

Court File No.

N° du dossier

IN THE COURT OF KING'S BENCH OF
NEW BRUNSWICK

DANS LA COUR DU BANC DU ROI DU
NOUVEAU-BRUNSWICK

TRIAL DIVISION

DIVISION DE PREMIÈRE INSTANCE

JUDICIAL DISTRICT OF FREDERICTON

CIRCONSCRIPTION JUDICIAIRE DE
FREDERICTON

IN THE MATTER of an application for judicial
review and declaratory relief pursuant to Rule 69
and Rule 38 of the New Brunswick *Rules of Court*

DANS L'AFFAIRE d'une requête en revision
judiciaire et de jugement déclaratoire en vertu de la
règle 69 et la règle 38 des Règles de procédure du
Nouveau Brunswick

BETWEEN:

ENTRE:

CAMPAIGN LIFE COALITION

Applicant

CAMPAIGN LIFE COALITION

Reuérant

-and-

-et-

**THE NEW BRUNSWICK HUMAN RIGHTS
COMMISSION and [REDACTED]**

Respondents

**COMMISSION DES DROITS DE LA
PERSONNE DU NOUVEAU-BRUNSWICK et**
[REDACTED]

Intimées

NOTICE OF APPLICATION (FORM 16D)

AVIS DE REQUÊTE (FORMULE 16D)

TO:

DESTINATAIRE:

New Brunswick Human Rights Commission
[REDACTED]

**Commission des droits de la personne du
Nouveau-Brunswick**
[REDACTED]

LEGAL PROCEEDINGS HAVE BEEN COM-
MENCED BY FILING THIS NOTICE OF
APPLICA- TION.

PAR LE DÉPÔT DU PRÉSENT AVIS DE RE-
QUÊTE, UNE POURSUITE JUDICIAIRE A ÉTÉ
EN- GAGÉE.

The applicant will make an application before the
Court at 427 Queen Street, Fredericton NB, E3B
5H1, on the day and time to be determined for

Le requérant présentera une requête à la
Cour à 427 Queen Street, Fredericton NB, E3B
5H1, à une date et une heure à déterminer

an order as set out hereunder.

If you wish to oppose this application you must appear at the hearing of the application at the place, date and time stated, either in person or by a New Brunswick lawyer acting on your behalf.

If you intend to appear on the hearing of the application and wish to present to the Court at that time affidavit or other documentary evidence to support your position, you must serve a copy of such evidence on the applicant or his lawyer and, with proof of such service, file it in this Court Office prior to the hearing of the application.

If you fail to appear on the hearing of the application AN ORDER WHICH MAY AFFECT YOU MAY BE MADE IN YOUR ABSENCE.

You are advised that:

- (a) you are entitled to issue documents and present evidence in the proceeding in English or French or both;
- (b) the applicant intends to proceed in the English language; and
- (c) if you require the services of an interpreter at the hearing you must advise the clerk at least 7 days before the hearing.

THIS NOTICE is signed and sealed for the Court of King's Bench by, Clerk of the Court at, on the day of, 20.....

.....
(clerk)
Court Seal

.....
(address of court office)

en vue d'obtenir l'ordonnance décrite ci-dessous.

Si vous désirez contester cette requête, vous devrez comparaître à l'audition de la requête aux lieu, date et heure indiqués, soit en personne ou par l'intermédiaire d'un avocat du Nouveau-Brunswick chargé de vous re- présenter.

Si vous prévoyez comparaître à l'audition de la requête et désirez présenter à la Cour un affidavit ou une autre preuve littérale en votre faveur, vous devrez signifier copie de cette preuve au requérant ou à son avocat et la déposer, avec une preuve de sa signification, au greffe de cette Cour avant l'audition de la requête.

Si vous ne comparez pas à l'audition de la requête, UNE ORDONNANCE POUVANT VOUS CONCERNER POURRA ÊTRE RENDUE EN VOTRE ABSENCE.

