

**FORM 25****NOTICE OF APPLICATION FOR LEAVE TO APPEAL**

*(Pursuant to Rule 25 of the Rules of the Supreme Court of Canada)*

**TAKE NOTICE** that the Applicant hereby applies for leave to appeal to the Supreme Court of Canada, pursuant to *section 40 of the Supreme Court Act, R.S.C. 1985, c. S-26*, from the judgment of the British Columbia Court of Appeal in action number [REDACTED] [REDACTED] for the reversal of the judgements pronounced on this date including an order dismissing the Applicant's Application to extend time to Appeal S-229680, and its associated fine with award of special costs to the Respondents.

AND FURTHER TAKE NOTICE that this Application for leave is made on the following grounds:

1. The Appellate judge omitted essential components of the legal test;
2. The Appellate judge erred in fact;
3. Dismissal of the Applicant's Application was predicated on two other matters which require trial of the common issues in S-229680;
4. The Appellate judge is evidenced to have decided the Application prior to its hearing.

AND FURTHER TAKE NOTICE that this Application for Leave raises the following issues of public importance:

1. Are rules of procedure meaningful?
2. Can the Canadian public always expect courts to abide by and enforce governing procedural rules and legislation?
3. Does the Government of Canada insulate its agencies and sponsored private sector entities and Directors from prosecution?
4. Germane to comments by Hon. Marshall Rothstein, can Canadians expect a fair and unbiased judicial system? Quote:

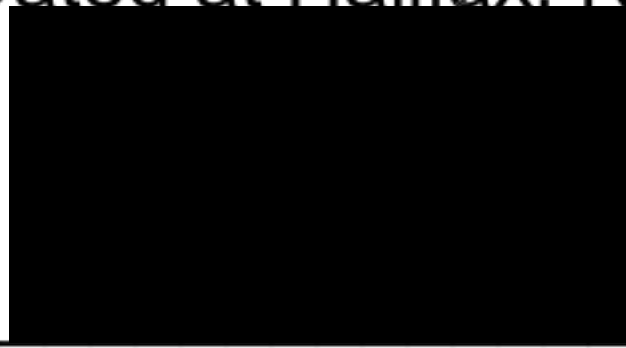
*"I'm not sure that I would be comfortable thinking that judges should be advancing the law with a social agenda in mind. It seems to me that the social agenda is the agenda for Parliament and if Parliament wants to advance the law in social terms, that's their job."*  
- Hon. Marshall Rothstein (also see Bill of Rights, section 2(e))

5. In accord with official admissions by CAF leadership in the *Gosselin Reports* and other publications confirming InfoOps and PsyOps on targeting Canadian Citizens, has the

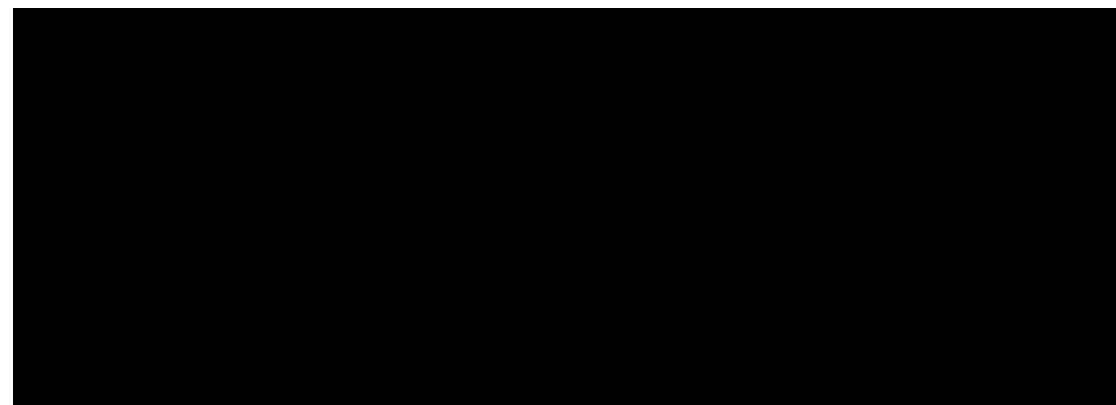
CAF expanded such operations to include contracting social media influencers and CIMIC participants?

6. Regardless of the merit of a matter in its own right, is self-representation in Canada viable?

Dated at Halifax, Nova Scotia this 2nd day of June, 2023.



