THIS IS A CASE UNDER THE *YOUTH CRIMINAL JUSTICE ACT* AND IS SUBJECT TO THE PROVISIONS OF THAT ACT

Court File No.: YC-23-00000021-00MO

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

CANADIAN BROADCASTING CORPORATION, CTV NEWS, a division of BELL MEDIA INC., GLOBAL NEWS, a division of CORUS TELEVISION LIMITED PARTNERSHIP, THE GLOBE AND MAIL INC., TORONTO STAR NEWSPAPERS LIMITED, ALISON CHIASSON and ANDREW BRENNAN

Applicants

-and-

HIS MAJESTY THE KING, YOUNG PERSON 1, YOUNG PERSON 2, YOUNG PERSON 3, YOUNG PERSON 4, YOUNG PERSON 5, YOUNG PERSON 6, YOUNG PERSON 7, YOUNG PERSON 8

Respondents

JOINT FACTUM OF RESPONDENTS, YOUNG PERSONS (1 TO 8)

Mary Birdsell, Jane Stewart, Candice Suter
JUSTICE FOR CHILDREN AND YOUTH
1500 – 55 University Avenue
Toronto, ON M5J 2H7

T: 416-920-1633
F: 416-920-5855
E: mary.birdsell@jfcy.clcj.ca
jane.stewart@jfcy.clcj.ca
candice.suter@jfcy.clcj.ca
Counsel for Young Persons 1 to 7

Kevin Gray
LEO ADLER LAW
5000 Yonge Street, Suite 1708
Toronto, ON M2N 7E9
LSO # 81482R
gray@leoadlerlaw.com
Tel: 416 365 1773
Counsel for Young Person 8

OVERVIEW

1. The Applicants, all media organizations and members, applied to the Youth Court for access to the unredacted youth court records of eight young persons currently being prosecuted for second-degree murder. Justice O'Connell (the "Youth Court Judge") granted the Applicants extensive access to the youth court records, including: copies of the charging informations, all bail release orders including their bail conditions, the age of each of the young persons charged, the court file numbers, and the dates of all past and future court appearances for each young person. These records were redacted only for identifying information including their names and day and month of birth, and the exhibits to the bail hearings, which are subject to a publication ban under s. 517 of the *Criminal Code*. The Youth Court Judge also made express provision for the Applicants to be informed of subsequent proceedings and left open the possibility of ongoing applications to access as the proceedings unfold.

2. Contrary to the Applicants' characterization of her reasons, in making her order, the Youth Court Judge applied the test in *Dagenais/Mentuck*, through the lens of the relevant provisions and principles of the *Youth Criminal Justice Act* ("*YCJA*"), consistent with the binding jurisprudence of the Court of Appeal, and the approach developed in the case law of youth courts. The Youth Court Judge considered both the paramount significance of the open court principle and the role of the media in scrutinizing judicial processes, and the impact on the privacy interests and dignity of the young persons involved, interests with constitutional significance.

3. The Applicants have failed to demonstrate any error on the face of the record justifying this Court's intervention. The Application should be dismissed in its entirety.

PART I – RESPONDENT'S STATEMENT OF FACTS

4. The Respondent Young People accept the facts outlined in the Applicant's factum at paragraphs 11, 12, 13, 14 (first two sentences), 15, 16, 18, and 19 with the additions and modifications outlined below. They do not accept the facts asserted in paragraphs 14 (last sentence) and 17.

i. Procedural History

5. Eight teenage girls between the ages of 13 and 16 were arrested for second degree murder in relation to an incident that occurred on December 18, 2022. The young people were all detained and appeared in bail court for the first time on December 19, 2022. Their bail hearings were all adjourned to December 29, 2022.

Reasons for Judgment, at paras 4, 6, Application Record [AR] p 11

6. One of the Young Persons had their bail hearing brought forward to December 28, 2022 and the hearing was held that day. No member of the media attended the hearing that day. The young person was released on bail on December 29, 2022. That day the remaining seven young people were remanded in custody awaiting their bail hearings. Many members of the media were present on December 29.

Reasons for Judgment, at paras 7-10, 13, AR p 11

7. On December 30, 2022 a reporter from Canadian Broadcasting Corporation (CBC) filed an application to access the entire unredacted court file for all the young people. The application was brought on behalf of two reporters and seven media outlets: CBC, CTV News, New York Times, Global News, The Globe and Mail, the Toronto Star and The Associated Press.

Form 1, at pp 1-3, not included in Application Record
Reasons for Judgment, at para 1, AR p 11

8. The Application was heard on January 13, 2023 before the Honourable Justice O'Connell

(the "Youth Court Judge"). Her Reasons for Judgment were released on January 19, 2023. At the time of the decision, all of the evidence in this case was subject to a publication ban pursuant to s. 517, which remains in effect until the end of trial.

Reasons for Judgment, at paras 8, 76
Transcript of Proceedings, AR p 37

9. The Youth Court Judge granted access to records in the court file. The Applicants were granted access to: (a) the charging informations, (b) the bail orders, (c) the age of each young person, (d) the dates of all past and future court appearances, and (e) the court file number. These records were ordered released after the Crown redacted identifying information from them. The exhibits at the bail hearing were not released.

Reasons for Judgment, at para 84, AR pp 23-24

10. The Youth Court order also mandated a mechanism for the media to access dates of future court appearances.

Reasons for Judgment, at paras 78, 84, AR pp 23

ii. Evidence not properly before this Court

11. The Respondent Young Persons object to the inclusion of new evidence in the record before this Court. Evidence that was not before the court of first instance on January 13, 2023 is not properly part of the record before a reviewing court. This includes the Affidavit of Thomas Daigle and factual assertions in the Notice of Application dated February 17, 2023.

