

**COURT OF APPEAL FOR ONTARIO**

B E T W E E N:

**LAW SOCIETY OF ONTARIO**

Appellant

and

**A.A.**

Respondent

---

**FACTUM OF THE INTERVENER  
JUSTICE FOR CHILDREN AND YOUTH**

---

August 5<sup>th</sup>, 2025

**JUSTICE FOR CHILDREN AND YOUTH**

55 University Avenue, Suite 1500

Toronto, ON M5J 2H7

Tel: (416) 920-1633

Fax: (416) 920-5855

**Mary Birdsell (LSO# 38108V)**

Email: [mary.birdsell@jfcy.clcj.ca](mailto:mary.birdsell@jfcy.clcj.ca)

**Samira Ahmed (LSO# 62785S)**

Email: [samira.ahmed@jfcy.clcj.ca](mailto:samira.ahmed@jfcy.clcj.ca)

**Counsel for the Intervener, Justice for Children and Youth**

**COURT OF APPEAL FOR ONTARIO**

**B E T W E E N:**

**LAW SOCIETY OF ONTARIO**

Appellant

and

**A.A.**

Respondent

---

**TABLE OF CONTENTS**

---

	<b>Page No.</b>
<b>PART I – IDENTIFYING STATEMENT</b>	1
<b>PART II – OVERVIEW AND NATURE OF THE CASE</b>	1
<b>PART III – THE FACTS</b>	3
<b>PART IV – ISSUES AND THE LAW</b>	4
<b>PART V – STATEMENT OF LAW</b>	5
A. Children are Equal Members of the Public Who Engage with Legal Services and are Regularly the Subject of Legal Proceedings, and are Deserving of Protection.	5
B. A Best Interests of Children Analysis is Essential to a Reasonable Decision	7
i. <i>A Good Character Finding is Untenable with a Proper Best Interest of the             Child Analysis</i>	10
ii. <i>The Condition Imposed Illustrates the Flaw in the Tribunals’ Best Interest             of the Child Analysis</i>	11
C. Alternatively, the Practice Condition as it is Presently Framed is Insufficient	13

<b>PART VI - CONCLUSION</b>	15
<b>PART VII – ORDER SOUGHT</b>	15
<b>CERTIFICATE OF ESTIMATED TIME</b>	16
<b>SCHEDULE “A” – LIST OF AUTHORITIES</b>	17
<b>SCHEDULE “B” - RELEVANT PROVISIONS OF STATUTES, REGULATIONS, AND BY-LAWS</b>	19

## **PART I – IDENTIFYING STATEMENT**

1. Justice for Children and Youth (JFCY) was granted Leave to Intervene in this matter as a friend of the court.<sup>1</sup> This appeal is brought by the Law Society of Ontario (LSO) from a Divisional Court judicial review of the decisions of the Law Society Tribunal Hearing Division<sup>2</sup> (“HD”) and the Law Society Tribunal Appeal Division<sup>3</sup> (“AD”) (collectively the “Tribunals”). The Divisional Court upheld<sup>4</sup> the Tribunal decisions that the respondent AA is of good character, should be licensed to practice law, but should have a restriction placed on his license that he must not “meet with minor children while unsupervised”.
2. JFCY intervenes to provide this Honourable Court argument and analysis regarding the child rights, and best interests of children considerations that arise in this context.

## **PART II – OVERVIEW AND NATURE OF THE CASE**

3. As part of upholding the LSO’s duty to protect the public interest, the Tribunals’ decisions must address the rights and interests of children as a primary consideration in a case involving the sexual abuse of children. JFCY submits that the Tribunals failed to do so, both in terms of their good character finding, and with respect to the adequacy of the practice restriction.
4. AA is a proposed licensee of the LSO. He sexually abused children, is diagnosed with pedophilia, assessed to be in remission, and repeatedly demonstrated dishonesty about his violent conduct and risk to children.
5. While abroad studying to be a faith leader, AA violated his position of trust and authority: he sexually abused three young children in his faith community, including one of his own children.

---

<sup>1</sup> Pursuant to the Order of Justice Sossin dated July 29th, 2025

<sup>2</sup> [\*AA v Law Society of Ontario\*, 2023 ONLSTH 99](#)

<sup>3</sup> [\*AA v Law Society of Ontario\*, 2024 ONLSTA 6](#)

<sup>4</sup> [\*Law Society of Ontario v AA\*, 2024 ONSC 5971](#)

When the incidents came to light, he abandoned his faith leadership, left that country, and returned to Canada. He was never charged criminally.

6. Upon his return to Canada, from 2009-2010 until 2017, he engaged in deceit around his sexual abuse of children and his sexual dysfunction. During that time, because of an anonymous report to a child welfare authority, he was investigated and undertook not to have unsupervised contact with any children, including his own.

7. After seeking to be licenced as a lawyer, AA's predatory behavior came to light, not through his own admission, but as a result of an anonymous report to the LSO. AA was eventually diagnosed with the persistent medical condition of pedophilia, assessed to be in remission.

8. A good character analysis and licencing decision in this context mandates attention to the rights and interests of children, including a best interests of the child analysis. The licencing decision must be responsive to the specific and unique context in which the issues arise, and, as here where the interests of children are central, a robust best interests analysis must be undertaken.

9. Possible future risk of harm is real, and the confidence of the public in the LSO's ability to govern in the public interest is at stake. The rights and interests of children could not be more germane.

