

Federal Court



Cour fédérale

Date: 20121101

Docket: T-1567-12

Ottawa, Ontario, November 1, 2012

PRESENT: Madam Prothonotary Mireille Tabib

BETWEEN:

THE HONOURABLE LORI DOUGLAS

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

ORDER

A case management telephone conference was held on October 30, 2012 in the presence of the counsel for the parties as well as counsel for Alexander Chapman, on behalf of whom a motion to be added as a named Respondent has been served and filed, counsel for the Canadian Judicial Council, who has indicated an intention to seek Intervener status, as well as counsel for the Inquiry Committee, the Superior Court Judges' Association, the previous Independent Counsel to the Inquiry, and the current Independent Counsel to the Inquiry, all of whom are either interested in related judicial review applications in T-1562-12 and T-1789-12 or considering whether to move to seek leave to intervene in this proceeding.

Counsel for the Applicant, the Respondent, Mr. Chapman and the Canadian Judicial Council generally agree that the motion to intervene by Mr. Chapman and an expected motion by the Attorney General of Canada to be removed as a named Respondent in this application should be determined as the next essential step in this proceeding, and before the Court entertains motions to intervene by other potential Interveners.

The parties further agree that the deadlines set out in the *Federal Courts Rules* for proceeding with the application on its merits should be suspended pending determination of these two motions.

Counsel for the parties, for Mr. Chapman and for the Canadian Judicial Council further agree that both Mr. Chapman and the Canadian Judicial Council should properly be served and be able to make submissions on both motions, although counsel for Mr. Chapman indicated that it is unlikely that Mr. Chapman would file a record in response to the expected motion of the Attorney General of Canada to be removed as a Respondent.

Both parties, counsel for the Canadian Judicial Council and for Mr. Chapman also agreed that courtesy copy of their motion materials should be provided to counsel for Guy Pratte, the previous Independent Counsel to the Inquiry, Suzanne Coté, the new Independent Counsel to the Inquiry, counsel to the Inquiry Committee and counsel for the Superior Court Judges' Association, and have agreed to do so.

IT IS ORDERED THAT:

1. The Attorney General of Canada shall serve and file, no later than November 5, 2012, a full motion record on its intended motion to be removed as a named Respondent to this application. The Attorney General of Canada is granted leave to file a single motion record applicable to both files T-1567-12 and T-1789-12, to be filed only in T-1567-12 but deemed to have also been filed for the purposes of T-1789-12.
2. The responding motion records of the Applicant and of the Attorney General of Canada to the motion of Mr. Chapman shall be served and filed no later than November 19, 2012.
3. The motion records of the Applicant and of the Canadian Judicial Council in response to the motion of the Attorney General of Canada shall be served and filed no later than November 23, 2012. The Applicant and the Canadian Judicial Council have leave to file a single responding motion record applicable to both files T-1567-12 and T-1789-12, to be filed only in T-1567-12 but be deemed to have also been filed for the purposes of T-1789-12.
4. Cross-examinations on affidavits on both motions shall take place from November 27 to November 29, 2012 and the parties shall ensure that a transcript of the cross-examinations will be available to the Court for the hearing of the motions.

5. Wherever, on cross-examinations, objections are raised on issues other than solicitor-client privilege, the parties are to endeavour to have the witness provide the answer on a separate transcript, so that the answers may be available to the Court in the event the Court dismisses the objections. Where the objections raise issues of confidentiality, the separate transcript is to be submitted to the Court under seal and the sealed part of the transcript shall remain confidential and sealed in the Court record until the Court rules otherwise. To the extent objections based on solicitor-client privilege require an immediate determination in order for cross-examinations to proceed efficiently or effectively, the parties may ask for a Special Sitting by way of telephone conference upon short notice for the Court to rule on the objections.

6. The motions of the Attorney General of Canada and of Mr. Chapman shall be heard at a Special Sitting in Toronto beginning at 9:30 a.m. on November 30, 2012 for a duration not exceeding 1 day.

“Mireille Tabib”

Prothonotary