

FEDERAL COURT

BETWEEN:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

– and –

THE ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION
Pursuant to sections 18 and 18.1 of the *Federal Courts Act*

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the Applicants. The relief claimed by the Applicants appears on the following pages.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicants. The Applicants request that this application be heard at Toronto.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any document in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicants' solicitor or, if the applicants are self-represented, on the applicants WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4283) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU

May 12, 2020

Issued by:

(Registry Officer)

Address of local office: 180 Queen Street West, Suite 200
Toronto, Ontario M5V 3L6

TO: The Registrar
Federal Court

AND TO: The Attorney General of Canada
Ontario Regional Office
Department of Justice Canada
120 Adelaide Street West
Suite #400
Toronto, Ontario M5H 1T1

THE APPLICANTS MAKE APPLICATION FOR:

- (a) An order in the nature of *mandamus* that CSC comply with its statutory duties pursuant to sections 70, 86, and 87 of the *Corrections and Conditional Release Act*, SC 1992, c 20 (“CCRA”) by, *inter alia*:
- i. Immediately and as a first priority, taking proactive and systematic steps to reduce the population of prisoners in CSC institutions to the greatest extent possible consistent with public safety, with precedence given to those who are particularly vulnerable to COVID-19 due to age or underlying health conditions;
 - ii. Ensuring that prisoners who remain in CSC institutions are not detained in conditions equivalent or tantamount to segregation for indefinite or prolonged periods of time – that is, in excess of 15 days – for reasons related to COVID-19;
 - iii. Implementing adequate physical distancing for prisoners and staff within penitentiaries;
 - iv. Implementing comprehensive COVID-19 testing for prisoners and staff, and, for those who test positive, rigorous contact tracing and isolation consistent with public health standards and human rights norms;
 - v. Ensuring that prisoners and staff are adequately supplied with personal protective equipment (“PPE”) and trained in its use;
 - vi. Providing prisoners with an adequate supply of hand soap and hand sanitizer that is effective against the novel coronavirus that causes COVID-19 (“effective personal hygiene supplies”) and information concerning their effective use;
 - vii. Enhancing cleaning of common areas and any cells or other areas previously inhabited or occupied by anyone who tested positive for COVID-19. Enhanced cleaning must be more frequent, and carried out by persons who are paid, properly trained, and appropriately equipped with PPE and cleaning supplies that are effective against the novel coronavirus that causes COVID-19 (“effective cleaning supplies”);

- viii. Providing prisoners with effective cleaning supplies for use in common areas and their personal living areas, as well as training in the use of those supplies, in recognition that cleaning, particularly of shared surfaces, must be as continuous as possible;
 - ix. Ensuring that adequate staff and facilities are available to provide health care and treatment to all prisoners, including those who are or may be diagnosed with COVID-19, who may be particularly vulnerable to COVID-19, and/or who live with other health conditions;
- (b) A declaration that CSC's failure to take all reasonable steps to ensure a safe and healthful penitentiary environment, provide prisoners with essential health care in the context of COVID-19, and take each prisoner's health status and health care needs into consideration in all decisions affecting the prisoner breaches CSC's statutory duties pursuant to sections 70, 86 and 87 of the *CCRA*;
 - (c) A declaration that CSC's failure to take all reasonable steps to ensure a safe and healthful penitentiary environment, provide prisoners with essential health care in the context of COVID-19, and take each prisoner's health status and health care needs into consideration in all decisions affecting the prisoner violates the rights of prisoners as guaranteed by sections 7, 12 and 15 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*");
 - (d) A declaration that CSC's use of lockdowns and confinement of prisoners in conditions equivalent or tantamount to segregation for indefinite and prolonged periods of time in response to COVID-19 violates the rights of prisoners as guaranteed by sections 7, 9, 12 and 15 of the *Charter*;
 - (e) Should *mandamus* not issue, an order pursuant to section 24(1) of the *Charter* requiring CSC to take the steps set out in paragraph (a) above;
 - (f) An order pursuant to section 24(1) of the *Charter* that CSC implement regular audits of its penitentiaries and penitentiary environments by federal public health officials, and regular reviews of the conditions of confinement of all prisoners whose residual liberty

has been infringed in relation to COVID-19 by persons appointed to be independent external decision-makers pursuant to section 37.6(1) of the *CCRA*;