Affidavit of Thomas Daigle, AR pp 25-26
Notice of Application, at paras 6-8, 16, AR pp 2-3

PART III – RESPONSE TO APPLICANT'S ISSUES

A. THE STANDARD OF REVIEW REQUIRES THE APPLICANT TO DEMONSTRATE AN "ERROR OF LAW ON THE FACE OF THE RECORD"

12. The Court must be mindful of the nature of these proceedings. This is an application for

certiorari where the Court is bound by the record that was before the Youth Court and the Youth Court must be afforded a high degree of deference. Youth courts have the benefit of expertise and routine application of the principles animating the *YCJA* and relevant appellate court jurisprudence to make complex decisions related to the adjudication of youth criminal matters. This includes maintaining the appropriate safeguards related to the use and disclosure of the resulting records.

> *SL v NB, (2005)* 252 DLR (4th) 508, para 54, 2005 CanLII 11391 (ONCA)
> *TPS v LD*, 2018 ONCA 17 at para 26

13. An application for *certiorari* is distinct from an appeal. On a judicial review of a request made by a third party where the decision is of a final nature, a reviewing court may only review the decision if the court below exceeded its jurisdiction or there is an error of law on the face of the record. It is a highly deferential standard of review.

> *TPS v LD*, *supra,* at para 26
> *Awashish*, 2018 SCC 45, at para 12 [*Awashish*]
> *R v Mullings,* 2012 ONSC 2910, at paras 27-29, [2012] OJ No 2199 (QL)

14. *Certiorari* does not permit a court on review to challenge the decision of the court below nor substitute its own decision on the ground that the court below committed a minor error or that the reviewing court would have exercised its jurisdiction differently.

> *R v Innocente,* 2004 NSCA 18, at paras 16-18, 221 NSR (2d) 357 citing *R v Skogman,* [1984] 2 SCR 93 at pp 98 to 100, 11 DLR (4th) 161
> *R v Russell*, [2001] 2 SCR 804, at paras 19, 2001 SCC 53
> *R v Mullings,* 2012 ONSC 2910, at paras 27-29

15. *Certiorari* is a discretionary remedy and even if the court finds an error of jurisdiction or an error of law on the face of the record, the reviewing court can refuse to overturn the decision. The error of law must be pervasive enough to override the remainder of the analysis. If not, deference must be accorded to the expertise and jurisdiction of the lower court.

Bessette v British Columbia (Attorney General), 2019 SCC 31, at para 21 and 35

R v Strickland, 2015 SCC 37 at para 37

B. THE YOUTH COURT APPROPRIATELY CONSIDERED AND APPLIED *DAGENAIS/MENTUCK*

i. Overview

16. The Applicants allege that the Youth Court Judge erred in failing to apply the common law test developed in *Dagenais* and *Mentuck* to their request for the court files of the eight young persons. They allege that this constitutes an error of law on the face of the record, justifying this Honourable Court's intervention. This argument must fail for two reasons.

17. First, youth court judges determining an application for access to youth court records are not acting pursuant to common law jurisdiction. Rather, they are exercising a discretion conferred upon them by a comprehensive statutory scheme under the *Youth Criminal Justice Act.* It is settled law that the *YCJA* is the only means by which youth records may be accessed, and that the *Dagenais/Mentuck* test must be applied through the lens of the *YCJA,* its provisions, principles, and quasi-constitutional guarantees of privacy for young people.

Toronto Star Newspaper Ltd. v Ontario, 2012 ONCJ 27 (CanLII), at para 4

SL v NB, *supra,* at paras 54-55

18. Second, the Youth Court Judge in fact did consider and apply *Dagenais/Mentuck* in her analysis under the *YCJA*. Her application of the analysis discloses no legal error on the face of the record.

Reasons for Judgment, at paras 56-66, AR p 19-21

ii. The YCJA is a comprehensive legislative scheme which is intended to control access to youth court records

19. The Applicants assert that the Youth Court Judge ought not to have applied the test set out in s. 119(1)(s), erroneously characterizing this as a "common law test". Instead, they appear

to suggest that the Youth Court Judge had some common law jurisdiction existing outside the *YCJA* to apply the *Dagenais/Mentuck* test and depart from the legislatively-mandated regime for access to youth records. This is contrary to the legislation and to the settled jurisprudence of the Court of Appeal.

> *Youth Criminal Justice Act* (SC 2002, c 1)
> *SL v NB, supra*, at para 2

20. The *YCJA* reflects Parliament's intention to codify a distinct system of criminal justice for young people as compared to adults. To this end, the *YCJA* establishes enhanced procedural protections at every stage of youth criminal proceedings, from pre-charge to post-sentencing, including strict control over youth records.

21. These enhanced procedural protections are born from the recognition, explicitly captured in the Preamble of the *YCJA,* that all members of society share a responsibility for addressing the developmental challenges and needs of young persons into adulthood.

> *YCJA*, *supra*, Preamble

22. Parliament codified the central importance of the need to protect young people's privacy in the *YCJA*: "the criminal justice system for young persons must be separate from that of adults, must be based on the principle of diminished moral blameworthiness or culpability" and must emphasize, *inter alia,* rehabilitation and reintegration, enhanced procedural protection to ensure that young persons are treated fairly and that their rights, including their right to privacy, are protected. Young persons' entitlement to a presumption of diminished blameworthiness, enhanced procedural protections, and a separate legal regime from that of adults is a principle of fundamental justice.

> *YCJA, supra,* s. 3(1)(b) (emphasis added)
> *R v DB,* 2008 SCC 25, paras 40-69

23. The *United Nations Convention on the Rights of the Child*, which is expressly

incorporated into the *YCJA* and has been recognized as an important interpretive source for the legislation, mandates taking into account the child's age and the desirability of promoting the child's reintegration and rehabilitation. States parties must furthermore ensure that a child's privacy is protected at all stages of the proceedings. In keeping with its international obligations, Parliament has extended to young persons enhanced procedural protections, and sought to interfere with their personal freedom and privacy as little as possible.

