CITATION: Muslim Association of Canada v. Attorney General of Canada, 2023 ONSC 1923
COURT FILE NO.: CV-22-679625-0000
DATE: 20230324

ONTARIO SUPERIOR COURT OF JUSTICE

RE: Muslim Association of Canada, Applicant (moving party)

-and-

Attorney General of Canada, Respondent (responding party)

BEFORE: Robert Centa J.

COUNSEL: Geoff R. Hall, Anu Koshal, and Adam Kanji, for the applicant

Lynn Marchildon, James Gorham, Anna Maria Konewka, Mitchell Meraw, for the respondent

HEARD: March 22, 2023

ENDORSEMENT

[1] The Muslim Association of Canada brings this motion for a sealing order in respect of certain evidence to be filed on its upcoming application. The Attorney General of Canada opposes MAC's motion and, in the alternative, submits that a more tailored approach is appropriate.

[2] For the reasons that follow, I decline to seal any of the evidence. I do order, however, that certain information in the application record be redacted before it is placed in the publicly available court file.

Background

[3] MAC is a registered charity and a national not-for-profit organization that operates a network of schools, mosques, student programs, community centres, and other programs to benefit the Canadian Muslim population across Canada. It describes itself as the largest Muslim charity in Canada. It has a multimillion-dollar annual budget derived from donations. I was advised that MAC has hundreds of individual members.

[4] In 2015, the Canada Revenue Agency commenced an audit of MAC covering the period from July 1, 2012, to June 30, 2015. On March 17, 2021, the CRA issued a 151-page Administrative Fairness Letter to MAC. According to the CRA, the purpose of the AFL was to describe the areas of MAC's noncompliance with certain legislative and common law requirements applicable to registered charities. The CRA stated that its preliminary

audit findings established sufficient grounds to revoke the MAC's charity registration under s. 168(1) of the *Income Tax Act*, and to impose penalties totaling $1,312,542.[1]

[5] The AFL attached source documents supporting the preliminary audit findings in 26 appendices comprising over 1000 pages. All subsequent references in this endorsement to the AFL include the appendices. The AFL contains, among other information:

a. over 500 pages of emails referred to in the AFL and collected from MAC during the audit process;

b. the CRA's summary of emails it obtained from MAC that purportedly connected MAC with the Syrian Muslim Brotherhood;

c. the CRA's assessment of the personal online activities of some of MAC's members;

d. financial information relating to schools operated by MAC, costs for MAC's Eid celebrations, and information found on MAC's T3010 registered charity information return; and

e. personal email addresses and contact information for individual members of MAC.

[6] The CRA invited MAC to provide a written response within 90 days. After considering MAC's response, the Director General of the Charities Directorate would decide on the appropriate outcome, which included a range of options from taking no compliance action, to an educational letter, to imposing penalties under the *Income Tax Act*, to issuing a notice of intention to revoke MAC's charity registration.

[7] MAC, through its counsel, provided three written responses to the CRA on August 12, 2021 (26 pages), December 3, 2021 (151 pages), and January 12, 2022 (93-pages). All subsequent references in this endorsement to MAC's responses are to all three responses.

[8] On April 11, 2022, MAC commenced this application alleging that the CRA audit has been tainted by systemic bias and Islamophobia. MAC alleges that the audit has been conducted in a manner that violates its rights under ss. 2(a), 2(b), 2(d), and 15 of the *Canadian Charter of Rights and Freedoms*. MAC seeks an order, pursuant to s. 24(1) of the *Charter*, terminating the audit or directing that the audit proceed in a *Charter*-compliant manner.

[9] On December 23, 2022, Vella J. dismissed MAC's request for an interlocutory injunction prohibiting the CRA from rendering its final audit decision and related recommendations, to the Minister of National Revenue pending the final determination of this application. I am advised by counsel that the CRA has not yet rendered its final audit decision.

[10] MAC has served two fact affidavits and two expert reports totalling over 1,110 pages (including exhibits). The Attorney General has served three fact affidavits totalling over

[1] R.S.C. 1985, c. 1 (5th Supp.).

2,850 pages (including exhibits). The parties completed six out-of-court examinations. The application is scheduled to be heard on April 4 and 6, 2023. I am advised by counsel that there are no preliminary issues to be argued before the parties address the merits of the application.