- (g) An order pursuant to section 24(1) of the *Charter* that the Court retain jurisdiction to hear reports from CSC concerning its progress in complying with the terms of any order issued by the Court, including in relation to audits and reviews;
- (h) Such injunctive or interlocutory relief as may be sought by the Applicants and this Honourable Court deem just;
- (i) Such further and other relief as counsel may advise and this Honourable Court permit.

THE GROUNDS FOR THIS APPLICATION ARE:

A. Overview and Applicants

1. The world is in the grip of a global pandemic, with the number of COVID-19 infections and deaths continuing to rise. In the absence of COVID-specific treatment or vaccine, stringent steps must be taken to reduce transmission and slow the spread of the disease. Physical distancing is vital to those efforts.
2. Physical distancing cannot be achieved in correctional facilities without reducing the inmate population. In recognition of this fact, public authorities in various jurisdictions around the world and across Canada have taken action to release prisoners as an essential part of the response to COVID-19.
3. Federal prisoners are disproportionately at risk both of contracting COVID-19 due to the nature of the penitentiary environment, and of suffering severe adverse outcomes including death, due to the prevalence among the federal inmate population of pre-existing vulnerabilities. There have already been outbreaks of COVID-19 at several CSC facilities, and two federal prisoners have died.
4. CSC has a statutory duty to take all reasonable steps to provide a safe and healthful environment for prisoners. In the context of COVID-19, this duty necessarily includes taking immediate and proactive measures to depopulate its institutions to the greatest extent possible

consistent with public safety. Unlike other correctional authorities around the world and across Canada, however, CSC has taken few if any steps to release prisoners from its institutions.

5. In addition, CSC is statutorily obligated to provide essential health care to prisoners in accordance with professionally accepted standards, and to take each prisoner's health status and health care needs into consideration in all decisions affecting the prisoner – including decisions relating to placement, transfer, and confinement in a structured intervention unit – and in the preparation of the prisoner for release and the prisoner's supervision.

6. CSC's failure to take steps to release prisoners, and its failure to implement additional measures to more fully safeguard the health of those who remain, constitutes a breach of its statutory duties and a breach of the rights guaranteed to all prisoners under sections 7, 12 and 15 of the *Charter*.

7. CSC's use of lockdowns and indefinite and prolonged confinement of prisoners in conditions equivalent or tantamount to segregation in response to COVID-19 constitutes a breach of its statutory duties and a breach of the rights guaranteed to all prisoners under sections 7, 9, 12 and 15 of the *Charter*.

8. The applicants the Canadian Civil Liberties Association, the Canadian Prison Law Association, the HIV & AIDS Legal Clinic Ontario, and the HIV Legal Network are a coalition of organizations whose mandates include protecting and promoting the constitutional and human rights of prisoners, including those living with underlying health conditions that render them particularly vulnerable to COVID-19. In response to the COVID-19 pandemic, all of these applicants have written and/or been signatories to letters to the Minister of Public Safety and the Commissioner of the CSC calling on them to take immediate action to protect the health of prisoners through depopulation and other measures.

9. These applicants have public interest standing to seek relief from this Honourable Court on behalf of federal prisoners because there are no reasonable alternative means available to bring the systemic issues engaged on this application before the Court.

10. The applicant Sean Johnston is serving a life sentence and is currently in custody at Warkworth Penitentiary. Mr. Johnston has diabetes, heart problems, asthma, sleep apnea, and

experiences blood clots. He also has PTSD. Mr. Johnston uses a nebulizer for his asthma, and a CPAP machine for sleep apnea. Because these devices cause droplets to linger in the air for longer periods or be dispersed over greater distances, respectively, he has been told by health care staff at Warkworth that they will likely be taken away from him if anyone in the institution tests positive for COVID-19. Mr. Johnston is very worried about this possibility. He does not want to increase the risk of other prisoners becoming infected, but he needs these devices to effectively manage his conditions.