> YCJA, *supra*, Preamble
>
> United Nations, Convention on the Rights of the Child, Can. T.S. 1992 No. 3, Preamble, Article 40, clauses 1 and 2(b)(vii)
>
> *R v RC,* 2005 SCC 61, at para 41
>
> *R v CD; R v CDK,* 2005 SCC 78, at para 35
>
> *Quebec (Attorney General) v 9147-0732 Quebec, Inc,* 2020 SCC 32, at para 38

24. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the "*Beijing Rules*") elaborate on this principle recognizing that young people are "particularly susceptible to stigmatization" and the detrimental effects of labelling, and require that the privacy of a young person be protected at all stages of a criminal proceeding "in order to avoid harm being done to her or him by undue publicity or by the process of labelling".

> United Nations General Assembly, United Nations Standard Minimum Rules for the Administration of Juvenile Justice, A/RES/40/33, November 29, 1985, Rule 8

25. All the provisions of the *YCJA* must be read together as making meaningful these principles, including the provisions concerning records found in Part 6.

26. Part 6 of the *YCJA* is a complete and strict statutory code governing publication of, access to, and disclosure of youth records, which "demonstrate beyond peradventure Parliament's intention to maintain tight control over access to records pertaining to young offender proceedings".

> *SL v NB*, *supra*, at para 42

27. In *SL v NB*, Justice Doherty of the Court of Appeal affirmed that:

> The access provisions of the Act are a comprehensive scheme designed to carefully control access to young offender records. The language of s. 118 and the comprehensiveness of the scheme itself demonstrate that Parliament intended that access to the records could be gained only through the Act. Using the words of Cory J.A. in *Cook*, Parliament in "clear and unambiguous terms" has placed the responsibility for determining access to records on the shoulders of the youth justice court judges. This makes sense. Youth justice court judges are familiar with the principles and policies animating the Act. They are also familiar with the terms of the Act and the specific provisions sprinkled throughout the Act that touch on access issues. Youth justice court judges also know what records are generated by the youth justice court system, and have daily experience in considering and balancing the competing interests which may clash on access applications.
>
> *SL v NB, supra,* at para 54

28. Justice Doherty concludes that "the *YCJA* provides the exclusive means by which access may be obtained to documents which constitute records under the Act. . . ".

> *SL v NB, supra,* at para 55

29. A brief review of the provisions of Part 6 of the *YCJA* demonstrate the comprehensiveness of the legislative scheme.

30. Records are defined broadly as including "any thing containing information, regardless of its physical form or characteristics, including microform, sound recording, videotape, machine-readable record, and any copy of any of those things, that is created or kept for the purposes of this Act or for the investigation of an offence that is or could be prosecuted under this Act."

> *YCJA, supra,* s 2

31. Sections 114 to 116 of the *YCJA* further distinguish between youth court records (s. 114), police records (s. 115), and government and/or Crown records (s. 116).

32. Section 118 enacts a presumptive prohibition on access to youth records:

> **118** (1) Except as authorized or required by this Act, no person shall be given access to a record kept under sections 114 to 116, and no information contained in it may be given to any person, where to do so would identify the young person to whom it relates as a young person dealt with under this Act.
>
> *YCJA, supra,* ss 114, 115, 116, 118

33. Where access is permitted, s. 129 prohibits further disclosure of the record itself or

information contained within it. This is reinforced by s. 138, which creates an offence for contravention of the non-publication and non-disclosure provisions of the Act. The prohibition is "unequivocal and unqualified".

> *YCJA, supra,* ss 129, 138
> *SL v NB, supra*, at para 45

34. Notably, the *YCJA* distinguishes between publication and disclosure. Section 110(1) prohibits the publication of the name of a young person, or any other information related to a young person, if to do so would identify the young person as having been dealt with under the Act. Disclosure is defined in s. 2 as the communication of information other than by way of publication. "Publish" has been understood to mean disclosure of information to the community or part thereof not authorized to receive it. In short, the provisions mean that a person may not communicate information within the community that would tend to identify a young person dealt with under the *YCJA*, and cannot further disclose information contained in a record to which access has been granted.

> *YCJA, supra,* s 2, 110
> *FN (Re),* 2000 SCC 35, at para 42

35. In other words, there is no publication or disclosure of information permitted except as authorized by the *YCJA*.

36. Depending on the nature of the disposition of a young person's charges, records will become inaccessible after a period of time, consistent with the principles of diminished moral blameworthiness, timeliness, rehabilitation and reintegration, and avoidance of stigma.

37. Section 119(1) of the *YCJA* sets out an exhaustive list of persons entitled to access youth court records (s. 114 records) on request while they remain in their statutory access period. Generally speaking, these are persons directly implicated in the administration of youth criminal justice. The media are not among them.

YCJA, supra, s 119(1)

38. For all persons not falling within the enumerated categories, Parliament has created a basket clause pursuant to which such third parties may access records, subject to a statutory test:

> **119**(1)(s) any person or member of a class of persons that a youth justice court judge considers has a valid interest in the record, to the extent directed by the judge, if the judge is satisfied that access to the record is
>
> (i) desirable in the public interest for research or statistical purposes, or
>
> (ii) desirable in the interest of the proper administration of justice.
>
> *YCJA, supra,* s. 119(1)(s)

39. In other words, a person seeking the records under s. 119(1)(s) must demonstrate both a valid interest in the records and that access is in the interests of the proper administration of justice. This two-part test must be met in order to justify intrusion on the privacy of a young person.

40. Given the comprehensiveness of the legislation and the binding jurisprudence of the Court of Appeal with respect to access – all of which were reviewed in detail by the Youth Court Judge – adhering to this test and the statutory scheme discloses no error, and is in fact mandatory.

> Reasons for Judgment, paras 26-66

41. The *YCJA* occupies the field with respect to all aspects of the administration of youth criminal justice and access to youth court records. There is no residual discretion for the Youth Court Judge to have applied a test other than that set out in the legislation.

iii. **Dagenais/Mentuck** *informs the analysis under section 119(1)(s) and was applied by the Youth Court Judge*

42. Courts, including the Youth Court in this matter, have recognized that the principles underlying the test developed in *Dagenais* and *Mentuck* are relevant to the analysis under s.

119(1)(s), and have imported them into the analysis under this provision. Contrary to the Applicants' assertion, the Youth Court Judge considered and applied the *Dagenais/Mentuck* test and its principles through the lens of the important privacy considerations under the *YCJA*, consistent with the approach taken generally by youth courts.