[11] On March 7, 2023, MAC provided the Attorney General with a copy of its motion materials seeking an order to seal the AFL and MAC's responses. The Attorney General did not provide its consent to the motion.

[12] On March 13, 2023, MAC wrote to Vella J., the case management judge assigned to this proceeding, to request that its motion for a sealing order be determined in writing and on an expedited basis. As Vella J. was no longer presiding on the civil list, Wilson J., the co-team lead of the civil team in Toronto, assigned me to be the new case management judge.

[13] I received MAC's motion record and factum on March 13, 2023. MAC advised that it provided notice to the media on March 13, 2023, in accordance with the practice direction of the Superior Court of Justice. No media members requested to participate in this motion. I received the Attorney General's responding motion record and factum on March 20, 2023. I asked the parties for a brief attendance on March 22, 2023, to answer a few questions for me. Given the urgency of this matter, I am releasing this endorsement as quickly as possible.

The test for a sealing order: *Sherman Estate*

[14] The parties agree that the controlling authority on this motion is the 2021 decision of the Supreme Court of Canada in *Sherman Estate*.[2]

[15] All court proceedings are presumptively open to the public. The *Charter*'s guarantee of freedom of expression protects court openness, which is essential to the proper functioning of Canadian democracy. The ability of the press to report on court proceedings is inseparable from the principle of open justice.[3]

[16] Open courts can be a source of inconvenience and embarrassment for litigants and others mentioned in litigation, but this discomfort is generally not enough to overturn the strong presumption of open courts. Sometimes, personal information released in open court may rise to the level of an affront to a person's dignity. Evidence of serious risks to privacy and physical safety can establish a serious risk to an important public interest sufficient to limit court openness.[4]

[17] In order to succeed, the person asking a court to exercise its discretion in a way that limits the open court presumption must establish that:

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[2] *Sherman Estate v. Donovan*, 2021 SCC 254, 458 D.L.R. (4th) 361.
[3] *Sherman Estate* at para. 30.
[4] *Sherman Estate* at para. 4.

a. court openness poses a serious risk to an important public interest;

b. the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and

c. as a matter of proportionality, the benefits of the order outweigh its negative effects.[5]

MAC's position

[18] MAC submits that the CRA has undertaken the audit in a manner that infringes the *Charter*. The main work product of the audit to date is the AFL, which, MAC argues, trades in common anti-Muslim stereotypes and manifests the very discriminatory lens through which the entire audit has been conducted. MAC submits that the CRA makes unproven and untested allegations (which may be retracted in the future) that MAC and certain of its members are affiliated with potential terrorist entities that are subject to foreign control or influence. Further, MAC argues that the CRA makes improper and erroneous assertions in the AFL that are demeaning to the practice of Islam.

[19] MAC submits that it meets the test in *Sherman Estate* to obtain a sealing order.

[20] First, disclosure of the AFL and MAC's responses would pose a serious risk to the dignity, reputation, and physical safety of MAC, its members, and Muslim-Canadians more broadly. The allegations in the AFL about individuals associated with MAC strike at the core of their private identity. MAC submits that the individuals named in the document, who are not parties to this application and have no ability to challenge the conclusion, "will be associated with terrorism, extremism, and their views will be cast as potentially hateful by the Government of Canada." MAC submits that anti-Muslim commentators will use the information in the AFL to spin Islamophobic narratives to denigrate the practice of Islam and Muslim Canadians as a whole across Canada. Releasing the AFL will cause irreparable harm to the dignity of MAC members, even if MAC is ultimately successful on its *Charter* application. Moreover, there is a risk of violence to MAC's members and Muslim-Canadians generally as a result of purported ties with extremism. The fact that the AFL's own appendices contain personal contact information of MAC members makes the threat of physical harm more likely.

[21] Second, there are no reasonable alternative measures to prevent the risks to MAC, its members, and Muslim-Canadians from materializing. MAC only seeks to seal the AFL and MAC's responses, but not any and all commentary related to them. MAC submits that sealing the AFL and MAC's responses is an order narrowly tailored to maximize court openness and is the least restrictive option available to the court.

[22] Third, the salutary effects of granting this order outweigh any deleterious effects. The only deleterious effect is the potential impact on court openness and the narrow sealing order

[5] *Sherman Estate* at para. 3.

proposed by MAC disposes of this issue. While the AFL is a central document in this litigation, it forms only one part of the factual matrix underlying the application and all necessary contextual information will remain accessible to the public. In contrast, the benefits of the sealing order (avoiding the harms described above) are significant.

