Court File No. 34788

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE ONTARIO COURT OF APPEAL)

BETWEEN:

ATTORNEY GENERAL OF CANADA, ET AL.

Appellants

-and-

TERRI JEAN BEDFORD, ET AL.

Respondents

MEMORANDUM OF ARGUMENT
OF THE PROPOSED INTERVENER THE FEMINIST COALITION

PART I – STATEMENT OF FACTS

A) Overview

1. In this motion, the Feminist Coalition seeks leave to intervene in this appeal and cross-appeal pursuant to Rule 55 of the *Rules of the Supreme Court of Canada (*the "*Rules*"*)*.

2. The Feminist Coalition seeks leave to file a factum and to present oral submissions at the hearing of the appeal and cross-appeal.

B) The Feminist Coalition's Background and Expertise

3. The Feminist Coalition consists of 23 member organizations related to the VAW (violence against women) and feminist communities who share a pro-decriminalization outlook on all aspects of sex work. Its members have formed the Coalition for the purpose of intervening in this appeal with a common voice. The membership is national and supported by international organizations Global Alliance Against Traffic in Women and the Association for Women's Rights in Development. Academic advisors to the Coalition are Dr. Kamala Kampadoo from York University, and Dr. Maria N. Mensah of the Université du Québec à Montréal.[1]

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[1] *Affidavit of Jane Doe*, sworn April 9, 2013, paras. 6, 7 and 13

4. The Feminist Coalition was convened by "Jane Doe", a well-known women's rights activist and the successful litigant in *Doe v. Metropolitan Toronto (Municipality) Commissioners of Police* (1998), 126 C.C.C. (3d) 12. Jane Doe's book, research and publications on sexual assault and violence against women are on university curricula internationally.[2]

5. The individual mandates and mission statements of the Coalition's member organizations are geared to advancing the equality rights of all women, including transgender women, with a focus on providing direct services to those who experience sexualized and gendered violence - particularly sexual assault and/or woman abuse. A complete list of the Coalition's members and a description of each organization's work can be found in the Affidavit of Jane Doe.[3]

6. The member organizations of the Coalition hold specialized knowledge, experience, and expertise in support of the position it will be taking in this appeal. Together, they have decades worth of research, training, and advocacy experience. They have coalesced into a single coalition in order to provide the Court the benefit of all of its membership's experience and expertise, so as to better serve the Court and make better use of its time and resources. The Feminist Coalition can provide the Court with a substantive, impartial analysis that takes into account the broader consequences of the appeal and cross-appeal for the equality, labour and human rights of women.[4]

PART II – POINTS IN ISSUE

7. The issue to be determined on this motion is whether the Feminist Coalition should be granted leave to intervene in the within appeal and cross-appeal.

PART III – ARGUMENT

A) The Test for Leave to Intervene

8. It is submitted that the Feminist Coalition meets the test for leave to intervene. It has an interest in the subject matter of this appeal and cross-appeal and can provide useful and distinct submissions to the Court.[5]

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[2] *Ibid.*, paras. 1 to 5
[3] *Ibid.*, paras. 6 and 7
[4] *Ibid.*, paras. 7 and 8
[5] *Reference Re Workers' Compensation Act, 1983 (Nfld.) (Application to Intervene),* [1989] 2 S.C.R. 335 at 339; *R. v. Finta,* [1993] 1 S.C.R. 1138 at 1142

9. In *Canadian Council of Churches v. Canada (M.E.I),* Cory J. made the following observations on behalf of the Court:

> Public interest organizations are, as they should be, frequently granted intervener status. The views and submissions of interveners on issues of public importance frequently provide great assistance to the courts.[6]

B) The Feminist Coalition's Interest in the Appeal

10. The issues in this appeal are of broad public interest and of particular interest to the Feminist Coalition, its member organizations, and the clientele they serve.

