

File No:

**IN THE
FEDERAL COURT OF CANADA (Trial Division)**

Between:

David [REDACTED]

APPLICANT (Moving Party)

-VS-

**THE ATTORNEY GENERAL OF CANADA (Minister of Public Service and
Procurements)**

-and-

PMG TECHNOLOGIES INC.

RESPONDENTS

**NOTICE OF MOTION
(FOR AN ORDER OF INTERLOCUTORY INJUNCTION
INCLUDING A PRELIMINARY INJUNCTION)**
Pursuant to Rule 359, 373, 374 and related rules of the *Federal Courts Rules*

To: THE ADMINISTRATOR
Federal Court of Canada (Trial Division)

And to:

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

PLEASE TAKE NOTICE THAT the Moving Party, David [REDACTED] (the "Applicant") will make a motion to this Court under Rule 372 and subsequent of the Federal Court Rules:

1. THE MOTION IS FOR an Order of Preliminary Injunction, pursuant to Rules 372 and subsequent of the Federal Court Rules;
2. The Motion is returnable at a special sitting of the Court, in Ottawa (ON) on Friday November 12, 2021, at 14h00 EST, in a Court Room to be determined by the Court Administrator.

THE GROUNDS FOR THE MOTION ARE:

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 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;
11. There is urgency to grant the relief sought;
12. Failing an Order of Interim / Interlocutory Injunction from this Court, the Applicant and other similarly situated individuals will suffer irreparable harm;
13. The balance of inconvenience test favours the Plaintiff;
14. The relief sought is in the public interest;

15. The Applicant seeks to be exempted from providing security / abide by an undertaking to pay damages, in respect of the relief sought, in view of his economic status and the public interest being pursued.

16. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

Affidavits:

Affidavit of the Applicant David [REDACTED] 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

RELIEF BEING SOUGHT:

1. An order of injunction 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.

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.

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



Me Guy Lavergne

Attorney for the Applicant
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