Attorney General of Canada's position

[23] The Attorney General notes that, as part of its *Charter* challenge and in numerous statements to the media, MAC has made serious allegations about the conduct of the CRA. Court proceedings are presumptively open and the public and the media should be able to see not only MAC's allegations and the parties' positions, but also the full content of the AFL.

[24] The Attorney General submits that MAC has not met the test in *Sherman Estate* to obtain a sealing order.

[25] First, MAC has not established that there is a serious risk to an important public interest. This is a high bar that maintains the presumption of open courts. MAC has not identified any sensitive personal information in the AFL that if disclosed would be an affront to an individual's dignity. The Attorney General submits that the court should not speculate about a serious risk of physical harm from disclosure.

[26] Second, the Attorney General submits that a more reasonable alternative exists than to seal the AFL and MAC's responses. The Attorney General submits that if a sealing order is to be granted, it should be limited to protect only the names and contact information of any individual members of MAC who are not otherwise referenced in any other document to be put before the court. The Attorney General submits that this is a reasonable alternative measure to protect any important public interests that might be at risk. MAC advised me that it would be feasible to redact the record in the manner suggested by the Attorney General.

[27] Third, the Attorney General submits that the negative effects of the order sought by MAC outweigh any possible benefits. MAC has chosen to challenge the AFL both in court and in the court of public opinion. The AFL set out the CRA's preliminary findings following its extensive audit of MAC and contains the detailed reasons for those findings. The *Charter* challenge in this case takes direct aim at the AFL and makes many serious allegations about the conduct of the CRA and the content of the AFL. The Attorney General submits that the public is entitled to know the facts underlying both parties' positions. MAC has made its allegations in its court documents as well as in public statements on its website and to the media. The CRA submits that the content of the AFL rebuts the serious and very public allegations made by MAC. In these circumstances, sealing the AFL will prejudice the interests of the CRA. The public in the media should have access to these key documents given the fundamental, constitutionally protected role that open courts play in Canadian democracy.

Decision

[28] For the reasons that follow, I decline to exercise my discretion to seal the AFL and MAC's responses. In my view, even if I assume that MAC can demonstrate a serious risk to an important public interest, there are much more reasonable alternatives to sealing the AFL and MAC's responses in their entirety. Finally, the negative effects of the sealing order sought by MAC significantly outweigh any possible benefits.

[29] I am concerned, however, about the release of the names of persons marginal relevance to the proceeding and the release of any personal contact or financial information. For the reasons set out below, I order that the AFL and MAC's responses be redacted to protect such information.

Does court openness pose a serious risk to an important public interest?

[30] MAC submits that the disclosure of the AFL and its responses would pose a serious risk to the dignity, reputation, and physical safety of MAC, its members, and Muslim-Canadians.

[31] MAC submits that the starting point of the analysis is that the AFL is an investigatory document, not a public document, and cannot be released to a member of the public unless and until MAC is sanctioned by the CRA at the end of the process.[6] MAC submits that no one currently has a right to view any of the CRA's allegations and may never be able to do so.

[32] The force of MAC's submission is significantly undermined by the facts that it is MAC, not the CRA, that commenced this court proceeding to challenge the audit process and that MAC did so before the audit was over. The statutory confidentiality protections under the *Income Tax Act* do not apply in legal proceedings relating to the administration or enforcement of the *Income Tax Act*.[7] MAC had the option to wait until the end of the audit process, which could result in a favourable decision. If MAC was unsatisfied at the end of the audit, it could seek a review of any adverse outcome through a confidential internal CRA process. If MAC was unsuccessful on that review, it could then exercise rights of appeal to the Tax Court of Canada or the Federal Court of Appeal.