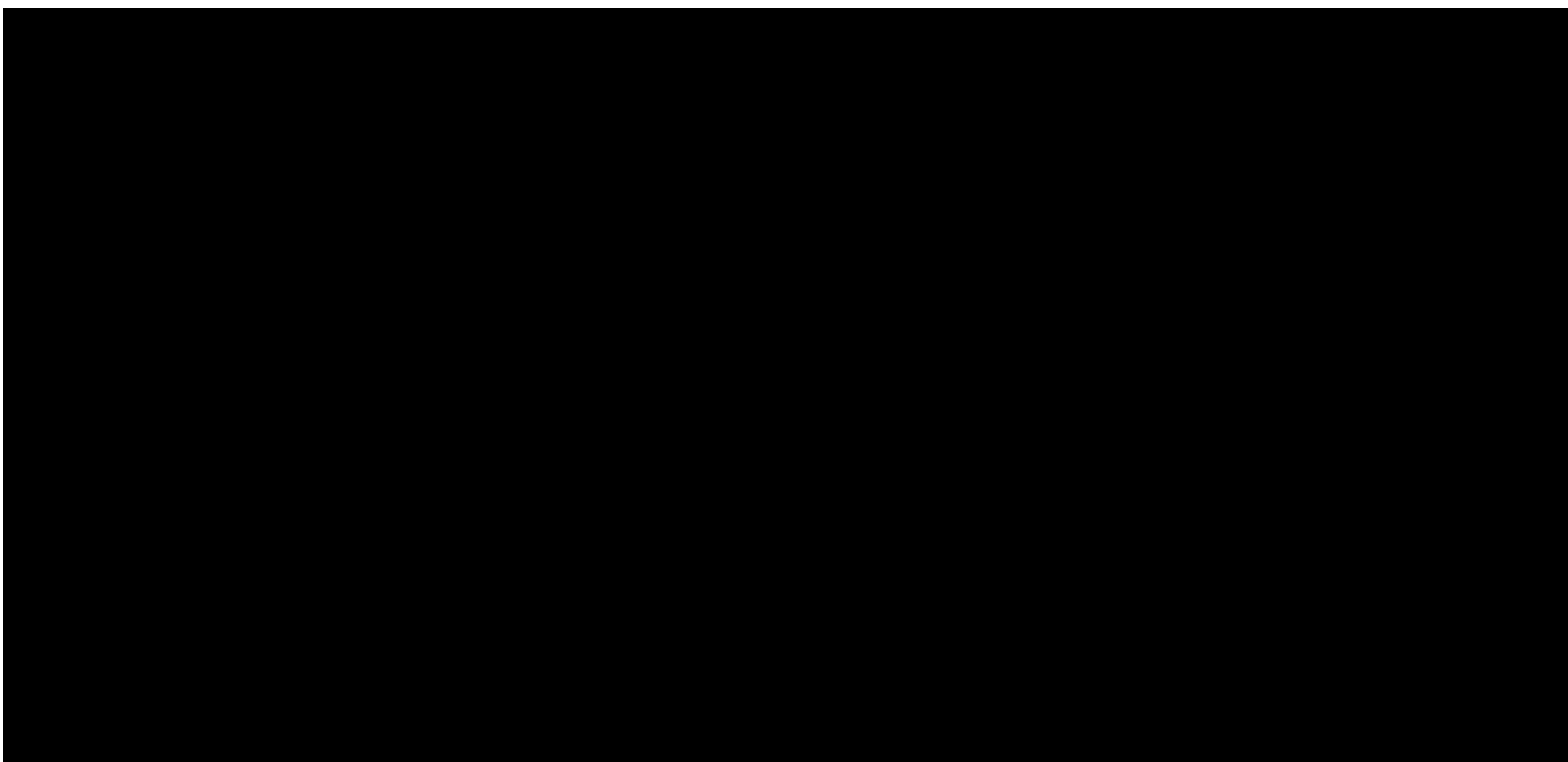
Signature of Nathan K. Dempsey (Self-Represented)



**ORIGINAL TO:**

**Registrar**  
Supreme Court of Canada  
310 Wellington Street  
Ottawa, ON  
K1A 0J1

**COPIES TO:**



**Notice to the Respondents:** A respondent may serve and file a memorandum in response to this application for leave to appeal within 30 days of the date a file number is assigned in this matter. You will receive a copy of the letter to the applicant confirming the file number as soon as it is assigned. If no response is filed within that time, the Registrar will submit this application for leave to appeal to the Court for consideration.



## APPLICANT'S MEMORANDUM OF ARGUMENT

### PART I – STATEMENT OF FACTS

(A concise overview of your position with respect to the issues of public importance and a concise statement of facts.)

1. Case file S-229680 considers an account of widespread mischief and harassment linked to the Respondents on file, initiating in November 2021 prior to the filing of S-220956 and continuing to present. These events were first sworn in an Affidavit made May 20th, 2022 and remain to be tried in any capacity. Paragraphs 22 through 30 in the body of the Applicant's accompanying Affidavit made May 30th, 2023 summarize these events in brief, whereas the entirety of the same Affidavit contains a voluminous and complete account of all matters relevant in the Application, including those which meet test criteria for consideration under section 241(3.1) of the Income Tax Act.
2. The Respondents to this Application include [REDACTED] the Attorney General of Canada. [REDACTED] is a CAGE company (Corporate and Government Entity), and whereas [REDACTED] is sponsored under the Canadian Federal Government's [REDACTED] program. Lead counsel for [REDACTED] serves as counsel and advisor to the Canadian Armed Forces ("CAF"). S-229680 includes a class of Respondents which await certification under the *Class Proceedings Act, R.S.B.C. 1996, c.50*, best described by the United Nations Office on Drugs and Crime as a "Hub" of online actors. The same are substantially related to the Respondents in the Style of Cause.
3. The **preface** in the same Affidavit describes the history of events with the Parties and defines the relevant action numbers and their distinction. Proper understanding of this matter will require review of the same Affidavit, and likewise, review of the Applicant's Affidavits in S-229680, sent via courier to the SCC Registry in the same box in cerlox-bound hardcopy, and DVD-ROM.
4. S-229680 further considers an account of widespread obstruction of justice in civil proceedings involving the Parties from inception. The Applicant's supporting Affidavits packaged with this Application contain supporting visual exhibits, chambers transcripts, communications, corrective letters to the court, and shareholder records information.
5. These accounts, coupled with systemic denial of recourse to law enforcement and customary avenues occasioned the filing of S-229680, a matter brought under the *Class Proceedings Act, R.S.B.C. 1996, c.50*, which has in turn been prevented from a fair trial in accord with governing rules of procedure. Packaged alongside this Application for Leave to Appeal, and on the advice of the SCC Registry are two other Applications seeking Leave to Appeal related matters. These matters inform one another.

6. In terms of acronyms, the BCCA = the British Columbia Court of Appeal, the BCSC = the Supreme Court of British Columbia, and the CPA = the *Class Proceedings Act, R.S.B.C. 1996, c.50*.

Style of Proceedings in S-229680

7. As outlined in the Preface of the Applicant's Affidavit made May 30th, 2023, the matter of S-229680 was initially filed as a Petition; action number S-228567 in the BCSC. In consideration of the accounts in the foregoing paragraphs, the Applicant sought to certify a class of Respondents, dubbed *Defendant4*, as a class of Respondents substantially related to the Respondents in the Style of Cause. Justice [REDACTED] makes reference to the same in paragraph 21 of her oral reasons, but does not consider their role in the matter or in the factual background concerning the parties generally speaking. In November 2022, counsel for the Respondents advised the Applicant that the relief he sought in S-228567 could not be brought by way of Petition. Understanding this to be accurate, the Applicant closed that action number via Notice of Discontinuance and opened S-229680 under the *Class Proceedings Act, R.S.B.C. 1996, c.50*.
8. The contents of S-228567 were permanently sealed in their entirety by BCSC justice David Crossin (oral reasons in Second Affidavit S-229680, pages 16-18). This is compelling whereas the Applicant's Affidavit in this file contained no body of sworn statements, and contained a series of exhibits comprised of content which might otherwise be available to the public via google search. Commensurate with justice [REDACTED] pronouncement voicing the same, justice [REDACTED] incorrectly asserts in his oral reasons that this affidavit is suffused with proprietary [REDACTED] shareholder data (para 8, oral reasons). A copious amount of visual exhibits concerning *Defendant4* were shown in this Affidavit, alongside reference of linkage to the Respondents, including an exhibit showing earnest efforts by counsel for [REDACTED] to censor these materials. Counsel for the Attorney General of Canada did not attend this hearing and took no position. The Application Record denoted counsel for [REDACTED] as representing the AG in this hearing.
9. S-229680 was sealed in its entirety on a temporary basis by BCSC justice [REDACTED] prior to counsel for [REDACTED] accepting service of its pleadings. The file was permanently sealed in its entirety by justice [REDACTED]

