Federal Court  Cour fédérale

Date: 20260219

Docket: T-1006-25

Citation: 2026 FC 238

Ottawa, Ontario, February 19, 2026

PRESENT: The Honourable Mr. Justice Duchesne
Case Management Judge

BETWEEN:

JACQUELINE SANDERSON

Applicant

and

CANADIAN JUDICIAL COUNCIL,
THE ATTORNEY GENERAL OF CANADA, and
THE HONOURABLE JUSTICE AZIMUDDIN HUSSAIN

Respondents

ORDER AND REASONS

[1] The Applicant has brought a motion pursuant to Rule 75 of the *Federal Courts Rules*, SOR/98-106 [the *Rules*] for leave to amend her notice of application [the NOA] in the manner set out in her proposed amended notice of application [the PANOA]. She also seeks an order whereby the member of the Court appointed to case manage this proceeding be appointed from the province of Saskatchewan.

[2] The Respondent Attorney General of Canada [the AGC] does not oppose the Applicant's proposed amendments to paragraph 2, the title above paragraph 3, paragraph 17 (footnotes 4 and 5), 20 (addition of bold), paragraph 33 (footnote 9), paragraph 38 (addition of bold/underlining), and paragraph 57 as set out in the PANOA.

[3] The AGC opposes the Applicant's other proposed amendments. The AGC also opposes the Applicant's request for the appointment of a different case management judge.

[4] The Respondent Justice Hussain defers to the position taken by the AGC in opposing the motion and has otherwise made no substantive submissions in connection with this motion.

[5] The Respondent Canadian Judicial Council [the CJC] takes no position and makes no submissions on the motion.

[6] For the reasons that follow, the Applicant's motion is granted in part and dismissed in part.

I. **The Law Applicable to a Motion for Leave to Amend**

[7] Rules 75 and 76 of the *Rules* provides as follows:

Amendments with leave	**Modifications avec autorisation**
75 (1) Subject to subsection (2) and rule 76, the Court may, on motion, at any time, allow a party to amend a document, on such terms as will protect the rights of	**75 (1)** Sous réserve du paragraphe (2) et de la règle 76, la Cour peut à tout moment, sur requête, autoriser une partie à modifier un document, aux conditions qui permettent de

all parties.	protéger les droits de toutes les parties.
Limitation	**Conditions**
(2) No amendment shall be allowed under subsection (1) during or after a hearing unless	**(2)** L'autorisation visée au paragraphe (1) ne peut être accordée pendant ou après une audience que si, selon le cas :
(a) the purpose is to make the document accord with the issues at the hearing;	a) l'objet de la modification est de faire concorder le document avec les questions en litige à l'audience;
(b) a new hearing is ordered; or	b) une nouvelle audience est ordonnée;
(c) the other parties are given an opportunity for any preparation necessary to meet any new or amended allegations.	c) les autres parties se voient accorder l'occasion de prendre les mesures préparatoires nécessaires pour donner suite aux prétentions nouvelles ou révisées.

[8] The leading jurisprudence that has considered and applied Rule 75 has been thoroughly canvassed by Justice McHaffie in *GE Renewable Energy Canada Inc v Canmec Industrial Inc*., 2024 FC 187 (CanLII) ("*GEREC I*"), and again in a summarized manner in *GE Renewable Energy Canada Inc v Canmec Industrial Inc*, 2024 FC 887 (CanLII) ("*GEREC II*"), aff'd, 2024 FCA 139 (CanLII). Justice McHaffie summarized the applicable legal principles in *GEREC II* (for ease of simplicity) as follows:

> **I. Legal principles**
>
> [9] The principles on a motion to amend are not in dispute. I summarized them in my decision in *GEREC I*. In the interests of efficiency, I will simply repeat that discussion here.
>
> [10] The general rule is that an amendment pursuant to Rule 75(1) of the *Federal Courts Rules*, SOR/98-106 should be allowed at any stage of an action for the purpose of determining the "real questions in controversy," provided that allowing the amendments

(i) would not result in an injustice to other parties not capable of being compensated by an award of costs; and (ii) would serve the interests of justice: *Enercorp Sand Solutions Inc v Specialized Desanders Inc*, 2018 FCA 215 at para 19, quoting *Canderel Ltd v Canada*, 1993 CanLII 2990 (FCA) at p 10; *McCain Foods Ltd v JR Simplot Company*, 2021 FCA 4 at para 20; *Janssen Inc v Abbvie Corporation*, 2014 FCA 242 at para 9. The onus lies on the amending party to show the amendments should be allowed: *Merck & Co, Inc v Apotex Inc*, 2003 FCA 488 at paras 29, 35–36.

[11] In assessing whether an amendment would serve the interests of justice, the Court may consider factors such as (i) the timeliness of the motion to amend; (ii) whether the proposed amendments would delay trial; (iii) whether the amending party's prior position has led another party to follow a course of action in the litigation that it would be difficult to alter; and (iv) whether the amendments will facilitate the Court's consideration of the substance of the dispute on its merits: *Enercorp* at paras 20–21, quoting *Continental Bank Leasing Corp v Canada*, 1993 CanLII 17065 (TCC) at p 2310; *Federal Courts Rules*, Rule 3. These factors are considered together without any single factor being determinative.