11. The Parole Board of Canada previously granted Mr. Johnston Unescorted Temporary Absences (“UTAs”) to be followed by day parole on successful completion. Mr. Johnston’s UTAs and day parole were suspended, however, after an iPod was found in his cell. Mr. Johnston has a hearing before the Parole Board scheduled for May 25, 2020, to determine whether his day parole should be revoked. Mr. Johnston has been assessed as posing a low risk if released on parole, and has a release plan including a private residence at which he can safely stay. While he awaits his hearing, he remains gravely concerned about the possibility of contracting COVID-19, particularly given his underlying health conditions.

B. The Global COVID-19 Pandemic and the Physical Distancing Imperative

12. On March 11, 2020, the World Health Organization (“WHO”) declared the novel coronavirus that causes COVID-19 to be a global pandemic. As of May 11, 2020, more than 4.2 million people worldwide have been diagnosed with COVID-19, and more than 285,000 have died as a result of contracting the virus. In Canada alone, there have been almost 70,000 confirmed cases and just under 5000 deaths. Older adults, those with compromised immunity, and those with various underlying health conditions (heart disease, hypertension, lung disease, diabetes, and cancer) are particularly at risk.

13. According to Health Canada, the number of cases continues to rise and has not yet peaked. COVID-19 is a “serious health threat”, and given the increasing number of cases, the health risk to Canadians is “high”. Every province and territory across Canada has declared a state of emergency in response to COVID-19.

14. There is currently no specific treatment for COVID-19, and no vaccine that protects against the coronavirus that causes it. Effectively combatting COVID-19 therefore depends on

measures that reduce transmission rates and slow the spread of the disease. These measures are essential to protecting individuals' health, and in particular the health of the elderly and those with underlying health conditions. They are also essential to ensuring that the health care system maintains sufficient resources and capacity to provide acute care to those who need it.

15. The virus that causes COVID-19 is spread primarily from person to person through small droplets from the nose or mouth, which are expelled when a person who is infected with the virus (even if asymptomatic or presymptomatic) coughs, sneezes, or speaks. Physical distancing – that is, maintaining at least two metres between individuals – is therefore the most effective means of reducing the spread of COVID-19.

16. Where physical distancing is not possible, the use of PPE such as masks and gloves can help reduce the risk of transmission. Proper hand hygiene practices – frequent and thorough washing with soap or the use of an alcohol-based sanitizer – and continuous disinfecting of shared surfaces can also aid in reducing the risk of infection from droplets that land on or are transferred to objects and surfaces.

17. The use of PPE, hand hygiene, and disinfecting of shared surfaces are, however, secondary interventions. From both a population and an individual health perspective, there is no substitute for appropriate physical distancing.

18. Physical distancing has been and remains the cornerstone of public health efforts to mitigate the impact of COVID-19. Public health authorities across the county have issued a variety of unprecedented orders to implement and enforce physical distancing measures, including cancelling schools, prohibiting gatherings of more than a small number of individuals, and closing all non-essential businesses. In many areas, the retail businesses that have been permitted to remain open to the public, such as grocery stores and pharmacies, have been required to establish physical distancing measures. Throughout the country, people have been asked to stay home as much as possible, and when outside of their home to avoid contact with or proximity to anyone who is not a member of their own household.

19. Although the number of cases continues to grow, stringent and prolonged physical distancing measures appear to have been successful in “flattening the curve” of COVID-19

infections in the general community. Significant and devastating outbreaks in various congregate living environments have, however, continued.

C. Depopulation is Essential to Mitigating the Risk of COVID-19 in Correctional Facilities

20. The risks associated with COVID-19 are substantially heightened in correctional facilities.

21. Like long-term care facilities and homeless shelters, correctional facilities are congregate living environments. Experience has tragically demonstrated how quickly COVID-19 outbreaks occur, and how difficult they are to contain, within such environments. This is particularly true of congregate living environments with a high concentration of individuals; close quarters; shared facilities for food preparation, eating, toileting and hygiene, recreation and telecommunications; and/or staff who move between living quarters and may unwittingly act as vectors of infection.

