Federal Court Cour fédérale

Date: 20250203

Docket: T-60-25

Citation: 2025 FC 201

St. John's, Newfoundland and Labrador, February 3, 2025

PRESENT: Associate Judge Trent Horne

BETWEEN:

DAVID JOSEPH MACKINNON AND ARIS LAVRANOS

Applicants

and

CANADA (ATTORNEY GENERAL)

Respondent

and

DEMOCRACY WATCH, THE CANADIAN CONSTITUTIONAL LAW INITIATIVE OF THE UNIVERSITY OF OTTAWA PUBLIC LAW CENTRE AND THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

Interveners

ORDER AND REASONS

I. Overview

[1] In this application for judicial review, five motions and two informal requests have been filed seeking leave to intervene.

[2] The notice of application challenges a decision by Prime Minister Trudeau to advise the Governor General of Canada to exercise her prerogative power to prorogue the first session of the 44th Parliament of Canada until March 24, 2025 (the "Decision"). The notice of application requests an order setting aside the Decision, and also a declaration that the first session of the 44th Parliament has not been prorogued.

[3] This is the first time a Canadian court has been called upon to consider whether, and to what extent, courts have a role in supervising a decision to prorogue Parliament.

[4] A similar issue was before the courts of the United Kingdom after Prime Minister Boris Johnson advised Her Late Majesty of his decision to prorogue the Parliament of the United Kingdom of Great Britain and Northern Ireland in 2019. Proceedings were launched by Mrs Gina Miller, and the matter proceeded to the United Kingdom Supreme Court (*R (Miller) v The Prime Minister*, [2019] UKSC 41 ("*Miller II*")).

[5] The Chief Justice granted an order on January 18, 2025 setting an expedited timetable for the procedural steps leading up to the hearing. The application will be heard on February 13 and 14, 2025.

[6] I issued a direction on January 20, 2025 with a timetable for service and filing of any motions to intervene.

[7] Motions for leave to intervene have been filed by Democracy Watch, The Canadian Constitutional Law Initiative of the University of Ottawa Public Law Centre, the British Columbia Civil Liberties Association, Steven Spadijer, and Michael Moreau. Informal requests for leave to intervene have been filed by the Haida Matriarch Tribunal, and jointly by Norman Traversy and Daniel Mesrobian.

[8] For the reasons that follow, the motions by Democracy Watch, the Canadian Constitutional Law Initiative of the University of Ottawa Public Law Centre, and the British Columbia Civil Liberties Association are granted. The motions by Steven Spadijer and Michael Moreau, and the informal requests by the Haida Matriarch Tribunal and Norman Traversy/Daniel Mesrobian are dismissed.

II. Intervention Rules and Jurisprudence – Rule 109

[9] Subrule 109(1) of the *Federal Courts Rules*, SOR/98-106 (“Rules”) provides that the Court may, on motion, grant leave to any person to intervene in a proceeding.

[10] Decisions of the Federal Court of Appeal have expressly or impliedly emphasized three elements to be considered on a motion for leave to intervene: (1) the usefulness of the intervener's participation to what the Court has to decide, (2) a genuine interest on the part of the intervener, and (3) a consideration of the interests of justice. A consideration of the interests of justice should be a flexible, fact-responsive approach (*Le-Vel Brands, LLC v Canada (Attorney General)*, 2023 FCA 66 ("*Le-Vel Brands*") at paras 7 and 9).

[11] The Court must consider the language of Rule 109, which provides that the proposed intervention will "assist the determination of a factual or legal issue related to the proceeding" – that is, the issues raised in the existing application for judicial review. In that regard, an applicant for intervention cannot make new legal arguments that are foreclosed by the evidentiary record. As was stated by Justice Stratas in *Canada (Attorney General) v Canadian Doctors for Refugee Care*, 2015 FCA 34 ("*Canadian Doctors*") at para 19:

> Notices of application … serve to define the issues in a proceeding. Existing parties build their evidence and submissions around those carefully defined issues. An outsider seeking admission to the proceedings as an intervener has to take those issues as it finds them, not transform them or add to them. Thus, under Rule 109(2)(b) a proposed intervener must show its potential contribution to the advancement of the issues on the table, not how it will change the issues on the table.