Governing Rules of Procedure in S-229680

10. Page 60 of the Applicant's First Affidavit in [REDACTED] contains a list of procedural rules governing the Style of Proceedings in S-229680. Whereas these are of critical importance to understanding the background and reason for delay in filing the Notice of Appeal, these are listed below.



- a) **BCSC Rule 22-3(5)** maintains that a document prepared for use in the proceeding must be headed with the style of proceeding set out on the most recent originating pleading to be filed in that proceeding.
- b) **BCSC Rule 22-3(6)(a)** holds that materials filed in a CPA proceeding must include the words "*Brought under the Class Proceedings Act, R.S.B.C. 1996, c.50*" immediately below the listed parties if it is intended, at the start of the proceeding, that a certification order will be sought in respect of the proceeding under the CPA. This intention is furnished in paragraphs 7 and 53 of the Notice of Civil Claim.
- c) **BCSC Practice Direction 5 ("PD-5")** is a governing procedural directive for matters brought under the CPA. Pursuant to paragraph 3 of the same, the Court will assign a Case Management Judge to preside in the proceeding, advise when the same is assigned, and schedule a Case Conference.
- d) **CPA Rule 14(1)** maintains that the same judge who makes the certification order must adjudicate all Applications filed in the matter prior to the trial of common issues.
- e) **CPA Rules 11(1)(a), 18(1), and 20(1)** maintain the Common Issues are to be determined together by the Court.
- f) **CPA Rule 5(6)** of the Act maintains that the Court may adjourn the Application for Certification to permit the parties to amend their materials or pleadings and/or to permit further evidence.
- g) **CPA Rule 5(7)** of the Act maintains an order certifying a proceeding as a Class Proceeding is not a determination of the merits of the proceeding. In consideration of Rule 5(5) of the CPA, and in supplanting BCSC Rule 7(1) by way of Style of Proceeding, materials supporting the Cause of Action are to be disclosed in Supporting Affidavits. A person filing an affidavit under subsection (2) or (4) must;
  - i) set out in the affidavit the material facts on which the person intends to rely at the hearing of the application;
  - ii) swear that the person knows of no fact material to the application that has not been disclosed in the person's affidavit or in any affidavits previously filed in the proceeding, and; (c) provide the person's best information on the number of members in the proposed class.

11. This procedural framework provides multiple layers of safeguards to ensure complex matters involving complex issues are not railroaded in summary trials. None of these rules were adhered to while S-229680 was active.

*Manner of Violation & Ignored Corrective Letters Filed Under Practice Direction 27*

12. Shortly after the pleadings were filed, the Applicant took steps in accord with PD-5, in submitting the filed pleadings to the Canadian Bar Association, in accord with paragraphs 4 & 5 of the same.
13. Subsequently, pursuant to PD-5 paragraphs 1 & 2, the Applicant filed a request for the assignment of a Case Management Judge and Case Planning Conference on January 23rd, 2023. This filing was acknowledged by BCSC scheduling a few days later on January 27th, 2023 (First Affidavit CA [REDACTED] page 63). In this return correspondence, court staff distinguished between case file S-228567 and S-229680, the latter requiring the assignment of a case management judge pursuant to PD-5. The court advised that the assignment request would be “processed in due course”.
14. Shortly thereafter on February 1st, 2023, counsel for [REDACTED] filed an Application to strike S-229680 in chambers. An accompanying Application was filed the same day by counsel for the Attorney General of Canada seeking the same. Neither Application reflected that the matter was brought under the CPA, in violation of BCSC Rules 22-3(5) and 22-3(6). By means of the same, these Applications should have been rejected at the Registry counter when submitted (see rejection example on page 45, Fifth Affidavit in S-229680).
15. Justice [REDACTED] dismissed the acceptance of the February 1st, 2023 Applications as an “irregularity” though, pursuant to comments in a subsequent letter by BCCA Registrar [REDACTED] such omissions must be prevented and/or corrected lest a violation of procedural rules be “regularized” (First Affidavit [REDACTED] page 162).
16. The Applicant filed a letter to the BCSC under **Practice Direction 27 (“PD-27”)**, requesting the court reject the Respondents’ Applications pursuant to **BCSC Rule 9-5(3)**, and task the Respondents in re-submitting their Applications in accord with rules governing the Style of Proceeding. The Applicant received no response, and subsequently filed four follow-up letters under PD-27 to the court over the course of ten (10) weeks. Furthermore, the court was able to be reached to discuss the matter by phone, and those the Appellant did speak with redirected consideration of the topic.
17. Without any guidance from the court, and whereas the court did not respond to its obligation in paragraph 3 of PD-5 to assign a case management judge and schedule a case planning conference, it became apparent that a hearing would be held in chambers before justice [REDACTED]. The Applicant advised the Respondents and the court that to attend such a hearing would validate and regularize the violation of a plethora of rules put in place to govern the Style of Proceedings to ensure complex matters were not



unfairly compromised. The Applicant again requested that the court require the Respondents to conduct their actions in accord with rules governing the Style of Proceedings.

