

This is the 1st affidavit
of Mélanie Power in this case
and was made on June 25, 2026

Court File No. VLC-S-S-252688
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF A STATUTORY APPEAL

Pursuant to section 40 of the
Health Professions Act, RSBC 1996, c 183

BETWEEN:

AMY HAMM

PETITIONER

AND:

BRITISH COLUMBIA COLLEGE OF NURSES AND MIDWIVES

RESPONDENT

AFFIDAVIT

I, Mélanie Power, Barrister & Solicitor, of the City of Vancouver, in the Province of British Columbia, AFFIRM AS FOLLOWS:

1. I am the Board Chair of West Coast Legal Education and Action Fund Association ("**West Coast LEAF**"), and as such have personal knowledge of the matters herein referred to, except where stated to be based on information and belief, in which case I verily believe them to be true.
2. West Coast LEAF seeks leave to intervene in *Hamm v. British Columbia College of Nurses and Midwives*, File No. VLC-S-S-252688, and I am authorized to provide this affidavit on West Coast LEAF's behalf.

A. Overview of the Appeal

3. Amy Hamm (“the Petitioner”) is a registered nurse with the British Columbia College of Nurses and Midwives (“the Respondent”). In this action, the Petitioner appeals two decisions of a panel of the Respondent’s Discipline Committee (“the Panel”): (1) the Decision on Verdict, dated March 13, 2025, which held that the Petitioner committed professional misconduct by making discriminatory and/or derogatory comments about transgender people while off duty but identifying herself as a nurse or nurse educator; and (2) the Decision on Penalty, Costs, and Publication, dated August 14, 2025.
4. The Petitioner submits that the Panel, in its Decision on Verdict, erred in its Doré/Loyola analysis by “favouring one ‘marginalized’ group over another and demeaning women’s rights and protections, contrary to ss. 15(a) and 28 of the *Charter*.” This issue engages West Coast LEAF’s interest and expertise in the substantive equality of all people who experience gender-based discrimination, the interpretation and application of ss. 15 and 28 of the *Charter*, and the relationship between the *Charter*’s equality and expression rights.

B. The Proposed Intervenor West Coast LEAF

5. West Coast LEAF is a non-profit society incorporated in British Columbia and registered federally as a charity. West Coast LEAF’s mandate is to use the law to create an equal and just society for all people who experience gender-based discrimination in BC, including cisgender women, transgender people, Two Spirit people, intersex people, gender non-conforming people, and non-binary people.
6. West Coast LEAF was created in April 1985 when s. 15 of the *Charter* came into force. While originally an affiliate of LEAF National, West Coast LEAF has engaged in litigation in its own name since 2009 and has operated independently of LEAF National since 2014. Prior to 2009, West Coast LEAF supported and assisted LEAF National with its litigation activities.

7. West Coast LEAF uses a combination of litigation, law reform activities, and public legal education to advance its mandate. Its areas of advocacy include gender-based violence, access to justice, and access to healthcare. It is a member-based organization that carries out its work with the support of about 302 members and 11 employees. Its members are predominantly women and gender-diverse people. West Coast LEAF also engages volunteers to assist with its advocacy work, including lawyers who act as *pro bono* counsel in interventions or other cases. It has two litigation committees made up of lawyers and law professors to help guide its litigation strategies and submissions.
8. West Coast LEAF takes an intersectional approach to its work, meaning that it engages with the equality interests of women and gender-diverse people along multiple and intersecting axes of marginalization, including Indigeneity, race, immigration status, gender identity, sexual orientation, disability, age, and socioeconomic status. It consults and collaborates with other equity-seeking groups to ensure that its work reflects the diversity of human experience.
9. West Coast LEAF's law reform program includes community-based research and report-writing, consultations with and submissions to governments at all levels, and advocacy campaigns. Its public legal education program engages with lay audiences throughout BC, with the aim of helping people to understand and exercise their equality rights.
10. West Coast LEAF has intervened before human rights tribunals, boards of inquiry, this Court, the Court of Appeal for British Columbia, and the Supreme Court of Canada. It has offered submissions that apply a gender equality lens to a range of legal issues, including the constitutionality of laws or government action, discrimination under human rights legislation, questions of statutory interpretation, and the development of the common law.
11. In addition to its intervention work, West Coast LEAF and *pro bono* counsel represented the plaintiff in a constitutional challenge to BC's family law legal aid scheme: *Single Mothers Alliance of BC v. British Columbia*, BC Supreme Court File

No. S1733843. The settlement of the litigation in 2024 resulted in the expansion of legal aid services for survivors of family violence.