[33] Many documents that are shielded from disclosure by statute, regulation, or rule lose that protection when the holder of the privacy right chooses to mount a court challenge to that document. For example, many commissioners of inquiry are required by statute to issue notice of alleged misconduct to persons before making any findings of misconduct.[8] Notices of alleged misconduct contain allegations that, if established, could cause grave reputational harm, but they are not themselves findings of misconduct. The notices are confidential. If the commissioner chooses not to make a finding of misconduct, the public will likely never know of the allegations contained in the notice. However, if the recipient

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[6] *Income Tax Act*, ss. 241(3.2)(e) and (g).
[7] Section 241(3)(b).
[8] See for example, *Public Inquiries Act 2009*, s. 17.

of a notice of alleged misconduct moves to quash that notice before the commissioner or in court, the cloak of confidentiality will be lifted.[9]

[34] In this case, MAC decided to commence and publicize this application despite the AFL containing only preliminary audit findings. In my view, the proper starting point is not the confidentiality of the AFL and the responses before MAC commenced this proceeding. The starting point is the presumption of open courts that applies in the court where MAC seeks its *Charter* remedies.

The interests of MAC itself

[35] I will first consider MAC's submission that the disclosure of the AFL and MAC's responses would pose a serious risk to its own dignity, reputation, and physical safety. In my view, the claims about MAC's own interests fail largely because of its status as a corporation.

[36] First, I do not accept that a corporation has a legally recognized dignity interest. MAC was incorporated under the *Canada Corporations Act* by letters patent and continued under the *Canada Not-for-Profit Corporations Act*, S.C. 2009, c. 23. Dignity is an intrinsically human concept. MAC is not an individual and has no dignity that may be infringed.[10]

[37] Second, I do not think the reputation of MAC is an important public interest to justify interfering with the presumption of open courts. Again, and with respect, MAC is a corporation. A corporation's interest in its reputation does not engage individual dignity, which is essential to elevate a mere reputational concern to an important public interest.[11] It cannot meet the high bar set in *Sherman Estate*.

[38] Third, I am not satisfied that MAC has filed evidence that it is at risk of physical harm if the sealing order is not granted. I understand "physical violence" to mean violence done to the body of a human. I doubt that the potential of damage to the property interests of a corporation would meet the high bar in *Sherman Estate.*

[39] Moreover, I do not see evidence of an incremental risk of violence to MAC's interests if the AFL and MAC's responses are made available to the public. MAC submits that all of the necessary facts for the adjudication of this proceeding have been filed in court. It points to the extensive affidavit evidence, expert evidence, and factums that will all be available to the public. MAC itself has brought significant media attention to this audit and proceeding. It was well within its rights to do so. However, having put itself squarely in the public spotlight, I do not see a serious risk of increased violence to MAC absent the sealing order it seeks.

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[9] Ruling on the Motion and Supplementary Motion on behalf of Michelle Zillinger, Appendix J to Part One of the Report of the Walkerton Inquiry.
[10] *Hislop v. Canada (Attorney General)*, 2007 SCC 10, [2007] 1 S.C.R. 429, at paras. 72 to 74.
[11] *Sherman Estate*, at para. 4; *A Lawyer v. The Law Society of British Columbia*, 2021 BCCA 284, at para 39.

The interests of MAC's individual members and Muslim-Canadians

[40] I take a different view of the circumstances facing individual members of MAC and Muslim-Canadians.

[41] The privacy of individuals is at risk in many court proceedings. The public character of the privacy interest involves protecting individuals from the threat to their dignity. Dignity in this sense involves the right to present core aspects of oneself in a considered and controlled manner. This interest must be tailored to preserve the presumption of openness.[12]

[42] Privacy as predicated on dignity will be at serious risk only in limited circumstances. Neither the sensibilities of individuals nor the fact that openness is disadvantageous, embarrassing, or distressing to certain individuals will generally be sufficient to warrant interference with court openness. Dignity will be at serious risk only where the information that would be disseminated as a result of court openness is sufficiently sensitive or private such that openness can be shown to meaningfully strike at the individual's biographical core in a manner that threatens their integrity. The question is whether the information reveals something intimate and personal about the individual, their lifestyle, or their experiences.[13]

[43] MAC alleges that the AFL makes clear links between members of MAC and terrorism and extremism. In my view, this submission assumes a fact that MAC will have to prove on its application.

[44] It is not obvious to me that the information at issue in the AFL speaks to a highly sensitive aspect of an individual's identity. I accept the Supreme Court of Canada's statement that "Dignity is eroded where individuals lose control over core identity-giving information about themselves because a highly sensitive aspect of who they are that they did not consciously decide to share is now available to others and may shape how they are seen in public."[14] I do not think, however, that MAC has demonstrated that the information contained in the AFL and MAC's responses puts the dignity interests of MAC's members at serious risk. I do not see this information as striking at the individual's biographical core in a manner that threatens their integrity.

