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Tab 1



23



Photocopy

No. 38727

October 17, 2019

Le 17 octobre 2019

BETWEEN:

ENTRE :

Myriam Michail

Myriam Michail

Applicant

Demanderesse

- and -

- et -

Ontario English Catholic Teachers' Association, Marshall Jarvis, Bruno Muzzi, Fern Hogan, Joanne Schleen, Shelley Malone, Sheila Brescia, London District Catholic School Board, Ontario Labour Relations Board and Attorney General of Ontario

Ontario English Catholic Teachers' Association, Marshall Jarvis, Bruno Muzzi, Fern Hogan, Joanne Schleen, Shelley Malone, Sheila Brescia, London District Catholic School Board, Ontario Labour Relations Board et Procureur général de l'Ontario

Respondents

Intimés

JUDGMENT

JUGEMENT

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number M49883(C65674), 2019 ONCA 319, dated April 24, 2019, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro M49883(C65674), 2019 ONCA 319, daté du 24 avril 2019, est rejetée.

Missing AGC

Handwritten signature

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J.S.C.C.
J.C.S.C.

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J.S.C.C.
 J.C.S.C.

SUPREME COURT OF CANADA

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Summary

38727

Myriam Michail v. Ontario English Catholic Teachers' Association, et al.

(Ontario) (Civil) (By Leave)

Keywords

Canadian charter (Non-criminal) - Freedom of expression (s. 2(b)) - Charter of Rights — Freedom of expression — Applicant bringing application for judicial review of administrative decisions before Superior Court of Justice — Whether Attorney General of Ontario and Ministry of Justice should be accountable for failing their mandate to protect judicial system and acting in bad faith — Whether provisions of Courts of Justice Act are constitutional — Whether constitutional principle of open justice includes disclosure and publication of unredacted transcripts, audio and video recordings of proceedings of all decisions — Whether decision of Court of Appeal was constitutional and/or legal.

Summary

Case summaries are prepared by the Office of the Registrar of the Supreme Court of Canada (Law Branch). Please note that summaries are not provided to the Judges of the Court. They are placed on the Court file and website for information purposes only.

Ms. Michail was employed for many years with the London District Catholic School Board and in 2010, filed a grievance with the Ontario Labour Relations Board. In 2015, a grievance decision was rendered that dissatisfied Ms. Michail. She commenced a judicial review proceeding in the Superior Court of Justice, seeking, judicial review of the 2015 award. She also sought leave to have her application heard by a single judge of the Superior Court of Justice on an urgent basis pursuant to the Judicial Review Procedure Act, R.S.O. 1990, c. J.1. The Superior Court dismissed her application as it should have been brought before the Divisional Court. Ms. Michail filed a notice of appeal with the Court of Appeal for Ontario. The Court of Appeal subsequently granted the respondents' motion to quash her appeal. Ms. Michail brought a motion seeking various relief including orders pertaining to audio recordings of court proceedings. Her motion was dismissed. Ms. Michail's subsequent motion to review the previous order was dismissed.

Date modified: 2016-05-02

Tab 2

ACCORD

Between

The Chief Justice of Canada

And

The Minister of Justice and Attorney General of
Canada**ACCORD**

entre

le juge en chef du Canada

et

le ministre de la Justice et procureur général du
Canada**1. Introduction**

1.1. The Minister of Justice and the Chief Justice of Canada are committed to an accessible and effective justice system that provides high-quality, accessible and timely services to all Canadians.

1.2. The Minister of Justice and the Chief Justice of Canada are committed to the independence of the judiciary, as guaranteed by the Constitution of Canada, so as to strengthen public confidence in the justice system and the rule of law. Pursuant to the *Department of Justice Act*, the Minister of Justice has the superintendence of all matters connected with the administration of justice in Canada that are not within the jurisdiction of the governments of the provinces, and must see that the administration of public affairs is in accordance with law. This includes upholding the constitution, the rule of law, and respect for the independence of the courts.

1.3. The Minister of Justice and the Chief Justice of Canada affirm the principle of ministerial accountability for the expenditure of public funds and the importance of sound stewardship of public resources. Accountability and transparency in these areas are essential to maintaining public trust. They also acknowledge the Minister's

1. Introduction

1.1. Le ministre de la Justice et le juge en chef du Canada s'engagent à maintenir un système de justice accessible et efficace, qui offre en temps opportun à tous les Canadiens des services de grande qualité et à la portée de tous.

1.2. Afin de renforcer la confiance du public à l'égard du système de justice et de la primauté du droit, le ministre de la Justice et le juge en chef du Canada s'engagent à préserver l'indépendance du pouvoir judiciaire garantie par la Constitution du Canada. Conformément à la *Loi sur le ministère de la Justice*, le ministre de la Justice exerce son autorité sur tout ce qui touche à l'administration de la justice au Canada et ne relève pas de la compétence des gouvernements provinciaux, en plus de veiller au respect de la loi dans l'administration des affaires publiques. Cela suppose notamment d'assurer le respect de la Constitution, de la primauté du droit et de l'indépendance des tribunaux.

1.3. Le ministre de la Justice et le juge en chef du Canada confirment le principe de l'obligation ministérielle de rendre compte des dépenses publiques et l'importance de la saine gestion des ressources publiques, des domaines dans lesquels la reddition de comptes et la transparence sont essentielles au maintien de la confiance du public. Ils reconnaissent également les

responsibilities arising by virtue of his or her membership in Cabinet.

responsabilit  s qui incombent au ministre    titre de membre du Cabinet.

1.4. The Minister of Justice and the Chief Justice of Canada acknowledge that they each have important roles with respect to the administration of justice in Canada. They acknowledge that this requires a collaborative and productive relationship.

1.4. Le ministre de la Justice et le juge en chef du Canada reconnaissent tous deux avoir un r  le important    jouer en ce qui concerne l'administration de la justice au Canada. Ils reconnaissent   galement qu'une relation ax  e sur la collaboration et la productivit   est n  cessaire    cette fin.

1.5. The Minister of Justice and the Chief Justice recognize the unique nature of the Supreme Court of Canada as an important national institution at the pinnacle of Canada's judicial branch.

1.5. Le ministre de la Justice et le juge en chef du Canada reconnaissent la nature unique de la Cour supr  me du Canada en tant qu'institution nationale importante situ  e au sommet du pouvoir judiciaire du Canada.

2. **Purpose**

2. **Objet**

2.1. The purpose of this Accord is to recognize the independence of the Supreme Court of Canada by publicly describing the role of the Minister of Justice in making recommendations to the Governor in Council under the *Supreme Court Act* in relation to the positions of Registrar and Deputy Registrar of the Supreme Court of Canada and in decision-making related to funding for the operations of the Supreme Court of Canada. It also clarifies that the Registrar may enter into contracts for the performance of legal services in a manner that recognizes the independence of the Supreme Court of Canada.

2.1. Le pr  sent accord a pour objet de reconnaître l'ind  pendance de la Cour supr  me du Canada en d  crivant publiquement le r  le du ministre de la Justice pour ce qui est de formuler, conform  ment    la *Loi sur la Cour supr  me*, des recommandations au gouverneur en conseil relativement aux postes de registraire et de registraire adjoint de la Cour supr  me du Canada et    la prise de d  cisions concernant le financement des activit  s de la Cour supr  me du Canada. Il pr  cise   galement que le registraire peut conclure des march  s en vue de la prestation de services juridiques d'une mani  re qui tient compte de l'ind  pendance de la Cour supr  me du Canada.

2.2. This Accord reflects the intentions of the parties but is not intended to be a legally enforceable contract nor to create any rights or obligations which are legally enforceable.

2.2. Le pr  sent accord refl  te les intentions des parties; toutefois, il n'est pas destin        tre un contrat l  galement ex  cutoire, ni    faire na  tre des droits ou des obligations juridiquement contraignants.

3. Office of the Registrar of the Supreme Court of Canada

- 3.1. The Office of the Registrar of the Supreme Court of Canada ("**Office of the Registrar**") provides all necessary services and support for the Supreme Court of Canada to process, hear and decide cases, as well as serving as the interface between litigants and the Court. Subject to the direction of the Chief Justice, the Registrar heads the Office of the Registrar and manages its employees, resources and activities.

4. Ministerial responsibility

- 4.1. Pursuant to the *Financial Administration Act*, the Minister of Justice is the appropriate Minister for the Office of the Registrar. In light of the principle of Ministerial responsibility to Parliament and the Minister of Justice's responsibility in relation to the administration of justice, the Minister of Justice sponsors all submissions to Cabinet (including Treasury Board and the Minister of Finance) respecting the Office of the Registrar, including those related to new and ongoing funding requests.
- 4.2. Pursuant to the *Financial Administration Act* the Registrar is the accounting officer for the Office of the Registrar. The Registrar is therefore accountable before appropriate parliamentary committees to answer questions regarding a specified range of responsibilities and duties relating to the management of the Office of the Registrar. The Registrar's responsibility as accounting officer arises within the framework of ministerial responsibility and accountability to Parliament.

3. Bureau du registraire de la Cour suprême du Canada

- 3.1. Le Bureau du registraire de la Cour suprême du Canada (« **Bureau du registraire** ») fournit la totalité des services et du soutien dont a besoin la Cour suprême du Canada pour traiter, entendre et trancher les affaires, en plus de servir d'intermédiaire entre les parties aux litiges et la Cour. Sous l'autorité directe du juge en chef, le registraire dirige le Bureau du registraire et gère ses employés, ses ressources et ses activités.

4. Responsabilité ministérielle

- 4.1. Conformément à la *Loi sur la gestion des finances publiques*, le ministre de la Justice est le ministre compétent pour le Bureau du registraire. Compte tenu du principe de la responsabilité ministérielle devant le Parlement et de la responsabilité du ministre de la Justice relativement à l'administration de la justice, le ministre de la Justice parraine toutes les présentations au Cabinet (y compris au Conseil du Trésor et au ministre des Finances) ayant trait au Bureau du registraire, notamment celles liées aux demandes de financement nouveau et de financement permanent.
- 4.2. Conformément à la *Loi sur la gestion des finances publiques*, le registraire est l'administrateur des comptes du Bureau du registraire. Par conséquent, le registraire est comptable devant les comités parlementaires compétents et, à ce titre, il doit répondre à leurs questions concernant certaines attributions liées à la gestion du Bureau du registraire. La responsabilité du registraire à titre d'administrateur des comptes s'inscrit dans le cadre de la responsabilité ministérielle et de l'obligation de rendre compte au Parlement.

**5. Recommendations to the Governor in Council:
Registrar and Deputy Registrar**

- 5.1. Under the *Supreme Court Act*, the Governor in Council appoints fit and proper persons who are barristers or advocates of at least five years standing to the positions of Registrar and Deputy Registrar. The Minister of Justice makes recommendations to the Governor in Council in respect of those positions.
- 5.2. Before the Minister of Justice makes a recommendation to the Governor in Council in respect of the appointment of a person to the position of Registrar or Deputy Registrar, a selection process is carried out which includes the following elements:
 - 5.2.1. a selection committee that includes the Chief Justice of Canada or his or her designate;
 - 5.2.2. selection criteria developed by the committee, respecting the requirements of the *Supreme Court Act* that appointees be fit and proper persons who are barristers or advocates of at least five years standing;
 - 5.2.3. use of a notice of opportunity and other selection tools approved by the selection committee; and
 - 5.2.4. recommendation of qualified candidates to the Minister of Justice by the selection committee.
- 5.3. The Minister of Justice consults with the Chief Justice of Canada on the candidates recommended by the selection committee. In making his or her recommendation to the Governor in Council, the Minister of Justice does not recommend candidates who in the opinion of the Chief Justice of Canada are unsuitable to the position.