III. Analysis

A. *Democracy Watch*

[12] According to the affidavit of its Executive Director filed in support of the motion, Democracy Watch is a national, non-governmental, non-partisan, non-profit organization that advocates for democratic good government and corporate responsibility reforms in Canada.

Democracy Watch's work, which includes research, public education, litigation and advocacy, aims to make Canada the world's leading democratic good government and corporate responsibility jurisdiction. The affidavit further states that Democracy Watch's mandate is to advocate for changes: to restrict unjustifiable exercises of prerogative powers in ways that comply with Canada's parliamentary system of responsible government; to make the rules concerning elections, political finance, government ethics, government transparency, lobbying, policy-making and spending more democratic and egalitarian; to increase government accountability through strengthening enforcement measures and practices; and to increase corporate responsibility.

[13] Democracy Watch has made submissions and appeared before parliamentary committees in legislative proceedings at the federal and provincial level. It has also commenced applications for judicial review challenging the legality and constitutionality of the exercise of prerogative power by the Prime Minister advising the Governor General, and provincial premiers advising their respective Lieutenant Governors, to dissolve Parliament and call a "snap election" in light of what was described as "fixed-election-date" legislation (*Conacher v Canada (Prime Minister)*, 2009 FC 920 aff'd 2010 FCA 131, application for leave to appeal denied *Duff Conacher v The Prime Minister of Canada*, 2011 CanLII 2101 (SCC); *Democracy Watch v British Columbia (Lieutenant Governor)*, 2022 BCSC 1037 aff'd 2023 BCCA 404; *Democracy Watch v Canada (Prime Minister)*, 2022 FC 239 aff'd 2023 FCA 41; and *Democracy Watch v The Premier of New Brunswick, et al*, 2022 NBQB 164 rev'd 2022 NBCA 21 (CanLII)).

[14] Democracy Watch has been granted leave to intervene by the Supreme Court of Canada and the Court of Appeal of Alberta.

[15] If granted leave to intervene, Democracy Watch intends to make submissions on three issues:

a) that the exercise of prerogative power by the Prime Minister, on behalf of the executive branch of government, advising the Governor General to prorogue Parliament is justiciable;

b) that the Prime Minister's prerogative power, as the head of the executive branch of government, to advise the Governor General to prorogue Parliament is restricted to situations that comply with the fundamental constitutional principles of the sovereignty of Parliament and responsible government; and

c) that Canadian Courts can, and should, apply the principles in *Miller II*.

[16] The applicants take no position regarding the proposed intervention of Democracy Watch; the respondent does not oppose the motion but makes submissions on the terms of any intervention.

[17] I am satisfied that Democracy Watch should be granted leave to intervene. It has a history of pursuing litigation, particularly with respect to elections and the prerogative powers of the Prime Minister and Premiers to advise the Governor General and Lieutenant Governors, respectively. Those proceedings involved, among other things, a consideration of constitutional

conventions, which is expected to be a significant issue in this proceeding. Democracy Watch's participation will be useful to the Court's consideration of these novel issues.

[18] While the notice of application does not expressly refer to *Miller II*, the materials filed by the applicants on their motion to expedite argue that there is a parallel between *Miller II* and this proceeding. Based on the materials filed by the respondent opposing the motion to expedite, it is expected that the respondent will argue that *Miller II* is distinguishable both in terms of the legal differences between the constitutions of the UK and Canada, and in terms of the factual circumstances in which it arose. Democracy Watch's participation will also be useful to the Court's consideration in this respect.

[19] Democracy Watch has demonstrated a genuine interest, and the interests of justice support having the perspective of Democracy Watch before the Court.

[20] The terms of intervention are set out in the order below. The order of the Chief Justice dated January 18, 2025 (2025 FC 105) set out how and when the parties would respond to the intervener's submissions, both orally and in writing. Those terms will not be repeated, or varied, in this order.

[21] Relying on *R v Doering*, 2021 ONCA 924 at paras 21-22 and 30, the respondent requests that the terms of intervention prohibit any interveners, particularly Democracy Watch, from taking a position on the ultimate issue before the Court.