10. As a matter of domestic law and international legal obligations, a decision that involves the interests and rights of children in this matter will be patently unreasonable unless the reasons meaningfully address the best interests of children as a primary consideration. The Tribunal decisions do not contain a best interests of the child analysis. The Divisional Court's statements that "children ... are entitled to decisions that take into account their vulnerability"<sup>5</sup> and that "any

---

<sup>5</sup> *Ibid* at para 15

situation where children are at risk requires special vigilance”<sup>6</sup> on their own, do not amount to an adequate best interests of children analysis.

11. The Decisions fail to recognize children as members of the public - as individuals and as a class - who regularly seek and receive legal services, who engage with the legal system, whose interests and sensitive information are regularly part of legal matters, who have unique access to justice considerations as an equity-seeking group, and who are equally deserving of protection as part of the LSO’s mandate to govern in the public interest.

12. Fundamentally, practicing law is not a right but a privilege, which cannot override children’s rights and interests as articulated by domestic law and the *United Nations Convention on the Rights of the Child* (“*UNCRC*”).<sup>7</sup> The Tribunals’ decisions were not reasonable as they were neither alert, attentive nor sensitive to how the findings of good character, licensure, or the required practice restriction would be viewed by, trusted by, or affect children as members of the public, particularly in the context of a history of child sexual abuse, and a diagnosis of pedophilia in remission.

### **PART III - THE FACTS**

13. JFCY accepts and adopts the facts as set out by the Applicant. JFCY relies on the findings of the Tribunals and the Divisional Court as follows:

- a. In 2009, AA sexually abused three children, around age five, including one of his own while training to be a religious leader in a foreign country. AA engaged in public masturbation.<sup>8</sup> He began to take medication to curb his sexual dysfunction.<sup>9</sup> To curb this

---

<sup>6</sup> *Ibid* at para 33

<sup>7</sup> United Nations, *Convention on the Rights of the Child*, Can. T.S. 1992 No. 3. at art 3 [*UNCRC*]

<sup>8</sup> *AA v Law Society of Ontario*, 2023 ONLSTH 99, *supra* note 2 at para 8

<sup>9</sup> *Ibid* at para 9

dysfunction, AA was prescribed another medication in Canada which he discontinued in 2016.<sup>10</sup>

- b. AA has a history of behaving dishonestly. He did not disclose his sexual abuse of children to authorities when relocating, or disclose his sexual abuse to the LSO on his initial licensing application. Once discovered, he minimized his sexual abuse when discussing his behavior with his treating medical professionals and the local child protection agency.<sup>11</sup> He has yet to acknowledge his conduct to his children, including his child who was abused.
- c. AA is diagnosed with pedophilic disorder, assessed to be in remission. The expert psychiatrist who assessed AA and testified at the Tribunal hearing recommended that AA: (a) attend therapy in a group setting; (b) should not be unsupervised around women or children; (c) have people around him who are aware of his circumstances and challenges; and (d) would always have to remain vigilant against recidivism.<sup>12</sup>
- d. AA has been investigated by a child protection agency abroad and in Ontario, and since 2010 has had a restriction against being unsupervised when in the presence of any children, including his own children. Although this ongoing restriction has remained in place for over a decade,<sup>13</sup> AA's father only learned of the condition at the Tribunal hearing.
- e. AA wants to represent vulnerable clients, and parents in child protection proceedings.<sup>14</sup>

#### **PART IV – ISSUES AND LAW**

---

<sup>10</sup> [\*AA v Law Society of Ontario\*, 2024 ONLSTA 6](#), *supra* note 3 at para 52

<sup>11</sup> [\*AA v Law Society of Ontario\*, 2023 ONLSTH 99](#), *supra* note 2 at paras 12, 16-17

<sup>12</sup> [\*Ibid\*](#) at paras 47, 49

<sup>13</sup> [\*Ibid\*](#) at paras 9, 13

<sup>14</sup> [\*Ibid\*](#) at para 43

14. The issues on this Appeal include the reasonableness of the Tribunals' decisions: finding the Respondent to be of good character and granting him a license to practice law with the condition that he "not meet with minor children while unsupervised".<sup>15</sup>

15. The Decisions are unreasonable in finding that AA is of good character, his licensure, and that the practice restriction is adequate to meet the LSO's obligation to govern in the public interest. The decisions fail to interpret the LSO's statutory mandate from the vantage point of children as members of the public, who are an equity-seeking group, and whose rights and interests must be protected. The Decisions failed to conduct a proper best interests of children analysis through the lens of how AA's pedophilic conduct and diagnosis impact his practice of law and the protection of the public, including children.

16. Alternatively, if this Court finds that a practice restriction is appropriate to support AA's licensure, (a finding that JFCY rejects) the secondary issue is whether the practice restriction, based only on AA's voluntary promise, is adequate based on a proper best interests of children analysis. While AA's undertaking may be relevant and adequate to his relationship with his own children, and for child protection authorities, it is inadequate for the protection of children more generally in the context of practicing law. The Tribunals erred in not imposing independent monitoring conditions in light of the expert psychiatrist's recommendations, the seriousness of AA's past misconduct, and the need to protect children and maintain public confidence.

## **PART V – STATEMENT OF LAW**

### **A. Children are Equal Members of the Public Who Engage with Legal Services and are Regularly the Subject of Legal Proceedings, and are Deserving of Protection.**

---

<sup>15</sup> JFCY's submissions will not address the anonymization issue.