5. Recommandations au gouverneur en conseil : registraire et registraire adjoint

- 5.1. En vertu de la *Loi sur la Cour suprême*, le gouverneur en conseil nomme registraire et registraire adjoint des personnes qualifiées inscrites depuis au moins cinq ans au barreau. Le ministre de la Justice fait des recommandations au gouverneur en conseil à l'égard de ces postes.
- 5.2. Avant que le ministre de la Justice ne formule une recommandation au gouverneur en conseil à l'égard de la nomination d'une personne au poste de registraire ou de registraire adjoint, un processus de sélection est exécuté, lequel prévoit les éléments suivants :
 - 5.2.1. un comité de sélection comprenant le juge en chef du Canada ou la personne qu'il désigne;
 - 5.2.2. des critères de sélection élaborés par le comité en conformité avec les exigences prévues par la *Loi sur la Cour suprême*, à savoir que les personnes nommées doivent être qualifiées et être inscrites depuis au moins cinq ans au barreau;
 - 5.2.3. le recours à un avis de possibilité d'emploi et à d'autres outils de sélection approuvés par le comité de sélection;
 - 5.2.4. une recommandation de candidats qualifiés adressée au ministre de la Justice par le comité de sélection.
- 5.3. Le ministre de la Justice consulte le juge en chef du Canada à l'égard des candidats recommandés par le comité de sélection. Dans sa recommandation au gouverneur en conseil, le ministre de la Justice ne recommande pas des candidats qui, de l'avis du juge en chef du Canada, ne conviennent pas pour le poste.

- 5.4. The Minister of Justice recommends a term of appointment of up to five years, taking into account the views of the Chief Justice of Canada as to an appropriate duration for the appointment.
- 5.5. Subject to provisions 5.2 through 5.4, a person previously appointed as Registrar or Deputy Registrar is eligible to be reappointed in the same or another capacity.
- 5.6. If the Chief Justice of Canada forms the view that a person appointed to the position of Registrar or Deputy Registrar should be subject to involuntary removal prior to the end of their appointment term, the Chief Justice advises the Minister of Justice of that view along with the reasons for it.
- 5.7. The Minister of Justice carefully considers the views of the Chief Justice of Canada in determining whether the Minister of Justice will make a recommendation to the Governor in Council in respect of the involuntary removal of that person.
- 5.8. Before the Minister of Justice on his or her own initiative makes a recommendation to the Governor in Council in respect of the involuntary removal of a person appointed to the position of Registrar or Deputy Registrar, he or she
- 5.8.1. seeks the views of the Chief Justice of Canada on the performance and conduct of the person and on any other matter relevant to the question of involuntary removal;
- 5.8.2. consults with the Chief Justice of Canada on whether such a recommendation is justified and appropriate; and
- 5.8.3. carefully considers the views of the Chief Justice.
- 5.4. Le ministre de la Justice recommande un mandat d'au plus cinq ans, en tenant compte du point de vue du juge en chef du Canada en ce qui concerne la durée appropriée du mandat.
- 5.5. Sous réserve des articles 5.2 à 5.4, une personne ayant été nommée précédemment au poste de registraire ou de registraire adjoint peut recevoir un nouveau mandat, aux fonctions identiques ou non.
- 5.6. Si le juge en chef du Canada est d'avis que la personne nommée au poste de registraire ou de registraire adjoint devrait être visée par une destitution avant la fin de son mandat, il en informe le ministre de la Justice et lui fournit ses motifs.
- 5.7. Le ministre de la Justice étudie attentivement l'avis du juge en chef du Canada afin de déterminer s'il y a lieu de faire une recommandation au gouverneur en conseil relativement à la destitution de cette personne.
- 5.8. Avant que le ministre de la Justice, de sa propre initiative, ne fasse une recommandation au gouverneur en conseil relativement à la destitution d'une personne nommée au poste de registraire ou de registraire adjoint, il doit :
- 5.8.1. solliciter l'avis du juge en chef du Canada sur le rendement et la conduite de la personne, ainsi que sur toute autre affaire pertinente à la question de la destitution;
- 5.8.2. consulter le juge en chef du Canada au sujet du bien-fondé et du caractère approprié d'une telle recommandation;
- 5.8.3. examiner attentivement l'avis du juge en chef.

5.9. As it relates to the question of involuntary removal, nothing in this Accord is to be construed by the parties as affecting any right to procedural fairness or natural justice that a person appointed to the position of Registrar or Deputy Registrar may have.

5.9. En ce qui concerne la question de la destitution, rien, dans le présent accord, ne doit être interprété par les parties comme portant atteinte à tout droit à l'équité procédurale ou à la justice naturelle que peut avoir une personne nommée au poste de registraire ou de registraire adjoint.

6. Funding requests

6.1. All funding requests pertaining to the Office of the Registrar are determined by the Registrar, subject to the direction of the Chief Justice of Canada. This encompasses both the preparation of the proposed annual budget for the upcoming fiscal year, as well as any off-cycle funding requests. In developing the requests, the Registrar may discuss the Court's funding needs with Treasury Board Secretariat and/or Department of Finance officials, as required.

6.2. Prior to formally submitting a funding request to the Minister of Justice, the Registrar may provide the Minister with a draft of the request. In such case, the Minister meets with the Registrar to discuss the draft funding request and to provide comments on its merits.

6.3. Once finalized, the Registrar formally submits funding requests to the Minister of Justice. The Minister then submits the funding requests to the Minister of Finance, without alteration.

6.4. Once the Minister of Justice submits the funding requests to the Minister of Finance, the Registrar (and officials of the Office of the Registrar) liaises directly with Department of Finance or Treasury Board Secretariat officials, as required, to support the assessment of the requests.

6. Demandes de financement

6.1. Toutes les demandes de financement ayant trait au Bureau du registraire sont tranchées par le registraire, sous la direction du juge en chef du Canada. Cela comprend à la fois la préparation du budget annuel proposé pour le prochain exercice et toutes les demandes de financement hors cycle. Pour l'élaboration des demandes, le registraire peut discuter des besoins de la Cour en matière de financement avec des fonctionnaires du Secrétariat du Conseil du Trésor et/ou du ministère des Finances, s'il y a lieu.

6.2. Avant de soumettre officiellement une demande de financement au ministre de la Justice, le registraire peut lui fournir une version préliminaire de la demande, auquel cas, le ministre rencontre le registraire afin de discuter de la version préliminaire de la demande de financement et de fournir des commentaires sur son bien-fondé.

6.3. Lorsque les demandes de financement sont complétées, le registraire les soumet officiellement au ministre de la Justice, qui les transmet ensuite au ministre des Finances, sans modification.

6.4. Une fois que le ministre de la Justice a transmis les demandes de financement au ministre des Finances, le registraire (et les fonctionnaires du Bureau du registraire) communique directement avec des fonctionnaires du ministère des Finances et du Secrétariat du Conseil du Trésor, s'il y a lieu, afin de soutenir l'évaluation des demandes.

6.5. As deputy head and accounting officer for the Office of the Registrar, the Registrar is best placed to answer any questions and provide information in order to justify requested funding levels. Department of Justice officials therefore refer any such questions or requests for information from Department of Finance or Treasury Board Secretariat officials to the Registrar and his or her officials. The Registrar keeps the Minister of Justice informed of the nature and outcome of the resulting discussions.

6.6. Funding requests pertaining to the Office of the Registrar are always distinct from funding requests for the Department of Justice.

7. Contracting for legal services

7.1. To fulfill his or her mandate, the Registrar can contract for legal services to be provided by private sector law practitioners.

7.2. For this purpose, the Registrar may choose to seek the assistance of the Department of Justice, which has developed policies, guidelines, administrative processes and related expertise in contracting for private sector legal services.

7.3. Alternatively, the Registrar may choose to directly engage private sector legal services, without the involvement of the Department of Justice. In order to demonstrate sound stewardship of public resources and value for money, contracting for legal services by the Registrar is conducted in a manner that complies with applicable financial controls and is open, accessible, fair and transparent; leverages the benefits of competition; and respects the need for flexibility to effectively

6.5. À titre d'administrateur général et d'administrateur des comptes pour le Bureau du registraire, le registraire est le mieux placé pour répondre aux questions et fournir des renseignements afin de justifier les niveaux de financement demandés. Par conséquent, les fonctionnaires du ministère de la Justice renvoient au registraire et à ses représentants de telles questions ou demandes d'information émanant des fonctionnaires du ministère des Finances ou du Secrétariat du Conseil du Trésor. Le registraire tient le ministre de la Justice informée de la nature et de l'issue des discussions qui en découlent.

6.6. Les demandes de financement ayant trait au Bureau du registraire sont toujours distinctes des demandes de financement visant le ministère de la Justice.

7. Passation de marchés de services juridiques

7.1. Afin de remplir son mandat, le registraire peut passer des marchés pour des services juridiques offerts par des praticiens du droit du secteur privé.

7.2. À cette fin, le registraire peut choisir de solliciter l'aide du ministère de la Justice, qui a élaboré des politiques, des lignes directrices et des processus administratifs et acquis une expertise en matière de passation de marchés de services juridiques du secteur privé.

7.3. Le registraire peut également choisir de passer directement des marchés de services juridiques avec le secteur privé, sans l'intervention du ministère de la Justice. Afin de démontrer une saine gestion des fonds publics et une optimisation des ressources, les marchés de services juridiques sont conclus par le registraire conformément aux contrôles financiers applicables, et sont ouverts, accessibles, équitables et transparents; ils mettent en outre à profit les avantages de

respond to program and operational requirements. This includes development by the Registrar of policies, procedures and guidelines to govern the engagement of private sector legal services.

la concurrence et respectent le besoin de souplesse pour répondre efficacement aux exigences opérationnelles et aux exigences des programmes. Cela suppose notamment l'élaboration, par le registraire, de politiques, procédures et lignes directrices pour régir la participation des services juridiques du secteur privé.

8. Review

8.1. This Accord takes effect on the date of its signature by the Minister of Justice and the Chief Justice of Canada. It applies to funding requests, contracts for legal services, appointments, reappointments and involuntary removals made on or after the date of signature. It is subject to review at the request of either the Minister of Justice or the Chief Justice of Canada.

8. Examen

8.1. Le présent accord entre en vigueur à la date de sa signature par le ministre de la Justice et le juge en chef du Canada. Il s'applique aux demandes de financement, contrats de services juridiques, nominations, renouvellements de mandats et destitutions qui surviennent à la date de la signature ou après. Le présent accord peut faire l'objet d'une révision à la demande du ministre de la Justice ou du juge en chef du Canada.

THIS ACCORD is effective this 22nd day of July, 2019

LE PRÉSENT ACCORD entre en vigueur ce 22^{ème} jour de juillet 2019.

The Right Honourable Richard Wagner, P.C.
Chief Justice of Canada

Le très honorable Richard Wagner, C.P.
Juge en chef du Canada

The Honourable David Lametti
Minister of Justice and Attorney General of Canada

L'honorable David Lametti
Ministre de la Justice et procureur général du Canada

Tab 3

SCC 38727 - Myriam Michail v. Ontario English Catholic Teachers' Association, et al.

Mayo, Deborah <Deborah.Mayo@justice.gc.ca>

Wed 2019-08-21 9:42 AM

To: 'myriammichail@hotmail.com' <myriammichail@hotmail.com>; 'liam.ledgerwood@siskinds.com' <liam.ledgerwood@siskinds.com>; 'beth.traynor@siskinds.com' <beth.traynor@siskinds.com>; 'pcavalluzzo@cavalluzzo.com' <pcavalluzzo@cavalluzzo.com>; 'cperri@cavalluzzo.com' <cperri@cavalluzzo.com>; 'jennifer.cooper@ontario.ca' <jennifer.cooper@ontario.ca>; 'audra.ranalli@ontario.ca' <audra.ranalli@ontario.ca>; 'aaron.hart@ontario.ca' <aaron.hart@ontario.ca>
Cc: Rupar, Christopher <Christopher.Rupar@justice.gc.ca>; Azevedo, Victoria <Victoria.Azevedo@justice.gc.ca>

 1 attachments (696 KB)

SCC 38727_Michail v OEETA et al_Response to leave to appeal_AGC.PDF;

Hello,

On behalf of Chris Rupar, agent for the Respondent the Attorney General of Canada, please find attached the following electronic version of the Attorney General of Canada's response to the application for leave to appeal for service upon you.

