



Department of Justice  
Canada

Ontario Regional Office  
The Exchange Tower  
130 King St. West  
Suite 3400, Box 36  
Toronto, Ontario  
M5X 1K6

Ministère de la Justice  
Canada

Bureau régional de l'Ontario  
la tour Exchange  
130 rue King ouest  
Pièce 3400, CP 36  
Toronto (Ontario)  
M5X 1K6

Tel: (416) 954-0625  
Fax: (416) 952-4518  
Email: Kathryn.Hucal@justice.gc.ca

Our File: 2-594433  
Notre dossier:

Your File:  
Votre dossier:

November 29, 2011

**VIA FACSIMILE**

Andrew K. Lokan  
Paliare Roland Rosenberg Rothstein LLP  
Barristers & Solicitors  
Suite 501, 250 University Avenue  
Toronto, Ontario  
M5H 3E5

Dear Sir:

**Re: Association of Justice Counsel v. Attorney General of Canada**  
**Court File No.: N/A**

---

Please find enclosed the Notice of Appeal and the Appellant's Certificate Respecting Evidence, which is being served upon you pursuant to the *Rules of Civil Procedure*.

Yours truly,

Kathryn Hucal  
Senior Counsel  
Regulatory Law Division

KH:ag

Encl.

Canada

Court file no.:

**COURT OF APPEAL FOR ONTARIO**

**BETWEEN:**

**ASSOCIATION OF JUSTICE COUNSEL**

Applicant (Respondent in Appeal)

and

**ATTORNEY GENERAL OF CANADA**

Respondent(Appellant)

**NOTICE OF APPEAL**

THE ATTORNEY GENERAL OF CANADA APPEALS to the Court of Appeal from the judgment of Justice Grace dated November 1, 2011 made at Toronto.

THE APPELLANT ASKS that the judgment be set aside and judgment be granted as follows: the application is dismissed.

THE GROUNDS OF APPEAL are as follows:

1. The application judge erred in finding the *Expenditure Restraint Act* S.C. 2009, c. 2 (*ERA*) violated the Association of Justice Counsel (AJC) members' rights under section 2(d) of the *Charter*.
2. The application judge, erred in finding that paragraphs 16(a) and 34(1)(a) of the *ERA* are not justified by section 1 of the *Charter* and are unconstitutional.
3. Such further grounds as counsel may advise and this Honourable Court may permit.

**THE BASIS OF THE COURT OF APPEAL'S JURISDICTION IS:**

- i)* This is an appeal from a final order of a judge of the Superior Court of Justice;
- ii)* Leave to appeal is not required for this appeal;

- 2 -

- iii) Section 6(1)(b) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
- iv) Rule 61.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; and
- v) Such further and other grounds as counsel may advise and this Honourable Court permit.

November 29, 2011

**DEPARTMENT OF JUSTICE**

Ontario Regional Office

The Exchange Tower

130 King Street West

Suite 3400, Box 36

Toronto, Ontario M5X 1K6

Per: Dale Yurka (LSUC # 26601Q)  
Kathryn Hucal (LSUC # 35909T)

Tel: (416) 954-8110/954-0625

Fax: (416) 973-5004

**Counsel for the Appellant,  
Attorney General of Canada**

TO **Paliare Roland Rosenberg Rothstein LLP**  
250 University Avenue  
Suite 501  
Toronto, Ontario  
M5H 3E5

Pcr: Andrew Lokan (LSUC #31629Q)

Tel: (416) 646-4324

Fax: (416) 646-4323

**Counsel for the Respondent,  
Association of Justice Counsel**

(Court file no.)