17. When considering the appropriate approach to the good character evaluation, the overarching duties and powers of the LSO are relevant – notably to protect the public interest, and to act to facilitate access to justice.<sup>16</sup> Protecting the public interest includes protecting children, their interests, and their meaningful access to the justice system. Further, the Supreme Court has stated that the LSO “has an overarching interest in protecting the values of equality and human rights in carrying out its functions.”<sup>17</sup>

18. An aspect of upholding equality is upholding equal access to the legal profession<sup>18</sup> and avoiding harm to one segment or class of people in the community.<sup>19</sup> As Justice Abella noted, “Substantive equality demands more than just the availability of options and opportunities — it prevents “the violation of essential human dignity and freedom” and “eliminate[s] any possibility of a person being treated in substance as ‘less worthy’ than others.””<sup>20</sup> In the present case, the LSO and the Tribunals need to calibrate licensing decisions from the viewpoint of children as equal members of the public who require protection from the regulator.

19. This Court has recognized that children are active participants in the justice system, whose dignity, integrity, confidence, and protection are central to the legal system.<sup>21</sup> Children are recognized as active participants in the justice system.<sup>22</sup> They are also frequently the subject of legal proceedings across many areas of law. Legal cases routinely engage their rights and interests

---

<sup>16</sup> *Law Society Act*, RSO 1990, c L.8, [s 4.2](#)

<sup>17</sup> *Trinity Western University v Law Society of Upper Canada*, [2018 SCC 33](#) at para 21; citing *Loyola High School v Quebec (Attorney General)*, [2015 SCC 12](#) at para 47

<sup>18</sup> *Law Society of British Columbia v Trinity Western University*, [2018 SCC 32](#) at para 40

<sup>19</sup> *Trinity Western University v Law Society of Upper Canada*, *supra* note 17 at para 39

<sup>20</sup> *Law Society of British Columbia v Trinity Western University*, *supra* note 18 at para 95; citing *Quebec (Attorney General) v A*, [2013 SCC 5](#) at para 138

<sup>21</sup> *Ontario (Children’s Lawyer) v Ontario (Information and Privacy Commissioner)*, [2018 ONCA 559](#) at para 52; see also, *Justice for Children and Youth v JG*, [2020 ONSC 4716](#) at paras 38, 75

<sup>22</sup> See for e.g., *Justice for Children and Youth v JG*, *supra* note 21 at para 75

through the disclosure of sensitive information, documentation, and images. Regardless of whether a child is directly involved, their interests are not only about being free from the risk of violence, but also in being confident that LSO licensees use their position of trust, privilege, and authority in ways that are in the public interest, including the best interests and rights of children. Where there is any doubt that a licencing applicant will meet these obligations, especially when considering the interests of particularly vulnerable equity-seeking groups, and when the applicant has been diagnosed with a medical condition that is dangerous to children, then they cannot reasonably meet the good character requirement. In their licensing function, the LSO and the Tribunals must ensure that children's interests as members of the public are protected and that children's confidence in the legal profession is maintained.

20. The interests of children and the public's confidence in the integrity of the legal profession are irreparably harmed when licensure is granted to people who have violated the dignity, trust, and integrity of children in egregious ways.<sup>23</sup>

#### **B. A Best Interests of Children Analysis is Essential to a Reasonable Decision**

21. The Supreme Court of Canada, has held that: "protecting children through the application of the best interests of the child principle is widely understood and accepted as a basis for analysis in Canada's legal system."<sup>24</sup>

22. The best interests of the child principle comes from a recognition that children's rights, and interests, are central values in Canadian society.<sup>25</sup> *Baker* affirmed that children are entitled to

---

<sup>23</sup> [\*Law Society of Upper Canada v Lesieur\*, 2016 ONLSTH 173](#) at paras 17-18

<sup>24</sup> [\*Kanthasamy v Canada \(Citizenship and Immigration\)\*, 2015 SCC 61](#) at paras 36-40; citing [\*AB v Bragg Communications Inc\*, 2012 SCC 46](#) at para 17; see also [\*AC v Manitoba \(Director of Child and Family Services\)\*, 2009 SCC 30](#) at paras 81-82

<sup>25</sup> [\*R v DB\*, 2008 SCC 25](#) at para 48; [\*Gordon v Goertz\*](#) (1996), [134 DLR 321](#) at para 44

“special care and assistance”<sup>26</sup> and that a best interests of the child analysis will not be reasonable unless it is given substantial weight and the analysis is “alert, alive, and sensitive”.<sup>27</sup>

23. The UNCRC presents the authoritative articulation of the best interests of the child principle and the human rights of children. As a signatory to the UNCRC, Canada has undertaken to ensure that “[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”<sup>28</sup> The General Comments of the UN Committee on the Rights of the Child (“UN Committee”) provide expert interpretive direction on the scope and substance of those rights. The best interests of children is a procedural guarantee, a substantive right and a fundamental interpretive legal principle.<sup>29</sup> All actions concerning children “must be understood in a very broad sense”, including decisions that affect children as a group even if they are not the direct target.<sup>30</sup> The UN Committee explains that a decision concerning children should be specified in order to appreciate the impact.<sup>31</sup> If a legal provision allows for multiple interpretations, the best interests of the child mandates selecting the one that most effectively serves children’s best interests.<sup>32</sup>

---

<sup>26</sup> [\*Baker v Canada \(Minister of Citizenship and Immigration\)\*](#) (1999), [174 DLR 193](#) at para 71 (SCC)