Please confirm receipt of these documents via email.

Thank you very much,

Deborah Mayo

Paralegal

Civil Litigation Section

50 O'Connor Street, Suite 500, Ottawa, ON K1A 0H8

National Litigation Sector

Department of Justice Canada / Government of Canada

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Tel: 647.256.0542
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Our File: 10817121
Notre dossier:

Your File: 38727
Votre dossier:

August 21, 2017

VIA EMAIL

Roger Bilodeau, Registrar
Supreme Court of Canada
301 rue Wellington Street
Ottawa, ON K1A 0J1

Dear Mr. Bilodeau:

**Re: Myriam Michail v Ontario English Catholic Teachers Association et al.
Court File No.: 38727**

I am counsel at the Department of Justice Canada and I represent the improperly named Respondent, the Attorney General of Canada ("the AGC"), in the above noted matter. I write in response to the Applicant's Application for Leave to Appeal the decision of the Ontario Court of Appeal (C65674), dated April 24, 2019. Please accept this letter as the Crown's response to the application, pursuant to Rule 27(1) and (2) of the *Rules of the Supreme Court of Canada*, SOR/2002-156.

The AGC is a stranger to this litigation. Ms. Michail has attempted to name the AGC as a party to her various proceedings before the Ontario Court of Appeal. The AGC became involved in these proceedings only insofar as the *Courts of Justice Act* required that Ms. Michail provide notice under s. 109 when she raised a constitutional issue, for the first time, before the Ontario Court of Appeal. The AGC is not a party to these proceedings as demonstrated by the fact that it is only Ms. Michail who includes the AGC as a respondent in the title of proceedings in various court documents. In so doing, Ms. Michail contradicts her acknowledgement that the AGC has declined to participate in these proceedings.¹

It is clear on the face of the April 24, 2019 decision that the AGC did not exercise his right to participate in the hearing before the Honourable Justices Rouleau, Miller and Fairbain, and made no submissions to the Court. Once again, Ms. Michail is attempting to compel the AGC to participate in litigation in which he has no interest.

Ms. Michail's continued insistence on naming the AGC appears to stem her belief that the Constitutional question which she wishes to raise is of such importance that the participation of the AGC is mandatory.

As the AGC was improperly named as a Respondent, we make no submission on the merits of the leave.

¹ *Memorandum of Argument of the Applicant*. Leave Application, Tab 3 at p 11, paras 59-61.

- 2 -

Yours truly,

Jacob Pollice
Counsel

Litigation, Extradition and Advisory Division

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PS doT

Tab 4

SCC FILE NUMBER: 38727

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)**

BETWEEN:

MYRIAM MICHAIL

APPLICANT

— and —

**ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION, MARSHALL
JARVIS, BRUNO MUZZI, FERN HOGAN, JOANNE SCHLEEN, SHELLEY
MALONE, SHEILA BRESCIA;
LONDON DISTRICT CATHOLIC SCHOOL BOARD AND
ONTARIO LABOUR RELATIONS BOARD**

RESPONDENTS

**ATTORNEY GENERAL OF CANADA and
ATTORNEY GENERAL OF ONTARIO**

RESPONDENTS

**APPLICANT'S REPLY
TO ATTORNEY GENERAL OF ONTARIO
And
TO ATTORNEY GENERAL OF CANADA
Filed by Myriam Michail
Self-Represented Applicant**

September 3, 2019

MYRIAM MICHAIL



**Email: myriammichail@hotmail.com
Self-Represented Applicant**

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SCC FILE NUMBER: 38727

**IN THE SUPREME COURT OF CANADA
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BETWEEN:

MYRIAM MICHAIL

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RESPONDENTS

**ATTORNEY GENERAL OF CANADA and
ATTORNEY GENERAL OF ONTARIO**

RESPONDENTS

REPLY TO ATTORNEY GENERAL OF ONTARIO

Filed by Myriam Michail September 3, 2019

Self-Represented Applicant

ORIGINAL TO: THE REGISTRAR

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**REPLY TO ATTORNEY GENERAL OF ONTARIO
MEMORANDUM OF ARGUMENT**

1. The Attorney General of Ontario's ("AGO") response is inaccurate, incomplete and misleading.
2. The AGO's request to have my Application for leave dismissed is done in bad faith in order to avoid the litigation of a legitimate constitutional challenge of major public interest and national importance but would expose the AGO's failure to uphold the rule of law and their breach of the public trust; therefore the AGO's Reply should be disregarded.
3. It is necessary for this Court to hear and address the merits of this appeal, as the public and national importance of this matter cannot be overlooked.
4. The integrity of our legal system, the supremacy of our constitution, the constitutional principle of open justice, the rule of law, the litigant's constitutional legal rights, their right to freedom of expression, and the right to gather evidence in an open and fair process, equality before the law, the liberty and security of the person, and the public's right to see justice being done, are at the forefront of the Application.
5. I am challenging the constitutionality of subsections 136(1)(a) (i), (b), (c) as well as the punishment under ss.136 (4) of the CJA prohibiting audio and video recordings in Appellate Courts, the Superior Court of Justice, and the Ontario Courts of Justice (for applications and motions), where there is no jury, no witnesses, and no publication bans in place creating an oppressive environment which should be alien to a free and democratic nation.
6. I am also challenging the constitutionality of the culture of covertness by establishing that the constitutional principal of open justice includes the disclosure of unredacted transcripts, dissemination of audio and video recordings of proceedings (where applicable), and the disclosure and the publications of all decisions.
7. The majority of the AGO's Reply consists of an inaccurate summary of the case which does not provide any context to the present Application before the Court. The AGO also conceals all facts regarding the abuse of process, obstruction of justice and the miscarriage of justice that I have endured.
8. The AGO also fails to provide any reasons as to why cameras in Ontario Appellate courtrooms are of no public interest and remain prohibited.

9. In their Reply the AGO claims that I am making “*unsubstantiated and unsupported allegations of bad faith against Ontario and various judicial actors*”. Yet, the AGO fails to provide a single example of where any claim I have made was not substantiated and/or which “allegations” are unsupported by evidence.
10. This conduct amounts to a malicious attack on my integrity and should not go unchallenged. I am mindful of the seriousness of my allegations and I do not make them lightly. I would not bring forth allegations of bad faith, breach of public trust and failure to fulfill their mandate without numerous concrete evidences.
11. Therefore, this statement by the AGO should carry no weight and should be disregarded. There were numerous dilatory and unlawful tactics used to deny me access to justice as evident in my correspondence with Chief Justice George Strathy¹ which remained unaddressed.
12. As a matter of fact, Feldman, Pardu and Roberts JJ.A. in their October 25, 2018 decision, 2018 ONCA 857² at paragraph [3] acknowledge the presence of “*a number of administrative problems at the court office since the order of Grace J., resulting in problems with the Divisional Court file for her judicial review application in both the London office, and in the Hamilton office where another file was commenced.*”.
13. Although I had informed Feldman, Pardu and Roberts JJ.A. that I had called upon the Honourable Regional Senior Judge Harrison Arrell and Administrative Judge Milanetti, for assistance and directions³ and that Judge Arrell had requested that I cease from writing to him regarding my matter since he has no jurisdiction⁴; they still abdicated their responsibility and wrote at paragraph [9]: “*it is for the Divisional Court and its administration to assist the appellant, a self-represented litigant, to bring forward her judicial review application.*”
14. Nevertheless, after receiving notification from the Divisional Court in Hamilton that my JR application will be dismissed for delay. In a state of despair, I, one more time, called upon RSJ Arrell on May 1st, 2019⁵, to assist me as per Feldman, Pardu and Roberts JJ.A. directions.

¹ Correspondence with Chief Justice Strathy and ACJ Hoy of February 8 & 25, 2019 **Tab 13**

² See Memorandum for leave to Appeal **Tab 2 (E) p. 27**

³ See Letter to RSJ Arrell and Administrative Judge Milanetti of May 9, 2018 **Tab 15 p.**

⁴ Correspondence from RSJ Arrell **Tab 14**

⁵ Correspondence to RSJ Arrell and Administrative Judge Milanetti May 1st, 2019 **Tab 15**

15. My letter remains unanswered. I have neither heard from the Divisional Court regarding the status of my file, nor from RSJ Arrell who had informed me that he will no longer answer my letters⁶. I am left in limbo, without recourse in a serious miscarriage of justice.
16. The AGO does not bring any original arguments as to why this Application should not be heard. The AGO is simply repeating controversial statements made by Rouleau, Miller, and Fairburn JJ.A verbatim. These statements constitute an attack on the rule of law, and set a dangerous precedent that should not be allowed to stand in our democracy. I am challenging their constitutionality and/or legality as reported in my Memorandum for leave to appeal paragraphs 74 to 82 and 105 to 112.
17. The AGO does not provide any explanation for their failure to amend this impugned provision, despite the 2008⁷ Report expressing the public's outcry that "*The Courts of Justice Act should be amended to permit cameras for proceedings in the Court of Appeal and Divisional Court*".
18. Had the AGOs fulfilled their mandate as guardians of the public interests, I would not have found myself in the position I am in now. At the Superior Court, the judges refused to allow me access to transcripts of my own hearings and at the COA, I am unable to obtain any audio material or transcripts relating to my hearing without being faced with an oppressive undertaking, assaulting my constitutional rights under s. 2(b), 7, and 12 of the *Charter*. It is grossly unfair to require litigants to mount a constitutional challenge to a law the government is well aware of its unconstitutionality and its oppressive and detrimental impact on Canadians.
19. For the AGO to advocate that my Application be dismissed, knowing that I am bringing forward legitimate arguments supported by comprehensive evidence and a crucial report that the Ministry of Justice concealed since its publication in 2008⁸, and can only be accessed by filing a Freedom of Information Act request, is prima facie evidence of bad faith, an unwillingness to advocate for the people of Ontario and a failure to uphold the rule of law.
20. It is absurd and irrational that the COA claims it lacks jurisdiction to address the constitutional challenge that stems from their own rules. Meanwhile, by the COA's own admission, the COA

⁶ See correspondence from RSJ Arrell of March 12 and March 28, 2018 **Tab 14**

⁷ See Memorandum **tab 4 (Q)**

⁸ Ibid

* See Tab 6

is the appropriate forum to hear a motion requesting the right to disseminate audio recording of my hearings at the COA, and the publication of decisions issued by judges of the COA.

21. It is irrational that Rouleau, Miller, and Fairburn JJ.A state “*we agree with Ms. Michail that the motion judge in fact had jurisdiction to decide her motion*”⁹; and simultaneously rule that “*A constitutional challenge to a statute cannot be brought in this court in the absence of a valid appeal*.” The COA cannot have it both ways, only to then make the decision to dismiss my constitutional challenge based on this false contention.
22. My motion was duly before the Court of Appeal. The original motion M49750 (Brown J.A. decision) requesting the audio recording of my hearings was filed in compliance with rule 17.2, 3 and 4 of *the Practice Direction Concerning Civil Appeals at the COA for Ontario*¹⁰.
23. In *Pintea v. Johns*, 2017 SCC 23, the Supreme Court of Canada unanimously endorsed the Statement of Principles established by the Canadian Judicial Council which promote “*rights of access to justice for those who represent themselves requires that all aspects of the court process be open, transparent, clearly defined, simple, convenient and accommodating*.” Yet, the Attorneys General of Ontario, and Canada, as well as the three Respondents, with the support of some COA employees, relentlessly attempted to prohibit me from filing my motion to appeal Brown’s J.A. decision. They ultimately filed a vexatious request based on false contentions under Rule 2.1 of the *Rules of Civil Procedures* to label me a vexatious litigant¹¹. Although this request was rejected, it indeed caused me extreme distress.
24. By granting leave for this Application, the Court will be provided with *factual foundation of fundamental importance to the arguments* that would otherwise not be available. This constitutional challenge is based upon evidence of *the deleterious effects* of this impugned legislation on litigants which will provide objective arguments to the court.
25. In *Danson v. Ontario (Attorney General)*, [1990] 2 SCR 1086, Sopinka J. writes:
 30 Cory J., speaking for a unanimous Court, stated [S.C.R. at pp. 361-362]:
 Charter decisions should not and must not be made in a factual vacuum. To attempt to do so would trivialize the Charter and inevitably result in ill-considered opinions. The presentation of facts is not, as stated by the respondent, a mere technicality; rather, it

⁹ Memorandum for Leave to Appeal Tab 1(H) [Michail v. OECTA](#), 2019 ONCA 319 para. 6 and 23.

