

CANADA Province of Quebec District of Montreal No:	SUPERIOR COURT (Civil and Administrative Division)
	CANADA'S NATIONAL FIREARMS ASSOCIATION / ASSOCIATION CANADIENNE POUR LES ARMES À FEU -and- Philippe SIMARD Plaintiffs
	-and-
	THE ATTORNEY GENERAL OF THE PROVINCE OF QUEBEC / PROCUREUR GÉNÉRAL DU QUÉBEC Defendant -AND- THE ATTORNEY GENERAL OF CANADA Mis-en-Cause

**AMENDED ORIGINATING APPLICATION FOR DECLARATORY RELIEF
 AND PERMANENT INJUNCTION**
AND
**APPLICATION FOR AN ORDER OF INTERLOCUTORY INJUNCTION
 AND A SAFEGUARD ORDER**

TO THE SUPERIOR COURT OF QUEBEC, SITTING IN CIVIL AND
 ADMINISTRATIVE MATTERS, THE PLAINTIFFS RESPECTFULLY SUBMIT
 THE FOLLOWING:

Purpose of These Proceedings

1. The purpose of these Proceedings is to seek and obtain a declaration that Quebec's "Registration of Firearms Act", S.Q. 2016, Chapter 15 (the "Registration of Firearms Act") is unconstitutional as being *ultra vires* of the powers of the Province, pursuant to the Constitution Act, 1867, and thus null and void. The French and English versions of the Registration of Firearms Act are referred to, en liasse, as Exhibit P-1;

Note to draft:: As of the date these proceedings were originally are being drawn up, the final text of the Registration of Firearms Act was not yet publicly available. Therefore, in lieu of the final text of the Act, the Plaintiff refers to Bill 64, as filed on December 3, 2016, as Exhibit P-1 (A), and to the series of amendments thereto adopted over the course of the Bill's second reading, as Exhibit P-1 (B);

1.1 The final consolidate version of the Registration of Firearms Act is now available. The English version thereof is referred to as Exhibit P-33, and the French version thereof is referred to as Exhibit P-34;

2. More specifically, this Application seeks a declaration that the Registration of Firearms Act, deals with matters of criminal law, which is a field of federal jurisdiction, pursuant to Paragraph 91 (27) of the Constitution Act, 1867, which provides:

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,
(...)

27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.

3. Concurrently with the aforementioned declaratory relief, the Plaintiffs seek orders of interlocutory and permanent injunction, to prevent the coming into force and subsequent application of the Registration of Firearms Act;

Canada's National Firearms Association, its Interest and Standing

4. Canada's National Firearms Association (the "NFA") is a not for profit organization that has been in continuous legal existence since 1984;
5. The NFA was initially incorporated by federal letters patent, under the name "National Phoenix 1984 Firearms Information and Communication Association";
6. A copy of the NFA's initial letters patent is appended as Applicant's Exhibit P-2;
7. In 2010, the NFA changed its name from the aforementioned "National Phoenix 1984 Firearms Information and Communication Association" to become "Canada's National Firearms Association"
8. A copy of the supplementary letters patent effecting that change of name is appended as Applicant's Exhibit P-3;
9. The corporate existence of the NFA was subsequently continued under Canada's Not for Profit Corporations Act. A copy of the NFA's Certificate of continuance is referred to as Exhibit P-4;
10. The NFA was created with a mission to promote the rights and the needs of Canadian gun owners while promoting firearms safety for the Canadian public;
11. As mentioned in its letters patent, the objects of the NFA are:
 - 3.1 To promote, support and protect all safe recreational firearms activities.

- 3.2 To promote, support, and protect all educational firearms activities.
 - 3.3 To promote natural justice for all firearms activities.
 - 3.4 To serve and inform responsible owners and users of firearms.”
12. The National Firearms Association of Canada provides a comprehensive list of resources for Canadian firearm owners;
 13. Through speeches, presentations and political action the NFA informs and represents firearm owners throughout Canada;
 14. Six times a year, the NFA publishes a magazine: the Canadian Firearms Journal. Such magazine features articles and columns about firearms safety, firearms maintenance, shooting and hunting events, legal and other topics of interest to firearms users, etc;
 15. The NFA has upwards of 72,000 members throughout Canada and upwards of 6,500 members in the Province of Quebec. Most NFA members, including those from Quebec, are firearms enthusiasts, being either hunters, sport shooters and/or firearms collectors;
 16. NFA membership in Quebec has grown significantly, since the Quebec Government has announced its intent to create its own long gun registry;
 17. Most Quebec NFA members own, possess and/or use one or more non-restricted firearms, and they are directly affected by the provisions of the Registration of Firearms Act;
 18. The NFA sought and was granted Intervener status by the Supreme Court of Canada, in case # 35448, Attorney General of Quebec v. Attorney General of Canada et al. A copy of the order granting such Intervener status is communicated in support hereof as Exhibit P-5;
 19. The subject matter of the Supreme Court of Canada case # 35448 was the constitutional validity of the federal “Ending the Long Gun Registry Act”, S.C. 2012, Chapter 6, and Quebec’s demand to obtain the data from the defunct federal long gun registry, to create its own provincial long gun registry;

20. Prior to the enactment of the federal "Ending the Long Gun Registry Act", S.C. 2012, Chapter 6, the NFA had campaigned for the abolition of the federal long gun registry;
21. The NFA was the first intervener heard by the Commission des Institutions of the Quebec National Assembly, on March 23, 2016, in the context of public hearings and consultations related to Bill 64 (which later became the "Registration of Firearms Act");
22. Prior to appearing before the Commission des Institutions, the NFA filed an initial brief opposing the adoption of Bill 64 (See Exhibit P-6) and later on, a supplementary brief (See Exhibit P-7) dealing with some statements made by other interveners, which the NFA viewed as deceptive;
23. As shall be shown hereafter, the NFA raises serious issues as to the constitutional validity of the Registration of Firearms Act;
24. The NFA, as an Association of members who are directly affected by the provisions of the Registration of Firearms Act, has standing to challenge the constitutional validity of the Registration of Firearms Act;
25. Alternatively, as an organization interested in the rights of firearms owners, the NFA has a genuine interest in the validity of the impugned legislation;
26. In the instant circumstances, there is no other reasonable and effective way to bring the issue before the Court;
27. Thus, the NFA has the required interest and standing to bring these proceedings, and to seek and obtain the relief sought herein;

Philippe Simard, his Interest and Standing

28. Philippe Simard (hereafter "Simard") is resident and domiciled in the Province of Quebec;

29. Simard is the holder of a valid license to possess and acquire firearms, which license was issued under the federal Firearms Act. A copy of Simard's firearms license will be communicated in confidence, if need be;
30. Simard owns both restricted firearms, and non-restricted firearms;
31. Simard's restricted firearms are subject to mandatory registration, under the Criminal Code and federal Firearms Act;
32. Simard's non-restricted firearms were also subject to mandatory registration, under the federal Firearms Act and Criminal Code, up until the enactment (in April 2012) and subsequent application in Quebec of the Ending the Long Gun Registry Act, Statutes of Canada, 2012, Chapter 6 ;
33. Once it comes into effect, the Quebec Registration of Firearms Act, will require Simard to register all of his non-restricted firearms, as was the case prior to the application of the **Ending the Long Gun Registry Act**;
34. Simard possesses and uses firearms including non-restricted firearms for legal purposes, including recreational sport shooting and collection purposes;
35. Simard has been a member of the NFA since 1989;
36. Simard was a director of the NFA from 2010, until 2014;
37. Prior to his tenure as a director of the NFA, Simard was a field officer within the NFA for several years;
38. Simard has a keen interest in firearms related issues, and will be personally affected by the Registration of Firearms Act, as an owner and user of non-restricted firearms;
39. As a former field officer and director of the NFA, Simard had numerous contacts and conversations with other firearms owners and is keenly aware of concerns of NFA members and other firearms owners in relation to registration of firearms in general, and non-restricted firearms in particular;
40. In spite of no longer being a field officer or a director of the NFA, Simard has kept in touch with the firearms owners' community and is well aware

of their concerns and grievances relative to the Registration of Firearms Act;