[22] There is jurisprudence from the Federal Court of Appeal stating that an intervener may not tell the Court how to interpret legislation and apply international law on a judicial review because that is not the Court's task; the task before the Court on such a judicial review is to conduct a reasonableness review of the administrative decision-maker's interpretation of the legislation (*Le-Vel Brands* at para 18). I am not aware, however, of a decision from the Federal Courts that squarely prohibits interveners from making submissions on the outcome of issues that are properly before the Court.

[23] In *Tsleil-Waututh Nation v Canada (Attorney General)*, 2017 FCA 174 at para 54, Justice Stratas described the role of an intervener as being limited to "addressing the issues already raised in the proceedings, *ie*, within the scope of the notices of application." There may be a fine line between addressing an issue and speaking to how it could be resolved. Absent more clear guidance in the Federal Courts' case law, I will not impose this restriction on Democracy Watch or the other interveners.

B. *The Canadian Constitutional Law Initiative of the University of Ottawa Public Law Centre*

[24] According to the affidavit of its Academic Co-Lead, the University of Ottawa Public Law Centre's Canadian Constitutional Law Initiative ("Constitutional Law Initiative") is a project of one of Canada's leading public law institutions, the uOttawa Public Law Centre. The uOttawa Public Law Centre is a university research centre located at the University of Ottawa Faculty of Law.

[25] The stated purpose of the Constitutional Law Initiative is to integrate the practice of constitutional law into the educational and scholarly environment of the law school. Its twin goals are to use the Centre's expertise to assist Courts with difficult constitutional issues, and to expose students to aspects of practice that may not otherwise be available to them during law school.

[26] The Constitutional Law Initiative is seeking leave to intervene to provide the Court with what it describes as a complete picture of the place of prorogation within Canada's constitutional framework.

[27] The Constitutional Law Initiative submits that it is not focused on the outcome of this application, rather on the broader constitutional framework that should guide the Court in this and future cases. In particular, the Constitutional Law Initiative intends to argue that Canadian courts should be cautious about supervising prorogation, and:

a) that prorogation is overwhelmingly governed by constitutional convention. The Supreme Court of Canada has recognized that conventions are not judicially enforceable, and Canadian jurisprudence has developed over time and established a presumption against courts inquiring into or determining the existence of constitutional conventions;

b) that it will provide the Court with information about the extent to which Canadian constitutional principles match those enforced by the UK Supreme Court in *Miller II*, and where there are differences, what those differences are; and

c) that it will provide the Court with a framework to understand when judicial intervention in matters of constitutional convention is appropriate.

[28] The Constitutional Law Initiative was recently granted leave to intervene in *Prime Minister v Hameed*, Court File A-100-24, in an unreported decision dated October 2, 2024. That proceeding is an appeal of an order declaring that appointments to fill judicial vacancies must be made within a reasonable time. The Constitutional Law Initiative's proposed submissions in that matter will address the role of the judiciary in recognizing constitutional conventions.

[29] The applicants take no position regarding the proposed intervention of the Constitutional Law Initiative; the respondent does not oppose the motion but makes submissions on the terms of any intervention.

[30] I am satisfied that the Constitutional Law Initiative should be granted leave to intervene. It has a history of intervention, specifically related to constitutional conventions. The Constitutional Law Initiative's participation will be useful to the Court's consideration of these novel issues. The Constitutional Law Initiative has demonstrated a genuine interest, and the interests of justice support having the perspective of the Constitutional Law Initiative before the Court.

C. *British Columbia Civil Liberties Association*

[31] According to the affidavit of its litigation director filed in support of the motion, the British Columbia Civil Liberties Association ("BCCLA") is a non-profit and non-partisan

advocacy group. The purposes of the BCCLA include the promotion, defence, sustainment, and extension of civil liberties and human rights throughout British Columbia and Canada. The BCCLA advances its goals by means of public education, advocacy and engagement in litigation as an intervener and in its own right. The BCCLA has extensive experience as an intervener at all levels of court.

