

Justice Chambers (JC) – Physical Courtroom 1004

COURT FILE NUMBER 2301-09854

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE Calgary

APPLICANTS Jonah Pickle, Paul Viminiz and Frances Widdowson

RESPONDENTS The University of Lethbridge and the Governors of the University of Lethbridge

DOCUMENT **Originating Application for Judicial Review**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Glenn Blackett Law
[REDACTED]

NOTICE TO THE RESPONDENTS

**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: September 12, 2023
Time: 10:00 a.m.
Where: **Calgary Courts Centre**
Before Whom: **Justice in Chambers**

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

Basis for the claim to be put before the Court:

1. The University of Lethbridge and its managing board, the Governors of the University of Lethbridge (collectively, the "UofL"), is government for the purpose of section 32 of the *Canadian Charter of Rights and Freedoms* (the "**Charter**") because:
 - a. the UofL is an inherently governmental entity;
 - b. the UofL board is appointed by the Minister of Advanced Education and the Lieutenant Governor in Council;
 - c. the UofL is subject to legislative control, including routine and regular control;
 - d. the UofL exercises various powers of statutory compulsion; and

- e. the UofL implements government programs or policies including:
 - i. the delivery of post-secondary education in accordance with government objectives including open inquiry, free speech, and critical thinking; and
 - ii. the programs and policies referred to at paragraph 2 below.
2. In the alternative, the UofL implements various government programs and policies including:
 - a. delivering a liberal, post-secondary education, including open inquiry, free speech, critical thinking, and viewpoint diversity;
 - b. providing a platform for creating, discovering, preserving, synthesizing, disseminating, and applying knowledge through free and critical inquiry and viewpoint diversity;
 - c. preparing students to understand and address a complex world who are capable of contributing meaningfully to the economic, social and cultural progress of Albertans, Canadians and the world;
 - d. providing a platform for free inquiry and expression and modelling collegial and civil debate, dissent, and controversy to critically explore and resolve issues, including current and relevant societal issues;
 - e. guaranteeing UofL members the broadest possible latitude to speak, write, listen, challenge, and learn;
 - f. not obstructing or interfering with freedom of expression, debate or deliberation on campus even if ideas are offensive, unwise, immoral, or misguided;
 - g. operating the UofL without institutional judgment as to the content of expression;
 - h. facilitating access to scholarly resources;
 - i. managing a public asset, being the UofL campus, for the benefit of students, staff visitors and other Albertans in alignment with government goals, business plans and other key government strategic documents;
 - j. allowing participation in learning opportunities; and
 - k. engaging the community in the foregoing policies and programs and providing benefits to the community therefrom.
3. At all material times, the applicant:
 - a. Paul Viminiz (“**Viminiz**”) held a doctorate in philosophy and was a professor of philosophy at the UofL with a special interest and knowledge of issues of campus free speech;
 - b. Frances Widdowson (“**Widdowson**”) held a doctorate in political science and accomplished academic with a special interest and knowledge of the relationship between academics and “woke-ness” (an identity-based totalitarian ideology); and

- c. Jonah Pickle (“**Pickle**”) was an undergraduate student at UofL in the department of neuroscience.
4. In November 2022 Viminitz invited Widdowson to speak to students, faculty and members of the public at the UofL on the topic of “How Woke-ism Threatens Academic Freedom” which was to be hosted at the UofL, Anderson Hall, on February 1, 2023, at 4:30 p.m. (the “**Event**”). The Event was free and was to include both a lecture and a question and answer session.
5. The Event was for the purpose of Widdowson, Viminitz and Pickle as well as all other interested parties assembling and engaging in social and democratic discourse, seeking and promulgating the truth, and seeking self-fulfillment.
6. Widdowson agreed to speak at the Event. Viminitz and Pickle decided to attend the Event.
7. The Event was booked by Viminitz with the UofL in accordance with standard UofL policies and procedures.
8. On or about January 25, 2023, a significant backlash to the Event developed including calls for the UofL to cancel the Event by signatories to two petitions, by UofL’s Department of Indigenous Studies and by various members of UofL’s faculty.
9. On January 30, 2023, the UofL unilaterally cancelled the Event for all time claiming:
 - a. “assertions that seek to minimize the significant and detrimental impact of Canada’s residential school system are harmful” although the Event was not related to that topic;
 - b. cancellation was for the “safety” of the “diverse community” although the UofL was referring to ideological safety from opposing viewpoints, which is contrary to the *sine qua non* of a post-secondary education; rational disputation;
 - c. harm associated with the talk was an impediment to “meaningful reconciliation” pursuant to the calls to action of the Truth and Reconciliation Commission of Canada; and
 - d. delegation of decision making, ostensibly, to “indigenous people”.
10. As a result of the cancellation:
 - a. Viminitz was denied the opportunity to host the Event at which faculty (including himself), staff, students (including Pickle) and members of the public would all assemble peacefully for the opportunity to hear Widdowson speak and to themselves speak, including with one another and with Widdowson; and
 - b. Widdowson was denied the opportunity to speak and listen at the Event including engaging in a question and answer session with attendees.
11. The purpose and effect of the cancellation was to restrict the applicants’:
 - a. freedom of thought, belief, opinion and expression guaranteed under section 2(b) of the *Charter*; and