West Coast LEAF's Interventions

12. West Coast LEAF has intervened or is intervening in the following cases before the Supreme Court of Canada:

- a. *Government of Saskatchewan as represented by the Minister of Education v. UR Pride Centre for Sexuality and Gender Diversity*, SCC File No. 41979;
- b. *English Montreal School Board, et al. v. Attorney General of Quebec, et al.*, SCC File No. 41231 (judgment reserved);
- c. *Ahluwalia v. Ahluwalia*, 2026 SCC 16 (jointly with Rise Women's Legal Centre);
- d. *R v. Tsang*, indexed as *R v. Kruk*, 2024 SCC 7 (jointly with LEAF National);
- e. *Hansman v. Neufeld*, 2023 SCC 14;
- f. *Canadian Council for Refugees v. Canada (Citizenship and Immigration)*, 2023 SCC 17 (jointly with the David Asper Centre for Constitutional Rights and LEAF National)
- g. *R v. Kirkpatrick*, 2022 SCC 33;
- h. *R v. J.J.*, 2022 SCC 28 (jointly with Women Against Violence Against Women Rape Crisis Centre ("WAVAW"));
- i. *A.S. v. Her Majesty the Queen and Shane Reddick*, indexed as *R v. J.J.*, 2022 SCC 28 (jointly with WAVAW);
- j. *British Columbia (Attorney General) v. Council of Canadians with Disabilities*, 2022 SCC 27;
- k. *Barendregt v. Grebliunas*, 2022 SCC 22 (jointly with Rise Women's Legal Centre);
- l. *Colucci v. Colucci*, 2021 SCC 24 (jointly with LEAF National);
- m. *Michel v. Graydon*, 2020 SCC 24;
- n. *Bent v. Platnick*, 2020 SCC 23, and *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22 (jointly with Atira Women's Resource

Society, B.W.S.S. Battered Women's Support Services Association, and WAVAW);

- o. *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32;
- p. *British Columbia Human Rights Tribunal v. Schrenk*, 2017 SCC 62;
- q. *R v. Lloyd*, 2016 SCC 13;
- r. *British Columbia Teachers' Federation v. British Columbia Public School Employers' Association*, 2014 SCC 59;
- s. *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59;
- t. *Moore v. British Columbia (Education)*, 2012 SCC 61; and
- u. *Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45 (jointly with Justice for Children and Youth and ARCH Disability Law Centre).

13. Further to paragraph 6, while an affiliate of LEAF National, West Coast LEAF supported LEAF National's interventions in the following cases before the Supreme Court of Canada:

- a. *Rick v. Brandsema*, 2009 SCC 10;
- b. *Blackwater v. Plint*, 2005 SCC 58 (jointly with the Native Women's Association of Canada ("NWAC") and the DisAbled Women's Network of Canada ("DAWN"));
- c. *Auton (Guardian ad litem of) v. British Columbia (Attorney General)*, 2004 SCC 78 (jointly with DAWN);
- d. *R v. Shearing*, 2002 SCC 58;
- e. *Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*, 2000 SCC 69;
- f. *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44;
- g. *British Columbia (Public Service Employee Relations Commission) v. British Columbia Government and Service Employees' Union (B.C.G.S.E.U.)*, [1999] 3 SCR 3 (SCC) (jointly with DAWN and the Canadian Labour Congress);
- h. *Eldridge v. British Columbia*, [1997] 3 SCR 624 (SCC) (jointly with DAWN);

- i. *R v. O'Connor*, [1995] 4 SCR 411 (SCC) (jointly with the Aboriginal Women's Council, the Canadian Association of Sexual Assault Centres, and DAWN);
- j. *Norberg v. Wynrib*, [1992] 2 SCR 226 (SCC);
- k. *R v. Sullivan*, [1991] 1 SCR 489 (SCC); and
- l. *Andrews v. Law Society of British Columbia*, [1989] 1 SCR 143 (SCC).