11. The Feminist Coalition's members are aware of and familiar with the work conditions of sex working women and the difficulties posed by the current legislation surrounding their work, as well as with the solutions proposed by parties to this appeal and interveners. Aside from their experience with issues of violence against women and women's equality rights, the members work in collaboration with and/or support sex worker-run agencies across Canada and internationally. Several are routinely in the position of assisting sex working women. This relationship to sex worker agencies, in conjunction with the above-mentioned expertise, is unique to this Coalition and sets it apart from other proposed interveners. Further, the treatment of sex working women and their work reflects on the member organizations' clientele and women generally. Because of this dual expertise, the Coalition is well positioned to offer constructive comments on the ways in which sex work ought to be viewed and treated in light of women's autonomy and equality rights.[7]

12. The Feminist Coalition will not reiterate the parties' submissions or those of other proposed interveners. Rather, having reviewed the parties' written submissions before this Court and the submissions of the Respondents and interveners in the courts below, the Coalition can provide a distinct perspective that will be of assistance to this Court. This case involves a complex factual record and broad policy issues which will require considerable attention by the parties. The Feminist Coalition is well positioned to take an equality-oriented approach to the important issues of constitutional and human rights law raised in this case, based on the vast practical expertise of its members.

[6] *Canadian Council of Churches v. Canada (M.E.I.)*, [1992] 1 S.C.R. 236 at 256
[7] *Affidavit of Jane Doe, supra*, para. 10

13. There are two widely divergent schools of feminist thought on the issue before the Court. One voice that has been prominent in the litigation thus far comes from the opponents of removing all prostitution-related provisions from the *Criminal Code*. This voice sees the prostitution laws as vindicating women's equality, at least insofar as they are enforced against customers and so-called "pimps".[8] That view stands in stark contrast to the view of women's rights espoused by this Coalition, which advocates the full decriminalization of the sex work industry as the only solution consistent with the s. 7 *Charter* rights of sex workers. The Court needs to have represented before it a feminist position, well supported by the evidence and social science research adduced in the record before it, in favour of the removal of all criminal sanctions against prostitution.

14. Consistent with the proper role of an intervener before the Court, the Feminist Coalition will not take a position on the facts of the case or on the disposition of the appeal.

C) Outline of Proposed Submissions

15. If granted leave to intervene, the Feminist Coalition proposes to make the following submissions, set out below in summary form.

i) Sex work is not inherently violent

16. Sex work is not inherently violent and exploitative. While it is acknowledged that many women engaged in sex work are at a real risk of physical violence,[9] the Coalition challenges the Court of Appeal's finding that "prostitution is inherently dangerous in virtually any circumstance".[10] The simple fact of making a sexual act dependent on a monetary transaction does not in itself create violence or exploitation.[11]

17. The conflation of women and children, sex work and human trafficking, and consensual and non-consensual sex obscures the very real cases of violence that sex workers are experiencing as a result of poor policies and practices. The practical experience of the VAW members of this Coalition has led them to observe that these relate to conceptually

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[8] This was the position taken by the intervener "Women's Coalition" in the Court of Appeal. See also: M. Farley, *Prostitution is Sexual Violence*, Psychiatric Times, Vol. 21, No. 12, Oct. 1, 2004, J.A.R., Vol. 49, p. 14487; M.M. Dempsey, Sex Trafficking and Criminalization: In Defence of Feminist Abolitionism (2010) 158 U. Pa. L.Rev. 1729
[9] As found by the Application judge: *Reasons of Himel J.*, Appellant's Record, Vol. I, Tab 3, at para. 421
[10] *Reasons of the Court of Appeal*, Appellant's Record, Vol. II, Tab 7, at para. 117 [*OCA Reasons*]
[11] See K. Gillies et al., *Bound By Law: How Canada's Protectionist Public Policies in the Areas of both Rape and Prostitution Limit Women's Choices, Agency and Activities*, J.A.R., Vol. 6, pp. 1340-41, 1362-65, 1367 [*Bound*]

different problems that various provisions of the *Criminal Code* seek to address.[12] It is inappropriate and harmful to ascribe to prostitution laws the intent to deal with all of these distinct issues.[13] To treat all sex workers alike does not reflect the reality of the sex industry, obscuring the plight of sex workers that do encounter violence in the course of their work and the true causes of that violence.[14]

18. While many women who engage in sex work do not have a free range of decisions in terms of how to support themselves financially or meet their economic needs, failing to recognize that capable and consenting adult women can still – despite positions of marginalization and vulnerability – <u>decide</u> to engage in sex work, is to degrade these women and to adversely impact their substantive equality. Women ought to be treated as autonomous agents capable of making their own decisions about pursuing a livelihood within any range of options available to them.[15] As acknowledged by the Court of Appeal, "[p]ersonal autonomy lies at the heart of the right to security of the person".[16]

19. The Coalition will also argue that the dichotomy created by opposing neighbourhoods and communities and their nuisance concerns on the one hand, and sex workers on the other, is objectionable and stigmatizes sex working women in a way that further undermines their security of the person.[17] Indeed, labeling sex workers as a "nuisance" encourages a level of violence against them and fails to treat them with the dignity afforded to other persons. Sex work in and of itself is not a nuisance: sex workers should be seen as <u>part of</u> the community, not a nuisance to the community.