¹⁰ See Practice Direction Concerning Civil Appeals at the COA for Ontario Tab 7

¹¹ See 2.1 request Tab 9

is essential to a proper consideration of Charter issues. ... Charter decisions cannot be based upon the unsupported hypotheses of enthusiastic counsel.

Later, Cory J. stated [at p. 366]:


A factual foundation is of fundamental importance on this appeal. It is not the purpose of the legislation which is said to infringe the Charter but its effects. If the deleterious effects are not established there can be no Charter violation and no case has been made out. Thus, the absence of a factual base is not just a technicality that could be overlooked, but rather it is a flaw that is fatal to the appellants' position.

26. These issues arose first at the Superior Court in London¹² then again at the COA when I was denied transcripts, audio and video recordings of my hearings at the COA. The denial of my request sets course for this process. In *Toronto Star Newspapers Ltd. v. Canada*, [2010] 1 SCR 721, 2010 SCC 21:

[3] Context is the key to understanding the scope and impact of a limit on a Charter right.

27. Litigants should not continue to be deprived of multiple constitutional rights. This speaks directly to the AGO's failure to fulfill his mandate to uphold the spirit and intent of the law and justice to all Ontarians.
28. Last but not least, the AGO's conduct during litigation at the COA was vexatious. The AGO has shown contempt to the rule of law and the integrity of the process. The AGO was all along adamant that they should not be named as Respondents and colluded with the Respondents to have my appeal rejected¹³. At the October 18, 2018 hearing, Ms. Ranalli acted improperly and was reprimanded by Feldman J.A.
29. **N.B.** I continue to work diligently to complete my Application for leave to Appeal addressing the unjust quashing of my Appeal 65674, and the Constitutional Challenge to Labour Law provisions that the Superior Court and the COA refused to address, leaving all unionized workers in Canada deprived of their legal rights and under the yoke of a cabal of union officials who have the power to act as legal guardians for millions of workers without accountability.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, this 3rd day of September 2019.


Myriam Michail
Self-Represented Litigant

¹² See emails from Grace J. and Leitch J. **Tab 6**

¹³ See email exchange with AGO (Ms. Ranalli) **Tab 10**

SCC FILE NUMBER: 38727

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)**

BETWEEN:

MYRIAM MICHAÏL

APPLICANT

— and —

**ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION, MARSHALL
JARVIS, BRUNO MUZZI, FERN HOGAN, JOANNE SCHLEEN, SHELLEY
MALONE, SHEILA BRESCIA;
LONDON DISTRICT CATHOLIC SCHOOL BOARD AND
ONTARIO LABOUR RELATIONS BOARD**

RESPONDENTS

**ATTORNEY GENERAL OF CANADA and
ATTORNEY GENERAL OF ONTARIO**

RESPONDENTS

**REPLY TO ATTORNEY GENERAL OF CANADA
Filed by Myriam Michail September 3, 2019
Self-Represented Applicant**

ORIGINAL TO: THE REGISTRAR

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**REPLY TO ATTORNEY GENERAL OF CANADA
MEMORANDUM OF ARGUMENT**

1. The Attorney General of Canada's ("AGC") submission is inaccurate, incomplete and misleading.
2. The AGC is certainly not "*a stranger to this litigation*" as falsely claimed in their letter addressed to Mr. Bilodeau, dated August 21, 2017 (sic).
3. The AGC was an active party in the original Motion M49750. In fact, Brown J.A. writes in his decision, 2018 ONCA 950 of November 23, 2018¹ at paragraph 2:

[2] The respondents take no position on her motion. The Attorney General of Ontario and Department of Justice Canada take the position that Ms. Michail's motion is not properly before the court and that her Notice of Constitutional Question in respect of s. 136 of the Courts of Justice Act is a nullity. [Emphasis added]

4. Brown J.A, in his decision, listed the AGC as a party in the title of the proceeding: "*Jacob Pollice, for the responding party, the Department of Justice Canada*"².
5. The AGC makes no reference to the serious issues of public and national importance that are raised in the Application, and is relying solely on misleading statements that they continue to make without any substantiation.
6. I was dismayed when I received Mr. Pollice's letter to the COA's registrar, dated November 9, 2018³, asking the court to prohibit me from filing the motion to obtain audio recordings and transcripts, relying on an unsubstantiated argument claiming that I am at the wrong court.
7. The AGC writes in his Reply to the SCC:

Ms. Michail is attempting to compel the AGC to participate in litigation in which he has no interest. Ms. Michail continued insistence on naming the AGC appears to stem her belief (sic) that the Constitutional question which she wishes to raise is of such importance that the participation of the AGC is mandatory."

8. If Mr. Pollice would like to falsely claim that the AGC is "*stranger*" to the litigation, and that he has no interest in the matter, then why did he correspond with the COA, making judgements on my motion, and directing the court to prohibit me from filing my appeal? Why was he

¹ See Memorandum for leave to Appeal **Tab 2 (F)**

² Ibid

³ See attached November 9, 2018 letter and my response **Tab 10**

adamant to see this Constitutional Challenge buried? Is the AGC above the law and entitled to have it both ways, to act in a duplicitous manner and obstruct justice?

9. There have been numerous instances where Mr. Pollice has personally pressured me to remove the AGC as a Respondent. As early as August 15, 2018, Mr. Pollice has inappropriately corresponded with me using these pressure tactics, as he stated *"Please confirm that you will abandon your request to have the Attorney General of Canada added as a party at the earliest convenience"*.⁴
10. When I refused to fulfill his wish, Mr. Pollice used intimidation tactics and instilled fear in me by threatening me with further litigation and legal costs, stating: *"If you wish to pursue adding the Attorney General of Canada as a party, I will be opposing the motion and will seek costs"*.
11. This form of correspondence continued, although I repeatedly made it clear to Mr. Pollice that I am holding the AGC responsible due to their failure to fulfill their mandate, and for turning a blind eye to corruption. Mr. Pollice then continued to bully me by making condescending comments. On September 7, 2018⁵ he wrote to me:

I wanted to email you first to give you a heads up in the event that you wanted to also write to the Court and confirm for them that the Attorney General of Canada was named in error due to your misunderstanding as to the operation of section 109 of the Courts of Justice Act.

12. I immediately responded, again confirming that I did not list the AGC as a Respondent in error, and that I was holding the AGC accountable for the miscarriage of justice and abuse that I was subjected to in the Courts.
13. Furthermore, I inadvertently received an email, in which Mr. Pollice instigates the Respondents to file a r. 2.1 request to have my *"latest appeal summarily dismissed"*. Again, if Mr. Pollice is claiming he is *"stranger"* to this litigation, why did he attempt to direct the litigation behind the scenes by colluding with the other Respondents? Again, this blatant attempt to obstruct justice cannot go uninvestigated, and Mr. Pollice has yet to offer an explanation for this form of manipulation. His email to the Respondents of September 30, 2018⁶ reads:

I wanted to touch base with you all about whether anyone has considered a Rule 2.1 request to have this latest appeal summarily dismissed. The status of the AGC in this

⁴ See email **Tab 11**

⁵ Ibid

⁶ See email to Respondents **Tab 8**

litigation is questionable and I think that the request is best brought by a party who, if the Court requests submissions, can speak to the entire procedural history. Any thoughts?

14. It was then on January 2, 2019, that Ms. Traynor, lawyer for the LDCSB, obliged to Mr. Pollice wishes and advanced a request on behalf of the Respondents to have the appeal dismissed in the form of a r. 2.1 request⁷.
15. This request was ultimately rejected by the court with an appreciation and thank you note and No one was ever held accountable⁸.
16. The toll that this vexatious conduct took on my mental and physical health was very damaging. Having to address these vexatious claims, while knowing that it had been orchestrated maliciously between all the parties, spearheaded by Mr. Pollice, caused me extreme distress.
17. **Duplicity:** The AGC cannot have it both ways. The AGC cannot claim to be “*stranger*” to a litigation, while simultaneously taking an active part to influence the litigation overtly and covertly. The AGC took a position on the litigation of motion M49750 and acted on that interest, while claiming having no vested interest in the outcome.
18. For Mr. Pollice to claim that the AGC is “*stranger*” to this litigation, but then spend copious amounts of time trying to derail and direct the litigation shows that he is acting maliciously and in bad faith. It is disturbing how the AGC shows such contempt to the integrity of a judicial process and feels at liberty to act capriciously, moving between being an active party in this litigation in some instances and to go dormant and claim being a “*stranger*” in others.
19. Furthermore, it is my position that this type of behaviour constitute an attempt to obstruct justice, especially considering the severe power imbalance between an SRL with a disability and the AGC and the public interests and high level of importance of the matter subject of this litigation.
20. Ironically, at the COA, the AGO had made the same claim all along. At the October 18, 2018 hearing, Ms. Ranalli was adamant that the Attorney General of Ontario should not be named as a Respondent; however, it appears that they are abandoning this claim for the time being⁹.

⁷ See r.2.1 request **Tab 9**

⁸ See Letter from Mr. Marentic **Tab 9 p.**


⁹ See email exchange with AGO (Ms. Ranalli) re. their status in litigation **Tab 10**

21. I respectfully submit that this conduct should be addressed by this Court. I am calling upon this Court, as Canadians' last hope and recourse, to intervene and review these tactics employed by the Respondents.
22. I am calling upon this Court to dismiss the false arguments provided by the AGC, and to recognize that the AGC is indeed not a "*stranger*" to this litigation but an active party in this litigation, who failed to ensure the integrity of our Courts.
23. My position remains the same as repeatedly conveyed to Mr. Pollice in my emails to him i.e.:
- What goes on in the courts is at the heart of her mandate. ...
Furthermore, the lack of transparency and openness of our courts is a major factor that is contributing to the current dysfunctional state of many of our courts.
 - It is sad that you have quickly chosen to threaten me with cost if I don't abandon my request to add the Attorney General of Canada as a Respondent.
"Legal costs" is clearly becoming a tactic used to deter and silence honest victims from seeking justice. I am threatened with substantive cost if I continue to pursue my allegations of fraud. (...)
I was yelled at and abused by several court clerks including Ms. Gillian Zegers, who threatened me with police and I was escorted by guards out of the Court house for politely stating the truth that I didn't open a court file, did not file the impugned application and did not enter the 3 sets of 11 volumes in this file on January 29, 2018.
I have reported the incident, I sent a complaint to all stakeholders including the Attorney General of Canada, that I have been subjected to serious harassment and abuse at the Court in London at no point has anyone looked at the matter or even offered an apology.
If you wish to request cost, that's your prerogative.
I am reminding you that your mandate is to protect public interest and access to justice. We have entrusted you to be the Guardians of public interest.
24. I even wrote to the COA on September 13, 2018¹⁰:
- As for the matter of the Attorney General, I have clearly stated to Mr. Pollice that I am naming the Attorney General of Canada and Ontario as Respondent in the Appeal not just the Constitutional challenge. I wrote to him on September 7, 2018:
- The Attorney General of Canada is not named in error in the Appeal and is not limited to the Constitutional challenge. [emphasis in the original email]
- As previously explained to you, I do hold the Attorney General accountable for the current miscarriage of justice and the mistreatment and abuse I was subjected to at the Superior Court in London.