18. The remainder of rules cited in the foregoing paragraph 9 comprise a layered framework enabling Plaintiffs to prepare and adjust their matters before a Case Management Judge to ensure the common issues are decided together by the court at a Case Planning Conference. Likewise, CPA Rule 14(1) requires that the same Case Management Judge preside at all Application hearings that may occur prior to the trial of common issues. Whereas it may be easy to digest one or two irregularities as outliers, it is exceptionally difficult to accept a violation of nine (9) rules. Whereas the court refused to correct these violations over the course of ten (10) weeks, it is well beyond reasonable doubt to conclude obstruction in justice in this case aligns with the remainder of concerns in S-229680 concerning obstruction of justice in the S-220956 proceedings of 2022, and BCCA files related to the same.

#### Dismissal of S-229680

19. The Applicant received word via email on February 26th, 2022 that justice [REDACTED] dismissed S-229680 in its entirety, including Applications to certify *Defendant*4 as a class of respondents, and join Halifax Regional Police to the matter; the latter having published a false account of a meeting held December 8th, 2022 following its validation of the Applicant's evidentiary record (Third Affidavit S-229680, Exhibit B, SCC Accompanying Affidavit made May 30th, 2023, Exhibit A). This dismissal also pronounced the Applicant as a "vexatious litigant", awarded special costs to [REDACTED] and sealed the entirety of the file permanently.

#### Miscarriage in the [REDACTED] Oral Reasons

20. [REDACTED] is the same judge who dismissed S-220956 in a summary hearing, in contempt of and opposition to an outstanding order made April 1st, 2022 requiring the introduction of privileged audit materials and testimony in a matter the court initially determined as "complex" (First Affidavit S-229680, Exhibit E). In this instance, justice [REDACTED] dismissed S-229680 in contempt of the aforementioned nine (9) procedural rules that govern the Style of Proceedings. The oral reasons, in their own right, are suffused with errors which the Applicant addressed in his First Affidavit in [REDACTED] made in support of the time extension Application being appealed.

21. The Applicant obtained copies of the official transcript from the February 14th, 2023 hearing and his oral reasons dated February 26th, 2023. The [REDACTED] reasons are treated line-by-line in Nine Topics in the Applicant's First Affidavit [REDACTED] pages 26-41. The original transcript is furnished in Exhibit C of the same Affidavit. These topics include:

- a) The filing of Applications Submitted February 1st, 2023;

- b) Practice Direction 5 and the *Class Proceedings Act, R.S.B.C. 1996, c.50*;
- c) [REDACTED] error in his assertion of duplicative proceedings, “*Res Judicata and/or Abuse of Process*”;
- d) Lawfully-provisioned discovery: The order made April 1st, 2022, CRA, & Evidentiary Records;
- e) [REDACTED] error in his assertion that the Claims in S-229680 are “Vague, Bald, and Prolix”;
- f) [REDACTED] error in his assertion on Class Identity;
- g) [REDACTED] error in his assertions on the Applicant’s intent and character;
- h) [REDACTED] censorship of the file and judicial negligence;
- i) [REDACTED] treatment of costs and special costs.

Whereas treatment of the errors and negligence in the [REDACTED] transcript are too voluminous to fit within the confines of the 20-page limit provided in the SCC filing parameters, review of the aforementioned Affidavit is required.

#### Events Following the Dismissal of S-229680

22. On notice of the dismissal on February 26th, 2023, the Applicant filed another letter to the court under PD-27. The reason the Applicant took this course instead of filing a Notice of Appeal immediately was because the dismissal of a complex class action matter was made in violation of nine (9) governing procedural rules. By means of the same and by means of BCSC Rules 9-5(3) and 22-7(2), the court has the ability to correct this miscarriage in justice and reset the proceeding so that it can unfold according to its Style of Proceeding. Whereas procedural rules are settled law, remedy is a matter of compliance in the same court and not the Appeal of an order made under conditions that require the court’s attention. Again, the court did not respond.
23. Following several weeks of waiting coupled with unfruitful follow-up to the BCSC, on March 28th, 2023, the Applicant wrote the BCCA advising of the compliance issue in the lower court and an intent to pursue a fair trial in S-229680. The Applicant further advised the same informed the delay in filing a Notice of Appeal. The Applicant requested the court accept his Notice of Appeal filed that day as a placeholder until matters concerning the enforcement of procedural rules in the lower court could first be addressed. The BCCA did not respond.
24. The Applicant received a letter from BCSC Chief Justice Hinkson on April 11th, 2023, advising that Applications to certify Defendant4 as a class and to join Halifax Regional Police to the proceedings had been dismissed by justice [REDACTED]. No mention was made concerning the Applicant’s PD-27 letters filed over the course of the previous two months, and no mention was made of the violation of rules governing the Style of Proceedings.
25. Immediately thereafter, the Applicant advised counsel for both Respondents of an intent to move forward with an Appeal of S-229680 in the BCCA. Counsel for [REDACTED]



██████████ wrote to Registrar ██████████ the following day, requesting that the Applicant's Notice of Appeal, filed four (4) days beyond the 30-day regulation time, be refused "*out of concern for procedural rules*". Registrar ██████████ advised he was cognizant of the compliance situation in the lower court, but accepted the premise of the Respondents' letter and rejected my initial request for placeholder. The Registrar directed the Applicant to file an Application to extend time to Appeal to "*prevent a rule violation from being regularized*" (First Affidavit ██████████ page 162).

#### Hearing Before Justice ██████████

26. The Applicant's Application to extend time to Appeal was rejected in chambers by justice ██████████ who focused her attention on the two contempt rulings being appealed alongside this to the SCC, asserting that by means of former contempt rulings, one of which took place ██████████ preventing my further participation in proceedings was "*a requirement in the interest of justice*".

27. The Applicant argued an Appeal of S-229680 is required to properly inform the same matters of contempt, as is contemplated in the Applicant's two other Applications submitted alongside this one to the SCC. Counsel for both Respondents remained silent throughout the hearing. There was no material exchange or dialogue during this hearing. Remarkably, immediately following my oral submissions, and without pause or recess, justice ██████████ read an oral reasons dissertation which dismissed the matter, requiring fifteen (15) minutes to read. This inexorably suggests the dismissal was decided prior to the hearing.

