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F I L E D	FEDERAL COURT COUR FÉDÉRALE November 08, 2021 08 novembre 2021
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APPLICATION

File No:

IN THE FEDERAL COURT OF CANADA (Trial Division)

Between:

David LAVERGNE-POITRAS, an individual, resident and domiciled at 710 Boulevard des Seigneurs, Apt. 416, in the Town of Terrebonne, QC, J6W 1T6

APPLICANT

-VS-

THE ATTORNEY GENERAL OF CANADA (Minister of Public Service and Procurements), Québec regional office (Montréal), Complexe Guy Favreau, East Tower, 200 West, René Lévesque Blvd., 9th Floor, Montreal, Quebec, H2Z 1X4;

-and-

PMG TECHNOLOGIES INC. a corporation governed by the Quebec Business Corporations Act (R.S.Q., C. S-31.1), with its head office at
100 rue du Landais, Blainville, Québec, J7C 5C9

RESPONDENTS

FORM 301- Rule 301
NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this Application be heard in Montreal, Quebec.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the Application or to be served with any documents in the Application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of Application.

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 APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

November 8, 2021

Issued by: _____

(Registry Officer)

Address of local office:

Thomas D'Arcy McGee Building

90 Sparks Street, 5th floor

Ottawa, Ontario

K1A 0H9

TO:

THE ATTORNEY GENERAL OF CANADA (Minister of Public Services and Procurement), Québec regional office (Montréal), Complexe Guy Favreau, East Tower, 200 West, René Lévesque Blvd., 9th Floor, Montreal, Quebec, H2Z 1X4;

-and-

PMG TECHNOLOGIES INC. a corporation governed by the Quebec Business Corporations Act (R.S.Q., C. S-31.1), with its head office at 100 rue du Landais, Blainville, Québec, J7C 5C9

RESPONDENTS

APPLICATION

THIS IS AN APPLICATION FOR DECLARATORY RELIEF, AND INTERLOCUTORY AND PERMANENT INJUNCTIVE RELIEF UNDER SECTION 18 OF THE FEDERAL COURTS ACT DIRECTED AGAINST :

THE ATTORNEY GENERAL OF CANADA (Minister of Public Services and Procurement)

AT THE INTERIM / INTERLOCUTORY STAGE, THE RELIEF SOUGHT FROM THIS COURT WILL BE AS FOLLOWS:

1. An order directed against the Respondent, the ATTORNEY GENERAL OF CANADA (Minister of Public Service and Procurements) to:
 - a. Stay the Implementation of the directive/policy titled “COVID-19 vaccination requirement for supplier personnel” (**Applicant’s Exhibit #1**);
 - b. Allow employees of contractors of the Canadian Government including,

but not limited to, the Applicant to continue to have access to facilities of the Canadian Government, or under the responsibility of the Canadian Government, for work purposes, irrespective of whether they are fully vaccinated against the COVID-19 virus as of November 15, 2021 or at any time thereafter;

- c. Allow all contractors/suppliers of the Canadian Government, who have access to facilities of the Canadian Government, or under the responsibility of the Canadian Government including, but not limited to the Respondent PMG Technologies Inc. to refrain from attesting, that as of November 15, 2021, they are implementing a policy requiring all of their employees who have access to a facility of the Canadian Government, or under the responsibility of the Canadian Government, to be fully vaccinated against the COVID-19 virus as of November 15, 2021 or at any time thereafter;
 - d. Refrain from taking into consideration, when making any decision related to: the continuation of an existing contractual relationship, or processing of a tender for a contract, a contract proposal, or awarding of a contract, whether the contractor/supplier, the party making the tender or proposal or seeking a contract award including, but not limited to, the Respondent PMG Technologies Inc., has a policy requiring all of their employees who have access to a facility of the Canadian Government, or under the responsibility of the Canadian Government, to be fully vaccinated against the COVID-19 virus as of November 15, 2021 or at any time thereafter;
and
2. Such other and further relief as the Court shall deem appropriate in the circumstances.

AT THE FINAL JUDGMENT STAGE, THE RELIEF SOUGHT FROM THIS COURT WILL BE AS FOLLOWS:

1. A declaration that the Respondent's (the ATTORNEY GENERAL OF CANADA (Minister of Public Service and Procurements) directive/policy titled "**COVID-19 vaccination requirement for supplier personnel**") is invalid and of no effect, as being:
 - i) *Ultra vires* of the powers of the ATTORNEY GENERAL OF CANADA (Minister of Public Service and Procurements);
 - ii) A violation of the Applicant's and other individuals' right to security of the person under Section 7 of the Charter of Rights and Freedoms;
 - iii) A violation of the Applicant's and other individuals' right to security of the person under Paragraph 1 a) of the Canadian Bill of Rights;
2. An Order precluding the Respondent, the Attorney General of Canada, from implementing the Policy/Directive known as the **COVID-19 vaccination requirement for supplier personnel**; and
3. Such other and further relief as the Court shall deem appropriate in the circumstances.

