S.C.C. Court File No. 37896

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

B E T W E E N:

BELL CANADA , et al.

APPELLANTS (Appellants)

-and-

ATTORNEY GENERAL OF CANADA

RESPONDENT(Respondents)

-and-

CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION, et al.

INTERVENERS

DANIEL JUTRAS AND AUDREY BOCTOR

AMICUS CURIAE

S.C.C. Court File No. 37748

A N D B E T W E E N:

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

APPELLANT (Respondent)

-and-

ALEXANDER VAVILOV

RESPONDENT (Appellant)

ATTORNEY GENERAL OF ONTARIO, et al.

INTERVENERS

-and-

DANIEL JUTRAS AND AUDREY BOCTOR

AMICUS CURIAE

S.C.C. Court File No. 37897

A N D B E T W E E N:

NATIONAL FOOTBALL LEAGUE, et al.

APPELLANTS (Appellants)

-and-

ATTORNEY GENERAL OF CANADA

RESPONDENT (Respondents)

-and-

CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION, et al.

INTERVENERS

-and-

DANIEL JUTRAS AND AUDREY BOCTOR

AMICUS CURIAE

FACTUM OF THE INTERVENER, ADVOCACY CENTRE FOR TENANTS ONTARIO

(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada)*

ADVOCACY CENTRE FOR TENANTS ONTARIO
1500 - 55 University Avenue
Toronto, Ontario
M5J 2H7

Karen Andrews
Tel: (416) 597-5855
Fax: (416) 597-5821
E-mail: andrews@lao.on.ca

Counsel for the Intervener, Advocacy Centre for Tenants (Ontario)

SUPREME ADVOCACY LLP
340 Gilmour St.
Ottawa, ON K2P 0R3

Marie-France Major
Tel.: (613) 695-8855
Fax: (613) 695-8580
Email: mfmajor@supremeadvocacy.ca

Agent for Counsel for the Intervener, Advocacy Centre for Tenants (Ontario)

S.C.C. Court File No. 37896

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

B E T W E E N :

BELL CANADA and BELL MEDIA INC.

APPELLANT (Appellants)

-and-

ATTORNEY GENERAL OF CANADA

RESPONDENT(Respondents)

-and-

CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION

INTERVENER

-and-

ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY GENERAL FOR SASKATCHEWAN, ADVOCACY CENTRE FOR TENANTS ONTARIO, ONTARIO SECURITIES COMMISSION, BRITISH COLUMBIA SECURITIES COMMISSION AND ALBERTA SECURITIES COMMISSION, ECOJUSTICE CANADA SOCIETY, WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL (ONTARIO), WORKERS' COMPENSATION APPEALS TRIBUNAL (NORTHWEST TERRITORIES AND NUNAVUT), WORKERS' COMPENSATION APPEALS TRIBUNAL (NOVA SCOTIA), APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION AND WORKERS' COMPENSATION APPEALS TRIBUNAL (NEW BRUNSWICK), BRITISH COLUMBIA INTERNATIONAL COMMERCIAL ARBITRATION CENTRE FOUNDATION, COUNCIL OF CANADIAN ADMINISTRATIVE TRIBUNALS, CAMBRIDGE COMPARATIVE ADMINISTRATIVE LAW FORUM, NATIONAL ACADEMY OF ARBITRATORS, ONTARIO LABOUR-MANAGEMENT ARBITRATORS' ASSOCIATION AND CONFÉRENCE DES ARBITRES DU QUÉBEC, CANADIAN LABOUR CONGRESS, NATIONAL ASSOCIATION OF PHARMACY REGULATORY AUTHORITIES, QUEEN'S PRISON LAW CLINIC, ADVOCATES FOR THE RULE OF LAW, SAMUELSON-GLUSHKO CANADIAN INTERNET POLICY AND PUBLIC INTEREST CLINIC, CANADIAN BAR ASSOCIATION, FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA, BLUE ANT MEDIA INC., CANADIAN BROADCASTING CORPORATION, DHX MEDIA LTD., GROUPE V MEDIA INC., INDEPENDENT BROADCAST GROUP, ABORIGINAL PEOPLES TELEVISION NETWORK, ALLARCO ENTERTAINMENT INC., BBC KIDS, CHANNEL ZERO, ETHNIC CHANNELS GROUP LTD., HOLLYWOOD SUITE, OUTTV NETWORK INC., STINGRAY DIGITAL GROUP INC., TV5 QUÉBEC CANADA, ZOOMERMEDIA LTD. AND PELMOREX WEATHER NETWORKS (TELEVISION) INC., TELUS COMMUNICATIONS INC., ASSOCIATION OF CANADIAN ADVERTISERS AND ALLIANCE OF CANADIAN CINEMA, TELEVISION AND RADIO ARTISTS

INTERVENERS

-and-

DANIEL JUTRAS AND AUDREY BOCTOR

AMICUS CURIAE

S.C.C. Court File No. 37748

AND BETWEEN:

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

APPELLANT (Respondent)

-and-

ALEXANDER VAVILOV

RESPONDENT (Appellant)

-and-

ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY GENERAL FOR SASKATCHEWAN, CANADIAN COUNCIL FOR REFUGEES, ADVOCACY CENTRE FOR TENANTS ONTARIO, ONTARIO SECURITIES COMMISSION, BRITISH COLUMBIA SECURITIES COMMISSION AND ALBERTA SECURITIES COMMISSION, ECOJUSTICE CANADA SOCIETY, WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL (ONTARIO), WORKERS' COMPENSATION APPEALS TRIBUNAL (NORTHWEST TERRITORIES AND NUNAVUT) AND WORKERS' COMPENSATION APPEALS TRIBUNAL (NOVA SCOTIA), APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION AND WORKERS' COMPENSATION APPEALS TRIBUNAL (NEW BRUNSWICK), BRITISH COLUMBIA INTERNATIONAL COMMERCIAL ARBITRATION CENTRE FOUNDATION, COUNCIL OF CANADIAN ADMINISTRATIVE TRIBUNALS, NATIONAL ACADEMY OF ARBITRATORS, ONTARIO LABOUR-MANAGEMENT ARBITRATORS' ASSOCIATION AND CONFÉRENCE DES ARBITRES DU QUÉBEC, CANADIAN LABOUR CONGRESS, NATIONAL ASSOCIATION OF PHARMACY REGULATORY AUTHORITIES, QUEEN'S PRISON LAW CLINIC, ADVOCATES FOR THE RULE OF LAW, PARKDALE COMMUNITY LEGAL SERVICES, CAMBRIDGE COMPARATIVE ADMINISTRATIVE LAW FORUM, SAMUELSON-GLUSHKO CANADIAN INTERNET POLICY AND PUBLIC INTEREST CLINIC, CANADIAN BAR ASSOCIATION, CANADIAN ASSOCIATION OF REFUGEE LAWYERS, COMMUNITY & LEGAL AID SERVICES PROGRAMME, ASSOCIATION QUÉBÉCOISE DES AVOCATS ET AVOCATES EN DROIT DE L'IMMIGRATION, FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA

INTERVENERS

-and-

DANIEL JUTRAS AND AUDREY BOCTOR

AMICUS CURIAE

S.C.C. Court File No. 37897

AND BETWEEN:

NATIONAL FOOTBALL LEAGUE, NFL INTERNATIONAL LLC and NFL PRODUCTIONS LLC

APPELLANT (Appellants)

-and-

ATTORNEY GENERAL OF CANADA

RESPONDENT (Respondents)

-and-

ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY GENERAL FOR SASKATCHEWAN, ADVOCACY CENTRE FOR TENANTS ONTARIO, ONTARIO SECURITIES COMMISSION, BRITISH COLUMBIA SECURITIES COMMISSION AND ALBERTA SECURITIES COMMISSION, ECOJUSTICE CANADA SOCIETY, WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL (ONTARIO), WORKERS' COMPENSATION APPEALS TRIBUNAL (NORTHWEST TERRITORIES AND NUNAVUT), WORKERS' COMPENSATION APPEALS TRIBUNAL (NOVA SCOTIA), APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION AND WORKERS' COMPENSATION APPEALS TRIBUNAL (NEW BRUNSWICK), BRITISH COLUMBIA INTERNATIONAL COMMERCIAL ARBITRATION CENTRE FOUNDATION, COUNCIL OF CANADIAN ADMINISTRATIVE TRIBUNALS, CAMBRIDGE COMPARATIVE ADMINISTRATIVE LAW FORUM, NATIONAL ACADEMY OF ARBITRATORS, ONTARIO LABOUR-MANAGEMENT ARBITRATORS' ASSOCIATION AND CONFÉRENCE DES ARBITRES DU QUÉBEC, CANADIAN LABOUR CONGRESS, NATIONAL ASSOCIATION OF PHARMACY REGULATORY AUTHORITIES, QUEEN'S PRISON LAW CLINIC, ADVOCATES FOR THE RULE OF LAW, SAMUELSON-GLUSHKO CANADIAN INTERNET POLICY AND PUBLIC INTEREST CLINIC, CANADIAN BAR ASSOCIATION, FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA, TELUS COMMUNICATIONS INC., ASSOCIATION OF CANADIAN ADVERTISERS AND ALLIANCE OF CANADIAN CINEMA, TELEVISION AND RADIO ARTISTS

INTERVENERS

-and-

DANIEL JUTRAS AND AUDREY BOCTOR

AMICUS CURIAE

ATTORNEY GENERAL OF CANADA
130 King Street West
Suite 3400, Box 36
Toronto, Ontario M5X 1K6

John Provart
Marianne Zoric
Tel: (416) 973-1346
Fax: (416) 954-8982
E-mail: john.provart@justice.gc.ca

Counsel for the Appellant, Minister of Citizenship and Immigration (SCC 37748)

ATTORNEY GENERAL OF CANADA
Department of Justice Canada
50 O'Connor Street, Suite 500, Room 556
Ottawa, ON K2P 6L2

Christopher M. Rupar
Tel.: (613) 941-2351
Fax: (613) 954-1920
Email: Christopher.rupar@justice.gc.ca

Agent for Counsel for the Appellant, Minister of Citizenship and Immigration (SCC 37748)

MCCARTHY TÉTRAULT LLP
66 Wellington Street West
Suite 5300, Toronto Dominion Bank Tower
Toronto, ON M5K 1E6

GOWLING WLG (CANADA) LLP
160 Elgin Street, Suite 2600
Ottawa, Ontario K1P 1C3

Steven G. Mason
Brandon Kain
Steven Tanner
James S.S Holtom
Richard Lizius
Tel: (416) 601-8200
Fax: (416) 868-0673
E-mail: smason@mccarthy.ca

Counsel for the Appellant, Bell Canada, and Bell Media Inc. (SCC 37896)

Jeffrey W. Beedell
Tel: (613) 786-0171
Fax: (613) 788-3587
E-mail: jeff.beedell@gowlingwlg.com

Agent for Counsel for the Appellant, Bell Canada, and Bell Media Inc. (SCC 37896)

MCCARTHY TÉTRAULT LLP
66 Wellington Street West
Suite 5300, Toronto Dominion Bank Tower
Toronto, Ontario M5K 1E6

Steven G. Mason
Brandon Kain
Richard Lizius
Tel: (416) 601-8200
Fax: (416) 868-0673
E-mail: smason@mccarthy.ca

Counsel for the Appellant, National Football League, NFL International LLC and NFL Productions LLC (SCC 37897)

GOWLING WLG (CANADA) LLP
160 Elgin Street, Suite 2600
Ottawa, Ontario K1P 1C3

Jeffrey W. Beedell
Tel: (613) 786-0171
Fax: (613) 788-3587
E-mail: jeff.beedell@gowlingwlg.com

Agent for Counsel for the Appellant, National Football League , NFL International LLC and NFL Productions LLC (SCC 37897)

ATTORNEY GENERAL OF CANADA
Ontario Regional Office
120 Adelaide Street West, Suite 400
Toronto, Ontario M5H 1T1

Michael H. Morris
Roger Flaim
Laura Tausky
Tel: (647) 256-7539
FAX: (416) 952-4518
E-mail: michael.morris@justice.gc.ca

Counsel for the Respondent, Attorney General of Canada (SCC 37896, 37897)

ATTORNEY GENERAL OF CANADA
Department of Justice Canada
50 O'Connor Street, Suite 500, Room 556
Ottawa, ON K2P 6L2

Christopher M. Rupar
Tel.: (613) 941-2351
Fax: (613) 954-1920
Email: Christopher.rupar@justice.gc.ca

Agent for Counsel for the Respondent, Attorney General of Canada (SCC 37896, 37897)

JACKMAN NAZAMI & ASSOCIATES
596 St. Clair Avenue West, Unit 3
Toronto, Ontario
M6C 1A6

CHAMP AND ASSOCIATES
43 Florence Street
Ottawa, Ontario
K2P 0W6

Hadayt Nazami
Bijon Roy
Tel: (416) 653-9964
Fax: (416) 653-1036
E-mail: hadayt@rogers.com