43. The Applicant is incorrect to suggest that the Youth Court Judge did not apply *Dagenais/Mentuck*, when in fact she undertook a detailed analysis of the test and its principles. The Applicants have accordingly failed to demonstrate an error of law on the face of the record.

44. As above, the Youth Court Judge is required to apply the statutory test under s. 119(1)(s), but noted specifically that the *Dagenais/Mentuck* test informs the analysis.

> Reasons for Judgment, para 56-58, AR pp 19-21

45. Neither *Dagenais* nor *Mentuck* concern youth matters and both pre-date the enactment of the *YCJA*. It is accordingly appropriate that courts have developed a unique approach to the principles enunciated in *Dagenais/Mentuck* in the youth criminal justice context, consistent with Parliament's clear intention to enact a unique system of criminal justice for young people, and as affirmed by the Supreme Court of Canada in *R v DB*.

> *YCJA, supra,* Preamble, s 3
> *R v DB, supra,* para 41

46. This is consistent with the approach taken in the case law, in which principles of the *Dagenais/Mentuck* test are applied in the context of youth records applications, with the objective of balancing the principles of free expression of the press and open courts, and the principles and purposes of the *YCJA*, in particular the stringent privacy protections to which young people are entitled within s. 119(1)(s).

> *Toronto Star Newspaper Ltd v Ontario, supra*, para 49-51
> *R v MM*, 2017 NSPC 12, para 32-34
> *R v AYD,* 2011 ABQB 590, para 23

47. As the Youth Court Judge stated,

> In youth criminal justice proceedings, the *Dagenais-Mentuk* test must be considered "through the lens of the applicable youth criminal justice legislation" and the principles enshrined in that legislation that protect the privacy of youth. See: *R. v. M.M.*, 2017 NSPC 12 at paragraphs 33 and 34; *R. v. G.D.S.*, 2007 NSCA 94 at paragraphs 38; *R. v. A.Y.D.*, 2011 ABQB 590, at paragraph 23.
>
> Reasons for Judgment, para 62, AR p 20

48. As the Youth Court Judge noted, courts have consistently held that, given the paramount importance of the open court principle and its significance in Canadian democracy, the media has a valid interest in youth court records and proceedings.

> Reasons for Judgment, para 51, AR p 18

49. It then falls to a youth court judge to consider whether access by the media is desirable in the interest of the proper administration of justice, which in substance imports the principles of the *Dagenais/Mentuck* test. The interests of the proper administration of justice is part of both the s. 119(1)(s) test and the *Dagenais/Mentuck* test.

50. In the context of the *YCJA,* the interests of the proper administration of justice and the rights and interests of both the parties and the public must include a consideration of the risks to and effect on young persons' privacy, the importance of which cannot be understated.

51. In enacting the *YCJA,* Parliament has affirmed that children presumptively require enhanced privacy protections to meaningfully recognize their heightened vulnerability and diminished moral blameworthiness. That children should be provided with greater privacy rights than similarly situated adults is a matter of societal consensus and a shared value of Canadian law that has been embraced by the courts.

> *R v Jarvis*, 2019 SCC 10, para 86, [2019] SCJ No 10 (QL) [*Jarvis*]
> *AB v Bragg Communications*, *supra*, at para 17-18, citing Toronto Star v Ontario, 2012 ONCJ 27 (*supra*)

52. In *DB*, the Supreme Court of Canada held that the protection of privacy for young people

dealt with under the *YCJA* is a significant element of their rehabilitation and reintegration, and ultimately the long-term protection of the public:

> In s. 3(1)(b)(iii) of the YCJA, as previously noted, the young person's "enhanced procedural protection . . . including their right to privacy", is stipulated to be a principle to be emphasized in the application of the Act. Scholars agree that "[p]ublication increases a youth's self-perception as an offender, disrupts the family's abilities to provide support, and negatively affects interaction with peers, teachers, and the surrounding community" (Nicholas Bala, Young Offenders Law (1997), at p. 215)
>
> *R v DB*, *supra*, at para 84

53. Similarly, in *Re FN*, the Supreme Court noted that "[s]tigmatization or premature 'labelling' of a young offender still in his or her formative years is well understood as a problem in the juvenile justice system. A young person once stigmatized as a lawbreaker may, unless given help and redirection, render the stigma a self-fulfilling prophecy." The privacy protections were accordingly recognized as being designed to "maximize the chance of rehabilitation for young offenders."

> *FN (Re),* 2000 SCC 35, [2000] 1 SCR 880, at para 14
>
> See also: *Quebec (Minister of Justice) v Canada (Minister of Justice)* (2003), 175 CCC (3d) 321 (QCCA), para 215, 228 DLR (4th) 63.

54. The importance of privacy under the *YCJA*, however, extends beyond the avoidance of labelling and stigma and underscores why a mere publication ban may be insufficient to appropriately protect the privacy interests of young persons.

55. As Justice Cohen explains in *Toronto Star,* cited with approval by the Supreme Court of Canada, the privacy of interests of young persons has undoubted constitutional significance:

> The concern to avoid labeling and stigmatization is essential to an understanding of why the protection of privacy is such an important value in the *Act*. However it is not the only explanation. The value of the privacy of young persons under the *Act* has deeper roots than exclusively pragmatic considerations would suggest. We must also look to the Charter, because the protection of privacy of young persons has *undoubted constitutional significance*.

> Privacy is recognized in Canadian constitutional jurisprudence as implicating liberty and security interests. In *Dyment*, the court stated that privacy is worthy of constitutional protection because it is "grounded in man's physical and moral autonomy," is "essential for the well-being of the individual," and is "at the heart of liberty in a modern state" (para. 17). *These considerations apply equally if not more strongly in the case of young persons*. Furthermore, the constitutional protection of privacy embraces the privacy of young persons, not only as an aspect of their rights under section 7 and 8 of the Charter, but by virtue of the presumption of their diminished moral culpability, which has been found to be a principle of fundamental justice under the *Charter*. . . .
>
> . . . the protection of the privacy of young persons fosters respect for dignity, personal integrity and autonomy of the young person. (emphasis added)
>
> *Toronto Star Newspaper Ltd v Ontario, supra,* at paras 40-41, 44, cited in *AB v Bragg Communications, supra,* at para 18

56. Access to records under the *YCJA* engages young people's constitutional right to enhanced procedural protections and privacy, which appropriately carries significant weight in the determination of an application under s. 119(1)(s). The Youth Court Judge therefore appropriately exercised caution is allowing unrestricted access to the court file, given the potential harms of dissemination of identifying information.