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[12] See e.g. the provisions on sexual assault (ss. 271 to 273), assault (ss. 265 to 268), human trafficking (s. 279.01), violence – including sexual violence – against minors (ss. 150.1 to 153, 279.011), and kidnapping (s. 279). See also: House of Commons, Report of the Standing Committee on Justice and Human Rights, *The Challenge of Change: A Study of Canada's Criminal Prostitution Laws* (Dec. 2006), J.A.R., Vol. 82, p. 24934 [*Parliamentary Report 2006*]

[13] See *Bound, supra*, pp. 1356-57 and Sex Trade Advocacy and Research, *Safety, Security and the Well-Being of Sex Workers*, A Report Submitted to the House of Commons Subcommittee on Solicitation Laws (July 2006), J.A.R., Vol. 24, p. 6917 [*Safety, Security*].

[14] For an explanation of the variety of ways in which sex work can be organized, see *Safety, Security, supra*, J.A.R., Vol. 24, pp. 6888-89; and R. Weitzer, *Sex for Sale*, Chapter 1, J.A.R., Vol. 32, pp. 9163 and ff.

[15] See *Bound, supra*, pp. 1363, 1367-68; *Parliamentary Report 2006, supra*, p. 24931; and *Affidavit of S. Davis*, J.A.R., Vol. 5, p. 930

[16] *OCA Reasons, supra*, at para. 99. See also: *Chaoulli v. Quebec (A.G.)*, 2005 SCC 35; *R. v. Morgentaler*, [1988] 1 S.C.R. 30; and *Canada (A.G.) v. PHS Community Services Society*, 2011 SCC 44 [*PHS*]

[17] See *Bound, supra*, p. 1345; *Safety, Security, supra*, pp. 6897, 6904-05; *Affidavit of S. Davis, supra*, pp. 931 and 933, paras. 4 and 9; *Affidavit of C.-L. Strachan*, J.A.R., Vol. 8, pp. 1869-70; J. Lowman, *Violence and the Outlaw Status of (Street) Prostitution in Canada* (2006) 6 Violence Against Women 987, J.A.R., Vol. 18, pp. 5118-19, 5121-22 [*Lowman*]; *Parliamentary Report 2006, supra*, pp. 24972-73

20. With these important premises in mind, the Coalition will submit that the criminalization of activities related to the sex trade under the current legislative regime significantly contributes to the violence against and victimization of sex working women and endangers their safety.

ii) The impugned provisions create violence against women

21. While sex work is not inherently violent, many sex workers do experience violence, much of which is attributable to the current legislative regime as a whole. Indeed, as with other underground markets, violence flourishes in an environment of covertness that is a product of illegality.[18] The Coalition's member groups from the VAW community experience the results of this violence every day.

22. Moreover, as demonstrated by the evidence and social science data accepted by the courts below, the existing criminal laws surrounding sex work increase the risk of violence against women engaged in such work in a multitude of concrete ways, ranging from the preclusion from working in safer indoor locales to the impediments to negotiating and screening potential clients.[19] The Coalition will submit that, as found by the courts below, the nexus between the impugned legislation and this endangerment of sex working women's security of the person is more than sufficient to engage section 7 of the *Charter*.

23. As stated by the Court of Appeal, any "real increase" in the risk of physical harm brought about by the criminal prohibitions impairs the right to security of the person.[20] Just as the impugned state conduct in *Khadr* was Canada's *indirect assistance* of U.S. authorities (the ones directly responsible for the deprivation at issue),[21] the legislation at hand in the present case indirectly contributes to the risk of harm faced by sex workers. This contribution is more than sufficient to engage women's right to security of the person.