Counsel for the Respondent, Alexander Vavilov

Tel: (613) 237-4740
Fax: (613) 232-2680
E-mail: pchamp@champlaw.ca

Agent for, Counsel for the Respondent, Alexander Vavilov

CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION
Les Terrasse de la Chaudière, Central Building
1 Promenade du Portage
Gatineau, Quebec J8X 4B1

Crystal Hulley-Craig
Tel: (819) 956-2095
Fax: (819) 953-0589
E-mail: crystal.hulley@crtc.gc.ca

Counsel for the Intervener, Canadian Radio- Television and Telecommunications Commission (SCC 37896, 37897)

MCGILL UNIVERSITY
3644 Peel Room 20
Old Chancellor Day Hall, Faculty of Law
Montreal, Quebec H3A 1W9

Daniel Jutras
Tel: (514) 398-1453
Fax: (514) 398-4659
E-mail: daniel.jutras@mcgill.ca

Amicus Curiae (SCC 37748, 37896, 37897)

IMK LLP
Alexis Nihon Plaza, Tower 2
3500 De Maisonneuve Blvd. West
Montreal, Quebec H3Z 3C1
Audrey Boctor
Tel: (514) 934-7737
Fax: (514) 935-2999
E-mail: aboctor@imk.ca

SUPREME ADVOCACY LLP
340 Gilmour St.
Ottawa, ON K2P 0R3

Marie-France Major
Tel.: (613) 695-8855 ext 102
Fax: (613) 695-8580
Email: mfmajor@supremeadvocacy.ca

Agent for the Amicus Curiae, Daniel Jutras, and Audrey Boctor SCC 37748, 37896, 37897)

Amicus Curiae SCC 37748, 37896, 37897)

ATTORNEY GENERAL OF ONTARIO
8th fl. – 720 Bay Street
Toronto, Ontario M5G 2K1

Sara Blake
Judie Im
Tel: (416) 326-4155
Fax: (416) 326-4181
E-mail: sara.blake@jus.gov.on.ca

Counsel for the Intervener, Attorney General of Ontario.

SUPREME ADVOCACY LLP
340 Gilmour St.
Ottawa, ON K2P 0R3

Marie-France Major
Tel.: (613) 695-8855
Fax: (613) 695-8580
Email: mfmajor@supremeadvocacy.ca

Agent for Counsel for the Intervener, Attorney General of Ontario

NELLIGAN O'BRIEN PAYNE LLP
300 - 50 O'Connor Street
Ottawa, Ontario
K1P 6L2

Christopher Rootham
Michael Ryan
Tel: (613) 231-8311
Fax: (613) 788-3667
E-mail: christopher.rootham@nelligan.ca

Counsel for the Intervener, Telus Communications Inc.

THE LAW OFFICE OF JAMIE LIEW
39 Fern Avenue
Ottawa, Ontario K1Y 3S2

Tel: (613) 808-5592
Fax: (888) 843-3413
E-mail: jamie.liew@uottawa.ca

Counsel for the Intervener, Canadian Council for Refugees.

WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL
7th Fl. – 505 University Avenue
Toronto, ON M5G 2P2

Michelle Alton
David Corbett
Kayla Seyler
Ana Rodriguez
Tel: (416) 314-8800
Fax: (416) 326-5164
E-mail: Michelle.Alton@wst.gov.on.ca

Counsel for the Interveners, Workplace Safety and Insurance Appeals Tribunal (Ontario), Counsel for the Interveners, Workers' Compensation Appeals Tribunal (Northwest Territories and Nunavut), Workers' Compensation Appeals Tribunal (Nova Scotia), Appeals Commission for Alberta Workers' Compensation and Workers' Compensation Appeals Tribunal (New Brunswick)

SUPREME ADVOCACY LLP
340 Gilmour St., Suite 100
Ottawa, ON K2P 0R3

Marie-France Major
Tel.: (613) 695-8855
Fax: (613) 695-8580
Email: mfmajor@supremeadvocacy.ca

Agent for Counsel for the Interveners, Workplace Safety and Insurance Appeals Tribunal (Ontario), Counsel for the Interveners, Workers' Compensation Appeals Tribunal (Northwest Territories and Nunavut), Workers' Compensation Appeals Tribunal (Nova Scotia), Appeals Commission for Alberta Workers' Compensation and Workers' Compensation Appeals Tribunal (New Brunswick)

ONTARIO SECURITIES COMMISSION
2200 - 20 Queen Street West
Toronto, Ontario M5H 3S8

Matthew H. Britton
Jennifer M. Lynch
Paloma Ellard
David Hainey
Don Young
Tel: (416) 593-8294
Fax: (416) 593-2319
E-mail: mbritton@osc.gov.on.ca

Counsel for the Interveners, Ontario Securities Commission, BC Securities Commission and Alberta Securities Commission.

CONWAY BAXTER WILSON LLP
400-411 Roosevelt Avenue
Ottawa, Ontario K2A 3X9

Benjamin Grant
Tel: (613) 780-2008
Fax: (613) 688-0271
E-mail: bgrant@conway.pro

Agent for Counsel for the Interveners, Ontario Securities Commission, BC Securities Commission and Alberta Securities Commission.

ECOJUSTICE CANADA SOCIETY
1910 - 777 Bay Street
PO BOX 106
Toronto, Ontario M5G 2C8

Laura Bowman
Bronwyn Roe
Tel: (416) 368-7533
Fax: (416) 363-2746
E-mail: lbowman@ecojustice.ca

Counsel for the Intervener, Ecojustice Canada Society

SUPREME LAW GROUP
900 - 275 Slater Street
Ottawa, ON K1P 5H9

Moira Dillon
Tel.: (613) 691-1224
Fax: (613) 691-1338
Email: mdillon@supremelawgroup.ca

Agent for Counsel for the Intervener, Ecojustice Canada Society

SHORES JARDINE LLP
10104 - 103 Avenue
Suite 2250
Edmonton, Alberta T5J 0H8

William W. Shores, Q.C.
Kirk N. Lambrecht, Q.C.
Tel: (780) 448-9275
Fax: (780) 423-0163
E-mail: bill@shoresjardine.com

Counsel for the Intervener, National Association of Pharmacy Regulatory Authorities

SUPREME ADVOCACY LLP
340 Gilmour St., Suite 100
Ottawa, ON K2P 0R3

Marie-France Major
Tel.: (613) 695-8855 ext 102
Fax: (613) 695-8580
Email: mfmajor@supremeadvocacy.ca