¹⁰ See Letter to COA Registrar Mr. Marentic dated September 13, 2018 Tab 5

To be clear, I would challenge the AG's decision to refuse to be named as a Respondent in the appeal. As guardian of public interest, it goes to the heart of the AG mandate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, this 3rd day of September 2019.



Myriam Michail
Self-Represented Litigant

Top 30

Tab 5

Urgent the Integrity of the SCC Process

Myriam Michail

Thu 2019-09-12 11:39 AM

To: Roger.bilodeau@SCC-CSC.CA <Roger.bilodeau@SCC-CSC.CA>; Rogerbilodeau@SCC-CSC.CA <Rogerbilodeau@SCC-CSC.CA>; Roger-bilodeau@SCC-CSC.CA <Roger-bilodeau@SCC-CSC.CA>
Cc: Myriam Michail <myriammichail@hotmail.com>

 3 attachments (15 MB)

Reply to AsG Response & Documents.pdf; Supreme C Memo Tab 1.pdf; Supreme C Memo Tab 3.pdf;

Dear Mr. Bilodeau,

Please accept my apologies for writing directly to you but I am confident that you will understand the seriousness of this matter.

This is now since June 24, 2019 that I have been asking for a meeting with you. It was denied.

It is my understanding that the SCC prides itself for being the role model as to the integrity of the Court and the transparency of the process.

It took the Supreme Court clerks 5 full weeks to provide my Application with a file number **38727** although it was complete. No plausible reason for this inordinate delay was ever provided.

I have sent electronic copies of my Application for leave to Appeal on July 30, 2019 to Ms. Sauve, and again on August 23 to Ms. Proulx who informed me during our phone conversation that it wasn't in my electronic file. yet to date it hasn't been added to the Docket on the SCC.

I have repeatedly requested confirmation of receipt of my electronic copies. This is a reasonable request, the lack of response is peculiar and raises concerns.

I have sent the following requests as you can see from the chain of emails below:

1. An urgent meeting with Mr. Roger Bilodeau.
2. A confirmation letter from Mr. Bilodeau personally that:
 - the hard copies in my file are identical to the ones submitted electronically by me on July 30, 2019 and on September 3, 2019, a copy of which is attached to this email.
 - the electronic copies of all my submissions including the reply to the AGC and AGO would be included in my file and forwarded to the

judges;

- my file is complete and the receipt of the electronic copy of all my submissions including the reply to AGC and AGO; and
- That the history record of my file on the SCC website be completed to reflect the presence of my electronic submission and the completeness of my file.

I have been faced with serious criminal activities to obstruct justice both at the Superior Court in London and the Ontario Court of Appeal, including opening a completely different file in my name and exchanging motions.

I have lost trust in the integrity of our Courts.

Yesterday, I found out that my file has been given to Judge Abella, Judge Brown and Judge Martin yet, I have not received any confirmation that my electronic copy is identical to the hardcopy and that there was no tampering with the documents during the five weeks my Application was left idle at the court.

I am disappointed that a simple request to ensure the integrity of the process has been ignored and denied.

Mr. Bilodeau, I am confident that you will understand the reasons for my apprehension, and that you have the public interest and the integrity and transparency of the Supreme Court of Canada at heart. Public concerns should not be dismissed without investigation.

I was hoping for an urgent meeting with you, prior to my documents being submitted to the judges to ensure the integrity of the process. It is now too late, the documents are already with the judges.

I have attached some of the documents but due to the limitation on the size of the attachments Part 2 and part 4 of my Application are missing but I can resend to you in a separate email, however, they were submitted to the attention of Ms. Sauve and Ms Proulx respectively on July 30 and August 23, 2019 by email to the SCC.

I am now asking you personally, to forward this email attachments to the judges and ensure that no tampering with documents occurred.

I look forward to your response.

Respectfully,

Myriam

From: Myriam Michail <myriammichail@hotmail.com>
Sent: Tuesday, September 3, 2019 9:22 AM
To: registry-greffe@scc-csc.ca <registry-greffe@scc-csc.ca>
Cc: Myriam Michail <myriammichail@hotmail.com>
Subject: URGENT: Attention Ms. Tina Proulx

Good Morning Ms. Proulx,

This is a follow up to my phone conversation and email (below) of August 23, 2019 SCC File No. **38727**.

I have not received any confirmation or response.

As you recall, I had expressed concerns regarding:

1. The electronic copy of my Memorandum for Application for leave to appeal being missing from my file 38727 although it was sent to the SCC.
2. The inordinate delay of 5 weeks to assign a file number to my Application although it was complete.

I am also concerned that to date, the history record of my case on your website shows that I have submitted an "incomplete Application" (see screenshot below) when in fact my file was complete all along since June 24, 2019. Furthermore, there is no mention of my electronic version being submitted on July 30, 2019.

Therefore, I am kindly asking for

1. An urgent meeting with Mr. Roger Bilodeau.
2. A confirmation letter from Mr. Bilodeau personally that
 - the electronic copies of all my submissions including the reply to the AGC and AGO would be included in my file and forwarded to the judges;
 - my file is complete and the receipt of the electronic copy of all my submission including the reply to AGC and AGO;
 - the hard copies in my file are identical to the ones submitted electronically by me on July 30, 2019 and today; and
 - That the history record of my file on the SCC website be completed to reflect my electronic submission and the completeness of my file.

I hope to hear from you promptly to ensure the transparency and integrity of this process that is of major public interest.

I appreciate your consideration of this unfortunate situation.

Respectfully,

Myriam

Proceedings		
Date	Proceeding	Filed By (if applicable)
2019-08-22	Certificate (on limitations to public access), 23A	Attorney General of Ontario
2019-08-22	Respondent's response on the application for leave to appeal, (Letter Form), Completed on: 2019-08-22	Attorney General of Ontario
2019-08-21	Respondent's response on the application for leave to appeal, (Letter Form), Completed on: 2019-08-21	Attorney General of Canada
2019-07-29	Letter advising parties of an incomplete application for leave to appeal, FILE OPENED 2019/07/29	
2019-06-28	Letter acknowledging receipt of an application for leave to appeal	
2019-06-24	Certificate (on limitations to public access), (Letter Form)	Myriam Michail
2019-06-24	Application for leave to appeal, (Book Form), Filing fees missing-rec'd 2019/07/30, Completed on: 2019-07-30	Myriam Michail

From: Myriam Michail <myriammichail@hotmail.com>
Sent: Friday, August 23, 2019 11:34 AM
To: registry-grefe@scc-csc.ca <registry-grefe@scc-csc.ca>
Cc: Myriam Michail <myriammichail@hotmail.com>
Subject: Fw: Attention Ms. Tina Proulx File # 38727

Hello Ms. Proulx,

This is a follow up to our phone conversation regarding the electronic copy of my Application for leave to appeal.

This electronic copy was emailed to Ms. Sauve at your Court on July 30, 2019 as it is evident from the email below.

I would appreciate confirmation that the electronic copy would be included in my file and forwarded to the judges.

Further, as discussed in our phone conversation, with all due respect, due to a lack of trust in our courts after many incidents of fraud, I would like confirmation that my file is complete and the hard copies in my file are identical to the ones submitted in this email.

As discussed, I am asking to meet with Mr. Bilodeau personally.

I appreciate your consideration of this unfortunate situation.

Respectfully,

Myriam

From: Myriam Michail <myriammichail@hotmail.com>
Sent: Tuesday, July 30, 2019 12:27 PM
To: Registry-Greffe <Registry-Greffe@SCC-CSC.CA>
Subject: Attention Ms. Sauvé- File # 38727

Hello Ms. Sauvé

This is a follow up to your letter of July 29, 2019.

1. Please find attached an electronic copy of my Application for LEave to Appeal to forward to the Judges. (4 attachments)
2. Regarding the reasons for Judgement that I am appealing it is included under Tab 2 (H) p. 38. 2019 ONCA 319 (CanLII),
3. Regarding Court orders, There were none issued. All what is in the file is the "Reasons for the Decision" I am appealing Michail v. Ontario English Catholic Teachers' Association, 2019 ONCA 319 (CanLII),

<https://www.canlii.org/en/on/onca/doc/2019/2019onca319/2019onca319.html?searchUrlHash=AAAAAQOTXlYaWFtIE1pY2hhaWwAAAQ&resultIndex=2>

As you know this was confirmed in the email I forwarded to you an email on July 16, 2019 at 4:10 pm, from the Deputy Registrar at the Court of Appeal, Ms. Sandra Theroulde, confirming no such order exists and a copy of it is below for your convenience.

Please confirm that my file is now complete and good to go.

Thank you

Myriam

From: Theroulde, Sandra (MAG) <Sandra.Theroulde@ontario.ca>
Sent: Tuesday, July 16, 2019 3:48 PM
To: Myriam Michail; JUS-G-MAG-Judicial COA E-file
Cc: Sandy Nesbitt; Ranalli, Aud (MAG); Christopher Perri; Cooper, Jennifer (MOL); Elizabeth M. Traynor; Hart, Aaron (MOL); Liam J. Ledgerwood; Makenzie.carroll@siskinds.com; Pcavalluzzo@cavalluzzo.com; Pollice, Jacob
Subject: RE: C65674
Sent: Tuesday, July 16, 2019 3:48 PM
To: Myriam Michail; JUS-G-MAG-Judicial COA E-file

Cc: Sandy Nesbitt; Ranalli, Aud (MAG); Christopher Perri; Cooper, Jennifer (MOL); Elizabeth M. Traynor; Hart, Aaron (MOL); Liam J. Ledgerwood; Makenzie.carroll@siskinds.com; Pcavalluzzo@cavalluzzo.com; Pollice, Jacob

Subject: RE: C65674

Sent: Tuesday, July 16, 2019 3:48 PM

To: Myriam Michail; JUS-G-MAG-Judicial COA E-file

Cc: Sandy Nesbitt; Ranalli, Aud (MAG); Christopher Perri; Cooper, Jennifer (MOL); Elizabeth M. Traynor; Hart, Aaron (MOL); Liam J.

Ledgerwood; Makenzie.carroll@siskinds.com; Pcavalluzzo@cavalluzzo.com; Pollice, Jacob

Subject: RE: C65674

Ms. Michail:

Our records show that there were no orders taken out under the appeal nor the motions. Pursuant to Rule 59 of the Rules of Civil Procedure, the draft order is prepared by one of the parties and circulated to all other parties represented at the hearing, to be approved as to form and content, and then submit to the court for issuing and entering. It is not the responsibility of the court to prepare these orders. It appears that this has not been done.

If anyone of the parties prepared draft orders, please let me know when it/they were submitted to the court for issuing. Thanks.

Sandra Theroulde
Deputy Registrar and Manager of Court Administration
Court of Appeal for Ontario
Telephone No. (416) 327-6017
Fax No: (416) 327 -5032

From: Registry-Grefe <Registry-Grefe@SCC-CSC.CA>

Sent: Monday, July 29, 2019 4:08 PM

To: 'Myriam Michail' <myriammichail@hotmail.com>

Subject: RE: Attention Ms. Sauvé- FD-02637

Good afternoon Ms. Michail,

Please note a file number was assigned today, July 29, 2019.
 Please see the attached letter for additional information.

Kind regards,

Registry-Greffe

Registry Branch | Direction générale du greffe
 Supreme Court of Canada | Cour suprême du Canada
 301 Wellington Street | 301, rue Wellington
 Ottawa, Ontario K1A 0J1

Registry-Greffe@SCC-CSC.CA

Tel. | Tél.: 613-996-8666 / 1-844-365-9662 / Fax | Téléc.: 613-996-9138



Supreme Court of Canada
 Cour suprême du Canada

From: Myriam Michail [<mailto:myriammichail@hotmail.com>]

Sent: Friday, July 26, 2019 1:11 PM

To: Registry-Greffe <Registry-Greffe@SCC-CSC.CA>

Subject: Re: Attention Ms. Sauvé- FD-02637

Hello,

This is now a full 5 weeks since I filed my Application on June 24, 2019 and I still have not received a file number.

Please advise on the status of my Application.