The prohibition against living on the avails interferes with sex workers' security of the person to a significant degree

24. Section 212(1)(j) precludes sex workers from hiring any type of assistance which is proven to assist in ensuring their safety.[22] The legislation assumes that people rendering

[18] *Affidavit of K. Gillies*, J.A.R., Vol.6, p.1305; *Lowman, supra*, p.5121; *Parliamentary Report 2006, supra*, p.24966
[19] *OCA Reasons, supra*, at para. 100
[20] *Ibid.*, at para. 111, citing *Chaoulli, supra*, at para. 123. See also *PHS, supra*
[21] *Canada (Prime Minister) v. Khadr*, 2010 SCC 3, [2010] 1 S.C.R. 44
[22] As accepted by the Application judge and the Court of Appeal: *OCA Reasons, supra*, at para. 100

such assistance are threats to sex workers, and fails to recognize that these third parties are required for their protection and security.[23] By focusing on the stereotypical image of the violent "pimp", a wide range of relationships that assist in securing sex workers' safety is ignored.

25. Indeed, the Coalition will submit that the term "pimp" has been misused in the course of this litigation and continues to be misused as encompassing the various types of relationships targeted by section 212(1)(j). Such references to "pimps" and "pimping" improperly taint the analysis.[24] The term draws on racially tinged social stereotypes that often connote violence rather than the vast range of beneficial economic relationships that sex workers can have with third parties. The VAW members of this coalition regularly have the opportunity to observe these relationships, which can range from personal bodyguards to drivers to managers and receptionists.[25]

26. The Coalition will argue that any violence or exploitation that is experienced in the context of these relationships can be addressed by other existing laws such as sexual assault, assault and coercion laws. The prostitution laws only serve to restrict access to relationships that actually protect sex workers' security of the person.[26] Even persons that some may stereotypically portray as "exploitative types" offer valuable protection to sex workers.[27] The Coalition will submit that sex workers ought <u>not</u> be precluded from benefitting from such protection, and that the Court of Appeal, by its reading in remedy, erred in this respect.

27. The remedy chosen by the Court of Appeal of reading into s. 212(1)(j) the terms "in circumstances of exploitation" is also an unfair differentiation between the sex trade and other trades which will continue to dissuade people from associating with sex workers for the purpose of work, thereby denying sex workers the opportunities for security measures that the lower courts recognized as important. No other industry faces this distinction

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[23] *Bound, supra*, p. 1344

[24] See *Bound, supra*, p. 1364. "Pimps" are in fact not a very common phenomenon in Canada: L. Cler-Cunningham et al., *Violence Against Women in Vancouver's Street Level Sex Trade and the Police Response* (2001), J.A.R., Vol. 5, pp. 978-79 [*Violence Against Women*]

[25] See in this regard *Bound, supra*, pp. 1326, 1333; and *OCA Reasons, supra*, at para. 100

[26] See *Bound, supra*, pp. 1329, 1336-38; *Affidavit of T.J. Bedford*, J.A.R., Vol. 2, p. 47; *Affidavit of C.-L. Strachan, supra*, p. 1870; *Parliamentary Report 2006, supra*, pp. 24971-72

[27] See *Bound, supra*, pp. 1339-40; *Affidavit of S. Davis, supra*, p. 931, para. 5

which subjects a category of people who profit from it to the criminal law. Sex workers ought to be treated with the same level of dignity – and thus as having the same level of agency and access to labour protections – as any other group.[28]

28. Finally, from a VAW perspective, the Coalition will submit that the violence suffered by sex working women is in fact much the same as that experienced by other women who are victims of violence.[29] The most significant part of this violence can be attributed to violence suffered in the context of personal relationships. Section 212(1)(j) does nothing to assist these women; to the contrary, it perpetuates their state of insecurity. Indeed, because sex workers' intimate partners are often unfairly cast as "pimps",[30] resort to police is rarely had to address situations of domestic abuse, or indeed to address abuse at the hands of third parties for fear of the procuring laws being used against their partners.[31] In cases of domestic abuse, the "whore" stigma and the social, moral and criminal characterizations implied, also serve as a weapon of verbal abuse, allowing or giving the abuser "permission" to continue or escalate his violence.[32] Violent partners indeed gain leverage from this criminalization.