22. The effectiveness of secondary interventions, such as the use of PPE and enhanced hand hygiene and cleaning measures, may be overwhelmed when an outbreak takes hold within a high-density congregate environment. In other words, as the viral load in a given environment increases in the air, on surfaces, and in the proportion of individuals infected, secondary interventions that were previously sufficient to control the spread of disease will no longer be effective.

23. Physical distancing is thus essential to reduce both the risk and the extent of COVID-19 outbreaks in correctional facilities. Physical distancing cannot be achieved in correctional facilities, however, without reducing the inmate population.

24. The importance and urgency of prison depopulation are widely recognized. Through an Inter-Agency Standing Committee, the WHO and the Office of the United Nations High Commissioner for Human Rights have issued an interim guidance document calling for a number of preventative measures to protect persons deprived of their liberty from the spread of COVID-19. One of their primary recommendations is that public authorities take immediate measures to

reduce the population in prisons, with priority given to individuals with underlying health conditions, low risk profiles, or imminent release dates.

25. Various jurisdictions in over 40 countries around the world have reported depopulating correctional facilities by releasing individuals in response to COVID-19. Within Canada, provincial correctional authorities in British Columbia, Alberta, Manitoba, Ontario, Nova Scotia, Prince Edward Island and Newfoundland have also taken proactive steps to release prisoners following the onset of the pandemic. In Ontario, for example, the Ministry of the Solicitor General has issued Temporary Access Passes to all intermittent prisoners, and proactively performed temporary absence reviews for prisoners with less than 30 days remaining on their sentences. Through these and other measures, Ontario reduced the number of prisoners across the province by nearly 30 percent between March 12, 2020 and April 15, 2020.

D. Addressing the Risk of COVID-19 Within CSC Facilities

26. COVID-19 poses an especially serious risk for federal prisoners not only because of the nature of the penitentiary environment but also the prevalence of pre-existing vulnerabilities among the federal prison population.

27. In general, the health status of prisoners is comparable to that of persons 10-15 years their senior who are not imprisoned. In other words, 50 years of age for prisoners roughly corresponds to 65 years of age for persons outside of prisons. Currently, 25 percent of federal prisoners are over the age of 50. There is also a higher prevalence of cardiovascular disease, asthma and other respiratory diseases, diabetes, HIV and hepatitis C virus infection among people in prison than among the population as a whole. Federal prisoners are thus at a higher risk both of contracting COVID-19, and of experiencing more severe outcomes, including death, as a result of infection.

28. There have already been significant outbreaks of COVID-19 at CSC institutions in Quebec (Federal Training Centre Multilevel and Joliette Institution) and British Columbia (Mission Medium Institution), and an additional eight cases at the Grand Valley Institution for Women in Ontario. Tragically, two federal prisoners have died as a result of these outbreaks. As of May 6, 2020, a total of 582 federal prisoners had tested positive for COVID-19, and there

were 130 active and 159 recovered cases across CSC institutions. The rate of infection within CSC institutions is significantly higher than in the population at large.

29. CSC's response to COVID-19 has included suspending all visits and all temporary absences other than as medically necessary. CSC has also implemented screening measures, although the utility of such measures is questionable given that COVID-19 can be spread by persons who are asymptomatic or presymptomatic. In addition, CSC has taken some steps to increase cleaning and the availability of cleaning supplies, and to provide staff and inmates with PPE. Many inmates still do not, however, have access to effective hand hygiene and cleaning supplies or PPE.

30. Physical distancing measures have been grossly inadequate. Inmates in some institutions remain double-bunked and therefore cannot achieve physical distancing even within their own cells. Others who may be able to physically distance while in their own cells or rooms cannot maintain physical distancing throughout the institution.

31. As a result of COVID-19, and in the absence of effective physical distancing measures and comprehensive and effective secondary interventions, some CSC institutions are reportedly on lockdown, with prisoners confined to their cells in conditions equivalent or tantamount to segregation. These conditions are indefinite, and given the current state of evidence with respect to COVID-19 can reasonably be expected to be quite prolonged unless alternative measures are implemented.

