ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

BETWEEN:

GUELPH AND AREA RIGHT TO LIFE

Applicant

- and –

THE CITY OF GUELPH

Respondent

- and –

ASSOCIATION FOR REFORMED POLITICAL ACTION (ARPA) CANADA, ABORTION RIGHTS COALITION OF CANADA, and CHRISTIAN HERITAGE PARTY

Interveners

APPLICATION UNDER Section 2(b) of the *Canadian Charter of Rights and Freedoms*, *the Judicial Procedure Act*, and Rules 14.05, 38 and 68 of the *Rules of Civil Procedure*

FACTUM OF THE INTERVENER

THE ASSOCIATION FOR REFORMED POLITICAL ACTION (ARPA) CANADA

May 17, 2021

The Association for Reformed Political Action (ARPA) Canada
130 Albert St, Suite 1705
Ottawa, Ontario K1P 5G4
Tabitha Ewert

CONTENTS

PART I – OVERVIEW

1) The City of Guelph was tasked with assessing abortion related advertisements in light of their statutory objective and *Charter* values. Rather than engaging in their own analysis, the City of Guelph's reconsideration was solely prompted and substantially guided by a private body, Advertising Standards Canada. This is an abdication of the City of Guelph's responsibility as an administrative decision maker. Advertising Standards Canada not only has no obligation or competence to apply the *Charter* to advertisements on city property, they also are ill-equipped to provide guidance on abortion-related advertisements.

2) Canadians are engaged in a conversation about abortion. This includes a public discussion on the profound issues of when life begins and what the nature of human rights are. There are passionate activists on each side of the debate. The City of Guelph has a responsibility to ensure that the City's actions and decisions do not unduly silence one side of the conversation. By substantially relying on Advertising Standards Canada, the City of Guelph failed to adequately respect the *Charter* guarantee of freedom of expression.

PART II – FACTS

3) The City of Guelph (the "City") removed three bus advertisements on the topic of abortion paid for by Guelph and Area Right to Life ("GRTL").[1] The City made their decision to remove the ads after Advertising Standards Canada ("Ad Standards") issued opinions that these advertisements violated Ad Standards' self-created Canadian Code of Advertising. Ad Standards is a private body that offers their opinions as advice to advertisers and the public regarding the content of advertisements.

[1] Advertisements can be seen at Caruso 1st Affidavit at Exhibit A.

PART III - ARGUMENT

I. *Doré* Requires the Decision Maker to Apply the *Charter* to the Specific Facts

4) ARPA Canada takes no position on whether the standard of review in this case is correctness or reasonableness. Even if the standard is reasonableness, the substantial reliance of the City on Ad Standards, a private body without expertise in interpreting and applying the *Charter,* renders the City's decision an unjustified impingement on GRTL's freedom of expression.

5) In *Doré v. Barreau du Québec*, the Supreme Court of Canada established a modified *Oakes* test to review an administrative decision.[2] The Supreme Court emphasized that this *Doré* review "allows the *Charter* to 'nurture' administrative law, by emphasizing that *Charter* values infuse the inquiry."[3] This is done by ensuring that a decision maker's "discretion is exercised in light of constitutional guarantees and the values they reflect".[4]

6) The Supreme Court recognized administrative decision makers as having expertise not just in their specific field, but also in applying the *Charter* to specific facts. *Doré* notes "the distinct advantage that administrative bodies have in applying the *Charter* to a specific set of facts and in the context of their enabling legislation."[5] The Supreme Court elaborated on this in *Trinity Western,* saying an administrative decision maker "brings expertise to the balancing of a *Charter* protection with the statutory objectives at stake. Consequently, the decision maker is generally in the best position to weigh the *Charter* protections with his or her statutory mandate in light of the specific facts of the case."[6] Ad Standards, on the other hand, has no enabling

