

Clerk's Stamp

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COURT FILE NUMBER            2301 14224

COURT                             Court of King's Bench of Alberta

JUDICIAL CENTRE             Calgary


APPLICANT                     Yue Song

RESPONDENT                  The Law Society of Alberta

DOCUMENT                    **Originating Application for Judicial Review**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

Glenn Blackett Law



**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	November 28, 2023
Time	10:00 am
Where	Calgary Courts Centre

Before a presiding Justice in Chambers

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

**Basis for this claim:**

**A. Parties**

1. The respondent, the Law Society of Alberta (the "LSA"), was established in 1907 and was continued as a corporation under the *Legal Profession Act*, RSA 2000, c. L-8, as amended (the "LPA").
2. The applicant, Yue (Roger) Song ("Song") is a resident of Alberta and, since 2014, an active member of the LSA.

## B. Constitutional Order

3. Canada is a nation founded upon and governed by fundamental organizing principles including:
  - a. parliamentary sovereignty;
  - b. democracy including freedom of conscience and expression;
  - c. constitutionalism and the rule of law;
  - d. recognition of the inherent and equal dignity of each individual;
  - e. personal freedom and respect for minorities including religious minorities; and
  - f. reason, including objectivity and science(collectively, the “**Canadian Constitution**”).
4. The Canadian Constitution includes the *Constitution Act*, 1867, 30 & 31 Victoria, c. 3 (U.K.) which includes the preamble: “Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom.”
5. The Canadian Constitution includes the *Canadian Charter of Rights and Freedoms*, being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.) (the “**Charter**”), which includes the following enumerated rights and freedoms:
  - a. freedom of conscience and religion (section 2(a));
  - b. freedom of thought, belief, opinion and expression (section 2(b));
  - c. freedom of association (section 2(d));
  - d. the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice (section 7);
  - e. the right on arrest or detention to retain and instruct counsel (section 10(b)); and
  - f. the right, upon being charged with an offence, to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal (section 10(d)).
6. The Canadian Constitution includes certain institutions relevant to the legal profession including:
  - a. a bar of lawyers and a judiciary which are neutral towards the Canadian Constitution and the laws promulgated thereunder and loyal to the rule of law;
  - b. public access to lawyers, who are:
    - i. competent; and
    - ii. loyal to their clients’ legitimate interests,to facilitate a relationship of unrestricted and unbounded confidence; and
  - c. an adversarial legal system which operates according to the principles of fundamental justice,

which institutions necessitate a bar and judiciary which operate independent of all undue external influence including political influence.

7. It is manifestly in the public interest that the Canadian Constitution be maintained and upheld and that an informed and reasonable public remain confident thereof.

### **C. Regulatory Framework**

8. The LPA establishes a framework for the self-governance of the lawyer members of the legal profession under the oversight and authority of the LSA, governed by “Benchers.”
9. The LSA’s purposes are to regulate the legal profession in accordance with the powers, duties, and purposes set-out in the LPA which includes the LSA’s primary duty being to protect the independence of lawyers in order that they may perform their professional duties in accordance with the Canadian Constitution including their institutional role thereunder (as described in paragraph 6).
10. The LSA has no other legally or constitutionally valid purpose.
11. The Benchers are empowered to make rules (the *Rules of the Law Society of Alberta*, the “**Rules**”) for the government of the LSA, for the management and conduct of its business and affairs and for the exercise or carrying out of the powers and duties conferred or imposed on the LSA or the Benchers under the LPA or any other act.
12. The LSA has the power and duty to:
  - a. determine and apply competence requirements at admission to the bar, including inter-jurisdictional transfers;
  - b. establish a code of ethical standards which may include the obligation to practice competently;
  - c. appoint members to the board of the Alberta Law Foundation; and
  - d. following a hearing committee’s finding of conduct deserving of sanction arising from incompetence, provide an appropriate remedy including a course or courses of study.
13. Apart from the foregoing, the LPA provides the LSA no authority to regulate the competence of lawyers in any manner including providing no authority, express or implied, to impose general or specific continuing professional development (“**CPD**”) obligations.
14. The LSA governed the Alberta legal profession in the public interest from its founding in 1907 to 2008, without the imposition on members of any CPD obligations whatsoever.

