

COURT OF APPEAL OF ALBERTA

COURT OF APPEAL FILE NUMBER: 2401-0254AC

TRIAL COURT FILE NUMBER: 2201-10658

REGISTRY OFFICE: CALGARY

APPLICANTS:

THE FACULTY ASSOCIATION OF
THE UNIVERSITY OF CALGARY,
CANADIAN ASSOCIATION OF
UNIVERSITY TEACHERS and
CANADIAN ASSOCIATION OF
LAW TEACHERS

STATUS ON APPEAL:

PROPOSED JOINT INTERVENORS

RESPONDENT:

ALBERTA (INFORMATION AND
PRIVACY COMMISSIONER)

STATUS ON APPEAL:

APPELLANT

RESPONDENT:

GOVERNORS OF THE
UNIVERSITY OF CALGARY

STATUS ON APPEAL:

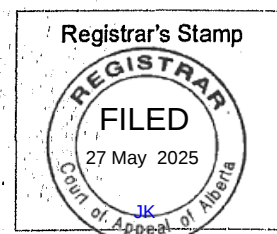
RESPONDENT

DOCUMENT:

AFFIDAVIT IN SUPPORT OF APPLICATION

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT:

Kelly Nychka and Camila Franco
Counsel for the Applicants
Chivers Carpenter Lawyers
101, 10426 – 81 Avenue
Edmonton, AB T6E 1X5
Phone: (780) 439-3611
Fax: (780) 439-8543
File No. 215-24-010
Counsel for the Applicants



AFFIDAVIT OF GRAHAM REYNOLDS

I, Graham Reynolds, of the City of Vancouver, in the Province of British Columbia, SWEAR AND SAY THAT:

1. I am an Associate Professor of Law and, until July 1, 2025, the Associate Dean Research and International at the University of British Columbia's Peter A. Allard School of Law. I also currently serve as the President of the Canadian Association of Law Teachers/L'Association Canadienne des Professeurs de Droit ("CALT"), and as such, I am authorized to affirm this affidavit on behalf of CALT. I have personal knowledge of the matters deposed to in this affidavit, or have received the information of others, in which case I identify it as such and believe it to be true.
2. CALT, together with the Faculty Association of the University of Calgary, and the Canadian Association of University Teachers, seeks leave to intervene in *Alberta Information and Privacy Commissioner v Governors of the University of Calgary*, Alberta Court of Appeal File No 2401 025AC.
3. CALT seeks leave to intervene for two reasons. First, the outcome of this appeal will directly affect academic professors and educators who form part of CALT's membership. Second, this appeal raises an important public interest issue regarding the relationship between academic research and teaching activities, as conducted by CALT's membership, and the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25 ("FOIPPA").
4. I believe that CALT can assist the Court in this appeal.

CALT

5. CALT is a national association of Law Teachers who have taught or currently teach Law at a Canadian University. It is comprised of full-time faculty members, sessional

instructors, contract faculty, graduate students and postdoctoral researchers. At the date of affirming this Affidavit, there are approximately 150 members of CALT.

6. CALT was officially founded in 1951 to promote the interests of law teachers. It advances this goal through contributing to the development, promotion and improvement of law and legal education including the dissemination of knowledge, research, and best practices in the law and legal education.
7. CALT also coordinates meetings and exchanges among law teachers across various regions and legal subjects while promoting law reform and improvement of the Canadian legal system.
8. To assist in advancing the interests of law teachers, CALT hosts workshops and an annual conference where law teachers attend and participate in various panels, lectures, roundtables, and other discussions about learning, teaching, research, and the connections amongst them, as well as on particular research or pedagogical matters. These discussions are also intended to create opportunities to explore the relationships between law schools, law teachers, and others including the broader university community, lawyers, and the public.
9. CALT sponsors the Canadian Legal Education Annual Review. The aim of the Journal is to foster scholarly exchange on issues related to legal education relevant to Canadian legal educators, professors, graduate students and others interested in legal education. In particular, the Review aims to encourage critical and scholarly reflection on the aspirations, goals, objectives, values and cultures of legal education, and the processes of legal education. Some of the articles published in the Journal explore and analyze the increasingly experiential and pluralistic law school environment that exists across Canada today.
10. CALT engages with the Federation of Law Societies of Canada on issues such as the required competencies of law students, the respective obligations of law schools and the

legal profession vis-à-vis the different stages professional legal education, and the necessity of robust continuing professional development programmes for lawyers.

11. CALT presents an annual award for scholarly papers written by new scholars and grants awards to individuals who have made exceptional contributions to research, the law, and the scholarship of teaching and learning.

CALT's Interest in the Proceedings

12. CALT has a direct and significant interest in this appeal. The organization supports the delivery of legal education by its members and promotes the development and dissemination of research in law by its members. Some of the contemporary legal research and teaching methods adopted by CALT members involve interdisciplinary approaches or require direct participation within communities. Some of these academic research and teaching activities cannot be constrained to the traditional class-room setting. Therefore, how teaching and research in law are understood and conceptualized in legal proceedings affects CALT members.
13. CALT members engage in sensitive and confidential research, including topics where there may be significant social stigma attached to research subjects. In some cases, CALT members need to provide research participants with assurance that their participation will remain strictly confidential. CALT therefore has a direct and significant interest in the application of access to information legislation as it applies to the disclosure of law teaching and legal research records.
14. Moreover, I am advised by my counsel that the Court of Appeal has yet to address the relationship between the exceptions at issue within *FOIPPA* and forms of legal research and teaching which some might characterize as "participation in social activism". I therefore believe that the outcome of this appeal will have precedent-setting value which will impact future access to information requests affecting CALT members across Canada.