> Reasons for Judgment, at paras 73-74, AR pp 21-22

57. The Youth Court Judge also recognized the importance of protecting the integrity of the trial process at this early stage of proceedings.

> Reasons for Judgment, at paras 67-68, AR p 21

58. The Youth Court Judge was furthermore alive to the importance of the open court principle, stating, "the open court principle, which permits the public to scrutinize the workings of the court, is a value of paramount significance in the Canadian democracy".

> Reasons for Judgment, at para 71, AR p 21

59. The Youth Court Judge gave effect to this important constitutional value by providing liberal access to much of the information in the court file, excluding only the young persons' names, month and day of birth, and exhibits from the bail hearings, and made orders ensuring

that the Applicants can access dates of all future court proceedings. The Youth Court Judge further left open the possibility for future applications for access.

> Reasons for Judgment, at para 84, AR p 23

60. The Applicants have failed to demonstrate why unredacted access to the entirety of the court's files is necessary in order to allow the media to scrutinize the proceedings and the judicial process, particularly in the face of the risks to the of having identifying personal information and personal details contained in the exhibits disseminated publicly. The purpose of the open court principle, after all, is scrutiny of the courts, not of young persons.

61. In sum, the Youth Court Judge considered the relevant legal principles, including the statutory test under s. 119(1)(s), the *Dagenais/Mentuck* test, the relevant jurisprudence, and the constitutional values at stake, which are reflected in the order she ultimately made. The Applicants have accordingly failed to demonstrate that this was an error of law on the face of the record.

C. MEDIA ARE NOT PRESUMPTIVELY ENTITLED TO YOUTH COURT RECORDS AND MUST MAKE AN APPLICATION UNDER S. 119(1)(S)

i. Overview

62. The Applicant contends that the Youth Court Judge erred by requiring the Applicant to bring an application on notice to the Crown to access youth records sought pursuant to s. 119(1)(s). The Youth Court Judge held:

> [80] Respectfully, I do not agree with the applicants that a written application is not required to access youth records. Access to youth records, as set out in the comprehensive code under Part 6 of the Act, should not be confused with publication, which is subject to the publication bans under other provisions of the Act.
>
> [81] Access to youth records requires a motion or application before the youth court justice with notice to the Crown…[references omitted]
>
> Reasons for Judgment, paras 80-81, AR p 22

63. Contrary to the Applicant's contention, the Youth Court Judge did not "read in" a requirement that the media must bring an application to access youth court records. The Youth Court Judge applied the statutory provisions and binding case law. There is no categorical exception for the media to access youth court records. Access must be by judicial determination. The Applicant has failed to demonstrate that there is an error of law on the face of this record.

ii. Section 119(1) of the Youth Criminal Justice Act

64. Sections 119(1)(a) to (r) of the *YCJA* enumerate an exhaustive list of persons or classes of persons who, on request, must be given access to court records and who may be given access to police and government records. The records can only be accessed while the record falls within the access periods in s. 119(2), which varies depending on the manner in which the young person's charges were resolved.

SL v NB, *supra* at para 47

65. As above, section 119(1)(s) creates a basket clause pursuant to which "any person" or "member of a class of persons" may access records. It permits access to any person if a youth justice court judge considers the person has a valid interest in the record and the judge is satisfied that access to the record is desirable in the interest of the proper administration of justice.

iii. An Application is required to access records pursuant to s. 119(1)(s)

66. A formal application on notice to the Crown must be brought to access records pursuant to section 119(1)(s) because the statute requires a judicial determination. This is plain from a reading of the provision, which requires a youth court judge to consider and decide if the statutory test has been met. The provision cannot be interpreted by extracting the term "on request" from context of the provision itself and from the statutory scheme as whole.

67. Binding case law also requires an application be made to the Youth Court for access

pursuant to 119(1)(s). In *SL v NB.,* Justice Doherty, writing for the Court, held that provision requires "*a motion* before a youth court judge for an order" to access records. This procedure is in contrast to the procedure for a person in the enumerated classes. Such a person can request access to court records and it "*does not require a formal motion to the court* or notice to any individuals". This request can be presumably directed to a court administrator. The reasons in *SL v NB* regarding the nature of s. 119 requests and applications are binding authority. They formed part of an intentional, robust and comparative analysis of Part 6 generally and s. 119(1) specifically.

> *SL v NB*, *supra* at paras. 47-52 [emphasis added]
> *R. v. Mosa,* [2016] A.J. No. 620 at paras. 24-28 (ABQB)

68. The Applicants argue that requiring applications creates procedural hurdles and negatively impacts judicial resources. Most applications will be straightforward, as recognized in *SL v NB.* Even so, judicial economy and convenience to applicants cannot alter the clear intention of Parliament expressed in the statutory provision. Had Parliament intended that the media should have access to youth court records as of right, it could have enacted provisions in this regard. It chose not to do so.

> *SL v NB*, *supra* at paras. 52, 56

69. Media outlets are not an enumerated class that can access youth court records on request. Rather, they must bring an application on notice to the Crown pursuant to s. 119(1)(s). There is therefore no legal error on the face of the record.