The provision against operating a common bawdy-house interferes with sex workers' security of the person to a significant degree

29. Section 210 prevents sex working women from working indoors, including out of their own residences. The Feminist Coalition will submit that this not only forces women to conduct their work outdoors, in a more unsafe environment[33], but it also contributes to sex workers' insecurity of the person by deterring those who experience violence from obtaining assistance from VAW shelters that are specifically designed to protect them against this very violence.[34]

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[28] See in this regard *Bound, supra*, p. 1340
[29] See *Lowman, supra*, pp. 5120-21
[30] *Bound, supra*, pp. 1312 and 1360
[31] *Ibid.*, p. 1408. On sex workers' reluctance to report violence against them generally as a result of the prostitution laws, see: *Affidavit of V. Scott, supra*, p. 300; *Lowman, supra*, pp. 5118 and 5121; *Parliamentary Report 2006, supra*, p. 24972
[32] *Bound, supra*, pp. 1359 and 1361
[33] *OCA Reasons, supra*, at para. 100
[34] See *Bound, supra*, p. 1361

The prohibition against communicating for the purpose of prostitution interferes with sex workers' security of the person to a significant degree

30. The various schools of feminist thought relating to sex work are in general agreement that the harm caused to sex working women by the communication prohibition is such that the provision ought to be struck down as it pertains to sex workers in order to properly protect their right to security of the person. What distinguishes one feminist approach from the other, however, is the continued criminalization of clients, as per the "Nordic" model.[35] The Coalition will argue that such an approach continues to threaten sex workers' safety by isolating clients, which in turn isolates sex workers.[36]

31. The Court of Appeal held that providing sex workers with the ability to work indoors by striking down the bawdy-house prohibition would alter the sex work landscape and render the communicating prohibition less problematic from a s. 7 point of view. The Coalition will submit that allowing sex workers to move indoors is not sufficient to guarantee sex workers' security of the person. Of obvious concern are sex workers without a home or other venue to work from – e.g. homeless and low income sex working women, students, immigrant and refugee women, and women who reside in VAW shelters. Some women also choose to work outside because of its lower cost, especially those seeking temporary or occasional income.[37] These women would continue to work on the streets, out of necessity or choice, and yet are prevented by s. 213(1)(c) from using the most rudimentary of methods to ensure their security: communicating for the purpose of screening potential clients and pre-determining the price and the services to be rendered – and the limit and scope of the sex worker's consent to sexual activity.

32. By depriving sex workers of the ability to fully and openly discuss with clients the extent of their consent to sexual activity, s. 213(1)(c) ironically prevents sex workers from giving their express and informed consent as required by sexual assault laws. This not only jeopardizes their security of the person but also contradicts this Court's recognition that consent to engage in sexual activity must be unequivocally and clearly given.[38] Even women with restricted options have agency, and their autonomy to make choices within

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[35] See the argument of the Women's Coalition before the Court of Appeal

[36] See e.g. *Violence Against Women, supra*, pp. 1043-44; *Parliamentary Report 2006, supra*, pp. 24980-81

[37] *Bound, supra*, p. 1329

[38] *R. v. J.A.*, 2011 SCC 28, [2011] 2 S.C.R. 440; *R. v. Ewanchuk*, [1999] 1 S.C.R. 330

those options ought to be respected. The law should safeguard that autonomy, not undermine it.

Conclusion

33. The Feminist Coalition's members, working every day in the area of violence against women, are able to provide a valuable insight for this Honourable Court's consideration. They do not see criminalization as reducing the violence faced by many sex workers. Real life experience from VAW groups nationally has established the opposite: criminal prohibitions exacerbate this violence. It will be submitted that the imposition of any type of criminal sanction surrounding sex work, even that focused on curbing demand by criminalizing one half of the commercial transaction – the client – is misguided and does nothing to protect sex workers from violence. Instead, it jeopardizes their security.

34. In summary, it is submitted that the Feminist Coalition will make a contribution to this appeal and cross-appeal that will be useful to this Court in determining the constitutional questions before it. Granting leave to intervene to the Feminist Coalition will not prejudice any party. The Coalition will take the record as it finds it. The Coalition will seek to avoid duplication of submissions, and will abide by any schedule set by the Court.