Thank you,

Myriam

From: Registry-Greffe <Registry-Greffe@SCC-CSC.CA>

Sent: Thursday, July 18, 2019 1:21 PM

To: 'Myriam Michail' <myriammichail@hotmail.com>

Subject: RE: Attention Ms. Sauvé- FD-02637

Good afternoon Ms. Michail,

This will acknowledge receipt of your emails.

I will review the documents, along with your application for leave to appeal, and will advise in due course.

Kind regards,

Jill Sauvé

Registry Officer

Registry-Greffe

Registry Branch | Direction générale du greffe
 Supreme Court of Canada | Cour suprême du Canada
 301 Wellington Street | 301, rue Wellington

Ottawa, Ontario K1A 0J1

Registry-Grefe@SCC-CSC.CA

Tel. | Tél.: 613-996-8666 / 1-844-365-9662 / Fax | Téléc.: 613-996-9138



Supreme Court of Canada
Cour suprême du Canada

From: Myriam Michail [<mailto:myriammichail@hotmail.com>]

Sent: Thursday, July 18, 2019 7:30 AM

To: Registry-Grefe <Registry-Grefe@SCC-CSC.CA>

Cc: Myriam Michail <myriammichail@hotmail.com>

Subject: Attention Ms. Sauvé- FD-02637

And this is the Third Good Morning 😊

Please see below, this was sent to me from a registrar at the Divisional Court in Hamilton listing the content of the Superior Court file. I highlighted where he lists what was sent by the Court. I have sent you all of them basically a handwritten and a typed copy of both decisions. There is nothing else in the file.

Would you please let me know that this is sufficient.

Thank you and have have a good day

Myriam

From: Smith, Stewart A. (MAG) <Stewart.A.Smith@ontario.ca>

Sent: Tuesday, April 17, 2018 4:09 PM

To: Myriam Michail <myriammichail@hotmail.com>

Cc: Elizabeth M. Traynor <beth.traynor@siskinds.com>; Pcavalluzzo@[cavalluzzo.com](mailto:Pcavalluzzo@cavalluzzo.com)
<Pcavalluzzo@cavalluzzo.com>; Marvy, Leonard (MOL) <Leonard.Marvy@ontario.ca>; Liam J. Ledgerwood <liam.ledgerwood@siskinds.com>; Christopher Perri <CPerri@cavalluzzo.com>

Subject: RE: Urgent: response required - DC-18-922-JR

Good afternoon everyone,

Please be advised that the file DC-17-25 has been returned to the court house in London after inspection. It was returned to London on April 12, 2018.

Ms. Michail,

The London File 624/17 - the Hamilton file Number assigned to this file is 18-922-JR

The title of proceeding is as follows:

Myriam Michail v. Ontario English Catholic Teachers' Association, Marshall Jarvis, Bruno Muzzi, Fern Hogan, Joanne Schleen, Shelly Malone, Sheila Brescia, London District Catholic School Board, and Ontario Labour Relations Board

The contents of the file include the following:

Notice of Application for Judicial Review – Original
 Endorsement of June 19, 2017 – Released June 26, 2017
 Typed Endorsement from June 26, 2017
 Cost Endorsement
 Typed Cost Endorsement
 Copy of Order – Justice Arrell dated 25th of January 2018

Applicant – Ms. Michail

- **Motion Record – Dated Mar 09, 2017 (which includes Justice Leitch's endorsement on the back)**
- Motion Record for Leave to Appeal (3 Copies) – March 28, 2017
- Case Book for the Applicant (3 Copies) – May 18, 2017
- Factum & Constitutional question of the Applicant (3 Copies) – May 18, 2017
- **Reply to Respondents' Motion Record Response (3 Copies) – No Date**
- Applicant's Written Submissions to the OLRB (3 Copies) – Mar 24, 2017
- Reply to the Respondents Bill of Cost – Jul 24, 2017
- **Certificate of Readiness of Special Appointment – Mar 21, 2017**

Respondent LDCSB

- Factum of the Responding Party LDCSB – May 26, 2017
- Responding Motion Record of the Respondent LDCSB – Apr 11, 2017
- Book of Authorities of the Respondent LDCSB – Mar 6, 2017
- Book of Authorities of the Respondent LDCSB – May 26, 2017
- Cost Submission of LDCSB
- Notice of Appearance

Respondent OECA and Parties

- Factum of the Respondents OECA – 29 May, 2017
- Motion Record OECA – Apr 12, 2017
- Book of Authorities of the Respondent OECA – May 29, 2017
- Notice of Appearance
- **Cost Submission of OECA**

There are no missing documents from this file.

London's DC-17-25 was not assigned a Hamilton court file number. It was only inspected by myself and returned. The contents of this file are as follows:

Record of Proceeding of the Respondent of OLRB Vol I (3 copies)
Record of Proceeding of the Respondent of OLRB Vol II (3 copies)
Record of Proceeding of the Respondent of OLRB Vol III (3 copies)
Record of Proceeding of the Respondent of OLRB Vol IV (3 copies)
Record of Proceeding of the Respondent of OLRB Vol V (3 copies)
Record of Proceeding of the Respondent of OLRB Vol VI (3 copies)
Record of Proceeding of the Respondent of OLRB Vol VII (3 copies)
Record of Proceeding of the Respondent of OLRB Vol VIII (3 copies)
Record of Proceeding of the Respondent of OLRB Vol IX (3 copies)
Record of Proceeding of the Respondent of OLRB Vol X (3 copies)
Record of Proceeding of the Respondent of OLRB Vol XI (3 copies)

Notice of Application for Judicial Review (Original Issued and Copy)

CV-17-624 was received in Hamilton on Feb 1, 2018 and is available for viewing at the John Sopinka Courthouse, 45 Main Street East, Hamilton, ON.

You have already been provided a copy of the e-mail from Ms. Traynor. There are no other e-mails.

There was no Judicial direction sought.

Best regards,
Stewart Smith

Client Service Representative
c/o John Sopinka Court House
45 Main Street East, Suite 108
Hamilton, ON L8N 2B7
PH (905) 645-5252 x3763
FAX (905) 645-5372
Stewart.a.smith@ontario.ca

From: Myriam Michail [<mailto:myriammichail@hotmail.com>]

Sent: April 16, 2018 4:58 PM

To: Smith, Stewart A. (MAG)

Cc: Elizabeth M. Traynor; Pcavalluzzo@cavalluzzo.com; Marvy, Leonard (MOL); Liam J. Ledgerwood; Christopher Perri; Myriam Michail

Subject: Urgent: response required

Dear Mr. Smith,

On March 21st I asked you to provide me with the information attached and on March 28 and 29 with the information below. Sadly you have ignored all my emails and hasn't provided answers to any of my questions. The information requested is crucial for me to be able to continue with the litigation process and a fair consideration of the merits of my case.

As you know, on September 5, 2017, Judge Duncan Grace ordered a clerk to remove a March 9, 2017 Application from file 624/17, to photocopy it, to change the date on it to September 5, 2017, to seal it and to use it to open file DV 25/17.

Now, all Respondents have endorsed this file and Application. The Respondents' request that I endorse and validate file DV25/17 is made in bad faith. The forged Application of March 9, 2017, incorrectly only lists OECTA as a Respondent. This initial mistake was due to my lack of knowledge as a self-represented litigant at the time. The LDCSB and the OLRB were since added, and have rightly appeared on all submissions since March 13, 2017, as well as all decisions that have been issued. This fraudulent file and forged Application are detrimental to me. I am confident that you would appreciate the seriousness of this situation.

As a self-represented litigant I am troubled that the Respondents made all these arrangements with you without my knowledge. I am now being asked to consent to this illegal consolidation, with documents missing, inaccurate listing of respondents a forged application or otherwise, I am completely shunned and left in a chaotic situation. I can't proceed without all my documents, genuine documents, a correct file number and all the Respondents properly named without abbreviations.

I am asking you again to please provide me with answers to the questions attached and below. In all fairness, I require clarification and due process. I am unclear as to the reason you are withholding all information from me and rendering me unable to proceed while time is running out. I would like to remind you that the lack of response is abusive.

If it is not your intention to respond then please advise who would be the person to contact.

Thank you,
Myriam Michail

From: Myriam Michail <myriammichail@hotmail.com>

Sent: Thursday, March 29, 2018 9:52 AM

To: Smith, Stewart A. (MAG)

Cc: Pcavalluzzo@cavalluzzo.com; Christopher Perri; Marvy, Leonard (MOL); Liam J. Ledgerwood; Sandy Nesbitt; Elizabeth M. Traynor

Subject: Re: Urgent: Omission of Respondents/DC-18-922-JR Content Inquiry

Dear Mr. Smith,

Regrettably, I have not received a response from you regarding the email I sent on March 21, 2018 and yesterday March 28, 2018. As the long weekend approaches, I am asking you to kindly reply to my inquiries so I can proceed accordingly. As your response directly impacts my ability to commence perfecting my application, and file the Appeal, any further delay proves detrimental to me.

Again, as I am self-represented, time and accuracy is crucial for my ability to represent myself in this matter. These unanswered questions have caused me severe distress as I am attempting to best prepare for the impending hearing as well as ensuring that this matter is not compromised.

I am respectfully asking you to provide me with the following information:

1. London File 624/17

- The Hamilton file Number assigned to this file;
- The complete list of respondents without abbreviations;
- the content of this file;
- The status of the following documents that are missing from this file to my recollection:
 1. 1st Motion and Unissued Notice of Application form 14 E for Judicial Review under provision 6 (2) of the JRPA Dated Mar 09, 2017.
 2. March 21 , 2017 , Judge Lynne Leitch's decision (handwritten endorsement) requesting that I file the second "Motion for Urgency".
 3. Certificate of Readiness of Special Appointment dated March 21,2017.
 4. 3 sets of the 11 volumes of the OLRB Record of Proceedings as entered according to the Affidavit provided; These documents should be in File 624117.
 5. Re. "The Reply to Respondents' Motion Record Response (i.e Copies) * No Date The documents should be dated April20, 2017.
 6. The letter sent from Mr. Cavalluzzo to Judge Grace regarding Cost dated July 31, 2017.

2. The impugned London File DV 25/17

- The Hamilton file Number assigned to this file;
- the complete list of respondents without abbreviations;

- The content of this file;
 - The status of the forged application and this fraudulent file.
3. The exact date the Superior Court File 624/17 was received in Hamilton and was the Trial Coordinatoor aware of this transfer? if not, the reason.
 4. Provide a copy of the email sent by Ms. Traynor and copied to the Respondents regarding the transfer of file DV 25117 to Hamilton.
 5. All and any other emails sent by the parties regarding this file that were not copied to me.
 6. The process you followed to transfer file DV 25/17 from London to Hamilton.
 7. A copy of the history record of File 624117 and DV 25117 that you received from London at the time the Files had been transferred, including all relevant dates.
 8. The list/scan and numbers of Affidavits submitted in file 624117 and DV 25117.
 9. You also state: "As long as all the parties agree, and after I seek Judicial direction to make sure that no additional orders are required'. Please explain the directions you plan to seek and from which judge.

This information is paramount for me to obtain as soon as possible, and I cannot proceed without it. Please confirm receipt of this email, as well as the time frame in which you plan to respond if you still can't respond. Your timely response is appreciated.

Sincerely,

Myriam Michail

From: Myriam Michail <myriammichail@hotmail.com>
Sent: Wednesday, March 28, 2018 8:48 AM
To: Elizabeth M. Traynor; Samantha.Gess@ontario.ca
Cc: Pcavalluzzo@cavalluzzo.com; Christopher Perri; Marvy, Leonard (MOL); Smith, Stewart A. (MAG); Liam J. Ledgerwood; Vair, Jim C; Sandy Nesbitt; amanda.shaw@siskinds.com; Myriam Michail
Subject: Urgent: Omission of Respondents/DC-18-922-JR Content Inquiry

Good Morning All,

Mr. Smith, upon review, I noticed in your email to all parties of March 19, 2018, that the subject line reads: ***"DC-18-922-JR - Michail V. Ontario English Catholic Teachers' Association et al"***

Ms. Traynor, the subject line of your email *"on behalf of the other parties"* (see below) of March 26, 2018 to his Honour Senior Judge Arrell reads: ***"DC-18-922-JR- Michail v. OECTA et al"***, and this case citation is again stated in the body of your email.

