

Federal Court



Cour fédérale

Date: 20250918

**Dockets: T-3225-25
T-3331-25**

Ottawa, Ontario, September 18, 2025

PRESENT: Madam Associate Judge Sylvie M. Molgat

BETWEEN:

**ASSOCIATION OF JUSTICE COUNSEL,
GREGORY HARLOW, SOPHIE LEMIEUX,
PHILLIP TURCOTTE and WILLEMIEN KRUGER**

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

ORDER

UPON informal request for interlocutory relief by the Applicants, by letter dated September 16, 2025, in accordance with the *Amended Consolidated General Practice Guidelines* (June 20, 2025), for an Order consolidating the applications bearing Court file Nos. T-3225-25 and T-3331-25;

CONSIDERING the facts and submissions relevant to the request as set out in the said letter, and that Respondent consents to the relief requested;

AND CONSIDERING that the Court is satisfied that consolidation will help avoid a multiplicity of proceedings and ensure the most expeditious and efficient determination of these applications;

THIS COURT ORDERS that:

1. The informal request is granted.
2. The applications bearing Court file Nos. T-3225-25 and T-3331-25 shall be consolidated and heard together.
3. The remaining steps in the consolidated proceeding shall follow in accordance with the *Federal Courts Rules* based on the schedule for Court File T-3331-25, subject to any further direction or order.
4. The style of cause is amended as appears in the present Order.
5. The whole without costs.

"Sylvie M. Molgat"
Associate Judge



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Court File No

FEDERAL COURT

B E T W E E N:

**ASSOCIATION OF JUSTICE COUNSEL,
GREGORY HARLOW, SOPHIE LEMIEUX and PHILLIP TURCOTTE**

Applicants

- and -

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION (Section 18.1 of the *Federal Courts Act*)

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicants. The relief claimed by the applicants appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicants. The applicants request that this application be heard at Ottawa.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules*, and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

August 29, 2025

Issued by: JONATHAN MACENA
SENIOR REGISTRY OFFICER
AGENT PRINCIPAL DU GREFFE
(Registry Officer)

Address of
local office: _____

TO: Attorney General of Canada

AND TO: Shalene Curtis-Micallef
Deputy Minister and Deputy Attorney General
284 Wellington Street
Ottawa, ON K1Z 0H8

I HEREBY CERTIFY that the above document is a true copy of the original filed/issued in the Federal Court.

JE CERTIFIE que le document ci-dessus est une copie conforme à l'original déposé/délivré au dossier de la Cour fédéral.

Filing/Issued date
Date de dépôt/délivré : 29-AUG-2025

Dated
Daté : 29-AUG-2025

APPLICATION

This is an Application with respect to the suspension of the LP-01 Development and Training Program (the “Program”), issued pursuant to sections 7, 11.1 and/or 12 of the *Financial Administration Act* (the “FAA”). The Program, introduced in October 2020, provides for structured career progression for lawyers classified as LP-01 lawyers at the Department of Justice. Participants progress through the Program upon the completion of specified performance objectives. Upon successful completion and assessment of their Workplan Record of Achievement by the Departmental Review Panel, these participants are promoted to the LP-02 classification. Participation in the Program was mandatory for approximately 500 members of the Association of Justice Counsel (the “AJC”) classified as LP-01 lawyers at the Department of Justice, for whom the AJC is the certified bargaining agent and, pursuant to the *FAA*, the Treasury Board is the legal employer.

At its inception, the objective of the Program was to ensure that LP-01 lawyers would receive promotions within a reasonable number of years. It was also intended to address the competition between, and the attrition rate of, LP-01 lawyers in the Department of Justice. Thus, LP-01 lawyers entered the Program with the expectation that upon successful completion, they would receive a promotion to the LP-02 classification.

As recently as spring 2025, the AJC consulted with the Department of Justice about the Program. These consultations addressed AJC’s concerns about aspects of the Program, including the impact of parental leave on members’ years of service required to advance in the Program. At no time was there any indication that the employer intended to pause the Program.

