

DC-20-2607

Court File No.



**ONTARIO
SUPERIOR COURT OF JUSTICE**

ANAHITA SAFAVI-NAINI

Applicant

-and-

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as represented by THE
ATTORNEY GENERAL OF ONTARIO**

Respondent

**NOTICE OF APPLICATION FOR JUDICIAL REVIEW
(pursuant to Rules 14 and 38 of the *Rules of Civil Procedure*)**

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing on a date to be fixed by the registrar at 10:00 am at 161 Elgin St, Ottawa, Ontario.

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 an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but

at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: 18th September 2020

Issued by:



Local Registrar

161 Elgin St, 2nd Floor
Ottawa, Ontario, K2P 2K1

TO: Attorney General of Ontario
Ministry of the Attorney General
Crown Law Office – Civil
720 Bay Street, 8th Floor
Toronto, ON
M7A 2S9

APPLICATION

1. The Applicant makes application for:
 - a) An order in the nature of *certiorari* setting aside the decision made June 2, 2020 by way of Order in Council 846/2020 to appoint the current Executive Chair of Tribunals Ontario, Sean Weir, as a member of the Human Rights Tribunal of Ontario (“**HRTO**”) pursuant to s. 32(2) of the *Human Rights Code*, RSO 1990, c H.19 (“**Human Rights Code**”);
 - b) An order in the nature of *certiorari* setting aside the decision made June 2, 2020 by way of Order in Council 846/2020 to appoint Sean Weir as the Executive Chair of Tribunals Ontario pursuant to s. 16(1) of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, SO 2009, c 33, Sch 5 (“**ATAGAA**”);
 - c) In the alternative, a declaration that the appointment of Sean Weir as a member of the HRTO and as the Executive Chair of Tribunals Ontario, and thereby as the Chair of the HRTO, was unlawful;
 - d) The costs of this application; and
 - e) Such further and other relief as counsel may request and this Honourable Court may permit.

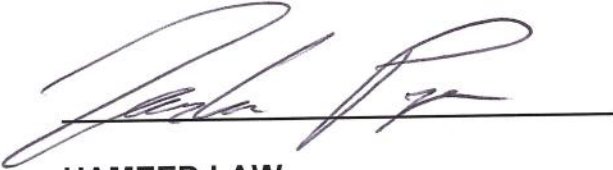
2. The grounds for the application are:
 - a) The process to select Sean Weir as a member of the HRTO was not a competitive, merit-based process, in violation of section 32(3) of the *Human Rights Code*;
 - b) Sean Weir was not validly a member of the HRTO (a tribunal in the Tribunals Ontario cluster) when he was appointed Executive Chair of Tribunals Ontario, in violation of section 16(5) of *ATAGAA*, which requires that the executive chair be a member of each adjudicative tribunal in the cluster;
 - c) The executive chair of Tribunals Ontario is, by virtue of that position, the chair of the HRTO and all other tribunals in the cluster pursuant to s. 17(1) & (6) of *ATAGAA*;

- d) *Human Rights Code*, RSO 1990, c H.19;
- e) *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, SO 2009, c 33, Sch 5;
- f) Rules 14 and 38 of the *Rules of Civil Procedure*, RRO 1990, Reg 194; and
- g) Section 2(1) of the *Judicial Review Procedure Act*, RSO 1990, c J.1.

3. The following documentary evidence will be used at the hearing:

- a) A supporting affidavit and exhibits attached thereto; and
- b) Such further and other materials as counsel may advise and this Honourable Court may permit.

September 18, 2020



HAMEED LAW
Barristers & Solicitors
43 Florence Street
Ottawa, Ontario, K2P 0W6

Yavar Hameed and Nicholas Pope
Tel: 613-627-2974
Fax: 613-232-2680
Email: yhameed@hameedlaw.ca
npope@hameedlaw.ca

**Solicitors for the Applicant,
Anahita Safavi-Naini**

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Proceedings Commenced at Ottawa

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HAMEED LAW
Barristers and Solicitors
43 Florence Street
Ottawa, Ontario, K2P 0W6

Yavar Hameed & Nicholas Pope
LSO #s 44763A, 76706V
T: 613-232-2688 x 228
F: 613-232-2860
E: yhameed@hameedlaw.ca
npope@hameedlaw.ca

Lawyers for the Applicant, Anahita Safavi-Naini