[32] The BCCLA has been granted leave to intervene in matters involving executive and legislative action that interferes with rights guaranteed by the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 ("*Charter*"), and other constitutional principles.

[33] As set out in its moving motion record, if granted leave to intervene, the BCCLA's proposed submissions will focus on:

a) the constitutional principles developed by the Supreme Court of Canada in the post-*Charter* era, since approximately 1985, that legislative powers are separate from executive powers and that the exercise of executive powers should not intrude into or unduly interfere with the legislative sphere;

b) the evolution of the principle of separation of powers in Canada differs in some respects from the constitutional principles set out in *Miller II*; and

c) argument in favour of a modest and incremental development that there be a requirement for the consent of or concurrence of the legislature to the Prime Minister's request to the Governor General to prorogue the legislature.

[34] The applicants take no position regarding the proposed intervention of the BCCLA; the respondent opposes the BCCLA's motion on the basis that it seeks to add new issues.

[35] A central point of dispute between the BCCLA and the respondent is whether the third point above raises a new issue. The respondent argues that the BCCLA is asking the Court to create a new requirement that Parliament must consent or concur with the Prime Minister's decision to advise the Governor General to prorogue Parliament, which he submits is beyond any remedy that the applicants have requested, even if such relief were available pursuant to section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7.

[36] In reply, the BCCLA focuses its intended argument on the justiciability and enforceability of constitutional conventions to the Court's consideration of:

1. judicial development, since the enactment of the *Constitution Act, 1982*, of the principle of the separation of powers, and particularly the test that the executive cannot "unduly interfere" with the operation of the legislature; and
2. development of a robust judicial role pursuant to the *Constitution Act, 1982*, as guardian of the constitution, which entails adjudication of issues previously regarded as political or policy issues.

[37] The BCCLA also intends to argue that the recent jurisprudence also diminishes the persuasive force of case authority against justiciability and enforcement of constitutional conventions.

[38] I am satisfied BCCLA should be granted leave to intervene. Its proposed arguments are directed to *why* the Court should grant or deny remedies and whether the judiciary should steer clear of adjudicating any aspect of prorogation, not advocating for a particular outcome or seeking a remedy that is not in the notice of application. These submissions may inform the debate on any restrictions on the Prime Minister's prerogative power that will be argued by Democracy Watch, and when judicial intervention in matters of constitutional convention is appropriate that will be argued by the Constitutional Law Initiative, neither of which were opposed by the respondent. The BCCLA has a genuine interest, and its submissions bring a perspective that would be useful for the Court.

[39] In considering the interests of justice, admitting the BCCLA as a third intervener with a different angle on the issues would not create an imbalance, or give the appearance of a "gang-up against one side" (*Canada (Citizenship and Immigration) v Canadian Council for Refugees*, 2021 FCA 13 at paras 13-18).

D. *Steven Spadijer*

[40] Dr Spadijer filed a notice of motion seeking leave to intervene, but not a full motion record as required by Rule 364.

[41] Dr Spadijer is an Australian citizen who holds a Doctorate in Law from Oxford University, a Masters of Law from Cambridge University, and a Bachelor of Law from the Australian National University. The notice of motion states that he provided detailed submissions to the UK House of Commons Constitutional Committee on the potential impact

Miller II might have on the royal prerogative of dissolution in the context of the repeal of the UKs *Fixed Term Parliaments Act 2011*, and has written an unpublished 98,000 word paper on the royal prerogative of dissolution. He is also writing a book on *Miller II* and the royal prerogative of prorogation.

[42] Dr Spadijer intends to submit that nonjusticiable prerogative powers are invariably held at pleasure of the Crown, and intends to speak to what he describes as nearly six centuries worth of authority holding that the power to summon, prorogue, and dissolve Parliament is held at pleasure of the Crown. He also intends to rely upon comparative jurisprudence, including from Australia, India, and the Caribbean, to also show that the power to prorogue is widely recognized as being non-amenable to judicial review and can be exercised by the Governor General at any time. Dr Spadijer submits that these authorities were neither quoted nor cited in any of the legal submissions during the *Miller II* litigation.

[43] The applicants and respondent oppose Dr Spadijer's request to intervene.