<sup>27</sup> [\*Ibid\*](#) at para 75

<sup>28</sup> *UNCRC, supra* note 7 at art 3; *See also*, United Nations Committee on the Rights of the Child, [General Comment No. 14, \(2013\) on the right of the child to have his or her best interests taken as a primary consideration](#), CRC/C/GC/14, 29 May 2013 [GC No. 14]

<sup>29</sup> GC No. 14, *Ibid* at para 6

<sup>30</sup> GC No. 14, *Ibid* at para 19

<sup>31</sup> GC No. 14, *Ibid* at para 20

<sup>32</sup> GC No. 14, *Ibid* at para 6

24. Canadian courts have often recognized the role of the UNCRC and the General Comments of the UN Committee in interpreting domestic law<sup>33</sup> and framing the reasonableness of administrative decisions.<sup>34</sup> Domestic legislation is presumed to comply with Canada’s international obligations.<sup>35</sup>

25. The Supreme Court has found that “decision makers must do more than simply *state* that the interests of a child have been taken into account....Those interests must be “well identified and defined” and examined “with a great deal of attention” in light of all the evidence.”<sup>36</sup> The Supreme Court has also held that the best interests of children must be considered not only when a child is a party or subject, but also in cases that may affect their rights and well-being.<sup>37</sup> This primacy of the best interests principle was recently affirmed in *Michel v Graydon*,<sup>38</sup> holding that “the best interests of the child is at the heart of any interpretive exercise.”<sup>39</sup> In decisions affecting children, the best interests of the child and the unique vulnerabilities of childhood are imperative considerations.<sup>40</sup> The human rights and best interests of children must be fostered and not subordinated.<sup>41</sup>

---

<sup>33</sup> See for e.g., [AC v Manitoba \(Director of Child and Family Services\)](#), *supra* note 24 at para 93; [AB v Bragg Communications Inc.](#), *supra* note 24 at para 17; [R v Sharpe](#), [2001 SCC 2](#) at paras 170-171; [Baker v Canada \(Minister of Citizenship and Immigration\)](#), *supra* note 26 at para 71

<sup>34</sup> [Mason v Canada \(Citizenship and Immigration\)](#), [2023 SCC 21](#) at para 105; citing [Canada \(Minister of Citizenship and Immigration\) v Vavilov](#), [2019 SCC 65](#) at para 114

<sup>35</sup> [Mason v Canada \(Citizenship and Immigration\)](#), *supra* note 34 at para 105; [Baker v Canada \(Minister of Citizenship and Immigration\)](#), *supra* note 26 at paras 70-71; see also; [R v DB](#), *supra* note 25 at para 60

<sup>36</sup> [Kanthasamy v Canada \(Citizenship and Immigration\)](#), *supra* note 24 at para 39

<sup>37</sup> [Baker v Canada \(Minister of Citizenship and Immigration\)](#), *supra* note 26 at paras 74-75; [Lewis v Canada \(Public Safety and Emergency Preparedness\)](#), [2017 FCA 130 \(CanLII\)](#), [2017 FCA 130](#) at paras 85-88

<sup>38</sup> [Michel v Graydon](#), [2020 SCC 24](#) at para 47

<sup>39</sup> [Ibid](#) at para 102

<sup>40</sup> [Kanthasamy v Canada \(Citizenship and Immigration\)](#), *supra* note 24 at paras 41, 58

<sup>41</sup> GC No.14, *supra* note 28 at [para 34](#); United Nations Committee on the Rights of the Child, [General Comment No. 7 \(2005\): Implementing child rights in early childhood](#), CRC/C/GC/7/Rev.1, 20 September 2006 at para 17

26. Here, and in light of the LSO's statutory duty to protect the public interest, the Tribunals and the Divisional Court failed to adequately consider the best interests of the child at all stages: good character, licensure, and practice restriction, making this decision unreasonable.

**i. A Good Character Finding is Untenable with a Proper Best Interest of the Child**

**Analysis**

27. A good character analysis flows from the responsibility of lawyers as part of the administration of justice. As stated by former Chief Justice McMurtry, "[lawyers] are also officers of the court with fundamental obligations to uphold the integrity of the judicial process, .... It is the duty of counsel to be faithful both to their client and to the administration of justice".<sup>42</sup>

28. This case is the first time where a person with a diagnosis of pedophilia, assessed to be in remission, has sought licensure. Pedophilia is a persistent medical condition that bears upon the Respondent's practice of law. The uncontroverted legal and social consensus that sexual abuse of children is "a crime that is abhorrent to Canadian society"<sup>43</sup> requires a correspondingly high level of caution by the LSO and the Tribunals when assessing good character, where the rights and interests of children are directly and indirectly engaged, including sensitive information, documentation and images of children. Pedophilia as a medical condition, requiring treatment, vigilance and oversight. Even if the Respondent were able to chose an area of law where the involvement of direct or indirect rights or interests of children were not common, a good character finding is a general finding and is not limited to a particular area of law. A good character analysis must consider a potentially wide range of subjects impacted by the Respondent's diagnoses and that he himself will be left to ensure the misuse of sensitive information, documentation, or images of children does not occur.