Agent for Counsel for the Intervener, National Association of Pharmacy Regulatory Authorities

ATTORNEY GENERAL FOR SASKATCHEWAN
900 - 1874 Scarth Street
Regina, Saskatchewan S4P 4B3

Laura Mazenc
Tel: (306) 787-6272
Fax: (306) 787-0581
E-mail: laura.mazenc@gov.sk.ca

Counsel for the Intervener, AG of Saskatchewan

GOWLING WLG (Canada) LLP
2600 - 160 Elgin St
Ottawa, ON K1P 1C3

D. Lynne Watt
Tel.: (613) 786-8695
Fax: (613) 563-9869
Email: lynne.watt@gowlingwlg.com

Agent for Counsel for the AG of Saskatchewan

FASKEN MARTINEAU DUMOULIN LLP
2900 - 550 Burrard Street
Vancouver, British Columbia V6C 0A3

Gavin R. Cameron
Tom Posyniak
Telephone: (604) 631-4756
FAX: (604) 631-3232
E-mail: gcameron@fasken.com

Counsel for the Intervener, BC International Commercial Arbitration Centre Foundation

FASKEN MARTINEAU DuMOULIN LLP
55 Metcalfe Street, Suite 1300
Ottawa ON, K1P 6L5

Sophie Arseneault
Tel.: (613) 696-6904
Fax: (613) 230-6423
Email: sarseneault@fasken.com

Agent for Counsel for the Intervener, BC International Commercial Arbitration Centre Foundation

LAX O'SULLIVAN LISUS GOTTLIEB LLP
2750 - 145 King St. West
Toronto, Ontario M5H 1J8

Terrence J. O'Sullivan
Paul Mitchell
James Renihan
Tel: (416) 644-5359
Fax: (416) 598-3730
E-mail: tosullivan@counsel-toronto.com

Counsel for the Intervener, Council of Canadian Administrative Tribunals.

SUPREME ADVOCACY LLP
340 Gilmour St.
Ottawa, ON K2P 0R3

Eugene Meehan, Q.C
Marie-France Major
Tel.: (613) 695-8855
Fax: (613) 695-8580
Email: emeehan@supremeadvocacy.ca
mfmajor@supremeadvocacy.ca

Agent for Counsel for the Intervener, Council of Canadian Administrative Tribunals

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
155 Wellington Street
35th floor
Toronto, Ontario M5V 3H1

Linda R. Rothstein
Michael Fenrick
Angela E. Rae
Anne Marie Heenan
Tel: (416) 646-4300
Fax: (416) 646-4301
E-mail: linda.rothstein@paliareroland.com

Counsel for the Interveners, Ontario Labour- Management Arbitrators' Association and Conférence des arbitres du Québec

CAZASAIKALEY LLP
220 avenue Laurier Ouest
Ottawa, Ontario K1P 5Z9

Alyssa Tomkins
Tel: (613) 565-2292
Fax: (613) 565-2087
E-mail: atomkins@plaideurs.ca

Agent for Counsel for the Interveners, Ontario Labour- Management Arbitrators' Association and Conférence des arbitres du Québec

SUSAN L. STEWART
7 L'Estrange Place
Toronto, Ontario M6S 4S6

Tel: (416) 531-3736
Fax: (416) 604-2897
E-mail: sstewart@idirect.ca

Counsel for the Intervener, National Academy of Arbitrators

CAZASAIKALEY LLP
220 avenue Laurier Ouest
Ottawa, Ontario K1P 5Z9

Alyssa Tomkins
Tel: (613) 565-2292
Fax: (613) 565-2087
E-mail: atomkins@plaideurs.ca

Agent for Counsel for the Intervener, National Academy of Arbitrators

GOLDBLATT PARTNERS LLP
20 Dundas Street West, Suite 1100
Toronto, Ontario
M5G 2G8

Steven Barrett
Tel: (416) 979-6422
Fax: (416) 591-7333
E-mail: sbarrett@goldblattpartners.com

Counsel for the Intervener, Canadian Labour Congress

GOLDBLATT PARTNERS LLP
500-30 Metcalfe St.
Ottawa, Ontario
K1P 5L4

Colleen Bauman
Tel: (613) 482-2463
Fax: (613) 235-3041
E-mail: cbauman@goldblattpartners.com

Agent for counsel for the Intervener, Canadian Labour Congress

PROCUREURE GÉNÉRALE DU QUÉBEC
1200, Route de l'Église
3e étage
Québec, Quebec G1V 4M1

Stéphane Rochette
Tel: (418) 643-6552
Fax: (418) 643-9749
E-mail: stephane.rochette@justice.gouv.qc.ca

Counsel for the Intervener, AG Quebec

NOËL & ASSOCIÉS
111 rue Champlain
Gatineau, Quebec J8X 3R1

Sylvie Labbé
Tel: (819) 771-7393
Fax: (819) 771-5397
E-mail: s.labbe@noelassocies.com

Agent for Counsel for the Intervener, AG Quebec

STOCKWOODS LLP
77 King Street West, Suite 4130
P.O. Box 140
Toronto, Ontario M5K 1H1

Brendan Van Niejenhuis
Andrea Gonslaves
Tel: (416) 593-7200
Fax: (416) 593-9345

POWER LAW
130 Albert Street
Suite 1103
Ottawa, Ontario K1P 5G4

Maxine Vincelette
Tel : (613) 702-5561
Fax : (613) 702-5561
E-mail : mvincelette@powerlaw.ca

E-mail: brendanvn@stockwoods.ca

Counsel for the Intervener, Queen's Prison Law Clinic

Agent for Counsel for the Intervener, Queen's Prison Law Clinic

ATTORNEY GENERAL OF BRITISH COLUMBIA
PO Box 9280 Stn Prov Govt
Victoria, British Columbia
V8W 9J7

Leah Greathead
Micah Rankin
Tel: (250) 356-8892
Fax: (250) 356-9154
E-mail: leah.greathead@gov.bc.ca

Counsel for the Intervener, AG British Columbia

MICHAEL J. SOBKIN
331 Somerset Street West
Ottawa, Ontario
K2P 0J8
Tel: (613) 282-1712
Fax: (613) 288-2896
E-mail: msobkin@sympatico.ca

Agent for Counsel for the Intervener, AG British Columbia

MCCARTHY TÉTRAULT LLP
745 Thurlow Street, Suite 2400
Vancouver, British Columbia
V6E 0C5

Adam Goldenberg
Robyn Gifford
Asher Honickman
Tel: (604) 643-7100
Fax: (604) 643-7900
E-mail: agoldenberg@mccarthy.ca