28. The Applicant takes note that paragraph 36 of the oral reasons of justice ██████████ pronounced ██████████ denied the existence of a relevant evidentiary record he was privy to. This citation is further relevant whereas justice ██████████ predicated her dismissal on this ruling, and the ██████████ ruling of justice ██████████

#### Trial of Common Issues in S-229680

29. Purging contempt in the object of justice requires a trial of the matters considered in S-229680 ██████████ (being the corresponding Court of Appeal action number). This is due to the fact that S-229680 concerns itself with events since November 2021 through to present which informed events germane to the contempt hearings. Justice ██████████ reliance on the Respondents' contempt Applications as an estoppel to a fair trial in S-229680 places an unjust reverse onus on matters concerning the Parties. Likewise, it will be impossible to properly address miscarriage in justice as it relates to the contempt proceedings without an ability to address the matter of systemic harassment substantially related to the Respondents in the Style of Cause.

30. Absent an ability to appeal these three rulings ██████████ in, the alternative is the court requiring me to pay over \$200,000 CAD in combined fines



and special costs in the absence of a fair trial, and allowing the entirety of matters this concerns to remain untried. Whereas much of the evidentiary materials in these files are self-evident as the Court determined on April 1st, 2022, and subsequently by Halifax Regional Police on December 8th, 2022 prior to the publication of a false report obtained by FOIPOP, a review of privileged data legally provisioned under section 241(3.1) of the Income Tax Act is expected to perfect the evidentiary record in the absence of third party witness testimony. The court ordered this approach on April 1st, 2022, though the discovery process was subsequently suppressed as is exhibited in the Applicant's Affidavits. Notwithstanding, the information and materials on hand should reasonably inform the SCC that matters concerning the parties as contemplated in S-220680 deserve a fair hearing, and should not be obstructed through a prejudicial, onerous, and biased application to of the rules that govern proceedings.

### Self-Represented Litigant

31. I am a self-represented litigant ("SRL") and have been unable to obtain counsel since November 2021 through to present, including ProBono, as is exhibited in my supporting Affidavits. Negligence on the part of counsel is in [REDACTED] documented in my supporting Affidavits and is central to the background of matters concerning the Parties. The Supreme Court of Canada, in *Pintea v. Johns*, 2017 SCC 23, [2017] 1 S.C.R. 470, based on the *Principles of Self-Represented Litigants and Accused Persons*, 2006, has rejected the premise that lawyers and SRL's enter the judicial arena on an equal footing.
32. Whereas I have made every attempt to familiarize myself with the rules of procedure and relevant jurisprudence, and benefit from a lengthy academic history, I approach the judicial system with the mind of a common citizen with a problem, and an interest in justice which is not idiosyncratic as justice [REDACTED] suggested, by means of the jurisprudence relevant to the matters at issue. Justice should be accessible to all Canadians, whereas, such forms the basis of a charter-based social contract.

### **PART II – STATEMENT OF THE QUESTIONS IN ISSUE**

(A concise statement of the questions in issue, including any constitutional issue.)

33. Did the Supreme Court of British Columbia abide violation of nine (9) governing rules of procedure in favor of the state-sponsored Respondents?
34. Did the Supreme Court of British Columbia wilfully ignore five (5) corrective letters filed under PD-27 over the course of ten (10) weeks requesting it enforce its rules?
35. Are rules of procedure a material component in preventing abuse of process and miscarriage in justice?
36. Are rules of procedure settled law? Likewise, is compliance a matter for the court the matter is filed in?



37. Did the Appellate court consider all relevant components of the legal test?
38. Was the Appellate court right to predicate the dismissal of the Applicant's ability to appeal S-229680 on two other related Applications which require a trial of the common issues in S-229680?
39. Did the Appellate court decide the Application to extend time to Appeal prior to its hearing?
40. Does the Government of Canada insulate its agencies and sponsored private sector entities and Directors from prosecution?
41. Pursuant to the *Gosselin Reports* published in the Ottawa Citizen and referenced in other media outlets, has the CAF expanded its operations targeting Canadian Citizens through social media, CIMIC programs, InfoOps, and PsyOps?

### **PART III – STATEMENT OF ARGUMENT**

(A concise statement of argument.)

#### *Court Acknowledged Style of Proceedings. But Did Not Enforce Procedural Rules*

42. The BCSC allowed for the violation of rules governing the Style of Proceedings in S-229680 which ultimately resulted in the dismissal of the matter. This began with the sealing of S-229680 in its entirety by justice [REDACTED] prior to the Respondents accepting service of the pleadings (Third Affidavit S-229680, page 109).
43. At all material times, the court was aware of the Applicant's submission under PD-5 for the assignment of a Case Management Judge and Case Planning Conference. Four days following this filing, the BCSC acknowledged the same would be processed in accord with paragraph 3 of the same directive. In other words, the court recognized that the matter could not be determined by a chambers judge (justice [REDACTED]).
44. The Registry counter was aware of its rules when it accepted filing submissions made by counsel for [REDACTED] that were not submitted in accord with the Style of Proceedings. These Applications should not have been stamped as filed. Likewise, the court was informed of this by way of a corrective letter under PD-27. In an event Registry staff made an error (or two errors), the court had two weeks to correct this error through a correction provisioned under BCSC Rule 9-5(3), or Rule 22-7(2). The court did not respond in writing, and the court was unwilling to broach the topic by phone or otherwise.
45. Furthermore, no less than five (5) corrective letters were filed attention to the court per PD-27 concerning the same issue, over a ten (10) week period. Silence this persistent,



for this long, demonstrates willful negligence by the court in addressing this issue. This is otherwise known as bias.

