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BY EMAIL

Roger Bilodeau, Q.C.
Registrar
Supreme Court of Canada
301 Wellington Street
Ottawa, ON K1A 0J1

Dear Registrar:

Re: Mounted Police Association of Ontario v. Canada (Attorney General)
Court File No: 34948

We are in receipt of the motion record of the Association des Membres de la Police Montée du Québec (“AMPMQ”) dated January 7, 2016 seeking leave of the Court to file sur-reply submissions. We are also in receipt of the Attorney General of Canada’s (“AGC”) response of January 7, 2016 effectively reiterating that the AMPMQ has no standing to respond to the AGC’s motion dated December 8, 2015 and therefore has no standing to make sur-reply. As the Court knows, the AGC has taken the position that none of the interveners on the appeal including our client, the Mounted Police Members’ Legal Fund (“Legal Fund”), have the right to respond to the AGC’s motion. The AGC has asked the Court to “wholly disregard” any materials filed by the interveners.

The Legal Fund believes that it is a proper respondent to the AMPMQ’s motion (just as it is a proper respondent to the AGC’s motion) and, as such, responds to the AMPMQ’s motion as follows:

1. The AGC’s motion is brought under Rules 52 (“Motion Before the Court”) and 76 (“Re-hearing of Appeal”). Intervenors on the appeal were served with the AGC’s motion record and should be treated as respondents to the motion. Notably, the Legal Fund has fully complied with Rule 54 including the requirement that a responding factum not exceed 20 pages (Rule 54(3)).

2. Nothing in the Rules or elsewhere precludes an intervener on the appeal from responding to a subsequent motion under Rules 52 and 76. The Court may surely treat such an intervener as a respondent pursuant to Rule 3(1): “*Whenever these Rules contain no provision for exercising a right or procedure, the Court, a judge or the Registrar may adopt any procedure that is not inconsistent with these Rules or the Act*”. In this case, there are compelling reasons for treating interveners like the Legal Fund and the AMPMQ as proper respondents to the motion and subject to Rule 54:
 - a) the AGC’s motion seeks an order that, if granted, would have an adverse impact on the associational rights of RCMP members. The AGC’s initial motion record was silent on the significant developments currently taking place within the RCMP (namely, the dismantling of the current labour relations system) that also threaten the associational rights of RCMP members.
 - b) Interveners like the Legal Fund and the AMPMQ represent the interests of RCMP members. The Legal Fund, for example, is an independent, voluntary association representing about 17,000 RCMP members. Such interveners are uniquely placed to provide the Court with relevant evidence and submissions to bring to the Court’s attention the potential implications of the AGC’s motion.
 - c) Despite the AGC’s submission that the materials filed by interveners should be “wholly disregarded”, the AGC’s reply affiant Stephane Drouin actually references and cites the Legal Fund’s affidavit evidence (see paragraphs 6, 7 and 20 of the Drouin affidavit). The AGC cannot have it both ways – it cannot reference an intervener’s evidence yet ask the Court to “wholly disregard” that very evidence.
3. The AGC’s response to the interveners in this case, including the Legal Fund, relies on the argument that the role of the interveners was exhaustively determined for any and all purposes by the Court’s orders granting intervener status on July 25, 2013. Yet, those orders were concerned with intervention on the appeal itself. The AGC has now brought an extraordinary motion involving a completely new issue and supported by completely new evidence. This could not have been anticipated when the intervention orders were originally made. As such, the AGC should not be permitted to block interveners with a significant interest in the outcome of the motion from assisting the Court by providing relevant responding evidence and submissions under Rule 54.

In conclusion, the Legal Fund submits that the Court should not deny the AMPMQ's motion to file sur-reply submissions based on the AGC's incorrect assertion that interveners have no standing.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



Judith Parisien for : John D.R. Craig and Christopher D. Pigott

JP/ml

cc: All parties/intervenors