Sachez que:

- a) vous avez le droit dans la présente instance, d'émettre des documents et de présenter votre preuve en français, en anglais ou dans les deux langues;
- b) le requérant a l'intention d'utiliser la langue français; et
- c) si vous avez besoin des services d'un interprète à l'audience, vous devez en aviser le greffier au moins 7 jours avant l'audience.

CET AVIS est signé et scellé au nom de la Cour du Banc du Roi par, greffier de la Cour, à, ce 20.....

.....
(greffier)
Sceau de la Cour

.....
(adresse du greffe)

APPLICATION

On the hearing of this application, the applicant intends to apply for an order that

REQUÊTE

À l'audition de la présente requête, le requérant a l'intention de demander qu'il soit ordonné que

Order Requested

1. The applicant seeks:
 - a) an order quashing the Decision of the New Brunswick Human Rights Commission, dated April 23, 2026 (described herein); and
 - b) a declaration under s. 24(1) of the *Canadian Charter of Rights and Freedoms* (the “**Charter**”) that the Decision unreasonably and disproportionately infringed Campaign Life Coalition’s right to freedom of expression guaranteed under s. 2(b) of the *Charter*.

The Parties

2. The Applicant, Campaign Life Coalition (“**CLC**”) is a federally incorporated not-for-profit corporation. CLC is dedicated to public advocacy and education from a pro-life and pro-family perspective. CLC’s head office is in Hamilton, Ontario.
3. The Respondent, the New Brunswick Human Rights Commission (the “**Commission**”) is an administrative body established pursuant to section 12 of the *Human Rights Act*, R.S.N.B. 2011, c. 171 and is tasked with screening human rights complaints.
4. The Respondent, [REDACTED], is a resident of New Brunswick who made the Complaint to the Commission described herein (the “**Complainant**”).

Factual Background

5. CLC advocates at all levels of government to defend the sanctity of human life and the value of the family.
6. CLC believes and advocates that there are two genders which are rooted in the two biological sexes. CLC believes that one's gender cannot truly differ from one's sex and that all people, children and adults, will be happiest and healthiest when they find peace with their biological sex. CLC also believes in and advocates for parental rights over the education of children as being a fundamental human right bestowed by God.
7. To advance CLC's perspective, it ran a campaign in New Brunswick in August and September 2024 in advance of an upcoming provincial election. The campaign consisted of sending out two flyers to homes using Canada Post's "unaddressed mail" service.
8. The first flyer was a political advertisement advocating against what CLC views as ideological sexual education curricula in schools (the "**First Flyer**"). The First Flyer communicates facts pertaining to the education of minors about transgenderism. The First Flyer states that transgender identification in minors often leads to medical transitions and states medical risks associated with it.
9. The second flyer was a political advertisement in support of Policy 713, which at the time required parental notification and consent where students wished to adopt new names or pronouns at school (the "**Second Flyer**"). The Second Flyer argued that parents are in the best position to understand and promote children's best interests and should be involved in making decision affecting their children. CLC's objective with the Flyers was to defend the pro-parental rights education policy of Policy 713 as it existed at the time.

Procedural History

10. On August 29, 2024, the Complainant filed a complaint with the Commission against CLC

and [REDACTED] (the “**Complaint**”). The Complaint alleged that CLC made a publication that discriminated on the grounds of gender identity or expression. The Complainant alleged receiving the First Flyer and took issue with language that the Complainant characterized as “misleading.” The Complainant also complained that elements of First Flyer were meant to cause alarm; namely, an image of medical tools, “a blurred image of a person covering their eyes, and ‘puberty blockers’ written in red.” The Complainant alleged that the First Flyer caused “negative emotions” and hurt.