*Do Procedural Violations in S-229680 Make any Difference?*

46. The next relevant question is - do these rule violations matter? The operative question is, can the matter of S-229680 be adjudicated in accord with the object and proportion of justice as a summary matter, without consideration of *Defendant4*, and without consideration of its complexity?
47. Counsel for both Respondents in the Style of Cause claim S-229680 considers the same questions as S-220967, as though each movie produced by the same Director contained the same plot. This is false. Per the Preface in the Applicant's supporting Affidavit made May 30th, 2023, S-229680 was filed in consideration of widespread obstruction of justice, relentless harassment substantially linked to the respondents, and denial of safe avenue of escape in seeking recourse to law enforcement. S-220956 focused on a settlement test germane to *Hawitt v. Campbell, 1983 CanLII 307 (BC CA)*, which the court validated on April 1st, 2022 through discovery provisions which were later unlawfully suppressed. As outlined in response to the [REDACTED] transcript, *Res Judicata* is not a viable consideration in S-229680.
48. S-229680 is fundamentally complex, whereas it involves three components coupled with a violation of section 3.2 of the [REDACTED] settlement agreement with [REDACTED]. These matters were not considered in proceedings prior to S-229680. It can be said that a premature summary dismissal in S-229680 is miscarriage in justice because it omits the entirety of consideration germane to *Defendant4* before the case could be tried. The initial question then is, are the Applicant's accounts of widespread harassment by *Defendant4* a matter of fact or fiction? Likewise, if fact, are they related to the Respondents in the Style of Cause?
49. RCMP records dating as early as February 2022 confirm multiple attempts to seek recourse to the same, prior to the filing of S-220956 that same month. The Applicant's affidavit records record widespread denial of recourse to law enforcement in addressing this issue. This culminated with Halifax Regional Police validating the Applicant's evidentiary record in a 79-minute meeting on December 8th, 2022, and later filing a report denying this evidentiary record and claiming the Applicant is mentally-ill. Justice [REDACTED] was privy to the Applicant's Third Affidavit in S-229680 which contains this report compared with a true audio transcript of the same meeting. Justice [REDACTED] denied the existence of this exhibit in paragraph 36 of his oral reasons, dated one day prior to the [REDACTED] hearing. The obstruction in justice this matter concerns is compelling, and the Applicant submits the same is painfully evident.
50. By way of the foregoing, S-229680 most certainly requires a fair trial in view of the gravity of matters considered and their complexity. Additional discovery is provisioned



under section 241(3.1) of the Income Tax Act, by means of the nature of events germane to *Defendant4*.

*A Matter of Settled Law to Prevent Miscarriage*

51. The next question is, can the Applicant be confident in relying on procedural rules? Should governing procedural rules be re-litigated by a chambers judge, or should they be obeyed in their own right? In other words, does the Applicant have any leverage in requiring the court to enforce its rules of procedure?
52. The Applicant cited the *Interpretation Act R.S.C., 1985, c. I-21* in his Application for Leave to Appeal the May 15th, 2023 order of justice [REDACTED] Section 2(1) of the Act categorizes Enactments as Acts and Rules in the same manner of weight and efficacy.
53. Section 10 of the same Act applies to the question of settled law. The operative language, as follows, demonstrates that rules are applied to shape circumstances and not vice-versa;
 

*“The law shall be considered as always speaking, and where a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to the enactment according to its true spirit, intent and meaning.”*
54. By way of example, if a hockey team wins a Stanley Cup Playoffs game as a result of an identified rule violation, the matter is called out and steps are taken to remedy the issue before the series continues. Rules are considered for the sustainability of the game, whereas the game would quickly lose credibility in the opinion of fans if the basis of the game were wilfully skirted. In times when there might be a question as to whether or not a goal was indeed valid, video footage is studied to determine what exactly happened, and the outcome is adjusted based on the result in accord with settled rules. Likewise, offside goals are never counted. Without governing rules, process, procedure, and fairness would not be possible. If a court would fail to enforce its own rules, why should the public trust this institution to uphold their rights? Likewise, if the materials in this file are unlawfully sealed as has been apparent, how might the public become aware of miscarriage?
55. Justice [REDACTED] relied on BCSC Rule 22-7(1), which states a failure to comply with BCSC Rules must be treated as an irregularity that does not nullify a proceeding, document, or order. However, the [REDACTED] reasons do not consider Rule 22-7(2) immediately following, which provides corrective measures for irregularities to the extent that such are often required to further the object of justice. Moreover, the majority of rules violated in the dismissal of S-229680 are set under the CPA, and Practice Direction 5, which inexorably guides the disposition of process in matters brought under the CPA. The BCSC wilfully ignored the Applicant’s repeated requests for correction.



56. Irrespective of CPA Rule 5(6) provisioning the ability of Plaintiffs to adjust their pleadings prior to a trial of common issues, and CPA Rule 5(7) requiring cause of action to be furnished in an Affidavit in support of the Class Certification hearing, which was not yet filed, BCSC Rule 22-7(3) maintains *“the court must not wholly set aside a proceeding on the ground that the proceeding was required to be started by an originating pleading other than the one employed.”* The same happened in the dismissal of S-229680 in consideration of the Plaintiff’s Notice of Civil Claim [REDACTED] oral reasons, paragraph 55).

Should the Applicant have Attended the [REDACTED] Hearing?

57. In first respect to proceedings in S-220956, an order was made on April 1st, 2022 to provision privileged audit information and expert testimony to ensure the same matter could be adjudicated with the proper tools. The court considered the matter complex in making this decision pursuant to *Hawitt v. Campbell, 1983 CanLII 307 (BC CA)* and in review of the Applicant’s supporting Affidavits concerning [REDACTED]. This order remained unfulfilled by the time it was dismissed as a summary matter by justice [REDACTED] in October 2022. The First and Third Affidavits in S-229680, Exhibit E in both, outline a chronology of extrajudicial authorizations, private hearings (see BCSC Rule 22-1(5)), and obstruction in justice which lead to this miscarriage.

58. Whereas an outstanding order was in place and remained unactioned, and in view of repeat miscarriages throughout hearings, the Applicant informed counsel that he would not attend a hearing predicated on the idea that the April 1st, 2022 ruling must be re-adjudicated. The Applicant’s attendance would validate *Res Judicata* respect to the discovery order. In short, the nature of proceedings and the tools required to litigate the matter had been settled already. Yet, this process was not permitted to unfold. The same is abuse of process, and this same abuse was sanctioned by the Supreme Court of British Columbia and the British Columbia Court of Appeal. To this end, the Applicant can cite the same jurisprudence justice [REDACTED] used in paragraph 64 of her oral reasons:

*“A court order must be obeyed until and unless it is reversed. Refusal to obey court orders strikes at the heart of the rule of law, at the core of the organization of our society. If court orders can be disregarded with impunity, no one will be safe. Our free society cannot be sustained if citizens can decide individually what laws to obey and what laws to disregard.”*

*Larkin v. Glase, 2009 BCCA 321 (para 7)*

59. In S-229680, should the Applicant be pulled into a proceeding that violates no less than nine (9) rules governing the Style of Proceeding in a complex matter, whereas, these same rules, being settled law, were put in place to ensure this type of judicial miscarriage is avoided.