32. Notably, and in contrast to provincial correctional authorities across Canada and public authorities in numerous countries and jurisdictions around the world, CSC has not taken meaningful steps to depopulate its institutions.

33. Weekly population trends derived from CSC's own data show a decline of only 2.4 percent in the total population of federal inmates from its peak on March 1, 2020 to April 26, 2020. This limited decline in total population appears to have resulted from a significant drop in warrant of committal admissions and a smaller drop in revocations. Although day paroles increased over the two weeks ending on April 26, 2020, these increases were within CSC's normal range of fluctuations in the number of day paroles, and there was no increase in overall

releases. In other words, while there has been a decrease in the number of prisoners admitted to CSC institutions, the rate of release from federal penitentiaries has not accelerated or increased since the start of the COVID-19 pandemic.

E. CSC has Failed to Meet Its Statutory Duties in Relation to COVID-19

34. CSC has a public law duty to provide a safe and healthful environment for prisoners within its penitentiaries. Section 70 of the *CCRA* provides that CSC “shall take all reasonable steps to ensure that penitentiaries, the penitentiary environment, the living and working conditions of inmates and the working conditions of staff members are safe, healthful and free of practices that undermine a person’s sense of personal dignity.”

35. Within the context of the COVID-19 pandemic, CSC’s duty to take “all reasonable steps” to ensure that penitentiaries are safe and healthful necessarily and at a minimum includes the requirement to take immediate, proactive and systematic measures to reduce inmate populations to the greatest extent possible consistent with public safety.

36. That requirement is underscored by other provisions of the *CCRA*. The purpose of the federal correctional system, as set out in section 3 of the *CCRA*, is to contribute to the maintenance of a just, peaceful and safe society by, *inter alia*, carrying out sentences imposed by courts through the safe and humane custody and supervision of prisoners. Section 4 of the *CCRA* sets out a number of principles that guide CSC in achieving that purpose, including that the sentence is carried out having regard to all relevant available information; that CSC uses the least restrictive measures consistent with the protection of society, staff members and prisoners; and that CSC considers alternatives to custody in a penitentiary.

37. The *CCRA* provides for numerous alternatives to penitentiary custody, including:

- i. Unescorted temporary absences, which may be authorized for an unlimited period for medical reasons (sections 116); and
- ii. Parole by exception, which may be granted at any time to any prisoner not serving a life or indeterminate sentence, whose physical or mental health is likely to suffer serious damage if he or she continues to be held in confinement, or for whom continued confinement would constitute an excessive hardship that was not reasonably foreseeable at the time the offender was sentenced, among other grounds (section 121).

38. In addition, CSC has a public law duty pursuant to section 86 of the *CCRA* to provide prisoners with essential health care that conforms to professionally accepted standards.

39. As noted above, there is currently no COVID-specific treatment, and no vaccine to protect against the novel coronavirus that causes the disease. In relation to COVID-19, therefore, essential health care that conforms to professionally accepted standards necessarily includes – indeed, is largely limited to – measures that prevent its transmission.

40. Chief among those measures is physical distancing through depopulation. Depopulation safeguards and promotes the health not only of those prisoners who are released but also, and crucially, the health of those who for whatever reason must remain in CSC institutions – including those who are more vulnerable to COVID-19 due to personal characteristics or health status. Moreover, in addition to reducing the risk of infection for all prisoners who remain, depopulation helps to ensure that their access to essential health care for other conditions is not restricted or impaired as a result of COVID-19 outbreaks.

41. Section 87 of the *CCRA* requires that CSC take into consideration a prisoner's state of health and health care needs in (a) all decisions affecting the prisoner, including decisions relating to placement, transfer and confinement in a structured intervention unit, and (b) the preparation of the prisoner for release and the supervision of the prisoner. This duty applies to individual decisions concerning a prisoner's eligibility for release and conditions of confinement within the institution, as well as institutional decisions concerning the availability of various mechanisms of release and conditions of confinement more generally.