---

[2] *Doré v. Barreau du Québec*, 2012 SCC 12 at para 5 ("*Doré*"). The Supreme Court later affirmed that *Doré* "works the same justificatory muscles" as *Oakes* in *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12 at para 40.
[3] *Ibid*, *Doré,* at para 29.
[4] *Ibid*, *Doré,* at para 35.
[5] *Ibid*, *Doré,* at para 48 [emphasis added].
[6] *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32 para 79 [emphasis added].

statute, no statutory mandate or objectives, is not a public body, has no expertise in applying the *Charter*, and does not apply the *Charter* to specific facts. Ad Standards is a wholly unreliable and inappropriate reference for conducting a *Charter* analysis. The proportionate balancing required under *Doré*[7] needs to include the decision maker themselves applying *Charter* values to the facts at hand, not substantially relying on a private body to appreciate the *Charter* values at issue, as happened in this case.

II. The City's Decisions Substantially Relied on Ad Standards

7) The City initially accepted the GRTL advertisements in question but subsequently reconsidered the advertisements solely because of Ad Standards' opinions. ARPA Canada takes no position on whether or not this amounts to the City fettering their discretion but submits that substantially relying on a private organization in a matter that requires careful balancing of *Charter* values neither meets the correctness nor the reasonableness standard required of a decision maker.

A. The City Only Deals with Complaints After They Are Mediated by Ad Standards

8) In their communication with a member of the local public, the City refused to consider the complaint and instead required an opinion from Ad Standards.[8] The City even goes so far as to suggest that their making a decision without the approval of Ad Standards would violate the *Charter*, saying "Refusing to post advertisements that may be considered controversial but that do not contravene the Canadian Code of Advertising Standards could be seen as limiting freedom of expression under the Charter of Rights and Freedoms."[9] That is, the City sees itself

[7] *Doré*, *Supra* note 2, at para 58.
[8] Sprigg Affidavit at para 15.
[9] Sprigg Affidavit at Exhibit 11.

as incapable of evaluating the *Charter* interests at stake without the approval of this private body despite that being their obligation as a decision maker.

9) In this case the Court does not have information regarding what complaints Ad Standards based their opinions on. Complaints may have been instigated by members of the local public, from organized activists, or from Canadians in a different province. Importantly, the City cannot know that information because of their total reliance on Ad Standards to mediate complaints. This means when the City suggests that the complaints may be from members of the local public who feel attacked by the advertisements,[10] they in fact do not know anything about the complainants or the reason for the complaints.[11]

10) In a similar abortion bus advertisement case in Lethbridge, the Alberta Court of Queen's Bench did have the complaints in evidence and the Court expressed concern as to the source of complaints:

> In this instance, some of the language in the complaints is very similar. The similar or duplicate complaints that are found in the Certified Record could be a result of the same individual complaining or they could arise from a pro-choice organization's posted offer to provide a message of complaint for those interested in complaining.[12]

11) In their role applying the *Charter* to advertisements, it is incumbent on the City to ensure that the process is not one-sided due to organized activist pressure. The fact that the City does not even accept the complaints directly but will only consider complaints that have made their way through Ad Standards' process demonstrates an undue reliance on a private body.

---

[10] Sprigg Affidavit at para 12.
[11] GRTL received the complaints from Ad Standards see Caruso 1st Affidavit at Exhibit D and Caruso 2nd Affidavit at Exhibit E, but "[T]he City is not a participant in that [Ad Standards complaint] process." Sprigg Affidavit at para 18.
[12] *Lethbridge and District Pro-Life Association v Lethbridge (City)*, 2020 ABQB 654 at para 166 ("*Lethbridge*").

B. <u>The Reconsideration of the Advertisements was Solely Due to Ad Standards' Opinions</u>

12) The three advertisements in question were all initially accepted by the City with a positive declaration of their suitability: "after having approved the revised ads, the City indicated to StreetSeen that the ads were acceptable."[13] The City's initial consideration of the ads, in light of their own policy as well as in light of their *Charter* obligations, was appropriate.