14. West Coast LEAF has intervened or is intervening before this Court or the Court of Appeal for British Columbia in the following cases:

- (a) *The Director for the Ministry of Children and Family Development v. K.C.H. and T.W.K.*, BC Supreme Court File No. 74751;
- (b) *R.R. v. Vancouver Aboriginal Child and Family Services Society*, 2025 BCCA 151;
- (c) *Vancouver Aboriginal Child and Family Services Society v. R.R.*, 2024 BCSC 97;
- (d) *T.L. v. British Columbia (Attorney General)*, 2023 BCCA 167;
- (e) *R v. Ellis*, 2022 BCCA 278;
- (f) *T.L. v. British Columbia (Attorney General)*, 2021 BCSC 2203;
- (g) *Council of Canadians with Disabilities v. British Columbia (Attorney General)*, 2020 BCCA 241;
- (h) *A.B. v. C.D.*, 2020 BCCA 11;
- (i) *British Columbia Civil Liberties Association and John Howard Society of Canada v. Canada (Attorney General)*, 2019 BCCA 228 (jointly with NWAC);
- (j) *Vancouver Area Network of Drug Users v. Downtown Vancouver Business Improvement Association*, 2018 BCCA 132 (jointly with the Community Legal Assistance Society ("CLAS"));
- (k) *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCSC 62;
- (l) *Denton v. British Columbia (Workers' Compensation Appeal Tribunal)*, 2017 BCCA 403 (jointly with CLAS);
- (m) *Trinity Western University v. The Law Society of British Columbia*, 2016 BCCA 423;
- (n) *Scott v. College of Massage Therapists of British Columbia*, 2016 BCCA 180;

- (o) *Trinity Western University v. The Law Society of British Columbia*, 2015 BCSC 2326;
- (p) *Vancouver Area Network of Drug Users v. British Columbia Human Rights Tribunal*, 2015 BCSC 534 (jointly with CLAS);
- (q) *Vilardell v. Dunham*, 2013 BCCA 65;
- (r) *Inglis v. British Columbia (Minister of Public Safety)*, 2013 BCSC 2309;
- (s) *Friedmann v. MacGarvie*, 2012 BCCA 445;
- (t) *Reference re: Section 293 of the Criminal Code of Canada*, 2011 BCSC 1588 (the “Polygamy Reference”); and
- (u) *Downtown Eastside Sex Workers United Against Violence v. Canada (Attorney General)*, 2010 BCCA 439.

15. West Coast LEAF is or has been an intervenor or interested party in the following cases before an administrative tribunal or inquiry:

- (a) *Ms. F v. Translink Security Management Ltd.* (BC Human Rights Tribunal Case No. CS-002257);
- (b) *Lepine & Lepine v. Correctional Service of Canada* (Canadian Human Rights Tribunal Files HR-DP-2899-22 and HR-DP-2900-22) (settled);
- (c) *Nicholas Dinardo v. Correctional Service Canada* (Canadian Human Rights Tribunal File T2747/12321) (jointly with the Canadian Association of Elizabeth Fry Societies) (settled);
- (d) *R.R. v. Vancouver Aboriginal Child and Family Services Society (No. 6)*, 2022 BCHRT 116;
- (e) *Oger v. Whatcott (No. 7)*, 2019 BCHRT 58;
- (f) *National Inquiry into Missing and Murdered Indigenous Women and Girls* (Parts II and III hearings) (final report released June 2019);
- (g) *In the Matter of an Inquiry Pursuant to Section 63(1) of the Judges Act Regarding the Hon. Justice Robin Camp* (Canadian Judicial Council) (report released November 29, 2016) (as part of a national coalition of six organizations); and
- (h) *BC Missing Women Commission of Inquiry* (final report released November 2012).

C. West Coast LEAF's Interest and Expertise in the Appeal

16. West Coast LEAF has experience and expertise across its program areas in connection with (a) advocating for the rights and inclusion of transgender people; (b) the substantive equality rights of transgender people under the *Charter* and human rights legislation; and (c) the relationship between substantive equality rights and expression rights under the *Charter* and human rights legislation. Its relevant work includes:

(a) In *English Montreal School Board et al. v. Attorney General of Quebec, et al.*, SCC File No. 41231, there are several legal issues before the Supreme Court of Canada arising from Quebec's invocation of the notwithstanding clause when enacting the *Act respecting the laicity of the State*, SQ 2019, c 12, (legislation which restricts public servants from wearing religious symbols and has discriminatory impacts on Muslim women). One of the legal issues is whether s. 28 of the *Charter* provides a substantive gender equality right, and, whether such a right survives invocation of the notwithstanding clause. West Coast LEAF intervened to advocate for an interpretation of s. 28 that affirms substantive gender equality, recognizes intersectional experiences of gender inequality, and protects all people who experience gender-based discrimination.

