. 13 and 16; and *Fair Voting BC v. Canada (Attorney General)*, 2024 ONCA 619 at para. 16;

(e) CCLA is a national, non-profit, independent, nongovernmental organization dedicated to promoting respect for and observance of fundamental human rights and civil liberties in Canada, including through its court interventions. The CCLA is a regular and important contributor to the discourse on the fundamental freedoms codified in ss. 7 and 15 of the *Charter*, including in the context of encampment responses. Courts have granted CCLA leave to intervene based on its unique and distinct perspective and expertise in hundreds of Charter cases, including: *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44, *Canada (Attorney General) v. Bedford*, 2012 ONCA 186, *Carter v. Canada (Attorney General)*, 2015 SCC 5, *Heegsma v. Hamilton (City),* 2026 ONCA 726, and *Quebec (Attorney General) v. Kanyinda*, 2026 SCC 7.

(f) CCLA was granted leave to intervene in the applications under appeal and specifically made unique submissions on the interpretive relevance of IHRL to ss. 7 and 15 of the *Charter* in the context of encampment responses, as well as the relevance of the *National Housing Strategy Act* and the Region's Plan to End Chronic Homelessness in adopting certain IHRL commitments. CLAIHR and CCLA have a real, substantial and identifiable interest in the issues raised by this appeal concerning the interpretation and application of ss. 7 and 15 of the *Charter* in light of Canada's international human rights obligations.

(g) Both organizations are well-recognized public interest groups with broad memberships and special expertise relevant to the appeal. CLAIHR has extensive experience in the application of international human rights law in Canadian courts, including as an intervener in *Mathur v. Ontario*, 2024 ONCA 762. CCLA has

intervened in more than 360 proceedings concerning constitutional rights and civil liberties, including cases addressing homelessness, encampments and the right to adequate housing.

(h) CLAIHR and CCLA will offer an important perspective distinct from that of the parties and make a useful contribution to the resolution of the appeal. Their complementary expertise will assist the Court in considering the role of IHRL in interpreting *Charter* rights.

(i) Within that expertise, CLAIHR and CCLA propose a useful and distinct contribution addressing:

i) how the presumption of conformity for binding sources of IHRL and the "relevant and persuasive" principle for non-binding sources apply to the interpretation of ss. 7 and 15 of the *Charter* in relation to homelessness and encampments;

ii) the relevance of the international human right to adequate housing, as an economic and social right subject to progressive realization, to the interpretation of the obligations arising under ss. 7 and 15 of the *Charter*; and

iii) whether and how legislative and policy measures implementing Canada's IHRL commitments respecting adequate housing inform *Charter* interpretation.

(j) The intervention will cause no injustice or undue delay. CLAIHR and CCLA will take no position on disposition; rely on the existing record; add no evidence or issues; avoid duplication; and comply with the Court's schedule and limits.

(k) CLAIHR and CCLA will not seek an award of costs and request that no costs be awarded against them.

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

(l) The affidavit of James Yap, sworn October 18, 2026.

(m) The affidavit of Harini Sivalingam, sworn October 19, 2026.

October 21, 2026

Craig Scott, Kristen Allen and Simone Truemner-Caron
Counsel for the Proposed Interveners CLAIHR and CCLA

THE REGIONAL MUNICIPALITY OF WATERLOO Applicant (Appellant)	and	JOSEPHINA DUGAS et al. Respondents (Respondents in Appeal)

Court File Nos.: COA-26-CV-0836 / COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED

AT TORONTO

NOTICE OF MOTION FOR LEAVE TO INTERVENE OF THE PROPOSED INTERVENERS CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS (CLAIHR) AND THE CANADIAN CIVIL LIBERTIES ASSOCIATION (CCLA)

Craig Scott (LSO # 34989G)
Kristen Allen (LSO # 62789C)
Simone Truemner-Caron (LSO # 82968M)

Lawyers for the Proposed Interveners CLAIHR and CCLA

TAB 2

Court File Nos.: COA-26-CV-0836 / COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant (Applicant/Cross-Respondent)

THE ATTORNEY GENERAL OF ONTARIO

Appellant (Intervener)

and

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE, JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS, JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND PERSONS UNKNOWN

Respondents (Respondents/Cross-Applicants)

AFFIDAVIT OF JAMES YAP, CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS

I, **JAMES YAP**, of the City of Toronto, in the Province of Ontario,

MAKE OATH AND SAY:

1. I am the President of Canadian Lawyers for International Human Rights (CLAIHR). I am familiar with CLAIHR's mandate, history, activities and litigation work. I therefore have personal knowledge of the matters deposed to in this affidavit, except where I indicate that information is based on information and belief, in which case I believe it to be true.

2. I was called to the bar in Ontario in 2011. I am a lawyer and Assistant Professor at the University of Windsor Faculty of Law, specializing in international human rights law (IHRL), with a particular focus on the human rights responsibilities of multinational businesses.

3. I make this affidavit in support of CLAIHR's motion for leave to intervene as a friend of the court in this appeal, to file a factum of up to 10 pages, or such other length as the Court may permit, and to make oral submissions at the hearing of the appeal.

A. CLAIHR and its mandate

4. CLAIHR is a federally incorporated registered charity. It is a non-governmental organization of lawyers, law students, legal academics and other jurists, founded in 1992 to promote IHRL within and in connection to Canada through education, research and advocacy.

5. CLAIHR's objectives include analyzing laws, institutions and practices affecting human rights; strengthening IHRL instruments and institutions that protect human rights, domestically and internationally; promoting awareness of international human rights issues among Canadians generally and within the Canadian legal community; and supporting lawyers, legal organizations and other entities dedicated to achieving human rights.

6. A large part of CLAIHR's work involves intervening in court proceedings concerning IHRL, including the application of that law through domestic legislation and by Canadian courts. CLAIHR also promotes international human rights education by hosting conferences and speakers, publishing a blog dedicated to international human rights issues, and supporting student involvement in research and advocacy.

7. CLAIHR's leadership, membership and Advisory Board include experts in IHRL from across Canada. CLAIHR draws on the expertise of its Board of Directors, Advisory Board, membership and network of partners and supporters in developing its positions.

8. CLAIHR works closely with groups dedicated to human rights advocacy, including the Law Society of Ontario, Amnesty International Canada, the International Justice and Human Rights Clinic at the Allard School of Law, the International Human Rights Program at the University of Toronto, the Canadian Centre for Victims of Torture, and the Canadian Centre for International Justice.

9. CLAIHR's members and leadership have experience working for the United Nations on human rights and post-conflict recovery; working with persons in need of protection through the United Nations High Commissioner for Refugees and other international legal organizations; campaigning against torture and cruel, inhuman or degrading treatment; representing interveners at all levels of court; making submissions and appearing before parliamentary committees; filing submissions with United Nations periodic reviews and Special Rapporteurs; and lecturing on international human rights.

10. CLAIHR is supported by an Advisory Board composed of professors, lawyers, former judges and other experts on international law and human rights. CLAIHR develops its legal positions on significant issues through consultation with this body of experts.

11. CLAIHR also has a broad network of supporters with a deep and longstanding commitment to the defence of human rights. Lt. Gen. Romeo Dallaire (Ret.), the Honourable Ian Binnie and Professor Michael Ignatieff have participated in and supported CLAIHR's activities.

B. CLAIHR's experience as an intervener

12. CLAIHR has been granted leave to intervene by courts at several levels in Canada in proceedings involving IHRL and its relationship to Canadian law, including the following:

a) *Bouzari v. Islamic Republic of Iran*, 2004 CanLII 871 (ONCA), 71 O.R. (3d) 675, concerning torture, state immunity and access to a remedy for serious violations of IHRL;

b) *R. v. Munyaneza*, 2012 QCCA 1829 (motion for leave to intervene), in which CLAIHR and the Canadian Centre for International Justice addressed the international-law foundations and interpretation of the *Crimes Against Humanity and War Crimes Act*;

c) *Kazemi Estate v. Islamic Republic of Iran*, 2014 SCC 62, [2014] 3 S.C.R. 176, concerning IHRL and state immunity in proceedings arising from torture and death in custody;

d) *India v. Badesha*, 2017 SCC 44, [2017] 2 S.C.R. 127, in which CLAIHR, the Canadian Centre for Victims of Torture and the Canadian Council for Refugees jointly addressed Canada's international human rights obligations in the extradition context;

e) *Schuyler Farms Limited v. Nesathurai*, 2020 ONSC 4454 (Div. Ct.), appeal decided at 2020 ONSC 4711, concerning the relevance of international human rights instruments to Ontario public-health legislation affecting migrant agricultural workers;

f) *Montejo Gordillo v. Canada (Attorney General)*, 2020 FCA 198, in which CLAIHR and the International Justice and Human Rights Clinic at the University of Ottawa jointly addressed customary and treaty international law and its relevance to domestic statutory interpretation and administrative decision-making;

g) *Corless v. Fraser Health Authority*, 2021 BCSC 2280, in which CLAIHR and Disability Alliance BC jointly addressed the Convention on the Rights of Persons with Disabilities and British Columbia's *Adult Guardianship Act* in relation to involuntary treatment and detention;

h) *Canadian Council for Refugees v. Canada (Citizenship and Immigration)*, 2023 SCC 17, [2023] 1 S.C.R. 66, in which CLAIHR and the Canadian Centre for Victims of Torture jointly addressed Canada's international refugee and human rights obligations and the constitutionality of the Safe Third Country Agreement regime;

i) *Société des casinos du Québec inc. v. Association des cadres de la Société des casinos du Québec*, 2024 SCC 13, concerning Canada's international labour and human rights obligations and the relevance of an international treaty body's findings to freedom of association under s. 2(d) of the *Charter*;

j) *Mathur v. Ontario*, 2024 ONCA 762, in which CLAIHR and the Center for International Environmental Law jointly addressed the relevance of Canada's international human rights and environmental obligations to s. 7 of the *Charter* in the context of climate change;

k) *Fair Voting BC v. Canada (Attorney General)*, 2024 ONCA 619 (order granting leave to intervene), appeal decided at 2025 ONCA 581, concerning the relevance of IHRL to equality under s. 15 of the *Charter* and equal participation in political life; and

l) *Ontario (Attorney General) v. Working Families Coalition (Canada) Inc.*, 2025 SCC 5, concerning IHRL and the interpretation of democratic rights and freedoms protected by the *Charter*.

13. CLAIHR has also sought leave to intervene in other proceedings. I do not rely on those applications as evidence of judicially recognized expertise, although they form part of CLAIHR's broader engagement with Canadian cases raising significant issues of international human rights law.

C. Judicial recognition of CLAIHR's expertise and contribution

14. Canadian courts have expressly recognized the perspective CLAIHR brings to litigation. In *Schuyler Farms Limited v. Nesathurai*, 2020 ONSC 4711 at para. 4, the Divisional Court recorded that CLAIHR had been granted leave "on the basis of its expertise in the area of international human rights instruments and their applicability to the interpretation of relevant provisions of the HPPA."

15. In *Montejo Gordillo v. Canada (Attorney General)*, 2020 FCA 198 at paras. 13 and 16, Rennie J.A. found that CLAIHR and its co-intervener had established "a historical record of engagement in different facets of the legal issues before the Court" and that their proposed submissions drew on their understanding of customary and treaty international law and its role in interpreting domestic legislation.

16. In *Fair Voting BC v. Canada (Attorney General)*, 2024 ONCA 619 at para. 16, Miller J.A. held that CLAIHR's proposed international law submissions offered "a unique perspective on the issues framed by the appellant" that could be useful to the Court.

17. These decisions reflect CLAIHR's longstanding role in assisting Canadian courts with the relevance and application of IHRL within Canadian constitutional, statutory and administrative law.

D. Relevance to this appeal and proposed contribution

18. This appeal raises issues at the centre of CLAIHR's expertise: the interpretive reception and domestic legal effect of IHRL in Canada's dualist system; the relevance of international obligations to achieve the progressive realization of the right to adequate housing to the interpretation of the rights to life, security of the person and equality under ss. 7 and 15 of the *Charter*, respectively; and the legal implications when governments adopt those commitments in legislation, strategies and plans.

19. As outlined in the Notice of Motion at Tab 1 and the Draft Factum at Tab 4, CLAIHR proposes to assist the Court in considering the following issues:

i) how the presumption of conformity for binding sources of IHRL and the "relevant and persuasive" principle for non-binding sources apply to the interpretation of ss. 7 and 15 of the *Charter* in relation to homelessness and encampments;

ii) the relevance of the international human right to adequate housing, as an economic and social right subject to progressive realization, to the interpretation of the obligations arising under ss. 7 and 15 of the *Charter*; and

iii) whether and how legislative and policy measures implementing Canada's IHRL commitments respecting adequate housing inform *Charter* interpretation.

20. CLAIHR takes no position on the ultimate disposition of the appeal. It will rely on the record filed by the parties, will not seek to add evidence on the merits, and will coordinate its submissions to avoid repetition.

21. CLAIHR will adhere to any schedule fixed by the Court, will not seek an award of costs, and requests that no costs be awarded against it.

SWORN REMOTELY before me at the City of

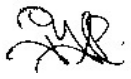
Toronto, in the Province of Ontario, on October 18,

2026,

in accordance with O. Reg. 431/20.

Andrea Sobko / LSO# 72741T

A Commissioner for Taking
Affidavits in the Province of
Ontario



James Yap

THE REGIONAL MUNICIPALITY OF WATERLOO Applicant (Appellant)	and	JOSEPHINA DUGAS et al. Respondents (Respondents in Appeal)

Court File Nos.: COA-26-CV-0836 / COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED

AT TORONTO

AFFIDAVIT OF JAMES YAP, SWORN OCTOBER 18, 2026

Craig Scott (LSO # 34989G)
Kristen Allen (LSO # 62789C)
Simone Truemner-Caron (LSO # 82968M)

Lawyers for the Proposed Interveners CLAIHR and CCLA

TAB 3

Court File Nos.: COA-26-CV-0836 / COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

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Respondents (Respondents/Cross-Applicants)

AFFIDAVIT OF HARINI SIVALINGAM, CCLA

I, **HARINI SIVALINGAM**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY**:

1. I am the Director, Equality Program, of the Canadian Civil Liberties Association (the "CCLA"), and as such have knowledge of the matters to which I depose in this Affidavit, or, where I refer to information I have received from others, I identify the source of my information and I believe the information to be true.

2. As Director of the CCLA's Equality Program, I oversee and execute advocacy strategies to support marginalized groups whose rights to full equality have not been realized. My work includes monitoring significant equality issues and egregious violations across Canada, strategizing on litigation interventions, public outreach, and education, and engagement with policymakers on issues concerning equality.

3. The CCLA, in coalition with the Canadian Lawyers for International Human Rights ("CLAIHR"), seeks leave to intervene in the appeal brought by the Regional Municipality of Waterloo (the "Region") and the Attorney General from the Decision of Justice Gibson dated May 21, 2026, declaring, *inter alia*, that By-laws to implement the closure of a homeless encampment (the "**By-laws**") infringed ss.7 and 15 of the *Charter* and were not saved by s.1.

4. The CCLA was granted leave to intervene in the applications before Justice Gibson on the very similar issues relating to international human rights law (IHRL) that the CCLA seeks to address in its intervention at the Court of Appeal in a coalition with CLAIHR. At the application level, the CCLA provided the Court with a 20-page factum and 20 minutes of oral submissions.

5. I have reviewed the Decision under appeal. It addresses several issues that the CCLA addressed in its intervention at the Superior Court relating to IHRL. As described further below, I believe the CCLA/CLAIHR would contribute unique expertise and perspectives to the issues raised in the herein Appeal, and therefore its intervention would be of assistance to this Honourable Court.

A. The CCLA

6. Founded in 1964, the CCLA is a national, non-profit, independent, nongovernmental organization dedicated to promoting respect for and observance of fundamental human rights and civil liberties in Canada.

7. The CCLA was constituted to actively defend and promote the recognition of fundamental human rights including those enshrined in the *Charter* and to extend and foster the observance of those rights. The CCLA's work, which includes research, advocacy, public education, and engagement, aims to defend and ensure the protection and full exercise of those rights and liberties. The CCLA has thousands of supporters drawn from all walks of life in communities across Canada. A wide variety of persons, occupations, and interests are represented among CCLA's supporters.

8. Our role necessarily includes holding government accountable and seeking to ensure that the rule of law is upheld. The CCLA fulfills this mission in several forums including the media, courts, provincial legislatures and Parliament, as well as through public engagement and education. In every issue on which the CCLA advocates, we direct our attention to the breadth of rights and freedoms, and the critical reconciliation between civil liberties and the competing public and private interests that are involved.

9. As set out in further detail below, the CCLA has repeatedly engaged in the defence of fundamental rights and freedoms in hundreds of Canadian legal proceedings. The CCLA is a well-regarded advocate of the recognition and enforcement of the fundamental human rights and liberties of marginalized individuals and group. Relevant specifically to this Appeal, the CCLA is

an important contributor to the discourse on the fundamental freedoms codified in sections 7 and 15 of the *Charter*, including in the context of encampment responses.

B. The CCLA's Knowledge and Expertise

10. The CCLA has been involved in the litigation of many important developments in the areas of the *Charter* and other constitutional rights, government accountability, and the rule of law. The CCLA has frequently been granted intervener status before courts and tribunals across Canada to present oral and written argument on a variety of constitutional issues. A list of the nearly 400 cases in which the CCLA has been granted intervener status or party status is attached as **Exhibit "A"** to this affidavit.

11. The CCLA's valuable contribution to the development of the law in relation to fundamental rights and freedoms and the *Charter* has been recognized by the courts on numerous occasions. For example, in *Batty v. City of Toronto*, 2011 ONSC 6862, the court commended the balanced assistance provided by the CCLA in a case dealing with reconciling competing public interests. Brown J. [as he then was], at para 22 of his reasons, stated: "Let me say that I appreciate the assistance which counsel for the CCLA provided to me during the hearing. The CCLA acted as a true friend of the court."[1] Likewise, in *Tadros v. Peel Regional Police Service*, 2008 ONCA 775, former Ontario Associate Chief Justice O'Connor commented at paragraph 3 that the CCLA "has substantial experience in promoting and defending the civil liberties of Canadians".

12. The CCLA possesses a distinct awareness and understanding of many aspects of civil liberties, having argued for and defended the rights and freedoms guaranteed under the *Charter* in Court on many occasions.