Counsel for the Intervener, Advocates for the Rule of Law

POWER LAW
130 Albert Street
Suite 1103
Ottawa, Ontario
K1P 5G4

Darius Bossé
Tel: (613) 702-5566
Fax: (613) 702-5566
E-mail: DBosse@juristespower.ca

Agent for Counsel for the Intervener, Advocates for the Rule of Law

PARKDALE COMMUNITY LEGAL SERVICES
1266 Queen Street West
Toronto, Ontario M6K 1L3

Toni Schweitzer
Ronald Poulton
Tel: (416) 531-2411
Fax: (416) 531-0885
E-mail: schweit@lao.on.ca

Counsel for the Intervener, Parkdale

COMMUNITY LEGAL SERVICES OF OTTAWA-SOUTH OFFICE
406 - 1355 Bank Street
Ottawa, Ontario K1H 8K7

Elaine Simon
Tel: (613) 733-0140
Fax: (613) 733-0401
E-mail: simone@lao.on.ca

Agent for Counsel for the Intervener, Parkdale Community Legal Services

Community Legal Services

CAMBRIDGE COMPARATIVE ADMINISTRATIVE LAW FORUM
Cambridge University - The Faculty of Law
The David Williams Building - 10 West Road
Cambridge, United Kingdom CB3 9DZ

Bruno Gélinas-Faucher
Tel: (737) 838-3023 Ext: 44
Fax: (514) 565-9877
E-mail: bruno.gelinas.faucher@gmail.com

Counsel for the Intervener, Cambridge Comparative Administrative Law Forum

POWER LAW
130 Albert Street
Suite 1103
Ottawa, Ontario K1P 5G4

Maxine Vincelette
Tel: (613) 702-5561
Fax: (613) 702-5561
E-mail: mvincelette@powerlaw.ca

Agent for Counsel for the Intervener, Cambridge Comparative Administrative Law Forum

LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP
Suite 2600 130 Adelaide Street West
Toronto, Ontario M5H 3P5

J. Thomas Curry
Sam Johansen
Tel: (416) 865-3096
Fax: (416) 865-9010
E-mail: tcurry@litigate.com

Counsel for the Interveners, Association of Canadian Advertisers and the Alliance of Canadian Cinema, Television and Radio Artists

POWER LAW
130 Albert Street
Suite 1103
Ottawa, Ontario
K1P 5G4

Maxine Vincelette
Tel: (613) 702-5561
Fax: (613) 702-5561
E-mail: mvincelette@powerlaw.ca

Agent for Counsel for the Interveners, Association of Canadian Advertisers and the Alliance of Canadian Cinema, Television and Radio Artists

CAZASAIKALEY LLP
220 avenue Laurier Ouest
Ottawa, Ontario
K1P 5Z9

Alyssa Tomkins
James Plotkin
Michel Bastarache
Tel: (613) 565-2292
Fax: (613) 565-2087
E-mail: atomkins@plaideurs.ca

Counsel for the Interveners, Samuelson-

UNIVERSITÉ D'OTTAWA
Common Law Section
57 Louis Pasteur St.
Ottawa, Ontario
K1N 6N5

David Fewer
Tel: (613) 562-5800 Ext: 2558
Fax: (613) 562-5417
E-mail: david.fewer@uottawa.ca

Agent for Counsel for the Interveners, Samuelson-Glushko Canadian Internet

Glushko Canadian Internet Policy and Public Interest Clinic

Policy and Public Interest Clinic

FASKEN MARTINEAU DUMOULIN LLP
Bureau 3700, C.P. 242
800, Place Victoria
Montréal, Quebec H4Z 1E9

Christian Leblanc
Michael Shortt
Tel: (514) 397-7545
Fax: (514) 397-7600
E-mail: cleblanc@fasken.com

Counsel for the Interveners, Blue Ant Media Inc., Canadian Boradcasting Corporation, DHX Media Lts., Groupe V Media Inc., Independent Brodcast Group, Aboriginal Peoples Television Netork, Allarco Entertainment Inc., BBC Kids, Chanel Zero, Ethnic Channels Group Ltd., Hollywood Suite, OUTtv Network Inc., Stingray Digital Group Inc., TV5 Québec Canada, Zoomermedia LTd. and Pelmorex Weather Networks (Television) Inc.

FASKEN MARTINEAU DUMOULIN LLP
1300 – 55 rue Metcalfe
Ottawa, Ontario K1P 6L5

Sophie Arseneault
Tel: (613) 236-3882
Fax: (613) 230-6423
E-mail: sarseneault@fasken.com

Agent for Counsel for the Interveners, Blue Ant Media Inc., Canadian Boradcasting Corporation, DHX Media Lts., Groupe V Media Inc., Independent Brodcast Group, Aboriginal Peoples Television Netork, Allarco Entertainment Inc., BBC Kids, Chanel Zero, Ethnic Channels Group Ltd., Hollywood Suite, OUTtv Network Inc., Stingray Digital Group Inc., TV5 Québec Canada, Zoomermedia LTd. and Pelmorex Weather Networks (Television) Inc.

STEWART MCKELVEY
65 Grafton Street
P.O. Box 2140, Station Central
Charlottetown, Prince Edward Island
C1A 8B9

Jonathan M. Coady
Justin L. Milne
Tel: (902) 629-4520
Fax: (902) 566-5283
E-mail: jcoady@stewartmckelvey.com

Counsel for the Intervener, Canadian Bar Association

GOWLING WLG (CANADA) LLP
160 Elgin Street
Suite 2600
Ottawa, Ontario K1P 1C3

Guy Régimbald
Telephone: (613) 786-0197
Fax: (613) 563-9869
E-mail: guy.regimbald@gowlingwlg.com

Agent for Counsel for the Intervener, Canadian Bar Association

LEGAL AID ONTARIO
Refugee Law Office
20 Dundas Street West
Toronto, Ontario M5G 2H1

Anthony Navaneelan

COMMUNITY LEGAL SERVICES OTTAWA
1301 Richmond Road
Ottawa, Ontario K2B 7Y4

Nicholas Hersh

Audrey Macklin
Tel: (416) 977-8111 Ext: 7181
Fax: (416) 977-5567
E-mail: navanea@lao.on.ca

Counsel for the Intervener, Canadian Association of Refugee Lawyers

Tel: (613) 596-1641
Fax: (613) 596-3364
E-mail: hershni@lao.on.ca

Agent for Counsel for the Intervener, Canadian Association of Refugee Lawyers

COMMUNITY & LEGAL AID SERVICES PROGRAMME
York University, Osgoode Hall Law School
Ignat Kaneff Build
4700 Keele Street
Toronto, Ontario M3J 1P3