[45] I also reject MAC's submission that "there is a serious risk that Muslim-Canadians as a whole will be riddled with guilt-by-association allegations should the allegations of Canada's largest Muslim charity being associated with extremism and/or hatred enter the public sphere." Bad actors will already have sufficient information in the application record to make bad faith arguments of that sort. Moreover, in my view, we cannot erode

[12] *Sherman* Estate, at paras. 56, 71, and 72.
[13] *Sherman Estate*, at para. 77.
[14] *Sherman Estate*, at para. 71.

fundamental democratic principles, such as the presumption of open courts, out of fear that racist commentators may engage in stereotypical or Islamophobic reasoning.

[46] There is, however, also an important public interest in protecting individuals from physical harm.[15] Islamophobia is a cancer in Canadian society. In the recent past, it has led to far too many acts of terrorism and violence against Muslim-Canadians. The horrible violence and pain suffered by Muslim-Canadians cannot be ignored when considering how to address fairly concerns regarding a risk of physical harm to Muslim-Canadians.

[47] I am particularly concerned about the privacy, dignity, and safety interests of minor children and members of MAC who would never have their names connected to the audit or this court challenge if the AFL and the responses were sealed. Many of these people are involved only peripherally and have no idea they are named in the AFL or MAC's responses. My concerns are heightened because the AFL contains personal contact information for many persons. These details appear to be irrelevant to the issues raised on the application. The inclusion of such information increases the risk that individual members of MAC may face physical violence, doxxing, or online harassment of people.

[48] For these reasons, I am satisfied that making the AFL and MAC's responses available to the public in their current form poses a serious risk to the physical safety of minors and members of MAC. As discussed below, it is not necessary to seal the AFL and MAC's responses to protect this interest. There are alternative options that will protect the interest while doing much less damage to the presumption of open courts.

Is a sealing order necessary because there are no reasonable and less restrictive alternatives?

[49] MAC submits that the AFL and MAC's responses must be sealed because there are no reasonable alternative measures to prevent the risks to MAC, its members, and Muslim-Canadians from materializing. MAC submits that its proposed sealing order is the least restrictive option available to the court. I disagree.

[50] The relief MAC seeks is overbroad. It is possible to tailor the relief much more narrowly and still address the risk to the important public interests recognized above. A tailored redaction order instead of a sealing order will vindicate the dignity and privacy interests of affected individuals, while respecting the presumption of open courts and freedom of expression.

[51] Even if I granted the sealing order sought by MAC, if the name of an individual member of MAC has been included in either party's affidavits or factum, that member's name will be available to the public and that member will be connected to the matters raised in the audit. I am prepared to infer that the inclusion of a member's name in an affidavit or factum suggests a significant level of involvement in the matters at issue. On the other hand, if an individual member of MAC is named only in the AFL or MAC's responses and nowhere

[15] *Sherman Estate*, at para 96.

else, that individual is likely to be only peripherally involved in the matters at issue on the application.

[52] In my view, redacting the names of peripherally involved individual members of MAC from the AFL and MAC's responses does little harm to the presumption of open courts.

[53] Moreover, I see no reason that any personal email addresses, telephone numbers, or home addresses should be made available to the public. Similarly, identifying numbers (e.g., social insurance numbers) or personal banking or credit card information should be redacted. This information is routinely redacted from court proceedings where it is irrelevant to the matters to be determined. Redacting this information will significantly reduce the risk of physical harm to, and the online harassment of, individual MAC members and other Muslim-Canadians. The Attorney General advised me that it did not object to extending its proposed redactions to cover such personal information.

[54] Finally, it appears from my review of the material that several minors are named in the AFL. In my view, their names should be redacted.

Is a sealing order proportionate because the benefits outweigh its harmful effects?

[55] In my view, the deleterious effects of sealing the AFL and MAC's responses far outweigh the benefits of doing so.

[56] MAC seeks to seal information that lies at the very heart of its application. The specific details contained in the AFL and MAC's responses are central to the judicial process.[16] MAC alleges that the audit is tainted with Islamophobia and systemic bias. It acknowledges that the main work product of the audit to date is the AFL and that it is a central document in the litigation. MAC submits that the AFL:

a. demonstrates the very discriminatory lens through which CRA conducted the audit;

b. is indicative of an impoverished view of Islam; and

c. calls into question the religious nature of MAC's Eid festivities, the most important celebration for Muslims.