13. More specifically, the CCLA has a long track record of contributing to the jurisprudence on section 7 of the *Charter*, including by intervening in cases before courts at all levels. By granting the CCLA leave to intervene in a significant number of important cases, those courts have acknowledged the CCLA's special perspective and expertise on this issue. Section 7 cases in which the CCLA has intervened include:

a. *R. v. Malmo-Levine, R. v. Clay, R. v. Caine*, 2003 SCC 74, in which one of the issues was whether the criminal prohibition against the possession of marijuana violates s. 7 of the *Charter*;

b. *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44, concerning a safe (drug) injection site, and the constitutionality of certain criminal provisions in relation to users and staff of the site;

c. *Canada (Attorney General) v. Bedford*, 2012 ONCA 186, concerning the constitutionality of certain prostitution-related offences;

d. *R. v. Khawaja*, 2012 SCC 69 and *Sriskandarajah v. United States of America*, 2012 SCC 70 which together considered whether the definition of "terrorist activity" introduced by the Anti-Terrorism Act 2001, amending the Criminal Code, infringed the *Charter*;

e. *R. v. Mernagh*, 2013 ONCA 67, concerning the constitutionality of medical marijuana regulations;

f. *France v. Diab*, 2014 ONCA 374, regarding whether an extradition judge must engage in a limited weighing of evidence to assess the sufficiency of evidence for committal to extradition and whether a failure to do so would violate s. 7 of the *Charter*;

g. *PS v. Ontario*, 2014 ONCA 900, concerning detention under mental health law and the scope of *Charter* protection afforded to a person with a hearing impairment and linguistic needs, in a situation of compound rights violations;

h. *Figueiras v. Toronto (Police Services Board)*, 2015 ONCA 208, regarding whether a police "stop and search" checkpoint targeting apparent protesters during the G20 Summit violated ss. 2 and 7 of the *Charter;*

i. *Carter v. Canada (Attorney General)*, 2015 SCC 5, concerning the constitutionality of the *Criminal Code* prohibition on assisted suicide in light of the rights protected under ss. 7 and 15 of the *Charter*;

j. *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7, concerning the impact of provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, and associated regulations, on solicitor-client privilege and whether these provisions unjustifiably violate s. 7 of the *Charter*;

k. *R. v. Smith*, 2015 SCC 34, concerning the constitutionality of the Marijuana Medical Access Regulations and whether the limitation in the Regulations restricting legal possession to only dried marijuana unreasonably infringes s. 7 *Charter* rights;

l. *Ontario (Attorney General) v. Bogaerts*, 2019 ONCA 876, concerning private organizations with delegated law enforcement powers that engage s. 8 of the *Charter,* and the importance of transparency and accountability as fundamental legal principles under s. 7;

m. *Ontario (Attorney General) v. G*, 2020 SCC 38, concerning whether inclusion on a sex offender registry is contrary to ss. 7 and 15 of the *Charter* for persons found not criminally responsible by reason of mental disorder and absolutely discharged by a Review Board (CCLA also intervened before the Ontario Court of Appeal - *G. v. Ontario (Attorney General)*, 2019 ONCA 264);

n. *AC and JF v Alberta*, 2021 ABCA 24, concerning the test for an injunction against government action or legislation, in the context of a constitutional challenge against the government's retroactive change to Alberta's Support Financial Assistance Program for young people who had been raised in government care. The change lowered the age eligibility for this program;

o. *Francis v. Ontario,* 2021 ONCA 197, concerning a class action regarding the placement of inmates with serious mental illness in solitary confinement, and the scope of the Crown's liability in tort under the *Crown Liability and Proceedings Act*;

p. *R. v. Ndhlovu*, 2022 SCC 38, regarding the constitutionality of mandatory lifetime registration pursuant to the *Sex Offender Information Registration Act* for individuals convicted of more than one designated offence;

q. *R. v. Brown*, 2022 SCC 18, regarding whether s. 33.1 of the *Criminal Code* – which blocks the defence of automatism for general intent crimes designated therein – violates ss. 7 and 11(d) of the *Charter*;

r. *R. v. Sharma*, 2022 SCC 39, regarding the constitutionality of several *Criminal Code* provisions that remove the availability of conditional sentences for certain offences; and

s. *Heegsma v. Hamilton (City),* 2026 ONCA 726 regarding constitutional challenges to, amongst other actions, a City of Hamilton by-law that prohibited installing tents and sleeping in public parks ("*Heegsma*").

14. The CCLA has been a regular intervenor in addressing section 7 and 15 rights in the context of the deprivation of shelter in Ontario. The CCLA's intervention in *Heegsma* focused on the use of IHRL to interpret section 7 in the context of encampment responses and homelessness. In addition to *Heegsma*, the CCLA intervened in *Kingston v. Doe,* 2023 ONSC 6662. Justice Carter made multiple references to CCLA's submissions in the reasons, which supports that CCLA's intervention was of assistance to the Court. CCLA's interest and involvement in encampment cases is national in scope. CCLA was recently granted intervenor standing in *Roy et al v City of Vancouver* (BCSC File No. S250745), a constitutional challenge of restrictions on encampments in the City of Vancouver, and was also granted interested party standing in a Coroner's Inquest into the deaths of 5 unhoused individuals in Montral. CCLA has also intervened in the following cases that address the *Charter* and deprivations of shelter and/or encampment issues:

a. *Wright v Yukon (Government of)*, 2024 YKSC 41, which considered the constitutionality of r s. 3(2) of the *Safer Communities and Neighbourhoods Act*, SY 2006, which grant the power to evict for community safety on short notice, under sections 7 and 15 of the *Charter*;

b. *Batty v. City of Toronto, 2011 ONSC 6862,* which considered the constitutionality of an encampment set up in a municipal park as part of a protest movement; and

c. *Sanctuary et al. v. Toronto (City) et al., 2020 ONSC 6207,* which related to the constitutionality of the conduct of the City of Toronto regarding the operation of its shelters during the COVID-19 pandemic.

15. In terms of section 15, CCLA has intervened in decisions at all levels of court, including most recently in *Quebec (Attorney General) v. Kanyinda*, 2026 SCC 7.

C. The CCLA's Interest in the Issues Arising in this Appeal

16. The CCLA is interested in the present appeal because of its significance to the development of section 7 jurisprudence, specifically with respect to the deprivation of the shelter as a violation of the fundamental human right to life, liberty, and security of the person, which is protected both by the *Charter* and by multiple international conventions of which Canada is a state party.

17. In its intervention before Justice Gibson, CCLA made unique submissions – distinct from Persons Unknown and the Amicus – on the presumption of conformity and the relevant and persuasive sources of international law that related to the section 7 Charter issues raised.

D. Overview of the CCLA's Proposed Submissions (in coalition with CLAIHR)

18. CCLA and CLAIHR have provided a draft factum outlining their proposed submissions on the appeal in the motion record.

19. To provide an overview, if granted leave to intervene, the CCLA and CLAIHR propose to address the following issues in a joint intervention:

i. how the presumption of conformity for binding sources of international human rights law (IHRL) and the "relevant and persuasive" principle for non-binding sources apply to ss. 7 and 15 interpretation in relation to homelessness and encampments;

ii. the relevance of the international human right to adequate housing, as an economic and social right subject to progressive realization, to the interpretation of the obligations arising under ss. 7 and 15 of the Charter; and

iii. whether and how legislative and policy measures implementing Canada's IHRL commitments respecting adequate housing inform Charter interpretation.

E. Assistance to be Provided by the CCLA (in coalition with CLAIHR)

20. I believe that the CCLA/CLAIHR's submissions in this Appeal will be helpful to the Court and will provide a perspective unique from that of the parties or other potential intervenors. Unlike the Respondents and Amicus, the CCLA's interest in this appeal is directed towards the general public interest at stake and the broader implications of the scope of the rights guaranteed under sections 7 and 15 of the *Charter.* The CCLA has a broad supporter base that come from all walks of life, across all Canadian provinces.

21. The CCLA/CLAIHR's proposed intervention does not raise any concerns that have traditionally led this Court to refuse intervention. CCLA takes no position on the ultimate disposition of the appeal. The CCLA/CLAIHR do not intend to expand the issues beyond those raised by the parties. The CCLA understands that the role of an intervenor is to offer district perspective on the issues raised by the party and make its submissions with this obligation in mind. The proposed intervention will not delay or lengthen the hearing of the Appeal or expand its scope. The CCLA and CLAIHR have formed a joint collaborative intervention to avoid unnecessary duplication and redundancy in submissions to the Court.

22. If granted leave to intervene, the CCLA will comply with any deadlines set by the Court, including with respect to the filling of its factum. Counsel for the CCLA will also consult with any other interveners who may be granted leave in order to avoid duplication of the anticipated written and oral arguments.

23. The CCLA therefore respectfully requests that it be granted leave to intervene in coalition with CLAIHR, with the right to file a factum of 10 pages and to present oral argument, or on any terms the Court deems appropriate.

24. The CCLA seeks no costs in the proposed intervention and asks that no costs be awarded against it.

SWORN remotely by Harini Sivalingam of the City of Toronto, in the Province of Ontario, the 19th day of October, 2026, in accordance with O'Reg 431/20, Administering Oath and Declaration Remotely.

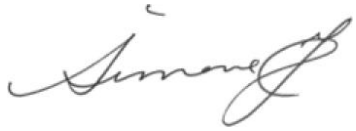
Harini Sivalingam

A Commissioner for taking Affidavits (or as may be)

This is Exhibit “A” referred to in

The Affidavit of Harini Sivalingam

Sworn this 19th day of October, 2026



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A Commissioner for Taking Affidavits, etc.

Exhibit A – CCLA Litigation

CCLA Interventions

Cases in which the CCLA has been granted intervener status include those listed chronologically below:

1. *R. v. Morgentaler,* [1976] 1 S.C.R. 616, where the general issue was whether the necessity defence was applicable to a charge of procuring an unlawful abortion under the *Criminal Code* (the CCLA intervened in the Supreme Court of Canada);

2. *Nova Scotia (Board of Censors) v. McNeil,* [1976] 2 S.C.R. 265, in which the issue was whether a taxpayer has standing to challenge legislation concerning censorship of films (the CCLA intervened in the Supreme Court of Canada);

3. *R. v. Miller,* [1977] 2 S.C.R. 680, in which one of the issues was whether the death penalty under the *Criminal Code* constituted cruel and unusual punishment under the *Canadian Bill of Rights* (the CCLA intervened in the Supreme Court of Canada);

4. *Nova Scotia (Board of Censors) v. McNeil,* [1978] 2 S.C.R. 662, in which the issues were whether statutory provisions and regulations authorizing the Board of Censors to regulate and control the film industry in the province were *intra vires* the provincial legislature and whether they violated fundamental freedoms, including freedom of speech;

5. *Reference re Legislative Privilege* (1978), 18 O.R. (2d) 529 (C.A.), in which the issue was whether a member of the legislature has a privilege allowing him or her to refuse to disclose the source or content of confidential communications by informants when testifying at a criminal trial;

6. *R. v. Saxell* (1980), 33 O.R. (2d) 78 (C.A.), in which one of the issues was whether the provision in the *Criminal Code* for the detention of an accused acquitted by reason of insanity violated guarantees in the *Canadian Bill of Rights,* including the guarantee of due process and the protection against arbitrary detention and imprisonment (the CCLA intervened in the Ontario Court of Appeal);

7. *Nova Scotia (Attorney General) v. MacIntyre,* [1982] 1 S.C.R. 175, in which the issue was whether a journalist is entitled to inspect search warrants and the information used to obtain them (the CCLA intervened in the Supreme Court of Canada);

8. *Re Fraser and Treasury Board (Department of National Revenue)* (1982), 5 L.A.C. (3d) 193 (P.S.S.R.B.), in which the issue was whether termination of a civil servant for publicly

criticizing government policy violated freedom of expression (the CCLA intervened before the Public Service Staff Relations Board);

9. *R. v. Dowson,* [1983] 2 S.C.R. 144, and *R. v. Buchbinder,* [1983] 2 S.C.R. 159, in which the issue was whether the Attorney General could order a stay of proceedings under s. 508 of the *Criminal Code* after a private information has been received but before the Justice of the Peace has completed an inquiry (the CCLA intervened in *R. v. Dowson* before the Ontario Court of Appeal and the Supreme Court of Canada, and in *R. v. Buchbinder* before the Supreme Court of Canada);

10. *R. v. Oakes* (1983), 40 O.R. (2d) 660 (C.A.), in which the issue was whether the reverse onus clause in s. 8 of the *Narcotic Control Act* violated an accused's right to be presumed innocent under the *Charter* (the CCLA intervened in the Court of Appeal);

11. *Re Ontario Film & Video Appreciation Society and Ontario Board of Censors* (1984), 45 O.R. (2d) 80 (C.A.), in which the issue was whether a provincial law permitting a board to censor films violated the *Charter's* guarantee of freedom of expression (the CCLA intervened in the Ontario Divisional Court and the Ontario Court of Appeal);

12. *R. v. Rao* (1984), 46 O.R. (2d) 80 (C.A.), in which the issue was whether a provision under the *Narcotic Control Act* permitting warrantless searches violated the *Charter*'s guarantee of protection against unreasonable search and seizure (the CCLA intervened in the Ontario Court of Appeal);

13. *Re Klein and Law Society of Upper Canada; Re Dvorak and Law Society of Upper Canada* (1985), 16 D.L.R. (4th) 489 (Div. Ct.), in which the issue was whether the Law Society's prohibitions respecting fees advertising and communications with the media violated the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Ontario Divisional Court);

14. *Canadian Newspapers Co. Ltd. v. Attorney-General of Canada* (1986), 55 0. R. (2d) 737 (H.C.), in which the issue was whether the provision in the *Criminal Code* limiting newspapers' rights to publish certain information respecting search warrants violated the *Charter's* guarantee of freedom of expression (the CCLA intervened in the Ontario High Court of Justice);

15. *R. v. J.M.G.* (1986), 56 O.R. (2d) 705 (C.A.), in which the issue was whether a school principal's seizure of drugs from a student's sock violated the *Charter's* protection from unreasonable search and seizure (the CCLA intervened in the Ontario Court of Appeal);

16. *Re Ontario Film & Video Appreciation Society and Ontario Film Review Board* (1986), 57 O.R. (2d) 339 (Div. Ct.), in which the issue was whether actions taken by a film censorship

board violated the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Ontario Divisional Court);

17. *R. v. Swain* (1986), 53 O.R. (2d) 609 (C.A.), in which some of the issues were whether the provision in the *Criminal Code* for the detention of an accused acquitted by reason of insanity violated ss. 7, 9, 12 or 15(1) of the *Charter* (the CCLA intervened in the Court of Appeal);

18. *Reference Re Bill 30, an Act to amend the Education Act (Ont.),* [1987] 1 S.C.R. 1148, in which the issues were whether Bill 30, which provided for full funding for Roman Catholic separate high schools, violated the *Charter's* guarantees of freedom of conscience and religion and equality rights (the CCLA intervened in the Ontario Court of Appeal and the Supreme Court of Canada);

19. *Zylberberg v. Sudbury Board of Education (Director)* (1988), 65 O.R. (2d) 641 (C.A.), in which the issue was whether an Ontario regulation which provided for religious exercises in public schools violated the *Charter*'s guarantee of freedom of conscience and religion (the CCLA intervened in the Ontario Divisional Court and the Ontario Court of Appeal);

20. *Tremblay v. Daigle,* [1989] 2 S.C.R. 530, in which the issue was whether a man who impregnated a woman could obtain an injunction prohibiting the woman from having an abortion (the CCLA intervened in the Supreme Court of Canada);

21. *Canada (Human Rights Commission) v. Taylor,* [1990] 3 S.C.R. 892, in which one of the issues was whether a provision in the Canada *Human Rights Act* that prohibited telephone communication of hate messages offended the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

22. *R. v. Keegstra,* [1990] 3 S.C.R. 697, in which the issue was whether the *Criminal Code* provision which made it an offence to willfully promote hatred against an identifiable group constitutes a violation of the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

23. *Lavigne v. Ontario Public Service Employees Union,* [1991] 2 S.C.R. 211, in which the issues were whether the use for certain political purposes of union dues paid by non-members pursuant to an agency shop or Rand formula violated the *Charter* guarantees of freedom of expression and association (the CCLA intervened in the Supreme Court of Canada);

24. *R. v. Seaboyer,* [1991] 2 S.C.R. 577, in which one of the issues was whether the rape shield provisions of the *Criminal Code* violated the *Charter* guarantee of a fair trial (the CCLA intervened in the Ontario Court of Appeal and the Supreme Court of Canada of Canada);

25. *R. v. Butler,* [1992] 1 S.C.R. 452, in which the issue was whether the obscenity provisions in s. 163 of the *Criminal Code* violate the *Charter* guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

26. *J.H. v. Hastings (County),* [1992] O.J. No. 1695 (Ont. Gen. Div.), in which the issue was whether disclosure to municipal councilors of a list of social assistance recipients violated the protection of privacy under the *Municipal Freedom of Information and Protection of Privacy Act* (the CCLA intervened in the Ontario Court – General Division);

27. *R. v. Zundel,* [1992] 2 S.C.R. 731, in which the issue was whether s. 177 of the *Criminal Code* prohibiting spreading false news violated the *Charter* guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

28. *Ontario Human Rights Commission v. Four Star Variety* (October 22, 1993) (Ont. Bd. of Inquiry), in which the issues were whether convenience stores displaying and selling certain magazines discriminated against women on the basis of their sex contrary to the Ontario *Human Rights Code* and if the Board of Inquiry's dealing with the obscenity issue intruded on the *Charter* guarantee of freedom of expression (the CCLA intervened before the Board of Inquiry);

29. *Ramsden v. Peterborough (City),* [1993] 2 S.C.R. 1084, in which the issue was whether a municipal by-law banning posters on public property violated the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Ontario Court of Appeal and the Supreme Court of Canada);

30. *Hill v. Church of Scientology of Toronto,* [1995] 2 S.C.R. 1130, in which the issues were: (1) whether the common law of defamation should be developed in a manner consistent with freedom of expression; (2) whether the common law test for determining liability for defamation disproportionately restricts freedom of expression; and (3) whether the current law respecting non-pecuniary and punitive damages disproportionately restricts freedom of expression and whether limits on jury discretion and damages should be imposed (the CCLA intervened in the Supreme Court of Canada);

31. *Ontario (Attorney General) v. Langer* (1995), 123 D.L.R. (4th) 289 (Ont. Gen. Div.), in which the issue was the constitutionality of ss. 163.1 and 164 of the *Criminal Code* relating to child pornography (the CCLA intervened in the Ontario General Division);

32. *Adler v. Ontario,* [1996] 3 S.C.R. 609, in which the issues were whether Ontario not funding of Jewish and certain Christian day schools violated the *Charter*'s guarantees of freedom of conscience and religion and of equality without discrimination based on religion (the CCLA intervened in the Ontario General Division, the Ontario Court of Appeal, and the Supreme Court of Canada);