41. As was the case with the former federal long gun registry, the proposed Quebec firearms registry, to be created pursuant to the Registration of Firearms Act, is extremely unpopular within the firearms owners' community, for multiple reasons, including the following:

- a) It treats law-abiding firearms owners as would-be criminals;
- b) The main stated purpose of firearms registration is to obtain information about privately owned firearms, for one or more of the following purposes:
 - i. Future criminal investigations;
 - ii. Confiscation and seizure of firearms, whether pursuant to a firearms prohibition order issued under the Criminal Code, or otherwise;
- c) Sections 5 and 6 of the Registration of Firearms Act provide that the Minister will assign to each firearm, a "unique firearm number" (which is not the same as a serial number, since it originates from the Minister, not the manufacturer) which the owner must inscribe indelibly and legibly on the firearm. In essence, this most likely means "engraving" or "stamping", both of which entail damage to and loss of value of the firearm;
- d) The Registration of Firearms Act imposes very significant penalties for "victimless crimes", such as failure to register a firearm, or to affix a "unique firearm number" unto a firearm;
- e) It is based upon the erroneous belief that possession of a firearm for legal purposes is conducive to a greater risk for the security of the public.

f) Historical Background

42. In Canada, legislation related to firearms, and more specifically, to registration of firearms has historically been federal legislation enacted

- pursuant to Paragraph 91 (27) of the Constitution Act, 1867, which grants Parliament exclusive jurisdiction over matters related to criminal law;
43. Indeed, in Re: the Firearms Act, (2000) 1 SCR 783, the Supreme Court of Canada noted, at paragraph 53, that “Gun Control has been the subject of federal law since Confederation”. A copy of that decision is referred to as Exhibit P-8;
 44. In 1995, Parliament enacted the Firearms Act, S.C. 1995 Chapter 39;
 45. The main feature of the Firearms Act as enacted in 1995, is that it required universal licensing of all gun owners, and universal registration of all firearms, including what is commonly referred to as “long guns”, also known as “non-restricted firearms”, in the Criminal Code;
 46. Further to the enactment of the Firearms Act, its constitutional validity was challenged by the Attorney General of Alberta, before the Courts of that province;
 47. Eventually, the case rose all the way to the Supreme Court of Canada, and in 2000, the Supreme Court of Canada upheld the constitutional validity of the Firearms Act, as a valid exercise of the federal powers to legislate in matters related to the criminal law, as per the aforementioned Exhibit P-8;
 48. Registration of all long guns pursuant to the Firearms Act became compulsory as of January 1, 2003;
 49. Between 2006 and 2012, various bills were filed before Parliament to repeal the long gun registry, including Bill C-21, in 2006; Bill C-301 in 2009; Bill C-391, in 2009; and Bill C-19, in 2011;
 50. Bill C-19 was passed in 2012 and became the “Ending the Long Gun Registry Act”, S.C. 2012, Chapter 6;
 51. The key feature and effect of the Ending the Long Gun Registry Act was to end mandatory registration of all non-restricted firearms in Canada, thus partially repealing the scheme enacted in 1995, through the Firearms Act;
 52. Section 29 of the Ending the Long Gun Registry Act also mandated that the data of the Long Gun Registry Act be destroyed;

53. Other classes of firearms, such as restricted firearms (essentially handguns, such as pistols and revolvers), as well as prohibited firearms (essentially short barrel handguns, as well as .25 and .32 calibers handguns) and other miscellaneous firearms defined as belonging to the “prohibited class” as defined in Section 84 of the Criminal Code, remain subject to mandatory registration under federal legislation;
54. Meanwhile, between 2006 and 2011, the Defendant (hereafter referred to as “Quebec”) through various motions of the National Assembly, requested that the long gun registry be kept into effect, and ultimately, that the data of the long gun registry be transferred to Quebec, so that it could use it to create its own “long gun registry”. Such Motions are referred to herein “en liasse” as Exhibit P-9;
55. In essence, Quebec asked the Federal Government to maintain the long gun registry in effect, and then to transfer the newly obsolete data of the federal long gun registry to Quebec so that it could create its own long gun registry, but the Federal Government refused all of Quebec’s request;
56. Further to the enactment of the Ending the Long Gun Registry Act, Quebec initiated legal action in this Court (under File # 500-17-071284-122), challenging the constitutional validity of Section 29 of the Ending the Long Gun Registry Act, and seeking a transfer of the defunct long gun registry data;
57. Although Quebec was initially successful in Superior Court, the Quebec Court of Appeal granted Canada’s appeal of the Superior Court decision on June 27, 2013. A copy of the Quebec Court of Appeal decision in File # 500-09-023030-125 is referred to as Exhibit P-10;
58. On July 22, 2013, Justice Pierre J. Dalphond, acting as a Motions judge for the Quebec Court of Appeal, denied an application by Quebec to stay the application of the Quebec Court of Appeal decision, and re-instate the injunction granted by the Quebec Superior Court. A copy of Justice Pierre J. Dalphond’s decision in File # 500-09-023030-125 is referred to as Exhibit P-11;
59. Ultimately, the judicial challenge of the Ending the Long Gun Registry Act initiated by Quebec rose all the way to the Supreme Court of Canada, and on March 27, 2015, a 5-4 majority of the Supreme Court of Canada upheld

- the constitutional validity of the Ending the Long Gun Registry Act and all 9 judges unanimously held that Quebec had no entitlement to a transfer of the federal long gun registry data. A copy of the Supreme Court of Canada decision of March 27, 2015 is referred to as Exhibit P-12;
60. As noted above, the NFA was granted Intervener status by the Supreme Court of Canada, in relation with said case # 35448;
 61. As an Intervener, the NFA asserted the privacy rights of the long gun owners, whose personal information, Quebec sought to obtain;
 62. In 2013, Quebec filed Bill 20 before the Quebec National Assembly. A copy of Bill 20 is referred to as Exhibit P-13;
 63. Bill 20 purported to create a provincial long gun registry in Quebec;
 64. As per Exhibit P-13, the “sponsor” of Bill 20 was Stéphane Bergeron, who was Minister of Public Security at the time;
 65. Bill 20, titled “Registration of Firearms Act” in English and “Loi sur l’enregistrement des armes à feu” in French, was never passed into law; Bill 20 died on the legislative agenda, when the Quebec Government called an election in 2014;
 66. Thus, Bill 20’s constitutional validity was never challenged, nor tested;

Bill 64

67. On March 26, 2015, on the eve of the decision of the Supreme Court of Canada, was made public, Quebec’s then Minister of Public Security, Lyse Thériault, announced that Quebec would create and implement its own long gun registry, irrespective of whether or not the Supreme Court of Canada ruled in Quebec’s favour. A newspaper article published in Le Devoir on March 26th, 2015 referring to the Minister’s declaration is referred to as Exhibit P-14;

68. On March 31st, 2015, Quebec Premier Philippe Couillard made the following statement before the National Assembly, while answering a question from the opposition:

“M. Couillard : M. le Président, franchement! Franchement, c'est du niveau du cours primaire, là, de finances publiques, là. Le registre des armes à feu, il existe encore, c'est la partie sur les armes d'épaule qu'il faut refaire et qu'on va refaire au Québec. Alors, attention!

