

COURT OF APPEAL OF ALBERTA

Form AP-1

[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER: 2103 11484

REGISTRY OFFICE: EDMONTON

PLAINTIFFS/APPLICANTS: MOMS STOP THE HARM
SOCIETY and LETHBRIDGE
OVERDOSE PREVENTION
SOCIETY

STATUS ON APPEAL: APPELLANTS

DEFENDANT/RESPONDENT: HER MAJESTY THE QUEEN IN
RIGHT OF ALBERTA

STATUS ON APPEAL: RESPONDENT

DOCUMENT: **CIVIL NOTICE OF APPEAL**

APPELLANT'S ADDRESS FOR
SERVICE AND CONTACT
INFORMATION:

Nanda & Company
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File No. 406.00001

Registrar's Stamp

WARNING

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

1. Particulars of Judgment, Order or Decision Appealed From:

Date pronounced: January 10, 2022

Date entered: N/A

Date served: N/A

Official neutral citation of reasons for decision: *Moms Stop the Harm Society v Alberta*, 2022 ABQB 24

2. Indicate where the matter originated:

X Court of Queen's Bench

Judicial Centre: Edmonton

Justice: The Honourable Justice R.P. Belzil

On appeal from a Queen's Bench Master or Provincial Court Judge?:

X No

3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).

X Permission not required

4. Portion being appealed (Rule 14.12(2)(c)):

X Part of the decision: the Chambers Justice's conceptualization and application of the balance of convenience stage of the test for injunctive relief in the circumstances.

5. Provide a brief description of the issues:

- The Chambers Justice erred in identifying the correct legal approach to assessing the balance of convenience stage of the analysis to injunctive relief against state action that is alleged to be unconstitutional.
- The Chambers Justice erred in application of the balance of convenience framework to the facts established on record before the Court in the application.
- The Chambers Justice made a palpable and overriding error in finding that the impugned state action will result in the death of a countless number of substance users but the public interest in preventing these deaths did not outweigh the public interest presumption the impugned measure.

6. Provide a brief description of the relief claimed:

- The Court of Appeal hear the appeal on an expedited basis, with an oral hearing held prior to January 31, 2022.
- The Court of Appeal grant an interim injunction until it renders a decision in the appeal.
- The Court of Appeal allow the appeal and grant the injunctive relief the Applicants sought in the hearing below.

7. Is this appeal required to be dealt with as a fast track appeal? (Rule 14.14)

☒ Yes ☐ No

8. Does this appeal involve the custody, access, parenting or support of a child? (Rule 14.14(2)(b))

Yes ☐ ☒ No

9. Will an application be made to expedite this appeal?

Yes ☐ No ☒

10. Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate? (Rule 14.60)

Yes ☐ No ☒

11. Could this matter be decided without oral argument? (Rule 14.32(2))

Yes ☐ No ☒

12. Are there any restricted access orders or statutory provisions that affect the privacy of this file? (Rules 6.29, 14.12(2)(e),14.83)

Yes ☐ No ☒

13. List respondent(s) or counsel for the respondent(s), with contact information:

Justice and Solicitor General
Constitutional & Aboriginal Law
Legal Services Division
Government of Alberta
10th Floor, 102A Tower
10025 – 102A Avenue
Edmonton, AB T5J 2Z2
Fax 780-643-0852

Attn: Aleisha Bartier and Nathaniel Gartke
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14. Attachments (check as applicable)

Order or judgment under appeal if available (not reasons for decision) (Rule 14.12(3))

Earlier order of Master, etc. (Rule 14.18(1)(c))

Order granting permission to appeal (Rule 14.12(3)(a))

Copy of any restricted access order (Rule 14.12(2)(e))