13) The City did not reconsider the ads because of a complaint by a member of the public.[14] Rather, it was not until the City received the opinions of Ad Standards that the City engaged in a reconsideration of the ads. The Respondent in this case argues that their own policy "oblige[s] the City staff to reconsider the acceptability of an advertisement following any decision issued by Ad Standards."[15] The opinions of Ad Standards were the sole reason the City reconsidered the advertisements.

C. <u>The Reconsideration of the Advertisements was Substantially Influenced by Ad Standards' Opinions</u>

14) The City may assert that they engaged in a proper weighing of the *Charter* values, but from the evidence before this Court the decision was substantially or wholly guided by Ad Standards' reasoning. The City's own policy is to give an Ad Standards' opinion "substantial consideration."[16] In this instance, their decisions relied solely on Ad Standards' reasoning with no original consideration and – most notably – no specific consideration of the *Charter* values at issue. [17] The question of whether this is fettering of discretion aside, the City's substantial

[13] Sprigg Affidavit at para 22.
[14] Sprigg Affidavit at para 23.
[15] Factum of the Respondent at para 7.
[16] Sprigg Affidavit at para 17.
[17] "I considered the AdStandards reasons in this case to be persuasive…The AdStandards reasons persuaded me that this standard was not met." Sprigg Affidavit at para 26 for

reliance on Ad Standards' opinions in a decision which the City concedes impinges on the freedom of expression of GRTL is constitutionally unacceptable.

III. Ad Standards is Unqualified to Weight the *Charter* Values in this Case

A. Ad Standards is a Private Body

15) Given the substantial reliance on Ad Standards as outlined above, this Court should consider what Ad Standards is, its objectives, and its limitations in this and similar cases. Ad Standards may refer to themselves as "self-regulatory,"[18] but that does not lend them legal credibility. They have no enabling statute, they have no legal authority, and they are not subject to *Charter* scrutiny. Though they use pseudo-legal language in their communications, there is no reason to give Ad Standards legal credibility in applying the *Charter.* Their Code is self-created, is not subject to constitutional scrutiny, and is liable to change.[19]

16) Ad Standards is a private, advisory group. Any use the City makes of them should be limited to that capacity, understanding their limitations. The City argues that "an analysis which is grounded in that industry standard, and which considers Ad Standards' expert guidance on its interpretation, is strongly indicative of the fact that the municipality has engaged in proper balancing."[20] However, what substantially relying on Ad Standards lacks is a consideration of the *Charter* values at stake. Ad Standards has no obligation to consider the *Charter,* does not have the *Charter* as one of their guiding values, and has no expertise applying the *Charter*.[21]

---

advertisement 1. "I agree with AdStandards…I concur with AdStandards." Sprigg Affidavit at para 38 for advertisements 2 & 3. The Ad Standards opinion was also the sole reason given to the supplier, at Sprigg Affidavit at Exhibit 13.

[18] Sprigg Affidavit at Exhibit 6.

[19] Ad Standards admits to regularly changing their code saying, "It is reviewed and revised periodically to keep it contemporary." Sprigg Affidavit at Exhibit 5.

[20] Factum of the Respondent at para 51.

[21] *Lethbridge*, *supra* note 12, at para 183.

There is nothing in the record to suggest that Ad Standards considered freedom of expression case law, that they understood the nuanced differences between expression found at the core of section 2(b) versus expression at the periphery of section 2(b), or that they even considered the *Charter* when issuing their opinions. The Alberta Court of Queen's Bench clarifies Ad Standards' limited value:

> I accept the City's contention that whether or not the proposed advertising complies with the Code is a relevant consideration under the *Doré/Loyola* analytic framework. However, I would underscore the fact that this is one factor only. A decision-maker in circumstances such as those presented to the City in this instance cannot simply defer to an ASC opinion or Code non-compliance in conducting a *Doré/Loyola* proportionality analysis.[22]

17) In this case, which involves the freedom of expressing opinions on a public policy issue like abortion, Ad Standards is incapable as a private body of weighing the *Charter* values at play.