PART IV – COSTS

35. The Feminist Coalition seeks no costs in the proposed intervention and asks that none be awarded against it.

PART V – ORDER REQUESTED

36. For these reasons, the Feminist Coalition respectfully requests that it be granted leave to intervene, and be granted permission to file a factum and to present oral submissions at the hearing of the appeal and cross-appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated this 9th day of April, 2013

HENEIN, HUTCHISON LLP
Marie Henein
Christine Mainville
Counsel for the Proposed Intervener,
The Feminist Coalition

PART VI - TABLE OF AUTHORITIES

		Cited at Para(s)
1.	*Doe v. Metropolitan Toronto (Municipality) Commissioners of Police* (1998), 126 C.C.C. (3d) 12 (Ont. S.C. (Gen.Div.))	4
2.	*Reference Re Workers' Compensation Act, 1983 (Nfld.) (Application to Intervene),* [1989] 2 S.C.R. 355	8
3.	*R. v. Finta*, [1993] 1 S.C.R. 1138	8
4.	*Canadian Council of Churches v. Canada (M.E.I.)*, [1992] 1 S.C.R. 236	9
5.	*Chaoulli v. Quebec (A.G.)*, 2005 SCC 35, [2005] 1 S.C.R. 791	18, 23
6.	*R. v. Morgentaler*, [1988] 1 S.C.R. 30	18
7.	*Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44, [2011] 3 S.C.R. 134	18
8.	*Canada (Prime Minister) v. Khadr*, 2010 SCC 3, [2010] 1 S.C.R. 44	23
9.	*R. v. J.A.*, 2011 SCC 28, [2011] 2 S.C.R. 440	32
10.	*R. v. Ewanchuk*, [1999] 1 S.C.R. 330	32

PART VII – STATUTES AND REGULATIONS

Rules 47 and 55-59 of the *Rules of the Supreme Court of Canada*, SOR/2002-156:

47. (1) Unless otherwise provided in these Rules, all motions shall be made before a judge or the Registrar and consist of the following documents, in the following order:

(*a*) a notice of motion in accordance with Form 47;

(*b*) any affidavits;

(*c*) if considered necessary by the applicant, a memorandum of argument in accordance with paragraph 25(1)(*f*), with any modifications that the circumstances require;

(*d*) the documents that the applicant intends to rely on, in chronological order, in accordance with subrule 25(3); and

(*e*) a draft of the order sought, including costs. SOR/2006-203, s. 22(1).

(1.1) An originating motion shall include, after the notice of motion,

(*a*) a certificate in Form 25B that

(i) states whether there is a sealing order or ban on the publication of evidence or the names or identity of a party or witness, gives the details of the sealing order or ban, if any, and includes a copy of any written order, and

(ii) states whether there is any confidential information on the file that should not be accessible to the public by virtue of specific legislation and includes a copy of the provision of the legislation; and

(*b*) if a judge's previous involvement or connection with the case would result in it being inappropriate for that judge to take part in the adjudication on the proceedings in the Court, a certificate in Form 25C setting out the issues. SOR/2006-203, s. 22(2).

(2) Parts I to V of the memorandum of argument shall not exceed 10 pages.

(3) There shall be no oral argument on the motion unless a judge or the Registrar otherwise orders.

47. (1) Sauf disposition contraire des présentes règles, toute requête est présentée à un juge ou au registraire et comporte dans l'ordre suivant :

a) un avis de requête conforme au formulaire 47;

b) tout affidavit;

c) si le requérant le considère nécessaire, un mémoire conforme à l'alinéa 25(1)*f*), avec les adaptations nécessaires;

d) les documents que compte invoquer le requérant, par ordre chronologique, compte tenu du paragraphe 25(3);

e) une ébauche de l'ordonnance demandée, notamment quant aux dépens. DORS/2006-203, art. 22(1).

(1.1) La requête introductive d'instance comporte, à la suite de l'avis de requête :

a) une attestation conforme au formulaire 25B :

(i) indiquant s'il existe une ordonnance de mise sous scellés ou une obligation de non-publication de la preuve ou du nom ou de l'identité d'une partie ou d'un témoin, donnant les détails de l'ordonnance ou de l'obligation et incluant une copie de toute ordonnance écrite,

(ii) indiquant si le dossier comporte des renseignements confidentiels auxquels, aux termes de dispositions législatives particulières, le public ne doit pas avoir accès et incluant une copie des dispositions législatives;

b) dans le cas où il ne serait pas indiqué que le juge prenne part à la décision de la Cour en raison de sa participation antérieure à l'affaire ou de l'existence d'un lien entre lui et celle-ci, une attestation conforme au formulaire 25C énonçant les questions soulevées. DORS/2006-203, art. 22(2).