60. CPA Rules 11(1)(a), 18(1), and 20(1) maintain the Common Issues are to be determined together by the Court. CPA Rule 5(7) of the Act maintains an order certifying a proceeding as a Class Proceeding is not a determination of the merits of the proceeding. CPA Rule 5(6) of the Act maintains that the Court may adjourn the Application for Certification to permit the parties to amend their materials or pleadings and/or to permit further evidence. None of the foregoing was considered. There is plenty of provision in settled enactments preventing premature dismissal, and the same was communicated to the court, and to justice [REDACTED]
61. In like fashion to the first [REDACTED] hearing, attendance is antagonistic to the object and proportion of justice. It is not the Applicant's job to argue the merits of settled procedural rules or call into question the wisdom of those who enacted those rules to begin with - procedural rules are settled law. Does the matter have merit? Let the matter be decided in a court of competent jurisdiction in accord with the rules of procedure. The Applicant submits the onus is on the BCSC to enforce rules governing the proceedings to ensure the matter can receive a fair trial, and not be railroaded in a summary dismissal which will result in the bankruptcy of the Applicant through special costs, enable the core issues to remain untried, and as a result, enable those evidenced in wrongdoing to continue their activities unscathed. Justice [REDACTED] did not consider this.
62. The matter concerns access to justice. The matter concerns fundamental Charter rights. In an event these rights and this access is no longer available, the Government of Canada should inform the public of the same, so the public can conduct themselves accordingly. As of this writing, one's Charter rights remain in effect.

### Legal Test

63. *Farrell v. Casavant, 2010 NSCA 71, Beveridge, J.A. (para 17)* explained the test for granting an extension of time to Appeal as, ultimately, a determination of whether it is in the interest of justice to grant the extension. In determining whether it is in the interest of justice, common factors to be considered are:
- a) The length of the delay;
  - b) The reason for the delay;
  - c) The presence or absence of prejudice;
  - d) The apparent strength or merit in the proposed appeal;
  - e) The good faith intention of the appellant who exercises his or her right of appeal within the prescribed time period.

64. Did justice [REDACTED] err in the legal test? If so, how? Relevant responses in consideration to the legal test are as follows:

- a) The deadline for the Notice of Appeal was missed by four (4) days, in addition to a letter filed to the BCCA informing the same of context, and requesting relief in the form of a placeholder delay;
- b) A Notice of Appeal was not initially filed because the dismissal of S-229680 involves violation of no less than nine (9) rules that govern the Style of Proceedings. The Applicant awaited ten (10) weeks while the lower court refused to respond or address the violation of these rules. A Notice of Appeal was actioned only after it became apparent the lower court would not take corrective steps to enforce its rules of procedure;
- c) Procedural rules were violated and ignored concerning the Respondents' applications to dismiss S-229680. Conversely, procedural rules were strictly enforced in dismissing the Applicant's written request for leniency in filing time, and in enforcing BCCA Rule 6-2(b) as it pertains to a filing deadline;
- d) The Appeal concerned well-evidenced obstruction of justice in proceedings throughout 2022; widespread harassment and mischief related to the Respondents in the Style of Cause; and systemic denial of recourse to law enforcement as it pertains to the latter. These are further reinforced over the short course of S-229680 in the denial, censorship, and false testimony by Halifax Regional Police regarding the foregoing, and likewise, in the published reasons of the BCCA in the May 15th, 2023 oral reasons of justice [REDACTED];
- e) The Applicant filed five (5) letters to the BCSC under PD-27 over the course of ten (10) weeks seeking corrective measures in response to the violation of its rules governing proceedings in S-229680, including the same day the Applicant was notified of its dismissal. Likewise, the Applicant wrote to the BCCA explaining the situation and requested leniency with respect to timetable, whereas it is not germane to re-litigate settled procedural enactments through an Appeal.

65. The oral reasons of justice [REDACTED] do not consider any points in the foregoing five-point settlement test. Instead, they mischaracterize proceedings germane to the Parties, and mischaracterize the Applicant. Nuances throughout the oral reasons such as paragraph 9 err in fact, whereas the Appeal in [REDACTED] was neither set, heard, nor adjudicated, therefore precluding a requirement to post security of costs in that file. Certain paragraphs in the oral reasons occasion irony, such as Paragraph 48 which claims the Applicant was "*unwilling to participate in the Supreme Court Process*".



66. Further to the foregoing, paragraphs 18, 19, 20, and 60 in the [REDACTED] oral reasons focus on the Applicant's abandonment of Appeals linked to S-229680, but precludes consideration of the essential context as it relates to the matter. The Applicant's First Affidavit [REDACTED] paragraph 125 in the body, and pages 78, 79, 81 in Exhibit B, citing correspondence to Registrar [REDACTED] and in response to the [REDACTED] oral reasons, explain why appeals directly linked to S-220956 were abandoned. These Appeals were not abandoned because of a requirement to pay security of costs; the latter being referenced in the previous paragraph. Appeals linked to S-220956 were abandoned because it became clear the Applicant's access to justice had been compromised. Pursuing these appeals would be a waste of time and resources under the same conditions without addressing the root cause. As is outlined throughout supporting Affidavits in S-229680, S-220956 was not opened under ordinary circumstances (May 20th, 2022 Affidavit paragraph 64, First Affidavit S-229680 paragraph 17 in the body, Exhibit A page 53, Exhibit F). In view of the same, it is clear justice [REDACTED] either did not read these materials, or on the alternative, was aware of the same and chose to overlook contextual background. Her colleague justice [REDACTED] did likewise in paragraph 36 of his oral reasons one day prior.
67. Paragraph 21 of these oral reasons suggests the Style of Proceeding in S-229680 was "couched", or cosmetic in nature. The events outlined in S-229680 are factual, including the Applicant's harrowing experiences of *Defendant4* since November 2021. Mention is made of *Defendant4*, but an assumption is made that the Applicant's account is fictitious. Of note, her colleague justice [REDACTED] denied the existence of the Applicant's evidentiary record of police and judicial misconduct in paragraph 36 of his oral reasons one day prior. These records are contained in the Affidavits of S-229680. An excerpt of the same is repeated in Exhibit A of the Affidavit made May 30th, 2023. Pursuant to the rules of procedure as outlined in paragraph 9 herein, these matters are to be determined together by the court in a trail of the common issues.
68. The predominant miscarriage in [REDACTED] application of the legal test is her assertion that further consideration should not be afforded to S-229680 as a result of two previous contempt hearings, one of which was heard one day prior on May 16th, 2023. As is contemplated in the two Applications for leave to appeal which accompany this Application, these matters inform one another, whereas none of these matters can be adjudicated independently of the other if they are to be properly treated. An Appeal of the prior contempt rulings, pursuant to paragraph 37 in *Carey v. Laiken*, 2015 SCC 17, [2015] 2 S.C.R. 79, involves a trial of the common issues in S-229680. Likewise, justice [REDACTED] asserted that S-229680 should attract no further consideration by way of the same rulings. The same framework would prevent any of these matters from being properly addressed in accord with the object and proportion of justice.
69. Finally, the nature of the chambers hearing on May 16th, 2023 invites concern. Counsel for both Respondents in the Style of Cause remained silent throughout and did not make oral submissions. The Applicant completed lengthy submissions concerning the talking