### **D. Political Objective**

15. In direct violation of its statutory mandate, the LSA, through its Benchers, has arbitrarily adopted a political objective being the adoption of and promotion of various related post-modern ideologies (the “**Political Objective**”) including:
  - a. critical race theory;
  - b. critical legal theory;
  - c. postcolonialism;
  - d. gender theory; and
  - e. intersectionality,

(the “**Anti-Constitutional Ideologies**” which are commonly, collectively, referred to as “social justice”, “political correctness”, “DEI” or “woke”).

16. The Anti-Constitutional Ideologies:

- a. appear, superficially, to embody the values, principles, and guarantees of the Canadian Constitution including, most especially:
  - a. recognition of the inherent and equal dignity of each individual;
  - b. respect for minorities;
  - c. the rules of equity;
  - d. the principles of fundamental justice; and
  - e. equality before and under the law without discrimination,but are, in fact, subversive to the Canadian Constitution including hostile to those same values, principals, and guarantees;
- b. delegitimize the Canadian Constitution and laws promulgated thereunder;
- c. are prescriptive as to public and private systems and institutions including law and the Canadian legal system;
- d. mandate political action in their service;
- e. promote racial segregation;
- f. have objectives including “equity” and “decolonization” which are terms of art imbued with specialized and opaque ideological meanings and which objectives are inconsistent with and directly hostile to the Canadian Constitution;
- g. prioritize such objectives over all other objectives and principles, including the objectives and principles of the Canadian Constitution and of free Canadians thereunder;
- h. justify the means by which such objectives may be advanced, whether or not consistent with the Canadian Constitution and laws promulgated thereunder;
- i. are contested epistemological and normative theories which purport to provide all-encompassing explanations for legal, historical, political, social, economic, moral, spiritual, psychological, racial, and cultural phenomenon;
- j. are irrational, incoherent, and unscientific and characterize reason, coherence, and science as socially unjust oppression;
- k. are collectivist rather than individualist;
- l. enforce the adoption, belief in, and advancement of, *inter alia*, asserted epistemological, anthropological, historical, political, social, economic, moral, spiritual, psychological, racial, and cultural facts and values through, *inter alia*:
  - a. suppression of free thought and expression;
  - b. compelled speech and action;
  - c. social opprobrium of ideological dissidents (being all people who are not vocal and active ideological “allies”) as bigoted or ignorant; and
- m. are inherently hostile to the Canadian Constitution.

17. The LSA's Political Objective is intended to and tends to affect:
- a. the Canadian Constitution and laws promulgated thereunder, *de facto* and ultimately, *de jure*;
  - b. the beliefs, expression, and conduct of lawyers, including:
    - i. in the execution of their duties under the Canadian Constitution as lawyers advising, drafting for, negotiating for, representing and advocating for clients, as officers of the court, and as judges;
    - ii. within organizations including law offices, corporations, non-profits, professional associations, and government; and
    - iii. in their personal lives; and
  - c. therefore, society *writ large*.
18. The LSA's Political Objective and the LSA's adoption and advancement of the Political Objective by use of its regulatory power is a direct violation of its primary duty to preserve the independence of lawyers and is, therefore, a gross violation of the rule of law.
19. To advance its Political Objective, the LSA has promulgated a series of:
- a. organizational changes;
  - b. public statements including an April 2022 Benchers' "Acknowledgment of Systemic Discrimination" (the "**Acknowledgment**");
  - c. public research including the "My Experience" project (the "**My Experience Project**");
  - d. *curricula*;
  - e. programs;
  - f. mandatory CPD;
  - g. amendments to the *Rules of the Law Society of Alberta*;
  - h. a June 2022 "Professional Development Profile for Alberta Lawyers" (the "**Political Profile**"); and
  - i. October 5, 2023, amendments to the Law Society of Alberta Code of Professional Conduct (the "**Code**"),

each of which incorporates the Anti-Constitutional Ideologies.