B. ***Ad Standards is Unqualified to Appreciate the Charter Guarantee of Freedom of Expression***

i. Speech at the Core of Freedom of Expression

18) It is well established that certain expression is at the core of section 2(b)'s guarantee of freedom of expression whereas other types of expression are at the periphery. Political speech, speech in pursuit of truth in areas such as "philosophy, history, the social sciences, the natural sciences, medicine and all other branches of human knowledge", and expression as "an instrument of personal fulfillment"[23] are all at the core of freedom of expression.

---

[22] *Lethbridge*, *supra* note 12 at para 179 [emphasis added].
[23] Peter W. Hogg, *Constitutional Law of Canada*, 5th ed (Toronto: Thomson Reuters Canada, 2007) (loose-leaf updated 2019, release 1) vol 2 at 43.4 (ARPA Interveners' BOA, **TAB 1**).

19) Commercial expression has consistently been distinguished from these core types of expression.[24] The Supreme Court of Canada noted this difference explaining its relevance: "the s. 1 analysis permits the courts to have regard to special features of the expression in question."[25] Ad Standards may be an industry standard, but that's an industry of private, commercial advertisements.

20) The advertisements in the case at bar are comments on a political and social issue – expression at the core of section 2(b). They are advertisements aimed at pursuing the truth regarding basic human rights, encouraging the observer to consider questions that probe the deeper issues about what we value as a society.

21) Ad Standards may be appropriate for assessing whether commercial advertisements are misleading, but the advertisements at issue in this case are not alleging industry facts that can be proved true or false. These statements of opinion or questions regarding the fetus in the womb are far more profound than general commercial advertising and is speech worth protecting in order to preserve our collective pursuit of truth.

ii. *The Place of the Expression is an Important Consideration*

22) Freedom of expression jurisprudence is not merely concerned with the right of an individual to express themselves, but to freely express in a way that is heard by others. The Supreme Court of Canada put it most succinctly in *Mounted Police* that "Freedom of expression protects

[24] "Commercial expression is protected expression, although potentially subject to easier section 1 justification in respects of limits." Guy Régimbald & Dwight Newman, *The Law of the Canadian Constitution,* 2nd ed (Toronto: LexisNexis Canada, 2017) at para 22.62 ("*The Law of the Canadian Constitution*") (ARPA Interveners' BOA, **TAB 4**). See also *Rocket v. Royal College of Dental Surgeons of Ontario*, [1990] 2 SCR 232.

[25] *Ibid, Rocket*, [emphasis added].

both listeners and speakers."[26] In *Irwin Toy* the Supreme Court gave a fuller explanation that "the diversity in forms of individual self-fulfillment and human flourishing ought to be cultivated in an essentially tolerant, indeed welcoming, environment not only for the sake of those who convey a meaning, but also for the sake of those to whom it is conveyed."[27]

23) This is not to suggest that the applicants are owed bus advertisements, but that the City ought to consider the value and right of all to express diverse viewpoints in a manner that reaches the general public. Academics Guy Régimbald and Dwight Newman explain it this way:

> The right to freedom of expression does not generally ground positive rights claims or claims of access to particular places or platforms. However, there is, to some degree, a right to express oneself in public forums. This is partly based in the importance of low-cost means of disadvantaged groups being able to express themselves. The question is whether the place in question is the appropriate type of public property to make expression in that place consistent with the purposes of section 2(b), taking account of the historical or actual function of the place…[28]

24) The right to express viewpoints, including (perhaps especially) those held by the minority, and the right to have that expression reach its intended audience is a part of the *Charter* guarantees especially in manners that are at the core of freedom of expression.[29] The Supreme Court applies this specifically to buses:

> [A]n important aspect of a bus is that it is by nature a public, not a private, space. Unlike the activities which occur in certain government buildings or offices, those which occur on a public bus do not require privacy and limited access. The bus is operated on city streets and forms an integral part of the public transportation system. The general public using the streets, including people who could become bus passengers, are therefore exposed to a message placed on the side of a bus in the

---

[26] *Mounted Police Association of Ontario v. Canada (Attorney General)*, 2015 SCC 1 at para 64, citing *R v. National Post*, 2010 SCC 16, at para. 28: "It is well established that freedom of expression protects readers and listeners as well as writers and speakers."