Subodh Bharati
Tel: (416) 736-5029
Fax: (416) 736-5564
E-mail: sbharati@osgoode.yorku.ca

Counsel for the Intervener, Community and Legal Aid Service Programme

SUPREME ADVOCACY LLP
340 Gilmour St., Suite 100
Ottawa, ON K2P 0R3

Marie-France Major
Tel.: (613) 695-8855 ext 102
Fax: (613) 695-8580
Email: mfmajor@supremeadvocacy.ca

Agent for Counsel for the Intervener, Community and Legal Aid Service Programme

HADEKEL SHAMS S.E.N.C.R.L.
305, rue Bellechasse est, bureau 400A
Montréal, Quebec
H2S 1W9

Peter Shams
Claudia Andrea Molina
Guillaume Cliche-Rivard
David Berger
Tel: (514) 439-0800
Fax: (514) 439-0798
E-mail: peter@hadekelshams.ca

Counsel for the Interveners, Association Québécoise des avocats et avocates en droit de l'immigration

CONWAY BAXTER WILSON LLP
400 - 411 Roosevelt Avenue
Ottawa, Ontario
K2A 3X9

David P. Taylor
Sarah Clarke

STIKEMAN ELLIOTT LLP
1600 - 50 O'Connor Street
Ottawa, Ontario
K1P 6L2

Nicholas Peter McHaffie
Tel: (613) 566-0546

Tel: (613) 691-0368
Fax: (613) 688-0271
E-mail: dtaylor@conway.pro

Counsel for the Intervener, First Nations Child and Family Caring Society of Canada

Fax: (613) 230-8877
E-mail: nmchaffie@stikeman.com

Agent for counsel for the Intervener, First Nations Child and Family Caring Society of Canada

TABLE OF CONTENTS

PAGE

PART I and II: OVERVIEW AND POSITION **1**

PART III: STATEMENT OF ARGUMENT **1**

i) *Dunsmuir* 1

ii) Post *Dunsmuir* 2

iii) Whither Correctness? 5

iv) Conclusion 8

PART IV: COSTS **9**

PART V – ORDER SOUGHT **9**

PART VI – TABLE OF AUTHORITIES **10**

PART I and II – OVERVIEW AND POSITION

1. The Advocacy Centre for Tenants Ontario brings the perspective and experience of low-income Canadians to these appeals. In the important matter of housing, the statute of most significance to Ontario's tenant households is the *Residential Tenancies Act, 2006*. Appeals from the Landlord and Tenant Board to the court can proceed only on questions of law. This situates our legal argument in that part of the administrative law regime where an adjudicator must decide what the various provisions of a statute in dispute actually mean.

2. These appeals re-visit the principles set out in *Dunsmuir*.[1] It is common ground that *Dunsmuir*[2] refreshed administrative law by reducing three standards of review to two. The Advocacy Centre for Tenants Ontario's specific focus in this matter is the issue of statutory appeals and the value that a correctness standard brings to the administration of justice and to our legal work.

3. We take no position on the facts of these appeals.

PART III – ARGUMENT

i) *Dunsmuir*

4. *Dunsmuir*[3] arose in the context of a labour relations dispute. It involved a judicial review of a labour relations adjudication. This Honourable Court considered and decided the matter, taking the opportunity to reassess and clarify the "ebbs and flows of deference" [4] for practitioners and adjudicators of administrative law across the country. It reduced three standards of review to two. Not to one.

5. The majority judgment set out an overview of the law of judicial review, its function, and its important role in upholding the rule of law. For the Supreme Court of Canada, the case represented the opportunity to develop a principled framework that would be both "coherent"

---

[1] *Dunsmuir* v. *New Brunswick*, [2008] 1 S.C.R. 190
[2] *Dunsmuir, supra*
[3] *Dunsmuir, supra*
[4] *Dunsmuir, supra,* para. 1

and "workable" in matters of judicial review.[5]

6. The concurring judgments of Binnie J. and Deschamps J. agree with the majority in its refreshed analysis of judicial review and with the disposition of Mr. Dunsmuir's appeal. But both Binnie J. and Deschamps J. specifically address the issue of statutory appeals as being different and distinct from what the new analysis of judicial review would represent.

7. While Justice Binnie also works his way through "law office metaphysics"[6] that the judicial review debate engenders, he agrees that the "big tent" of reasonableness is the "going-in presumption" for the standard of review of any administrative law decision.[7] However, he is also clear and unequivocal that the statutory appeal is different – it attracts no deference to the decision-maker and that the standard of review is correctness. He says this not once, not twice but three times in his judgment.[8]

8. For Justice Deschamps (writing also for Rothstein J. and Charron J.) any inquiry still begins with whether the question at issue is one of law, fact, or mixed fact and law. For her, "deference is not owed on questions of law where Parliament or a legislature has provided for a statutory right of review on such questions".[9]

9. In sum, statutes must mean something. The law must be correct. In the case of a statutory appeal, the last word on statutory interpretation belongs to the judiciary. *Dunsmuir*[10] did not jettison the standard of correctness in matters where adjudicators or judges are called upon to determine how a section of a statute should be interpreted.

ii) Post *Dunsmuir*

10. In 2011, a decision of the Canadian Human Rights Tribunal was appealed to the Supreme Court of Canada on the issue of whether the Tribunal made a reviewable error in awarding costs

---

[5] *Dunsmuir, supra,* para. 32
[6] *Dunsmuir, supra,* para. 122
[7] *Dunsmuir, supra,* paras. 144 and 146
[8] *Dunsmuir, supra,* paras. 123, 130, and 146
[9] *Dunsmuir, supra,* para. 163
[10] *Dunsmuir, supra*

to the complainant. [11]

11. While the *Dunsmuir* analysis was brought to bear on the facts of the case, the distinction between judicial review and appellate review was reinforced in the judgment of Justices LeBel [12] and Cromwell:

> Although both judicial review and appellate review take into account the principle of deference, care should not be taken not to conflate the two. In the context of judicial review, deference can shield the administrative decision makers from the excessive judicial intervention even on certain questions of law as long as these questions are located within the decision makers' core function and expertise…. By contrast, under the principles of appellant review set down in *Housen* v. *Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235, an appellate court owes no deference to a decision maker below on questions of law which are automatically reviewable on the standard of correctness.[13]

