

DC-20-2608

Court File No.



**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN

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: 15th 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 *mandamus* compelling Tribunals Ontario to disclose to the Applicant the following documents (“**Requested Documents**”):
 - i. A list, including the file numbers and parties, of all files in which “Northern Ontario School of Medicine” is named as a party;
 - ii. The complete docket of all hearings that were scheduled to be held by the Human Rights Tribunal of Ontario (“**HRTO**”) during February 2020;
 - iii. All adjudicative records related to case file 2018-32051-I, *Samir Nawaz v University of Ottawa et al.*;
- b) A declaration that Tribunals Ontario’s failure to disclose the Requested Documents in a timely manner violated section 2(b) of the *Canadian Charter of Rights and Freedoms* (the “**Charter**”);
- c) The costs of this application; and
- d) Such further and other relief as counsel may request and this Honourable Court may permit.

2. The grounds for the application are:

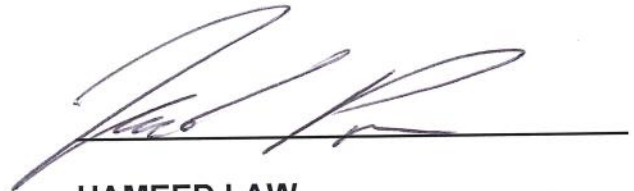
A. Background Facts

- a) The Applicant submitted requests to Tribunals Ontario for the following documents (“**Requested Documents**”) in January and February 2020:
 - i. On January 22, 2020, a list of all files in which “Northern Ontario School of Medicine” is named as a party, including the file numbers and party names;
 - ii. On January 31, 2020, the complete docket of all hearings that were scheduled to be held by the Human Rights Tribunal of Ontario (“**HRTO**”) during February 2020;
 - iii. On February 11, 2020, all adjudicative records related to case file 2018-32051-I, *Samir Nawaz v University of Ottawa et al.*;
- b) All of the Requested Documents are adjudicative records;
- c) As of September 17, 2020, Tribunals Ontario had not disclosed the Requested Documents;

B. Open Court Principle and Section 2(b) of the *Charter*

- d) The open court principle and s. 2(b) of the *Charter* impose a duty on Tribunals Ontario to provide the public with timely access to adjudicative records, including the Requested Documents;
 - e) Tribunals Ontario's failure to provide the Applicant with disclosure of the Requested Documents violates section 2(b) of the *Charter* and the open court principle;
 - f) Sections 2(b) and 24(1) of the *Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (UK), 1982, c 11;
 - g) *Tribunal Adjudicative Records Act, 2019*, SO 2019, c 7, Sch 60;
 - h) Rules 14 and 38 of the *Rules of Civil Procedure*, RRO 1990, Reg 194; and
 - i) 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
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**Solicitors for the Applicant,
Anahita Safavi-Naini**

ANAHITA SAFAVI-NAINI

Applicant

-and-

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

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Proceedings Commenced at Ottawa

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