[12] An amendment must also yield a sustainable pleading, and an amendment that is liable to be struck out under Rule 221 should not be permitted: *Enercorp* at para 22; *McCain* at paras 20–22; *Teva Canada Limited v Gilead Sciences Inc*, 2016 FCA 176 at paras 28–32. Thus, where it is plain and obvious that proposed amendments do not disclose a reasonable cause of action, or the amendments represent a "radical departure" from the party's prior positions, they should not be permitted: Rule 221(1)(a),(e); *Enercorp* at paras 22–28; *McCain* at paras 20–23; *Hospira Healthcare Corporation v The Kenny Trust for Rheumatology Research*, 2020 FCA 191 at para 5, citing *Merck* at para 47; *Atlantic Container Lines AB v Cerescorp Company*, 2017 FC 465 at para 8; *Proslide Technology, Inc v Whitewater West Industries*, Ltd, 2023 FC 1591 at paras 15–16; but see *J2 Global Communications Inc v Protus IP Solutions Inc*, 2009 FCA 41 at paras 8–10. This has been described as a "threshold issue," to be addressed before turning to other questions of justice and injustice: *Teva* at para 31.

[13] Pleadings that are inadequately particularized to allow the opposing party to plead in response are also subject to being struck under Rule 221 for failure to comply with the requirement in Rule 174 that they contain "a concise statement of the material facts on which the party relies": *Mancuso v Canada (National Health and*

> *Welfare)*, 2015 FCA 227 at paras 16–20; *Fox Restaurant Concepts LLC v 43 North Restaurant Group Inc*, 2022 FC 1149 at paras 4, 20–32. Amendments may similarly be refused on this ground, whether considered as a threshold issue or as a matter of the interests of justice: *McCain* at paras 22–23; *Enercorp* at paras 34–37. However, where appropriate, a lack of particulars in a proposed amendment may be addressed by granting leave to reapply or by imposing an obligation of particulars as a condition of the amendment: *Enercorp* at paras 26–30, 34–38; *Atlantic* at para 15.
>
> [14] I add one further note to the foregoing summary. Where a party seeks to amend a pleading after discovery and seeks to rely on discovery evidence to justify its proposed amendment, it is open to the Court to review and assess that evidence in determining whether, taking a realistic view in the context of the law and the litigation process, the proposed amendment discloses a reasonable cause of action or is "doomed to fail": *Teva* at paras 27–32, 38–42. In this regard, the Federal Court of Appeal has noted that an allegation made without any evidentiary foundation is an abuse of process, and that an unsupported allegation cannot be sustained simply in the hope that sufficient facts will be obtained on discovery that will support the allegation: *AstraZeneca Canada Inc v Novopharm Limited*, 2010 FCA 112 at paras 4–5.
>
> [15] In other words, while the general rule is that the factual allegations in a proposed amendment are to be assumed to be true, it is relevant to both the threshold issue and, at the very least, the interests of justice whether a proposed amendment is supported or contradicted by the available discovery evidence. At the same time, a motion to amend is not the occasion to weigh competing evidence where the amending party has established credible evidentiary support for its amendments: *Atlantic* at para 16. As *GEREC* underscores, a motion to amend is not a motion for summary judgment or summary trial.

[9] The "reasonable prospect of success" test described in *McCain Foods Limited v J.R. Simplot Company*, 2021 FCA 4 at para 20 [*McCain*] as a threshold issue for allowing an amendment is very closely related to, if not effectively the same as, the "plain and obvious that there is no reasonable cause of action" test applied on motions to strike pursuant to Rule 221 of the *Rules*. The facts pleaded in the amendment are assumed to be true for the purposes of

analysis unless they are manifestly incapable of being proven. The amending language to be added to the pleading ought to be read generously and the Court should accommodate any deficiencies in drafting (*R v Imperial Tobacco Canada Ltd*., 2011 SCC 42, [2011] 3 SCR 45 at para 17 to 25; *Atlantic Lottery Corp. Inc. v Babstock*, 2020 SCC 19 (CanLII), [2020] 2 SCR 420 at paras 87 to 90). The use of the word "reasonable" in the applicable test does not require the Court to assess the likelihood of success (*Wenham v Canada (Attorney General),* 2018 FCA 199 (CanLII) at paras 29 to 33 [*Wenham*]).

[10] In deciding whether an amendment has a reasonable prospect of success, its chances of success must be examined in the context of the law and the litigation process, and a realistic view must be taken. It is often helpful for the Court to ask itself whether the amendment, if it were already part of the proposed pleadings, would be a plea capable of being struck out. If yes, the amendment should not be allowed (*McCain* at paras 21 and 22).

[11] Justice McHaffie's review of the Rule 75 jurisprudence focussed on its application in the context of an action. The matter before the Court in this proceeding is an application for judicial review. While the Rule 75 jurisprudence remains and is to be applied *mutatis mutandis* on a motion to amend a notice of application, Rule 221 does not apply to an application and therefore cannot be used as the measure to determine whether the proposed amendment "has a reasonable prospect of success" based on whether a "reasonable cause of action" is disclosed (*Empire Company Limited v Canada (Attorney General),* 2024 FC 810 at paras 18-23).

