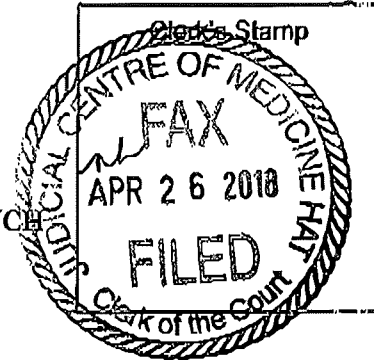


**Form 7**  
[Rule 3.8]



COURT FILE NUMBER

1808 160

COURT

COURT OF QUEEN'S BENCH  
OF ALBERTA

JUDICIAL CENTRE

MEDICINE HAT

APPLICANTS

RHEA LYNNE ANDERSON, WILLIAM ANDERSON,  
and CECIL FRITZ CORP o/a A-1 IRRIGATION &  
TECHNICAL SERVICES

RESPONDENT

HER MAJESTY THE QUEEN IN RIGHT OF CANADA  
AS REPRESENTED BY THE MINISTER OF  
EMPLOYMENT, WORKFORCE & LABOUR

DOCUMENT

**ORIGINATING APPLICATION**

ADDRESS FOR  
SERVICE AND OF  
CONTACT INFORMATION  
PARTY FILING  
THIS DOCUMENT

Justice Centre for Constitutional Freedoms  
Marty Moore  
Barrister and Solicitor  
#253, 7620 Elbow Drive SW  
Calgary, Alberta T2V 1K2  
Phone: (587) 998-1806  
Email: mmoore@jccf.ca

**NOTICE TO THE RESPONDENT**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: June 14, 2018, or such time as determined hereafter.

Time: 10:00 AM

Where Law Courts, 460 First St., S.E.  
Medicine Hat, AB

Before: Justice in Chambers

Go to the end of this document to see what you can do and when you must do it.

## Remedy Sought

The Applicants seek:

1. An Order abridging time for the service of this Originating Application and supporting materials, if necessary;
2. A declaration pursuant to section 52(1) of the *Constitution Act, 1982*, that the third provision of the attestation required in the 2018 Canada Summer Jobs (“CSJ”) application form (the “New Attestation Requirement”) violates the Applicants’ rights as protected by section 2(b) of the *Canadian Charter of Rights and Freedoms* (the “Charter”), and is therefore void and of no force or effect;
3. Further, or in the alternative, a declaration pursuant to section 52(1) of the *Constitution Act, 1982*, that the New Attestation Requirement violates section 2(a) of the *Charter*, in so far as it breaches the duty of state neutrality, and is therefore void and of no force or effect;
4. Further, or in the alternative, a declaration pursuant to section 52(1) of the *Constitution Act, 1982*, that the New Attestation Requirement violates the Applicants’ freedom of conscience and religion, as protected by section 2(a) of the *Charter*, by compelling the Applicants to profess their agreement with, and ostensibly adopt, specific beliefs and values in order to qualify for a government benefit to which they would otherwise be entitled;
5. Further, or in the alternative, a declaration pursuant to section 52(1) of the *Constitution Act, 1982*, that the New Attestation Requirement contravenes section 32 of the *Charter* by unlawfully attempting to subject private entities to the legal obligations of the *Charter*, and therefore is void and of no force or effect;
6. Further, or in the alternative, a declaration pursuant to section 52(1) of the *Constitution Act, 1982*, that the New Attestation Requirement is *ultra vires* the authority of the federal government and is therefore void and of no force or effect;

7. An Order pursuant to section 52(1) of the *Constitution Act, 1982* striking the New Attestation Requirement;
8. An Order pursuant to section 24(1) of the *Charter* that the Applicants' 2018 CSJ application be accepted and assessed, in good faith, notwithstanding that the Applicants do not attest to the New Attestation Requirement;
9. Such further and other relief as this Honourable Court considers just; and
10. Costs.

**Factual Basis for this claim:**

11. The Applicants, Rhea Lynne Anderson and William Anderson, are a married couple residing in the vicinity of Brooks, Alberta. The Applicant, Cecil Fritz Corp o/a A-1 Irrigation & Technical Services ("A-1"), is incorporated in Alberta. William Anderson and Rhea Lynne Anderson are the sole shareholders and directors of A-1. A-1 is a small business, consisting of nine full-time permanent employees, which offers ecologically responsible irrigation services to local farming operations.
12. On January 24, 2018, the Applicant Rhea Lynne Anderson completed and submitted a CSJ application form. Prior to 2018, the CSJ application form had included the following mandatory attestation for that all applicants:
  - You have read and understood the CSJ Articles of Agreement and referred to the Applicant Guide as needed
  - The job would not be created without the financial assistance provided under a potential contribution agreement
  - You have all the necessary authorities, permissions and approvals to submit this application on behalf of yourself and the organization (the "Original Attestation")
13. Added to the 2018 CSJ application form is the New Attestation Requirement, which reads:
  - Both the job and my organization's core mandate respect individual human rights in Canada, and the values underlying the *Canadian Charter of Rights and Freedoms* as well as other rights. These include reproductive rights and the right to be free from discrimination on the basis of sex, religion, race, national or

ethnic origin, colour, mental or physical disability or sexual orientation, or gender identity or expression.