33. *Al Yamani v. Canada (Solicitor General) (TD.),* [1996] 1 F.C. 174 (T.D.), in which some of the issues were whether the provision in the *Immigration Act* regarding the deportation of permanent residents on the basis of membership in a class of organizations violated principles of fundamental justice contrary to s. 7 of the *Charter* or the *Charter* guarantees of freedom of association and expression (the CCLA intervened in the Federal Court Trial Division);

34. *R. v. Gill* (1996), 29 O.R. (3d) 250 (Ont. Gen. Div.), in which the issue was whether s. 301 of the *Criminal Code*, which creates an offence of publishing a defamatory libel, constitutes a violation of the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Ontario Court – General Division);

35. *Ross v. New Brunswick School District No. 15,* [1996] 1 S.C.R. 825, in which some of the issues were whether a teacher, who had been subject to discipline for making discriminatory anti-Semitic statements while off duty, could defend his conduct, at least in part, on freedom of religion (the CCLA intervened in the Supreme Court of Canada);

36. *R. v. Stillman,* [1997] 1 S.C.R. 607, in which the issue was the explication of the circumstances, including police conduct, that would bring the administration of justice into disrepute within the meaning of s. 24(2) of the *Charter* if unconstitutionally obtained evidence were to be admitted into a proceeding (the CCLA intervened in the Supreme Court of Canada);

37. *Winnipeg Child and Family Services (Northwest Area) v. D.F.G,* [1997] 3 S.C.R. 925, in which the issue was whether the law should permit the state to interfere with the privacy, dignity, and liberty of a pregnant woman where her actions may expose the fetus to serious injury (the CCLA intervened in the Supreme Court of Canada);

38. *R. v. Lucas,* [1998] 1 S.C.R. 439, in which the issue was whether s. 300 of the *Criminal Code*, which creates the offence of publishing a defamatory libel, constitutes a violation of the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

39. *Thomson Newspapers Co. (c.o.b. Globe and Mail) v. Canada (Attorney General),* [1998] 1 S.C.R. 877, in which the issue was whether s. 322.1 of the *Canada Elections Act,* which prohibits the publication of public opinion polls during the last 72 hours of a federal election campaign, constitutes a violation of the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

40. *Daly v. Ontario (Attorney General)* (1999), 44 O.R. (3d) 349 (C.A.), in which the issue was the extent to which Ontario's constitutionally protected Catholic separate school boards must adhere to the restrictions on employment discrimination contained in the *Ontario*

Human Rights Code (the CCLA intervened in the Ontario General Division and the Ontario Court of Appeal);

41. *R. v. Mills,* [1999] 3 S.C.R. 668, in which the central issue was the appropriate balance to be struck between the rights of the accused and the rights of complainants and witnesses with respect to the production of medical and therapeutic records (the CCLA intervened in the Supreme Court of Canada);

42. *Moumdjian v. Canada (Security Intelligence Review Committee),* [1999] 4 F.C. 624, in which one of the issues was the constitutionality of *Immigration Act* provisions which impacted on the freedom of association (the CCLA intervened in the Federal Court of Appeal);

43. *United Food and Commercial Workers, Local 1518 (U.F.C.W.) v. KMart Canada Ltd.*, [1999] 2 S.C.R. 1083, and *Allsco Building Products Ltd. v. United Food and Commercial Workers International Union, Local 1288 P*, [1999] 2 S.C.R. 1136, in which the issue was whether leafleting by striking employees at non-struck workplaces is constitutionally protected expression (the CCLA intervened in the Supreme Court of Canada);

44. *R. v. Budreo* (2000), 46 O.R. (3d) 481 (C.A.), in which the issue was whether the provision in s. 810.1 of the *Criminal Code,* which permits a court to impose recognizance on a person likely to commit sexual offences against a child, violates s. 7 of the *Charter* (the CCLA intervened in the Ontario Court of Appeal);

45. *Martin Entrop and Imperial Oil Ltd* (2000), 50 O.R. (3d) 18 (C.A.), in which one of the issues was the legality of an employer testing employees' urine for drug use (the CCLA intervened in the Ontario General Division and the Ontario Court of Appeal);

46. *Little Sisters Book and Art Emporium v. Canada (Attorney General),* [2000] 2 S.C.R. 1120, in which one of the issues was whether certain provisions of Canada's customs legislation which permit customs officers to seize and detain allegedly obscene material at the border unreasonably infringe on the right to freedom of expression (the CCLA intervened in the Supreme Court of Canada);

47. *Toronto Police Association v. Toronto Police Services Board and David J. Boothby* (Ont. Div. Ct. Court, File No. 58/2000), in which the issue was the propriety of police fundraising and political activities, and the validity of a by-law and order issued by the Toronto Police Services Board and the Chief of Police, respectively, regarding police conduct (the matter settled prior to the hearing);

48. *R. v. Latimer,* [2001] 1 S.C.R. 3, in which one of the issues was whether the *Criminal Code* provision for a mandatory minimum sentence of life imprisonment for second degree

murder constitutes cruel and unusual punishment under s. 12 of the *Charter* (the CCLA intervened in the Supreme Court of Canada);

49. *R. v. Banks* (2001), 55 O.R. (3d) 374 (O.C.J.) and 2007 ONCA 19 (docket no. C43259) in which one of the issues was whether provisions of the Ontario *Safe Streets Act* prohibiting certain forms of soliciting violate s. 2(b) of the *Charter* (the CCLA intervened before the Ontario Court of Justice, the Ontario Superior Court of Justice and the Ontario Court of Appeal);

50. *R. v. Golden,* [2001] 3 S.C.R. 679, in which one of the issues was whether a strip search of the accused conducted as an incident to arrest violated s. 8 of the *Charter* (the CCLA intervened in the Supreme Court of Canada);

51. *R. v. Sharpe,* [2001] 1 S.C.R. 45, in which the issue was whether the *Criminal Code* prohibition of the possession of child pornography is an unreasonable infringement on the right to freedom of expression under the *Charter* (the CCLA intervened in the Supreme Court of Canada);

52. *Trinity Western University v. British Columbia College of Teachers,* [2001] 1 S. C. R. 772, in which the CCLA supported a private university's claim to be accredited for certification of its graduates as teachers eligible to teach in the public school system, despite the fact that the university's religiously-based code of conduct likely excluded gays and lesbians (the CCLA intervened in the Supreme Court of Canada);

53. *Ross v. New Brunswick Teachers' Association* (2001), 201 D.L.R. (4th) 75 (N.B.C.A.), in which one of the issues was the extent to which the values underlying the common law tort of defamation must give way to the *Charter* values underlying freedom of expression, especially where a claimant who asserts the former at the expense of the latter freely enters the public arena (the CCLA intervened in the New Brunswick Court of Appeal);

54. *Ontario (Human Rights Commission) v. Brillinger,* [2002] O.J. No. 2375 (Div. Ct.), in which the issue concerned the balance to be struck between freedom of religion and the right to equality (the CCLA intervened in the Ontario Superior Court of Justice);

55. *Chamberlain v. The Board of Trustees of School District #36 (Surrey),* [2002] 4 S.C.R. 710, which involved the balancing of freedom of religion and equality rights in the context of a public school board's approval of books for a school curriculum (the CCLA intervened in the Supreme Court of Canada);

56. *Falkiner v. Ontario (Ministry of Community and Social Services)* (2002), 59 O.R. (3d) 481 (C.A.), in which the issues were the extent to which regulations made under the *Family Benefits Act* and the General *Welfare Assistance Act* amending the definition of "spouse" in

relation to benefit entitlement (1) constituted discrimination under s. 15(1) of the *Charter,* and (2) set the stage for unwarranted government intrusion into the personal and private circumstances of affected recipients (the CCLA intervened before SARB, the Ontario Divisional Court, the Ontario Superior Court of Justice, and the Ontario Court of Appeal);

57. *Retail, Wholesale and Department Store Union, Local 558 v. Pepsi-Cola Canada Beverages (West) Ltd.,* [2002] 1 S.C.R. 156, in which the issue concerned the extent to which the common law regarding secondary picketing should be modified in light of *Charter values* (the CCLA intervened in the Supreme Court of Canada);

58. *Lafferty v. Parizeau* (SCC File No. 30103), [2003] S.C.C.A. No. 555 (leave granted but settled before hearing), which examined the application of *Charter* freedom of expression values to defamation and the defense of fair comment (the CCLA intervened in the Supreme Court of Canada, but the matter settled prior to hearing);

59. *R. v. Malmo-Levine, R. v. Clay, R. v. Caine,* [2003] S.C.J. No. 79, in which one of the issues was whether the criminal prohibition against the possession of marijuana violates s. 7 of the *Charter* (the CCLA intervened in the Supreme Court of Canada);

60. *Odhavji Estate v. Woodhouse,* [2003] 3 S.C.R. 263, which examined the appropriate scope of both the tort of abuse of public office and the tort of negligent supervision of the police, and the appropriate legal principles to be applied when addressing the issues of costs orders against private individuals of modest means who are engaged in public interest litigation (the CCLA intervened in the Supreme Court of Canada);

61. *La Congrégation des témoins de Jéhovah de St-Jérôme Lafontaine, et al. v. Municipalité du village de Lafontaine, et al.,* [2004] 2 S.C.R. 650, which examined the constitutionality of a municipal zoning decision that limited the location of building places of religious worship (the CCLA intervened in the Supreme Court of Canada);

62. *R. v. Glad Day Bookshop Inc.,* [2004] O.J No. 1766 (Ont. Sup. Ct. Jus.), in which one of the issues was the constitutionality of the statutory regime requiring prior approval and allowing the prior restraint of films (the CCLA intervened in the Ontario Superior Court of Justice);

63. *In the matter of an application under § 83.28 of the Criminal Code*, [2004] 2 S.C.R. 248, which questioned *inter alia* the constitutionality of investigative hearings and the over breadth of certain provisions of the Anti-Terrorism Act (the CCLA intervened in the Supreme Court of Canada);

64. *In the Matter of a Reference by the Government in Council Concerning the Proposal for an Act Respecting Certain Aspects of Legal Capacity for Marriage for Civil Purposes*,

[2004] 3 S.C.R. 698, which examined the equality and religious freedom aspects of proposed changes to the marriage legislation (the CCLA intervened in the Supreme Court of Canada);

65. *R v. Mann,* [2004] 3 S.C.R. 59, which examined whether the police have the authority at common law to detain and search a person in the absence of either a warrant or reasonable and probable grounds to believe an offence has been committed (the CCLA intervened in the Supreme Court of Canada);

66. *R v. Tessling,* [2004] 3 S.C.R. 432, which examined the constitutionality of the police conducting warrantless searches of private dwelling houses using infrared technology during the course of criminal investigations (the CCLA intervened in the Supreme Court of Canada);

67. *Genex Communications Inc. v. Attorney General of Canada*, [2005] F.C.J. No. 1440 (F.C.A.), which examined the application of the *Charter's* guarantee of freedom of expression to a decision by the CRTC to refuse to renew a radio station license (the CCLA intervened in the Federal Court of Appeal);

68. *R. v. Hamilton,* [2005] S.C.J. No. 48, which examined the scope of the offence of counseling the commission of a crime (the CCLA intervened in the Supreme Court of Canada);

69. *R. v. Déry*, [2006] 2 S.C.R. 669, which examined whether the *Criminal Code* contains the offence of "attempted conspiracy" (the CCLA intervened in the Supreme Court of Canada);

70. *Montague v. Page* (2006), 79 O.R. (3d) 515 (Ont. S.C.J.), which concerned the application of the Charter's guarantee of freedom of expression to the question of whether municipalities are allowed to file defamation suits against residents (CCLA intervened in the Ontario Superior Court of Justice);

71. *Multani v. Commission Scolaire Marguerite-Bourgeoys,* [2006] 1 S.C.R. 256, which concerned whether the *Charter's* guarantee of freedom of religion allows a student to wear a kirpan in school (the CCLA intervened in the Supreme Court of Canada);

72. *O'Neill v. Attorney General of Canada*, [2006] O.J. No. 4189 (Ont. S.C.J.), which concerned the interaction of national security and *Charter* rights (the CCLA intervened in the Ontario Superior Court of Justice);

73. *Owens v. Saskatchewan Human Rights Commission* (2006), 267 D.L.R. (4th) 733 (Sask.C.A.), which concerned the application of the *Charter's* guarantees of freedom of

religion and expression to a provincial statute banning hateful speech (the CCLA intervened in the Saskatchewan Court of Appeal);

74. *Charkaoui et al. v. Canada (Citizenship and Immigration),* [2007] 1 S.C.R. 350, which examined, *inter alia,* the constitutionality of certain "security certificate" provisions of the *Immigration and Refugee Protection Act* (the CCLA intervened in the Supreme Court of Canada);

75. *R. v. Bryan,* [2007] 1 S.C.R. 527, which examined the constitutionality of provisions of the *Elections Act* which penalize dissemination of election results from eastern Canada before polls are closed in the West (the CCLA intervened in the Supreme Court of Canada);

76. *R. v. Clayton,* 2007 SCC 32, concerning the scope of the police power to establish a roadblock and to stop and search vehicles and passengers (the CCLA intervened in the Supreme Court of Canada);

77. *Hill v. Hamilton-Wentworth Regional Police Services Board,* 2007 SCC 41, concerning the issue of whether police officers can be held liable in tort for a negligently conducted investigation (the CCLA intervened in the Supreme Court of Canada);

78. *Bruker v. Marcovitz,* 2007 SCC 54, which examined the extent to which civil courts can enforce a civil obligation to perform a religious divorce (the CCLA intervened in the Supreme Court of Canada);

79. *Lund v. Boissoin AND The Concerned Christian Coalition Inc.* (2006), CarswellAlta 2060 (AHRCC), which examined the extent to which Alberta human rights law can limit a homophobic letter to the editor (the CCLA intervened before the Alberta Human Rights and Citizen Commission);

80. *Whatcott v. Assn. Of Licensed Practical Nurses (Saskatchewan)*, 2008 SKCA 6, concerning the freedom of expression of an off-duty nurse who picketed a Planned Parenthood facility - whether he should be subject to disciplinary action by the professional association of nurses for this activity (the CCLA intervened in the Saskatchewan Court of Appeal);

81. *R. v. Kang-Brown*, 2008 SCC 18, and *R. v. A.M.*, 2008 SCC 19, concerning the constitutionality of using dogs to conduct random warrantless inspections of high school students (the CCLA intervened in the Supreme Court of Canada);

82. *Michael Esty Ferguson v. Her Majesty the Queen*, 2008 SCC 6, which concerned the constitutional challenge of a law requiring mandatory minimum sentences (the CCLA intervened in the Supreme Court of Canada);

83. *Elmasry and Habib v. Roger's Publishing and MacQueen* (No. 4), 2008 BCHRT 378, concerning the extent to which a British Columbia human rights law can limit the freedom of expression of a news magazine that had published offensive material about Muslims (the CCLA intervened before the British Columbia Human Rights Tribunal);

84. *Amnesty International Canada v. Canada (Minister of National Defence)*, 2008 FCA 401, concerning the extraterritorial application of the *Charter*, and specifically its application to Canadian Forces in Afghanistan and the transfer of detainees under Canadian control to Afghan authorities (the CCLA intervened in the Federal Court of Appeal);

85. *WIC Radio Ltd., et al. v. Kari Simpson,* 2008 SCC 40, concerning the appropriate balance to be struck in the law of defamation when one person's expression of opinion may have harmed the reputation of another (the CCLA intervened in the Supreme Court of Canada);

86. *Toronto Police Services Board v. (Ontario) Information and Privacy Commissioner*, 2009 ONCA 20 regarding freedom of information and the extent to which the public's right to access electronic data requires that the institution render such data in retrievable form (the CCLA intervened in the Ontario Court of Appeal);

87. *R. v. Patrick*, 2009 SCC 17, concerning the constitutionality of police conducting warrantless searches of household garbage located on private property (the CCLA intervened in the Supreme Court of Canada);

88. *Robin Chatterjee v. Attorney General of Ontario*, 2009 SCC 19, concerning the constitutionality of the civil forfeiture powers contained in Ontario's *Civil Remedies Act, 2001* (the CCLA intervened in the Supreme Court of Canada);

89. *R. v. Suberu*, 2009 SCC 33, concerning the constitutional right to counsel in the context of investigative detentions (the CCLA intervened in the Supreme Court of Canada);

90. *R. v. Grant*, 2009 SCC 32, concerning the appropriate legal test for the exclusion of evidence under s. 24(2) of the *Charter* (the CCLA intervened in the Supreme Court of Canada);

91. *R. v. Harrison*, 2009 SCC 34, concerning the appropriate application of s. 24(2) of the *Charter* in cases where police have engaged in "blatant" and "flagrant" *Charter* violations (the CCLA intervened in the Supreme Court of Canada);

92. *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, concerning whether a provincial law requiring that all driver's licenses include a photograph of the license holder violates the freedom of religion of persons seeking an exemption from being photographed for religious reasons (the CCLA intervened in the Supreme Court of Canada);

93. *R. v. Breeden*, 2009 BCCA 463, concerning whether the constitutional right to freedom of expression applies in certain public and publicly accessible spaces (the CCLA intervened before the British Columbia Court of Appeal);

94. *R. v. Chehil* [2009] N.S.J. No. 515, concerning the permissibility of warrantless searches of airline passenger information by police (the CCLA intervened at the Nova Scotia Court of Appeal);

95. *Matthew Miazga v. The Estate of Dennis Kvello, et al.*, 2009 SCC 51, concerning the appropriate legal test for the tort of malicious prosecution (the CCLA intervened at the Supreme Court of Canada);

96. *Johanne Desbiens, et al. v. Wal-Mart Canada Corporation,* 2009 SCC 55, and *Gaétan Plourde v. Wal-Mart Canada Corporation,* 2009 SCC 54, concerning the interpretation of the Quebec *Labour Code* and the impact of the freedom of association guarantees contained in the *Canadian Charter* and the Quebec *Charter* (the CCLA intervened in the Supreme Court of Canada);

97. *Stephen Boissoin and the Concerned Christian Coalition Inc. v. Darren Lund*, 2009 ABQB 592, which will examine the extent to which Alberta human rights law can limit a homophobic letter to the editor (the CCLA intervened before the Queen's Bench of Alberta);

98. *Quan v. Cusson*, 2009 SCC 62, raising the novel question of a public interest responsible journalism defence, as well as the traditional defence of qualified privilege, in the setting of defamation law and its relationship to freedom of the press (the CCLA intervened in the Supreme Court of Canada);

99. *Peter Grant v. Torstar Corp.*, 2009 SCC 61, concerning the creation and operation of a public interest responsible journalism defence (the CCLA intervened in the Supreme Court of Canada);