In April 2025, LP-01 lawyers who had completed the Program’s requirements were required to start submitting their Workplans for assessment. Subsequently, members grew concerned about the lack of communication and transparency from management about the Program, including the absence of updates on the status of completed Workplan assessments for promotions in 2025, and the absence of timelines and other Program materials on its Digital Workspace.

On July 25, 2025, the AJC wrote to the Department of Justice to outline members’ growing concerns about management’s inaction with respect to the 2025 promotion round, and the employer’s silence about the delay in executing the employer’s commitment to the lawyers participating in the Program.

On July 31, 2025, the Department of Justice informed the AJC that it had paused and suspended the Program, meaning that the Departmental Review Panel would not convene to assess the participants' Workplan Record of Achievement and recommend their promotion. The Departmental Review Panel would not meet until the Program was "un-paused," and all review and recommendation cycles were suspended.

On August 8, 2025, the Deputy Minister of Justice and Deputy Attorney General of Canada, Shalene Curtis-Micallef, and Assistant Deputy Ministers Isabelle T. Jacques and Samantha Maislin Dickson emailed a message to all employees at the Department of Justice about the "temporary pause" of the Program. The message informs that the suspension was implemented as a savings and cost-reduction measure and that the Department of Justice would undertake a review of the Program's structure and sustainability.

By the time of this announcement, LP-01 lawyers who were scheduled for promotion in August 2025 had already had their Workplans approved by their managers, as required. This meant that their managers believed the affected lawyers were capable of performing LP-02 work. As a result of the pause, LP-01 lawyers at earlier stages in the Program who had nearly completed their Workplans and intended to submit them in future evaluation cycles were advised that the Departmental Review Panel would not meet to review their work and approve their promotions. All of these members had an expectation when entering the Program that, if they met the Program objectives, they would be promoted to the LP-02 classification.

To date, the Department of Justice has provided no justification for pausing and suspending the Program other than that it has a mandate to manage budget restrictions, and has provided no clear indication as to the future of the Program or the impact of its decision on the LP-01 lawyers presently at various stages in the Program cycle.

THE APPLICANT MAKES AN APPLICATION FOR:

- (a) An Order allowing this Application, with costs;
- (b) An Order quashing the suspension of the Program;
- (c) An Order reinstating the Program;

- (d) A Declaration that the suspension of the Program is an abuse of discretion and authority and is therefore of no force and effect; and
- (e) Such further and other relief as counsel may advise and this Honorable Court will permit.

THE GROUDS FOR THE APPLICATION ARE:

- (a) The authority of the Treasury Board and/or the deputy head to promulgate, issue, implement and amend rules, policies, and directions governing employees of the federal public service is the result of the statutory delegation of powers by the *FAA*;
- (b) The Treasury Board and/or the deputy head may only exercise the power granted for the purpose for which the power was granted by the *FAA*. Any other purpose is unauthorized and therefore *ultra vires* and beyond the Treasury Board's competence. Unauthorized abuses of statutory authority include, but are not limited to, circumstances where statutory authority is exercised for an unauthorized purpose, in bad faith, or based on irrelevant considerations. Abuses of authority also occur where the delegate acts on inadequate material, including where there is no evidence to support the action or without consideration of relevant matters;
- (c) Sections 7 and 11.1 of the *FAA* grant the Treasury Board the authority to act as the employer for the federal public service and to make employment-related decisions with respect to the terms and conditions of employment for employees in the federal public service. The grants of authority under section 7 and 11.1 of the *FAA* do not authorize the Treasury Board to act for reasons which are not for a valid, legitimate, and reasonable purpose;
- (d) Paragraph 12(1)(a) of the *FAA* grants the deputy head authority to determine the learning, training and development requirements for persons employed in the public service, a grant of authority that also does not authorize the deputy head to act for reasons which are not for a valid, legitimate, and reasonable purpose;
- (e) In suspending the Program on or around July 31, 2025, the Treasury Board and/or the deputy head denied LP-01 lawyers at the Department of Justice opportunities for advancement that are not for any valid, legitimate, or

reasonable employment and workplace-related purpose and are not consistent with the purposes for which its statutory powers were granted under the *FAA*;