ASSOCIATION OF JUSTICE COUNSEL  
Applicant (Respondents in Appeal)

ATTORNEY GENERAL OF CANADA  
Respondent(Appellant)

AND

ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceeding Commenced at Toronto

**NOTICE OF APPEAL**

DEPARTMENT OF JUSTICE  
Ontario Regional Office  
The Exchange Tower  
130 King Street West  
Suite 3400, Box 36  
Toronto, Ontario M5X 1K6

Per: Dale Yurka (LSUC # 26601Q)  
Kathryn Hucal (LSUC # 35909T)

Tel: (416) 954-8110/954-0625  
Fax: (416) 973-5004

Counsel for the Appellant, Attorney General of  
Canada

Court file no.:

**COURT OF APPEAL FOR ONTARIO**

**BETWEEN:**

**ASSOCIATION OF JUSTICE COUNSEL**

Applicant (Respondents in Appeal)

and

**ATTORNEY GENERAL OF CANADA**

Respondent(Appellant)

**APPELLANT'S CERTIFICATE RESPECTING EVIDENCE**

The appellant, the Attorney General of Canada, certifies that the following evidence is required for the appeal, in the appellant's opinion:

1. The affidavit evidence including exhibits. In particular:
  - a. **Affidavit of Marco Mendicino**, sworn June 8, 2010, Exhibits A to Y;
  - b. **Affidavit of Marco Mendicino**, sworn January 6, 2011, Exhibits A to G;
  - c. **Affidavit of H el ene Laurendeau**, sworn October 29, 2010, Exhibits A to R;
  - d. **Affidavit of Marc Thibodeau**, sworn October 29, 2010, Exhibits A to H;
  - e. **Affidavit of Paul Rochon**, sworn November 5, 2010, Exhibits A to V;  
and
  - f. **Affidavit of H el ene Laurendeau**, sworn February 23, 2011.
  
2. The testimonial evidence. In particular:
  - a. **Transcript of Cross-Examination of Marco Mendicino on his Affidavits** sworn June 8, 2010 and January 6, 2011 together with Exhibit 1 and 2 to the cross-examination;

- b. **Response to Undertakings given by Marco Mendicino** including tabs A to C;
  - c. **Transcript of Cross-Examination of Paul Rochon** on his Affidavit sworn November 5, 2010 together with Exhibits 1-5;
  - d. **Transcript of Cross-Examination of Marc Thibodeau** on his Affidavit sworn October 29, 2010 together with Exhibits 1-2;
  - e. **Transcript of Cross-Examination of Hélène Laurendeau** on her Affidavits sworn October 29, 2010 and February 23, 2011 together with Exhibits 1-2; and
  - f. **Responses to Undertakings served by the Attorney General of Canada**, including tabs 5-8.
3. All other evidence. In particular:
- a. the "Description of NAICs 2007 classification for legal services"; and
  - b. the "Passages Relied Upon in Exhibit 1 to Cross-Examination of Marco Mendicino".

November 29, 2011

**DEPARTMENT OF JUSTICE**  
Ontario Regional Office  
The Exchange Tower  
130 King Street West  
Suite 3400, Box 36  
Toronto, Ontario M5X 1K6

Per: Dale Yurka (LSUC # 26601Q)  
Kathryn Hucal (LSUC # 35909T)

Tel: (416) 954-8110/954-0625  
Fax: (416) 973-5004

**Counsel for the Appellant,  
Attorney General of Canada**

**TO: Paliare Roland Rosenberg Rothstein LLP**  
250 University Avenue  
Suite 501  
Toronto, Ontario  
M5H 3E5

Per: Andrew Lokan (LSUC #31629Q)

Tel: (416) 646-4324

Fax: (416) 646-4323

**Counsel for the Respondent,  
Association of Justice Counsel**

CV-10-404604

**ASSOCIATION OF JUSTICE COUNSEL**  
Applicant (Respondents in Appeal)

AND

**ATTORNEY GENERAL OF CANADA**  
Respondent(Appellant)

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Toronto

**APPELLANT'S CERTIFICATE**

**DEPARTMENT OF JUSTICE**  
Ontario Regional Office  
The Exchange Tower  
130 King Street West  
Suite 3400, Box 36  
Toronto, Ontario M5X 1K6

Per: Dale Yurka (LSUC # 26601Q)  
Kathryn Hucal (LSUC # 35909T)

Tel: (416) 954-8110/954-0625  
Fax: (416) 973-5004

**Counsel for the Appellant, Attorney General of  
Canada**