100. *Whitcombe and Wilson v. Manderson*, December 18 2009, Ontario Superior Court of Justice File No. 31/09, concerning a Rule 21 motion to dismiss a defamation lawsuit being funded by a municipality (the CCLA intervened in the Ontario Superior Court of Justice);

101. *Karas v. Canada (Minister of Justice)*, (SCC File No. 32500) concerning the appropriateness of extraditing a fugitive to face the possibility of a death penalty without assurances that the death penalty will not be applied (the CCLA was granted leave to intervene at the Supreme Court of Canada but the case was dismissed as moot prior to the hearing);

102. *Prime Minister of Canada, et al. v. Omar Ahmed Khadr*, 2010 SCC 3, concerning *Charter* obligations to Canadian citizens detained abroad and the appropriateness of *Charter* remedies in respect to matters affecting the conduct of foreign relations (the CCLA intervened in the Supreme Court of Canada);

103. *R. v. Nasogaluak*, 2010 SCC 6, concerning the availability of sentence reductions as a remedy for violations of constitutional rights (the CCLA intervened in the Supreme Court of Canada);

104. *Whatcott v. Saskatchewan (Human Rights Tribunal)*, 2010 SKCA 26, concerning the extent to which a Saskatchewan human rights law can limit the expression of a man distributing anti-homosexual flyers (the CCLA intervened in the Saskatchewan Court of Appeal);

105. *Leblanc et al. c. Rawdon (Municipalite de)* (Quebec Court of Appeal File No. 500-09-019915-099) concerning the ability of a municipality to sue for defamation, the proper test for an interlocutory injunction in a defamation case, and the impact of "anti-SLAPP" legislation (the CCLA intervened at the Quebec Court of Appeal);

106. *Warman v. Fournier et al.*, 2010 ONSC 2126, concerning the appropriate legal test when a litigant in a defamation action is attempting to identity previously-anonymous internet commentators (the CCLA intervened at the Ontario Superior Court of Justice);

107. *R. v. National Post,* 2010 SCC 16, concerning the relationship between journalist-source privilege, freedom of the press under s. 2b, and search warrant and assistance orders targeting the media (the CCLA intervened in the Supreme Court of Canada);

108. *Toronto Star Newspapers Ltd. v. Canada*, 2010 SCC 21, concerning the constitutionality of mandatory publication bans regarding bail hearing proceedings when requested by the accused (the CCLA intervened in the Supreme Court of Canada);

109. *Smith v. Mahoney* (U.S. Circuit Court of Appeals for the Ninth Circuit, Court File No. 94-99003) concerning the constitutionality of carrying out a death sentence on an inmate who has spent 27 years living under strict conditions of confinement on death row (the CCLA intervened in the U.S. Circuit Court of Appeals for the Ninth Circuit);

110. *R. v. Cornell,* 2010 SCC 31, concerning whether the manner in which police conduct a search, in particular an unannounced 'hard entry', constitutes a violation of s. 8 (the CCLA intervened in the Supreme Court of Canada);

111. *City of Vancouver, et al v. Alan Cameron Ward, et al.,* 2010 SCC 27, concerning whether an award of damages for the breach of a *Charter* right can made in the absence of

bad faith, an abuse of power or tortious conduct (the CCLA intervened in the Supreme Court of Canada);

112. *R. v. Sinclair,* 2010 SCC 35, *R. v. McCrimmon*, 2010 SCC 36, and *R. v. Willier,* 2010 SCC 37, concerning the scope of the constitutional right to counsel in the context of a custodial interrogation (the CCLA intervened in the Supreme Court of Canada);

113. *R. v. N.S. et al.*, 2010 ONCA 670, concerning the balancing of freedom of religion and conscience and fair trial rights, where a sexual assault complainant is a religious Muslim woman and the accused has requested that she be required to remove the veil before testifying (the CCLA intervened at the Ontario Court of Appeal);

114. *The Toronto Coalition to Stop the War et al. v. The Minister of Public Safety and Emergency Preparedness and the Minister of Citizenship and Immigration Canada,* 2010 FC 957, concerning the freedom of association and freedom of expression implications of a preliminary assessment by the government that a British Member of Parliament who was invited to speak in Canada was inadmissible because the government claimed he had engaged in terrorism and was a member of a terrorist organization (the CCLA intervened in the Federal Court);

115. *Globe and Mail, a division of CTVglobemedia Publishing Inc. v. Attorney General of Canada, et al*, 2010 SCC 41, concerning the disclosure of confidential journalistic sources in the civil litigation context, and the constitutionality of a publication ban (the CCLA intervened in the Supreme Court of Canada);

116. *R. v. Gomboc,* 2010 SCC 55, concerning the constitutionality of police conducting warrantless searches of private dwelling houses using real-time electricity meters (the CCLA intervened in the Supreme Court of Canada);

117. *Tiberiu Gavrila v. Minister of Justice,* 2010 SCC 57, concerning the interaction between the Immigration and Refugee Protection Act and the Extradition Act and whether a refugee can be surrendered for extradition to a home country (the CCLA intervened in the Supreme Court of Canada);

118. *Reference re Marriage Commissioners Appointed Under the Marriage Act, 1995 S.S. 1995, c. M-4.1*, 2011 SKCA 3, concerning the constitutionality of proposed amendments to the *Marriage Act* that would allow marriage commissioners to refuse to perform civil marriages where doing so would conflict with commissioners' religious beliefs (the CCLA intervened at the Court of Appeal for Saskatchewan);

119. *Canadian Broadcasting Corporation et al. v. The Attorney General of Quebec et al.*, 2011 SCC 2, and *Canadian Broadcasting Corporation v. Her Majesty the Queen and*

Stéphan Dufour, 2011 SCC 3 concerning the constitutional protection of freedom of the press in courthouses and the constitutionality of certain rules and directives restricting the activities of the press and the broadcasting of court proceedings (the CCLA intervened in the Supreme Court of Canada);

120. *R. v. Caron,* 2011 SCC 5, concerning the availability of advance cost orders in criminal and quasi-criminal litigation that raises broad reaching public interest issues (the CCLA intervened in the Supreme Court of Canada);

121. *R. v. Ahmad*, 2011 SCC 6, concerning the constitutionality of ss. 38 to 38.16 of the Canada Evidence Act, R.S.C. 1985 (the CCLA intervened in the Supreme Court of Canada);

122. *Farès Bou Malhab v. Diffusion Métromédia CMR inc., et al.*, 2011 SCC 9, concerning statements made by a radio host, and examining the scope and nature of defamation under Quebec civil law in the context of the freedom of expression guarantees found in the Quebec and Canadian Charters (the CCLA intervened in the Supreme Court of Canada);

123. *Ontario (Attorney General) v. Fraser,* 2011 SCC 20, concerning the exclusion of agricultural workers from Ontario's *Labour Relations Act* and whether the labour scheme put in place for these workers violated freedom of association under the *Canadian Charter* (the CCLA intervened in the Supreme Court of Canada);

124. *R. v. K.M.*, 2011 ONCA 252, concerning the constitutionality of taking DNA samples from young offenders on a mandatory or reverse onus basis (the CCLA intervened in the Ontario Court of Appeal);

125. *Issassi v. Rosenzweig*, 2011 ONCA 302, concerning a 13 year old girl from Mexico who had been granted refugee status in Canada because of allegations that her mother had sexually abused her, and the subsequent return of that youth to her mother in Mexico, by a judge who did not conduct a risk assessment (the CCLA intervened at the Ontario Court of Appeal);

126. *Attorney General of Canada et al. v. Mavi et al.,* 2011 SCC 30, considering whether there is a need for procedural fairness in the federal immigration sponsorship regime (the CCLA intervened in the Supreme Court of Canada);

127. *Canada (*Information Commissioner) v. Canada (Minister of National Defence), 2011 SCC 25, cases concerning whether Minister's offices, including the Prime Minister's Office, are considered "government institutions" for the purposes of the federal *Access to Information Act* (the CCLA intervened in the Supreme Court of Canada);

128. *Toussaint v. Attorney General of Canada,* 2011 FCA 213, concerning whether a person living in Canada with precarious immigration status has the right to life-saving healthcare (the CCLA intervened in the Federal Court of Appeal);

129. *Phyllis Morris v. Richard Johnson, et al.*, 2011 ONSC 3996, concerning a motion for production and disclosure brought by a public official and plaintiff in a defamation action in order to get identifying information about anonymous bloggers (the CCLA intervened on the motion at the Ontario Superior Court of Justice);

130. *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44, concerning a safe (drug) injection site, and the constitutionality of certain criminal provisions in relation to users and staff of the site (the CCLA intervened in the Supreme Court of Canada);

131. Crookes *v. Newton,* 2011 SCC 47, concerning whether a hyperlink constitutes "publication" for the purposes of the law of defamation (the CCLA intervened in the Supreme Court of Canada);

132. *R. v. Katigbak*, 2011 SCC 48, considering the scope of the statutory defences to possession of child pornography (the CCLA intervened in the Supreme Court of Canada);

133. *R. v. Barros*, 2011 SCC 51, considering the scope of the informer privilege and whether it extends to prohibit independent investigation by the defence which may unearth the identity of a police informer (the CCLA intervened in the Supreme Court of Canada);

134. *Batty v. City of Toronto*, 2011 ONSC 6862, concerning the constitutionality of municipal bylaws prohibiting the erection of structures and overnight presence in public parks as applied to a protest (the CCLA intervened at the Ontario Superior Court of Justice);

135. *S.L. v. Commission scolaire des Chênes*, 2012 SCC 7, concerning parents seeking to have their children exempt from participating in Quebec's Ethics and Religious Culture curriculum on the basis of their freedom of religion concerns (the CCLA intervened before the Supreme Court of Canada);

136. *Doré v. Barreau du Québec*, 2012 SCC 12, concerning the jurisdiction of a provincial law society to discipline members for comments critical of the judiciary (the CCLA intervened before the Supreme Court of Canada);

137. *R. v. Ipeelee*, 2012 SCC 13, concerning the application of s. 718.2(e) of the *Criminal Code* and *Gladue* principles when sentencing an Aboriginal offender of a breach of long-term supervision orders (the CCLA intervened before the Supreme Court of Canada);

138. *Canada (Attorney General) v. Bedford*, 2012 ONCA 186, concerning the constitutionality of certain prostitution-related offences (the CCLA intervened at the Ontario Court of Appeal);

139. *R. v. Tse*, 2012 SCC 16, concerning the constitutionality of the "warrantless wiretap" provisions in the Criminal Code (the CCLA intervened before the Supreme Court of Canada);

140. *Éditions Écosociété Inc. v. Banro Corp.*, 2012 SCC 18, concerning the appropriate test for jurisdiction and forum non conveniens in a multi-jurisdictional defamation lawsuit and the implications of these jurisdictional issues on freedom of expression (the CCLA intervened before the Supreme Court of Canada);

141. *Peel (Police) v. Ontario (Special Investigations Unit)*, 2012 ONCA 292, concerning the jurisdiction of Ontario's Special Investigations Unit to investigate potentially criminal conduct committed by a police officer who has retired since the time of the incident (the CCLA intervened before the Ontario Superior Court of Justice and the Ontario Court of Appeal);

142. *Pridgen v. University of Calgary*, 2012 ABCA 139, which considers whether a university can discipline students for online speech and whether the Canadian Charter of Rights and Freedoms applies to disciplinary proceedings at a university (the CCLA intervened before the Alberta Court of Appeal);

143. *J.N. v. Durham Regional Police Service*, 2012 ONCA 428, concerning the retention of non-conviction disposition records by police services (the CCLA intervened in the Ontario Court of Appeal; CCLA also intervened before the Ontario Superior Court of Justice, J.N. v. Durham Regional Police Service, 2011 ONSC 2892);

144. *Opitz v. Wrzesnewskyj*, 2012 SCC 55, concerning the proper interpretation of the *Canada Elections Act* in the context of elections contested based on "irregularities," and in light of s. 3 of the Charter (CCLA intervened before the Supreme Court of Canada);

145. *Canada (Human Rights Commission) v. Warman*, 2012 FC 1162, concerning the constitutionality of the hate speech prohibitions in the *Canadian Human Rights Act* (the CCLA intervened in the Federal Court of Canada);

146. *R. v. Cuttell*, 2012 ONCA 661 and *R. v. Ward*, 2012 ONCA 660, concerning the permissibility of warrantless searches of internet users' identifying customer information (the CCLA intervened at the Ontario Court of Appeal);

147. *Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45, concerning the issue of the appropriate test for granting standing in a public interest case (CCLA intervened before the Supreme Court of Canada);

148. *R. v. Cole*, 2012 SCC 53, examining an employee's reasonable expectation of privacy in employer-issued computers and the application of s. 8 to police investigations at an individual's workplace (CCLA intervened before the Supreme Court of Canada);

149. *R. v. Prokofiew*, 2012 SCC 49, concerning the inferences that could be made from accused person's decision not to testify (CCLA intervened before the Supreme Court of Canada);

150. *A.B. v. Bragg Communications Inc.*, 2012 SCC 46, concerning the proper balance between the transparency of court proceedings and the privacy of complainants (CCLA intervened before the Supreme Court of Canada);

151. *Lund v. Boissoin,* 2012 ABCA 300, which considers the extent to which Alberta human rights law can limit a homophobic letter to the editor (the CCLA intervened before the Alberta Court of Appeal);

152. *R. v. Khawaja*, 2012 SCC 69 and *Sriskandarajah v. United States of America*, 2012 SCC 70 which together considered whether the definition of "terrorist activity" introduced by the Anti-Terrorism Act 2001, amending the Criminal Code, infringe the Charter (CCLA intervened before the Supreme Court of Canada);

153. *R. v. NS*, 2012 SCC 72, concerning the balancing of freedom of religion and conscience and fair trial rights, where a sexual assault complainant is a religious Muslim woman and the accused has requested that she be required to remove the veil before testifying (the CCLA intervened before the Supreme Court of Canada);

154. *R. v. Davey*, 2012 SCC 75, *R. v. Emms*, 2012 SCC 74 and *R. v. Yumnu*, 2012 SCC 73, concerning the Crown's vetting of prospective jurors prior to jury selection and the failure to disclose information to defence counsel (CCLA intervened before the Supreme Court of Canada);

155. *R. v. Manning*, 2013 SCC 1, concerning the proper interpretation of a criminal forfeiture provision, and whether courts may consider the impact of such forfeiture on offenders, their dependents, and affected others (CCLA intervened before the Supreme Court of Canada);

156. *Saskatchewan Human Rights Commission v. William Whatcott*, 2013 SCC 11, concerning the constitutionality and interpretation of the hate speech provisions of the

Saskatchewan Human Rights Code and the extent to which that law can limit the expression of a man distributing anti-homosexual flyers (CCLA intervened before the Supreme Court of Canada);

157. *R. v. Mernagh*, 2013 ONCA 67, concerning the constitutionality of medical marijuana regulations (CCLA intervened before the Ontario Court of Appeal);

158. *Tigchelaar Berry Farms v. Espinoza,* 2013 ONSC 1506, concerning temporary migrant workers who, following their termination, were immediately removed from Canada by their employers pursuant to a government-mandated employment contract (CCLA intervened before the Ontario Superior Court);

159. *R. v. TELUS Communications Co.*, 2013 SCC 16, concerning the interpretation of the interception provisions of the Criminal Code and whether the authorizations in a General Warrant and Assistance Order are sufficient to require a cell phone company to forward copies of all incoming and outgoing text messages to the police;

160. *R. v. Pham*, 2013 SCC 15, concerning whether the demands of proportionality in sentencing require that the individual accused's circumstances be taken into account to include a collateral consequence, such as deportation;

161. *Canadian Human Rights Commission v. Canada (Attorney General)*, 2013 FCA 75, in which the court considered whether an allegation that the Government of Canada has engaged in prohibited discrimination by under-funding child welfare services for on-reserve First Nations children, in order to succeed, requires a comparison to a similarly situated group;

162. *Penner v. Niagara (Regional Police Service Board)*, 2013 SCC 19, concerning the use of issue estoppel in the context of civil claims against the police;

163. *R. v. Saskatchewan Federation of Labour*, 2013 SKCA 43, concerning essential services legislation and the freedom to strike;

164. *R. v. Welsh*, 2013 ONCA 190, concerning the constitutionality of an undercover police officer posing as a religious or spiritual figure in order to elicit information from a suspect;

165. *Communications, Energy and Paperworkers Union of Canada, Local 30 v. Irving Pulp & Paper, Ltd.*, 2013 SCC 34, concerning employee privacy and the reasonableness of randomized alcohol testing in the workplace;

166. *RC v. District School Board of Niagara*, 2013 HRTO 1382, concerning the policy and practice of distribution of non-instructional religious material within the school board system and whether it is discriminatory on the basis of creed;

167. *Divito v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 47, concerning the government's refusal to permit Canadians detained abroad to serve the remainder of their sentence in Canada and the application of s. 6 of the *Charter* (the CCLA also intervened at the Federal Court of Appeal, 2011 FCA 39);

168. *R. v. Chehil*, 2013 SCC 49, and *R. v. Mackenzie*, 2013 SCC 50, concerning the "reasonable suspicion" standard and the right to be free from unreasonable search and seizure;

169. *Ezokola v. Minister of Immigration and Citizenship*, 2013 SCC 40, concerning application of the exclusion clause 1(F)(a) of the 1951 UN Refugee Convention, as incorporated in the *IRPA*, and the proper test for complicity in war crimes and crimes against humanity. The case considers an individual who has been denied refugee status because he was employed by the government of the Democratic Republic of Congo at a time that international crimes were committed by the State;

170. *Reva Landau v. Ontario (Attorney General)*, 2013 ONSC 6152, concerning the constitutionality of the current funding of Ontario's Catholic schools;

171. *R. v. Vu*, 2013 SCC 60, concerning the scope of police authority to search computers and other personal electronic devices found within a place for which a warrant to search has been issued;

172. *Alberta (Information and Privacy Commissioner) v. United Food and Commercial Workers, Local 401*, 2013 SCC 62, concerning the constitutionality of Alberta's *Personal Information Protection Act* in light of its impact on a union's freedom of expression in respect of activities on a picket line;

173. *Faysal v. General Dynamics Land Systems Canada* (Ontario Human Rights Tribunal File No. 2009-03006-I), concerning the application by a Canadian employer of the US International Traffic in Arms Regulations, and whether such application constitutes discrimination, contrary to the Ontario Human Rights Code, the Charter of Rights and Freedoms, and Canadian legal obligations pursuant to international human rights law (matter settled before a hearing);

174. *Wood v. Schaeffer*, 2013 SCC 71, concerning the scope of public interest standing and the interpretation of certain Regulations governing investigations conducted by