12. In 2015, the issue of judicial review and appellate review was conflated. In *Saguenay*, the Court decided:

> Where a court reviews a decision of a specialized administrative tribunal, the standard of review must be determined on the basis of administrative law principles. This is true regardless of whether the review is conducted in the context of an application for judicial review or of a statutory appeal.[14]

13. The different forms of review that Justices Binnie, Deschamps, LeBel, and Cromwell had tried so clearly to delineate and separate were now merged. The Court also applied different standards of review to different parts of the administrative decision. Justice Abella was left to wonder if a complete and total undermining of *Dunsmuir* had begun.[15]

14. Two cases, decided by the Supreme Court of Canada in 2016, shine a new light on the

---

[11] *Canada (Canadian Human Rights Commission)* v. *Canada (Attorney General),* [2011] 3 R.C.S. 471

[12] It will be recalled that Justice LeBel co-wrote the lead judgment in *Dunsmuir.*

[13] *Mowat, supra,* paras. 30 and 31

[14] *Mouvement laïque québécois* v. *Saguenay (City),* [2015] 2 R.C.S. 3 at para. 38

[15] *Saguenay, supra,* para. 173

Dunsmuir issues – *Wilson*[16], again, in the context of labour relations and *Ledcor*[17] in the context of exclusion clauses and contract interpretation.

15. Mr. Wilson, employed by the Atomic Energy Commission, was dismissed in 2009. Did he have rights pursuant to labour legislation or was his dismissal a just one? A labour arbitrator held that his dismissal was unjust. The application judge found the decision unreasonable and the Federal Court of Appeal agreed, applying the standard of correctness. While Abella J. sets out that the standard of review in this case (reasonableness) “falls easily into our jurisprudence”[18] it is obvious that the judges of the Federal Court of Appeal thought otherwise, as did three of Abella J.’s colleagues on the Supreme Court.

16. While all members of the Court agreed on the disposition of the appeal, Justices Côté, Brown and Moldaver reinvigorate the standard of review debate by setting out that when there is a “narrow and distilled legal issue” to consider, the appropriate standard of review is correctness. At stake is “the rule of law and the promise of orderly governance”:[19]

> **“…**deferring in this way on matters of statutory interpretation opens up the possibility that different decision-makers may each reach opposing interpretations of the same provision, thereby creating “needless uncertainty in the law [in the sense that] individuals’ rights [are] dependent on the identity of the decision-makers, and not the law”.[20]

17. This is precisely the problem that lies at the heart of the Advocacy Centre for Tenants Ontario’s respectful submission in this case.

18. In *Ledcor*, a unanimous Court held the standard of review to be correctness because the appeal involved the interpretation of a standard form contract, the interpretation had precedential value and there was no meaningful factual matrix at play. For the Court, the matter was better characterized “as a question of law subject to the correctness standard”.[21]

---

[16] *Wilson* v. *Atomic Energy of Canada Ltd.,* 2016 SCC 29
[17] *Ledcor Construction Ltd.* v. *Northbridge Indemnity Insurance Co.,* 2016 SCC 37
[18] *Wilson, supra,* para. 19
[19] *Wilson, supra,* para. 84
[20] *Wilson, supra,* para. 81
[21] *Ledcor, supra,* para. 4

iii) Whither Correctness?

19. Landlords and tenants require certainty in the meaning and interpretation of the relevant statues that structure and regulate their relationship. It is a commercial undertaking for landlords who provide rental housing that also carries with it profound consequences for the people who need that housing. As Justice Carnwath observed in *Britannia Glen Cooperative Homes*, “short of losing one’s liberty, losing one’s home is as serious a matter as can be imagined”.[22]

20. After litigating an issue at the Landlord and Tenant Board, appeals from the Board’s decision are permitted only on questions of law.[23] No “meaningful factual matrix” is supposed to be at play. Further, on appeal, the Divisional Court has broad powers to affirm, rescind, amend or replace the Board’s decision or order or to remit the matter back to the Board with the opinion of the Divisional Court.

21. Low-income Ontarians are assisted in their legal matters by community legal clinics across the province. In matters of criminal injuries compensation, social assistance or landlord and tenant adjudication, for example, these citizens appeal to the courts on questions of law to have the meaning of the various statutory provisions affecting their lives clearly interpreted and consistently applied. [24]

22. Section 14 of the *Residential Tenancies Act, 2006* provides that a “no pets” provision in a tenancy agreement is void. Will it always be void even when a landlord could make a reasonable case that it should not be void in a particular instance?

23. The *Residential Tenancies Act, 2006* is replete with clear notice provisions. If a landlord errs in the count because one of the months is February, will the notice be voided? Always? Not always?

---

[22] *Britannia Glen Co-Operative Homes* v. *Indie Singh and Kuntie Singh* (2 December 1996), Brampton A4279/96 (O.C.G.D) [Book of Authorities of the Intervener, Tab A]
[23] *Residential Tenancies Act, 2006*, S.O. 2006, c. 17, s. 210
[24] *Compensation for Victims of Crime Act*, R.S.O. 1990, c. C. 24, s. 23, *Ontario Works Act*, 1997, S.O. 1997, c. 25 Sched., A, s. 36(1), *Ontario Disability Support Program Act*, 1997, S.O. 1997, c.25, Sched. B, s. 31(1)

24. In the case of elevator breakdown in a multi-story apartment building, it was agreed that many elderly, sick and disabled tenants were denied access to a working elevator for ninety-six days in one year. Section 20, the repair and maintenance provision of the *Residential Tenancies Act, 2006,* was in dispute.

25. It was decided that the landlord had behaved reasonably during the outage and that the decision of the Board not to award any abatement of rent was a reasonable one. Factors beyond the landlord's control contributed to the repair delays. Because the standard of review applied was one of reasonableness, the result of the case was that the tenants, who paid their rent faithfully for a service that was not provided to them, received no abatement, adjustment or reduction in rent. See *Onyskiw*.[25]

26. When a developer temporarily re-housed a tenant during the re-development of her complex, he inserted a termination clause in the new tenancy agreement setting out that the tenancy would be terminated when the complex was ready to be re-occupied. Pursuant to section 37(4) of the *Residential Tenancies Act, 2006* such termination clauses are supposed to be void.

27. When, after years, the eighty-five year old tenant declined to return to her old, but transformed, apartment building, it was decided that it was the landlord who was being reasonable and not the tenant. The termination clause in the new tenancy agreement was not voided and she was evicted pursuant to a standard of reasonableness. See *Asboth*.[26]

28. Two decisions of the Divisional Court further illustrate the problem. Both cases involve the tenants objecting to the landlord taking photographs of their units pursuant to the landlord's right of entry set out in s. 27 of the *Residential Tenancies Act, 2006*. In one case, the landlord took photographs to obtain evidence in a repairs dispute with the tenant; in the other, the landlord took photographs to prepare the unit for sale.