The Submissions CALT Intends to Advance

15. CALT's lawyers have reviewed the Appellant's factum and the Respondent's factum. Based upon their review, I believe that our proposed submissions are different from those made by the parties, and there will be no duplication of arguments.
16. Consistent with the accepted role of intervenor before the Court, CALT will take no position on the disposition of the appeal.
17. CALT wishes to intervene in this appeal to present the interests of its members, and to present argument on matters of public interest implicated on the appeal.
18. I am informed by counsel and do verily believe that, if granted leave to intervene, CALT, with the other proposed joint intervenors, will submit that this appeal provides an opportunity for this Court to clarify the meaning and scope of the "research information" and "teaching materials" academic exceptions set out in sections 4 (1) (h) (i) of *FOIPPA*, including whether "participation in social activism" may fall within the scope of academic freedom protections.
19. If granted leave to intervene, CALT will work with the proposed joint intervenors to present one set of written submissions which will advance and expand on the following arguments:
- a. First, that the "teaching materials" and "research information" exceptions in s 4(1)(h) and (i) of *FOIPPA* must be interpreted broadly and with regard for their underlying purpose, which is to protect academic freedom.
 - b. Second, distinguishing between "participation in social activism" and the "study of social activism" is a flawed analytical approach that ignores the breadth of research and pedagogical approaches currently adopted by academic teachers and staff in various Universities and in law faculties specifically.

- c. Third, recognizing that the “teaching materials” and “research information” exceptions may apply to recently developed forms of teaching and legal research, such as research which is participatory in nature, in a manner consistent with *FOIPPA*’s underlying purpose.

20. Finally, the Intervenor will propose an analytical framework to assist adjudicators in determining whether the “teaching materials” and “research information” exceptions apply to the particular academic activity at issue.

21. CALT’s proposed intervention will not cause any injustice to the parties or otherwise prejudice their interests, because:

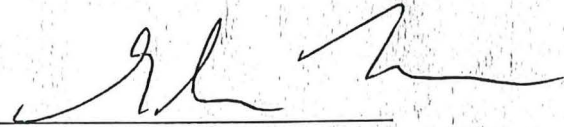
- a. CALT will not file any additional evidence in the appeal;
- b. CALT’s participation will not unreasonably delay or lengthen the hearing of the appeal;
- c. CALT will comply with any terms, conditions, or limitations that this Court imposes on its participation in the appeal as an intervenor; and
- d. CALT does not seek costs against any party on this application or on the appeal and asks that no costs be awarded against it.

22. I make this affidavit in support of CALT’s joint application for intervention in this appeal, and for no other or improper purpose.

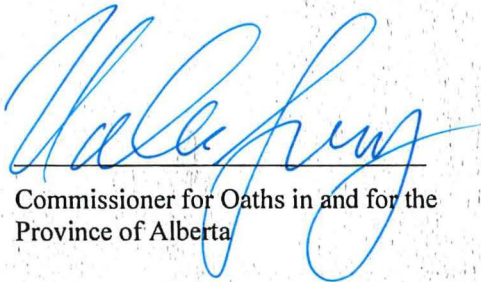
23. In swearing this Affidavit, I was not physically present before the Commissioner for Oaths but was linked with the Commissioner using video technology and we followed the Alberta-Court mandated requirements for remote commissioning of Affidavits.



SWORN/AFFIRMED before me)
at the City of Edmonton, in the)
Province of Alberta, this 26th)
day of May, 2025.)



GRAHAM REYNOLDS



Commissioner for Oaths in and for the
Province of Alberta

Nahanni Fellenz
Barrister and Solicitor



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Registrar's Stamp

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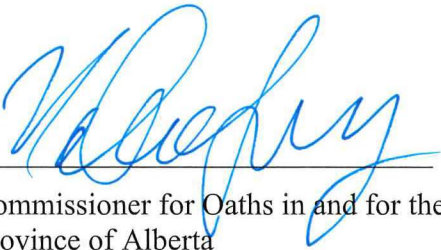
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day of May, 2025.)

GRAHAM REYNOLDS



Commissioner for Oaths in and for the
Province of Alberta

Nahanni Fellenz
Barrister and Solicitor

CERTIFICATE OF NECESSITY OF REMOTE COMMISSIONING

I, Nahanni Fellenz, Commissioner of the Affidavit of Graham Reynolds, executed the 26th day of May, 2025, hereby certify that I am satisfied that the process of remote commissioning was necessary because in person was impractical due to the deponent being located in Vancouver, British Columbia and therefore unable to be present with the Commissioner of Oaths and that the requirements of the *Notice to the Profession* with respect to remote commissioning, dated March 25, 2020 has been substantively complied with.

Dated the 26th day of May, 2025, at the City of Edmonton, in the Province of Alberta.

CHIVERS CARPENTER

Per:



Nahanni Fellenz