[27] *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 SCR 927.

[28] *The Law of the Canadian Constitution*, *supra* note 24, at para 22.64 (ARPA Interveners' BOA, **TAB 4**).

[29] *Montréal (City) v. 2952-1366 Québec Inc.*, 2005 SCC 62 at para 74.

> same way as to a message on a utility pole or in any public space in the city. Like a city street, a city bus is a public place where individuals can openly interact with each other and their surroundings. Thus, rather than undermining the purposes of s. 2(b), expression on the sides of buses could enhance them by furthering democratic discourse, and perhaps even truth finding and self-fulfillment.[30]

25) Ad Standards is accustomed to private, commercial advertisements and the accompanying consideration with regards to privately-owned locations. The side of a public bus is a different forum altogether, one in which Ad Standards has no authority, nor the expertise to consider.

C. Ad Standards is Particularly Unqualified to Understand Abortion-Related Advertisements

26) The City suggests that their own "Policy adopts a neutral industry standard that does not curtail speech by its subject matter."[31] As argued above, this misses the point that an industry standard does not include consideration of the *Charter*. But there are also other reasons why Ad Standards is ill-equipped to provide guidance on the issue of abortion. This case is not about abortion, but some comments on the legal status of abortion and its legal history may be helpful to understand the limited value that Ad Standards' opinions have for administrative decision makers.

27) The 1988 *Morgentaler* case is comprised of four separate reasons authored by seven different justices. Going into all the details of those decisions is unnecessary, but a couple points are relevant. First, the Supreme Court was dealing with discrete points of criminal and constitutional law with regards to a detailed regulatory scheme passed less than two decades

[30] *Greater Vancouver Transportation Authority v. Canadian Federation of Students — British Columbia Component*, 2009 SCC 31 at para 43 [emphasis added].
[31] Factum of the Respondent at para 55. Sprigg Affidavit at para 9 details the industry qualifications of Ad Standards but there is no mention of the *Charter*.

prior.[32] The Court was deliberate in not going beyond an examination of that specific scheme with Chief Justice Dickson saying, "the task of the Court in this case is not to solve nor seek to solve what might be called the abortion issue, but simply to measure the content of [the abortion provisions] against the *Charter*."[33] The Supreme Court did not make pronouncements about abortion generally, but remained focused on the details of the regulatory scheme.

28) Second, the majority of the Supreme Court struck down the previous abortion law, but they did not do so in a manner that was intended to be the final word on that subject. For example, Justice Wilson, the sole female justice, anticipated Parliament passing subsequent restrictions on abortion, writing:

> The precise point in the development of the foetus at which the state's interest in its protection becomes 'compelling' should be left to the informed judgment of the legislature which is in a position to receive submissions on the subject from all the relevant disciplines.[34]

29) Current Supreme Court Justice Sheilah Martin – prior to her appointment in 2018 – affirmed this fact, writing that, "the Supreme Court [in *Morgentaler*]…left the door open for new criminal abortion legislation when it found that the state has a legitimate interest in protecting the fetus."[35]

30) While there has been no legal abortion restrictions since 1988, issues relating to fetal rights have been litigated. For example, *Winnipeg Child and Family Services (Northwest Area) v. G. (D.F.)* deals with the "born alive rule" in relation to a proposed child protection order. Tort, property, criminal and other areas of law distinguish between the pre- and post-birth child.

---

[32] *R. v. Morgentaler*, [1988] 1 SCR 30.
[33] *Ibid, Morgentaler*, at p 46 (quoting Justice McIntyre).
[34] *Ibid, Morgentaler*, at p 38.
[35] Sheilah L. Martin, QC, "Abortion Litigation" in Radha Jhappan, ed, *Women's Legal Strategies in Canada* (Toronto: University of Toronto Press, 2002) 335 at p 340 (ARPA Interveners' BOA, **TAB 2**).