### I. The Path

20. On December 3, 2020, the LSA adopted Rule 67.4 to require that lawyers submit to such "professional development" as the Benchers may prescribe, in the form, manner, and timeframe prescribed, failing which, lawyers are automatically suspended the day following the deadline.
21. Rule 67.4 excludes any requirement that Bencher-prescribed "professional development":
- a. be relevant to the professional needs of a lawyer;
  - b. be pertinent to long-term career interests as a lawyer;
  - c. be in the interests of the employer of a lawyer;
  - d. relate to the professional ethics and responsibilities of lawyers; or

- e. contain significant substantive, technical, practical or intellectual content.
22. Two months earlier, on October 6, 2020, and for the first time in its 100-year history, the LSA mandated specific “professional development” on Alberta lawyers. The “professional development” it mandated incorporated the Anti-Constitutional Ideologies, including associated assertions of value and fact, in a manner which required that lawyers expressly affirm the truth of the matters therein asserted, by October 20, 2022 (“**The Path**”).
  23. Pursuant to Rule 67.4, the LSA then automatically suspended 30 Alberta lawyers for failure to complete the Path by the prescribed deadline.
  24. In its annual general meeting of the LSA on December 1, 2022, Ken Warren K.C., President, advised the meeting, including Song, that the LSA had obtained a legal opinion that Rule 67.4 was *intra vires*, thereby waiving any solicitor-client privilege which attached thereto. Further and in the alternative, the LSA subsequently waived any solicitor-client privilege attaching to the legal opinion by further public communication of its contents. The LSA has subsequently refused to provide a copy of the opinion, wrongfully citing solicitor-client privilege.
  25. Under express protest, Song completed The Path.

## **II. The Political Profile**

26. The Political Profile does not include substantive areas of law.
27. Pursuant to the Political Profile, the LSA redefines professional competence to include, in all aspects of a lawyer’s professional and private belief and conduct:
  - a. agreement with and express affirmation of the Anti-Constitutional Ideologies including with asserted epistemological, historical, political, social, economic, moral, spiritual, psychological, racial, and cultural values and facts; and
  - b. active advancement of the LSA’s Political Objective.
28. According to the Political Profile, a lawyer who does not believe, who does not say they believe, who expresses disbelief, or who does not actively promote the Anti-Constitutional Ideologies, is not competent and not maintaining a “safe, effective and sustainable” legal practice.
29. The LSA has regulatory power to sanction lawyers who are “incompetent” (as defined by the LSA) or who fail or refuse to demonstrate the intention to remedy such “incompetence” through “self-reflection” and remedial education.

## **III. The CPD Tool**

30. The LSA created and operates a “**CPD Tool**” by which lawyers may:
  - a. self-assess their competence as against the Political Profile;
  - b. create a CPD plan to remedy areas of incompetence; and
  - c. submit such plan to the LSA for its inspection.
31. On April 27, 2023, the LSA adopted Rules 67.2 and 67.3 to require that lawyers:
  - a. prepare a CPD plan using the CPD Tool, annually, on or before October 1;
  - b. submit such plan to the LSA *via* the CPD Tool; and
  - c. participate in any requested review of such plan by the LSA,

failing which the lawyer is automatically suspended the day following the deadline (the “CPD Scheme”).

32. The LSA communicated the CPD Scheme to members *via* email on May 2, 2023.
33. The LSA automatically suspended 68 Alberta lawyers effective October 2, 2023, for failure to comply with the CPD Scheme.
34. Under express protest Song complied with the CPD Scheme and assessed his “competence” against the Political Profile using the CPD Tool.

#### **E. *Ultra Vires* and Unconstitutional**

35. The LSA’s Political Objective, including the “**Impugned Acts**” (being Rules 67.2, 67.3, and 67.4, the Political Profile, the CPD Tool, and part 6.3 of the Code), are *ultra vires* the LSA for reasons including the LSA has no statutory authority to:
  - a. violate the independence of lawyers;
  - b. assume any objective outside of its statutory mandate;
  - c. oppose or undermine the Canadian Constitution including adopting any extraneous objective including a political objective including the LSA’s Political Objective;
  - d. encourage or compel lawyers to oppose or undermine the Canadian Constitution by believing-in, complying with, expressing belief in, or actively advancing the Anti-Constitutional Ideologies in the performance of their professional duties or in their personal lives;
  - e. convert itself and the profession into political agents, including agents in service of the Anti-Constitutional Ideologies;
  - f. impose CPD or any other obligation on lawyers which relates to asserted facts or values relating to epistemological, historical, political, social, economic, moral, spiritual, psychological, racial, or cultural matters;
  - g. impose any political obligation on lawyers including, especially, a duty to believe in, support, and advance the LSA’s Political Objective and associated asserted facts and values;
  - h. impose any CPD on lawyers;
  - i. impose specific CPD content on lawyers;
  - j. impose an obligation on lawyers to submit, and thereby disclose, their CPD plans to the LSA; or
  - k. impose an obligation on lawyers to participate in a review of their CPD plans by the LSA.
36. Further, or the alternative, the Political Objective constitutes an abuse of discretion for reasons including it being an unauthorized and ulterior purpose, unreasonableness, uncertainty, and misconstruction of the law.

