

**FORM 337 - Rule 337**

**NOTICE OF APPEAL**

COURT FILE NO: A-183-21

**FEDERAL COURT OF APPEAL**

BETWEEN

**BARBARA SPENCER, SABRY BELHOUCHE, BLAIN GOWING, DENNIS WARD,  
CINDY CRANE, DENISE THOMSON, NORMAN THOMSON**

Appellants

-and-

**STEVEN DUESING & NICOLE MATHIS**

Appellants

-and-

**THE ATTORNEY GENERAL OF CANADA**

Respondents



**NOTICE OF APPEAL**

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard in Ottawa through virtual court.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341 prescribed by the Federal Courts Rules and serve it on the appellant's solicitor, or where the appellant is self represented, on the appellant, WITHIN 10 DAYS of being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross appeal in Form 341 prescribed by the Federal Courts Rules instead of serving and filing a notice of appearance.

Copies of the Federal Courts Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

June 24, 2021

Issued by: Registry Officer **smith, jacqueline**

Digitally signed by  
smith, jacqueline  
Date: 2021.06.30  
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TO: Attorney General of Canada

Office of the Deputy Attorney General of Canada  
284 Wellington Street  
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## APPEAL

THE APPELLANTS APPEAL to the Federal Court of Appeal from:

1. The Order of the Federal Court dated June 18<sup>th</sup> 2021, rendered by the Honourable Chief Justice Paul S. Crampton, which held that the impugned provisions of Order in Council PC 2021-11 issued January 20, 2021 (the “January Order”)<sup>1</sup> and Order in Council PC r 2021-75 issued February 14, 2021 as amended on February 21, 2021(the “ February Order”)<sup>2</sup> requiring all nonexempt international air travellers to be detained in a quarantine hotel or facility known as a “government-authorized accommodation” or “quarantine facility” while awaiting the results of their post-arrival test for COVID-19 are constitutional and do not infringe sections 7, 9, and 10(b)of the *Canadian Charter of Rights and Freedoms (Charter)*.
2. Further the finding that the Appellant Steven Duesing’s section 9 and 10(b) *Charter* rights were not violated.

THE APPELLANT ASKS that:

3. The Federal Court of Appeal find that the Honourable Chief Justice Paul S. Crampton erred in law in finding that the impugned provisions of the Orders did not violate sections 7, 9 and 10(b) of the *Charter* and that they are justified in a free and democratic society.
4. A declaration that the Federal Court of Appeal find that the Honourable Chief Justice Paul S. Crampton erred in law by making findings that went beyond the scope of the issues and evidence at trial.
5. A declaration pursuant to section 52(1) of *Constitution Act, 1982* that the impugned provisions unjustifiably infringe the sections 7, 9, and 10(b) of the *Charter* and are of no force or effect
6. A Declaration pursuant to Section 24(1) of the Charter that the Order is unreasonable because it does not proportionately balance rights and freedoms protected under the Charter including section 7, 9, 10(b).

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<sup>1</sup> *Minimizing the Risk of Exposure to COVID-19 in Canada (Quarantine, Isolation and Other Obligations)*, PC 2021-11, (2021) C Gaz I, 362 (*Quarantine Act*), sections 1,4

<sup>2</sup> *Minimizing the Risk of Exposure to COVID-19 in Canada (Quarantine, Isolation and Other Obligations)*, PC 2021-75, (2021) C Gaz I, 673 (*Quarantine Act*) as amended on February 21, 2021, sections 1.2, 1.3, 3, 4, 5, 9, 10, and 11

THE GROUNDS OF APPEAL are as follows:

7. The Honourable Chief Justice Paul S. Crampton erred in mixed law and fact in finding that the impugned measures were not arbitrary and overbroad and therefore in accordance with the principles of fundamental justice by inappropriately assessing and applying the evidence that was before the Honourable Court.
8. The Honourable Chief Justice Paul S. Crampton erred in law by finding that the detention of Applicants was not arbitrary in accordance with section 9 of the *Charter*. The Honourable Chief Justice P. Crampton further erred in law by not providing sufficient reasons as to why the detention of the Appellant Steven Duesing was not arbitrary.
9. The Honourable Chief Justice Paul S. Crampton erred in law in finding that the section 10(b) rights of all Appellants were not violated following the finding that mandatory quarantine at quarantine hotels and quarantine facilities amounted to detention.
10. Further and in addition, the Honourable Chief Justice P. Crampton erred in law in finding that the Appellant Steven Duesings' section 10(b) *Charter* rights were not violated.
11. The Honourable Chief Justice Paul S. Crampton erred in law by going beyond the scope of the issues and evidence that was before the Honourable Court in making the conclusionary findings that "principles of fundamental justice would permit the imposition of stronger border control measures including longer period of quarantine at the border."<sup>3</sup>

On this 30<sup>th</sup> Day of June 2021 in the City of Toronto

*Sayeh Hassan*

SAYEH HASSAN  
HENNA PARMAR  
JUSTICE CENTRE FOR CONSTITUTIONAL  
FREEDOMS  
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<sup>3</sup> Reasons for Judgment, June 18<sup>th</sup> 2021 paragraphs 309-311