[12] In *Wenham*, at paragraph 33, the Federal Court of Appeal confirmed that in an application proceeding the equivalent to the Rule 221 motion to strike is the motion to strike a notice of application as discussed in *JP Morgan Asset Management (Canada) Inc. v. Canada (National Revenue)*, 2013 FCA 250 at paragraphs 47 to 50 and 66 to 80 [*JP Morgan*].

[13] In my view, the instruction provided in *JP Morgan* as to the test applicable to a motion to strike a notice of application ought to apply instead of Rule 221 for determining whether a proposed amendment to a notice of application discloses a cause of action that has a reasonable chance of success. The threshold to be met and the finality is the same in both situations although the test's formulation and the legal considerations as to whether the amendment is doomed to fail differs (*Wenham* at paras 32-34). It follows that whether a proposed amendment to a notice of application discloses a sustainable cause of action is to be determined in light of the particularities of judicial review applications and the law applicable to them (*Wenham* at paras 33-38), including the principles of judicial review as set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*].

II. **The Notice of Application**

[14] The Applicant seeks judicial review of a January 14, 2025, decision by the CJC that dismissed her complaint against Justice Hussain [the Decision].

[15] The Applicant alleges that Justice Hussain unjustly criticized her in a judgment rendered on December 12, 2023, reported as *Lacoste-Méthot c Attorney General of Québec*, 2023 QCCS 4794 [*Lacoste-Méthot*]. Justice Hussain's judgment disposed of a motion for an order declaring

an amended originating application brought by the Applicant on behalf of her client as an abuse of procedure pursuant to article 51 of the *Code of Civil Procedure,* CQLR c C-25.01 [the CCP]. Justice Hussain granted the motion and dismissed the proceeding after concluding that the amended originating application was clearly unfounded and constituted an abuse of procedure within the meaning of article 51 CCP.

[16] The Applicant alleges that Justice Hussain's criticism of her in *Lacoste-Méthot* were considered by the Conseil de discipline du Barreau du Québec [the Disciplinary Council] in its July 19, 2024, decision reported as *Barreau du Québec (syndic adjoint) c Sanderson*, 2024 QCCDBQ 79 [the Sentencing Decision], as to the penalty to be imposed upon her following her having been found guilty on November 30, 2023, as reported in *Barreau du Québec (syndic adjoint) c Sanderson*, 2023 QCCDBQ 81, on six counts of breaching the *Code of Professional Conduct of Lawyers,* CQLR c B-1, r 3.1, and the *Professional Code,* CQLR c C-26. The charges brought against the Applicant by the Syndic adjoint du Barreau du Québec [the Syndic] were in connection with events occurring in February 2021, July 2021, October 2021, and January 2022 in a high conflict family law proceeding pending before the Quebec courts.

[17] The Applicant also alleges that the Syndic had originally been seeking a sentence of six months' suspension from practice, but then asked for her permanent disbarment in large part based on Justice Hussain's comments in *Lacoste-Méthot.* The Disciplinary Council ordered that the Applicant be disbarred for various consecutive terms of 4, 6 and 12 months as the sentences imposed in connection with the six counts. In the end, the Applicant was disbarred for more than 18 months but not was not permanently disbarred.

[18] The only ground of review alleged by the Applicant in her NOA and in her PANOA is that the CJC summarily dismissed her complaint against Justice Hussain “without even reviewing the file”.

[19] The Decision is produced on this motion and reflects that the Applicant had alleged in her complaint to the CJC that Justice Hussain:

- made unfounded allegations of abuse in the [*Lacoste-Méthot*] judgment at, for example, paragraph 43;
- never analyzed the issue;
- refused to interpret the judgment of Justice Labrie, and instead relied on the judgment of the Disciplinary Board;
- went on to conclude that the action was prescribed.

[20] The Decision also states that the Applicant was “asking the Council to review the [*Lacoste-Méthot*] judgment”.

[21] The CJC’s characterization of the complaint as set out in the Decision is not contested by the Applicant in her NOA or in her PANOA.

[22] The Decision sets out that the CJC reviewed the Applicant’s complaint and was of the opinion that the complaint did not involve judicial conduct, but was directed toward the substance of judicial decision-making such as, but not limited to, the exercise of judicial discretion, findings of fact, findings of law, orders, directions, decisions, assessment of evidence,

rejection of arguments, and such other similar matters. The CJC relied on the *Judges Act*, RSC 1985, c. J-1, and on paragraphs 6.7(2)(b) and (c) of its Review Procedures (2023), and dismissed the Applicant's complaint.