This means that the fetus has certain legal rights that are not fully realized until after birth. The dissent in *Winnipeg Child and Family Services* criticized the born alive rule suggesting the ambiguity with regards to the pre-born child was outdated in light of scientific knowledge about fetal development.[36] The majority did not disagree with this criticism but reasoned that discarding the born alive rule had major policy ramifications and was thus best left to legislatures.[37] This case did nothing to impact the legal status of abortion or determine the legal status of the fetus. Rather, like in the *Morgentaler* case, the Supreme Court looked to Parliament to resolve these questions.

31) ARPA Canada outlines this legal history to emphasize that, far from being a settled issue, abortion remains an open issue with no final pronouncement from either the Supreme Court or Parliament. It is routinely a subject of conversation during federal election campaigns and this year Parliament debated Bill C-233, the Sex Selective Abortion Act. Opinion polls show that Canadians have mixed views on the topic and there are many Canadians who donate to non-profits or charities on either side of this issue, ensuring that this conversation continues.

32) The ongoing debate, this pursuit of truth, about the issue of abortion involves all Canadians. It does not divide along gender lines. There are female abortion advocates and female pro-life advocates. This includes post-abortive women who are abortion advocates and post-abortive women who are pro-life advocates. Many women on both sides of this issue want to see this debate continue.

---

[36] *Winnipeg Child and Family Services (Northwest Area) v. G. (D.F.),* [1997] 3 SCR 925 at para 102: "The [born alive] rule is a legal anachronism based on rudimentary medical knowledge and should no longer be followed, at least for the purposes of this appeal."

[37] *Ibid, Winnipeg Child and Family Services,* at para 47.

33) To suggest that, because abortion more directly impacts women than men, this debate needs to be silenced or more strictly moderated suggests a paternalistic and even sexist approach toward women. There is no reason to suggest that women are incapable of handling conversations on a topic that is personal to them. As laid out above, the guarantee in section 2(b) protects not only the expression of opinions, but also the rights of the listener. That includes the right of all genders to hear diverse opinions, whether agreed with or not, whether contentious or not. Having the conversation in public on political and social issues means we can give voice to personal experiences, offer viewpoints that may challenge preconceived notions, and strive to come together as a society and pursue just policies.

34) Again, this case is not about abortion. This court is not being asked to rule on "the abortion issue." However, what this court should understand is that there is a robust ongoing conversation in this country regarding abortion. Abortion is legal, "a woman may have an abortion at any time, for any reason"[38] and it is generally funded through provincial health care administration. There is no reason that Canadians should not be allowed to discuss this issue: whether from a philosophical, moral, medical ethics, political or legal angle.

35) This was affirmed by the Alberta Court of Appeal in a case also discussing pro-life bus advertisements:

> Access to and the legal status of abortions raise contentious moral, social and legal issues. Some passionately and sincerely support the 'Right to Life', and others are the equally passionate and sincere supporters of the 'Right to Choose'. Whatever one's views may be on the subject, access to abortion remains an open topic of public debate. Given the complexity and

[38] Erin Nelson, "Regulating Reproduction" in Jocelyn Downie, Timothy Caulfield, and Colleen M. Flood, *Canadian Health Law and Policy*, 4th ed (Markham, ON: LexisNexis Canada, 2011) 295 at 298 (ARPA Interveners' BOA, **TAB 3**).