Ontario's Special Investigations Unit (the CCLA also intervened at the Ontario Court of Appeal, 2011 ONCA 716);

175. *Bernard v. Canada (Attorney General)*, 2014 SCC 13, concerning an employer sharing the contact information of a Rand employee with a union and whether this violates rights to privacy and the freedom not to associate;

176. *John Doe v. Ontario (Finance),* 2014 SCC 36, concerning an exception in Ontario's *Freedom of Information and Protection of Privacy Act* for advice and recommendations to a Minister;

177. *Mission Institution v. Khela*, 2014 SCC 24, concerning the scope of *habeas corpus*, the disclosure obligations on a correctional institution when they conduct an involuntary transfer, and the remedies that are available pursuant to a habeas application;

178. *R. v. Summers*, 2014 SCC 26, concerning the presumption of innocence and the interpretation of "circumstance[s]" that may justify granting enhanced credit for pre-trial custody under s. 719(3.1) of the *Criminal Code*;

179. *Canada (Citizenship and Immigration) v. Harkat*, 2014 SCC 37, concerning the constitutionality of Canada's "security certificate" regime, particularly the restrictions on communications between a Named Person and the Special Advocate;

180. *France v. Diab,* 2014 ONCA 374, regarding whether an extradition judge must engage in a limited weighing of evidence to assess the sufficiency of evidence for committal to extradition and whether a failure to do so would violate s. 7 of the Charter;

181. *R. v. Spencer*, 2014 SCC 43, concerning the permissibility of warrantless searches of internet users' identifying customer information;

182. *R. v. Taylor*, 2014 SCC 50, concerning the right to counsel and whether intentional police reliance on medical procedures to gather evidence without implementing the right to counsel violates s. 8 of the *Charter*;

183. *R. v. Hart*, 2014 SCC 52, concerning the constitutionality and admissibility of a confession obtained through a "Mr. Big" police operation;

184. *Febles v. Canada (Citizenship and Immigration)*, 2014 SCC 68, concerning whether a court must consider an individual's rehabilitation when seeking to exclude a refugee from Canada for "serious prior criminality";

185. *Kazemi Estate v. Islamic Republic of Iran*, 2014 SCC 62, concerning the application of the *Charter* to the *State Immunity Act* and whether it denies state immunity for acts

committed by foreign governments when such acts result in violations of international law prohibitions against torture (the CCLA also intervened at the Quebec Court of Appeal, 2012 QCCA 1449);

186. *Wakeling v. United States of America*, 2014 SCC 72, regarding the constitutionality of sections of the *Criminal Code* and the *Privacy Act* that allow for the substance of wiretaps to be disclosed to foreign law enforcement actors;

187. *R. v. Fearon*, 2014 SCC 77, concerning the scope of the police power to search incident to arrest and whether it extends to a warrantless search of personal electronic devices (the CCLA also intervened at the Ontario Court of Appeal, 2013 ONCA 106);

188. *PS v. Ontario*, 2014 ONCA 900, concerning detention under mental health law and the scope of *Charter* protection afforded to a person with a hearing impairment and linguistic needs, in a situation of compound rights violations;

189. *Mounted Police Association of Ontario v. Canada (Attorney General)*, 2015 SCC 1, concerning the constitutionality of the labour relations regime for members of the Royal Canadian Mounted Police;

190. *Carter v. Canada (Attorney General)*, 2015 SCC 5, concerning the constitutionality of the *Criminal Code* prohibition on assisted suicide in light of the rights protected under ss. 7 and 15 of the *Charter*;

191. *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7, concerning the impact of provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, and associated regulations, on solicitor-client privilege and whether these provisions unjustifiably violate s. 7 of the *Charter*;

192. *Baglow v. Smith*, 2015 ONSC 1175, concerning the fair comment defence and the approach to defamation cases where the allegedly defamatory publication takes place within the "blogosphere";

193. *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12, concerning whether a private religious high school should be exempted from the requirement to teach Quebec's Ethics and Religious Culture curriculum and whether the failure to grant an exemption violates the institution's freedom of religion;

194. *Figueiras v. Toronto (Police Services Board)*, 2015 ONCA 208, regarding whether a roving police "stop and search" checkpoint targeting apparent protesters during the G20 Summit violated ss. 2 and 7 of the *Charter*;

195. *R. v. Nur*, 2015 SCC 15, concerning the constitutionality of various provisions of the *Criminal Code* which impose mandatory minimum sentences for the possession of a prohibited firearm (the CCLA also intervened at the Ontario Court of Appeal, 2013 ONCA 677, and at the Ontario Superior Court of Justice, 2011 ONSC 4874);

196. *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, concerning whether the rights to equality or to freedom of religion as protected under the Quebec *Charter of human rights and freedoms* are violated when a prayer is recited at the outset of a municipal council meeting;

197. *Henry v. British Columbia (Attorney General)*, 2015 SCC 24, regarding the availability of *Charter* remedies for non-disclosure of evidence at trial and whether claimants should be required to prove prosecutorial malice in the *Charter* claim;

198. *Bowden Institution v. Khadr,* 2015 SCC 26, regarding the proper interpretation of the *International Transfer of Offenders Act* as applied to the sentence received by a Canadian citizen sentenced in the United States and whether the sentence should be served in a provincial correctional facility;

199. *R. v. St-Cloud*, 2015 SCC 27, regarding the interpretation of the power to deny bail because detention is necessary to maintain confidence in the administration of justice;

200. *R. v. Barabash*, 2015 SCC 29, considering the scope of the private use exception to making and possessing child pornography;

201. *R. v. Smith*, 2015 SCC 34, concerning the constitutionality of the *Marijuana Medical Access Regulations* and whether the limitation in the *Regulations* restricting legal possession to only dried marijuana unreasonably infringes s. 7 *Charter* rights;

202. *Equustek Solutions Inc. v. Google Inc.*, 2015 BCCA 265, concerning the validity of an order of the BC Supreme Court that requires a global internet search service to delete certain websites from its search results worldwide;

203. *Taylor-Baptiste v. Ontario Public Service Employees Union*, 2015 ONCA 495, concerning the role of the *Charter of Rights and Freedoms* in the interpretation of the Ontario *Human Rights Code* by the Human Rights Tribunal of Ontario, and in particular how the *Charter* protection of freedom of expression impacts on the Code's protections (the CCLA also intervened before the Ontario Superior Court of Justice, 2014 ONSC 2169);

204. *Frank v. Canada (Attorney General)*, 2015 ONCA 536, concerning the constitutionality of provisions of the *Canada Elections Act* that preclude Canadian citizens

who have resided outside of the country for more than five years from voting in federal elections;

205. *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aerospace Training Center)*, 2015 SCC 39, concerning the application of the Quebec *Charter* to a Canadian company's refusal to train a Pakistan-born Canadian pilot because he was refused clearance under a US program requiring security checks for foreigners;

206. *Disciplinary Hearings of Superintendent David Mark Fenton*, Toronto Police Service Disciplinary Tribunal decision dated 25 August 2015, regarding whether the mass arrest of hundreds of individuals at two locations during the G20 Summit constituted a violation of ss. 2 and 9 of the *Charter* and whether the officer's conduct amounted to misconduct under the *Police Services Act*;

207. *R. v. Appulonappa*, 2015 SCC 59, and *B010 v. Canada (Citizenship and Immigration)*, 2015 SCC 58, concerning the constitutionality of criminal and immigration sanctions imposed on those who provide assistance to refugee claimants as "human smugglers" (CCLA also intervened in *R. v. Appulonappa* before the BC Court of Appeal, 2014 BCCA 163);

208. *Schmidt v. Attorney General of Canada*, 2016 FC 269, concerning the proper interpretation of statutory provisions requiring the Minister of Justice to report to Parliament on the constitutionality of proposed legislation;

209. *Good v. Toronto (Police Services Board)*, 2016 ONCA 250, regarding the certification of a class action arising from alleged police misconduct during the 2010 G20 Summit;

210. *Villeneuve c. Montréal (Ville de)*, 2016 QCCS 2888, concerning the constitutionality of a City of Montreal by-law that prohibits the holding of gatherings and marches without informing the police of the itinerary and location and prohibiting individuals participating in such gatherings from covering their faces without valid justification;

211. *Trinity Western University v. Law Society of Upper Canada,* 2016 ONCA 518, considering the Law Society of Upper Canada's decision not to accredit the proposed law school at Trinity Western University, and whether the decision strikes an appropriate balance between freedom of religion and equality;

212. *Thompson v. Ontario (AG)*, 2016 ONCA 676, concerning a constitutional challenge to schemes in Ontario's *Mental Health Act* that permit involuntary detention and coerced medical treatment for individuals who are not a danger to themselves or others;

213. *R. v. Donnelly* and *R. v. Gowdy*, 2016 ONCA 988 and 2016 ONCA 989, concerning the availability of a sentence reduction remedy under s. 24(1) of the *Charter* and whether such a remedy allows courts to reduce an offender's sentence below the statutory mandatory minimum;

214. *Jean-François Morasse v. Gabriel Nadeau-Dubois*, 2016 SCC 44, concerning an appeal of a contempt conviction in respect of an individual who made public statements about the legitimacy of certain protest activities (CCLA also intervened before the Quebec Court of Appeal, 2015 QCCA 78);

215. *Ernst v. Energy Resources Conservation Board*, 2017 SCC 1, concerning the availability of a *Charter* remedy where a statute has a general immunity clause;

216. *BC Freedom of Information and Privacy Association v. Attorney General of British Columbia*, 2017 SCC 6, concerning the constitutionality of provisions of the British Columbia *Election Act* requiring registration of third party advertisers without a threshold spending limit;

217. *R. v. Saikaley*, 2017 ONCA 374, concerning the proper interpretation of the *Customs Act* in relation to the warrantless search of cell phones (or other electronic devices) of anyone entering Canada;

218. *Bingley v. Her Majesty the Queen*, 2017 SCC 12, regarding whether a *Mohan voir dire* is required to determine the admissibility of testimony from a Drug Recognition Expert;

219. *R. v Peers*, 2017 SCC 13, concerning whether the word punishment in s. 11(f) of the *Charter* is restricted to imprisonment or other punishments that engaged the accused's liberty interests;

220. *R. v Tinker*, 2017 ONCA 552, concerning whether a mandatory victim surcharge violates ss. 7 and 12 of the *Charter*;

221. *Quebec (Director of Criminal and Penal Prosecutions) v Jodoin*, 2017 SCC 26, concerning the imposition of personal costs against a criminal lawyer on the basis of his conduct in the representation of his clients;

222. *R. v Antic,* 2017 SCC 27, concerning the *Criminal Code* restriction on cash bails and the right of an accused to the least restrictive form of bail;

223. *Deborah Louise Douez v. Facebook, Inc*, 2017 SCC 33, regarding the need to modify the "strong cause" test in forum selection cases where constitutional or *quasi*-constitutional rights are engaged in contracts of adhesion;

224. *Google Inc. v. Equustek Solutions Inc., et al.*, 2017 SCC 33, concerning the validity of an order of the BC Supreme Court that requires a global internet search service to delete certain websites from its search results worldwide (the CCLA also intervened before the British Columbia Court of Appeal, 2015 BCCA 265);

225. *Nour Marakah v. Her Majesty the Queen,* 2017 SCC 59*,* regarding whether the sender of a text message has a reasonable expectation of privacy in the message once it is accessible on a recipient's cell phone;

226. *Tristin Jones v. Her Majesty*, 2017 SCC 60, companion case to *Marakah*, regarding whether the standing test in an informational privacy case should be clarified in the context of evolving technologies;

227. *Cooperstock v. United Airlines* (Federal Court of Appeal File No. A-262-17), concerning whether an attempted parody website critical of a corporation constitutes a copyright or trademark violation (CCLA was granted leave to intervene but the matter settled prior to a hearing);

228. *Schmidt v. Attorney General of Canada*, 2018 FCA 55, concerning the proper interpretation of statutory provisions requiring the Minister of Justice to report to Parliament on the constitutionality of proposed legislation (the CCLA also intervened before the Federal Court, 2016 FC 269);

229. *R v. Wong*, 2018 SCC 25, concerning an accused's request to withdraw a guilty plea after finding the applicant was uninformed of significant collateral consequences of the plea;

230. *Groia v. Law Society of Upper Canada*, 2018 SCC 27, concerning a finding of professional misconduct made against a lawyer on the basis of incivility and the question of when such a finding impacts freedom of expression (the CCLA also intervened before the Law Society Appeal Panel, 2013 ONLSAP 41, the Divisional Court, 2015 ONSC 686, and the Court of Appeal, 2016 ONCA 471);

231. *Trinity Western University v. Law Society of Upper Canada*, 2018 SCC 33, considering the Law Society of Upper Canada's decision not to accredit the proposed law school at Trinity Western University, and whether the decision strikes an appropriate balance between freedom of religion and equality (the CCLA also intervened before the Ontario Court of Appeal, 2016 ONCA 518);

232. *Stewart v. Toronto Police Services Board*, 2018 ONSC 2785, concerning the constitutionality of establishing a police perimeter around a public park and requiring a search of bags and belongings as a condition of entry;

233. *Re: Interim Prohibitory Orders issued against Leroy St. Germaine, Lawrence Victor St. Germaine and James Sears dated May 26, 2016*, Board of Review proceedings under the *Canada Post Corporation Act*, considering the constitutionality of a ministerial decision to prohibit access to Canada Post for individuals alleged to be committing an offence;

234. *Abdi v Canada*, 2018 FC 733, concerning whether *Charter* rights and values may be considered in admissibility proceedings against a non-citizen who had been a Crown ward;

235. *R v. Boudreault*, 2018 SCC 58, concerning whether a mandatory victim surcharge violates s. 12 of the *Charter*;

236. *R v. Vice Media Canada Inc*, 2018 SCC 53, considering when a journalist can be compelled to reveal communications with a source for the purpose of assisting a police investigation and whether the police record underlying the production order should be subject to a sealing order or a publication ban (the CCLA also intervened before the Ontario Court of Appeal, 2017 ONCA 231);

237. *Frank v. Canada (Attorney General)*, 2019 SCC 1, concerning the constitutionality of provisions of the *Canada Elections Act* that preclude Canadian citizens who have resided outside of the country for more than five years from voting in federal elections;

238. *Spencer Dean Bird v. Her Majesty the Queen*, 2019 SCC 7, concerning the role of *Charter* considerations when applying the doctrine of collateral attack;

239. *R v. Jarvis*, 2019 SCC 10, concerning whether surreptitious visual recordings of students were made in circumstances that give rise to a reasonable expectation of privacy;

240. *R v. Corey Lee James Myers*, 2019 SCC 18, concerning the proper approach to be taken in respect of a 90-day bail review;

241. *Mills v. Her Majesty the Queen*, 2019 SCC 22, concerning whether an accused had a reasonable expectation of privacy in electronic communications to an undercover police officer;

242. *Minister of Public Safety and Emergency Preparedness, et al. v. Tusif Ur Rehman Chhina*, 2019 SCC 29, concerning whether a *habeas corpus* proceeding should be available to individuals held in immigration detention;

243. *Gregory Allen v. Her Majesty the Queen in right of Ontario as represented by the Minister of Community Safety and Correctional Services* (Ontario Human Rights Tribunal File No 2016-25116-I) concerning the use of solitary confinement on persons with physical disabilities (this matter settled prior to hearing);

244. *Mitchell v. Jackman* (Supreme Court of Newfoundland and Labrador, Court of Appeal File No. 2017 01H 0089), concerning the constitutionality of provisions of the Newfoundland Elections Act which allow for special ballot voting prior to an election writ being dropped (CCLA also intervened in the Newfoundland and Labrador Trial Division (General) 2017 NLTD(G) 150; the Court of Appeal dismissed the appeal as moot);

245. *R. v. Culotta*, 2018 SCC 57, concerning whether the right to counsel requires immediate access to a phone and the internet, and whether blood samples should be excluded under s. 24(2) of the Charter when the samples are taken for strictly medical purposes rather than police purposes;

246. *R. v. Le*, 2019 SCC 34, concerning whether a detention and search in a private backyard of a racialized individual violated an accused's ss. 8 and 9 rights;

247. *R. v. Penunsi,* 2019 SCC 39, concerning whether the judicial interim release provisions contained in s. 515 of the *Criminal Code* apply to s. 810 peace bond proceedings, and whether s. 810.2(2) of the *Criminal Code* empowers a judge to issue an arrest warrant in order to cause a defendant to a s. 810.2 information to appear;

248. *Christian Medical and Dental Society et al. v. College of Physicians and Surgeons of Ontario,* 2019 ONCA 393, concerning the constitutionality of policies requiring physicians who conscientiously object to a medical practice to nevertheless provide an effective referral and urgent care to patients seeking care (CCLA also intervened in the Superior Court, 2018 ONSC 579);

249. *R v. Passera,* 2019 ONCA 527, considering whether it is cruel and unusual punishment to compel an offender who is detained prior to trial to spend more time in custody than other similarly situated offenders prior to becoming eligible for parole or early release;

250. *Marie-Maude Denis v. Marc-Yvan Coté*, 2019 SCC 44, concerning the interpretation and application of the *Journalistic Sources Protection Act* and the changes it made to the *Canada Evidence Act* concerning the treatment of journalistic sources in court proceedings;

251. *Fleming v. Ontario,* 2019 SCC 45, concerning the ancillary common law powers of police officers in the context of an arrest for an apprehended breach of the peace, and the

impact of the exercise of that power on the right to freedom of expression and peaceful protest;

252. *R. v. Rafilovich*, 2019 SCC 51, concerning whether a fine in lieu of forfeiture should be imposed in respect of proceeds of crime seized by the police but returned by order of the court to the accused to pay for defence counsel;

253. *Kosoian v. Société de transport de Montréal, et al.,* 2019 SCC 59, concerning whether a pictogram can create an infraction and the circumstances in which an individual must identify themselves to police;

254. *Ontario (Attorney General) v. Bogaert*s, 2019 ONCA 876, concerning private organizations with delegated law enforcement powers that engage s. 8 of the *Charter*, and the importance of transparency and accountability as fundamental legal principles under s. 7;

255. *C.M. v. York Regional Police,* 2019 ONSC 7220, concerning the procedural fairness of the police vulnerable sector check process;

256. *Stewart v. Toronto Police Services Board*, 2020 ONCA 255, concerning the constitutionality of establishing a police perimeter around a public park and requiring a search of bags and belongings as a condition of entry;

257. *R. v. Sullivan,* 2020 ONCA 333, concerning the constitutionality of s. 33.1 of the *Criminal Code* which ousts the common law defence of automatism for certain offences when induced by voluntary intoxication;