III. **The Proposed Amendments**

[23] The Applicant's proposed but contested amendments fall into distinct groups. They are identified for ease of reference by their proposed paragraph numbers and broad descriptions taken from the Applicant's PANOA:

a) Paragraph 2.1: Concerns regarding Justice Hussain's impartiality and integrity;

b) Paragraphs 2.2 to 2.19: The Federal Court's screening process;

c) Paragraphs 2.20 and 2.21: Territorial Jurisdiction chosen by the Applicant;

d) Paragraphs 2.22 to 2.34: Constitutional Challenge to the Absence of Judicial Review;

e) Paragraph 2.35: Concerns regarding Justice Hussain's impartiality and integrity in comparison with other judges; and

f) Paragraphs 18, 53, 69-70, 73, conclusion no. 1: Miscellaneous.

A. ***Paragraph 2.1: Concerns regarding Justice Hussain's impartiality and integrity***

[24] The Applicant seeks to include an allegation at paragraph 2.1 of the PANOA that, "as detailed below" Justice Hussain misapplied and misinterpreted the law in *Lacoste-Méthot* and that such misapplication and misinterpretation raise serious concerns regarding judicial impartiality and integrity. It is unclear from the proposed amendment precisely where these

allegations are “detailed below” in the PANOA although a review of the existing allegations contained in the NOA suggest that the proposed amended paragraph 2.1 appears to be a foreshadowing of the allegations contained at paragraphs 44 and 53 to 55 of the NOA.

[25] None of the Respondents oppose the proposed amendment, although the AGC argues that the Applicant is seeking to impermissibly attempt to transform a judicial decision into an instance of judicial misconduct.

[26] The NOA does not suggest that the allegation to be added had initially been made in the Applicant’s complaint to the CJC against Justice Hussain. The allegations regarding judicial integrity and impartiality were also not set out in the NOA. At best, the Applicant argued at paragraph 66 of her NOA that Justice Hussain was “clearly biased” by “intentionally avoiding the true facts of the case and criticizing the” Applicant.

[27] A holistic and practical reading of the NOA does not show a connection between the Applicant’s proposed amendment at paragraph 2.1 of the PANOA, the complaint made to the CJC, and the sole ground of review pleaded in the NOA. It would therefore appear that the matter of Justice Hussain’s impartiality and integrity may be a new issue raised on judicial review, or an allegation that has no bearing on the reasonableness of the Decision. New issues affecting the merits of a review are not normally admissible in judicial review before reviewing courts (*Alberta (Information and Privacy Commissioner) v Alberta Teachers’ Association*, 2011 SCC 61 [2011] 3 SCR 654; *Terra Reproductions Inc. v Canada (Attorney General)*, 2023 FCA 214 at paras 7 and 8; *Klos v Canada (Attorney General)*, 2023 FCA 205 at para 8). Any relief

based on the Justice Hussain's alleged lack of impartiality and integrity is therefore doomed to fail (*Wenham* at para 36).

[28] Leaving aside whether Justice Hussain's alleged lack of impartiality and integrity constitutes a new issue on judicial review, it would seem apparent that the omission of these arguments from the substance of the Applicant's complaint as it is summarized in the Decision indicates that the allegations were not live allegations before the CJC. Considering these new allegations on judicial review when they were not raised as allegations in the complaint that gave rise to the Decision is not in the interests of justice because they would not facilitate the Court's consideration of the reasonableness of the Decision on judicial review (*Enercorp Sand Solutions Inc v Specialized Desanders Inc*, 2018 FCA 215 at para 20 [*Enercorp*]; *Continental Bank Leasing Corp. v Canada*, 1993 CanLII 17065 at 2310).

[29] The Applicant has not persuaded the Court that the amendment would assist in determining the real questions in controversy, that is, whether the Decision is unreasonable (*Vavilov; Masjoody v Canada (Attorney General)*, 2024 FC 1349 at para 5).

[30] Leave is therefore not granted for the proposed amendment to add paragraph 2.1 to the NOA.

B. ***Paragraphs 2.2 to 2.19: The Federal Court's screening process***

[31] The amendments proposed by the Applicant to add paragraphs 2.2 to 2.19 of the NOA relate solely and exclusively to the Applicant's alleged interactions with the Federal Court

registry and the difficulty she encountered in having her NOA as drafted accepted for filing. The Applicant seeks to include these allegations in her NOA to have the Court declare the Court's "screening process" as unconstitutional, contrary to the principles of natural justice and due process. The Applicant seeks to include a remedy that the "screening process" be abolished.

[32] By way of very general summary, the allegations contained in the proposed amendments set out that the Applicant sought to file her NOA through electronic means on February 13, 2025, did not immediately receive a response from the Court's registry, wrote to the Court on March 8, 2025, and then had unsatisfactory telephone interactions with a member of the Court's registry staff regarding the reasons why her NOA had not been filed yet. The Applicant alleges that the Court's registry staff had been screening her application as well as those of other litigants to determine whether the substance of the proceeding fell within the Court's jurisdiction. The Applicant received a copy of an oral direction made by a member of the Court on March 27, 2025, that set out that "the Notice of Application dated February 13, 2025, is received for filing, under reserve of any objection by the Respondent and/or Intervener".

[33] The Applicant's NOA was indeed accepted for filing and was filed on March 27, 2025.