points reflected in this Application. No dialogue ensued, and no counter-points were raised. Immediately following the Applicant's oral submissions, and without recess, justice [REDACTED] read a lengthy oral reasons dissertation, which required over fifteen (15) minutes to recite. This inexorably suggests that the disposition of the Application to extend time to Appeal was decided prior to the hearing.

70. The Applicant secured the official chambers transcript from JCWordAssist Inc., and was informed that the long-form oral reasons read in chambers, which is not reflected on the BC Court website, must be requested from the BCCA Registry counter. The Appellant made a formal request to the BCCA for this transcript and awaits a copy of the same. The long-form oral reasons read by justice [REDACTED] expressed bias in favor of YouTube influencers which comprise a cross-section of Defendant4, suggesting that prosecuting these actors might "disrupt their lives". Verily so, whereas these actors are engaged in criminal activity which in its own right and irrespective of any relationship to the Respondents in the Style of Cause, meets test criteria under section 83.221(1) of the Criminal Code. These people accept paychecks to sit behind a keyboard, spread misinformation, and destroy lives. Likewise, conduct of the same activities by the Canadian Armed Forces has been admitted in the *Gosselin Reports* (First Affidavit S-229680 Page 109, & Exhibit H).

71. Matters germane to the public interest are heavily suffused in S-229680, whereas the events considered in this Application contribute to a long list which would rightfully concern any Canadian concerned with civil liberties. A fair trial of S-229680 is expected to be successful, and may be coupled with additional privileged record materials by way of ITA 241(3.1).

#### **PART IV – SUBMISSIONS IN SUPPORT OF ORDER SOUGHT CONCERNING COSTS**

(Submissions, if any, not exceeding one page in support of the order sought concerning costs.)

72. The Applicant is a self-represented litigant. The matter of retaining counsel is a materially relevant component in these matters as is outlined in supporting Affidavits. Whereas the workload required in treating this matter consumes considerable time, it is difficult to place an arbitrary value on costs, besides the costs of materials, services, and other supportive requirements yielding receipts.

73. The British Columbia Court of Appeal published oral reasons mischaracterizing the Applicant and ignoring his evidentiary record which occasions harm to the Applicant.

#### **PART V – ORDER OR ORDERS SOUGHT**

(The order or orders sought, including the order or orders sought with respect to costs.)

74. Overturn the May 16th, 2023 order of justice [REDACTED] dismissing the Applicant's request to extend time to Appeal the dismissal of S-229680, a matter brought under the



*Class Proceedings Act, R.S.B.C. 1996,c.50.* On the alternative, and in consideration of overall context in this complex matter and the two other Applications filed alongside this one, an order that the matter of S-229680 be appealed directly to the Supreme Court of Canada.

Signature of Nathan K. Dempsey (Applicant)

## Part VI - TABLE OF AUTHORITIES

Legislative enactments, case law, articles, texts and treaties	Paragraph/section #
75. <i>Farrell v. Casavant</i> , 2010 NSCA 71, <i>Beveridge, J.A.</i>	17
76. <i>Hawitt v. Campbell</i> , 1983 CanLII 307 (BC CA)	19
77. <i>Pintea v. Johns</i> , 2017 SCC 23, [2017] 1 S.C.R. 470	4
78. <i>Larkin v. Glase</i> , 2009 BCCA 321	7
79. <i>Sherman Estate v. Donovan</i> , 2021 SCC 25	7, 63
80. <i>United States v. Meng</i> , 2021 BCSC 1253	33
81. <i>R. v. Ruzic</i> , [2001] 1 S.C.R. 687, 2001 SCC 24	29, 30, 35, 39, 40, 66, 72, 73
82. <i>R. v. Hibbert</i> , [1995] 2 S.C.R. 973	52, 59
83. <i>Carey v. Laiken</i> , 2015 SCC 17, [2015] 2 S.C.R. 79	37, 38, 39, 62, 66
84. <i>Greenberg v. Nowack</i> , 2016 ONCA 949, 135 O.R. (3d) 525	25, 26
85. <i>Chong v. Donnelly</i> , 2019 ONCA 799	9
86. <i>Law Society of British Columbia v. Canada (Attorney General)</i> , 2001 BCSC 1593	67
87. <i>Gauthier v. Canada (Speaker of the House of Commons)</i> , 2006 FC 570	11

**Note:** Jurisprudence germane to the Applicant's two related accompanying Applications are also cited.

## PART VII – LEGISLATION

- 88. Charter of Rights and Freedoms
- 89. Bill of Rights
- 90. Class Proceedings Act, R.S.B.C. 1996,c.50
- 91. *BC Court Jurisdiction and Proceedings Transfer Act*
- 92. *Interpretation Act R.S.C., 1985, c. I-21*

## DOCUMENTS IN SUPPORT WITH RELEVANT CITATIONS

(All Affidavits are bound in cerlox and have been Couriered to the Registry)

**Note:** These affidavits contain exhibits concerning all relevant topics for use at the hearing of