D. THE APPLICANTS ARE NOT ENTITLED TO RAISE A CONSTITUTIONAL QUESTION IN THIS APPLICATION FOR *CERTIORARI* NOT RAISED AT FIRST INSTANCE

i. Overview

70. An application for *certiorari* is, by its nature, a review bound by the record that was

before the Court below. The Applicants' submissions regarding the jurisdiction of this Court below fail to address the fundamental issue that the constitutionality of ss. 114, 118, 119 and 129 of the *YCJA* was not raised before the Youth Court Judge, and that this Court accordingly has no basis for review. This Court should accordingly decline to hear and consider these arguments.

ii. No authority supports the notion that a constitutional question can be raised on review

71. The Applicants have cited no authority, and the Respondents are aware of none, that supports the notion that a constitutional argument can be raised for the first time in an application for *certiorari.*

72. The Applicants cite *R v Toronto Star Newspapers* (2006) and *R v Toronto Star Newspapers* (2007) as authority for the proposition that this Court may consider a challenge to the constitutionality of legislation in an application for *certiorari*. Respectfully, these cases plainly do not support this proposition. In those cases, the challenge to the constitutionality of s. 517 of the *Criminal Code* was dealt with in an application separate from and subsequent to the *certiorari* application. The Court in the *certiorari* application specifically noted that it had not been framed as a challenge to the legislation.

73. It is not disputed that the Superior Court has jurisdiction to consider the constitutionality of legislation on a separate originating application.

74. In *Bodnarek,* the Court did not decide the question of whether the constitutional challenge was properly before it and made no comment in this regard. The Applicants have cited no other or better authority.

> *R v Toronto Star Newspapers Ltd*, 2006 CanLII 25418 (ON SC) at para 55
> *R v Toronto Star Newspapers Ltd*, 2007 CanLII 6249 (ON SC)
> *Canadian Broadcasting Corporation v Bodnarek,* 2017 ABQB 691

75. By contrast, it is trite law that an application for *certiorari* is bound by the record that

was before the court below. Consistent with the deferential standard of review applicable to an application for *certiorari,* the review is limited to review of the lower court's exercise of jurisdiction. It does not permit consideration of new questions of law not previously raised.

R v Nat Bell Liquors, 37 CCC 129, 65 DLR 1 (JCPC) at para 39

76. Raising new arguments for the first time on review also causes prejudice to the parties, who may have participated, argued the matter differently, or presented additional evidence at first instance had the argument been properly raised.

iii. The Youth Court has jurisdiction to consider the constitutionality of legislation and provide s. 52 remedies

77. The Applicants make much of the principle of judicial economy as justification for this Court to consider the constitutional challenge in this proceeding because, they contend, the Youth Court could not have considered it.

78. This is a misstatement of the law applicable to s. 52(1) of the *Constitution Act.* While only a "court of competent jurisdiction" can offer a remedy under s. 24 of the *Charter,* any court or tribunal can apply s. 52. While a provincial court could not make a declaration of invalidity, it could decide not to apply a law found to be unconstitutional. The constitutionality of sections of the *YCJA* thus could have been raised before the Youth Court Judge, but was not.

R v Lloyd, 2016 SCC 13 at para 15

79. This Court is accordingly without jurisdiction to consider the question and has no discretion to expand the scope of this review. Judicial economy is insufficient justification to overcome this fundamental problem.

80. This Court should in any event decline to consider the constitutional questions. The remedies sought by the Applicants will fundamentally alter the administration of youth criminal justice in Canada, impacting not only the eight young persons before the court, but potentially

every young person charged with an offence under the *YCJA.* This alone requires a comprehensive record. This Court should resist any attempt to deal with the constitutional challenge in a summary manner, without the benefit of a complete and comprehensive record before it.

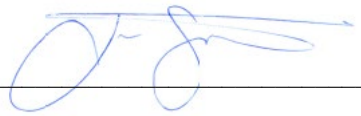
PART III – ADDITIONAL ISSUES

81. The Respondents raise no additional issues.

PART IV – ORDER REQUESTED

82. The Respondents request that the Applicants' application be dismissed in its entirety, and such further and other orders as counsel may advise and this Honourable Court may deem just.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 9th day of June, 2023



Per Mary Birdsell, Jane Stewart, and Candice Suter
Justice for Children and Youth
For Young Persons #1-7

Per Kevin Gray
For Young Person #8

SCHEDULE A - LIST OF AUTHORITIES

1. *SL v NB*, (2005) 252 DLR (4th) 508, 2005 CanLII 11391 (ONCA)
2. *TPS v LD*, 2018 ONCA 17
3. *R v Awashish*, 2018 SCC 45, 367 CCC (3d) 377
4. *R v Mullings*, 2012 ONSC 2910, [2012] OJ No 2199 (QL)
5. *R v Innocente*, 2004 NSCA 18, 221 NSR (2d) 357
6. *R v Russell*, [2001] 2 S.C.R. 804, 2001 SCC 53
7. *Bessette v British Columbia (Attorney General)*, 2019 SCC 31
8. *R v Strickland*, 2015 SCC 37
9. *Toronto Star Newspaper Ltd v Ontario*, 2012 ONCJ 27
10. *R v DB*, 2008 SCC 25
11. *R v RC*, 2005 SCC 61
12. *R v CD; R v CDK*, 2005 SCC 78
13. *Quebec (Attorney General) v 9147-0732 Quebec, Inc*, 2020 SCC 32
14. *FN (Re)*, 2000 SCC 35, [2000] 1 SCR 880
15. *R v MM*, 2017 NSPC 12
16. *R v AYD*, 2011 ABQB 590
17. *R v Jarvis*, 2019 SCC 10, [2019] SCJ No 10 (QL) [*Jarvis*]
18. *AB v Bragg Communications Inc*., 2012 SCC 46 (CanLII), [2012] 2 SCR 567
19. *Quebec (Minister of Justice) v Canada (Minister of Justice)* (2003), 175 CCC (3d) 321 (QCCA), DLR (4th) 63
20. *R v Mosa*, [2016] AJ No. 620 (ABQB)
21. *R v Toronto Star Newspapers Ltd*, 2006 CanLII 25418 (ON SC)
22. *R v Toronto Star Newspapers Ltd*, 2007 CanLII 6249 (ON SC)
23. *Canadian Broadcasting Corporation v Bodnarek*, 2017 ABQB 691 (CanLII)
24. *R v Nat Bell Liquors*, 37 CCC 129, 65 DLR 1 (JCPC)
25. *R v Lloyd*, 2016 SCC 13