[34] The Applicant alleges that the entirety of this process constitutes unlawful interference and represents an egregious violation of the separation of powers and of the right to an independent and impartial tribunal. The Applicant also alleges that the Court's oral direction of March 27, 2025, appears to be implicitly inviting the opposite parties to challenge the opening of

the proceeding and functions as a non-neutral judicial prompt against the Applicant's proceeding.

[35] The Respondent AGC argues that these proposed amendments are doomed to fail because they do not represent a reasonable cause of action, would needlessly distract from the Court's administrative law function, and add unnecessary complexity to the proceeding. The AGC relies on the Federal Court of Appeal's recent decision in *Beniey c Canada (Commissariat à l'Information),* 2025 CAF 139, at paragraph 19, where the Federal Court of Appeal considered that it was not irregular for registry staff to review documents that are sought to be filed for compliance with the *Rules.*

[36] The Applicant's proposed amendments to add paragraphs 2.2 to 2.19 to her NOA must be rejected because:

a) they do not yield a sustainable ground of review of the Decision, and are unrelated to the Decision;

b) the Applicant's intended constitutional challenge to Rule 72 must form the subject of distinct proceeding; and;

c) the issues raised by the paragraphs are moot.

[37] Rule 72 of the *Rules* sets out a process to be followed by the Court's registry and staff when it receives an irregular document that is presented for filing. Without being exhaustive, an irregular document is a document that does not comply with one or more rules within the *Rules* that apply to various documents that may be filed. Examples of these rules include Rules 65 to

68 of the *Rules* which apply to the format of documents, the headings to be used on court documents as well as the documents' content, the designation of the style of cause and the language of documents. Other examples include the minimum content of a notice of application as prescribed by Rule 301, or the content of an Applicant's Record as prescribed by Rule 310. Rule 72(1)(b) of the *Rules* empowers and directs the registry to refer what the registry believes is an irregular document to a judge or associate judge for a determination as to whether the document should be accepted for filing on conditions or not, notwithstanding its irregularity.

[38] Justice Stratas of the Federal Court of Appeal explained the Rule 72 process and identified its constitutional underpinnings in *Fabrikant v Canada,* 2018 FCA 171, at paragraphs 2 to 4 as follows:

> [2] […] Rule 72 allows the Registry to refer a document sought to be filed to the Court for a ruling where, among other things, a condition precedent for its filing has not been fulfilled. The condition precedent here is the payment of the filing fee.
>
> [3] Under Rule 72, the Court directs the acceptance or rejection of the document for filing. In the case of the former, the Court may require the document to be corrected or may require "any conditions precedent" to be fulfilled. Rule 221, made applicable to originating documents in this Court by Rule 4, allows this Court to reject those that are, among other things, frivolous or an abuse of process of the Court. And on top of this, the Court has a general power to impose conditions, vary a rule, or dispense with compliance with any rule, including any rule relating to notices of appeal and their filing: Rules 53 and 55. And even more, the Court can regulate particular proceedings before it and address actual or potential abuses of its process by using broad plenary powers. These powers necessarily inhere in this Court because of its function and status of a court: as a court and to be a court, this Court must be able to do certain things when appropriate. See *Canada (Human Rights Commission) v. Canadian Liberty Net*, 1998 CanLII 818 (SCC), [1998] 1 S.C.R. 626, 157 D.L.R. (4th) 385 at paras. 35 to 38, *Canada (National Revenue) v. RBC Life Insurance Company*, 2013 FCA 50; [2013] 3 C.T.C. 126, *Coote v. Lawyers' Professional Indemnity Company*, 2013 FCA 143, the

> *Mazhero v. Fox* trilogy, 2014 FCA 219, 2014 FCA 226 and 2014 FCA 238, and many other cases. All of these powers are shaped by the objectives set out in Rule 3 ("the just, most expeditious and least expensive determination of every proceeding on its merits") and the conservation of the Court's scarce resources to serve the public.
>
> [4] When a document is presented to the Registry for filing, the Registry may see a particular issue with it. Under Rule 72, it may refer the document to the Court for a ruling. But in making its ruling, the Court is not limited to the particular issue identified by the Registry. Under Rule 72, it can address "any conditions precedent." And it has all the powers set out in the preceding paragraph and, when appropriate, can exercise them to address other pressing issues.

[39] The Applicant's NOA as originally presented and filed is a transparently very irregular document. It is generally crafted in the manner of judicial application as would be used before the courts of Quebec pursuant to articles 141 and following of the CCP but then refers to future evidence in a manner wholly inconsistent with the applicable rule in this Court, specifically, Rule 301. The registry staff was quite correct to follow Rule 72 despite the Applicant's allegations as to the Rule's constitutional validity. The CCP does not apply in proceedings in the Federal Court (Rule 1.1 of the *Rules*) absent compliance with the Court's Procedural bijuralism pilot project. The bijuralism project is not at issue in this proceeding.