... » (Our underlining)

The relevant excerpt of the "Journal des débats" is referred to as Exhibit P-15;

69. On that same day (March 31, 2015), the Quebec National Assembly passed a Motion calling upon Prime Minister Harper to change his mind (about the destruction of the Long Gun Registry data) and transfer the data to Quebec. A copy of said Motion is referred to as Exhibit P-16;
70. On December 3, 2015, then Quebec's Minister of Public Security Pierre Moreau filed Bill 64 before the Quebec National Assembly;
71. On that occasion, representatives of "PolySeSouvient" a Quebec gun control lobby, were present in the stands and were acknowledged by the Minister. The relevant excerpt from the Journal des débats is referred to as Exhibit P-17;
72. The honourable Martin Coiteux was subsequently appointed as Quebec's Minister of Public Security and thus became the sponsor of Bill 64;
73. Commencing March 23, 2016 and ending April 12, 2016, the Commission des Institutions of the Quebec's National Assembly (hereafter the "Commission") held public hearings and consultations in relation with Bill 64;
74. The NFA appeared at those hearings and was the first organization heard by the Committee;
75. In its presentation, the NFA opposed passing Bill 64 into law;

76. The report of the Commission, listing the parties heard is referred to as Exhibit P-18;
77. The list of Interveners heard by the Commission was drawn up by the leaders of the various parliamentary groups represented at the National Assembly, based upon their respective concerns;
78. It is obvious from the list of organizations heard by the Commission, and their respective briefs and verbal representations, that the focus of Bill 64 is “public safety”, and not “property and civil rights” or some other topic of provincial competence. A DVD featuring digital copies of all such briefs is referred to as Exhibit P-19;
79. Bill 64 passed third reading at the National Assembly on June 9, 2016;
80. Over the course of his speech preceding the vote on the third reading of Bill 64, on June 7, 2016, Public Security Minister Martin Coiteux acknowledged that he and his team had received the input of PolySeSouvient, a gun control lobby, throughout the legislative process, as per the following excerpt:

“Alors, encore une fois, merci à ceux et celles qui ont présenté ou envoyé un mémoire lors des consultations. Je pense, notamment... Puis je ne peux pas passer sous silence PolySeSouvient. Les représentants de PolySeSouvient non seulement nous ont présenté un mémoire, mais ils ont assisté, elles et ils ont assisté à chacune des étapes du projet de loi, ne manquant aucune de nos rencontres, aucune de nos rencontres. Je sais que c'est un moment extrêmement important pour eux et pour elles, et je voulais le souligner ce soir. »

The relevant excerpt of the Journal des débats is referred to as Exhibit P-20;

81. Bill 64 received royal assent on June 10, 2016. A printout of the Bill 64 status page from the National Assembly website is referred to as Exhibit P-21;

82. Bill 64 is now known as the Registration of Firearms Act, Statutes of Quebec Chapter 15;

83. The Registration of Firearms Act has yet to come into effect;;

The unconstitutional character of the Registration of Firearms Act

84. The pith and substance of the Registration of Firearms Act is public safety;

85. The goals of the Registration of Firearms Act were originally stated as follows in paragraph 1 of Section 1 of Bill 64:

In English:

"The purpose of this Act is to establish rules to govern firearms registration. A further purpose of the Act is to enable public authorities to know where firearms are present in the territory of Québec with a view to supporting peace officers in their investigations and interventions. It is also intended to ensure the effective enforcement of court orders prohibiting the possession of firearms."

And in French:

« La présente loi a pour objet de déterminer les règles d'immatriculation applicables aux armes à feu. Elle a également pour objet de favoriser, auprès des autorités publiques, la connaissance de leur présence sur le territoire du Québec de façon à appuyer les agents de la paix dans leur travail d'enquête ainsi que lors de leurs interventions. Elle vise également à assurer une exécution efficace des ordonnances des tribunaux interdisant la possession d'armes à feu. »

86. Over the course of consideration in second reading by the Commission, Section 1 was amended, and now reads as follows:

In French:

« La présente loi a pour objet de déterminer les règles d'immatriculation applicables aux armes à feu. Elle a également pour objet de favoriser, auprès des autorités publiques, la connaissance de leur présence sur le territoire du Québec de façon à appuyer les agents de la paix dans leur travail d'enquête ainsi que lors de leurs interventions, y compris leurs interventions préventives. Elle vise également à assurer une exécution efficace des ordonnances des tribunaux interdisant la possession d'armes à feu. »

(Note to draft : the English version of the foregoing amendment is not available as of the date these proceedings are being drawn-up)

87. The Registration of Firearms Act does not purport, in any way whatsoever, to regulate firearms as property, nor does it deal with civil rights in any way whatsoever;

88. On the contrary, the Registration of Firearms Act purports to replicate, in all essential respects, within the province of Quebec, the provisions and effects of the former federal legislation, which governed the now defunct federal long gun registry;

89. Indeed, on March 31, 2015, Prime Minister Philippe Couillard declared the following, as per Exhibit P-15:

“**M. Couillard** : M. le Président, franchement! Franchement, c'est du niveau du cours primaire, là, de finances publiques, là. Le registre des armes à feu, il existe encore, c'est la partie sur les armes d'épaule qu'il faut refaire et qu'on va refaire au Québec. Alors, attention!... » (Our underlining)

90. Although the French version of the Registration of Firearms Act talks about "Immatriculation" of firearms, the term "Immatriculation" is, for all intents and purposes equivalent to "Enregistrement", as is evident from the fact that the English version uses the word "Registration";
91. The Registration of Firearms Act affects only non-restricted firearms, a.k.a. long guns, which is the only category of firearms that is no longer subject to registration, since the Ending the Long Gun Registry Act, came into effect;
92. Indeed, the second paragraph of Section 1 of the Registration of Firearms Act, provides as follows:

French Version:

"Pour l'application de la présente loi, on entend par « arme à feu » une arme à feu sans restriction au sens que donne à cette expression le paragraphe 84(1) du Code criminel (Lois révisées du Canada (1985), chapitre C-46)."

English Version:

"For the purposes of this Act, "firearm" means a non-restricted firearm within the meaning assigned to that expression by subsection 84(1) of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46)."

93. The Registration of Firearms Act attaches severe penal consequences to non-compliance with the provisions of the Act. Indeed, per Section 16 to 19:

"16. Whoever contravenes any of sections 2, 3, 6, 7 and 13 is guilty of an offence and is liable to a fine of

- (1) \$500 to \$5,000 in the case of a natural person; and
- (2) \$1,500 to \$15,000 in all other cases.