SCHEDULE B - RELEVANT PROVISIONS OF STATUTES, REGULATIONS, AND BY-LAWS

YOUTH CRIMINAL JUSTICE ACT (SC 2002, c 1)

Preamble

WHEREAS members of society share a responsibility to address the developmental challenges and the needs of young persons and to guide them into adulthood;

WHEREAS communities, families, parents and others concerned with the development of young persons should, through multi-disciplinary approaches, take reasonable steps to prevent youth crime by addressing its underlying causes, to respond to the needs of young persons, and to provide guidance and support to those at risk of committing crimes;

WHEREAS information about youth justice, youth crime and the effectiveness of measures taken to address youth crime should be publicly available;

WHEREAS Canada is a party to the United Nations Convention on the Rights of the Child and recognizes that young persons have rights and freedoms, including those stated in the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights*, and have special guarantees of their rights and freedoms;

AND WHEREAS Canadian society should have a youth criminal justice system that commands respect, takes into account the interests of victims, fosters responsibility and ensures accountability through meaningful consequences and effective rehabilitation and reintegration, and that reserves its most serious intervention for the most serious crimes and reduces the over-reliance on incarceration for non-violent young persons;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows . . . .

2 (1) The definitions in this subsection apply in this Act. . . .

> *record* includes any thing containing information, regardless of its physical form or characteristics, including microform, sound recording, videotape, machine-readable record, and any copy of any of those things, that is created or kept for the purposes of this Act or for the investigation of an offence that is or could be prosecuted under this Act. . . .

3 (1) The following principles apply in this Act:

. . .

(b) the criminal justice system for young persons must be separate from that of adults, must be based on the principle of diminished moral blameworthiness or culpability and must emphasize the following:

(i) rehabilitation and reintegration,

(ii) fair and proportionate accountability that is consistent with the greater dependency of young persons and their reduced level of maturity,

(iii) enhanced procedural protection to ensure that young persons are treated fairly and that their rights, including their right to privacy, are protected,

(iv) timely intervention that reinforces the link between the offending behaviour and its consequences, and

(v) the promptness and speed with which persons responsible for enforcing this Act must act, given young persons' perception of time . . .

110 (1) Subject to this section, no person shall publish the name of a young person, or any other information related to a young person, if it would identify the young person as a young person dealt with under this Act.

(2) Subsection (1) does not apply

(a) in a case where the information relates to a young person who has received an adult sentence; or

(b) [Repealed, 2019, c. 25, s. 379]

(c) in a case where the publication of information is made in the course of the administration of justice, if it is not the purpose of the publication to make the information known in the community.

(3) A young person referred to in subsection (1) may, after he or she attains the age of eighteen years, publish or cause to be published information that would identify him or her as having been dealt with under this Act or the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, provided that he or she is not in custody pursuant to either Act at the time of the publication.

(4) A youth justice court judge shall, on the ex parte application of a peace officer, make an order permitting any person to publish information that identifies a young person as having committed or allegedly committed an indictable offence, if the judge is satisfied that

(a) there is reason to believe that the young person is a danger to others; and

(b) publication of the information is necessary to assist in apprehending the young person.

(5) An order made under subsection (4) ceases to have effect five days after it is made.

(6) The youth justice court may, on the application of a young person referred to in subsection (1), make an order permitting the young person to publish information that would identify him or her as having been dealt with under this Act or the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, if the court is satisfied that the publication would not be contrary to the young person's best interests or the public interest.

114 A youth justice court, review board or any court dealing with matters arising out of proceedings under this Act may keep a record of any case that comes before it arising under this Act.

115 (1) A record relating to any offence alleged to have been committed by a young person, including the original or a copy of any fingerprints or photographs of the young person, may be kept by any police force responsible for or participating in the investigation of the offence.

(1.1) The police force shall keep a record of any extrajudicial measures that they use to deal with young persons.

(2) When a young person is charged with having committed an offence in respect of which an adult may be subjected to any measurement, process or operation referred to in the *Identification of Criminals Act*, the police force responsible for the investigation of the offence may provide a record relating to the offence to the Royal Canadian Mounted Police. If the young person is found guilty of the offence, the police force shall provide the record.

(3) The Royal Canadian Mounted Police shall keep the records provided under subsection (2) in the central repository that the Commissioner of the Royal Canadian Mounted Police may, from time to time, designate for the purpose of keeping criminal history files or records of offenders or keeping records for the identification of offenders.

116 (1) A department or an agency of any government in Canada may keep records containing information obtained by the department or agency

(a) for the purposes of an investigation of an offence alleged to have been committed by a young person;

(b) for use in proceedings against a young person under this Act;

(c) for the purpose of administering a youth sentence or an order of the youth justice court;

(d) for the purpose of considering whether to use extrajudicial measures to deal with a young person; or

(e) as a result of the use of extrajudicial measures to deal with a young person.

(2) A person or organization may keep records containing information obtained by the person or organization

(a) as a result of the use of extrajudicial measures to deal with a young person; or

(b) for the purpose of administering or participating in the administration of a youth sentence.

118 (1) Except as authorized or required by this Act, no person shall be given access to a record kept under sections 114 to 116, and no information contained in it may be given to any person, where to do so would identify the young person to whom it relates as a young person dealt with under this Act.

(2) No person who is employed in keeping or maintaining records referred to in subsection (1) is restricted from doing anything prohibited under subsection (1) with respect to any other person so employed.