42. The failure of CSC to take prompt and proactive steps to systematically depopulate its institutions in response to COVID-19 constitutes a breach of its duties under sections 70, 86, and 87 of the *CCRA*.

43. The failure of CSC to take additional measures to protect inmate health and safety – including the provision of adequate PPE, effective cleaning and hand hygiene supplies – constitutes a further breach of its duties pursuant to sections 70 and 86 of the *CCRA* as well as section 83 of the Corrections and Conditional Release Act Regulations, which provides that CSC

shall “take all reasonable steps to ensure the safety of every inmate and that every inmate is ... provided with toilet articles and all other articles necessary for personal health and cleanliness”.

44. CSC’s use of lockdowns and confinement of prisoners in conditions equivalent or tantamount to segregation for indefinite and prolonged periods additionally breaches its duties under sections 70 and 87 of the *CCRA*.

45. The imposition of such conditions is incompatible with CSC’s obligation to provide a safe and healthful environment, particularly though not solely where it results from CSC’s failure to depopulate and to implement comprehensive and effective secondary interventions to prevent transmission. The indiscriminate imposition of such conditions is equally incompatible with CSC’s obligation take into consideration each prisoner’s health status and health care needs in all decisions affecting that prisoner.

46. The indefinite and/or prolonged imposition of lockdown conditions also violates section 69 of the *CCRA*, which provides that no person shall administer, instigate, consent to or acquiesce in any cruel, inhumane or degrading treatment or punishment of a prisoner.

E. CSC’s Failure to Fulfill its Statutory Duties Unjustifiably Breaches Prisoners’ Charter Rights

47. By failing to take proactive steps to depopulate its institutions, and by failing to implement effective secondary interventions to further limit the spread of COVID-19, CSC has breached prisoners’ rights under sections 7, 12, and 15 of the *Charter*.

48. CSC’s failure to fulfill its statutory obligations significantly increases the risk to prisoners’ security of the person and indeed their lives. The violation of these rights is not in accordance with the principles of fundamental justice as avoidable exposure to and the potential consequences of contracting COVID-19 would be both arbitrary and grossly disproportionate to the principles and purposes of custodial sentences.

49. Avoidable exposure to and the potential consequences of contracting COVID-19 also constitute cruel and unusual treatment or punishment, contrary to section 12 of the *Charter*. Further, sentences imposed by courts were not crafted in anticipation of the risks to health

associated with a global pandemic in correctional institutions, or the resultant, indefinite and prolonged cancellation of programming, visits, recreation, and spiritual, religious and cultural supports and services, and suspension of access to measures such as day parole and unescorted temporary absences where otherwise appropriate. The sentences currently being served by federally sentenced prisoners are accordingly significantly harsher than were intended by the courts and grossly disproportionate to the offences for which they were imposed.

50. The implementation of lockdowns and the confinement of prisoners in conditions amounting to segregation for prolonged and indefinite periods constitutes a further breach of prisoners' *Charter* rights, including the right not to be arbitrarily detained as guaranteed by section 9 of the *Charter* in addition to the rights guaranteed in sections 7 and 12.

51. CSC's failure to fulfill its statutory duties has a disproportionately adverse effect on prisoners who are pregnant, elderly, and/or experience physical or mental health disabilities, contrary to section 15 of the *Charter*.

52. These breaches cannot be demonstrably justified in a free and democratic society, particularly in light of the efforts taken by other Canadian authorities to facilitate the release of prisoners during this pandemic.

THE APPLICANTS RELY UPON:

- (a) *Corrections and Conditional Release Act*, SC 1992, c 20, sections 3, 4, 5, 69, 70, 85, 86, and 87;
- (b) *Corrections and Conditional Release Regulations*, SOR/92-620, section 83;
- (c) *Canadian Charter of Rights and Freedoms*, sections 7, 9, 12, 15, and 24(1);
- (d) *Federal Courts Act*, RS 1985, c F-7, sections 18(1) and 18.1.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- (a) An affidavit from each of applicants or its representative, to be sworn;

(b) Such further and other evidence as counsel may advise and this Honourable Court permit.

Dated at Toronto this 12th day of May, 2020.



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FEDERAL COURT

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