- (f) The suspension of the Program is therefore an ongoing abuse of authority as it was:
 - i. undertaken for reasons unrelated or contrary to the authorized use of statutory authority, for an unauthorized or ulterior purpose, or on the basis of irrelevant considerations;
 - ii. undertaken arbitrarily and based on inadequate material, including based on no evidence or without consideration of relevant matters, including whether individual LP-01 lawyers satisfy the government's designated requirement to advance to the LP-02 group and level, and constitutes a refusal to recognize candidates who have met the government's criteria;
 - iii. not reasonably necessary to the achievement of any employment and workplace-related purpose or any other purpose relevant to an authorized exercise of statutory authority;
 - iv. otherwise unreasonable;
 - v. undertaken in breach of principles of procedural fairness; and
 - vi. based on an erroneous finding of fact made in a perverse and capricious manner or without regard to the material before it within the meaning of paragraph 18.1(4)(d) of the *Federal Courts Act*;
- (g) Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- (a) An affidavit or affidavits on behalf of the Applicants, including the exhibits attached thereto;
- (b) The complete record of the material related to the decision to suspend the Program; and

- (c) Such further and other material as counsel may advise and this Honourable Court may permit.

THE APPLICANT REQUESTS pursuant to Rule 317 of the *Federal Courts Rules* that a certified copy of the following material that is not in the possession of the Applicants but is in the possession of the decision-makers be sent to the Applicants and to the Registry:

- (a) The full record of all material related to the decision to suspend the Program, including the development, consideration, establishment, or adoption of the suspension, and any other material which was considered, communicated or referred to, including notes, memos, presentations and any other documents, as part of, or which informed, the exercise of the relevant statutory authorities.

Dated at Ottawa this 29th day of August, 2025.



Michael Fisher
Barhilla Jesse-Buadoo
David Yazbeck

RAVENLAW LLP/s.r.l.

1600-220 Laurier Avenue West
Ottawa, ON K1P 5Z9

Tel: 613-567-1352

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300-2725 Queensview Drive
Ottawa, ON K2B 0A1

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Fax: 613-564-0606

Email: dyazbeck@ajc-ajj.ca

Solicitors for the Applicants

FEDERAL COURT

B E T W E E N:

**ASSOCIATION OF JUSTICE COUNSEL,
GREGORY HARLOW, SOPHIE LEMIEUX and
PHILLIP TURCOTTE**

Applicants

- and -

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION

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Ottawa, Ontario K1P 5Z9

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Per: Barhilla Jesse-Buadoo

Tel: (613) 567-2901

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300-2725 Queensview Drive

Ottawa, ON K2B 0A1

Per: David Yazbeck

Tel: 613-798-9900

Fax: 613-564-0606

Email: dyazbeck@ajc-ajj.ca

Solicitors for the Applicants



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Court File No

FEDERAL COURT

B E T W E E N:

WILLEMIEN KRUGER

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION (Section 18.1 of the *Federal Courts Act*)

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Ottawa.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules*, and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

September 5, 2025

Issued by: _____

JONATHAN MACENA
SENIOR REGISTRY OFFICER
AGENT PRINCIPAL DU GREFFE
(Registry Officer)

Address of
local office: _____

TO: Attorney General of Canada

AND TO: Shalene Curtis-Micallef
Deputy Minister and Deputy Attorney General
284 Wellington Street
Ottawa, ON K1Z 0H8

I HEREBY CERTIFY that the above document is a true copy of the original filed/issued in the Federal Court.

JE CERTIFIE que le document ci-dessus est une copie conforme à l'original déposé/délivré au dossier de la Cour fédéral.

