

Federal Court



Cour fédérale

Date: 20240311

Docket: T-89-21

Ottawa, Ontario, March 11, 2024

PRESENT: The Honourable Madam Justice Ayles

PROPOSED CLASS PROCEEDING

BETWEEN:

JENNIFER ANNE SANDERSON AND JENNIFER CONSTANT

Plaintiffs

and

HIS MAJESTY THE KING

Defendant

ORDER

UPON MOTION of the Plaintiffs, pursuant to Rule 51 of the *Federal Courts Rules*, for:

- (a) An order allowing the appeal and setting aside the Order of Associate Judge Coughlan dated August 17, 2023, which dismissed the Plaintiffs' motion for an order granting them leave to file the affidavit of Cheyenne Perfonic sworn April 18, 2023 [Perfonic Affidavit];
- (b) An order granting the Plaintiffs leave to file the Perfonic Affidavit; and

(c) Such further and other relief as counsel may request and this Honourable Court may permit;

CONSIDERING the motion records filed by the parties;

AND CONSIDERING that parties reached a resolution of the appeal and request that the within order be issued;

AND CONSIDERING that the Court is satisfied that the requested relief, as agreed to by the parties, should be granted;

THIS COURT ORDERS that:

1. The Order of Associate Judge Coughlan dated August 17, 2023, denying the Plaintiffs leave to file the Perfonic Affidavit, is hereby set aside.
2. The Plaintiffs are granted leave to file the Perfonic Affidavit for use on the certification motion.
3. The Perfonic Affidavit may be relied upon at the certification motion for the purpose of providing context only. Any further use of the Perfonic Affidavit at the certification motion shall be addressed at the certification motion itself.
4. The Plaintiffs shall clarify the exact intended use of the Perfonic Affidavit by no later than the time the Plaintiffs file their complete certification motion materials.
5. This Order is made without prejudice to the right of the Plaintiffs to seek to rely on the Perfonic Affidavit for another purpose beyond context and to the right of the Defendant to object to the use thereof for any such other purpose.

6. The Defendant shall have the right to file responding evidence responsive to the Perfonic Affidavit.

7. There is no order as to costs.

“Mandy Ayleen”

Judge