[40] The March 27, 2025, direction that was issued by the Court to permit the NOA to be filed is a direction issued pursuant to Rule 72(2). The Court directed that the Applicant's irregular NOA be accepted for filing while preserving the Respondents' and the Court's ability to take the steps that may be necessary or opportune consistent with Rule 56 and the consequences of a party's noncompliance with the *Rules* in light of the irregularities in the NOA. Contrary to the Applicant's assertions that she was frustrated in the exercise of her rights, the registry's actions

and the direction issued by the Court ensured that her right of access to the Court was safeguarded and protected despite the NOA's failure to meet the requirements set out in the Court's *Rules*.

[41] Despite the Applicant's argument at the hearing of this motion that these paragraphs are related to the Decision sought to be reviewed because she encountered difficulty in filing her NOA, these paragraphs allege matters that are conceptually and consequentially separate and distinct from the Decision and the current application for its judicial review. The act of filing the NOA and any challenges the Applicant may have faced in filing the NOA have no bearing on the reasonableness of the Decision to be reviewed.

[42] The registry's actions in following Rule 72 and the direction that came from the Court might the subject of constitutional scrutiny in the same manner as a regulation may be contested on constitutional grounds. That, however, is a separate and distinct matter from the current judicial review of the Decision that, if allowed here, would significantly delay the hearing of this application. Proceedings in this matter would run contrary to the streamlined process for judicial review set out in the *Rules*.

[43] Finally, as noted above, the Applicant successfully filed her NOA. The issues the Applicant seeks to raise have become moot and need not be resolved in this proceeding (*Borowski v Canada (Attorney General)*, 1989 CanLII 123 (SCC), [1989] 1 SCR 342).

[44] I therefore refuse to grant leave to the Applicant to amend her NOA to add paragraphs 2.2 to 2.19 as set out in her PANOA. Leave is also refused to include the proposed amendment to include relief that seeks that it be "declared unconstitutional that a Clerk of the Federal Court refuse to open a file and that such procedure be abolished forthwith".

C. ***Paragraphs 2.20 and 2.21: Territorial jurisdiction chosen by the Applicant***

[45] The Applicant, a resident of the Province of Quebec, sought to file her NOA electronically to have it issued by the Court from its regional office in Regina, Saskatchewan. She seeks to amend her NOA to allege that the Court "transferred" the Applicant's NOA from Regina to Montreal without her consent, and that her proceeding should be returned to Regina in order to be adjudicated in Regina. She seeks to do so because she wants an adjudicative process "marked by distance and independence from Quebec".

[46] The Respondents contest this proposed amendment on various grounds, none of which require consideration in light of what follows.

[47] The sought amendment serves no purpose considering that the parties are required to set out the place where the hearing of the application should be held in the Applicant's requisition for hearing pursuant to Rule 314 of the *Rules*. The place where the application is to be adjudicated is not a fact that is to be alleged in an NOA. Rule 314 is to be filed after the parties have filed their respective affidavits and records pursuant to Rule 306 to 310 of the *Rules*. The manner and location of the hearing of the Applicant's proceeding remains a matter that falls within the Court's plenary powers and jurisdiction to be determined in light of Rules 3 and 28 of

the *Rules* considering fairness and practicality, and the reasonable sharing of inconveniences of counsel who are in different regions (*Glaxo Group Ltd v Novopharm Ltd*, 1996 CarswellNat 1907, [1996] FCJ No 1423).

[48] While the place of filing has some effect on a proceeding pursuant to section 40 of the *Canada Evidence Act*, RSC 1985, c C-5, and pursuant to various provisions of the *Federal Courts Act*, RSC 1985, c F-7 on matters such as pre-judgment and judgment interest, the prescription and limitations on proceedings, and the enforcement of judgments, there is no suggestion by the Applicant in her proposed amendments or in her arguments on this motion that these limited features of territorial jurisdiction are substantively relevant to the Decision under review or to the grounds of review she intends to argue. Rather, the Applicant's concern with territorial jurisdiction appears to be limited to concerns related to the hearing judge's independence should they have any point of contact or personal connection with the province of Québec, including having been a member of the Barreau du Québec prior to being appointed to the judiciary. The eventual hearing judge's judicial independence is a matter that the Applicant may raise by way of motion once the hearing judge is assigned to this proceeding regardless of the proposed amendment.

[49] Leave is therefore refused to the Applicant to amend her NOA to add paragraphs 2.20 and 2.21 as set out in her PANOA.

D. ***Paragraphs 2.22 to 2.34: Constitutional Challenge to the Absence of Judicial Review***

[50] The Applicant withdrew the request to add these paragraphs in her NOA during the hearing of this motion following the AGC's statement that, it its view, the Decision could be the subject of judicial review.

[51] The Applicant also withdrew the request to amend her NOA to include relief whereby "to the extent that the amendment to the *Judges Act* in sections 156 prevents judicial review of the decision of the screening officer in section 89 and 90 of the *Judges Act*, that is to be declared unconstitutional".

[52] Neither of these proposed amendments need be considered further considering their withdrawal.