17. Whoever contravenes section 8 is guilty of an offence and is liable to a fine of \$50 to \$100.

18. Whoever makes a false declaration, hinders or attempts to hinder a peace officer in the performance of his or her duties under

this Act or a person authorized to carry out an inspection, in particular by misleading the peace officer or person by means of false statements or by concealing, destroying or refusing to provide information or documents the peace officer or person is authorized to demand or examine, is guilty of an offence and is liable to a fine of

- (1) \$500 to \$5,000 in the case of a natural person; and
- (2) \$1,500 to \$15,000 in all other cases.

19. In the case of a subsequent offence, the fines under this division are doubled."

63. Further, the Registration of Firearms Act, grants police officers significant powers of search and seizure in connection with suspected or actual violations of the Registration of Firearms Act:

"10. A peace officer who has reasonable grounds to believe that an offence has been committed under section 2 may seize the firearm concerned."

64. Further, Section 21 of the Registration of Firearms Act, grants the Courts powers to confiscate firearms, and to the Minister powers to order the disposition (i.e. destruction) thereof:

"21. On a finding of guilty for an offence under section 2, a judge may order the confiscation of the firearm concerned if it is still unregistered.

The Minister prescribes the manner in which a confiscated firearm is to be disposed of."

65. The Registration of Firearms Act is, in fact, criminal law in disguise;

66. Indeed, the Registration of Firearms Act has all of the features of criminal law legislation:

- a) It is concerned with issues of public safety;
- b) It features significant penal consequences for non-compliance;
- c) It grants police significant powers of search and/or seizure; and

d) It provides the Courts with powers to confiscate property, in the event of non-compliance.

67. Further, Section 13 of the Registration of Firearms Act, purporting to impose record keeping requirements upon "firearms businesses" is in direct conflict with applicable federal legislation. Section 13 provides as follows:

"13. A firearms business must establish and keep up to date a table to monitor all operations relating to firearms it owns or has in its possession in any of its establishments in the territory of Québec.

The firearms business must send the table to the Minister on request. The information that must be included in such a table is prescribed by government regulation."

68. All such firearms businesses must operate under a federal license issued by the Chief Firearms Officer, pursuant to the federal Firearms Act;

69. Indeed, the Firearms Information Regulations (Non-restricted Firearms), SOR/2012-138, which Regulations were enacted pursuant to the Firearms Act, provide as follows:

" Licences

2. A person cannot be required, as a condition of a licence that is issued under the Firearms Act,

- (a) to collect information with respect to the transfer of a non-restricted firearm;
- (b) if they collect such information, to keep a record of it; or
- (c) if they keep such a record, to keep it in a form that combines information that identifies the transferee with information that identifies an individual firearm, links such information, or enables such information to be combined or linked."

A copy of said Regulations is referred to as Exhibit P-22;

The Need for an order of Interlocutory Injunction

94. The Registration of Firearms Act is, on its face, constitutionally invalid;

95. Once the **Registration of Firearms Act** comes into effect, public contracts will be awarded to put into place a computer database and other systems required to collect, store, maintain and operate the Quebec firearms registry, which necessarily entails a cost to tax payers;
96. Further public funds will be expended, in order to collect, maintain and operate the Quebec firearms registry;
97. Once public funds are spent, there is no possibility of recovering payments made in pursuit of a constitutionally invalid purpose, which will result in a loss to be absorbed by tax payers, such as Simard;
98. The operation of the Quebec firearms registry entails the collection of private information, from Quebec firearms' owners such as Simard, for a constitutionally invalid purpose;
99. Such collection of information for an invalid purpose is a violation of Quebec firearms owners' constitutional and statutory privacy rights;
100. Section 64 of the Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information, R.S.Q., Chapter A-2.1, provides as follows:

64. No person may, on behalf of a public body, collect personal information if it is not necessary for the exercise of the rights and powers of the body or the implementation of a program under its management.

A public body may, however, collect personal information if it is necessary for the exercise of the rights and powers or for the implementation of a program of a public body with which it cooperates to provide services or to pursue a common mission.

The information referred to in the second paragraph is collected under a written agreement that is sent to the Commission. The agreement comes into force 30 days after it is received by the Commission.

101. This power to collect information cannot be exercised for a constitutionally invalid purpose;
102. Further, should the Registration of Firearms Act come into effect, Quebec firearms owners will live under the threat of prosecution, seizure and confiscation of their property, for the statutory offences mentioned in the said Act;
103. Should the Registration of Firearms Act come into effect, Simard and other Quebec firearms owners will be forced to damage their own property, in order to comply with Section 5 and 6 of the Registration of Firearms Act, which require owners to inscribe a unique firearm number in a permanent fashion (likely by either engraving or stamping) unto their non-restricted firearms;
104. Doing so will result in aesthetic and potentially structural damage, significant loss of value, and may expose such firearms to corrosion;
105. Indeed, most firearms are made of steel, which is a material prone to corrosion. In order to avoid corrosion, the exterior steel surfaces are commonly treated through a process known as "bluing", which coats the exterior surfaces of the firearms with a corrosion resistant layer. Stamping or engraving would damage that layer of "gun blue", thus exposing the metal underneath to corrosion;
106. Many firearms owned by hunters, sport shooters and/or collectors feature a receiver or other parts that are finely chiseled. Such firearms are of very high value and represent a significant and cherished investment for their respective owners. A picture of a representative number of firearms is referred to as Exhibit P-23;
107. Although the value of a typical non-restricted firearms usually varies between \$300 and \$2000, certain high quality hunting or sporting firearms have much higher values, which may sometimes reach tens of thousands of dollars;

108. Any alteration of a firearm, through either engraving or stamping, would be extremely detrimental to the value and appearance of any firearm;
109. Inscribing a unique firearms number on non-restricted firearm serves no purpose whatsoever, as most firearms are already identified by a serial number that was permanently stamped unto the firearm by its manufacturer; usually in manner that does not adversely affect its overall appearance, and before rust proofing;
110. The Registration of Firearms Act is completely silent as to the purpose of such "unique firearm number". Indeed, adding a unique firearm number to a firearm serves no useful purpose whatsoever;
111. Even under the defunct federal long gun registry, there was no such requirement. Indeed, only firearms without an original serial number were required to bear a stick-on tag, referring to a registration certificate number;
112. Should firearms be so engraved or stamped with a "unique firearm number", it will not be possible to restore them to their original condition;
113. Implementation of the Quebec Firearms registry will likely cost hundreds of millions of dollars;
114. Indeed, the cost of implementing the Canadian Firearms Program, which revolved around the current federal licensing scheme and the defunct federal long gun registry in Canada, amounted to over one billion dollars, per the report of Sheila Fraser, the Auditor General of Canada, a copy of which is referred to as Exhibit P-24;
115. Since Quebec accounts for approximately 25% of Canadian gun licences, and 25% of total Canadian non-restricted firearms, the probable cost of creating a Quebec firearms registry, accounting for inflation, is estimated at \$350,000,000, per the following table:

Minimal cost incurred for the	\$1 000 000 000
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implementation of the Canadian Firearms program from 1998 to 2002 :	
Pro rata for Québec: 25%	\$250 000 000
Adjustment for inflation since 1998: (39.67 %)	\$99 175 000
Minimal projected cost of a Quebec long gun registry	\$349 175 000