258. *Leroux v. Ontario,* 2020 ONSC 1994, concerning the impact of the *Crown Liability and Proceedings Act* on a certification motion previously granted by the Court;

259. *R. v. Zora,* 2020 SCC 14, concerning the *mens rea* for the offence of failing to comply with a condition of undertaking or recognizance;

260. *British Columbia (Attorney General) v. Provincial Court Judges' Association of British Columbia*, 2020 SCC 20 and *Nova Scotia (Attorney General) v. Judges of the Provincial Court and Family Court of Nova Scotia*, 2020 SCC 21, considering whether Cabinet documents should be protected from disclosure in the judicial review of judicial compensation or whether they should be exempted on the basis of public interest immunity;

261. *1704604 Ontario Limited v. Pointes Protection Association, et al.,* 2020 SCC 22 and *Maia Bent, et al. v. Howard Platnick, et al.,* 2020 SCC 23, concerning the appropriate approach to applying the criteria for dismissal set out in ss. 137.1 to 137.5 in Ontario's Courts of Justice Act (i.e. the proper interpretation of Ontario's anti-SLAPP provisions);

262. *Attorney General of Quebec, et al. v. 9147-0732 Québec inc*., 2020 SCC 32, considering whether corporations should (or should not) have a right to be free from cruel and unusual treatment under s. 12 of the Charter;

263. *Ontario (Attorney General) v. G,* 2020 SCC 38, concerning whether inclusion on a sex offender registry is contrary to ss. 7 and 15 of the *Charter* for persons found not criminally responsible by reason of mental disorder and absolutely discharged by a Review Board (CCLA also intervened before the Ontario Court of Appeal);

264. *Children's Aid Society of Toronto v. O.O & J.A.G.-L.* (Ontario SCJ File No. FS-20-16365), concerning the suspension of parental access to a child in care as a result of the COVID-19 pandemic and the proper evidentiary threshold that must be met before eliminating parental access;

265. *AC and JF v Alberta*, 2021 ABCA 24, concerning the test for an injunction against government action or legislation, in the context of a constitutional challenge against the government's retroactive change to Alberta's Support Financial Assistance Program for young people who had been raised in government care. The change lowered the age eligibility for this program;

266. *Leroux v. Ontario*, 2021 ONSC 2269, considering whether the *Crown Liability and Proceedings Act* alters the common law of Crown immunity, whether the legislation improperly usurps the core jurisdiction of the superior courts, and the impact of the legislation on a previously certified class proceeding;

267. *Francis v. Ontario,* 2021 ONCA 197, concerning a class action regarding the placement of inmates with serious mental illness in solitary confinement, and the scope of the Crown's liability in tort under the *Crown Liability and Proceedings Act*;

268. *Ethiopian Orthodox Tewahedo Church of Canada St. Mary Cathedral v. Aga*, 2021 SCC 22, concerning when a civil court can intervene in a dispute about membership within a voluntary religious association;

269. *Sherman Estate v. Donovan*, 2021 SCC 25, considering the relationship between privacy interests in an estate administration matter and the open courts principle;

270. *Grabher v. Nova Scotia (Registrar of Motor Vehicles)*, 2021 NSCA 63, concerning the discretion granted to the Registrar of Motor Vehicles to refuse and rescind certain personalized license plates and whether the statutory grant of that discretion is consistent with freedom of expression;

271. *Toronto (City) v. Ontario (Attorney General),* 2021 SCC 34, considering whether changes to electoral boundaries and the number of wards in a municipality once the election campaign was already underway violated freedom of expression under the *Charter*;

272. *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2021 SCC 43, addressing a claim of discrimination brought against a comedian for statements made and disseminated during a stand-up comedy routine, and the impact of the protection of freedom of expression on that claim;

273. *R. v. Morris*, 2021 ONCA 680, concerning how systemic discrimination and background factors ought to inform the sentencing of Black offenders*;*

274. *R. v. Parranto*, 2021 SCC 46, regarding the use of starting points in the criminal sentencing process;

275. *Working Families Ontario v. Ontario*, 2021 ONSC 4076, considering the constitutionality of third-party spending restrictions in a pre-writ period in Ontario's *Election Finances Act;* and *Working Families Coalition (Canada) Inc. v. Ontario,* 2021 ONSC 7697/2023 ONCA 139/2025 SCC 5, considering the same provisions after the invocation of the notwithstanding clause;

276. *Turner v. Death Investigation Council et al.,* 2021 ONSC 6625, a motion to seal parts of the record of proceedings in a judicial review of a matter determined by the Death Investigation Oversight Council;

277. *R. v. Stairs*, 2022 SCC 11*,* addressing the constitutionality of warrantless searches of individuals' homes incident to arrest;

278. *Catholic Children's Aid Society of Toronto and SKS and Office of the Children's Lawyer v. Minister of Public Safety and Emergency Preparedness* (Ontario Court of Appeal C69908, C69910, C69919), concerning the need for a principled legal test to govern decisions regarding third party disclosures;

279. *R v. Brown*, 2022 SCC 18, regarding the constitutionality of s. 33.1 of the *Criminal Code*;

280. *R. v. Sullivan*, 2022 SCC 19, regarding the impact of a Superior Court's declaration under s. 52(1) of the *Constitution Act, 1982*;

281. *R. v. Bissonnette*, 2022 SCC 23, regarding the constitutionality of the *Criminal Code* provision allowing a judge to add one 25-year period before eligibility for parole for each first degree murder conviction;

282. *British Columbia (Attorney General) v. Council of Canadians with Disabilities*, 2022 SCC 27, concerning the test for public interest standing;

283. *R. v. Lafrance*, 2022 SCC 32, regarding the constitutionality of warrantless searches of dwellings incident to arrest;

284. *R. v. Ndhlovu*, 2022 SCC 37, regarding the constitutionality of mandatory lifetime registration pursuant to the *Sex Offender Information Registration Act* for individuals convicted of more than one designated offence;

285. *R v. Tessier*, 2022 SCC 35, regarding the interaction between the common law confessions rule and the lack of a police caution prior to questioning;

286. *R. v. Sharma*, 2022 SCC 39, regarding the constitutionality of several *Criminal Code* provisions that remove the availability of conditional sentences for certain offences;

287. *R. v. Haniffa*, 2002 SCC 46, *R. v. Dare*, 2022 SCC 47, *R. v. Jaffer*, 2022 SCC 45, and *R. v. Ramelson*, 2022 SCC 44, concerning privacy rights on the internet as relating to the entrapment doctrine;

288. *Toussaint v. Canada (Attorney General),* 2022 ONSC 4747, in which the government of Canada has brought a motion to strike a claim brought by a woman seeking compensation for the failure to provide her with coverage for health care treatment under the Interim Federal Health Program;

289. *Bowman v. Ontario,* 2022 ONCA 477, an appeal of a decision not to certify a class action related to Ontario's cancellation of its basic income pilot project;

290. *James Andrew Beaver v. Her Majesty the Queen,* 2022 SCC 54, regarding whether police attempts at a "fresh start" can insulate evidence from admissibility consideration pursuant to s. 24(2) of the *Charter;*

291. *R v. Hills,* 2023 SCC 2 and *R. v. Hilbach,* 2023 SCC 3, regarding the appropriate approach to examining the constitutionality of mandatory minimum sentences under s. 12 of the *Charter*;

292. *R v. McGregor,* 2023 SCC 4, regarding the extraterritorial application of the *Charter* protection from unreasonable search and seizure;

293. *R. v. McColman,* 2023 SCC 8, concerning the authority of police officers to conduct a random sobriety stop in a private driveway;

294. *R. v. Haevischer and Johnson*, 2023 SCC 11, regarding the standard that needs to be applied when the Crown applies to have an abuse of process *Charter* challenge summarily dismissed;

295. *Canadian Council for Refugees, et al. v. Minister of Citizenship and Immigration, et al.*, 2023 SCC 17, regarding the constitutionality of the *Safe Third Country Agreement*, and in particular the evidentiary burden applicable to *Charter* claims, the consequences of government claims of privilege, and the implications of these issues for access to justice;

296. *British Columbia (Minister of Public Safety) v. Latham et al.* and *British Columbia (Minister of Public Safety) v. Rosewell et al.*, concerning whether an emergency within the context of the provincial *Emergency Protection Act* includes a temporal limit;

297. *Glen Hansman v. Barry Neufeld*, 2023 SCC 14, regarding the application of the "fair comment" defence to defamation, the British Columbia *Protection of Public Participation Act*, and the need to ensure defamation law does not unduly "chill" expressive activity on matters of public importance;

298. *R. v. Kahsai*, 2023 SCC 20, on whether a trial judge's failure to appoint *amicus curiae* with a sufficient adversarial mandate for an unrepresented accused resulted in a miscarriage of justice and the appropriate role of *amicus curiae* in such cases;

299. *Peterson v. College of Psychologists of Ontario*, 2023 ONSC 4685, challenging the legality of a professional regulator's use of a remedial program to censure the Applicant for his free expression (leave to appeal to the Supreme Court of Canada denied);

300. *Canadian Alliance for Sex Work Law Reform et al. v. Attorney General of Canada*, 2023 ONSC 5197, concerning the constitutionality of *Criminal Code* provisions related to sex work;

301. *The Corporation of the City of Kingston v Doe, et al*, 2023 ONSC 6662, concerning whether eviction of encampment residents at a city owned park violates their *Charter* rights;

302. *Attorney General for Ontario v. Information and Privacy Commissioner of Ontario and Canadian Broadcasting Corporation,* 2024 SCC 4, regarding openness and transparency of provincial Cabinet mandate letters;

303. *Andrei Bykovets v. His Majesty the King*, 2024 SCC 6, regarding whether there is a reasonable expectation of privacy in IP addresses justifying the need for a warrant;

304. *Fair Change Community Legal Clinic v. Ontario,* 2024 ONSC 1895, challenging the constitutionality of certain provisions of Ontario's *Safe Streets Act*;

305. *Société des casinos du Québec inc., et al. v. Association des cadres de la Société des casinos du Québec, et al.*, 2024 SCC 13, concerning whether the exclusion of managers from the definition of "employee" in the Quebec Labour Code infringes freedom of association as guaranteed by s. 2(d) of the *Canadian Charter of Rights and Freedoms* and s. 3 of the Quebec *Charter of human rights and freedoms*.

306. *R. v. Edwards*, 2024 SCC 15, regarding whether a military tribunal presided by judge who is member of Canadian Armed Forces is intrinsically incompatible with the right to be tried by independent and impartial tribunal guaranteed by s. 11(d) of *Charter*;

307. *Jama v. The Speaker,* 2024 ONSC 1264, on judicial review of the censure decision taken by the Ontario Legislative Assembly on Sarah Jama (leave to appeal to the ONCA denied, court file no. COA-24-OM-0169;

308. *Choudry et al. v. Peel Police Services Board et al.,* 2024 ONSC 2474, concerning the open court principle in the context of the police seeking anonymization orders in civil litigation against officer defendants allegedly involved in serious misconduct;

309. *CBC et al. v. R. et al.,* 2024 SCC 21, regarding whether an *in camera* court proceeding, without a record or public knowledge of the existence of the proceeding, contravenes the open court principle protected by s. 2(b) of the *Charter*;

310. *York Region District School Board v. Elementary Teachers' Federation of Ontario*, 2024 SCC 22, regarding the importance of content neutrality when analyzing whether a reasonable expectation of privacy exists;

311. *University of Toronto v. John Doe et al*, 2024 ONSC 3755, concerning an interlocutory injunction ordering the dismantlement of the encampment erected on university campus as part of a student protest movement;

312. *Attorney General of Canada v. Joseph Power,* 2024 SCC 26, regarding whether the Crown may be held liable in damages under s. 24(2) of the *Charter* for Parliament enacting legislation that is later declared unconstitutional;

313. *R. v. Pike*, 2024 ONCA 608, on the legal standard to authorize the search of an electronic device at the border and whether s. 99(1)(a) of the *Customs Act* authorizing searches on a good faith standard is compliant with s. 8 of the *Charter*;

314. *Wright v. Yukon (Director of Public Safety and Investigations),* 2024 YKSC 41, regarding the constitutionality of s. 3 of the *Safer Communities and Neighbourbood Act*;

315. *D'Arthenay v. Ontario Provincial Police*, 2024 ONSC 4773, on the duty of procedural fairness owed for police complaints adjudicated under the *Ontario Police Services Act*;

316. *Khorsand v. Toronto Police Service Board,* 2024 ONCA 597, concerning whether a Toronto Police Service employment background check can be subject to judicial review (the CCLA intervened before the Divisional Court of Ontario and the Court of Appeal for Ontario);

317. *SD v. District School Board of Niagara*, HRTO File No 2018-33873-1, 2018-3405-1, and 2019-34025, concerning whether a public school's strong affiliation with a religiously based Spiritual Life Centre demonstrates a pattern of discrimination on the basis of creed and/or ancestry and ethnic origin;

318. *Jacob v. Attorney General of* Canada, 2024 ONCA 648, a challenge to the $5000 minimum income threshold for eligibility for various COVID benefits on the basis that it discriminates against workers with disabilities;

319. *McGill University v. Association McGillienne des Professeur.e.s. de droit (AMPD) / Association of McGill Professors of Law (AMPL)* (Quebec S.C. File No. 500-17-129903-244), on an application for provisional, interlocutory and permanent injunction ordering the dismantlement of the encampment erected on university campus as part of a student protest movement (discontinued);

320. *Brooke Dietrich et al. v. 40 Days for Life*, 2024 ONCA 599, on an appeal of an injunction order granted to prevent an individual from engaging in online activism/protest activities;

321. *R. v. Archambault*, 2024 SCC 35, concerning whether federal legislation that limits the availability of preliminary inquiries is prospective or retrospective in application;

322. *R. v. Campbell*, 2024 SCC 42, regarding s. 8 of the *Charter* and the reasonable expectation of privacy in a text message exchange where the police impersonate one party;

323. *Commission des droits de la personne et des droits de la jeunesse v. Directrice de la protection de la jeunesse du CISSS de la Montérégie-Est*, 2024 SCC 43, on the courts' powers to grant systemic remedies when the rights of vulnerable persons are infringed;

324. *Mathur et al. v Ontario*, 2024 ONCA 762, on whether legislation setting greenhouse gas emission reduction targets is subject to *Charter* scrutiny;

325. *John Howard Society of Saskatchewan v Saskatchewan (Attorney General),* 2025 SCC 6, on whether regulations requiring a lower balance of probabilities standard of proof

violates s. 7 rights of inmates charged with disciplinary offenses in a provincial correctional facilitates;

326. *OHIP v. K.S.*, 2025 ONCA 306, on whether an interpretation of Regulations that would deny funding for gender affirming care violates *Charter* values of security of the person and equality;

327. *R. v. J.W.*, 2025 SCC 16, on whether anticipated time for an offender with a mental illness or disability to complete rehabilitative programming can be considered when determining the length of their sentence;

328. *R. v. Bouvette*, 2025 SCC 18, on the scope of appellate courts' remedial discretion under s. 686(2) of the *Criminal Code* to enter an acquittal when there has been a miscarriage of justice

329. *Pepa v Canada (Minister of Citizenship and Immigration)*, 2025 SCC 21, on whether a permanent resident visa holder loses their right to a statutory appeal due to administrative delays outside of their control;

330. *Kirby v Wood,* 2025 ONCA 601, concerning the rights of a minor child who has been granted refugee status who is ordered to be returned to their habitual residence under a Hauge Convention application;

331. *R. v. I.M.*, 2025 SCC 23, on the legal standard and test to sentence a young offender as an adult under s. 72 of the *Youth Criminal Justice Act*;

332. *R. v. Kloubakov*, 2025 SCC 25, on whether some provisions of the *Protection of Victims of Exploitation and Communities Act* on material benefit and procurement infringe on s. 7 rights in a way that is not in accordance with the principles of fundamental justice;

333. *R. v. Wilson*, 2025 SCC 32, on whether the police have the power to arrest an individual for an offence where the individual is statutorily exempt from being charged or convicted, in this case s. 4.1(2) of the *Controlled Drugs and Substances Act*;

334. *R. v. Senneville*, 2025 SCC 33, on the legal test the assess whether a mandatory minimum sentence complies with s. 12 of the Charter;

335. *Dorsey v. Attorney General of Canada*, 2025 SCC 38, regarding whether the state's transfer of a prisoner in confinement to conditions more restrictive than the least restrictive option available triggers *habeus corpus* review (the CCLA intervened before the Court of Appeal for Ontario and the Supreme Court of Canada);

336. *R. v. B.F.*, 2025 SCC 41, on the legal distinction between the offences of attempted murder and aiding suicide under the *Criminal Code*, including the role of causation;

337. *R. v. Carignan*, 2025 SCC 43, on whether a peace officer's failure to comply with s. 495(2) of the *Criminal Code*, which establishes when a peace officer can make a warrantless arrest, may be challenged under s. 9 of the *Charter*;

338. *R. v. Fox*, 2026 SCC 4, on the application of the innocence at stake exemption to solicitor-client privilege where the accused person is a lawyer;

339. *Attorney General of Quebec v. Kanyinda*, 2026 SCC 7, on whether regulations which deny worker permit holders residing in Quebec access to subsidized childcare services is contrary to s. 15 of the Charter on the basis of sex, and/or immigration status;

340. *R. v. Singer*, 2026 SCC 8, on the scope of the "implied license to knock" doctrine, and whether this doctrine allows the police to enter a private driveway without a warrant to further an investigation and gather evidence;

341. *Alford v. Canada*, 2026 SCC 14, regarding the constitutionality of section 12 of the *Act to establish the National Security and Intelligence Committee of Parliamentarians and to make consequential amendments to certain Acts* on the basis that the *Act* impliedly amends the *Constitution* by attempting to create an exception to the principle of parliamentary privilege

342. *Da Silveira et al v Minister of Health et al*. (ONSC File No: CV 25-00756175-0000), on whether Ontario's new requirement that international medical graduates (IMGs) complete at least two years of high school in Ontario to access the first round of residency matching program violates ss. 6, 7, and 15 of the *Charter*;

343. *Regional Municipality of Waterloo v Named Persons,* 2026 ONSC 2971, concerning whether a site-specific by-law enforcing eviction of encampment residents violates ss. 7 and 15 of the *Charter*;

344. *Lalande v. Attorney General of Quebec*, 2025 QCCS 2078, 2025 QCCA 1558 and 2026 SCC 13, concerning the constitutionality of a legislature's decision to suspend the usual statutory redistricting process and to freeze the electoral map until after the next elections (application for leave to appeal at the Supreme Court of Canada pending);

345. *Chief of the Edmonton Police Service v. John McKee*, 2026 SCC 24, on the scope of police misconduct information that must be disclosed to an accused person;

346. *Democracy Watch v Canada (Attorney General)*, 2026 SCC 28, on the constitutionality of privative clauses attempting to preclude judicial review.