[57] MAC's application argues that the CRA has violated MAC's section 2(a), 2(b), 2(d), and 15(1) rights under the *Charter* in the way they have conducted the audit. The Attorney General strenuously resists these allegations and will point to the content of the AFL as it makes its case.

[58] In my view, such serious allegations of government wrongdoing and constitutional violations must be litigated in public, with as much public and media access to the central documents of this case as possible. Without access to the core documents in this

[16] *P1 v. XYZ School*, 2022 ONCA 571, at paras. 66-67.

application, meaningful public discussion and criticism of state action on matters of significant public interest would be substantially impeded.

[59] The public should have access to these government records because they are necessary to permit meaningful public debate on the alleged CRA misconduct. The public should have access to the AFL and MAC's responses, not simply the parties' submission about what those documents say and mean. Where government misconduct is alleged, sunlight remains the best of disinfectants.[17]

[60] Open courts are one of the hallmarks of a democratic society. Open courts act "as a guarantee that justice is administered in a non-arbitrary manner, according to the rule of law . . . thereby fostering public confidence in the integrity of the court system and understanding of the administration of justice."[18]

[61] Citizens must have confidence that court processes are fair and transparent, and that a judge's reasons for decision reflect the record before that judge. There are a range of possible outcomes in this case, but for the moment consider only two: the judge finds *Charter* breaches and the audit is stayed; or the judge dismisses the application in its entirety. Either of those decisions would likely disappoint, anger, or sadden many people. They will be left with many questions about the outcome. These feelings are likely to be exacerbated by a nagging doubt about the legitimacy of the decision if key documents are withheld from public scrutiny.

[62] Even if the applicant had met the other two parts of the test, I would find that a sealing order would not be proportionate in these circumstances. I think a narrow and tailored redaction order is a proportionate remedy.

Conclusion

[63] The motion is allowed in part, but the request for a sealing order is dismissed. I make the following order:

> 1. The applicant and respondent shall provide unredacted copies of the application record and responding application record to the court clerk for the use of the judge hearing the application. The unredacted copies of the records shall be treated as confidential, sealed, and will not form part of the public record pursuant to s. 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43. The unredacted copies of the records shall be deposited for safekeeping with the Registrar and shall not be inspected by any person without

[17] *Criminal Lawyers' Assn. v. Ontario (Ministry of Public Safety and Security)*, 2010 SCC 23, [2010] 1 S.C.R. 815, at para. 37.
[18] *Canadian Broadcasting Corp. v. New Brunswick (Attorney General)*, [1996] 3 S.C.R. 480, at para. 22.

leave pursuant to rule 30.11 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, subject to further order of the court.

2. The applicant and the respondent shall redact the following information only from the Administrative Fairness Letter dated March 17, 2021 (including all appendices), and the response letters from the applicant to the Canada Revenue Agency dated August 12, 2021, December 3, 2021, and January 12, 2022:

a) The name of any person known to be under the age of 18;

b) The name of any individual member of MAC who is not referenced in any other document that will be put before the court at the hearing of the application;

c) The email address of any person, excluding email addresses with a domain name for a company, an employer, or an organization. For certainty, any email accounts using an @outlook.com, @gmail.com or @icloud.com domain are to be redacted;

d) The telephone number of any person, excluding publicly available business or organizational telephone numbers;

e) The home address of any person;

f) Any identifying numbers including, but not limited to, social insurance numbers, employee identification numbers, driver's licence numbers, health card numbers, passport numbers; and

g) Any personal financial information such as credit card numbers and bank account information.

3. A copy of the application record and responding record containing the redactions described above shall be filed in the public record and may be inspected.

4. The unredacted application record and responding record shall not be uploaded to CaseLines without an order of the judge hearing the application.

5. The costs of this motion shall be in the cause of the application.

[64] Either party may contact my judicial assistant to arrange an urgent case conference if there are any problems interpreting or implementing this order.

[65] I thank counsel for their comprehensive and helpful written submissions and for meeting with me on short notice to answer my questions.

Robert Centa J.

Date: March 24, 2023