116. Further, the likely costs could be even greater than the foregoing amount, since:

a. Whereas the defunct federal long gun registry was managed by the RCMP, an organization with knowledge and expertise in relation with firearms, the Quebec registry will be managed by the Director of Civil Status, an organization with no prior knowledge or expertise in relation with firearms; and

b. In recent years, Quebec has had a history of cost overruns for several IT projects;

117. Once that money is spent, it is a net loss to tax payers;

118. The rights of the Plaintiffs are clear;

119. Letting the Registration of Firearms Act come into effect or be implemented will result in irreparable harm to Simard, to Quebec members of the NFA, to Quebec firearm owners, and to Quebec tax payers in general;

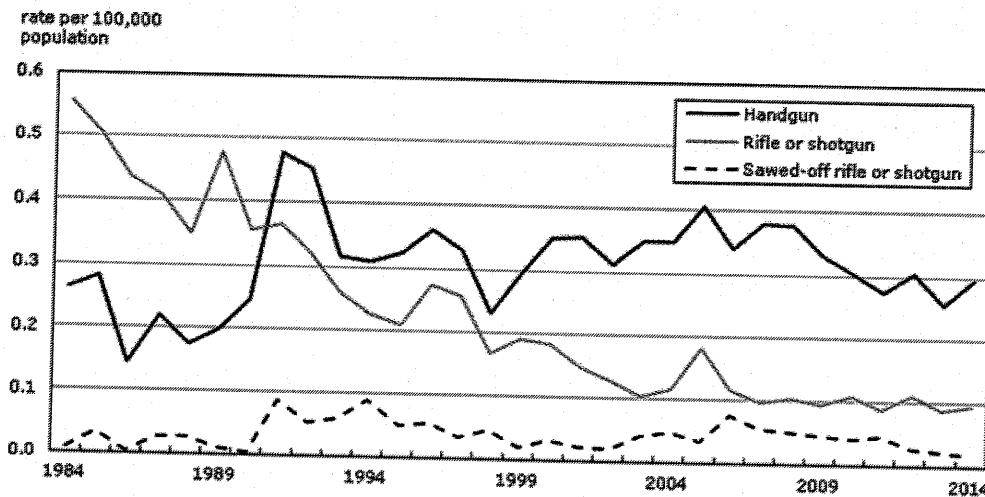
120. The balance of inconvenience favours the Plaintiffs;

121. For obvious reasons, the Registration of Firearms Act only affects individuals and business who legally own non-restricted firearms;

122. For the same obvious reasons, criminals who illegally own non-restricted firearms will not register them, as doing so would amount to admitting a crime (i.e. illegally being in possession of said firearms, which is a criminal offense, pursuant to Sections 91 and 92 of the Criminal Code.
123. No relation between registration of legally owned non-restricted firearms, and increased public safety has ever been demonstrated;
124. Registration of non-restricted firearms has been discontinued in Canada since April 2012, and in Quebec since March 2015, with no resulting increase in firearms related crime;
125. In his decision of July 22, 2013 (Exhibit P-11), Mr. Justice Dalphond made the following findings:
- (41) “Les procédures allèguent aussi que la destruction des données privera, jusqu’à leur reconstitution, les policiers d’un outil utile pour leurs interventions et enquêtes et exposera la société à plus de violence, incluant des homicides.
- (42) Sur le premier point, je note que les forces policières ailleurs au pays fonctionnent sans un registre des armes de chasse depuis octobre 2012 et que rien ne m’indique qu’il en a résulté un préjudice irréparable ou même sérieux.
- (43) Sur le deuxième point, la démonstration, même minimale, du bien-fondé de l’allégation ne m’a pas été faite. Comme le souligne le juge Brown de la Cour supérieure de justice de l’Ontario, dans *Barbara Schlifer Commemorative Clinic v. Canada*, 2012 ONSC 5271, les statistiques et études pour les trente dernières années ne semblent pas établir de corrélations entre l’enregistrement des armes de chasse et la baisse des taux d’homicides. De même, rien n’indique une augmentation depuis octobre 2012 des crimes commis avec des armes de chasse dans les autres provinces.
- (44) J’en conclus que le procureur général du Québec n’a pas démontré un préjudice irréparable ou sérieux au sens du test.(...) »
126. On the contrary, according to statistics gathered by Statistics Canada, firearms homicides have continued to decrease in 2012, 2013

and 2014, throughout Canada, in spite of the discontinuance of registration of non-restricted firearms. A copy of the relevant report and data are referred to as Exhibit P-25. A graph excerpted from said report and showing said tendency is reproduced hereafter:

Chart 4
Firearm-related homicides, by selected type of firearm, Canada, 1984 to 2014



Note: Excludes homicides committed with the use of other types of firearms, such as fully-automatic firearms or firearm-like weapons (i.e. nail gun, pellet gun).
Source: Statistics Canada, Canadian Centre for Justice Statistics, Homicide Survey.

127. Studies by renowned criminologists and other scientists have demonstrated that the federal long gun registry had no statistical incidence on violent crimes in Canada. A copy of the relevant studies is referred to as Exhibit P-26;

128. Further, the theory that the absence of non-restricted firearm registration threatens public safety has been tested and dismissed as unfounded in a constitutional challenge before the Ontario Supreme Court. A copy of the Ontario Supreme Court of Ontario decision in Barbra Schlifer Commemorative Clinic v. Canada, 2014 ONSC 5140, is referred to as Exhibit P-27;

128.1 In a letter dated May 5, 2016, a copy of which is referred to as Exhibit P-28, Quebec's Minister of Public Security, the Honourable Martin Coiteux, wrote to his federal counterpart, the Honourable Ralph Goodale,

in relation to the transfer to Quebec of the remaining Quebec data of the defunct federal Long Gun Registry;

128.2 Subsequent to the decision of the Supreme Court of Canada in case # 35448, said data was supposed to be destroyed pursuant to Section 29(1) of the Ending the Long Gun Registry Act;

128.3 However, a security back-up copy of the data was apparently made as part of the process of removing the Quebec data from the Canadian Firearms Registry. The particulars of how this came about are related in the Reasons for Order of the Federal Court dated June 26, 2015, in case T-785-15. A copy of said decision is referred to as Exhibit P-29;

128.4 As per said Exhibit P-29, in early April 2015 all of the data of the Canadian Firearms Registry, including the Quebec portion of the Quebec Long Gun Registry, has been recorded on a hard disk and put under seal, pending the outcome of said Federal Court case;

128.5 Said Federal Court case (T-785-15) is currently under a stay of proceedings, because of a constitutional challenge undertaken by the federal Information Commissioner, before the Ontario Divisional Court (case # OSCJ-15-64739). A copy of the Court docket in Federal Court case # T-785-15 is referred to as Exhibit P-30;

128.6 In Ontario Divisional Court case # OSCJ-15-64739 the Information Commissioner challenges the constitutional validity of 2 sections (230 and 231) of the federal statute implementing the federal budget adopted in the spring 2015, through Bill C-59. A copy of the statute in question is referred to as Exhibit P-31;

128.7 Both the federal Court Case and the Ontario Divisional Court case revolve around a request for access to information, made under the federal legislation, by Mr. Bill Clennett, which request led to a complaint to the Information Commissioner, and the resulting Court actions;

128.8 Mr. Clennett appears to be a left wing leaning activist and the same individual who was involved in a scuffle with former Prime Minister Jean

Chrétien several years ago, which incident became known as the “Shawinigan Handshake”;

128.9 Over the course of the debates at the Commission des Institutions (the Committee”), on May 18, 2016, there was an open discussion between Minister Coiteux and other members of the Committee, regarding Quebec’s efforts to obtain a copy of the Quebec portion of the records corresponding to what is being kept under seal in the aforementioned Federal Court case (the “Federal Data”). A transcript of the debates is referred to as Exhibit P-32;

128.10 The following excerpts show a clear intent by Minister Coiteux and Quebec to obtain and use the said records, even in the absence of a Court order or resolution of the underlying legal action. (Note to draft: Underlining has been added below to emphasize the key statements):

:

“M. Spénard : Merci, M. le Président. Lorsqu'on s'est quitté hier, j'avais un questionnement, parce que M. le ministre a semblé dire qu'on va partir une certaine base de données, une certaine vérification des données avec le registre fédéral, avec les données fédérales. Si j'ai bien compris hier, vous avez parlé des données fédérales pour faire une espèce de vérification lorsqu'on parlait de vérification. Et le député de Verchères aussi, je crois, a mentionné ça. Alors, ma question est très simple. Avez-vous les données fédérales en main?