347. *R. v. R.B.-C*, 2026 SCC 30, on the appropriate remedy for a delay in sentencing contravening s. 11(b) of the Charter;

348. *Knauff v. Human Rights Tribunal of Ontario (Minister of Natural Resources and Forestry)*, 2026 ONCA 653, on considerations that should be taken into account in applying the test for leave to appeal of a decision from the Divisional Court;

349. *Ontario v. Animal Justice,* 2026 ONCA 380, on the constitutionality of a provincial regulation limiting the investigative work of undercover journalists and whistleblowers on livestock forms;

350. *Heegsma v Hamilton (City),* 2026 ONCA 726, on whether enforcement of municipal by-law evicting unhoused encampment residents from public parks violated ss 7 and 15 of the *Charter*;

351. *R. v. Cope,* 2026 SCC 32, on the interpretation of s. 718.2(e) of the Criminal Code concerning sentencing Indigenous offenders and the application of Gladue principles;

352. CCLA Interventions – Hearing or Decision Pending

353. *O'Neill et al v British Columbia et al*, (BCSC File No. S-244011), concerning whether faith-based hospitals can invoke independent freedom of religion protections to refuse providing medical assistance in dying;

354. *Heather v. City of Calgary,* (2026 ABKB 232; ABCA File No. 230479073S1), concerning the constitutionality of a municipal bylaw prohibiting offensive speech and protest near communal spaces;

355. *Facebook Inc v Canada (Privacy Commissioner)* (SCC File No 41538), on the scope of a social media company's obligations under federal privacy laws;

356. *R. v. Korduner* (SCC File No. 41737), on the scope of the right against self-incrimination vis-à-vis compelled evidence in criminal proceedings;

357. *R. v. Kawall* (ONCA File No. COA-23-CR-0779) on whether photographing someone without any reasonable grounds and in violation of Ontario's carding regulation and then using facial recognition technology to identify the individual in the photograph violates s. 8 of the *Charter*;

358. *R. v Bhatti* (SCC File No. 42107), on the need for heightened safeguards and specificity when police use novel investigative techniques authorized through the general warrant regime;

359. *G.G. v Ontario*, (ONCA File No COA-25-CV-0958), on whether the Ragoonanan Principle, which requires a representative plaintiff to have a personal cause of action against each named defendant in a class action, should be abandoned or modified;

360. *Saskatchewan (Minister of Education) v UR Pride Centre for Sexuality and Gender Diversity*, 2025 SKCA 74, (SCC File No. 41979) on whether a provincial policy requiring schools to seek consent of parents for name changes and pronoun use of students under the age of 16 violates the rights of gender diverse students under the *Charter*;

361. *Chami v Comité des requêtes du Collège des médecins du Québec* (QCCA File No. 500-09-031771-256), on the principled framework that should guide professional regulators' approach to complaints involving licensees' off-duty expression;

362. *Stewart v. McLean* (SKCA File No. CACV 4593-2025), on the scope of the "fair comment" defence in defamation lawsuits;

363. *R. v. Chemlal* (SCC File No. 41766), on the legal standard for a safety search by a peace officer;

364. *Slepcsik v Minister of Public Safety and Emergency Preparedness et al.* (2015 FC 1840), on an application for judicial review that the automatic loss of permanent residence following cessation determinations under *IRPA* is contrary to sections 2(d), 7, 12, and 15 of the *Charter*;

365. *R. v. Walker* (SCC File No. 41703), on the scope of police powers under the *Criminal Code* when investigating a regulatory or municipal offence;

366. *Irvine v. University of British Colombia* (BCC File No: VLC-S-S-252602), on whether *Charter* rights are engaged in the interpretation of “non-political” under s 66 of the *Universities Act*;

367. *Brosseau et al v Attorney General of Canada* (ONSC File No: CV-24-00725921), on motion seeking a declaration that the individual is exempt from exclusion of individuals with the sole underlying medical condition of mental illness from eligibility for medical assistance in dying in s 241.2(2.1) of the *Criminal Code*;

368. *Vabuolus v BC (Information & Privacy Commissioner)* (SCC File No. 41816), on ensuring a rigorous standard of review for administrative decision-making implicating *Charter* rights and the need to consider the quasi-constitutional nature of privacy laws when reviewing an administrative decision that balances competing rights; and

369. *R v Mcpherson et al*, (ONCA File Nos COA-23-CR-0785/COA-24-CR-0411/COA-24-CR-0484/COA-24-CR-0527, COA-25-CR-0026/COA-25-CR-1059/COA-26-CR-

0318), on the section 8 implications of a wide-ranging surveillance-driven investigation focused on a small neighbourhood over the course of an extended period of time;

370. *Named Persons v Attorney General of Canada,* (SCC File No: 41981), on whether informer privilege is a principle of fundamental justice within the meaning of s 7 and the appropriate threshold for an award of Chater damages;

371. *Roy et al. v City of Vancouver*, (BCSC Action No. S250745), on the challenge of Vancouver bylaws that prohibit unhoused people from sheltering outdoor during daytime hours as violating sections 7, 12, and 15 of the *Charter*;

372. *Ontario Place Protectors v Ontario* (SCC File No. 41805), on the constitutionality of legislated immunity clauses shielding the government from accountability for intentional wrongdoing;

373. *Chief Gold Commissioner of British Columbia et al. V Sm'ooygit Nees Hiwass et al.,* (SCC File No. 42200), on whether domestic implementation of the UN Declaration on the Rights of Indigenous Peoples invalidates inconsistent provincial laws, and whether the honour of the Crown supports a presumption of conformity.

The CCLA has also litigated significant civil liberties issues as a party in the following proceedings:

374. *Canadian Civil Liberties Association v. Ontario (Minister of Education)* (1990), 71 OR (2d) 341 (CA), reversing (1988), 64 OR (2d) 577 (Div Ct), concerning whether a program of mandatory religious education in public schools violated the Charter's guarantee of freedom of religion;

375. *Canada (Canadian Human Rights Commission) v. Toronto-Dominion Bank (re Canadian Civil Liberties Association)*, [1996] 112 FTR 127, affirmed [1998] 4 FC 205 (CA), concerning whether an employer's policy requiring employees to submit to a urine drug test was discriminatory under the Canadian Human Rights Act;

376. *Corporation of the Canadian Civil Liberties Association v. Ontario (Civilian Commission on Police Services)* (2002), 61 OR (3d) 649 (CA), concerning the proper evidentiary standard to be applied under the Ontario Police Services Act when the Civilian Commission on Police Services considers the issue of hearings into civilian complaints of police misconduct;

377. *Canadian Civil Liberties Association v. Toronto Police Service*, 2010 ONSC 3525 and 2010 ONSC 3698, concerning whether the use of Long Range Acoustic Devices (LRADs) by the Toronto Police Service and the Ontario Provincial Police during the G20

Summit in June 2010 violated Regulation 926 of the Police Services Act and ss. 2 and 7 of the Charter;

378. Inquest into the Death of Ashley Smith (Office of the Chief Coroner) (Ontario) 2013, concerning the death of a young woman with mental health issues, who died by her own hand while in prison, under the watch of correctional officers;

379. *Corporation of the Canadian Civil Liberties Association and Christopher Parsons v. Attorney General (Canada)*, 2016 ONSC 4172/2026 ONSC 783, COA-26-CV-0324, an application regarding the proper interpretation of certain provisions of the federal Personal Information Protection and Electronic Documents Act which create a framework for disclosure of personal information by private companies to government agencies without adequate safeguards (ongoing);

380. *Corporation of the Canadian Civil Liberties Association v. Attorney General (Canada)*, 2019 ONCA 243; and Corporation of the Canadian Civil Liberties Association v. Her Majesty the Queen, 2017 ONSC 7491, an application and appeal regarding the constitutionality of provisions of the Corrections and Conditional Release Act which authorize "administrative segregation" in Canadian correctional institutions;

381. *Corporation of the Canadian Civil Liberties Association et al. v. Attorney General (Canada)* (Ontario Superior Court File No. CV-15-532810), an application concerning the constitutionality of provisions of various pieces of legislation as a result of the Anti-Terrorism Act, 2015 (application discontinued following amendments to the impugned Act);

382. *National Council of Canadian Muslims (NCCM) c. Attorney General of Québec*, 2018 QCCS 2766; and *National Council of Canadian Muslims (NCCM) c. Attorney General of Quebec*, 2017 QCCS, an application by the National Council of Canadian Muslims, Marie-Michelle Lacoste and Corporation of the Canadian Civil Liberties Association challenging the validity of a provision banning face coverings in giving or receiving public services and an application for an order staying the operation of this provision (the application on the merits did not proceed);

383. *Becky McFarlane, in her personal capacity and as litigation guardian for LM, and The Corporation of the Canadian Civil Liberties Association v. Minister of Education (Ontario)*, 2019 ONSC 1308, concerning whether the removal of sections of Ontario's health and physical education curriculum violates the equality rights of LGBTQ+ students and parents;

384. *Hak v. Attorney General of Quebec*, 2021 QCCS 1466; Hak c. Procureure générale du Québec, 2019 QCCA 2145; Hak v. Attorney General of Quebec, 2019 QCCS 2989, and

Hak v Attorney General of Quebec, 2024 QCCA 254, an application by Ichrak Nourel Hak, the National Council of Canadian Muslims (NCCM) and the Corporation of the Canadian Civil Liberties Association to challenge the validity of provisions banning religious symbols in certain professions in the public sector, and an application for an order staying the operation of these provisions (SCC took the case under advisement);

385. *Corporation of the Canadian Civil Liberties Association and Lester Brown v. Toronto Waterfront Revitalization Corporation et al.* (Ontario Superior Court of Justice File No. 211/19), concerning whether Sidewalk Labs' smart city project is ultra vires and whether it violates ss. 2(c), 2(d), 7, and 8 of the Charter of Rights and Freedoms (without costs abandonment filed when Sidewalk Labs ended the project);

386. *CCLA v. Attorney General of Ontario*, 2020 ONSC 4838, concerning the constitutionality of Ontario's Federal Carbon Tax Transparency Act, which compels gas retailers to post an anti-carbon tax notice on all gas pumps or face fines;

387. *Sanctuary et al v. Toronto (City) et al.*, 2020 ONSC 6207, a challenge by Sanctuary Ministries of Toronto, Aboriginal Legal Services, Advocacy Centre for Tenants Ontario, Black Legal Action Centre, Canadian Civil Liberties Association and HIV & AIDS Legal Clinic Ontario concerning the constitutionality of the Toronto Shelter Standards and 24-Hour Respite Site Standards, and of the conduct of the City in the operation of its shelters and failure to develop and implement a COVID-19 mitigation plan, on the basis that these do not comply with public health dictates regarding physical distancing during the COVID-19 pandemic (ongoing);

388. *Taylor v. Newfoundland and Labrador*, 2020 NLSC 125/2023 NLCA 22/2026 SCC 5, claiming that the Special Measures Order put in place by the province's Chief Medical Officer of Health that prohibits some Canadian citizens and permanent residents from visiting the province violates s. 6 and 7 of the Charter and cannot be saved by s. 1;

389. *Attorney General of Nova Scotia v. Freedom Nova Scotia et al.* (SCNS – Hfx No.: 506040), in which CCLA was granted public interest standing to seek a rehearing of an ex parte quia timet injunction obtained by the government of Nova Scotia that prohibited protests and the promotion of "illegal public gatherings" during the COVID-19 pandemic; after the application for a rehearing was dismissed on the grounds of mootness, CCLA appealed the initial decision granting the injunction;

390. *Canadian Civil Liberties Association v. Province of New Brunswick* (Court File No. FC-9-21), challenging the constitutionality of a provincial regulation that excludes abortions (except in approved hospitals) from provincial healthcare coverage (discontinued);

391. *Luamba c. Procureur général du Québec*, 2022 QCCS 3866, and 2024 QCCA 1387, concerning the power of the police to carry out roadside checks without suspicion (CCLA has conservatory intervenor status) (leave to appeal to the Supreme Court of Canada granted, SCC File No. 41605)(ongoing);

392. *Canadian Civil Liberties Association v. Attorney General of Canada*, 2024 FC 42, 2026 FCA 6 and SCC File No 42261) challenging the legality of the government's use of the federal Emergencies Act and the constitutionality of some of the orders passed pursuant to the Act (ongoing);

393. *Canadian Civil Liberties Association and Vanessa v. Ontario* (Court File No. CV-22-00682873-0000) challenging the constitutionality of the legislative provisions authorizing strip searches in Ontario's provincial jails, correctional centres, detention centres and treatment centres;

394. *A.B. et al. v Attorney General of Quebec et al.* (Court File No. 500-17-125266-232) challenging the constitutionality of a provincial decree that prohibits religious practices, such as "overt prayers or similar practices" in public schools;

395. *Canadian Civil Liberties Association v New Brunswick (Minister of Education and Early Childhood Development)* (Court File No. FM-76-23) a legal challenge of revisions to Policy 713 that restrict the rights of Trans and gender diverse students to use their chosen names and pronouns in schools (discontinued);

396. Inquest into the Death of Terry Baker (Office of the Chief Coroner) (Ontario) 2023, concerning the death of a young woman with mental health issues, who was found unresponsive in her prison cell while under segregation under the custody of Correctional Service Canada;

397. *Canadian Civil Liberties Association v Corporation of the City of Vaughan* (Court File No. CV-25-00002327-0000) challenging the constitutionality of the municipal bylaw prohibiting offensive or disruptive, yet peaceful, protests near various types of community gathering places (ongoing);

398. *Corporations of the Canadian Civil Liberties Association and the Criminal Lawyers' Association v. His Majesty in Right of Ontario*, (Court File No. CV-26-00016332-0000), challenging the introduction of mandatory cash bail provisions by the Province of Ontario as ultra vires and a violation of s. 11(e) of the Charter (ongoing); and

399. *Canadian Civil Liberties Association v. Attorney General of Canada and the Government of Manitoba*, (Court File No. CI26-01-58589), challenging the systemic

underfunding of criminal legal aid by the Governments of Canada and Manitoba as a violation of s. 7, s. 11(d), and s. (15) of the Charter (ongoing).

THE REGIONAL MUNICIPALITY OF WATERLOO Applicant (Appellant)	and	JOSEPHINA DUGAS et al. Respondents (Respondents in Appeal)

Court File Nos.: COA-26-CV-0836 / COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED

AT TORONTO

AFFIDAVIT OF HARINI SIVALINGAM, SWORN OCTOBER 19, 2026

Craig Scott (LSO # 34989G)
Kristen Allen (LSO # 62789C)
Simone Truemner-Caron (LSO # 82968M)

Lawyers for the Proposed Interveners CLAIHR and CCLA

TAB 4

Court File Nos. COA-26-CV-0897 and COA-26-CV-0836

COURT OF APPEAL FOR ONTARIO

B E T W E E N

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant (Applicant/Cross-Respondent)

THE ATTORNEY GENERAL OF ONTARIO

Appellant (Intervener)

and

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE, JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS, JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents (Respondents/Cross-Applicants)

DRAFT FACTUM OF THE PROPOSED INTERVENER

CANADIAN LAWYERS FOR INTERNATIONAL HUMAN RIGHTS (CLAIHR) AND THE CANADIAN CIVIL LIBERTIES ASSOCIATION

October 21, 2026

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PART I - OVERVIEW

1. This appeal raises critical issues concerning the reception of international human rights law (IHRL) in Canada's legal order and the role of the right to adequate housing in interpreting ss. 7 and 15 of the *Canadian Charter of Rights and Freedoms* (the *Charter*). At stake is what bearing IHRL has on what United Nations bodies recognize as an urgent human rights crisis in Canada, namely, the Charter rights of people who have no safe place to live.

2. The application judge found that both closing the Regional Municipality of Waterloo's (the "Region") sheltering location of last resort and the broader harms of homelessness engaged the rights under ss. 7 and 15 of the *Charter*.[1] In assessing measures required by the *Charter* to mitigate these harms, he considered the right to adequate housing and state obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR), authoritative treaty-body interpretations of those provisions, and relevant reports from the UN Special Rapporteur on Adequate Housing.[2] He additionally considered the *National Housing Strategy Act* (NHSA), legislation that adopts Canada's commitments to the right to adequate housing under IHRL, the commentary of the Federal Housing Advocate appointed by the Governor in Council to oversee the implementation of that legislative commitment, and the Region's own *Plan to End Chronic Homelessness* (PECH) that adopts a rights-based approach aligned with IHRL obligations.[3]

PART II - ISSUES

3. CLAIHR/CCLA will address the following issues:

   (i) how the presumption of conformity for binding sources of IHRL and the "relevant and persuasive" principle for non-binding sources apply to the interpretation of ss. 7 and 15 of the *Charter* in relation to homelessness and encampments;

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[1] Decision at paras 154, 189-194, 244.
[2] International Covenant on Economic, Social and Cultural Rights, Can. T.S. 1976 No. 46, arts 2(1), 2(2) and 11(1) [ICESCR], Decision at paras 115–125.
[3] Decision at paras 126–134.

(ii) the relevance of the international human right to adequate housing, as an economic and social right subject to progressive realization, to the interpretation of the obligations arising under ss. 7 and 15 of the *Charter*; and

(iii) whether and how legislative and policy measures implementing Canada's IHRL commitments respecting adequate housing inform *Charter* interpretation.