119 (1) Subject to subsections (4) to (6), from the date that a record is created until the end of the applicable period set out in subsection (2), the following persons, on request, shall be given access to a record kept under section 114, and may be given access to a record kept under sections 115 and 116:

(a) the young person to whom the record relates;

(b) the young person's counsel, or any representative of that counsel;

(c) the Attorney General;

(d) the victim of the offence or alleged offence to which the record relates;

(e) the parents of the young person, during the course of any proceedings relating to the offence or alleged offence to which the record relates or during the term of any youth sentence made in respect of the offence;

(f) any adult assisting the young person under subsection 25(7), during the course of any proceedings relating to the offence or alleged offence to which the record relates or during the term of any youth sentence made in respect of the offence;

(g) any peace officer for

(i) law enforcement purposes, or

(ii) any purpose related to the administration of the case to which the record relates, during the course of proceedings against the young person or the term of the youth sentence;

(h) a judge, court or review board, for any purpose relating to proceedings against the young person, or proceedings against the person after he or she becomes an adult, in respect of offences committed or alleged to have been committed by that person;

(i) the provincial director, or the director of the provincial correctional facility for adults or the penitentiary at which the young person is serving a sentence;

(j) a person participating in a conference or in the administration of extrajudicial measures, if required for the administration of the case to which the record relates;

(k) a person acting as ombudsman, privacy commissioner or information commissioner, whatever his or her official designation might be, who in the course of his or her duties under an Act of Parliament or the legislature of a province is investigating a complaint to which the record relates;

(l) a coroner or a person acting as a child advocate, whatever his or her official designation might be, who is acting in the course of his or her duties under an Act of Parliament or the legislature of a province;

(m) a person acting under the *Firearms Act*;

(n) a member of a department or agency of a government in Canada, or of an organization that is an agent of, or under contract with, the department or agency, who is

(i) acting in the exercise of his or her duties under this Act,

(ii) engaged in the supervision or care of the young person, whether as a young person or an adult, or in an investigation related to the young person under an Act of the legislature of a province respecting child welfare,

(iii) considering an application for conditional release, or for a record suspension under the *Criminal Records Act*, made by the young person, whether as a young person or an adult,

(iv) administering a prohibition order made under an Act of Parliament or the legislature of a province, or

(v) administering a youth sentence, if the young person has been committed to custody and is serving the custody in a provincial correctional facility for adults or a penitentiary;

(o) a person, for the purpose of carrying out a criminal record check required by the Government of Canada or the government of a province or a municipality for purposes of employment or the performance of services, with or without remuneration;

(p) an employee or agent of the Government of Canada, for statistical purposes under the *Statistics Act*;

(p.1) an employee of a department or agency of the Government of Canada, for the purpose of administering the *Canadian Passport Order*;

(q) an accused or his or her counsel who swears an affidavit to the effect that access to the record is necessary to make a full answer and defence;

(r) a person or a member of a class of persons designated by order of the Governor in Council, or the lieutenant governor in council of the appropriate province, for a purpose and to the extent specified in the order; and

(s) any person or member of a class of persons that a youth justice court judge considers has a valid interest in the record, to the extent directed by the judge, if the judge is satisfied that access to the record is

(i) desirable in the public interest for research or statistical purposes, or

(ii) desirable in the interest of the proper administration of justice.

129 No person who is given access to a record or to whom information is disclosed under this Act shall disclose that information to any other person unless the disclosure is authorized under this Act.

138 (1) Every person who contravenes subsection 110(1) (identity of offender not to be published), 111(1) (identity of victim or witness not to be published), 118(1) (no access to records unless authorized) or 128(3) (disposal of R.C.M.P. records) or section 129 (no subsequent disclosure) of this Act, or subsection 38(1) (identity not to be published), (1.12) (no subsequent disclosure), (1.14) (no subsequent disclosure by school) or (1.15) (information to be kept separate), 45(2) (destruction of records) or 46(1) (prohibition against disclosure) of the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985,

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years; or

(b) is guilty of an offence punishable on summary conviction.

UNITED NATIONS, CONVENTION ON THE RIGHTS OF THE CHILD, CAN. T.S. 1992 NO. 3.

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

…

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

…

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

…

(vii) To have his or her privacy fully respected at all stages of the proceedings.

UNITED NATIONS GENERAL ASSEMBLY, UNITED NATIONS STANDARD MINIMUM RULES FOR THE ADMINISTRATION OF JUVENILE JUSTICE, A/RES/40/33, NOVEMBER 29, 1985. RULE 8.

Rule 8. Protection of privacy

8.1 The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling.

8.2 In principle, no information that may lead to the identification of a juvenile offender shall be published.

Commentary

Rule 8 stresses the importance of the protection of the juvenile's right to privacy. Young persons are particularly susceptible to stigmatization. Criminological research into labelling processes has provided evidence of the detrimental effects (of different kinds) resulting from the permanent identification of young persons as "delinquent" or "criminal".

Rule 8 stresses the importance of protecting the juvenile from the adverse effects that may result from the publication in the mass media of information about the case (for example the names of young offenders, alleged or convicted). The interest of the individual should be protected and upheld, at least in principle. (The general contents of rule 8 are further specified in rule 2 1.)

Court File No.: YC-23-00000021-OOMO

CANADIAN BROADCASTING CORPORATION, CTV NEWS, a division of BELL MEDIA INC., GLOBAL NEWS, a division of CORUS TELEVISION LIMITED PARTNERSHIP, THE GLOBE AND MAIL INC., TORONTO STAR NEWSPAPERS LIMITED, ALISON CHIASSON and ANDREW BRENNAN

Applicant

and

HIS MAJESTY THE KING, YOUNG PERSON 1, YOUNG PERSON 2, YOUNG PERSON 3, YOUNG PERSON 4, YOUNG PERSON 5, YOUNG PERSON 6, YOUNG PERSON 7, and YOUNG PERSON 8

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE

FACTUM OF THE RESPONDENTS, YOUNG PERSONS 1 TO 8

Mary Birdsell, Jane Stewart, Candice Suter
Justice for Children and Youth
55 University Ave., Suite 1500
Toronto, ON M5J 2H7
T: 416-920-1633
F: 416-920-5855
E: mary.birdsell@jfcy.clcj.ca
jane.stewart@jfcy.clcj.ca
candice.suter@jfcy.clcj.ca

Kevin Gray
LEO ADLER LAW
5000 Yonge Street,
Suite 1708 Toronto, ON
M2N 7E9 LSO #
81482R
gray@leoadlerlaw.com
Tel: 416 365 1773