#### **F. Infringement of The Canadian Charter of Rights and Freedoms**

37. Song is a Christian whose religious beliefs contradict significantly, if not entirely, with the Anti-Constitutional Ideologies.

38. Song's sincerely held religious beliefs include that he should love God with his whole heart, mind and soul, love his neighbour as he loves himself, and follow the morality and spirit of the Ten Commandments and include that:
- a. God is, and is the supreme source of, truth and morality and it is sin to worship false idols (i.e. to worship anything other than God);
  - b. He may not bear false witness;
  - c. God created all humans in his own image and likeness and all humans are, therefore, fundamentally the same and have inherent and equal dignity;
  - d. God created man and woman;
  - e. Sex is a biological and objective fact and is not dependent on subjective experience;
  - f. God created an ordered and comprehensible universe and granted to humans, without discrimination by race, sex, gender, culture, or other identity characteristic, the capacities (including humility, curiosity, wisdom, the senses, and reason) to search for and discover universal truth, including morality, and to look after the environment. Science is a manifestation of this ordered universe;
  - g. God created a universal morality applicable to all humans equally;
  - h. God gave humans free will. All humans are born with same inherent capacity for sin. God will hold each person accountable for his or her own sin – not for the sins of one's ancestors or for the sins of the members of one's race, sex, gender, culture or other group or groups defined by similar identity characteristics (referred to herein as one's "**Collectivist Identity**" as opposed to one's individual identity);
  - i. We are all guests on and trustees of God's earth;
  - j. All humans will be saved and have eternal life if they exercise individual free will to repent of their individual sin and believe in God (Jesus Christ), not if they repent the sins of their ancestors or the sins of members of their Collectivist Identity;
  - k. God's commandment is to forgive everyone always and not to judge the sinner – that is God's business – but only the sin;
  - l. The rule of law, including equality before the law, is God's justice and equity;
  - m. God's commandment is not to repay evil for evil, but to overcome evil with good; and
  - n. Song's most important identity is defined by his relationship with and his faith in God and God's only Son, Jesus Christ, not by his Collectivist Identity.
39. Song does not believe the Anti-Constitutional Ideologies, including many of the facts and values asserted in them, to be true.
40. The Impugned Acts interfere with Song's religious freedom by requiring that Song submit to reeducation in, believe in, not express disagreement with, express agreement with, and actively advance the Anti-Constitutional Ideologies, which requirements and ideologies grossly conflict with Song's religious beliefs and practices, including the assertions or implications of the Anti-Constitutional Ideologies (many expressly repeated or implied by the LSA in its materials), that:
- a. the Anti-Constitutional Ideologies are the only, or a supreme, source of truth and morality;



- b. people are fundamentally different depending on their Collectivist Identity;
- c. people have no inherent dignity but only instrumental value to the extent they advance the Anti-Constitutional Ideologies;
- d. sex is neither fixed nor binary;
- e. sex is not an objective fact but a subjective experience;
- f. truth is relative;
- g. truth depends, wholly or substantially, on Collectivist Identity “standpoint perspective”;
- h. morality is relative;
- i. morality depends, wholly or substantially, on Collectivist Identity standpoint perspective;
- j. people are accountable for the conduct of the members of their Collectivist Identity and people are born victims of the conduct against members of their Collectivist Identity;
- k. all non-indigenous Canadians are “visitors” in their home and native land, Canada;
- l. a solution to past discrimination is present discrimination; and
- m. people lack agency, encouraging hopelessness.

41. Song, an immigrant who fled communist China, believes and wishes to continue to express and promote his belief that:

- a. the Anti-Constitutional Ideologies, and the manner in which the LSA is advancing such ideologies:
  - i. are false, immoral, unjust, and destructive to Canadian society, including to the interests of the minorities such ideologies ostensibly benefit;
  - ii. are contrary to the Canadian Constitution;
  - iii. undermine the rule of law in Canada and the Canadian Constitution; and
  - iv. harm the reputation of the profession as competent and loyal to the client’s legitimate interests; and
  - v. impair the ability of lawyers to fulfill their professional duties;
- b. the Canadian Constitution is good and just;
- c. neither the Canadian Constitution nor the laws promulgated under it are a system of “colonialism”, “whiteness”, “privilege”, “systemic discrimination”, “racism”, “liberal racism”, “ignorance”, “hate”, “violence” or other such system of oppression; and
- d. the Anti-Constitutional Ideologies are wrong and destructive, do not reasonably describe reality, and do not represent a morality valuable to Canadian society.

