

SCC File No.

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL OF BRITISH COLUMBIA)

BETWEEN:

**DANIEL CHRISTOPHER SCOTT, MARK DOUGLAS CAMPBELL, GAVIN MICHAEL
DAVID FLETT, KEVIN ALBERT MATTHEW BERRY, BRADLEY DARREN QUAST,
AARON MICHAEL BEDARD**

APPLICANTS
(Respondent)

-and-

ATTORNEY GENERAL OF CANADA

RESPONDENT
(Appellant)

**NOTICE OF APPLICATION FOR LEAVE TO APPEAL
(DANIEL CHRISTOPHER SCOTT, MARK DOUGLAS CAMPBELL, GAVIN
MICHAEL DAVID FLETT, KEVIN ALBERT MATTHEW BERRY, BRADLEY
DARREN QUAST, AARON MICHAEL BEDARD, APPLICANTS)**

(Pursuant to sections 40 and 58(1)(a) of the *Supreme Court Act*
and Rule 25 of the *Rules of the Supreme Court of Canada*)

TAKE NOTICE that Daniel Scott, Mark Campbell, Gavin Flett, Kevin Berry, Bradley Quast and Aaron Bedard (the “Plaintiffs”) hereby apply for leave to appeal to the Court, pursuant to sections 40(1) and 58(1)(a) of the *Supreme Court Act* and Rule 25 of the *Rules of the Supreme Court of Canada*, from the judgment of the Court of Appeal for British Columbia, Court of Appeal File No. CA41232, made December 4, 2017, or any other order that the Court may deem appropriate;

AND FURTHER TAKE NOTICE that this application is made on the following grounds:

Issue One: What is the nature of the relationship between Canada and its Armed Forces members and veterans who are injured in their service? Specifically:

- (i) is there a sacred obligation or “social covenant” between the people and government of Canada and the members of its Armed Forces to provide equitable compensation and support to those who have been injured in service?; and
- (ii) if so, what legal effect can be given to a “social covenant” broadly or specifically in the application of government compensation?;

Issue Two: What is the scope of the “honour of the Crown” doctrine, and specifically:

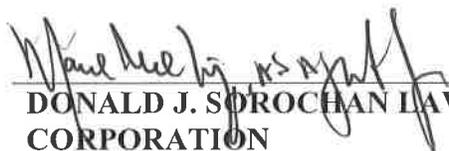
- (i) does it apply outside the context of Aboriginal law and s. 35 of the *Constitution Act, 1982*?; and
- (ii) if so, is membership in the Canadian Armed Forces capable of recognition as a “special relationship” with the Crown for the purposes of the “Honour of the Crown” doctrine?

Issue Three: Is membership in the Canadian Armed Forces capable of recognition as an analogous ground for the purpose of s. 15 of the *Charter*?

Issue Four: Can s. 7 of the *Charter* create positive obligations on the Government in unique circumstances, or is its application limited to situations where a deprivation is imposed by the government?

Dated at Vancouver, British Columbia, this 30th day of January, 2018.

SIGNED BY:



DONALD J. SOROCHAN LAW CORPORATION

Suite 500, 815 Hornby Street
Vancouver, BC, V6Z 2E6

Donald J. Sorochan, Q.C.

Tel : (604) 488-4731

Fax: (604) 669-5180

Email: don@sorochanlaw.com

MILLER THOMSON LLP

Barristers and Solicitors

1000-840 Howe Street

Vancouver, BC V6Z 2M1

Kelsey K. Sherriff

Tel: 604.687.2242

Fax: 604.643.1200

Email: ksherriff@millერთhompson.com

MACKENZIE PEAK LAW GROUP

Suite 201-217 Mackenzie Avenue, PO Box

2699 Revelstoke, B.C. V0E 2S0

SUPREME ADVOCACY LLP

340 Gilmour St., Suite 100

Ottawa, ON K2P 0R3

Marie-France Major

Tel.: (613) 695-8855

Fax: (613) 695-8580

Email: emeehan@supremeadvocacy.ca

Ottawa Agent for Counsel for the Applicants

Aimee Schalles

Tel: (250) 837-4971

Email: ans@mackenziepeak.com

Counsel for the Applicants

ORIGINAL TO: THE REGISTRAR

COPIES TO:

JUSTICE CANADA

Civil Litigation Section, Ste. 500
50 O'Connor St.
Ottawa, Ontario K1A 0H8

Travis Henderson

Tel: 613-670-6374

Fax: 613-954-1920

Counsel for the Respondent

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

**Ottawa Agent for Counsel for the
Respondent**

NOTICE TO THE RESPONDENT: A Respondent may serve and file a memorandum in response to this application for leave to appeal within 30 days after the day on which a file is opened by the Court following the filing of this application for leave to appeal or, if a file has already been opened, within 30 days after the service of this application for leave to appeal. If no response is filed within that time, the Registrar will submit this application for leave to appeal to the Court for consideration under section 43 of the *Supreme Court Act*.