29. In *Nickoladze*,[27] the Court's first determination involved the standard of review with the Court finding that as the matter arose as a question of law, the standard of review was

---

[25] *Onyskiw* v. *CJM Property Management Ltd.,* 2016 ONCA 477
[26] *Morguard Residential* v. *Asboth*, 2017 ONSC 2502
[27] *Nickoladze* v. *Bloor Street Investments/Advent Property Management*, 2015 ONSC 3893

correctness. It went on to find that the reason for the photographs being taken was relevant and that it could be considered by the board. Given this, nothing arose from the determination that could be considered an error of law. The appeal was dismissed.

30. Nine months later in *Juhasz*[28], where the landlord wanted to take photographs of the unit in order to list it for sale, the Divisional Court found that the standard of review was reasonableness because the Board was interpreting its home statute. That tenant succeeded in her appeal because the Board had made a fundamental error in law interpreting s. 27 – entry did not include taking photographs.

31. In the next case that considers the taking of pictures by a landlord, what will s. 27 mean? We just do not know.

32. In his plea for clarity and certainty, Justice Binnie observes that litigants will hesitate to go to court to seek redress for perceived administrative injustice if their lawyers cannot predict with confidence even what standard of review will be applied. A litigant "should be able to seek judicial review without betting the store or the house on the outcome".[29]

33. Ontario tenants always "bet" their homes on the outcomes because a reasonableness standard and a factual matrix is commonly applied to the matters that give rise to their disputes. Clear statutory provisions are being interpreted differently depending on the facts, the adjudicator or the judge, notwithstanding that their statutory appeals only proceed on questions of law.

34. While *Dunsmuir*[30] was meant to bring fairness and coherence to the administrative justice process, low-income people who rely on myriad statutes that provide them with a statutory right of appeal are being denied these things.

[28] *Juhasz* v. *Hymas*, 2016 ONSC 1650
[29] *Dunsmuir, supra,* para. 133
[30] *Dunsmuir, supra*

35. In the Advocacy Centre for Tenants Ontario's respectful submission, "where it is clear that the legislature could only have intended the statute to bear one meaning, correctness review is appropriate".[31]

iv) Conclusion

36. The significance and the importance of the administrative justice system in the lives of ordinary and regular Canadians cannot be overstated. Many depend on the administrative justice system for the necessities of life. It is the place to which many Canadians must turn for the enforcement or vindication of their rights on a broad range of everyday matters. For many, it means food and shelter.[32]

37. When legal disputes arise and these Canadians make their arguments to a board or tribunal on the legal meanings of the statutory provisions that give rise to their disputes (and their deprivations) they are entitled to more than simply a hearing. They are entitled to a correct interpretation of the various statutory provisions in dispute that will provide them (and the others who come after them) with understanding, transparency, certainty, and predictability. The argument that a correctness standard promotes judicial economy is an obvious one.

38. Further, if these correct and consistent interpretations give rise to injustice or unintended consequences, legislatures can act.

39. Canada's commitment to "peace, order and good government" is grounded in the rule of law. Good government involves delegation of some decision-making to administrative or juridical officials who must interpret correctly the statutory framework in which they operate. When they do not, the courts must act to restate or re-instate the consistent or correct application of the legislation. This legitimizes government. This legitimizes the judiciary. People cannot live and operate in some free-floating landscape of uncertainty, speculation, and doubt. It erodes trust. It erodes the commitment to being law-abiding. It erodes the rule of law.

---

[31] *Wilson, supra*, para. 89

[32] R. Ellis, *Unjust by Design* (Vancouver: UBC Press, 2013) para. 2 at page 2 [Book of Authorities of the Intervener, Tab B]

40. Statutory appeals on questions of law should attract the correctness standard of review. Statutes have to mean something to the people whose lives are regulated by them and for their advocates to have to fight for them on a daily basis.

PART IV: COSTS

41. The Advocacy Centre for Tenants does not seek costs and asks that no costs be awarded against it.

PART V – ORDER SOUGHT

42. The Advocacy Centre for Tenants seeks the permission of this Honourable Court to present brief oral argument.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS, 18th day of October 2018

Karen Andrews
Counsel for The Advocacy Centre for Tenants Ontario

PART VI – TABLE OF AUTHORITIES

CASE LAW

CASES	PARAGRAPH(S)
1. *Dunsmuir* v. *New Brunswick*, [2008] 1 SCR 190, 2008 SCC 9	2, 4, 6,7, 9, 11, 13, 14, 32, 34,
2. *Britannia Glen Co-Operative Homes* v. *Indie Singh and Kuntie Singh* (2 December 1996), Brampton A4279/96 (O.C.G.D)	19
3. *Onyskiw* v. *CJM Property Management Ltd.*, 2016 ONCA 477	25
4. *Morguard Residential* v. *Asboth*, 2017 ONSC 2502	27
5. *Nickoladze* v. *Bloor Street Investments/Advent Property Management*, 2015 ONSC 3893	29
6. *Juhasz* v. *Hymas*, 2016 ONSC 1650	30
7. *Canada (Canadian Human Rights Commission)* v. *Canada (Attorney General)*, [2011] 3 SCR 471, 2011 SCC 53	10
8. *Mouvement laïque québécois* v. *Saguenay (City)*, [2015] 2 SCR 3, 2015 SCC 16	12
8. *Wilson* v. *Atomic Energy of Canada Ltd.*, [2016] 1 SCR 770, 2016 SCC 29	14, 15, 16, 34
9. *Ledcor Construction Ltd.* v. *Northbridge Indemnity Insurance Co.*, [2016] 2 SCR 23, 2016 SCC 37	14

SECONDARY AUTHORITIES

ARTICLES / REPORTS	PARAGRAPH(S)
10. R. Ellis, *Unjust by Design* (Vancouver : UBC Press , 2013)	36

LEGISLATION

STATUTORY PROVISIONS	SECTION (S)
11. *Residential Tenancies Act, 2006*, S.O. 2006, c. 17	14, 20, 27, 37(4), 210(1)
12. *Compensation for Victims of Crime Act*, R.S.O. 1990, c. C. 24	23
13. *Ontario Works Act*, 1997, S.O. 1997, c. 25 Sch. A	36(1)
14. *Ontario Disability Support Program Act*, 1997, S.O. 1997, c.25, Sch. B	31(1)