E. ***Paragraph 2.35: Concerns regarding Justice Hussain's impartiality and integrity in comparison with other judges***

[53] The Applicant seeks leave to amend her NOA by adding the following paragraph:

> 2.35 With respect, a judge who intentionally misapplies the law is far more concerning than one who makes sarcastic remarks during a hearing (i.e. Nicole Duval Hesler) or even one who may have suffered from a prior addiction (i.e. Michel Girouard). In the latter cases, there was no proven impact on judicial performance or the judgments rendered by the said Judges; concerns were based solely on a perceived bias. In contrast, the conduct of Justice Hussain has had direct and demonstrable consequences on the Applicant and ML;

[54] The AGC argues that leave should not be granted for this proposed amendment.

[55] The proposed amendment consists entirely of arguments unrelated to any ground of review or, indeed, to any material fact alleged in connection with the sole ground of review. The proposed amendment is contrary to Rule 301 of the *Rules* and will not assist the Court in determining whether the Decision is unreasonable (*Enercorp* at paras 20-21).

[56] The Applicant has not persuaded me that leave ought to be permitted for the proposed amendment to be made.

F. ***Paragraphs 18, 53, 69-70, 73, conclusion no. 1: Miscellaneous***

(1) **Proposed amendment to paragraph 18**

[57] The Applicant seeks leave to amend paragraph 18 of her NOA to include the following underlined allegation:

> 18. It is also important to note that the bright line rule was initially established by the Supreme Court of Canada in *Neil*. These cases were provided to Justice Labrie, however, he did in any manner discuss same as he preferred relying on the dated case law cited above in his judgment;

[58] The allegation that is sought to be added relates to submissions made in court in an application or motion made by the Directeur des poursuites criminelles et pénales (DPCP) in Court of Quebec file no.: 505-01-127883-151 before the Court of Quebec for an order disqualifying the Applicant from representing her client, Mr. Lacoste-Méthot, in criminal proceedings filed by DPCP against Mr. Lacoste-Méthot and a co-accused on the basis of conflict of interest. It appears from the reasons in *Lacoste-Méthot* that the Applicant was representing both defendants in the criminal proceedings. The judge that presided over the application or

motion was Justice Marco Labrie of the Court of Quebec. Justice Labrie rendered an oral judgment on December 11, 2017, and disqualified the Applicant from acting. Justice Hussain referred to Justice Labrie's disqualification judgment as a matter of fact early in his judgment in *Lacoste-Méthot.*

[59] What jurisprudence may or may not have been submitted and/or considered by Justice Labrie in reaching the conclusions he reached and the judgment he made forms part of the distant factual background that led to the sentence imposed upon the Applicant by the Disciplinary Council. The Disciplinary Council's sentencing decision and Justice Labrie's disqualification judgment have no bearing as to whether the Decision at issue in this proceeding is unreasonable.

[60] I find that the proposed amendment does not set out information that might assist in understanding the issues relevant to the judicial review. The proposed amendment will not facilitate the Court's consideration of the substance of the Applicant's judicial review proceeding. It is therefore not in the interests of justice to grant leave for this amendment to be included in the NOA (*Enercorp* at para 20).

(2) **Proposed amendment to paragraph 53**

[61] The Applicant seeks leave to amend paragraph 53 of her NOA. The amendment sought is to specify that Justice Hussain "intentionally avoided" interpreting Justice Labrie's oral judgment in coming to his conclusions and judgment in *Lacoste-Méthot.*

[62] As with the amendment proposed to paragraph 18, the proposed amendment does not set out information that might assist in understanding the issues relevant to the judicial review. Whether Justice Hussain interpreted or failed to interpret Justice Labrie's disqualification judgment has no bearing whatsoever on whether the Decision is unreasonable on the ground that the CJC did not review the file submitted by the Applicant before making the Decision.

[63] The proposed amendment will not facilitate the Court's consideration of the substance of the Applicant's judicial review proceeding. Leave to include the proposed amendment to paragraph 53 is therefore refused (*Enercorp* at para 20).

(3) **Proposed amendment to paragraphs 69 and 70**

[64] The proposed amendment to paragraph 69 of the NOA seeks to reproduce paragraphs 39 to 43 of the Sentencing Decision, itself cited as a footnote in the Applicant's NOA. The proposed amendment to paragraph 70 of the NOA seeks to include the following allegation:

> 70. The Council and the Syndic of the Quebec Bar clearly rely on the unfounded comments of Justice Hussain to conclude to the suspension of the Applicant and this notwithstanding appeal;

[65] These amendments focus on: a) a limited passage of the Disciplinary Council's consideration of some wording used by Justice Hussain in his judgment in *Lacoste-Méthot,* b) the decision of Judge C. Ouellet in what appears to be a family law proceeding that involved allegations that the Applicant had engaged in procedurally abusive proceedings, and c) a summary of some of the Syndic's submissions as to the sentence to be imposed upon the Applicant in her disciplinary proceedings. Paragraph 70 is pure argument.

[66] As with the amendments proposed to paragraphs 18 and 53, the proposed amendments do not set out information that might assist in understanding the issues relevant to the judicial review. What the Disciplinary Council considered and what the Syndic submitted in connection with the sentence to be imposed on the Applicant have no bearing on whether the Decision is unreasonable on the ground that the CJC did not review the file submitted by the Applicant before making the Decision.