Filing/Issued date 05-SEP-2025
Date de dépôt/délivré : _____

Dated 05-SEP-2025
Daté : _____

APPLICATION

This is an Application with respect to the suspension of the LP-01 Development and Training Program (the “Program”), issued pursuant to sections 7, 11.1 and/or 12 of the *Financial Administration Act* (the “FAA”). The Applicant is classified as an LP-01 lawyer at the Department of Justice. The Applicant first learned that the Program would be paused during a meeting with management on August 6, 2025.

The Program, introduced in October 2020, provides for structured career progression for lawyers classified as LP-01 lawyers at the Department of Justice. Participants progress through the Program upon the completion of specified performance objectives. Upon successful completion and assessment of their Workplan Record of Achievement by the Departmental Review Panel, these participants are promoted to the LP-02 classification. Participation in the Program was mandatory for LP-01 lawyers at the Department of Justice.

The Program’s objective was to ensure that LP-01 lawyers would receive promotions within a reasonable number of years. The Program was also intended to address the competition between, and the attrition rate of, LP-01 lawyers in the Department of Justice. Thus, the Applicant entered the Program with the expectation that upon successful completion, they would receive a promotion to the LP-02 classification.

In spring 2025, the Applicant completed the Program requirements and their Workplan was approved by their manager, as required by the Program, meaning that they had met the competencies and working levels of an LP-02, and their manager confirmed they were capable of performing LP-02 classification work. This approved Workplan was then submitted to the Departmental Review Panel. Based on the established program process and in keeping with the pattern from prior years, the Applicant understood they would be appointed to the LP-02 classification by early August 2025.

During a meeting with management on August 6, 2025, the Applicant learned that the Deputy Minister of Justice, Shalene Curtis-Micallef had decided to pause the Program as part of the government’s efforts to reduce spending. While the Program was suspended, there would be no review of Workplans or promotion to the LP-02 classification. Lawyers who, like the Applicant, submitted their Workplans in the spring would not be considered by the Departmental Review Panel for the duration of the Program’s suspension.

On August 8, 2025, the Applicant, along with all employees at the Department of Justice, received an email from the Deputy Minister of Justice and Assistant Deputy Ministers Isabelle T. Jacques and Samantha Maislin Dickson about the “temporary pause” of the Program. The email stated that the suspension was implemented as a savings and cost-reduction measure and that the Department of Justice would undertake a review of the Program’s structure and sustainability.

THE APPLICANT MAKES AN APPLICATION FOR:

- (a) An Order allowing this Application, with costs;
- (b) An Order quashing the suspension of the Program;
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- (d) A Declaration that the suspension of the Program is an abuse of discretion and authority and is therefore of no force and effect; and
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 - iii. not reasonably necessary to the achievement of any employment and workplace-related purpose or any other purpose relevant to an authorized exercise of statutory authority;
 - iv. otherwise unreasonable;

- v. undertaken in breach of principles of procedural fairness; and
- vi. based on an erroneous finding of fact made in a perverse and capricious manner or without regard to the material before it within the meaning of paragraph 18.1(4)(d) of the *Federal Courts Act*;
- (g) Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- (a) An affidavit or affidavits on behalf of the Applicant, including the exhibits attached thereto;
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THE APPLICANT REQUESTS pursuant to Rule 317 of the *Federal Courts Rules* that a certified copy of the following material that is not in the possession of the Applicants but is in the possession of the decision-makers be sent to the Applicants and to the Registry:

- (a) The full record of all material related to the decision to suspend the Program, including the development, consideration, establishment, or adoption of the suspension, and any other material which was considered, communicated or referred to, including notes, memos, presentations and any other documents, as part of, or which informed, the exercise of the relevant statutory authorities.

Dated at Ottawa this 5th day of September, 2025.



Michael Fisher
Barhilla Jesse-Buadoo
David Yazbeck

RAVENLAW LLP/s.r.l.

1600-220 Laurier Avenue West
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Solicitors for the Applicant

FEDERAL COURT

B E T W E E N:

WILLEMIEN KRUGER

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION

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Solicitors for the Applicant