[44] There is an emphasis in the notice of motion that *Miller II* was wrongly decided ("clearly and egregiously wrong as a matter of law"), and was decided on incomplete submissions. While the extent to which *Miller II* can or should be followed by this Court will be a live issue, this application is not an appeal or reconsideration of *Miller II*.

[45] I agree with the respondent that Dr Spadijer does not have a genuine interest, as that term has been defined in the jurisprudence on intervention. A genuine interest requires a link between

the issue to be decided and the mandate and objectives of the party seeking to intervene; it should be clear from the submissions what animates the intervention. In asserting a genuine interest, an intervener must demonstrate more than a jurisprudential motivation (*Gordillo v Canada (Attorney General)*, 2020 FCA 198 at paras 12 and 23).

[46] It is apparent from Dr Spadijer's submissions that he has a jurisprudential motivation with respect to *Miller II*, and whether it was wrongly decided. This is insufficient to grant leave to intervene.

[47] Dr Spadijer filed two submissions in reply. The first is an argument directed to Rule 55. Dr Spadijer submits that, in the event the Court concludes that he does not have a genuine interest in the matter for the purposes of the Rule 109 test, the Court should exercise its discretion under Rule 55 to dispense with Rule 109 altogether. It is submitted that the Court can, in effect, say: "you do not need to go through the turgid rule 109 gateway to simply file helpful legal submissions." I cannot agree.

[48] The Federal Court of Appeal has set out a test for intervention and the factors to be considered. Vertical *stare decisis* obliges me to follow precedent set by a higher judicial authority (*Bentaher v Canada (Citizenship and Immigration)*, 2024 FC 1187 at para 21). It is simply not open to me to find that Dr Spadijer does not meet the test for intervention, and at the same time disregard that conclusion and permit materials to be filed for the same purpose under another, more general, Rule. The test for intervention is not a mere procedural hoop[1] designed to

[1] This expression was used in another context by Justice McHaffie in *UBS Group AG v Yones*, 2022 FC 487 at para 10.

make it difficult for persons to participate as interveners or compel a result on intervention motions based on what Dr Spadijer describes as “some dry and byzantine technicality,” rather the test provides a structured approach to ensure that the proposed intervention will assist in the determination of the factual or legal issues related to the proceeding. The fact that Dr Spadijer asks the Court to dispense with Rule 109 on a motion for leave to intervene is a factor that weighs against granting such a discretionary order.

[49] Dr Spadijer also filed “detailed reply submissions” that are more thorough than what was presented in the original notice of motion. These submissions reiterate that the Court in *Miller II* overlooked an “astounding number of authorities,” and advance an argument that prerogative powers held at the pleasure of the King which do not adversely affect individual rights or interests are not amenable to judicial review, and that the power to prorogue can be exercised at any time and whenever the constitutional head deems it expedient to do so.

[50] I do not agree with Dr Spadijer’s characterization that the applicants may be attempting to “create a ‘low information, high stakes’ environment whereby glib sound bites and equivocation rather than fixed rules of law are likely to prevail,” and that the expedited timetable for this proceeding is “generating more heat than light.” The Court will have differing perspectives from the parties, Democracy Watch, the Constitutional Law Initiative, and the BCCLA on whether the Decision is amenable to judicial review. I am not satisfied that, with these voices before the Court, that the interests of justice require additional intervention by Dr Spadijer. The motion for leave to intervene by Dr Spadijer is therefore dismissed.

E. *Michael Moreau*

[51] Mr Moreau is a self-represented litigant who has initiated several proceedings in this Court under the *Official Languages Act*, RSC 1985, c 31 (4th Supp). He asserts that he will be directly affected by the disposition of this proceeding as an engaged citizen and as a litigant.

[52] Mr Moreau intends to submit that the Court does not have jurisdiction over the dispute, that the Court does not have jurisdiction to grant the relief requested, and that the standard of review is correctness.

[53] The applicants and respondent oppose Mr Moreau's motion to intervene.