> importance of the issue, it is to be expected that the debate will at times be passionate.[39]

i. *Well-Organized Abortion Activists May Unduly Influence Ad Standards*

36) Canadians are passionate about a host of political and social issues. On issues like environment, racial justice, or abortion, Canada has many organizations trying to advocate for ideas by sparking conversations. The Alberta Court of Queen's Bench noted that, in the case of abortion, "[p]roponents for the pro-choice and pro-life groups are both experienced and well-organized groups focused on advancing their respective points of view."[40]

37) Ad Standards does not review advertisements unless there has been a complaint. There is nothing to suggest they evaluate whether that complaint was instigated by activists or not. There is no evidence that Ad Standards is a reliable source for balancing the activists on each side of this debate, and it is not their role to do so. It is up to the City to ensure that it does not silence the expression of one side of this debate by allowing the hijacking of a complaint process. As it stands, the City does not even accept complaints, but only receives information filtered by Ad Standards and any reconsideration by the City is substantially influenced by Ad Standards' opinions. Such opinions are insufficient to give full consideration of the *Charter* guarantee of freedom of expression on this issue.

IV. The City Failed to Respect Freedom of Expression by Substantially Relying on Ad Standards

38) In this case, the City chose to effectively bind themselves to Ad Standards' opinions in a way that leaves the City no room to accommodate GRTL's freedom of expression. The City's process of review of the advertisements in question was instigated by and completely guided

---

[39] *Canadian Centre for Bio-Ethical Reform v Grande Prairie (City),* 2018 ABCA 154 at paras 78-79.

[40] *Lethbridge*, *supra* note 12 at para 166.

by Ad Standards. While Ad Standards may provide value in a private industry setting, they have no expertise nor responsibility to consider the *Charter* values at play.

39) The City of Guelph lists "respect" as one of their values, which they say includes respect for civil discourse.[41] That respect for civil discourse means ensuring that expression on a political or social issue – expression at the core of section 2(b) – is allowed in public forums. This means ensuring that organized activists do not effectively silence those they disagree with. This means not allowing their process to be dictated by a private, legally unaccountable actor like Ad Standards.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 17 DAY OF MAY 2021

_____

Tabitha Ewert

The Association for Reformed Political Action (ARPA) Canada
130 Albert St, Suite 1705
Ottawa, Ontario K1P 5G4
Tabitha Ewert

[41] Sprigg Affidavit, Exhibit 9.

PART IV – SCHEDULE OF AUTHORITIES

I. Cases

Canadian Centre for Bio-Ethical Reform v Grande Prairie (City), 2018 ABCA 154.

Doré v. Barreau du Québec, 2012 SCC 12.

Greater Vancouver Transportation Authority v. Canadian Federation of Students — British Columbia Component, 2009 SCC 31.

Irwin Toy Ltd. v. Quebec (Attorney General), [1989] 1 SCR 927.

Law Society of British Columbia v. Trinity Western University, 2018 SCC 32.

Lethbridge and District Pro-Life Association v Lethbridge (City), 2020 ABQB 654.

Loyola High School v. Quebec (Attorney General), 2015 SCC 12.

Montréal (City) v. 2952-1366 Québec Inc., 2005 SCC 62.

Mounted Police Association of Ontario v. Canada (Attorney General), 2015 SCC 1.

R v. National Post, 2010 SCC 16.

R. v. Morgentaler, [1988] 1 SCR 30.

Rocket v. Royal College of Dental Surgeons of Ontario, [1990] 2 SCR 232.

Winnipeg Child and Family Services (Northwest Area) v. G. (D.F.), [1997] 3 SCR 925.

II. Secondary Sources

Peter W. Hogg, *Constitutional Law of Canada*, 5th ed (Toronto: Thomson Reuters Canada, 2007) (loose-leaf updated 2019, release 1) vol 2.

Sheilah L. Martin, QC, "Abortion Litigation" in Radha Jhappan, ed, *Women's Legal Strategies in Canada* (Toronto: University of Toronto Press, 2002) 335.

Erin Nelson, "Regulating Reproduction" in Jocelyn Downie, Timothy Caulfield, and Colleen M. Flood, *Canadian Health Law and Policy*, 4th ed (Markham, ON: LexisNexis Canada, 2011) 295.

Guy Régimbald & Dwight Newman, *The Law of the Canadian Constitution*, 2nd ed (Toronto: LexisNexis Canada, 2017).