(2) Les parties I à V du mémoire de la requête comptent au plus dix pages.

(3) Sauf ordonnance contraire d'un juge ou du registraire, aucune plaidoirie orale n'est présentée à l'égard de la requête.

55. Any person interested in an application for leave to appeal, an appeal or a reference may make a motion for intervention to a judge.

55. Toute personne ayant un intérêt dans une demande d'autorisation d'appel, un appel ou un renvoi peut, par requête à un juge, demander l'autorisation d'intervenir.

56. A motion for intervention shall be made in the case of

(*a*) an application for leave to appeal, within 30 days after the filing of the application for leave to appeal;

(*b*) an appeal, within four weeks after the filing of the factum of the appellant; and

(*c*) a reference, within four weeks after the filing of the Governor in Council's factum. SOR/2006-203, s. 29.

56. La requête en intervention est présentée dans les délais suivants :

a) dans le cas de la demande d'autorisation d'appel, dans les trente jours suivant son dépôt;

b) dans le cas d'un appel, dans les quatre semaines suivant le dépôt du mémoire de l'appelant.

c) dans le cas d'un renvoi, dans les quatre semaines suivant le dépôt du mémoire du gouverneur en conseil. DORS/2006-203, art. 29.

57. (1) The affidavit in support of a motion for intervention shall identify the person interested in the proceeding and describe that person's interest in the proceeding, including any prejudice that the person interested in the proceeding would suffer if the intervention were denied.

(2) A motion for intervention shall

(*a*) identify the position the person interested in the proceeding intends to take in the proceeding; and

(*b*) set out the submissions to be advanced by the person interested in the proceeding, their relevance to the proceeding and the reasons for believing that the submissions will be useful to the Court and different from those of the other parties.

57. (1) L'affidavit à l'appui de la requête en intervention doit préciser l'identité de la personne ayant un intérêt dans la procédure et cet intérêt, y compris tout préjudice que subirait cette personne en cas de refus de l'autorisation d'intervenir.

(2) La requête expose ce qui suit :

a) la position que cette personne compte prendre dans la procédure;

b) ses arguments, leur pertinence par rapport à la procédure et les raisons qu'elle a de croire qu'ils seront utiles à la Cour et différents de ceux des autres parties.

58. At the end of the applicable time referred to in Rule 51, the Registrar shall submit to a judge all motions for intervention that have been made within the time required by Rule 56. SOR/2006-203, s. 30.

58. À l'expiration du délai applicable selon la règle 51, le registraire présente au juge toutes les requêtes en intervention présentées dans les délais prévus à la règle 56. DORS/2006-203, art. 30.

59. (1) In an order granting an intervention, the judge may

(*a*) make provisions as to additional disbursements incurred by the appellant or respondent as a result of the intervention; and

(*b*) impose any terms and conditions and grant any rights and privileges that the judge may determine, including whether the intervener is entitled to adduce further evidence or otherwise to supplement the

59. (1) Dans l'ordonnance octroyant l'autorisation d'intervenir, le juge peut :

a) prévoir comment seront supportés les dépens supplémentaires de l'appelant ou de l'intimé résultant de l'intervention;

b) imposer des conditions et octroyer les droits et privilèges qu'il détermine, notamment le droit d'apporter d'autres éléments de preuve ou de compléter autrement le dossier.

record.

(2) In an order granting an intervention or after the time for filing and serving all of the memoranda of argument on an application for leave to appeal or the facta on an appeal or reference has expired, a judge may, in their discretion, authorize the intervener to present oral argument at the hearing of the application for leave to appeal, if any, the appeal or the reference, and determine the time to be allotted for oral argument.

(3) An intervener is not permitted to raise new issues unless otherwise ordered by a judge. SOR/2006-203, s. 31.

(2) Dans l'ordonnance octroyant l'autorisation d'intervenir ou après l'expiration du délai de dépôt et de signification des mémoires de demande d'autorisation d'appel, d'appel ou de renvoi, le juge peut, à sa discrétion, autoriser l'intervenant à présenter une plaidoirie orale à l'audition de la demande d'autorisation d'appel, de l'appel ou du renvoi, selon le cas, et déterminer le temps alloué pour la plaidoirie orale.

(3) Sauf ordonnance contraire d'un juge, l'intervenant n'est pas autorisé à soulever de nouvelles questions. DORS/2006-203, art. 31.