(b) In *Nicholas Dinardo v. Correctional Service Canada*, CHRT File No. T2747/12321, the complainant was a Two Spirit person who experienced gender-based violence and harassment while incarcerated in a men's prison in BC. West Coast LEAF and the Canadian Association of Elizabeth Fry Societies (CAEFS) obtained interested party status to make submissions about systemic discrimination against incarcerated Two Spirit and gender-diverse people, including CSC policies that operate to deny them prison placements in accordance with their gender identity. West Coast LEAF subsequently participated in the settlement of the complaint.

- (c) In *Hansman v. Neufeld*, 2023 SCC 14, the Supreme Court of Canada addressed the application of BC's *Protection of Public Participation Act*, SBC 2019, c 3 (*PPPA*) to a defamation claim where the impugned speech condemned a school trustee's transphobic and anti-2SLGBTQ+ comments. West Coast LEAF intervened to address the role of substantive equality as a guiding principle in the adjudication of applications to dismiss claims under the *PPPA*. Further, West Coast LEAF proposed guidance on one of the considerations under the *PPPA*'s dismissal test—namely, whether the claim or expression in question might provoke hostility against a group protected under s. 15 of the *Charter*.
- (d) In *A.B. v. C.D.*, 2020 BCCA 11, the BC Court of Appeal addressed several legal issues arising from a parent's conduct toward his transgender child, which included opposing his child's access to gender affirming health care, misgendering his child, and talking to the media about his child's health care. The parent argued that the decisions under appeal, which included a protection order that restricted his communications with his child and the media, violated his rights under ss. 2(a), 2(b), and 7 of the *Charter*. West Coast LEAF intervened to address the application of the *Charter* to the case and the relationship between the *Charter* rights of the parent and child.
- (e) In *Oger v. Whatcott (No. 7)*, 2019 BCHRT 58, the BC Human Rights Tribunal addressed the proper interpretation and application of the *Human Rights Code*'s protection against discriminatory publications. The respondent argued that the impugned publications, which vilified and demeaned transgender people, were protected under ss. 2(a) and (b) of the *Charter*. West Coast LEAF intervened to make submissions about (a) the social context of discriminatory speech against transgender people and (b) the relationship between freedom of expression, freedom of religion, and substantive gender equality under the *Charter*.

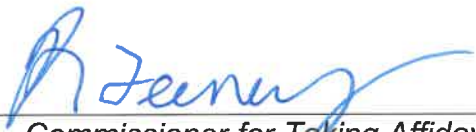
- (f) In the *Trinity Western University v. the Law Society of British Columbia* litigation, the issue before the courts was the Law Society's refusal to accredit Trinity Western University's law school because of the university's discriminatory community covenant (under which students promised to abstain from sex outside of heterosexual marriage). West Coast LEAF intervened before this Court, the BC Court of Appeal, and the Supreme Court of Canada to make submissions about the relevance of women's substantive gender equality rights to the Doré/Loyola analysis.
- (g) Between 2009 and 2023, West Coast LEAF published annual report cards which measured BC's progress in advancing gender equality in several areas, including in BC's health care and prison systems. Starting in 2018, these report cards explicitly addressed the gender equality of all people who experience gender-based discrimination.
- (h) West Coast LEAF regularly collaborates with community partners to advance the rights and interests of transgender people. Our recent joint advocacy work includes:
- i. Since 2025, we have been a member of an advocacy coalition aimed at repealing the BC's *Name Act's* prohibition on people with certain criminal records from obtaining legal name changes. The coalition has highlighted, *inter alia*, the prohibition's discriminatory impacts on transgender people who require a gender affirming name. Our coalition partners include the Society for Advocacy for Gender-Affirming Care, QMUNITY, the Catherine White Holman Wellness Centre, and Trans Connect.
 - ii. In 2025, we collaborated with LEAF National, the Canadian Association of Elizabeth Fry Societies, and Wisdom2Action on a report entitled "Trans Feminine Inclusion in Feminist Workplaces," which discusses the barriers experienced by transgender women who are, or would like to be, staff or leaders at gender equality organizations.

- iii. In 2024, we collaborated with the Urban Native Youth Association to create two videos about improving Two-Spirit youth's access to gender affirming, trauma informed, and culturally safe health care.

D. Summary

17. West Coast LEAF has a distinct perspective because of its mandate to advance an inclusive vision of substantive gender equality and its history of advocacy in support of that mandate. Its intervention record demonstrates specific expertise in the interpretation and application of the *Charter's* equality guarantee, including its interaction with other *Charter* rights and provisions.

AFFIRMED BEFORE ME at the City of
Vancouver, in the Province of British
Columbia, this 25th day of June, 2026.



*Commissioner for Taking Affidavits
in British Columbia*



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