Mr. Smith and Ms. Traynor, who is *"writing on behalf of the other parties"*, you both removed LDCSB and the OLRB as Respondents.

The correct title of the proceeding in file **DC-18-922-JR-** should read:

Michail v.

** Ontario English Catholic Teachers' Association, Marshall Jarvis, Bruno Muzzi, Fern Hogan, Joanne Schleen, Shelley Malone, Sheila Brescia,*

** London District Catholic School Board and*

** Ontario Labour Relations Board*

Please provide an explanation for this omission.

Furthermore, the contents of this file **DC-18-922-JR-** remain unconfirmed since I still have not received any response to my email of March 21, 2018. Please advise when this response would be forthcoming.

A response by the end of today would be appreciated.

Thank You.

Respectfully,

Myriam

From: Elizabeth M. Traynor <beth.traynor@siskinds.com>
Sent: Monday, March 26, 2018 1:43 PM
To: Samantha.Gess@ontario.ca
Cc: Pcavalluzzo@cavalluzzo.com; Christopher Perri; Marvy, Leonard (MOL); Smith, Stewart A. (MAG); Liam J. Ledgerwood; Myriam Michail; Vair, Jim C; Sandy Nesbitt
Subject: DC-18-922-JR - Michail v. OECTA et al - letter of March 26/18

Please see correspondence attached.

Elizabeth M. Traynor

Siskinds LLP

680 Waterloo Street
London, ON N6A 3V8

Tel: (519) 660-7890


Fax: (519) 660-7891

Mail: beth.traynor@siskinds.com

Web: www.siskinds.com

Blog: www.workinprogresslawblog.com

Follow us on www.twitter.com/siskindsllp

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Top 31

Tab 6

Incomplete Reporting

Myriam Michail

Fri 2019-09-13 12:07 PM

To: Roger.bilodeau@SCC-CSC.CA <Roger.bilodeau@SCC-CSC.CA>

Cc: Myriam Michail <myriammichail@hotmail.com>

Dear Mr. Bilodeau,

I have sent you an email yesterday and unfortunately find myself compelled to write to you again regarding a new development.

I am confident that you will agree that it is important to the integrity of the SCC that summary provided to the public be factually complete and accurate. I have now checked the SCC Summary of my case and it reports the following:

Keywords

Canadian charter (Non-criminal) - Freedom of expression (s. 2(b)).

This partial information is improper. The constitutional questions raised in my appeal report a breach of s.2(b), 7, 12 and 15(1) of the Charter not just s. 2(b). These omissions are serious and misleading to the reader. I have reported the following :

- a. Violation of the Constitutional rights guaranteed by s. 2(b) of the *Charter* to freedom of information, freedom of expression and the constitutional requirement of Court's openness.
- b. Violation of the litigant's Constitutional rights guaranteed by the *Charter* under s.15 (1) for an equal protection of the law by depriving them of their right to obtain and share with the public the most complete, accurate and honest evidence of what transpired during their own hearings, thus denying them a fair and open process and obstructing the proper administration of justice.
- c. Violation of the litigant's Constitutional right to security and liberty guaranteed by s.7 and 12 of the *Charter* by threatening me a steep fine of \$25,000.00 and/or six months imprisonment if I were to distribute the material in violation of s. 2(b), 7 and 12 of the Charter.

Mr. Bilodeau, I am asking you for the sake of all Canadians that you look into this matter and ensure the proper and complete reporting of facts and the integrity and transparency of this process.

I have sacrificed 10 years of my life, my health and wellbeing for this cause and I really hope to hear from you at your earliest convenience.

Respectfully,
Myriam

SE dot

Tab 7



68

September 18, 2019

Myriam Michail



Dear Ms. Michail,

RE: *Myriam Michail*
v.
Ontario English Catholic Teachers' Association, et al.

I acknowledge receipt of your emails dated September 12th and 13th, with respect to the above-captioned matter.

I wish to confirm that your application for leave to appeal material was in fact submitted to the Court on September 9, 2019 as previously indicated to you by the Registry. Please note that there are no defined time limits within which the Court must render its decisions. I cannot therefore give any indication as to when the Court's review of your file will be completed. You will of course be advised of the Court's decision in due course.

I also wish to confirm that your file was dealt with as expeditiously as possible, as is the case for all matters which are brought to the Court.

Yours truly,



Roger Bilodeau, Q.C.
Registrar

c.c.: Mr. Paul J.J. Cavalluzzo
Mr. Aaron Hart
Mr. Jacob Pollice
Ms. Audra Ranalli
Ms. Elizabeth Traynor

Tab 8

Tab 8

FILE NUMBER: _____

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)**

BETWEEN:

MYRIAM MICHAIL

APPLICANT

— and —

**ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION, MARSHALL
JARVIS, BRUNO MUZZI, FERN HOGAN, JOANNE SCHLEEN, SHELLEY
MALONE, SHEILA BRESCIA;**

**LONDON DISTRICT CATHOLIC SCHOOL BOARD; AND
ONTARIO LABOUR RELATIONS BOARD**

RESPONDENTS

**ATTORNEY GENERAL OF CANADA and
ATTORNEY GENERAL OF ONTARIO**

RESPONDENTS

MEMORANDUM OF ARGUMENT OF THE APPLICANT

MYRIAM MICHAIL
Self-Represented Litigant

Pursuant to Section 40 (1) of the Supreme Court Act

September 26, 2019

VOLUME 1

MYRIAM MICHAIL


Email: myriammichail@hotmail.com
Self-Represented Applicant

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Access to Justice: A Societal Imperative

Remarks of the Right Honourable Richard Wagner, P.C. Chief Justice of Canada

Thank you for that kind introduction. Distinguished judges, lawyers, colleagues, and friends: good morning. It's a pleasure to be here today at the 7th National Pro Bono Conference. You've got an incredible line-up of panels, workshops, and discussions ahead. Thank you for being here and for doing this hard but necessary work.

It's meaningful for me to be here in Vancouver, for a personal reason. When I was first appointed to the Supreme Court in 2012, I gave an interview to the *Globe and Mail* where I said that, "If you don't make sure there is access to justice, it can create serious problems for democracy."¹ This comment led to an invitation to give the keynote address at the first British Columbia Justice Summit in early 2013. It was my first major speech as a Supreme Court Justice. And here I am, back in Vancouver, more than five years later, which is wonderful. But what is not so wonderful is that we still face the same challenges, and I'm back here talking about some of the same issues. As we say in French, "plus ça change, plus c'est pareil", the more things change, the more they stay the same.

People sometimes talk about access to justice as if there were a golden age when everyone could afford a lawyer, and everyone could go to court to solve their problems quickly and painlessly. I can tell you this was never the case. We have always faced challenges. Lawyers' fees have always been expensive, court dockets have always been crowded, and procedures have always been slower than we'd like. We didn't even have legal aid programs in all provinces and territories until the mid-1970s.²

Over the years, we have made progress. Organizations like the Access Pro Bono Society of British Columbia have stepped in to help fill a need. The Society has brought together lawyers, legal professionals, and students to provide quality legal services to people and organizations with limited means, for free. It's an incredible accomplishment. Everyone who has been part of this should be very proud.

But I would be remiss if I didn't acknowledge someone here today who has also done a lot to make justice more accessible to Canadians. My former colleague on the bench, the Honourable Thomas Cromwell, has not only shown us that there is life after the Supreme Court, but also that we really can find solutions to these challenges. His work with, and I quote, the Canadian Forum on Civil Justice's Action Committee on Access to Justice in Civil and Family Matters – how did you fit that on a business card, Tom? – has not only led to some creative ideas, but also found practical ways to implement them. I know we're all looking forward to hearing his insights as he moderates the first session.

Even though so much has been done, we're all here today because we still have more to do.

Defining Access to Justice

Whenever I think about access to justice, a quote from Honoré de Balzac comes to mind. He said that, "Laws are spider webs through which the big flies pass and the little ones get caught." To me, that image perfectly captures not just the inequities in our legal system, but the tangible effects those inequities have on people. While the system is meant to treat everyone equally, some people get stuck, and expend a great deal of time and energy trying to break free. Others breeze through to resolution, and move on with their lives. Giving people access to justice is like giving them the tools to free themselves from the spider's web.

"Access to justice" can mean many things. Having the financial ability to get legal assistance when you need it. Being informed of your right to counsel when your liberty is at stake. Having courts that can resolve your problem on time. But it also means knowing what tools and services are available, and how to get to them. It means knowing your rights and knowing how our legal systems work. It can even mean seeing people like yourself represented in all parts of the legal system. And it means having confidence that the system will come to a just result – knowing you can respect it, and accept it, even if you don't agree with it. Ultimately, it is about getting good justice for everyone, not perfect justice for a lucky few. It's a democratic issue. It's a human rights issue. It's even an economic issue. Let me explain.

Access to Justice is a Democratic Issue

"Getting good justice for everyone" is a phrase I used a moment ago; I'm sure we could have a lively debate with the political scientists, but for me, as a jurist, those five small words might just capture the ultimate goal of a democratic state. We are very lucky to live in a stable and peaceful country. We trust that legal wrongs will be set right. Let's never forget that the first victims of a tyrannical and oppressive state are always the judges and lawyers who stand up for people's rights, and the media who report on them.

But the more difficult it becomes for people of a certain class, education, or income level to get justice, the more we put public confidence at risk. Look at the self-represented middle-class parent fighting for child custody. Look at the person accused of a minor crime whose legal aid lawyer struggles to competently do the work in the limited hours legal aid will pay for. Even with people like all of you working very hard to prevent it, every day our system fails someone.

Over time, this will diminish public confidence. In an extreme scenario, it could lead to social unrest. It's not the kind of thing that will happen overnight – but it keeps me up at night.

Access to Justice is a Human Rights Issue

Even before we feel the impact at a societal level, access to justice first and foremost affects the individual. Under the *Charter*, everyone has the right to equal treatment under the law and equal benefit of the law. To deny access to justice is to deny people their dignity, to say that some people are worthy of justice and some aren't.

Lack of access to justice reinforces existing inequities. An accused without legal representation may decide to plead guilty when he might have been acquitted or convicted of a lesser crime with a lawyer's help. He may be wrongfully convicted. He may be sentenced to a longer prison term than he would have received had he gotten legal advice. Out on bail, he may not be given the support he needs to comply with his bail conditions. In the end, those who can't access legal services may spend more time in jail. It has profound effects on people's lives.

Access to justice isn't just about social stability or individual rights, as important as they are. It's an economic driver, too. A person who is denied justice isn't going to be a positive and productive member of society. He will have a harder time motivating himself to work for the future. He probably won't be a good employee, or offer to volunteer his time, or make wise long-term choices. This affects all of us.

Similarly, people in business need to get commercial disputes settled quickly. The world economy is not going to wait on a lawsuit, and businesses risk getting left behind if they can't act fast. While large businesses can hire lawyers or go to arbitration, small- and medium-sized ones may not have that luxury. In some cases, accessible justice can mean the difference between a going concern and a bankruptcy. When justice is not accessible, there is a real economic cost, on top of the social and human costs.

Barriers to Access

I've given a brief overview of what access to justice is, and why it's important. Now comes the tricky question: why haven't we been able to achieve it? And, ultimately, what can we do about it?

Costs

Well, the first barrier is obvious, and perhaps the top concern of many people in this room: cost. Legal services are expensive. They are just out of reach for many Canadians.

In British Columbia, a single person making minimum wage will not qualify for legal aid if they are working full-time.³ The situation is the same in other provinces.⁴ Most people affected by lack of legal aid are women, people with disabilities, recent immigrants, members of racialized communities, and Indigenous peoples, who are overrepresented at lower income levels. Government spending on civil legal aid has fallen in Canada, from \$11.37 per person in 1994 down to \$8.96 in 2012.⁵ Spending in other areas (like health and education) has risen.