11. On September 26, 2024, the Complainant amended the Complaint to provide a few additional details, such as dates (the “**First Amendment**”).
12. That same day, the Commission wrote to CLC providing the Complaint and First Amendment and providing CLC an opportunity to respond.
13. CLC provided its response on October 10, 2024. In its response, CLC argued that the Complainant lacked standing, and that there is no arguable case that the Flyers discriminate or indicate discrimination.
14. The Commission provided the Complainant’s rebuttal on October 18, 2024 (the “**Rebuttal**”). In the Rebuttal, the Complainant accused CLC of being a hate group and alleged that the Flyers “...are littered with misleading language and downright information as well as facts taken out of context...”
15. On November 5, 2024, Commission officer Sarina McKinnon (the “**Officer**”) provided CLC with a Case Analysis Report (“**CAR**”) setting out the Officer’s recommendation that the Commission refer this matter to the Labour and Employment Board.
16. In providing the CAR, the Officer informed CLC that “any responses to the CAR must be received no later than November 21, 2024.” The Officer further informed CLC that the

Commission “will consider the CAR, any written responses received from the parties in the time frame noted above, all previous submissions, and legal advice at a Commission meeting.”

17. In the CAR, the Officer provided a full list of materials reviewed in preparing the CAR. The list was confined to the Complaint, Response, Rebuttal, and case law. In the body of the CAR, the Officer referenced facts and arguments not contained in those documents including that the Complainant “alleges that since the release of the Flyers, he has seen an uptick in discriminatory comments about his community, the transgender community.”
18. On November 21, CLC provided its response to the CAR (the “**CAR Response**”) to the Officer. In it, CLC raised the fact that the CAR includes facts that are not included in the materials before the Officer and had never been shared with CLC. CLC also made submissions pointing out fundamental errors in the Officer’s analysis of *Whatcott v. Saskatchewan (Human Rights Tribunal)* and *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*. CLC submitted to the Commission that an arguable case of discrimination or an intent to discriminate had not been established.
19. On December 8, 2024, the Officer wrote to CLC informing it that the Complainant had not filed a response to the CAR. Despite the process the Officer had previously communicated to CLC, the Officer informed CLC that she had shared the CAR Response with the Complainant for an opportunity to further amend the Amended Complaint.
20. The Complainant’s second amended complaint form (the “**Further Amended Complaint**”) was dated December 4, 2024 and provided to CLC with the Officer’s communication dated December 9, 2024. The Further Amended Complaint added a number of additional facts, including the ones that CLC identified as being unfounded on the record in its CAR

Response. The Further Amended Complaint largely set out the Complainant's disagreement with the viewpoint expressed in the Flyers.

21. On December 27, 2024, CLC provided a Response to the Further Amended Complaint (the "**Subsequent Response**"). CLC argued that the procedure permitting the Complainant to provide the Further Amended Complaint was procedurally unfair because it violated the legitimate expectations established by the Officer's previous communication and it created a reasonable apprehension of bias. CLC also responded to the arguments and allegations raised in the Further Amended Complaint.
22. On January 20, 2025, the Complainant provided a rebuttal to CLC's Subsequent Response (the "**Subsequent Rebuttal**"). The Subsequent Rebuttal was not provided to CLC until the Officer's communication dated April 2, 2025.
23. On April 2, 2025, the Officer asked CLC a series of questions about CLC's knowledge of Canada Post's unaddressed mail service and CLC's choice of words, images, colours, and facts in the Flyers.
24. On April 25, 2025, CLC responded to the Officer answering all questions and explaining at length the factual and religious basis for CLC's beliefs espoused in the Flyers.
25. Nearly one year later, on March 9, 2026, the Officer provided CLC with an Addendum Report to the CAR (the "**AR**"). In the AR, the Officer argued that her actions did not breach procedural fairness and reiterated her opinion that an arguable case of discrimination is made out by the Complainant. The Officer again recommended that the Commission refer this matter to the Labour and Employment Board for a hearing.
26. On March 30, 2026, CLC provided its response to the AR (the "**AR Response**") in which it argued that the Commission has all the relevant information it needs to conclude that there

is no arguable case that the Flyers meet the legal standard for discriminatory expression.