14. The federal government has defined “respecting” “reproductive rights” as including “the right to access safe and legal abortions”. The 2018 CSJ Application Guide states that the federal government “recognizes” that “the right to access safe and legal abortions” is a right protected by the *Charter* and human rights legislation.
15. The Applicants attest to the Original Attestation. However, they object to the New Attestation Requirement, which compels them to proclaim their “respect” for the federal government’s particular conception of the “values underlying” the *Charter* and “other rights” in order to access a government benefit for which they would otherwise be eligible.
16. The 2018 CSJ application form does not permit applicants to only attest to portions of the attestation; applicants must attest to the entire attestation, including the New Attestation Requirement, by “checking” a single “I attest” box on the application form. This is so whether the application is completed using the online form or the paper form. If applicants do not attest to the entire attestation, their 2018 CSJ application is not accepted for processing.
17. The Applicants submitted their 2018 CSJ application without “checking” the “I attest” box because, although the Applicants attest to the Original Attestation, they object to being compelled to express their agreement and respect for an ideological position as required by the New Attestation Requirement.
18. On February 9, 2018, the applicants received the following reply from “Service Canada”:

The essential requirements listed below are missing from your application, and therefore we are **unable to determine your organization’s eligibility or the eligibility of the activities proposed in your application:**

**The signatory must check the "I attest" box to confirm eligibility and add his/her initials next to the box.**

...

In order to determine the eligibility of your organization and its proposed activities, you must provide us with the above essential missing requirements within 10

business days following the date of this correspondence. If you fail to respond within the above specified timeframe, **your application will be deemed incomplete and will therefore not be eligible for assessment.** (Emphasis added)

19. On February 10, 2018, the Applicants responded to Service Canada, indicating that they would not be checking the “I attest” box because they viewed it as unconstitutional for the Government “to require a specific prescription of personal beliefs” to qualify for the CSJ program.

### **Legal Grounds**

20. The *Canadian Charter of Rights and Freedoms* (the “*Charter*”) protects, as a fundamental freedom in a free and democratic society, the freedom of thought, belief, opinion and expression under section 2(b). Importantly, section 2(b) of the *Charter* prohibits the state from compelling persons to express words that are not their own and freely chosen, to adopt thoughts or opinions that are not their own and freely chosen, and to express agreement with the state on matters of politics, morality, spirituality, conscience, belief, ideology or social policy.
21. The New Attestation Requirement to “respect” the “values” and “rights” as promoted by the Government, in order to be eligible to participate in the CSJ program, directly violates the *Charter*’s protection under section 2(b).
22. It is unlawful for the federal government to compel, directly or indirectly, agreement with its social, moral, philosophical or legal positions as a condition to applying for a government service or program in a free and democratic society. Free citizens are not required to agree with the majority of Canadians, or with the government in power at any given time, as a condition of being eligible for a government service or program. The Supreme Court of Canada has stated that compelled speech is “totalitarian and as such alien to the tradition of free nations like Canada” (*National Bank of Canada v. Retail Clerks’ International Union et al.*, [1984] 1 SCR 269 at p 296).
23. *Charter* section 2(a) places an obligation on government to remain neutral in matters of conscience, religion, belief, morality and ideology.

24. By forcing the Applicants, along with all Canadian businesses, organizations and individuals, to express “respect” for ideological and moral positions regarding abortion and human sexuality in order to participate in the CSJ program, the federal government has breached its duty of neutrality. This is so regardless of whether the Applicants are in agreement with the ideological positions in question.
25. Compelling the Applicants to agree with and adopt the federal government’s particular conception of the “values underlying” the *Charter* and “other rights”, some of which the Applicants may not agree with and need not agree with in a free and democratic society, in order to qualify for a government benefit, is a gross violation of the Applicants’ freedom of conscience as protected by section 2(a) of the *Charter*.
26. It is a further violation of the Applicants’ freedom of conscience to compel the Applicants to attest to a statement that is not accurate. The Supreme Court has held that the *Charter* does not provide for an unqualified right to access abortion: *R. v Morgentaler*, [1988] 1 SCR 30; *Chaoulli v Quebec (Attorney General)*, 2005 SCC 35, at para 104. Further, the Applicants are aware that the *Charter* does not apply to themselves, as non-government entities. For the Applicants, who are not government actors, to attest that they are bound by the *Charter*, is to utter a falsehood. The Applicants cannot, in good faith, attest to statements they believe to be false without violating their conscience. The requirement to attest to untruthful statements, in order to access a government benefit, violates section 2(a) of the *Charter*.
27. The New Attestation Requirement is *ultra vires* the authority of the federal government. Individuals, associations, and corporations are not bound by the *Charter*. The receipt of public funds does not render a private entity “government”. The government does not possess the lawful authority to subject private entities that are not “government” for the purposes of section 32 of the *Charter* to the legal obligations of the *Charter*. To attempt to do so contravenes section 32 of the *Charter* and strips private entities of their constitutional rights by compelling them to act as though they were part of government.
28. All individuals and businesses in Canada are required to act in accordance with the law, including relevant federal and provincial human rights legislation. However, in a free

and democratic society, individuals and businesses should never be required to state their agreement with laws. Further, individuals and businesses are not required to act in accordance with the obligations of the *Charter*, which do not apply to them, but only to government. It is a perversion of Canada's Constitution, and antithetical to a free and democratic society, for the New Attestation Requirement to demand otherwise.

**Affidavit or other evidence to be used in support of this application:**

29. The Affidavit of Rhea Lynne Anderson, filed; and
30. Such further and other material as counsel may advise and this Honourable Court will permit.

**Applicable Rules:**

31. The *Alberta Rules of Court*, in particular Rules 1.2, 1.3, 1.4, 1.5, 3.3, 3.11-3.14, and such other Rules as counsel may advise.

**Applicable Acts and regulations:**

32. The *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.
33. The *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must reply by giving reasonable notice of that material to the applicant(s).