Le Président (M. Laframboise) : M. le ministre.

M. Coiteux : Pas encore, mais on a bon espoir de les obtenir. Donc, on est en communication, là.

(...)

M. Spénard : C'est parce qu'il y a eu un jugement. Il y a eu un jugement au mois de juin dernier que c'est encore sous processus judiciaire. Et il y a eu un jugement en juin dernier comme quoi que les données fédérales étaient conservées dans un endroit de la cour avec non-accès tant et aussi longtemps que les procédures judiciaires ne seraient par terminées. Est-ce que... Et ça, c'est dans le jugement, là, c'est dans le jugement que j'ai lu ce matin. Alors, est-ce que vous faites la présomption que vous allez avoir une victoire en cour?

Le Président (M. Laframboise) : M. le ministre.

M. Coiteux : On a bon espoir d'obtenir les données.

Le Président (M. Laframboise) : M. le député de Beauce-Nord.

M. Spénard : Par la cour.

M. Coiteux : Non, par la voie... Par la voie d'une entente avec le gouvernement fédéral.

(...)

M. Coiteux : De un, le droit de détruire n'est pas l'obligation de détruire. Et puis on a bon espoir de s'entendre avec le gouvernement fédéral pour obtenir les données. On n'a pas des échos négatifs là-dessus comme on en a eu dans le passé sous un autre gouvernement fédéral. Et ce n'est pas nous qui sommes en procédure judiciaire à l'heure actuelle. Alors, on n'est pas en procédure judiciaire. Donc, c'est totalement indépendant, là, de ça.

128.11 It appears obvious that Quebec is actively engaged in efforts to obtain the Federal Data;

128.12 The Federal Data represents "personal information" of the individuals whose information was recorded in the context of the Canadian Firearms Program;

128.13 In his verbal submissions before the Supreme Court of Canada, in case #35448, Me Eric Dufour, acting as lead counsel for Quebec, acknowledged that the Federal Data is not owned by either Quebec or Canada, but is rather personal information of said firearms owners. ∴ I have personally viewed the relevant portion of the Webcast of the Supreme Court of Canada hearing of October 8th, 2014, during which Me Dufour made that acknowledgement in a clear and unequivocal fashion, in response to a question from the bench. That webcast can be accessed at the following web address:

http://www.scc-csc.ca/case-dossier/info/webcastview-webdiffusionvue-eng.aspx?cas=35448&urlen=http://www4.insinc.com/ibc/mp/md/open_protected/c/486/1938/201410080500wv150en,001&urlfr=http://www4.insinc.com/ibc/mp/md/open_protected/c/486/1940/201410080500wv150en,001&date=2014-10-08

The relevant excerpt is around the 93:00 minute mark of the video;;

128.14 Such personal information, as is reflected in the Federal Data, is protected by privacy legislation, and by privacy rights under the Charter of Rights and Freedoms;

128.15 Personal information about Simard's own personal non-restricted firearms, and those of numerous NFA members is included in the Federal Data;

128.16 Although such Federal Data may now be in part obsolete, due to not having been kept up to date, a portion of it, including information about

myself, is indeed still valid;

128.17 Without an order from this Court precluding Quebec from seeking and/or obtaining the Federal Data, Simard's privacy rights, those of other NFA members and Quebec non-restricted firearms owners will be compromised;

128.18 The Registration of Firearms Act is not yet in effect;

128.18 There is currently no valid program that would warrant or justify Quebec obtaining, retaining or using said Federal Data;

128.129 This Originating Application and Application for an Interlocutory Injunction and for a Safeguard Order are well founded in facts and in law.

WHEREFORE, THE PLAINTIFFS REQUEST THE FOLLOWING RELIEF:

UPON THE APPLICATION FOR AN INTERLOCUTORY INJUNCTION:

ORDER the Defendant to stay all aspects of the implementation of the Registration of Firearms Act, until final judgement herein;

or, alternatively

STAY the application of the Registration of Firearms Act, until final judgement hereon;

-and-

ORDER that the judgement to be rendered upon this Application be effective notwithstanding appeal thereof.

BY WAY OF SAFEGUARD ORDER, TO AVAIL UNTIL THE APPLICATION FOR AN INTERLOCUTORY INJUNCTION IS HEARD, OR FOR SUCH OTHER DURATION AS THIS COURT SHALL DETERMINE:

ORDER the Defendant to:

- a. Refrain from making any call for tenders related to the development and/or implementation of the Quebec Firearms Registry, or its equivalent by any other name;
- b. Refrain from awarding any contract, whether pursuant to a call for tenders or "de gré à gré" related to the development and/or implementation of the Quebec Firearms Registry, or its equivalent by any other name;
- c. Refrain from spending and/or committing any public funds for the development and/or implementation of the Quebec Firearms Registry, or its equivalent by any other name;
- d. Refrain from engaging into any further efforts and/or carrying on existing efforts to seek and/or obtain from the federal government any or all of the Quebec portion of the defunct federal Long Gun Registry (the "Federal Data"), including but not limited to, any efforts evidenced by Exhibit P-28 or alluded to in Exhibit P-32;
- e. Refrain from accepting any transfer of and/or using the Federal Data or any part thereof;

ORDER that the foregoing Safeguard Order be effective notwithstanding appeal thereof.

UPON THE ORIGINATING APPLICATION :

DECLARE that the entirety of the Quebec Registration of Firearms Act, S.C. 2016, chapter 15, is constitutionally invalid, and thus null, void and of no effect, as being an infringement of Parliament's exclusive powers to legislate over matters of criminal law pursuant to Paragraph 91 (27) of the Constitutional Act of 1867;

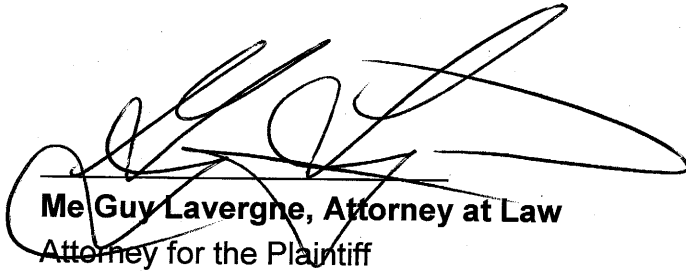
ORDER the Defendant to destroy all records created and data received pursuant to the Registration of Firearms Act, within thirty (30) days of the final decision to be rendered hereon;

DECLARE that Section 13 of the Quebec Registration of Firearms Act, S.C. 2016, chapter 15, is constitutionally invalid, as being inapplicable, in view of the doctrine of paramountcy of federal law;

ORDER that the judgement to be rendered hereon be effective notwithstanding appeal thereof;

THE WHOLE, with legal costs.