[67] The proposed amendments will not facilitate the Court's consideration of the substance of the Applicant's judicial review proceeding. Leave to include the proposed amendments to paragraphs 69 and 70 is therefore refused (*Enercorp* at para 20).

(4) **Proposed amendment to paragraph 73**

[68] The proposed amendment to paragraph 73 of the NOA reads as follows:

> 73. If this Honourable Federal Court does not intervene to protect the Applicant, then it is obvious the courts in Quebec will continue to criticize the Applicant to avoid analyzing the conduct of the lawyer of the Quebec. The Applicant deserves to be protected by the Courts like any other Canadian citizen and the Superior Court in Quebec will continue to condemn the Applicant until this Court intervenes.

[69] The amendment sought to be made is pure argument, and is an argument that has no bearing whatsoever on whether the Decision is unreasonable on the ground that the CJC did not review the file submitted by the Applicant before making the Decision.

[70] The proposed amendment will not facilitate the Court's consideration of the substance of the Applicant's judicial review proceeding. Leave to include the proposed amendment to paragraph 73 is therefore refused (*Enercorp* at para 20).

G. ***The request for the appointment of a case management judge from Saskatchewan***

[71] The Applicant has not properly raised her request for the appointment of a case management judge from Saskatchewan in her motion materials. Her notice of motion sets out that her motion is for leave to amend her notice of application only. No other relief is identified as being sought on the motion. The Applicant's request for the appointment of a case management judge from Saskatchewan is therefore not before the Court on this motion and need not be considered further.

IV. **Costs**

[72] The Applicant sought her costs of this motion if she was successful. She suggested that costs in the amount of $ 200.00 would be appropriate.

[73] The Applicant also argued that she should not have to pay any costs for this motion should she be unsuccessful because she currently has no source of income due to her being disbarred from the practice of law. She also argues that she should not have to pay costs because the AGC was not cooperative enough, and that she should not be penalized for the conduct of the registry's clerk.

[74] The AGC seeks its costs of this motion fixed at $ 900.00. This amount represents 5 units of Tariff B, table 4, middle column costs for items 8 and 11.

[75] Pursuant Rule 400(1) of the *Rules,* and considering my discretion to award costs as provided by rule 400(1) of the *Rules*, the factors set out in Rule 400(3) of the *Rules*, and considering that the Applicant has not led any evidence as to her ability or inability to pay a costs award on a motion, I consider that an award of costs of $ 800.00 in favour of the AGC is appropriate considering the three-fold objectives of a costs award (*Air Canada v. Thibodeau*, 2007 FCA 115, at para 24).

ORDER in T-1006-25

THIS COURT ORDERS that:

1. The Applicant's motion is granted in part and dismissed in part.
2. Leave is hereby granted to the Applicant pursuant to Rule 75 of the *Rules* to amend her notice of application in accordance with the proposed amendments set out in her proposed amended notice of application produced on this motion in her motion record with respect to the proposed amendments for:
    a) paragraph 2, and footnote 1 in paragraph 2;
    b) the addition of the title above paragraph 3;
    c) the addition of footnotes 4 and 5 in paragraph 17;
    d) the addition of bolded wording in paragraph 20;
    e) the addition of footnote 9 in paragraph 33;
    f) the addition of bold/underlined text in paragraph 38; and,
    g) the addition of text and footnote 13 in paragraph 57.
3. Leave is refused for the Applicant to amend her notice of application to add the proposed paragraphs 2.2 to 2.19, 2.20, 2.21, 69, 70 and 73 to her notice of application.
4. Leave is refused for the Applicant to amend her notice of application to add words to paragraphs 18 and 53 of her notice of application.
5. The Applicant may amend her notice of application in the manner contemplated by Rule 79 of the *Rules* within 30 days of the date of this order.
6. The Applicant shall serve the Respondents with her amended notice of application and file proof of service thereof within 30 days of the date of this order.

7. The Applicant shall pay the Respondent Attorney General of Canada his costs of this motion which are fixed at $ 800.00. No costs are awarded to either Justice Hussain or to the Canadian Judicial Council.

8. Pursuant to Rule 385(1)(a) and (b) of the *Rules*, the parties shall complete the steps contemplated by Rules 306, 307, 308, 309, 310 and 314 of the *Rules* in accordance with and within the time provided by each of these *Rules*. The 30 days contemplated at Rule 306 shall begin to run from the date of the Applicant's service of her amended notice of application upon the Respondents.

"Benoit M. Duchesne"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1006-25
STYLE OF CAUSE:	JACQUELINE SANDERSON v. CANADIAN JUDICIAL COUNCIL, THE ATTORNEY GENERAL OF CANADA & THE HONOURABLE JUSTICE AZIMUDDIN HUSSAIN
PLACE OF HEARING:	VIDEOCONFERENCE ZOOM
DATE OF HEARING:	FEBRUARY 11, 2026
ORDER AND REASONS:	DUCHESNE, J.
DATED:	FEBRUARY 19, 2026

APPEARANCES:

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Joshua Wilner	FOR THE RESPONDENT (AGC)

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