---

<sup>42</sup> R. Roy McMurtry, "Role of the Courts and Counsel in Justice" (delivered at the Advocates' Society Spring Symposium 2000, 6 June 2000) [unpublished]

<sup>43</sup> [\*R v Friesen\*, 2020 SCC 9](#) at para 105

29. The Tribunals and Divisional Court should have considered the best interests of children as the lens for a proper good character analysis, and not simply a consideration subsumed in the Armstrong factors.<sup>44</sup> Had a proper best interests analysis been applied the inquiry would have included whether children could reasonably have confidence in the Respondent's integrity and safety - particularly in light of his rehabilitation from sexual violence and his position of trust and authority. If the Tribunals and Divisional Court had meaningfully engaged with this analysis, the finding of good character would not have been reasonable.

30. AA's expert psychiatrist noted that AA would always have to remain vigilant.<sup>45</sup> It is further unclear how the Tribunals considered what vigilance was necessary for the proper practice of law, particularly in light of the fact that children are an equity-seeking group who are important members of the public in this context. JFCYs submits that AA has not shown vigilance to protect against relapse, nor to demonstrate rehabilitation related to holding a position of power, authority, and trust that is requisite to being entrusted to practice law.

**ii. The Practice Restriction is a Flaw in the Tribunals' Analysis**

31. While the good character analysis alone demonstrates that the decision cannot stand and that licensure is inappropriate, the condition permitting licensure so long as the respondent is not unsupervised around children further underscores these points.<sup>46</sup> This condition strikes at the core of what is fundamentally flawed in the Tribunal's best interests of the child analysis.

32. The Supreme Court has consistently recognized that because children are inherently vulnerable, they are deserving of enhanced, not diminished, protection of their rights.<sup>47</sup> Protection

---

<sup>44</sup> [\*Law Society of Ontario v AA\*, 2024 ONSC 5971](#), *supra* note 4 at para 14

<sup>45</sup> [\*AA v Law Society of Ontario\*, 2023 ONLSTH 99](#), *supra* note 2 at para 49

<sup>46</sup> *Ibid* at para 80.

<sup>47</sup> [\*R v Sharpe\*](#), *supra* note 33 at paras 175-177; [\*AB v Bragg Communications Inc\*](#), *supra* note 24 at paras 17-18; [\*Kanthasamy v Canada \(Citizenship and Immigration\)\*](#), *supra* note 24 at para 41; [\*FN\*](#)

of children from harm should be achieved by mechanisms that enhance respect for their dignity as members of the public, not by measures that exclude or further marginalize their position in society. In this case, the practice restriction does the latter.

33. The UN Committee is resolute that “implementation of the human rights of children must not be seen as a charitable process, bestowing favors on children,”<sup>48</sup> and notes that “if children’s interests are not highlighted, they tend to be overlooked”,<sup>49</sup> and that States parties to the Convention must take all measures to ensure that the rights of children are respected, protected and fulfilled.”<sup>50</sup> Appropriate protections of vulnerable people ameliorate marginalization and serve to enhance social inclusion - consistent with the public interest - and do not put limitations on vulnerable groups.

34. Children are not members of the public who can be segregated to preserve the privilege of an LSO applicant to practice law. They are not ‘less worthy’ of consideration as members of the public. Rather, children’s rights and interests must be protected through the best interests of the child principle, and their confidence in the legal profession must be ensured, all as part of the LSO’s statutory mandate to protect the public interest.

35. Other than two cases that reference women, children are the only vulnerable group for whom licensing or conduct decisions impose practice restrictions prohibiting a lawyer or paralegal’s contact with a particular group of people.<sup>51</sup> Such an approach fails to ensure the confidence of an equity-seeking group and should be avoided.

---

(*Re*), [2000 SCC 35](#) at para 14

<sup>48</sup> United Nations Committee on the Rights of the Child, [General Comment No. 5 \(2003\) General measures of implementation of the Convention on the Rights of the Child \(arts. 4, 42 and 44, para. 6\)](#), 34th Session, CRC/GC/2003/5, 27 November 2003 at para 11

<sup>49</sup> GC No.14, *supra* note 28 at [para 37](#);

<sup>50</sup> United Nations Committee on the Rights of the Child, [Draft General Comment No.27 on children’s right to access to justice and to an effective remedy](#), at para 6

<sup>51</sup> The list of cases where a practice restriction exists for children is as follows: [Law Society of Ontario v Lesieur](#), [2021 ONLSTH 144](#) at para 47(5)(c); [Law Society of Ontario v Schulz](#), [2021](#)

**C. Alternatively, the Practice Condition as Presently Framed is Insufficient**

36. If this Honourable Court upholds the decisions of the Tribunals and the Divisional Court that there was not an error regarding good character, JFCY submits that the practice restriction as it is currently framed is wholly inadequate and is unreasonable.

37. Enhancing confidence and providing safety is not achieved by imposing a condition that has no elements to meaningfully address the risks of recidivism.

38. AA has never been monitored, he was never criminally sanctioned, a child protection order was never made against him, and he has not established that he has no need to be monitored.

39. We agree that the Tribunal has broad discretion when imposing conditions, and further, that these restrictions, when rarely applied, are often unenforceable.<sup>52</sup> However, it is precisely this reasoning that underscores the need for conditions that comply with a best interests of the child analysis to ensure that children as members of the public can have confidence in the profession, to safeguard their entitlement to access justice, and to ensure their dignity is upheld. The Tribunals did not conduct a best interests of the child analysis, nor address the question of how or whether the practice restriction would enhance public confidence or ensure the safety of children as members of the public deserving of protection.