PART III - ARGUMENT

A. How international human rights law informs interpretation of the *Charter* through the presumption of conformity and a principle of relevance and persuasiveness

1. International human rights law forms part of the purposive inquiry

4. The presumption of conformity is not an exception to purposive *Charter* interpretation; it is an integrated part of it and, through it, IHRL is a "critical influence" on the continuing development of *Charter* rights.[4] Dickson C.J.'s foundational account has become a "magnetic guide" in its articulation of a circle of values joining IHRL to the *Charter:* Canada's IHRL obligations generally "reflect the values and principles of a free and democratic society, and thus those values and principles that underlie the Charter itself;"[5] *9147-0732 Québec* and *Taylor* give that proposition its present doctrinal form.[6] Comparable rights in treaties that Canada has ratified establish a protective floor – the presumption of conformity *stricto sensu*, per *9147-0732 Quebec*. Further, non-binding sources are relevant and persuasive interpretive tools whose persuasive weight depends, it is submitted, on such factors as their status in international law including in relation to a particular binding treaty regime, the strength of their reasoning, and fit with the rights and issues

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[4] *Taylor v Newfoundland and Labrador*, 2026 SCC 5 at paras 76, 82, 85 [*Taylor*]; *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at para 70.
[5] *Reference re Public Service Employee Relations Act (Alta.)*, [1987] 1 SCR 313, 1987 CanLII 88 at paras 57–60, Dickson C.J., dissenting [*Alberta Reference*]; *Saskatchewan Federation of Labour v. Saskatchewan*, 2015 SCC 4, [2015] 1 S.C.R. 245 at para 63 [*SFL*]; *R. v. Keegstra*, [1990] 3 S.C.R. 697 at 750, citing to the *Alberta Reference* at p. 348 [*Keegstra*].
[6] *Quebec (Attorney General) v 9147-0732 Québec inc*, 2020 SCC 32 at paras 30–38 [9147-0732 Québec]; *Taylor* at paras 76, 82, 85.

before a court.[7] In ascribing "great weight" to interpretations adopted by the UN Human Rights Committee, the International Court of Justice (ICJ) has noted that "the point is to achieve the necessary clarity and the essential consistency of international law, as well as legal security, to which both the individuals with guaranteed rights and the States obliged to comply with treaty obligations are entitled."[8] The ICJ's reasoning supports according high relevance and persuasive weight to IHRL treaty bodies' interpretation due to their authoritative role, alongside states parties' overarching obligation to give effect to their treaty obligations in good faith.[9]

5. In that regard, Ontario argues Gibson J. relied on IHRL to the point of "effectively incorporat[ing]" IHRL into the *Charter* and then quotes *9147-0732 Quebec*'s statement that the use of international law is "to *support* or *confirm* an interpretation arrived at through the *Big M Drug Mart* approach; the Court has never relied on such tools to define the scope of *Charter* rights."[10] The result is to minimize the role of IHRL in relation to purposive *Charter* interpretation, including by highlighting phrasing that risks being read to say courts must first do a *Big M* interpretive analysis and only then look at IHRL as an afterthought. However, the same reasons refer to binding IHRL sources as "determinative, interpretive tools."[11] More recently and crucially, *Taylor* expressly places analogous international law among the sources – whether binding or non-binding – that a court *must* "rigorously review" in identifying a right's purpose before interpreting the text to provide the most generous protection it can support.[12] Further passages in *9147-0732*

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[7] *Taylor* at para 85.
[8] *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, Merits, Judgment, ICJ Reports 2010, p. 639, at 664–665 (para 66).
[9] Vienna Convention on the Law of Treaties, CTS 1980 No. 37, art. 26; Human Rights Committee, General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13 (26 May 2004) at para 3 [HRC GC31]; *Quebec (Attorney General) v Kanyinda*, 2026 SCC 7 at para 227, per Wagner C.J., concurring.
[10] Ontario Factum at paras 82–83, referencing *9147-0732 Québec* at para 28.
[11] *9147-0732 Québec* at para 35. "Determinative" obviously cannot mean automatic but it is also only consistent with a very high threshold for rebuttal of a presumption of conformity.
[12] *Taylor* at paras 76, 82, 85, esp. 85.

Quebec describe the presumption as "assisting" courts in "delineating the breadth and scope" of *Charter* rights and affirm also that non-binding sources may "assist" in delineating their "breadth and content" – and describe courts as "rely[ing]" on IHRL for this assistance.[13] Thus, "through" in "through the *Big M Drug Mart* approach" should be read to mean *within* that approach and "never relied on such tools" to mean such tools *alone*.

2. The rules of interpretive reception give effect to shared human rights values

6. The nature of what one scholar has aptly called IHRL's "splendid interaction" with Canadian Law also rests on a special normative consonance between IHRL and the *Charter*.[14] The *Charter* "conforms to the spirit of this contemporary international human rights movement."[15] The instruments that helped supply the *Charter*'s human rights vocabulary remain part of its interpretive environment.[16] Read with the living-tree principle, the presumption permits the *Charter* to be continually nourished by the IHRL sources from which it partly sprang—learning from the elaboration of rights by treaty bodies and other courts, while contributing Canadian jurisprudence in return.[17] Gibson J. gave that conception concrete effect. Rather than treating homelessness as merely a socio-economic fact external to ss. 7 and 15, he treated people experiencing homelessness as rights holders whose equal dignity, life, and security of person are at stake, and the denial of adequate housing and exposure to forced eviction as deprivations of fundamental human rights recognized in IHRL.[18] This values-centred

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[13] *9147-0732 Québec* at paras 31, 32–38.
[14] René Provost, "Judging in Splendid Isolation" (2008) 56 Am. J. Comp. L. 125 at 172.
[15] *Alberta Reference*, Dickson C.J. at paras 57–60 at 59; recall also *Keegstra* at 750.
[16] *9147-0732 Quebec* at para 41; *Taylor* at paras 76 and 85; *Health Services and Support – Facilities Subsector Bargaining Assn v British Columbia*, 2007 SCC 27 at paras 69–78 [*Health Services*].
[17] *Reference re Same-Sex Marriage*, 2004 SCC 79 at para 22; *Nevsun Resources Ltd v Araya*, 2020 SCC 5 at paras 70–72; Gérard V. La Forest, "The Expanding Role of the Supreme Court of Canada in International Law Issues" (1996) 34 Can. YB Intl. L. 89 at 100–01 [La Forest].
[18] Decision at paras 105–112, 126–134, 138–154.

purposive account informed the scope of *Charter* rights protection and assessment of whether the Region's response adequately protected the rights.[19]

B. Economic, social and cultural rights in IHRL inform ss. 7 and 15 *Charter* interpretation

1. The interdependence of rights belies the appellants' bright line

7. The Region characterizes ICESCR rights as "positive economic rights framed in aspirational terms" and submits that "[t]hese rights cannot be translated directly into s. 7 negative rights."[20] This argument both draws a bright line between civil and political rights and economic, social and cultural rights that IHRL has long rejected and operates as a veiled non-justiciability argument.

8. All human rights are "universal, indivisible and interdependent and interrelated" and must be treated "on the same footing."[21] This does not mean a presumption that s. 7 of the *Charter* requires everything that article 11 of the ICESCR requires. Interdependence instead means that ss. 7 and 15 must provide protection where denial of adequate housing or the removal of shelter of last resort simultaneously exposes people to serious harm and entrenches discriminatory disadvantage. In those circumstances, the protective floor of the rights to life, security of the person, and equality cannot be withheld merely because the measures necessary to protect them also help realize an economic, social, and cultural right.[22]

9. The ICESCR's Committee on Economic, Social, and Cultural Rights (CESCR) has warned that negative inferences derived from an untenable rigid classification that places economic, social, and cultural rights beyond the courts are incompatible with the interdependence of rights and

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[19] Decision at paras 138–154, 194–214.
[20] Region Factum at para 64.
[21] Vienna Declaration and Programme of Action, UN Doc A/CONF.157/23 (1993), Part I, para 5; reference to Universal Declaration of Human Rights' "ideal of free human beings" in preambular para 3 of ICCPR and ICESCR, UNGA, 3rd Sess, UN Doc A/810 (1948) GA Res 217A (III) ; Louise Arbour, *"Freedom from Want—From Charity to Entitlement"* (LaFontaine-Baldwin Lecture, Québec City, 3 March 2005) at part 4 "International perspectives".
[22] Decision at paras 112–114, 139.

would "drastically curtail" judicial protection of the most vulnerable and disadvantaged.[23] The Supreme Court agrees. In *Health Services* and *SFL*, it relied on international labour rights, including the ICESCR's right to strike, to identify the constitutional content of freedom of association, including positive state obligations regarding meaningful collective bargaining and the right to strike.[24] It did so even as the right to strike is not *expressly* protected within "freedom of association" in either the International Covenant on Civil and Political Rights (ICCPR) or the *Charter*.

10. The interdependence-embracing permeability of the ICCPR to measures required to address homelessness as a violation of the right to housing under the ICESCR has been made explicit by the UN Human Rights Committee. The Committee has found that homelessness in Canada has led to serious health problems and death and has recommended positive measures under ICCPR art. 6's right to life.[25] The Committee's General Comment 36 explains that protecting life requires appropriate measures to address conditions that threaten life or life with dignity, including extreme poverty and homelessness, and may require access to shelter, sanitation, health care and social housing programs, as well as strategic plans.[26] The ICJ has affirmed the Human Rights Committee's understanding of the right to life in General Comment 36.[27]

11. Contrary to Ontario's and the appellant's submissions, this Court did not, in *Tanudjaj*a, exclude positive obligations to protect the life and security of persons experiencing homelessness from the *Charter*, including by drawing on obligations derived from IHRL.[28] As the applications

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[23] CESCR, General Comment No 9: The Domestic Application of the Covenant, UN Doc E/C.12/1998/24 (3 December 1998), at paras 10, 15 [CESCR GC9].
[24] ICESCR, art. 8(1)(d);, 2007 SCC 27 at paras 69-78; *SFL*, 2015 SCC 4 at paras 62–66.
[25] International Covenant on Civil and Political Rights, Can. T.S. 1976 No. 47 [ICCPR]. UN Human Rights Committee, *Concluding Observations of the Human Rights Committee: Canada*, UN Doc. CCPR/C/79/Add.105 (7 April 1999) at para 12.
[26] UN Human Rights Committee, *General Comment No. 36, Article 6: Right to Life*, UN Doc. CCPR/C/GC/36 (2018) [HRC GC36], at para. 26.
[27] International Court of Justice, *Obligations of States in Respect of Climate Change*, Advisory Opinion, 23 July 2025 at para. 377 [ICJ Advisory Opinion].
[28] *Tanudjaja v Canada (Attorney General)*, 2014 ONCA 852 at para 37; Factum of Attorney

judge notes, even rights characterized as negative rights impose positive obligations.[29] In the ICCPR, states have a general obligation to "respect and ensure" every right, whereby the word "ensure" connotes positive state obligations.[30] Excluding positive obligations from any *Charter* right is thus a wholesale rejection of the presumption of conformity – even more so when a *Charter* section's wording mirrors that of an ICCPR right that has an established positive-obligations jurisprudence *and* is fully capable of including positive obligations.[31]

2. Legislative and policy implementation can both give effect to IHRL and inform *Charter* obligations

12. Article 2(1) of the ICESCR requires implementation "by all appropriate means, including particularly the adoption of legislative measures." The CESCR's General Comment No. 4 recognizes that full realization will "almost invariably require" a national housing strategy defining objectives, resources, responsibilities and timelines, with consultation and intergovernmental coordination.[32]

13. Canada's own account of treaty reception emphasizes shared responsibility: treaties are not self-executing, but each branch and level of government shares responsibility for implementation, with courts looking to IHRL obligations as being of particular importance when interpreting the *Charter*.[33] Parliament enacted this architecture in the *National Housing Strategy Act*. The *Act* recognizes adequate housing as "a fundamental human right affirmed in international law," commits federal housing policy to its progressive realization as recognized in the ICESCR, and requires a human-rights-based strategy with goals, priorities, initiatives, timelines and intended

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General of Ontario at para 53.
[29] Decision at para 138.
[30] HRC GC31 at para 6 ("The legal obligation under article 2, paragraph 1, is both negative and positive in nature."); ICJ Advisory Opinion at para 371 ("States have obligations under international human rights law to respect, protect and ensure the enjoyment of human rights.").
[31] *Gosselin v Quebec (Attorney General)*, 2002 SCC 84 at paras 82–83.
[32] CESCR, General Comment No 4, The Right to Adequate Housing, UN Doc. E/1992/23 (13 December 1991), at para. 12 [CESCR GC4].
[33] Canada, Common Core Document Forming Part of the Reports of States Parties: Canada, UN Doc. HRI/CORE/CAN/2019 (18 October 2019), at paras. 88, 135–42, 203.

outcomes, focused on those in greatest need and developed through participatory processes.[34] These measures identify reasonable measures, institutional responsibilities, and benchmarks for assessing implementation.

14. As noted by Gibson J., in *Mathur* this Court held that a statutory obligation to adopt a target and plan aligned with international standards, to which Canada committed internationally, supplies a legal framework for s. 7 review that may inform constitutional compliance. *La Rose* likewise held that complex climate claims are justiciable where legislation and executive instruments furnish sufficient legal content.[35] Statutes, plans and international standards – and their interaction – contributed to the adjudication.

15. The application judge adopted the same approach. He did not enforce the *National Housing Strategy Act* or PECH but instead used those domestic measures and international standards to identify the rights-based response governments themselves had committed to, and assessed whether the Transition Protocol adequately mitigated the *Charter* deprivations caused by homelessness in accordance with the principles of fundamental justice.[36] Such is the pragmatic, collaborative relationship of domestic and international law: IHRL helps orient the constitutional standard; legislation and plans supply concrete responsibilities and benchmarks; courts assess adequacy against defined standards including those from background IHRL; governments retain a

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[34] *National Housing Strategy Act*, SC 2019, c. 29, s. 313, preamble and ss. 4–5.
[35] *Mathur v Ontario*, 2024 ONCA 762 at paras 69–71 [*Mathur*]; *La Rose v Canada*, 2023 FCA 241 at paras. 32, 45.
[36] Decision at paras. 126–39, 145–54, 189–193. Gibson J. drew on eight principles grounded in the ICESCR identified in the UN Special Rapporteur on Adequate Housing's "A Human Rights Approach: A National Protocol for Homeless Encampments in Canada," Exhibit L to the Affidavit of Marie-Josée Houle, sworn August 15, 2025, SupRAR Vol 3, pp 873–875 [Encampment Protocol] to inform his analysis of gross disproportionality as a principle of fundamental justice. See also *Suresh v Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1 at para 59; *United States v Burns*, 2001 SCC 7 at paras 79-84. See also, as a close analogy, Dickson CJ drawing on ICESCR art. 6 on the right to work to inform his section 1 "deleterious effects" proportionality analysis, *Slaight Communications* at pp. 1056-1057.

choice among reasonable means.[37] The appellants' dichotomizing, bright-lines approach would disable that interaction.

3. Progressive realization standards must inform *Charter* interpretation

16. With respect to the ICESCR article 11 right to adequate housing, progressive realization under article 2(1) defines the content of the obligation to address homelessness using the maximum available resources, and article 2(2) requires that steps be taken without discrimination.[38] IHRL standards combine immediate and continuing duties and a mix of both negative and positive obligations. Before closing an encampment that serves as shelter of last resort, government must ensure access to safe and accessible shelter or, at minimum, appropriate alternative land, after meaningful engagement, consideration of feasible alternatives, and provision of due process and recourse.[39] Beyond that immediate protection, the obligation requires deliberate, concrete and targeted measures, using available resources and appropriate means, toward adequate and secure housing. A rights-based plan is required to connect present safety to longer-term access to housing through priorities, goals, timelines and accountability.[40]

17. National courts protect economic, social and cultural rights drawing on comparable standards. South Africa's Constitutional Court adjudicates whether government has adopted reasonable measures, and this approach influenced the development of a similar approach by the

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[37] *Doucet-Boudreau v* Nova *Scotia (Minister of Education)*, 2003 SCC 62 at paras. 37, 40, 52–59; Decision at para. 138.
[38] ICESCR, arts 2(1), 2(2) and 11(1); CESCR, General Comment No 3: The Nature of States Parties' Obligations, UN Doc. INT_CESCR_GEC_4758_E (14 Dec. 1990), at paras 1–2, 9–12 [CESCR GC3].
[39] Encampment Protocol; Report of the UN Special Rapporteur on the Right to Adequate Housing, UN Human Rights Council Thirty-first session, A/HRC/31/54 (30 December 2015) at para 49; CESCR, General Comment No. 7, The Right to Adequate Housing: Forced Evictions, Sixteenth session, UN Doc. INT_CESCR_GEC_6430_E (16 May 1997), at paras 13 and 15–16 [CESCR GC7]; CESCR, General Comment No. 20: Non-discrimination, UN Doc. E/C.12/GC/20 (2 July 2009) at paras 8, 17, 35.
[40] CESCR, General Comment No 3 at paras 1–2 and 9–12; CESCR GC4 at paras 7–8, 11–13.

CESCR in assessing obligations of progressive realization.[41] The development of effective means to realize rights, assess compliance and fashion remedies is a shared international project.[42]

18. Adjudicating "with an international vision," Gibson J. synergized relevant juridical sources.[43] He identified a lawful immediate option in the Region's own commitments: a "safe tenting protocol" permitting and regulating outdoor sheltering at another location.[44] He found, however, that the Transition Protocol did not align with the IHRL affirmed in the PECH's own human-rights-based approach nor did it adequately mitigate the s. 7 deprivations. He did not reason that failure to comply with international law necessarily violated the *Charter*. After finding the closure engaged ss. 7 and 15, he used IHRL to identify effective protection required as a matter of purposive *Charter* interpretation and to assess whether the Region's response adequately mitigated those deprivations. IHRL-informed implementing measures did not fix *Charter* meaning in Gibson J.'s reasons. Consonant with this Court's reasoning in *Mathur*, they supplied conduct standards arising from the specific legal and institutional setting in which the *Charter* claim is adjudicated.

PART IV – ORDER REQUESTED

19. CLAIHR/CCLA take no position on the disposition of the appeal and seek no costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Craig Scott, Kristen Allen and Simone Truemner-Caron
Counsel for the Proposed Interveners CLAIHR and CCLA

[41] *Government of the Republic of South Africa v Grootboom*, [2000] ZACC 19 at paras 38–44, 63–66, 95–96; Sandra Liebenberg, "Reasonableness Review" in Malcolm Langford & Katherine Young, eds., *The Oxford Handbook on Social and Economic Rights* (Oxford: OUP 2022); *Adonisi & Others v Minister for Transport et al*, [2026] ZACC 29 at paras 47, 96–116, 275.
[42] *Nevsun* at paras 70–72.
[43] La Forest at 100.
[44] Decision at paras 129–134, 180–182, 189–192.

Court File Nos.: COA-26-CV-0836 COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant (Applicant/Cross-Respondent)
Respondent on Motion

THE ATTORNEY GENERAL OF ONTARIO

Appellant (Intervener)
Respondent on Motion

-and-

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE, JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS, JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND PERSONS UNKNOWN

Respondents (Respondents/Cross-Applicants)
Respondents on Motion

CERTIFICATE OF AUTHENTICITY AND ACCURACY OF AUTHORITIES

I certify that I am satisfied that:

(a) every authority cited in this factum is authentic; and
(b) every quotation from an authority appearing in this factum accurately reproduces the text of that authority.

Craig Scott (LSO # 34989G)

SCHEDULE A
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THE REGIONAL MUNICIPALITY OF WATERLOO Applicant (Appellant)	and	JOSEPHINA DUGAS et al. Respondents (Respondents in Appeal)

Court File Nos.: COA-26-CV-0836 / COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

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DRAFT FACTUM OF THE PROPOSED INTERVENERS

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