- b. freedom of peaceful assembly guaranteed under section 2(c) of the *Charter*.

12. In cancelling the Event, the UofL:

- a. showed a reckless disregard for the *Charter* and its statutory authority and mandate;
- b. demonstrated an intention and likelihood to continue to violate rights guaranteed under the *Charter* by imposing unreasonable limits on *Charter* section 2(b) and 2(c) guarantees, not prescribed by law and not demonstrably justified in a free and democratic society.

13. As such, it is appropriate and just in the circumstances that this Honourable Court:

- a. declare the cancellation a breach of the applicants' freedom of thought, belief, opinion and expression guaranteed under section 2(b) of the *Charter* and freedom of peaceful assembly guaranteed under section 2(c) of the *Charter*; and
- b. grant an injunction requiring the UofL to permit the Event to proceed on campus without any conditions not originally imposed on the Event at a reasonable future date, time and location.

14. The applicants bring this matter to advance the public interest in promoting and protecting *Charter* guarantees at the UofL.

Remedy sought:

- 15. A declaration that UofL breached of the applicants' freedom of thought, belief, opinion and expression guaranteed under section 2(b) of the *Charter* and the applicants' freedom of peaceful assembly guaranteed under section 2(c) of the *Charter*.
- 16. An injunction requiring the UofL to permit the Event to proceed on campus without any conditions not originally imposed on the Event at a reasonable future date, time and location.
- 17. An order that no costs be awarded for or against the applicants.
- 18. Such further or other remedy as this Honourable Court deems just.

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

- 19. The affidavit of Frances Widdowson, sworn in this action on July 26, 2023, to be filed.
- 20. The affidavit of Jonah Pickle, sworn in this action on July 27, 2023, to be filed.
- 21. The affidavit of Paul Viminiz, sworn in this action on July 27, 2023, to be filed.
- 22. The affidavit of Ashley Sexton, sworn in this action on July 26, 2023, to be filed.
- 23. Such further or other evidence as the applicants shall advise.

Applicable Acts and regulations:

24. The *Canadian Charter of Rights and Freedoms*, enacted as Schedule B to the *Canada Act 1982*, c. 11 (U.K.).
25. *Post-Secondary Learning Act*, SA 2003, c. P-19.5 and regulations promulgated thereunder including:
 - a. *Campus Alberta Sector Regulation*, Alta Reg 239/2008 (repealed);
 - b. *Land Use Regulation*, Alta Reg 54/2004;
 - c. *Model Provisions Regulation*, Alta Reg 53/2004 (repealed);
 - d. *Pension Validation Regulation*, Alta Reg 52/2004;
 - e. *Programs of Study Regulation*, Alta Reg 91/2009;
 - f. *Public Post-Secondary Institutions' Tuition Fees Regulation*, Alta Reg 273/2006 (repealed); and
 - g. *Tuition and Fees Regulation*, Alta Reg 228/2018.
26. *Alberta Public Agencies Governance Act*, SA 2009, c A-31.5.
27. *Financial Administration Act*, RSA 2000, c F-12.
28. *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25.
29. *Government Organization Act*, RSA 2000, c G-10 and regulations promulgated thereunder including the *Ministerial Grants Regulation*, Alta Reg 215/2022.
30. *Local Authorities Capital Finance Act*, RSA 2000 c. L-20.8.
31. *Public Interest Disclosure (Whistleblower Protection) Act*, SA 2012, c P-39.5.
32. *Public Service Employee Relations Act*, RSA 2000, c. P-43.
33. *Results-Based Budgeting Act*, SA 2012, c R-17.5 (repealed).
34. *Sustainable Fiscal Planning and Reporting Act*, SA 2015, c S-29.
35. *Alberta Rules of Court*, Alta Reg 124/2010 Part 3 Divisions 1 and 2, Part 10 Division 2.
36. Such further or other acts and regulations as the applicants shall advise.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to without any further notice of them to you. If you want to take part in this 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 give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.