42. The Impugned Acts infringe Song’s right to think, believe, and express such beliefs by requiring that Song submit to reeducation, believe in, not express disagreement with, express agreement with, and actively advance the LSA’s Political Objective.

43. The LSA's Political Objective directly contradicts Song's beliefs and desired expression, including the assertions of the Anti-Constitutional Ideologies, (some of which are expressly repeated by the LSA in its materials), that:
- a. the Canadian Constitution and the laws promulgated thereunder are a system of the unjust oppression based on Collectivist Identity;
  - b. the Anti-Constitutional Ideologies are true, moral and just; and
  - c. Song's disagreement with the LSA's political materials, including his beliefs about reality and morality, is bigoted and ignorant.
44. By the Impugned Acts and otherwise, the LSA deploys state power to impose the Anti-Constitutional Ideologies on Song and his colleagues in the legal profession which include, validate, mandate, and tend to promote the social and professional vilification and marginalization of Song and his religious and personal beliefs including the view that he is bigoted and ignorant. Song is reasonably fearful of further hindrance and reprisals including that professionals who express disagreement with or disapproval of the Political Objective may be sanctioned by the LSA.
45. The Political Objectives breach Song's rights under sections 2(a) and 2(b) of the *Charter*.
46. The continuation of the LSA's Political Objective will cause irreparable harm to Song and to the public interest.

**Remedy sought:**

47. An order that Part 5 of the *Alberta Rules of Court*, Alberta Regulation 124/2010 shall apply to this action, including, without limitation:
- a. the respondent shall produce an affidavit of records and submit to questioning under rules 5.1 to 5.16;
  - b. the respondent shall produce the legal opinion referred to 24; and
  - c. the respondent shall produce its full "Regulatory Objectives"; and
- and such further and other rules shall apply to this action as this Honourable Court deems just.
48. An order:
- a. for a declaration that the Political Profile, the CPD Tool, Rules 67.2, 67.3 and 67.4 and part 6.3 of the Code are *ultra vires*;
  - b. in certiorari, setting-aside Rules 67.2 and 67.3 and part 6.3 of the Code;
  - c. in prohibition, prohibiting the LSA from the continuation of its Political Objective in any manner; and
  - d. an *interim* and final injunction prohibiting the LSA from the continuation of its Political Objective in any manner.
49. Pursuant to section 24 of the *Charter*:
- a. a declaration that the LSA's pursuit of its Political Objective, including the Political Profile, the CPD Tool, Rules 67.2, 67.3, and 67.4 and part 6.3 of the Code infringe Song's rights under sections 2(a) and 2(b) of the *Charter*; and

- b. an *interim* and final injunction prohibiting the LSA from the continuation of its Political Objective in any manner.
- 50. Pursuant to section 52 of the *Charter*, an order striking Rules 67.2, 67.3 and part 6.3 of the Code.
- 51. Song does not seek costs given the public interest in the outcome of these proceedings.
- 52. Such further and other remedy as this Honourable Court deems just.

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

- 53. The affidavit of Song sworn October 26, 2023;
- 54. The affidavit of Joanna Williams sworn October 23, 2023; and
- 55. Such further and other evidence as counsel shall advise.

**Applicable Acts and regulations:**

- 56. The *Legal Profession Act*, RSA 2000, c. L-8, as amended.
- 57. *The Rules of the Law Society of Alberta*.
- 58. *The Law Society of Alberta Code of Professional Conduct*.
- 59. The *Constitution Act*, 1867, 30 & 31 Victoria, c. 3 (U.K.).
- 60. *The Canadian Charter of Rights and Freedoms*, Schedule B to *the Canada Act 1982*, 1982, c. 11 (U.K.).
- 61. The *Alberta Rules of Court*, Alberta Regulation 124/2010.
- 62. The *Judges Act*, R.S.C. 1985, c. J-1.
- 63. This Honourable Court's inherent jurisdiction.
- 64. Such further and other authorities as counsel shall advise.

**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 and against all persons claiming under the applicant. You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant is 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 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 a reasonable time before the application is to be heard or considered.