[54] Mr Moreau may have an interest in the development of the law because it will impact his own litigation, particularly in proceedings he commenced in T-2167-24 involving interpretation services in the House of Commons. However the Federal Court of Appeal has affirmed that this is a purely jurisprudential interest, and is insufficient to be granted leave to intervene (*Right to Life Association of Toronto and Area v Canada (Employment, Workforce and Labour)*, 2022 FCA 67 ("*Right to Life*") at para 24). I cannot agree with Mr Moreau's reply submissions that this results in unfairness, or has the effect of excluding individuals from participating as interveners.

[55] I do not doubt that Mr Moreau is an engaged citizen, however a person moving for leave to intervene must demonstrate how the legal arguments they intend to make will differ from

those of the parties, or how they intend to approach these issues from a different angle (*Parker v Canada (Attorney General)*, 2022 FC 1244 at para 21).

[56] The respondent has not filed a memorandum of argument, however on the motion to expedite the proceedings, the respondent stated that he will raise, and the Court will need to address, issues including justiciability and reviewability. Based on those responding motion materials, the respondent also intends to argue that the Decision is not justiciable because a Prime Minister's advice to the Governor General to prorogue Parliament is a matter of constitutional convention, and constitutional conventions are rules of political conduct that are not enforced by the courts. The respondent also intends to argue that the decision does not engage the Court's judicial review function.

[57] I am not satisfied that the materials filed by Mr Moreau, including his reply submissions, demonstrate that his contribution, particularly in respect of the Court's jurisdiction, will be different from those that will be presented by the Attorney General, will approach the issues from a different perspective, or will materially add to the submissions that are expected to be made by Democracy Watch, the Constitutional Law Initiative, and the BCCLA. I am also not satisfied that, with the participation of the parties and three interveners, the interests of justice require the participation of Mr Moreau as an additional intervener.

[58] The motion for leave to intervene by Michael Moreau is therefore dismissed.

F. *Norman Traversy and Daniel Mesrobian*

[59] The informal request by Messrs Traversy and Mesrobian to intervene cannot be granted.

[60] These individuals did not serve and file a motion record as required by Rule 364, rather presented their intervention request in a letter to the Court.

[61] The Court can issue an order in response to an informal request for interlocutory relief, however the Court's Amended Consolidated General Practice Guidelines require, among other things, that informal requests for interlocutory relief confirm that all parties either consent to the request or do not oppose the request. It is not apparent that the parties were copied on this request. The request for leave to intervene can be dismissed on this basis alone.

[62] The correspondence from Messrs Traversy and Mesrobian states that they have new evidence concerning the lawful status of the Trudeau government. Even if such evidence is capable of being admitted, and this approach not determined to be influenced by the "Organized Pseudolegal Commercial Argument" theories described in *Meads v Meads*, 2012 ABQB 571, interveners cannot add to the evidentiary record (*Right to Life* at paras 13 and 14).

[63] The issue proposed to be addressed by these individuals is whether the Governor General is actually vested with the power to prorogue Parliament. This is not the issue raised by the applicants, and *Canadian Doctors* precludes interveners from raising new issues.

[64] The informal request for leave to intervene by Norman Traversy and Daniel Mesrobian is therefore dismissed.

G. *Haida Matriarch Tribunal*

[65] The brief informal request from the Haida Matriarch Tribunal is similar in form and substance to the one submitted by Messrs Traversy and Mesrobian, and refers to the submissions made by those individuals. Like the other informal request for leave to intervene, the January 24, 2025 letter from the Haida Matriarch Tribunal does not appear to have been served on the parties.

[66] The Haida Matriarch Tribunal intends to submit that the legitimacy of previous and current Governors General must be determined as a condition precedent to any ruling which seeks to specifically address or contest the prorogation of Parliament.

[67] Since this informal request does not comply with the Court's Amended Consolidated General Practice Guidelines, and the Haida Matriarch Tribunal seeks to raise new issues, leave to intervene cannot be granted.

IV. Costs

[68] None of the parties to the intervention motions requested costs, and no such order will be made.