N.B. NO RELIEF IS SOUGHT AGAINST THE RESPONDENT PMG TECHNOLOGIES INC. PMG TECHNOLOGIES IS DESIGNATED AS A RESPONDENT HEREIN SOLELY BECAUSE ITS RIGHTS MAY BE AFFECTED BY THE DECISIONS TO BE RENDERED HEREIN.

THE GROUNDS FOR THE APPLICATION ARE AS FOLLOWS:

1. The Applicant is an employee of the Respondent PMG Technologies:
2. The Respondent PMG Technologies is a contractor/supplier of the Canadian Government;
3. On October 12, 2021, the Respondent Attorney General of Canada (Minister of Public Service and Procurements) (the "AGC") published a new policy/directive titled: COVID-19 vaccination requirement for supplier personnel (the "**Impugned Policy/Directive**");
4. The Impugned Policy/Directive purports to require:
 - a. All employees of contractors of the Canadian Government, who have access to a facility of the Canadian Government, or under the responsibility of the Canadian Government, to be fully vaccinated against the COVID-19 virus as of November 15, 2021; and
 - a. All contractors of the Canadian Government, who have access to facilities of the Canadian Government, or under the responsibility of the Canadian Government including, but not limited to, the Respondent PMG Technologies Inc. to attest, that as of November 15, 2021, they are implementing a policy requiring all of their employees who have access to a facility of the Canadian Government, or under the responsibility of the Canadian Government, to be fully vaccinated against the COVID-19 virus as of November 15, 2021 or at any time thereafter;
5. The Impugned Policy/Directive purports to be applicable to all Canadian Government contractors/suppliers who, irrespective of the level of COVID-19 transmission risks associated with their respective work environments / fields of endeavour, have access to a Canadian Government workplace;

6. The Applicant is directly affected by the Impugned Policy;
7. As of November 15, 2021, the Applicant will be out of work, should this court not stay the implementation of the Impugned Policy or let it stand;
8. The Impugned Policy is ultra vires of the powers of the Attorney General of Canada, insofar as it is:
 - a) unsupported by any enabling legislation;
 - b) overreaching and unreasonable;
 - c) an infringement of Charter rights and other human rights of the Applicant and similarly situated individuals.
9. The Impugned Policy is neither a *bona fide* occupational requirement, nor is it a reasonable limitation of the Applicant's and other similarly situated individuals' fundamental rights;
10. Through the Impugned Policy/Directive, the AGC purports to:
 - a) unilaterally modify existing contracts, and affect the employment status of individuals, such as the Applicant, engaged in the performance thereof; and
 - b) Impose an advance requirement to contractors, in order for them to be eligible for future contracts, even though that requirement comes into effect prior to the effective date of said future contracts;

THE WHOLE RESPECTFULLY SUBMITTED

THIS APPLICATION AND THE RELATED MOTION FOR AN INTERLOCUTORY INJUNCTION WILL BE SUPPORTED BY THE FOLLOWING MATERIALS:

Affidavits:

1. Affidavit of the Applicant David LAVERGNE-POITRAS dated November 7, 2021;

Exhibits:

Designation	Description
Applicant's Exhibit #1	Exigence relative à la vaccination des fournisseurs contre la COVID-19 / COVID-19 vaccination requirement for supplier personnel
Applicant's Exhibit #2	Excerpt of PMG Tender Documents
Applicant's Exhibit #3	Schedule K- Attestation (Certification to be signed by all contractors/suppliers of the Canadian Government) that all employees are vaccinated as of November 15, 2021
Applicant's Exhibit #4	Excerpt of the Health Canada Website in respect of Messenger RNA vaccines
Applicant's Exhibit #5	Excerpt of the Health Canada Website in respect of authorized clinical trials of COVID-19 vaccines
Applicant's Exhibit #6	Protocol of Nuremberg
Applicant's Exhibit #7	Excerpt of the Health Canada Website in respect of vaccine safety and side effects
Applicant's Exhibit #8	Excerpt of the Health Canada Website- Vaccine Safety Weekly report
Applicant's Exhibit #9	Excerpt of the Institut National de Santé Publique website regarding complications from COVID vaccines

Signed in Saint-Lazare, Quebec, on November 8, 2021

A handwritten signature in dark ink, appearing to be 'Guy Lavergne', written in a cursive style. The signature is positioned above a horizontal line.

Me Guy Lavergne

Attorney for the Applicant
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