40. An appropriate practice restriction in this case must include conditions that address pedophilia as a complex and persistent disorder. It must account for the evidence provided by the expert psychiatrist, who identified specific concerns and treatment recommendations, specifically noting

---

[ONLSTH 178](#) at para 71(3)(a); [Law Society of Ontario v Rooney](#), 2019 ONLSTH 19 at paras 22(2)(c),(d); [Law Society of Ontario v Splinter](#), 2021 ONLSTH 58 at para 33(6); [Law Society of Upper Canada v Vijaya](#), 2018 ONLSTH 42 at para 59(1)(a); The cases where practice restrictions extend to women is [Zuker \(Re\)](#), 1999 CanLII 18536 at para 16(c); and *Lesieur* (as listed above).

<sup>52</sup> [Law Society of Ontario v AA](#), 2024 ONSC 5971, *supra* note 4 at para 33; [AA v Law Society of Ontario](#), 2024 ONLSTA 6, *supra* note 3 at para 104



that: (a) AA should attend therapy in a group setting; (b) AA should not be unsupervised around women or children; (c) it is important to have people involved who are aware of his circumstances and challenges; and (d) AA would always have to remain vigilant.<sup>53</sup>

41. As it currently stands, the condition still allows the Respondent to represent children. Additionally, even in matters where he is not working directly with children, the condition allows AA to be exposed to child-related content, including sensitive information, documentation, and images of children. Therefore, whether working directly or indirectly with children, AA would potentially have access to sensitive materials, possibly including intimate images of children, or personal information disclosed from child protection, criminal justice or other proceedings. As recognized by this Honourable Court, “[The] child’s privacy rights, as with her other rights, are entitled to more, not less protection.”<sup>54</sup>

42. Lawyers have a fiduciary obligation to act in accordance with a position of trust and authority, and to use information solely for the purpose for which it was provided. Given AA’s admissions of sexual abuse, and desire to continue representing vulnerable populations, this restriction not only fails to address child dignity, integrity or safety considerations, it is also an affront to the dignity of children.

43. It follows that while the proposed licensee should not ever be alone with children, there must be conditions responsive to his medical condition that include: specific monitoring and reporting by an LSO member in good standing; counselling requirements and reporting on compliance; a

---

<sup>53</sup> [\*AA v Law Society of Ontario\*, 2023 ONLSTH 99](#), *supra* note 2 at paras 47, 49

<sup>54</sup> [\*Ontario \(Children’s Lawyer\) v Ontario \(Information and Privacy Commissioner\)\*](#), *supra* note 21 at para 73

restriction against any representation of children; and a restriction on practicing in areas of law where issues of child abuse, child pornography, or other sexual misconduct involving children might arise.<sup>55</sup>

44. The Tribunals' silence on these significant considerations demonstrates that the Decisions fail to be alert, alive and sensitive to children's rights and interests.

## **PART VI – CONCLUSION**

45. The Tribunals' decisions are fundamentally inconsistent with the best interests of the child and as such, the Divisional Court should have found them in error.

## **PART VII - ORDER SOUGHT**

46. JFCY takes no position regarding the Order of this Court.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 5<sup>th</sup> day of August, 2025.



---

### **JUSTICE FOR CHILDREN AND YOUTH**

55 University Avenue, Suite 1500  
Toronto, ON M5J 2H7  
Tel: (416) 920-1633  
Fax: (416) 920-5855

**Mary Birdsell (LSO# 38108V)**

**Samira Ahmed (LSO# 62785S)**

Email: [mary.birdsell@jfcy.clcj.ca](mailto:mary.birdsell@jfcy.clcj.ca) / [samira.ahmed@jfcy.clcj.ca](mailto:samira.ahmed@jfcy.clcj.ca)

**Counsel for the Intervener, Justice for Children and Youth**

---

<sup>55</sup> For example of detailed conditions to protect the public see [\*Law Society of Ontario v Splinter\*](#), *supra* note 51 at para 33. Although not about children, see also [\*Sheps v Law Society of Upper Canada\*](#), [2016 ONLSTH 124](#) at para 102

**COURT OF APPEAL FOR ONTARIO**

B E T W E E N:

**LAW SOCIETY OF ONTARIO**

Appellant

and

**A.A.**

Respondent

---

**CERTIFICATE OF ESTIMATED TIME**

---

We estimate that 0.2 hours will be needed for our oral argument. An order under subrule 61.09(2) (original record and exhibits) is not required. The factum complies with subrule 3. There are 4812 words in Parts I to VII.

The person signing this certificate is satisfied to the authenticity of every authority listed in Schedule "A".