While we often see affordability as an issue for low-income households, middle-income earners, who make too much money to qualify for legal aid, also suffer. Some decide not to seek legal remedies or fight criminal charges because of cost. Others have no choice but to represent themselves because they can't afford counsel. Average legal fees for a two-day civil trial in Canada were \$31,330 in 2015, which is out of reach for many.⁶ In fact, I think many lawyers wouldn't be able to afford their own services. The problem is especially acute in family law, where more than half of litigants come to court without a lawyer.⁷ In criminal law, while it is rare for persons accused of very serious charges to represent themselves due to lack of funding,⁸ legal aid frequently will not cover minor criminal offences,⁹ even though these can still affect a person's life and livelihood.

The numbers of self-represented litigants are not going down. They file about a third of leave applications at the Supreme Court. The average number of these applications that are granted in a given year is zero, since only one or two are granted every five or so years.¹⁰ Dealing with "self-reps" imposes heavy burdens on judges, court officials, and opposing counsel. This leads to frustration and contributes to a second barrier, delay.

Delays

Over the years, trials have become longer and more complicated. Forty years ago, a murder trial might have taken a week. Today, one month isn't unusual, and complex trials can go on for years. This is partly for good reason. New technologies have brought us new kinds of evidence, requiring testimony from new kinds of experts. The *Charter* allows an accused to challenge breaches of fundamental rights.

But, as the Supreme Court said in *Jordan*, we can no longer be complacent about delay. No one wins when a charge is thrown out due to delay – not the accused who has been caught in limbo, not the victims and witnesses who may ultimately feel they have been denied justice, not society. No one.

Delays in the civil justice may be even worse, as there aren't the same constitutional pressures when a person's liberty isn't at stake. Parties overwhelm each other with thousands of pages of disclosure. It can take a year or more even to get a date for a trial that might last two months. In the meantime, parties suffer financial losses or family disharmony; physical and mental health issues remain unresolved. An injured person might be persuaded to take a lower settlement because he can't work and needs to pay the bills. Delays cause people to make difficult, and life-altering, choices.

Lack of Information

A third barrier to access to justice is lack of access to legal information. How many problems could be avoided if the public had a higher level of legal knowledge, or at the very least quick and affordable access to basic advice?

On the other hand, a little knowledge is a dangerous thing, and that's no more evident than when you see a self-represented litigant in court, relying on some arcane point of law that she Googled, without realizing why it doesn't actually help her. Or without noticing that everyone else in the room is getting frustrated at the waste of time.

It isn't just a problem of a lack of information; there is also too much *misinformation*. People are starting to distrust public institutions. Some litigants choose to represent themselves not because they can't afford a lawyer, but because they don't trust them. Because lawyers are part of the "system." Just providing more legal information won't solve this.

What Can We Do?

When I spoke earlier about how access to justice has been a longstanding challenge, I didn't mean that it can't ever be overcome. Judges, lawyers, and policymakers have made extraordinary efforts to improve access in recent decades. Many of you in this room are responsible for the legal clinics, pro bono programs, dispute resolution mechanisms, and legal information initiatives that are helping shine the light of justice into the dark. I don't want to downplay any of that work. My point is, we need to continue it.

We need to do more to provide legal information to citizens at court houses, through justice organizations, and online. With today's technology and communications tools, there are many ways we can improve access to information. We are putting a lot of thought into this at the Supreme Court. We're posting information on Facebook and Twitter, so that more Canadians will see it, since we know that not everyone is looking at the Court's website. Our plain-language Cases in Brief describe decisions in non-legal language to allow everyday readers to understand the decisions, why they are important, and how they may affect their lives.

Every actor in the justice system has a role. Judges can no longer stay on the sidelines, but need to think critically about how they can improve access. Related to that, we need more judges on the benches. We have dozens of judicial vacancies in this country. Every position that goes unfilled means longer waits for cases to be heard, which reduces access for everyone.

Legal aid programs need to find new and innovative ways to provide competent services with limited resources. From policy makers to law societies, everyone in the justice system needs to think hard about what we can do differently to give people access to justice and maintain confidence in the legal system.

Last, but certainly not least, we need lawyers to do more pro bono work. All of you are in this room because you care about access to justice. Because you know this matters. You've made a commitment to help. And I applaud you for it.

It is a privilege to practice law in this country. Society puts a lot of trust in lawyers as members of the bar. The work of a lawyer is a kind of public service, in that it supports our democracy, protects human rights, and keeps our economy running smoothly. Of course, there are many bad jokes out there, and you've probably heard a few, that will tell us that being a lawyer isn't about any of that at all. But it is a noble calling. And part of that nobility is found in giving back, when we can. I know all of you are here because you want to.

Our challenge is to find ways to integrate pro bono work into the fibre of our profession. To make it more than just a nice value-add that we can feel good about. Providing pro bono services doesn't have to mean giving up your income or sacrificing all of your spare time. It means giving back a little.

I am encouraged to see that pro bono representation is increasing. Law firms are now building pro-bono projects into their business models, as a way to give back, build a positive reputation, and give their younger lawyers the courtroom experience they need to become better advocates. We've got to encourage this trend. *You've got to encourage this trend.* Many of you have joined firms that take on pro bono work. Make sure those programs are maintained, and expanded. You'll have a voice where others don't.

Conclusion

Pro bono work is hard. Professionally, and emotionally. When we talk about the numbers and statistics, we often don't take the time to acknowledge the human cost behind it. The anxiety and suffering of people who need legal help but can't get it – and the stress and anguish of the people who are trying to help, but simply cannot do all that needs to be done. I said pro bono work is a noble calling; that doesn't mean it's glamorous. But it is work you can proud of. And it is our responsibility, as a society.

As much as we may want a perfect system, we live in the real world, with real challenges and limitations. But that does not mean we should not continue to aim for something better, because the higher our aim, the more we will achieve.

Let's do our part to make sure everyone can get through Balzac's spider's web without getting caught.

Thank you.

- 1 Kirk Makin, "**Supreme Court judge warns of 'dangerous' flaws in the system,**" *The Globe and Mail* (13 December 2012), page A1.
- 2 Mary Jane Mossman, "**Legal Aid,**" *The Canadian Encyclopedia* (7 February 2006, updated 16 December 2013).
- 3 Legal aid cutoffs for a single person in B.C. are \$1,580 per month in net income for a single person. See: B.C. Legal Services Society, "**Do I qualify for legal aid? Minimum Wage Factsheet**" Minimum wage in B.C. is currently \$12.65 per hour. See: Government of B.C., "." This works out to \$2055.63 a month or \$24,667.50 per year for a person working 37.5 hours a week (37.5 hours x 52 weeks = 1950 hours; 1950 hours x \$12.65 = \$24,667.50 per year, ÷ 12 months = \$2055.63. 40 hours per week = 2080 hours per year = \$26,312 per year or \$2192.67 per month). According to **Ernst & Young**, in 2018 a person making \$24,667.50 (37.5 hours minimum wage) would pay \$2,358 in income tax for an after-tax income of \$22,309 per year or \$1859.08 per month. A person making \$26,312 (40 hours minimum wage) would pay \$2,747 in tax for an after-tax income of \$23,565 per year or \$1963.75 per month. A person would have to make less than \$20,280 per year (tax of \$1,322 = after-tax income of \$18,958, less than legal aid's \$18,960 cutoff), or work 30 hours a week or less on minimum wage (\$20,280 ÷ \$12.65 = 1603.2 hours ÷ 52 weeks = 30.83 hours per week).
- 4 Nye Thomas, "**Ontario's financial eligibility standard for legal aid: falling behind the rest of Canada,**" 11 March 2014.
- 5 Ab Currie, "The State of Civil Legal Aid in Canada: By the Numbers in 2011-2012" (Toronto: FCJC, 2013); see also Professor Michael Trebilcock, **Report of the Legal Aid Review 2008** (Report submitted to the Honourable Chris Bentley, Attorney General of Ontario) (Toronto: AG Ontario, 2008).
- 6 Alex Balingall, "**Justice Denied: Huge legal bills push many to self-represent in court**" (Toronto Star, 11 April 2016).
- 7 *Ibid.*
- 8 Alyshah Hasham, "**Self-represented defendants are a tricky problem for justice system**" (Toronto Star, 16 January 2017).
- 9 Michelle McQuigge, "Self-representation in court on the rise, experts say" (Toronto Star, 25 October 2017).
- 10 Internal statistics.

**Remarks of the Right Honourable Richard Wagner, P.C.
Chief Justice of Canada
On the occasion of the 7th Annual Pro Bono Conference
Vancouver, British Columbia
October 4, 2018**

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Tab 10

EMAIL beth.traynor@siskinds.com

FILE NO. 862327/EMT/mc

Personal & Confidential
Delivered By Personal Delivery

November 12, 2019

Ms. Myriam Michail


Dear Ms. Michail:

Re: LDCSB v. Myriam Michail
Vexatious Litigant Application

Please find enclosed our client's Notice of Application.

Please note that the first appearance is scheduled for November 22, 2019 at 10:00 a.m. at the London courthouse. At the first appearance, we will schedule a special appointment, which will likely in April or May of 2020 according to current court availability. If you could please provide us with your availability for those months, we would be willing to appear for both parties in order to schedule a future date so that you are not inconvenienced in having to appear. If you prefer to appear in person, of course you are welcome to do so.

On November 22nd, we will also need to provide the court with a schedule of when each party will serve the documents we intend to rely on. We are prepared to serve you with our documents at least 60 days prior to the special appointment hearing date and suggest that your responding materials be provided 30 days prior to the hearing date. Please let us know if you are agreeable to that schedule.

As always, if you have any questions, please feel free to contact me.

Yours very truly,

Siskinds LLP

Per 

Elizabeth M. Traynor

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

LONDON DISTRICT CATHOLIC SCHOOL BOARD

Applicant

- and -

MYRIAM MICHAIL

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing on November 22 at 10:00am, at 80 Dundas Street, London, Ontario N6A 6A3.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

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Date: November 12, 2019

Issued by [REDACTED] MARGARET KLASSEN
Local registrar

Address of 80 Dundas Street
court office London, ON N6A 6A3

TO: Myriam Michail

[REDACTED]

Respondent

APPLICATION

1. The Applicant makes application for:
 - (a) an Order that no further proceeding be instituted or continued by the Respondent in any court except by leave of a judge of the Superior Court of Justice;
 - (b) an Order requiring the Respondent to deliver a copy of the vexatious litigant order and any written decision arising from this Application to any person or body with whom she initiates or continues any complaint, including, without limitation, any court, administrative body, regulatory body, and the Crown;
 - (c) costs of this Application on a substantial indemnity basis; and
 - (d) such other relief as this Honourable Court deems just in the circumstances.
2. The grounds for the application are:
 - (a) Section 140 (1) of the *Courts of Justice Act*, R.S.O. 1990, c. C-43;
 - (b) Rules 1, 2, 14.05, 38 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194;
 - (c) The Respondent has persistently and without reasonable grounds instituted vexatious proceedings in the Superior Court of Justice, the Court of Appeal for Ontario, the Supreme Court of Canada, the Ontario Human Rights Tribunal and the Ontario Labour Relations Board;
 - (d) The Respondent has persistently and without reasonable grounds conducted such proceedings in a vexatious and abusive manner; and
 - (e) Such further and other grounds as counsel may advise and this Honourable Court may permit.

3. The following documentary evidence will be used at the hearing of the application:
- (a) Affidavit of Jim Vair and exhibits attached thereto;
 - (b) Such further and other documentary evidence as counsel may advise and this Honourable Court may permit.

November 12, 2019

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LONDON DISTRICT CATHOLIC
SCHOOL BOARD
Applicant

and

MYRIAM MICHAIL
Respondent

Court File No.: 2208/19

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at LONDON

NOTICE OF APPLICATION

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