The Decision

27. On April 24, 2026, the Commission notified CLC that at a meeting held April 23, 2026, the Commission decided to accept all recommendations contained in the CAR and AR and refer the matter to the Labour and Employment Board which would serve as a Board of Inquiry (the “**Decision**”).

Legal Grounds

Procedural Fairness

28. The Decision violated CLC’s right to procedural fairness because in the CAR, the Officer relied on information obtained from the Complainant which was not disclosed to CLC, violating the principle of *audi alteram partem*.

29. The Decision also violated CLC’s right to procedural fairness because the Officer adopted a different procedure than the one communicated to CLC on November 5, 2024. The Officer communicated this new procedure to CLC on December 9, 2024 after already having taken steps to give the Complainant a chance to amend the Complaint.

30. The Officer’s change of procedure violated CLC’s legitimate expectations of the procedure to be followed.

31. The Decision further violated CLC’s right to procedural fairness because in both obtaining input from the Complainant without disclosing it to CLC and then providing the Complainant an opportunity to amend the Complaint so as to add the undisclosed facts to the record.

Section 2(b) of the *Charter*

32. The Flyers constitute expression protected by s. 2(b) of the *Charter*.

33. A finding that there is an arguable case that the Flyers constitute discriminatory expression limits CLC's right to freedom of expression.
34. The Decision failed to correctly determine the scope of the right to freedom of expression.
35. The Decision failed to reasonably and proportionately balance CLC's right to freedom of expression with the relevant statutory objectives.

Absence of Discrimination

36. The Decision incorrectly and unreasonably interpreted the scope of s. 7(1) of the *Human Rights Act* by expanding the scope of the provision beyond that established by jurisprudence.
37. The Decision incorrectly and unreasonably limited the scope of s. 7(2) of the *Human Rights Act* which states that s. 7(1) does not interfere with, restrict, or prohibit the free expression of opinions *on any subject* by speech or in writing.
38. The Decision incorrectly and unreasonably assessed the applicable legal standard for speech that constitutes discrimination. The Decision failed to follow binding jurisprudence which establishes the legal test for discriminatory expression. The case law states that human rights legislation does not protect against offence or hurt feelings. It does not prohibit political advocacy, even advocacy to reduce the rights of protected groups.
39. The Decision unreasonably determined that there was an arguable case that CLC's Flyers indicated discrimination or an intent to discriminate. First, nothing in the Flyers could be reasonably construed as discriminatory expression contrary to s. 7(1). The Flyers are not likely to lead to discriminatory treatment on the basis of gender identity. They were published in the context of an upcoming provincial election and criticize public education policy.

40. Second, the Complaint as amended did not reveal any discriminatory effects caused by the Flyers. The Complainant alleged that the Flyers upset the Complainant and led to members of the public believing misinformation such as “cat litter boxes in schools for trans people who ‘identify as cats’” or that transgender identifying people want to force transgenderism onto others. Neither claim is made in either of the Flyers. Upset emotions and beliefs unconnected to the Flyers are not discriminatory effects.

41. The Commission had the Flyers before it and no additional evidence is required to conclude that there is no arguable case that CLC did not discriminate against anyone.

Evidence to be Relied Upon

42. In addition to the Record of Proceedings, CLC will rely on:

- a) The affidavit of Selena Bird, to be affirmed;
- b) Such further and other materials as counsel may advise and this Honourable Court may allow.

Dated this 3rd day of July, 2026.

[REDACTED]

Hatim Kheir

CHARTER ADVOCATES CANADA

[REDACTED]

Hatim Kheir (LSO No: 79576J)

[REDACTED]

Darren Leung (LSO No: 87938Q)

[REDACTED]

**Counsel for the Applicant,
Campaign Life Coalition**