ORDER in T-60-25

THIS COURT ORDERS that:

1. Democracy Watch is granted leave to intervene on the following terms:

    a. Democracy Watch may serve and file a memorandum of fact and law, not to exceed 15 pages, by February 10, 2025;

    b. Democracy Watch's memorandum of fact and law shall not raise any new issues, or repeat any submissions made by the parties;

    c. Democracy Watch shall not add to the evidentiary record, or conduct cross-examinations;

    d. the duration of any oral submissions by Democracy Watch at the hearing of the application shall be in the discretion of the presiding judge; and

    e. Democracy Watch may not seek costs in this application, or have costs awarded against it.

2. The Canadian Constitutional Law Initiative of the University of Ottawa Public Law Centre ("Constitutional Law Initiative") is granted leave to intervene on the following terms:

    a. the Constitutional Law Initiative may serve and file a memorandum of fact and law, not to exceed 15 pages, by February 10, 2025;

    b. the Constitutional Law Initiative's memorandum of fact and law shall not raise any new issues, or repeat any submissions made by the parties;

    c. the Constitutional Law Initiative shall not add to the evidentiary record, or conduct cross-examinations;

d. the duration of any oral submissions by the Constitutional Law Initiative at the hearing of the application shall be in the discretion of the presiding judge; and

e. the Constitutional Law Initiative may not seek costs in this application, or have costs awarded against it.

3. The British Columbia Civil Liberties Association ("BCCLA") is granted leave to intervene on the following terms:

a. the BCCLA may serve and file a memorandum of fact and law, not to exceed 15 pages, by February 10, 2025;

b. the BCCLA's memorandum of fact and law shall not raise any new issues, or repeat any submissions made by the parties;

c. the BCCLA shall not add to the evidentiary record, or conduct cross-examinations;

d. the duration of any oral submissions by the BCCLA at the hearing of the application shall be in the discretion of the presiding judge; and

e. the BCCLA may not seek costs in this application, or have costs awarded against it.

4. The style of cause is amended to reflect Democracy Watch, the Canadian Constitutional Law Initiative of the University of Ottawa Public Law Centre, and the British Columbia Civil Liberties Association as interveners, with immediate effect.

5. The motion by Steven Spadijer for leave to intervene is dismissed.

6. The motion by Michael Moreau for leave to intervene is dismissed.

7. The informal request by Norman Traversy and Daniel Mesrobian for leave to intervene is dismissed.

8. The informal request by the Haida Matriarch Tribunal for leave to intervene is dismissed.

9. There is no order as to costs.

"Trent Horne"
Associate Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-60-25
STYLE OF CAUSE:	DAVID JOSEPH MACKINNON ET AL v ATTORNEY GENERAL OF CANADA

MATTER CONSIDERED IN WRITING, PURSUANT TO RULE 369 OF THE *FEDERAL COURTS RULES*, WITHOUT THE PERSONAL APPEARANCE OF THE PARTIES

ORDER AND REASONS:	HORNE A.J.
DATED:	FEBRUARY 3, 2025

WRITTEN REPRESENTATIONS BY:

James Manson Hatim Kheir Andre Memauri Darren Leung	FOR THE APPLICANTS
Elizabeth Richards	FOR THE RESPONDENT
Wade Poziomka Nick Papageorge Daniel Mulroy	FOR THE PROPOSED INTERVENER DEMOCRACY WATCH
Andrew Bernstein Jeremy Opolsky Emily Sherkey	FOR THE PROPOSED INTERVENER CANADIAN CONSTITUTIONAL LAW INITIATIVE OF THE UNIVERSITY OF OTTAWA PUBLIC LAW CENTRE
Jason Gratl	FOR THE PROPOSED INTERVENER BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

Steven Spadijer	FOR THE PROPOSED INTERVENER STEVEN SPADIJER, ON HIS OWN BEHALF
Michael Moreau	FOR THE PROPOSED INTERVENER MICHAEL MOREAU, ON HIS OWN BEHALF
Norman Traversy Daniel Mesrobian	FOR THE PROPOSED INTERVENERS NORMAN TRAVERSY AND DANIEL MESROBIAN, ON THEIR OWN BEHALF
dit'la Ga Jaadee La'aayga	FOR THE PROPOSED INTERVENER HAIDA MATRIARCH TRIBUNAL

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