**DATED AT Toronto, Ontario this 6<sup>th</sup> day of August, 2025**



**JUSTICE FOR CHILDREN AND YOUTH**

55 University Avenue, Suite 1500  
Toronto, ON M5J 2H7  
Tel: (416) 920-1633  
Fax: (416) 920-5855

**Mary Birdsell (LSO# 38108V)**  
Email: [mary.birdsell@jfcy.clcj.ca](mailto:mary.birdsell@jfcy.clcj.ca)

**Samira Ahmed (LSO# 62785S)**  
Email: [samira.ahmed@jfcy.clcj.ca](mailto:samira.ahmed@jfcy.clcj.ca)

**Counsel for the Intervener, Justice for Children and Youth**

## SCHEDULE “A”

### LIST OF AUTHORITIES

Title	Pinpoints
1. <a href="#"><i>AA v Law Society of Ontario</i>, 2023 ONLSTH 99</a>	8-9, 12-13, 16-17, 43, 47, 49, 80
2. <a href="#"><i>AA v Law Society of Ontario</i>, 2024 ONLSTA 6</a>	52, 104
3. <a href="#"><i>Law Society of Ontario v AA</i>, 2024 ONSC 5971</a>	14-15, 33
4. <a href="#"><i>Trinity Western University v Law Society of Upper Canada</i>, 2018 SCC 33</a>	21, 39
5. <a href="#"><i>Loyola High School v Quebec (Attorney General)</i>, 2015 SCC 12</a>	47
6. <a href="#"><i>Law Society of British Columbia v Trinity Western University</i>, 2018 SCC 32</a>	40, 95
7. <a href="#"><i>Quebec (Attorney General) v A</i>, 2013 SCC 5</a>	138
8. <a href="#"><i>Ontario (Children’s Lawyer) v Ontario (Information and Privacy Commissioner)</i>, 2018 ONCA 559</a>	52, 73
9. <a href="#"><i>Justice for Children and Youth v JG</i>, 2020 ONSC 4716</a>	38, 75
10. <a href="#"><i>Law Society of Upper Canada v Lesieur</i>, 2016 ONLSTH 173</a>	17-18
11. <a href="#"><i>Kanthasamy v Canada (Citizenship and Immigration)</i>, 2015 SCC 61</a>	36-41, 58
12. <a href="#"><i>AB v Bragg Communications Inc</i>, 2012 SCC 46</a>	17-18
13. <a href="#"><i>AC v Manitoba (Director of Child and Family Services)</i>, 2009 SCC 30</a>	81-82, 93
14. <a href="#"><i>R v DB</i>, 2008 SCC 25</a>	48, 60
15. <a href="#"><i>Gordon v Goertz</i> (1996), 134 DLR 321</a>	44
16. <a href="#"><i>Baker v Canada (Minister of Citizenship and Immigration)</i> (1999), 174 DLR 193 (SCC)</a>	70-71, 74-75
17. <a href="#"><i>R v Sharpe</i>, 2001 SCC 2</a>	170-171, 175-177
18. <a href="#"><i>Mason v Canada (Citizenship and Immigration)</i>, 2023 SCC 21</a>	105
19. <a href="#"><i>Canada (Minister of Citizenship and Immigration) v Vavilov</i>, 2019 SCC 65</a>	114
20. <a href="#"><i>Lewis v Canada (Public Safety and Emergency Preparedness)</i>, 2017 FCA 130 (CanLII), 2017 FCA 130</a>	85-88
21. <a href="#"><i>Michel v Graydon</i>, 2020 SCC 24</a>	47, 102
22. <a href="#"><i>R v Friesen</i>, 2020 SCC 9</a>	105
23. <a href="#"><i>FN (Re)</i>, 2000 SCC 35</a>	14
24. <a href="#"><i>Law Society of Ontario v Lesieur</i>, 2021 ONLSTH 144</a>	47(5)(c)
25. <a href="#"><i>Law Society of Ontario v Schulz</i>, 2021 ONLSTH 178</a>	71(3)(a)

<b>Title</b>	<b>Pinpoints</b>
26. <a href="#"><u>Law Society of Ontario v Rooney, 2019 ONLSTH 19</u></a>	22(2)(c),(d)
27. <a href="#"><u>Law Society of Ontario v Splinter, 2021 ONLSTH 58</u></a>	33(6), 33
28. <a href="#"><u>Law Society of Upper Canada v Vijaya, 2018 ONLSTH 42</u></a>	59(1)(a)
29. <a href="#"><u>Zuker (Re), 1999 CanLII 18536</u></a>	16(c)
30. <a href="#"><u>Sheps v Law Society of Upper Canada, 2016 ONLSTH 124</u></a>	102

## SCHEDULE “B”

### RELEVANT PROVISIONS OF STATUTES, REGULATIONS, AND BY-LAWS

---

#### *Courts of Justice Act*

#### **R.R.O. 1990, REGULATION 194, [RULES OF CIVIL PROCEDURE](#)**

#### **LEAVE TO INTERVENE AS FRIEND OF THE COURT**

**13.02** Any person may, with leave of a judge or at the invitation of the presiding judge or master, and without becoming a party to the proceeding, intervene as a friend of the court for the purpose of rendering assistance to the court by way of argument. R.R.O. 1990, Reg. 194, r. 13.02; O. Reg. 186/10, s. 1.

---

**[UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD](#)**, Can. T.S. 1992 No. 3.

#### **Article 3**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
  2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
  3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.
- 

**[LAW SOCIETY ACT](#)**, RSO 1990, c L.8, s 4.2

#### **Principles to be applied by the Society**

**4.2** In carrying out its functions, duties and powers under this Act, the Society shall have regard to the following principles:

1. The Society has a duty to maintain and advance the cause of justice and the rule of law.
2. The Society has a duty to act so as to facilitate access to justice for the people of Ontario.
3. The Society has a duty to protect the public interest.
4. The Society has a duty to act in a timely, open and efficient manner.
5. Standards of learning, professional competence and professional conduct for licensees and

restrictions on who may provide particular legal services should be proportionate to the significance of the regulatory objectives sought to be realized. 2006, c. 21, Sched. C, s. 7.