This 16th day of July , 2016



Me Guy Lavergne, Attorney at Law
Attorney for the Plaintiff

2051 rue du Bordelais
Saint-Lazare, QC
J7T 3C6

Tel: 514-245-0949

Fax: 514-800-2918

e-mail: guy.lavergne@f-lex.ca

Exhibit Number	Paragraph of the Originating Application in which the Exhibit is initially mentioned	Description of Exhibit
P-1	1	"Registration of Firearms Act", S.Q. 2016, Chapter 15
P-2	6	Canada's National Firearms Association original Letters Patent
P-3	8	Canada's National Firearms Association Supplementary Letters Patent
P-4	9	Canada's National Firearms Association Certificate of Continuance under the Canada Not for Profit Corporations Act
P-5	18	Order of the Supreme Court of Canada granting the NFA Intervener status in case # 35448
P-6	22	Initial brief filed by the NFA before the Commission des Institutions of the Quebec National Assembly
P-7	22	Supplementary brief filed by the NFA before the Commission des Institutions of the Quebec National Assembly
P-8	43	Decision of the Supreme Court of Canada in Re: the <u>Firearms Act</u> , (2000) 1 SCR 783
P-9	54	Motions of the National Assembly related to the long gun registry, en liasse
P-10	57	Decision of the Quebec Court of Appeal dated June 27, 2013, granting Canada's appeal of the Superior Court decision in

		File # 500-09-023030-125
P-11	58	Decision of Mr. Justice Pierre J. Dalphond, of the Quebec Court of Appeal dated July 22, 2013, refusing to stay the Quebec Court of Appeal decision in File # 500-09-023030-125
P-12	59	Decision of the Supreme Court of Canada, dismissing Quebec's appeal, in case # 35448
P-13	62	En liasse, French and English versions of Bill 20, titled "Loi sur l'enregistrement des armes à feu"
P-14	67	A newspaper article published in Le Devoir on March 26, 2015 referring to Minister Lyse Thériault declaration relative to the creation of a Quebec Long Gun Registry
P-15	68	Excerpt of the Journal des Débats for March 31, 2015
P-16	69	Motion of the National Assembly dated March 31, 2016
P-17	71	Excerpt of the Journal des débats, for December 3, 2015
P-18	76	Report of the Commission des Institutions
P-19	78	DVD featuring all briefs submitted to the Commission des Institutions
P-20	80	Excerpt of the Journal des débats for June 7, 2016
P-21	81	Print out of Bill 64's status page, from the National Assembly website

Exhibit Number	Paragraph of the Originating Application in which the Exhibit is initially mentioned	Description of Exhibit
P-22	93	Federal Firearms Information Regulations (Non-restricted Firearms), SOR/2012-138
P-23	106	Pictures of non restricted firearms, the value of which would be adversely affected by affixing a "unique firearms number"
P-24	114	Chapter 10 of the 2002 Canada Auditor General Report
P-25	126	Statistics Canada documents showing the diminution of firearms related violent crime after the elimination of the Long Gun Registry
P-26	127	Criminology Research Paper by: Dr. Caillin Langmann, MD, PhD, Canadian Firearms Legislation and Effects on Homicide, 1974 to 2008, Journal of Interpersonal Violence, 2012, 27(12), p. 2303-2321
P-27	128	Ontario Supreme Court of Ontario decision in Barbra Schlifer Commemorative Clinic v. Canada, 2014 ONSC 5140

<u>Exhibit Number</u>	<u>Paragraph of the Originating Application in which the Exhibit is initially mentioned</u>	<u>Description of Exhibit</u>
P-28	<u>128.1</u>	Letter dated May 5, 2016 from Minister Martin Coiteux to federal Minister Ralph Goodale
P-29	<u>128.3</u>	Reasons for Order of the Federal Court dated June 26, 2015, in case T-785-15
P-30	<u>128.5</u>	Copy of the Court docket in Federal Court case # T-785-15
P-31	<u>128.6</u>	STATUTES OF CANADA 2015 CHAPTER 36 An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures
P-32	<u>128.9</u>	Excerpt of Journal des Débats, Commission des Institutions, May 18, 2016
P-33	<u>1.1</u>	English version of the Registration of Firearms Act, Statutes of Quebec, 2016, chapter 15;
P-34	<u>1.1</u>	Version française de la Loi sur l'immatriculation des armes à feu, Lois du Québec 2016, chapitre 15

NOTICE OF PRESENTATION

To: **The Attorney General of Quebec, Defendant**
-and-
The Attorney General of Canada, Mis en Cause

Please be notified that the attached Application for the Issuance of an order of Interlocutory Injunction and/or Safeguard Order will be presented for adjudication before the Superior Court, Administrative division in Room 2.07 of the Montreal Court House, at 1 Notre Dame St. East, in Montreal, Quebec, on July 28, 2016 at 9 AM, or so soon thereafter as counsel may be heard.

Please do govern yourselves accordingly.

July 16th, 2016


Me Guy Lavergne, Attorney for the Plaintiffs

<p>CANADA Province of Quebec District of Montreal No: 500-17-094350-165</p>	<p>SUPERIOR COURT (Civil and Administrative Division)</p>
	<p>CANADA'S NATIONAL FIREARMS ASSOCIATION / ASSOCIATION CANADIENNE POUR LES ARMES À FEU</p> <p>-and-</p> <p>Philippe SIMARD</p> <p>Plaintiffs</p>
	<p>-and-</p>
	<p>THE ATTORNEY GENERAL OF THE PROVINCE OF QUEBEC / PROCUREUR GÉNÉRAL DU QUÉBEC</p> <p>Defendant</p> <p>-AND-</p> <p>THE ATTORNEY GENERAL OF CANADA</p> <p>Mis-en-Cause</p>

DETAILED AFFIDAVIT # 2 (DECLARATION UNDER OATH)
OF PHILIPPE SIMARD
IN SUPPORT OF THE APPLICATION FOR AN INTERLOCUTORY
INJUNCTION AND APPLICATION FOR A SAFEGUARD ORDER

I, Philippe Simard, resident at 7692 Centrale, in Lasalle, QC, H8P 1L6, being one of the Plaintiffs herein, do hereby solemnly affirm the following:

1. The purpose of this Affidavit is to introduce into the record new evidence that was not available and/or known to me and/or to the NFA at the time that I signed my original affidavit on June 17th, 2016;
2. Defined terms shall have the same meaning herein as in my original affidavit;
3. In a letter dated May 5, 2016, a copy of which is referred to as Exhibit P-28, Quebec's Minister of Public Security, the Honourable Martin Coiteux, wrote to his federal counterpart, the Honourable Ralph Goodale, in relation to the transfer to Quebec of the remaining Quebec data of the defunct federal Long Gun Registry;
4. Subsequent to the decision of the Supreme Court of Canada in case # 35448, said data was supposed to be destroyed pursuant to Section 29 of the Ending the Long Gun Registry Act;
5. However, a security back-up copy of the data was apparently made as part of the process of removing the Quebec data from the Canadian Firearms Registry. The particulars of how this came about are related in the Reasons for Order of the Federal Court dated June 26, 2015, in case T-785-15. A copy of said decision is referred to as Exhibit P-29;
6. As per said Exhibit P-29, in early April 2015 all of the data of the Canadian Firearms Registry, including the Quebec portion of the Quebec Long Gun Registry, has been recorded on a hard disk and put under seal, pending the outcome of said Federal Court case;
7. Said Federal Court case (T-785-15) is currently under a stay of proceedings, because of a constitutional challenge undertaken by the federal Information Commissioner, before the Ontario Divisional Court (case # OSCJ-15-64739). A copy of the Court docket in Federal Court case # T-785-15 is referred to as Exhibit P-30;
8. In Ontario Divisional Court case # OSCJ-15-64739 the Information Commissioner challenges the constitutional validity of 2 sections (230 and

231) of the federal statute implementing the federal budget adopted in the spring 2015, through Bill C-59. A copy of the Statute in question is referred to as Exhibit P-31;

9. Both the federal Court Case and the Ontario Divisional Court case revolve around a request for access to information, made under the federal legislation, by Mr. Bill Clennett, which request led to a complaint to the Information Commissioner, and the resulting Court actions;
10. Mr. Clennett is, upon information and belief, a left wing leaning activist and is the same individual who was involved in a scuffle with former Prime Minister Jean Chrétien several years ago, which incident became known as the "Shawinigan Handshake";
11. Over the course of the debates at the Commission des Institutions (the Committee"), on May 18, 2016, there was an open discussion between Minister Coiteux and other members of the Committee, regarding Quebec's efforts to obtain a copy of the Quebec portion of the records corresponding to what is being kept under seal in the aforementioned Federal Court case (the "Federal Data"). A transcript of the debates is referred to as Exhibit P-32;
12. The following excerpts show a clear intent by Minister Coiteux and Quebec to obtain and use the said records, even in the absence of a Court order or resolution of the underlying legal action. **(Note to draft: Underlining has been added below to emphasize the key statements):**

"M. Spénard : Merci, M. le Président. Lorsqu'on s'est quitté hier, j'avais un questionnement, parce que M. le ministre a semblé dire qu'on va partir une certaine base de données, une certaine vérification des données avec le registre fédéral, avec les données fédérales. Si j'ai bien compris hier, vous avez parlé des données fédérales pour faire une espèce de vérification lorsqu'on parlait de vérification. Et le député de Verchères aussi, je crois, a mentionné ça. Alors, ma question est très simple. Avez-vous les données fédérales en main?

Le Président (M. Laframboise) : M. le ministre.

M. Coiteux : Pas encore, mais on a bon espoir de les obtenir. Donc, on est en communication, là.

(...)

M. Spénard : C'est parce qu'il y a eu un jugement. Il y a eu un jugement au mois de juin dernier que c'est encore sous processus judiciaire. Et il y a eu un jugement en juin dernier comme quoi que les données fédérales étaient conservées dans un endroit de la cour avec non-accès tant et aussi longtemps que les procédures judiciaires ne seraient par terminées. Est-ce que... Et ça, c'est dans le jugement, là, c'est dans le jugement que j'ai lu ce matin. Alors, est-ce que vous faites la présomption que vous allez avoir une victoire en cour?

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M. Coiteux : On a bon espoir d'obtenir les données.

Le Président (M. Laframboise) : M. le député de Beauce-Nord.

M. Spénard : Par la cour.

M. Coiteux : Non, par la voie... Par la voie d'une entente avec le gouvernement fédéral.

(...)

M. Coiteux : De un, le droit de détruire n'est pas l'obligation de détruire. Et puis on a bon espoir de s'entendre avec le gouvernement fédéral pour obtenir les données. On n'a pas des échos négatifs là-dessus comme on en a eu dans le passé sous un autre gouvernement fédéral. Et ce n'est pas nous qui sommes en procédure judiciaire à l'heure actuelle. Alors, on

n'est pas en procédure judiciaire. Donc, c'est totalement indépendant, là, de ça.

13. It thus appears obvious that Quebec is actively engaged in efforts to obtain the Federal Data;
14. The Federal Data represents "personal information" of the individuals whose information was recorded in the context of the Canadian Firearms Program;
15. In his verbal submissions before the Supreme Court of Canada, in case #35448, Me Eric Dufour, acting as lead counsel for Quebec, acknowledged that the Federal Data is not owned by either Quebec or Canada, but is rather personal information of said firearms owners. I have personally viewed the relevant portion of the Webcast of the Supreme Court of Canada hearing of October 8th, 2014, during which Me Dufour made that acknowledgement in a clear and unequivocal fashion, in response to a question from the bench. That webcast can be accessed at the following web address:

http://www.scc-csc.ca/case-dossier/info/webcastview-webdiffusionvue-eng.aspx?cas=35448&urlen=http://www4.insinc.com/ibc/mp/md/open_protected/c/486/1938/201410080500wv150en,001&urlfr=http://www4.insinc.com/ibc/mp/md/open_protected/c/486/1940/201410080500wv150en,001&date=2014-10-08

The relevant excerpt is around the 93:00 minute mark of the video;
16. Such personal information as reflected in the federal data is protected by privacy legislation, and by privacy rights under the Charter of Rights and Freedoms;
17. Personal information about my own personal non-restricted firearms, and those of numerous NFA members is included in the Federal Data;

18. Although such Federal Data may now be in part obsolete, due to not having been kept up to date, a portion of it, including information about myself, is indeed still valid;
19. Without an order from this Court precluding Quebec from seeking and/or obtaining the Federal Data, my privacy rights and those of other NFA members and Quebec non-restricted firearms owners will be compromised;
20. The Registration of Firearms Act is not yet in effect;
21. There is currently no valid program that would warrant or justify Quebec obtaining, retaining or using said Federal Data;
22. Since my initial Affidavit, the "Éditeur officiel du Québec" has published the consolidated version of the Registration of Firearms Act, incorporating all amendments made in the course of parliamentary debates. A copy of the English language version is referred to as Exhibit P-33 and a copy of the French language version is referred to as Exhibit P-34;
23. All of the facts alleged herein are true and correct.

AND I HAVE SIGNED



Philippe Simard

Solemnly affirmed before me in Hudson, Québec on
July 16th, 2016


Commissioner of Oaths



Additional Exhibits referred to in this Affidavit

Designation	Description
P-28	Letter dated May 5, 2016 from Minister Martin Coiteux to federal Minister Ralph Goodale
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CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL
SUPERIOR COURT

No : 500-17-094350-165

**CANADA'S NATIONAL FIREARMS
ASSOCIATION / ASSOCIATION CANADIENNE
POUR LES ARMES À FEU et al.**

Plaintiffs

-C-

**THE ATTORNEY GENERAL OF THE PROVINCE
OF QUEBEC**

Defendant

-AND-

**THE ATTORNEY GENERAL OF CANADA
Mis-en-Cause**

**AMENDED ORIGINATING APPLICATION FOR AND
PERMANENT INJUNCTION AND
APPLICATION FOR AN ORDER OF INTERLOCUTORY
INJUNCTION
AND A SAFEGUARD ORDER**

Me Guy Lavergne, Attorney for the Plaintiffs
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