---

**GENERAL COMMENT NO.14 ON THE RIGHTS OF THE CHILD TO HAVE HIS OR HER BEST INTERESTS TAKEN AS A PRIMARY CONSIDERATION**, CRC/C/GC/14, 29 May 2013

**6.** The Committee underlines that the child's best interests is a threefold concept:

(a) A substantive right: The right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision on the issue at stake, and the guarantee that this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general. Article 3, paragraph 1, creates an intrinsic obligation for States, is directly applicable (self-executing) and can be invoked before a court.

(b) A fundamental, interpretative legal principle: If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen. The rights enshrined in the Convention and its Optional Protocols provide the framework for interpretation.

(c) A rule of procedure: Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child require procedural guarantees. Furthermore, the justification of a decision must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases.

...

**(b) “concerning”**

**19.** The legal duty applies to all decisions and actions that directly or indirectly affect children. Thus, the term “concerning” refers first of all, to measures and decisions directly concerning a child, children as a group or children in general, and secondly, to other measures that have an effect on an individual child, children as a group or children in general, even if they are not the direct targets of the measure. As stated in the Committee's general comment No. 7 (2005), such actions include those aimed at children (e.g. related to health, care or education), as well as actions which include children and other population groups (e.g. related to the environment, housing or transport) (para. 13 (b)). Therefore, “concerning” must be understood in a very broad sense.

**20.** Indeed, all actions taken by a State affect children in one way or another. This does not mean that every action taken by the State needs to incorporate a full and formal process of assessing and determining the best interests of the child. However, where a decision will have a major impact on a child or children, a greater level of protection and detailed procedures to consider their best interests is appropriate.

Thus, in relation to measures that are not directly aimed at the child or children, the term “concerning” would need to be clarified in the light of the circumstances of each case in order to be able to appreciate the impact of the action on the child or children.

...

**34.** The flexibility of the concept of the child’s best interests allows it to be responsive to the situation of individual children and to evolve knowledge about child development. However, it may also leave room for manipulation; the concept of the child’s best interests has been abused by Governments and other State authorities to justify racist policies, for example; by parents to defend their own interests in custody disputes; by professionals who could not be bothered, and who dismiss the assessment of the child’s best interests as irrelevant or unimportant.

...

**37.** The expression “primary consideration” means that the child’s best interests may not be considered on the same level as all other considerations. This strong position is justified by the special situation of the child: dependency, maturity, legal status and, often, voicelessness. Children have less possibility than adults to make a strong case for their own interests and those involved in decisions affecting them must be explicitly aware of their interests. If the interests of children are not highlighted, they tend to be overlooked.

---

**UN COMMITTEE ON THE RIGHTS OF THE CHILD (CRC), GENERAL COMMENT NO. 7 (2005): IMPLEMENTING CHILD RIGHTS IN EARLY CHILDHOOD,**  
CRC/C/GC/7/REV.1, 20 SEPTEMBER 2006

**17. Evolving capacities as an enabling principle.** Article 5 draws on the concept of “evolving capacities” to refer to processes of maturation and learning whereby children progressively acquire knowledge, competencies and understanding, including acquiring understanding about their rights and about how they can best be realized. Respecting young children’s evolving capacities is crucial for the realization of their rights, and especially significant during early childhood, because of the rapid transformations in children’s physical, cognitive, social and emotional functioning, from earliest infancy to the beginnings of schooling. Article 5 contains the principle that parents (and others) have the responsibility to continually adjust the levels of support and guidance they offer to a child. These adjustments take account of a child’s interests and wishes as well as the child’s capacities for autonomous decision-making and comprehension of his or her best interests. While a young child generally requires more guidance than an older child, it is important to take account of individual variations in the



capacities of children of the same age and of their ways of reacting to situations. Evolving capacities should be seen as a positive and enabling process, not an excuse for authoritarian practices that restrict children's autonomy and self-expression and which have traditionally been justified by pointing to children's relative immaturity and their need for socialization. Parents (and others) should be encouraged to offer "direction and guidance" in a child-centred way, through dialogue and example, in ways that enhance young children's capacities to exercise their rights, including their right to participation (art. 12) and their right to freedom of thought, conscience and religion (art. 14).

---

UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD, *DRAFT GENERAL COMMENT NO.27 ON CHILDREN'S RIGHT TO ACCESS TO JUSTICE AND TO AN EFFECTIVE REMEDY*

6. Recalling the universality, indivisibility, interdependence and inalienability of children's rights, the Committee affirms that children's right to access to justice and to an effective remedy is an integral part of the primary obligations of States parties to the Convention, which must take all measures to ensure that the rights of children are respected, protected and fulfilled and that these rights are not violated.

**Law Society of Ontario**  
Appellant

and

**A.A.**  
Respondent

---

**COURT OF APPEAL FOR ONTARIO**  
Proceeding commenced at Toronto

---

**FACTUM OF THE INTERVENER  
JUSTICE FOR CHILDREN AND YOUTH**

---

**JUSTICE FOR CHILDREN AND YOUTH**

55 University Avenue, Suite 1500  
Toronto, ON M5J 2H7  
Tel: 416-920-1633  
Fax: 416-920-5855

**Mary Birdsell (LSO# 38108V)**  
Email: [mary.birdsell@jfcy.clcj.ca](mailto:mary.birdsell@jfcy.clcj.ca)

**Samira Ahmed (LSO# 62785S)**  
Email: [samira.ahmed@jfcy.clcj.ca](mailto:samira.ahmed@jfcy.clcj.ca)

**Counsel for the Intervener, JFCY**